



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Information received from Tajikistan on follow-up
to the concluding observations on its third
periodic report***

Addendum

[Date received: 25 July 2022]

* The present document is being issued without formal editing.



Follow-up information

1. The Government of the Republic of Tajikistan has considered the conclusion of the United Nations Committee against Torture concerning the response of the Republic of Tajikistan (CAT/C/TJK/CO/3; 4 May 2022).
2. The Government pays particular attention to fulfilling its human rights obligations, including the recommendations made by the Committee against Torture during its consideration of the third periodic report of the Republic of Tajikistan and the recommendations of the United Nations Special Rapporteur on Torture.
3. The 2019–2022 National Action Plan on Implementation of the Recommendations of the United Nations Committee against Torture was adopted on 24 January 2019.
4. Work on drawing up the draft National Strategy on Human Rights until 2030 and its action plan has been completed (the document has been submitted to the Government for approval).
5. As for setting up a separate mechanism or independent unit capable of promptly, effectively and impartially investigating all incidents of torture and ill-treatment and bringing the perpetrators to justice, it should be noted that, under criminal procedural law (article 161 of the Code of Criminal Procedure of the Republic of Tajikistan), criminal cases under article 143–1 of the Criminal Code establishing liability for torture are investigated by investigators from the procuratorial agencies, whose independence is guaranteed by the Constitutional Act on the Procuratorial Agencies and other laws.
6. Regarding a mechanism for prompt, effective and impartial investigation of all cases of torture and ill-treatment, it should be noted that, in addition to the provisions of the Code of Criminal Procedure, internal instructions for the procuratorial agencies have been adopted and are in force, providing mechanisms for prompt response to and effective investigation of torture.
7. Under article 145 of the Code of Criminal Procedure, the agency conducting the initial inquiry, the investigator and the procurator must accept, register and consider a statement or communication about any crime that is being prepared or committed or that has been committed and, within no more than three days after receiving the statement or communication, decide whether or not to institute criminal proceedings. A copy of the decision made shall be sent to the procurator within 24 hours, so that its lawfulness and validity may be examined.
8. Moreover, evidence of torture or ill-treatment is subject to verification, regardless of the victim's statement.
9. Protection of human rights and freedoms, especially during a process of inquiry and investigation carried out on the instructions of the Procurator General, is regarded as one of the most important areas of procuratorial supervision, and appropriate measures are taken to implement it in practice.
10. At the same time, an analysis is being made of the relevant legislation and the practice of investigating crimes involving torture and cruel or inhuman punishment, and the necessary practical measures are being taken to improve activities in this area.
11. It should be noted that, acting on the instructions of the President of the Republic of Tajikistan, a working group has drawn up a new draft of the Criminal Code.
12. With regard to stiffening the penalties for torture, the draft provides for an increase in the term of imprisonment up to 6 years under article 143–1 of the Criminal Code, up to 9 years under section 2 of this article and up to 12 years under section 3.
13. The draft is currently under consideration by the Government.
14. In addition, the Commissioner for Human Rights serves as an independent body with sufficient powers and competence to conduct independent verification of allegations and claims of torture and ill-treatment. Obstruction of the activities of the Commissioner is prohibited.

15. Within the framework of the monitoring group attached to the Commissioner for Human Rights, a unique model of interaction between State agencies and civil society has been created, coordinated by the Commissioner and aimed at eradicating torture in all closed and semi-open institutions.
16. Non-governmental organizations campaigning for the prohibition of torture in Tajikistan have unimpeded access to all places of detention as part of the monitoring group under the Commissioner for Human Rights.
17. The Committee regretted that the State party did not provide additional information about cases that had not resulted in criminal prosecution, including those of Umar Bobojonov and Djovidjon Khakimov.
18. With regard to the claim of the use of torture against Umar Bobojonov, a citizen of Tajikistan and a resident of Vahdat, it has been found that Mahmadsaid Bobojonov, in a written statement submitted to the Vahdat Municipal Procurator's Office on 31 August 2015, stated that on 28 August 2015 officers of the Vahdat Department of the Ministry of Internal Affairs took his son Umar Bobojonov without any reason to the Department's premises and tortured him, from where he was taken to the Central Regional Hospital in Vahdat suffering from severe injuries.
19. On 5 September 2015, the Vahdat Municipal Procurator's Office opened a criminal case under article 110 3 (c) of the Criminal Code, and a comprehensive and objective investigation was carried out. At present, owing to the failure to identify a person to be prosecuted, the criminal investigation into this case has been suspended.
20. With regard to Djovidjon Khakimov, the preliminary investigation was completed and the case was sent to court. By verdict of the Ismail Somoni District Court in the city of Dushanbe, Djovidjon Khakimov was convicted under article 187 (organization of a criminal association (criminal organization) and article 401 (1) (illegal involvement and participation of citizens of the Republic of Tajikistan and stateless persons in armed units, armed conflict or military actions on the territory of other States) of the Criminal Code and was sentenced to 15 years' deprivation of liberty in a strict regime correctional colony.
21. In their cassational appeal, D. Khakimov's attorneys stated that the operational staff and the investigator had supposedly used torture against him, as a result of which his nose was thought to have been broken.
22. By order of the Dushanbe Municipal Court, officials from the Office of the Procurator General conducted a comprehensive and objective inquiry into this testimony, during which a medical examination was ordered and carried out. The fact of sustaining bodily injuries was not confirmed.
23. The judicial outcomes of cases involving torture are regularly reported to the public through the mass media.
24. For example, between 4 and 5 p.m. on 7 January 2019, F.A. Nurkhonov, Deputy Head of the Criminal Investigation Department, and A.N. Sabzaev, A. Ikromiddin and other employees of Dushanbe City Department of Internal Affairs apprehended Khamza Solekhov, Khurshed Abdukhalimov and others on suspicion of drug trafficking and placed them in the building of the Ministry of Internal Affairs in Dushanbe. Furthermore, in order to obtain a confession, Khamza Solekhov was subjected to electric shocks and beatings to the face, ears and other parts of the body.
25. On 25 January 2019, the Office of the Procurator General opened a criminal case against F.A. Nurkhonov and others under article 143–1 (b) (2) (torture) of the Criminal Code and referred it to court. By court decision of 21 December 2019, F. Nurkhonov was sentenced to 17 years' deprivation of liberty, A. Sabzaev and A. Ikromiddin to 9 years, and investigator Ju. Vakhkhobov to 7 years.
26. In another case, on 6 June 2020, the State Financial Audit and Anti-Corruption Agency initiated criminal proceedings against Y.A. Asatullozod, Deputy Head of the Department of Mobile Groups of the Drug Control Agency, and S.I. Shamsiev, an employee of the Agency, under article 143–1 (2) of the Criminal Code for the beating and torture of U.E. Pulatov and for obtaining a forced confession from him that he had allegedly sold

0.893 grams of the psychotropic substance methamphetamine to M.B. Rakhmonov for the sum of 1,000 somoni. They were found guilty by the court.

27. The results of the judicial investigation and the court proceedings were made publicly available through the mass media.

28. It should be noted that, as part of the strengthening of procedural safeguards to prevent torture and respect the rights of citizens during detention, significant amendments and additions to the Code of Criminal Procedure and the Act on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants were made on 14 May 2016.

29. The 2016 amendments to the Code of Criminal Procedure introduced the concept of “the moment of actual detention”, which refers to the moment of actual restriction of a person’s liberty, including the possibility of freedom of movement, forcible detention in a certain place, forcible delivery to criminal prosecution bodies, or preventing a person from performing other actions of his or her own free will, regardless of any procedural status assigned to a detainee or the performance of other established procedures. The period of detention is calculated from that point.

30. Police officers in charge of arrests are obliged to inform detainees verbally about the reason for their arrest and their rights at the moment of actual detention. These rights include the right to immediate communication with a close relative, the right to immediate access to a lawyer, and the right to remain silent.

31. The amendments also provide for mandatory registration in detention documents of the identity of all officials and all other persons involved in the detention, as well as the inclusion of information about the circumstances of notification of the family and the exact time and form of their notification.

32. The amendments further provide for a mandatory medical examination to be carried out before a suspect is placed in a temporary holding facility.

33. In order to prevent prolonged detention in temporary holding facilities of persons subject to preventive measures such as remand in custody, amendments to the Act on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants were made on 14 May 2016, whereby the detention of such persons in temporary holding facilities shall not exceed three days.

34. The above-mentioned innovations in the Code of Criminal Procedure have improved the mechanism for declaring evidence obtained through torture to be inadmissible.

35. In line with these amendments, the inadmissibility of evidence and restrictions on its use in criminal proceedings are established by the person conducting the initial inquiry (detective), investigator, procurator, court or judge, acting on their own initiative or at the request of the parties.

36. Evidence of torture or ill-treatment is subject to verification, regardless of whether a statement has been made by the suspect (accused, defendant) or a petition has been lodged by defence counsel. Evidence declared to be inadmissible is regarded as invalid and is excluded.

37. In declaring evidence to be inadmissible in connection with the use of torture, the investigator, procurator or court shall take steps to institute appropriate proceedings against persons who allowed torture to be used.

38. It should be noted that, in coordination with authorities and other agencies under the Government, regular meetings and discussions are held on combating prejudice, hazing and ill-treatment of conscripts in individual units and troops of the armed forces of Tajikistan.

39. In particular:

- Military units and individual subdivisions of the Ministry of Defence have installed boxes in order to receive complaints and petitions from service personnel and citizens, including soldiers, about cases of hazing and provide lists of telephone hotlines with the numbers of the Military Procurator’s Office, the Minister of Defence and the State

Committee of National Security, as well as the website of the Ministry of Defence and the email address of the Minister of Defence.

- In accordance with the directive of the Minister of Defence of 7 November 2015 on organizational and educational work to strengthen military discipline and law and order in the armed forces, the Statute of the armed forces of the Republic of Tajikistan, the manual on planning educational work in formations, military units and sections of the armed forces, and current legislation, explanatory, educational and preventive work is done with cadets and soldiers, from call-up to military service onwards, in order to cultivate patriotism and love of the motherland, fidelity to the military oath, respect for national treasures and historical values, and defence of the motherland.

40. Every year, in order to inform the parents of military personnel, meetings with the local committee and the parents' committee are held in military units, at which participants freely express their thoughts and opinions about military service. These meetings are shown on all national television channels.

41. It is worth mentioning that the Commissioner for Human Rights, together with public organizations in military units and military sections of the Ministry of Defence, conducts monitoring and holds round-table discussions on issues related to respecting the rights of service personnel during military service.

42. Unannounced inspections and physical examinations of soldiers are also conducted, in order to prevent and stop beatings, torture and the inflicting of other bodily injuries. In cases where such actions are discovered, official investigations are conducted, the perpetrators are disciplined and prosecuted, and they are dismissed from the armed forces in accordance with the Regulations on the procedure for military service.

43. As part of the plan of joint activities to implement the concept of political and educational work in the armed forces approved by Presidential Decree No. 369 of 20 February 2015, and in line with Presidential Decree No. 1028 of 24 July 1998 on urgent measures to strengthen the rule of law and improve military discipline in the armed forces and other military formations, and with the action plan to strengthen political, educational and ideological work in the armed forces and other troops or military formations, the Military Procurator's Office has been systematically taking effective steps since 27 March 2019 to prevent and eliminate the causes and predisposing factors of criminality and to reduce levels of crime and violent death among military personnel.

44. Analysis has shown that no evidence of torture, cruel treatment or other instances of humiliation of human dignity was registered in 2021.

45. Despite the measures taken, there are still instances, in military ministries and departments, of inadequate application of and compliance with the requirements of current military legislation and regulations, inappropriate organization of the Internal Service, and breaches of military regulations governing relations between service personnel, absence without leave, desertion, death and suicide of service personnel.

46. During the period under review, the Military Procurator's Office registered 2,245 crimes (637 in 2018, 584 in 2019, 507 in 2020 and 517 in 2021) committed by service personnel, of which 286 were crimes related to breaches of military regulations governing relations between service personnel.

47. Also during the period analysed, military ministries and departments registered 182 crimes of abuse of power by officers and warrant officers related to beatings of subordinates (52 in 2018, 37 in 2019, 49 in 2020 and 44 in 2021).

48. During this period, staff from the Military Procurator's Office initiated 177 criminal cases concerning the concealment of crimes related to beatings of military personnel by military investigation agencies, all of which were referred to court (61 in 2018, 45 in 2019, 33 in 2020 and 38 in 2021).

49. In order to provide timely information about the commission of crimes involving the beating of service personnel, based on the Order of the Procurator General and in accordance with the Order of the Chief Military Procurator, all military units are provided with a hotline and a box for complaints and petitions, which service personnel can use to apply directly to

the Military Procurator's Office. In the reporting period, more than 140 crimes related to beating of service personnel were brought to light through the telephone hotline and judicial decisions were made about them.

50. The activities of the command structures of branches of the armed forces, military units and other military formations aimed at strengthening military discipline, legality, and law and order among service personnel do not meet requirements and do not lead to significant progress in the prevention of offences.

51. In order to prevent and detect these crimes, staff from the Military Procurator's Office carry out regular checks in military units with the participation of medical experts.

52. As a result, instances of breaches of the military regulations governing relations between military personnel outside the chain of command and abuse of authority by officers, warrant officers and sergeants involving the beating of subordinates are registered and legal measures are taken against those who conceal such events.

53. Over the past three years, 714 submissions have been filed with commanding officers against military personnel involved in concealing crimes (198 in 2019, 245 in 2020 and 271 in 2021) and 639 individuals have been subjected to various forms of disciplinary action (193 in 2019, 178 in 2020 and 268 in 2021).

54. The Office of the Procurator General systematically and universally takes appropriate measures, within the limits of its authority, to fulfil the international obligations of the Republic of Tajikistan to prevent torture and implement the recommendations of international human rights organizations.
