

Overview of the situation with the prohibition of torture in the Republic of Tajikistan. 2019-2022

Summary of UN bodies' recommendations to Tajikistan concerning freedom from torture¹

Between 2010 and 2021, Tajikistan submitted reports to all human rights treaty bodies (UN Human Rights Committees) and participated in the Universal Periodic Review process. The UN Special Rapporteur on torture visited the country twice, in 2012 and 2014. During this period, the country received more than 1,000 recommendations on various human rights issues, including those related to preventing and effectively combating torture and other forms of ill-treatment in Tajikistan.

Recommendations related to freedom from torture were received within the framework of the UPR process and the UN Human Rights Council's special procedures, and from the UN Committees against Torture, on Human Rights, on the Elimination of Discrimination against Women (in the context of gender-based violence and domestic violence), and on the Rights of the Child.

After reviewing Tajikistan's reports, the UN bodies provided detailed recommendations, including the following general measures:

- unequivocally reaffirm the absolute prohibition of torture and make further efforts to bridge the gap between legislation and practice;
- take prompt and effective steps to eliminate and prevent acts of torture and ill-treatment throughout the country, particularly in custody at police stations and temporary detention and pre-trial detention facilities;
- issue a public warning that anyone who commits acts of torture or participates in any way in committing such acts or endorses them will be held personally accountable under the law for their actions and will be subject to criminal prosecution and appropriate penalties.

The recommendations also concern matters such as adopting tougher sanctions for torture, making sure that the crime of torture is not subject to a statute of limitations and torture perpetrators are ineligible for amnesty, and strengthening safeguards for persons under arrest and in detention.

The State was advised to establish an effective, accessible, and confidential system for receiving and reviewing complaints of ill-treatment and torture in all places of detention; to conduct ex-officio investigations; to ensure prompt, thorough and impartial investigation of all allegations of torture, and to protect the victims and witnesses of torture from any form of retaliation.

The UN bodies also encouraged Tajikistan to uphold the provisions of Article 15 of the Convention against Torture in both law and practice during criminal proceedings, in particular by making sure that (a) any evidence or out-of-court statements obtained under duress are explicitly excluded as inadmissible; (b) any statements or confessions from a person deprived of liberty, except those made in the presence of a judge or with the assistance of a lawyer, are not accepted by court as valid evidence against this person; (c) judges promptly consider any statements made in court alleging the use of torture and ill-treatment, without requiring a defense lawyer to submit a petition; and (d) the

¹ See classification of recommendations from UN bodies for the Republic of Tajikistan for 2011-2021
https://notabene.tj/Doc/Taj/2%D0%9A%D0%BB%D0%B0%D1%81%D1%81%D0%B8%D1%84%D0%B8%D0%BA%D0%B0%D1%86%D0%B8%D1%8F%20%D1%80%D0%B5%D0%BA%D0%BE%D0%BC%D0%B5%D0%BD%D0%B4%D0%B0%D1%86%D0%B8%D0%B912_03_2020.pdf

And also
https://notabene.tj/Doc/Kaz/compl/%D0%BC%D0%BE%D0%BD%D0%B8%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3_%D0%BF%D1%8B%D1%82%D0%BA%D0%B8.pdf

burden of proof beyond reasonable doubt that a confession has not been obtained through illegal methods, including torture and ill-treatment, is shifted to the prosecuting party.

Numerous recommendations are aimed at creating effective mechanisms to prevent and combat torture, specifically:

- establish an independent mechanism for monitoring places of deprivation and restriction of liberty, ensuring that both international and national institutions have access to such places for monitoring purposes;
- establish an official central register of arrests;
- establish an independent mechanism for receiving complaints of torture and conducting effective criminal investigations into such complaints;
- establish rehabilitation programs for victims of torture, overseen by the Ministry of Health.

Yet another recommendation in this context was to transfer all places of detention to the jurisdiction of the Ministry of Justice, and to ensure that all healthcare workers at penitentiary facilities are under the jurisdiction of the Ministry of Health rather than the Ministry of Justice.

The UN bodies also recommended that Tajikistan should legislatively guarantee the enforcement of judgments in order to provide legal protection to victims of torture and ill-treatment, as well as fair and adequate compensation, including funds to be used for comprehensive rehabilitation.

Regarding the prevention of torture and ill-treatment of certain categories of persons, Tajikistan was advised to take steps to clearly prohibit corporal punishment and violence against children under any circumstances, to abolish the solitary confinement of juveniles, and to put an end to hazing in the army.

The State was recommended to work towards building a human rights culture and to continue its efforts aimed at raising human rights awareness among members of various professions, including law enforcement agents and civil servants, and also to undertake periodic assessments of the effectiveness of existing human rights education and professional training programs.

In terms of support for victims and witnesses, the recommendation for Tajikistan was to urgently develop and implement in practice effective mechanisms to protect persons who complain from reprisals. The State should also provide support and redress to victims, including compensation and access to rehabilitation services, such as medical and psychological assistance, as well as social reintegration programs. These recommendations were aimed at protecting victims and witnesses of torture, hazing, and human trafficking, as well as minors in conflict with the law.

As for the right to liberty and personal integrity, the UN bodies recommended that Tajikistan review its procedural legislation and consolidate the guarantees of detainee rights. The country was urged to take appropriate measures to afford detained persons all fundamental procedural safeguards from the very outset of their deprivation of liberty, including informing detained persons about their rights and accurately recording all periods of deprivation of liberty immediately after arrest. Furthermore, the UN bodies called for holding police chiefs, investigators, and operatives criminally liable for any unrecorded detention and ensuring prompt access to a lawyer from the very outset of deprivation of liberty. The authorities must make video recordings of all interrogations and install closed-circuit television (CCTV) systems in all spaces where detainees may be present, except for premises where such video surveillance may interfere with the detainee's right to privacy or confidential communication with a lawyer or medical doctor. CCTV footage must be securely stored and made available to investigators, detainees, and their lawyers.

The State needs to increase the number of qualified medical personnel in temporary detention and pre-trial detention facilities and to ensure that medical personnel in these places is genuinely independent of law enforcement agencies and has been trained in accordance with the Istanbul Protocol. Access to independent medical examination should be allowed without any interference or presence of law enforcement officers or prosecutors, and prompt independent medical examinations should be conducted at the time of arrest and after transfer to another place of detention.

Legislation

A series of laws and amendments were adopted on 2 January 2020. They significantly strengthened the fundamental legal safeguards for preventing torture and other forms of ill-treatment in the criminal justice system.

They included amendments to Article 143-1 of the Criminal Code, which added a "third party" as a possible perpetrator of torture and tightened sanctions for the crime of torture by removing fines and increasing the maximum sanction to 15 years in prison. The current definition of torture and the sanctions for it comply with the standards set by the Convention against Torture.

Meanwhile, other articles of the Criminal Code, such as "abuse of power" (Article 314), "exceeding official duties" (Article 316), "negligence" (Article 322), "coercion to give testimony on the part of an inquiry officer, investigator or court" (Article 354), or in the case of the armed forces, "violation of statutory rules" (Article 373) or "abuse of official authority or duty" (Article 391) — continue to be in effect.

In practice, most suspected torture perpetrators are charged under these articles rather than the one specifically related to torture.

Before the 2020 amendments, when criminal proceedings were initiated under these other articles of the Criminal Code, the victim's lawyer was unlikely to request the case to be reclassified as torture, as the sanctions for torture used to be milder than those for "exceeding official duties" or "abuse of official authority or duty." Currently, many lawyers attempt, often unsuccessfully, to persuade the authorities to charge the alleged perpetrators under the specific article on torture.

The Criminal Code provides that persons charged with crimes of minor or moderate gravity may be *exempted from criminal liability* based on *reconciliation with the victim, expiration of the statute of limitations, or active repentance* (Articles 72-75). In accordance with Article 18 of the Criminal Code, offenses under Article 143-1 (torture) have been categorized as serious crimes since the 2020 amendments. Thus, after the 2020 amendments, exemption from liability based on reconciliation or repentance is no longer possible in torture cases, although the statutes of limitations still apply.

In May 2016, legislative amendments were adopted to strengthen the fundamental safeguards aimed at preventing torture and ill-treatment in places of detention. In January and July 2020, as well as in February 2021, new amendments were adopted to strengthen such safeguards for juveniles in detention, to eliminate "gravity of charges" as a factor in ordering pre-trial detention, and to enable lawyers to access detainees based on an existing license.

As mentioned above, on 14 May 2016, President Emomali Rahmon signed amendments to the Law on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants (hereinafter, the Law on Procedures of Detention) and the Criminal Procedure Code (CPC) that significantly strengthened the procedural safeguards for persons detained in criminal proceedings. The amendments improve various aspects of the proceedings, such as the registration of detention and prompt notification of family members and lawyers, counting the time of detention from the outset of the actual deprivation of liberty, mandatory registration of the identity of all officials

involved in the arrest and detention, and the introduction of a mandatory medical examination before placing a suspect in a temporary detention facility.

Statistics

As of now, comprehensive statistical information on the number of complaints alleging torture, criminal proceedings initiated into such complaints, or criminal convictions related to torture is not available in Tajikistan. Such information may occasionally become available from press briefings by government officials, Tajikistan's periodic reports to the UN bodies, and annual reports of the Commissioner for Human Rights in the Republic of Tajikistan – although the 2021 and 2022 reports are currently unavailable on the Commissioner's website.

According to the Prosecutor General's Office, 48 complaints alleging torture were registered in 2018, 14 in 2019, 10 in 2020, 13 in 2021, and 6 in 9 months of 2022. Prosecutors' offices initiated criminal proceedings into five complaints, and three cases were referred to court, resulting in prison sentences for five perpetrators.²

In 2019, three criminal cases were initiated under Article 143-1 of the Criminal Code (torture), of which two resulted in convictions for seven officers of the Ministry of Internal Affairs and the State Committee for National Security (GKNB), who were sentenced to prison terms ranging from 7 to 13 years.

In 2021, only one case went before the court, involving three officers of the Ministry of Internal Affairs, who were sentenced to prison terms ranging from 7 to 13 years.

No information is available for 2022.

Three complaints, one of which concerns 7 victims, have been submitted to intergovernmental human rights bodies. The lawyers who are preparing or have submitted these individual complaints withhold the details for safety reasons.

Documented cases of torture

Mehrodzhiddin Gadozoda

On 10 April 2021, M. Gadozoda was summoned to the office of the Ministry of Internal Affairs (OMVD) in Vakhdat district. At about 10:00 a.m., Gadozoda and his father arrived at the OMVD building, and at 13:00, two OMVD officers escorted Mehrodzhiddin inside, but his father was denied entry.

At 17:00, police officers ordered Mehrodzhiddin's father to come with them to the Department for Combating Organized Crime (OBOP) in Vakhdat. An hour later, the father was informed that his son had died from jumping out of the 3rd floor window during interrogation. The father's request to see his son's body was denied, and the authorities stated that the body had been transported to the Center for Forensic Medicine in Vakhdat for an initial autopsy.

At about 19:00, police officers delivered the father and his son's body to the family's home but did not allow the relatives to perform the ritual of washing the deceased person's body, citing that the body had already been washed and wrapped in a shroud at the forensic medical center in Vakhdat.

² See Fourth periodic report of Tajikistan on the implementation of the Convention against Torture. CAT/C/TJK/4

Around 20:25, officers from various law enforcement agencies in Vakhdat arrived at the family's home. Two police officers stood guard outside the room where the body was placed until morning, denying entry to everyone.

The relatives were eventually able to enter the room where M. Gadozoda's body was, opened the shroud and observed numerous injuries on the body, such as traces of beating, including an open wound on the back of the head. On the next morning, M. Gadozoda was buried. The injuries seen in the photos taken by relatives strongly suggest that M. Gadozoda had been beaten before falling out of the window.

According to a post³ that appeared on the official website of the Ministry of Internal Affairs in the evening of 10 April, M. Gadozoda had been suspected of 12 episodes of theft and had thrown himself from the third floor of the Vakhdat OMVD building in an attempt to avoid criminal liability. The police then allegedly took him to a hospital, where M. Gadozoda died.

On 14 April 2021, Gadozoda's lawyers filed a formal request with the Prosecutor General's Office to initiate criminal proceedings against the officers of the Vakhdat OMVD for the use of torture that resulted in M. Gadozoda's death. At the same time, the lawyers requested the Center for Forensic Medicine in Vakhdat to provide a copy of the report from the forensic examination of M. Gadozoda's body.

On 20 April 2021, the lawyer filed a second crime report, asking to institute criminal proceedings. On 22 May 2021, the prosecutor's office of Vakhdat opened a criminal case under Article 322-2 of the Criminal Code (negligence) against Police Captain Khushbakht Fayzullozoda, operative of the criminal investigation unit at the Vakhdat OMVD. On 23 November 2021, a court in Vakhdat applied the Law on Amnesty and dismissed the criminal case against Fayzullozoda. The cassation appeal, filed on 3 December 2021 with the Supreme Court's Judicial Board for Criminal Cases, requesting to overturn the decision of the Vakhdat court, was considered on 19 January 2022 and subsequently denied.

On 31 March 2022, a claim for compensation of moral harm was filed on behalf of the victim's father, F. Gadoev, to be recovered from the Ministry of Internal Affairs. On 18 October 2022, the court refused to award compensation for moral harm. Higher judicial instances upheld the refusal.

YEDGOROV HASAN AND NARZYKULOVA SH.

On 7 November 2017, police officers at an OMVD in the city of Tursunzoda arrested Hasan Yedgorov on suspicion of a murder. On the same day, he was interrogated at the OMVD and denied his involvement in the murder in question. He was then forced to lie face down on the floor, while an OMVD officer stepped on the man's back between his shoulder blades, grabbed him by the back of his head, and repeatedly slammed his head onto the floor. The beating continued for about an hour, but Yedgorov refused to confess to the murder. Yedgorov was left standing in the office overnight with his arm up, handcuffed to a coat hanger.

On the next day, November 8, district police inspector B. Nazirov drew up a report of an administrative offense under Article 479 of the Administrative Code, "Failure to comply with a lawful order or instruction from a police officer or another person authorized to maintain public order." On the same day, the court sentenced Yedgorov to ten days of administrative arrest. During

³ <https://mvd.tj/index.php/ru/sobytiya/31158-gurekhtani-duzd-az-avobgarii-inoyat-2>

the trial, Yedgorov complained about the use of torture, but the judge refused to consider his statement.

Between 8 and 13 November, police officers repeatedly visited Yedgorov at the temporary detention facility (IVS), where he was serving his administrative sentence, and brought him to the police premises where he was denied food and water and tortured in an attempt to obtain a confession. The ordeal continued during the next few days. On 13 November, the officers wrapped the man's hands and legs in duct tape, placed a black bag over his head and told him that they were taking him from the OMVD to the GKNB office (State Committee for National Security) for more torture. Instead, they drove him around and brought him back to the OMVD building, where they placed him face down on the floor, taped electric wires to the little fingers of his hands and applied an electric charge. Later, they applied an electric charge to his toes and genitals. Yedgorov experienced pain all over his body, felt exhausted and struggled to breathe. The electric shock torture continued for approximately 30 to 35 minutes and then repeated on 16 and 18 November 2017 and on other dates that the victim does not remember. Unable to withstand the torture any longer, Yedgorov eventually signed a confession. During the investigative proceedings, criminal investigators at the prosecutor's office beat him and threatened that torture would resume should he withdraw his confession.

On 8 November, Yedgorov's wife was summoned to the OMVD in an attempt to coerce her into giving false testimony against her husband. When she refused, she was hit on the head and threatened that she would be sent to prison, and her children would be taken to an orphanage.

Yedgorov's administrative sentence ended on 19 November, and murder charges were brought against him under Article 104-2 of the Criminal Code. On the same day, a court in Tursunzoda remanded him to pre-trial detention.

Six months later, on 15 May 2018, the Prosecutor General's Office dropped the criminal case against Yedgorov, as the actual perpetrator of the murder had been arrested.

Members of Yedgorov's family also suffered at the hands of the law enforcement agents. His mother, Sh. Narzykulova, was arrested and detained. On 8 November 2017, the morning after her son's arrest, Narzykulova came to the Tursunzoda OMVD asking to see her son but was not allowed on the premises. When she tried to enter through the checkpoint, the officer on duty abruptly shut the door, squeezing her hand. She was left standing with her hand stuck in the door for about 20 minutes and was released only when her cries for help attracted several passers-by.

Between 7 and 20 November 2017, officers of the Tursunzoda OMVD brought Yedgorov's mother to the office daily and pressured her into testifying against her son. She was usually interrogated in different offices on the premises between 7 a.m. and 3 a.m. while being denied food and water. Her interrogators used obscene language and never addressed her by her name but instead called her "a thief" and "mother of a murderer."

The incident of 8 November was not the only instance of ill-treatment in respect of Yedgorov's mother. She was brought to the OMVD in the evening of 25 November, where 6 or 7 officers harassed and verbally abused her for an extended period, demanding that she testify against her son and return the gold bracelet and the mobile phone that, allegedly, he had stolen and she was hiding. Unable to withstand the pressure, Narzykulova started screaming, and an officer standing behind her punched her in the right kidney. After the blow, she felt very ill and was taken to another office, where she was held until 3 a.m.

In the evening of 27 November, Narzykulova was once again brought to the OMVD and pressured to coerce her into testifying against her son and returning the items which, allegedly, were stolen from the man he had murdered. At about 3 a.m., Narzykulova was escorted to the ground floor of the building and forced to squat in front of the duty station. While she was squatting, an IVS OMVD officer named Shukhrat who passed by spat in her face, saying, "you are the mother of a murderer, bitch."

Narzykulova was summoned to the city prosecutor's office on 5 December, where her son was also brought at the same time and forced to kneel for 10 to 15 minutes.

In February 2019, Narzykulova was once again summoned to the prosecutor's office, where the authorities had also brought her son and his eight-year-old daughter. In front of the child, the officers proceeded to threaten Yedgorov and Narzykulova that the family's children would be sent to an orphanage. The young girl was severely traumatized by the experience and suffered long-term consequences such as urinary incontinence and hysterics every time she saw someone wearing a law enforcement uniform.

Since August 2019, Narzykulova has been experiencing pain in the kidney area and a worsening of her pre-existing conditions due to severe stress. She also reports sleep disturbances due to nightmares, which often feature the humiliating treatment she had experienced.

It was only in October 2018 that the prosecutor's office opened a criminal case against three law enforcement officers. They were taken into custody.

The preliminary investigation was completed in May 2019, and the judicial investigation began on 1 July 2019. However, on 16 January 2020, the case was sent back for further investigation.

In early March 2021, the case was referred to the Supreme Court, and a verdict was delivered on 17 June 2021. The officers were found guilty and convicted on charges of torture, exceeding official authority, and forgery, and sentenced to prison terms ranging from 7 to 13 years.

In 2022, Yedgorov filed claims for compensation of moral and material damages caused to him by the illegal arrest and detention, as well as torture and ill-treatment. He estimated the moral damages at 400,000 somoni and the material damage at 5,949 thousand somoni (the healthcare costs incurred by Yedgorov).

In October, the court awarded the plaintiff 5,000 thousand somoni in compensation of moral damages to be paid by the Ministry of Internal Affairs. The claim for material damages was denied on the ground that Yedgorov, having a second-degree disability, had been under medical supervision since 2011. In November, Yedgorov filed a cassation appeal, which was denied on 1 December 2022 by the Judicial Board for Civil Cases of the Dushanbe City Court that upheld the district court's decision.

HAMZA SOLEKHOV

Hamza Solekhov was tortured and then placed without a medical examination in a temporary detention facility run by police.

Five plainclothes law enforcement officers apprehended Hamza Solekhov in the afternoon of 7 January 2019 and delivered him to the building of the Dushanbe Department of Internal Affairs. Reportedly, an officer hit the detainee on the head so hard as to rupture his eardrum and cause

bleeding from his ear. The police then urged Solekhov to confess to dealing in drugs, but he refused. Solekhov was then placed face down on the floor, with his arms and legs tied up tightly. His little fingers were wrapped in wet wipes and connected to electric wires. The officers tortured him with electric shocks for several hours, until 6 a.m. Unable to withstand the excruciating pain, Solekhov signed the papers without reading them. Then he was escorted to another office, where ointment was applied to his body to hide the bruises. Around 10 p.m. on 8 January, Solekhov was delivered to a temporary detention facility. No medical examination was carried out before placing him in the cell. It was only on 12 January 2019 that Solekhov was examined by an expert of the Ministry of Health Center for Forensic Medicine.

Based on a complaint filed with the prosecutor's office by Solekhov's relative, a criminal case was opened against five perpetrators on 13 January 2019.

The Dushanbe City Court handed down the verdict on 16 December 2019. The head, deputy head, an operative and an investigator of the criminal investigations unit of the Ministry of Internal Affairs Office in Dushanbe were found guilty of torture, infringement of inviolability of home, extortion, bribery, illegal detention, exceeding official authority, and abuse of power (the totality of offenses found in the case was imputed to each defendant). The perpetrators were sentenced to custodial terms ranging from 7 to 17 years in prison.

There was also a fifth defendant in the case, an officer of the same department, who was not sentenced to imprisonment and allegedly left the country.

The victim filed a claim for moral damages to recover 200,000 (two hundred thousand) somoni from the Ministry of Internal Affairs. The Ministry filed an objection. In October 2022, the court denied the victim's claim for compensation, reasoning that the Ministry of Internal Affairs was not responsible for illegal acts committed by its employees, therefore any resulting damages should be recovered from the perpetrators. Subsequent appeals in 2021 and 2022 were also unsuccessful.

Effectiveness of investigation into reports of torture

No statistical information is available on cases of torture and ill-treatment for the years 2019 to 2022. Verdicts and court decisions in cases involving human rights violations have not been published either. This prevents us from conducting a comprehensive quantitative analysis of judicial practice in cases of torture and ill-treatment.

Based on a review of cases currently handled by the Civil Society Coalition against Torture, it can be concluded that criminal cases are rarely opened into such incidents, and when they are, investigations tend to continue for years, ranging from 1 to 5 years. We note, however, that cases which make it to court usually result in proportionate sentences.

Each year, the situation regarding awards of compensation for torture and/or ill-treatment is getting worse. Courts have been reluctant to handle such cases, and the awarded amounts are often insignificant, unfair, and disproportionate.

In 2018 and 2019, five claims for compensation of material and moral damages related to hazing in the army were filed, but the courts refused to satisfy any of them even partially. In 2019 and 2022, claims for compensation of moral damages were filed as part of general criminal proceedings following a guilty verdict in cases involving deaths resulting from torture. One claim was granted, but the awarded amount cannot be considered fair. In practice, when awarding compensation,

judges are guided not by considerations of fairness and proportionality, but rather by an assessment of available resources in the state budget.

In 2021 and 2022, the situation regarding awards of moral damages to victims of torture deteriorated dramatically. Courts typically reject such claims, reasoning that the direct perpetrators, rather than the State's agency, must be held accountable.

No cases are known of officials being brought to justice for enabling torture through instigation, knowledge, or tacit consent. Only the direct perpetrators of torture have ever been prosecuted.

Official sources such as the websites of the Prosecutor General's Office and the Supreme Court do not publish information on the number of complaints alleging torture.

The Civil Society Coalition against Torture collects its own statistics published in its annual reports. These statistics cover complaints alleging torture as well as other forms of ill-treatment.

In 2019, the Coalition documented 52 complaints alleging torture and ill-treatment. In subsequent years, the number of complaints was 37 in 2020, 24 in 2021, and 19 in 2022. The number of complaints brought to NGOs decreases each year. Human rights organizations have been monitoring the mass media and promptly responding to any reports indicating the use of torture. Many torture victims and their relatives (if the victim has died) refuse to complain about torture and ill-treatment. Typical reasons for refusal include fear of reprisals and pressure on torture victims and witnesses from operatives and investigators. If torture was used during a criminal investigation, the victim may also fear that they could worsen their situation by complaining and affect the severity of their sentence.

During the COVID-19 pandemic in 2020, the law enforcement and judicial authorities did not officially announce any change in their mode of operation due to the pandemic (quarantine was not declared), but de facto restrictions were imposed. However, access to electronic services was virtually non-existent in the country due to underdeveloped e-government, poor functioning of official websites of government agencies, and low internet speed from publicly accessible providers. In practice, courts, prosecutor's offices, and internal affairs bodies significantly restricted the possibility for citizens to make physical appointments with these authorities and to have their complaints, appeals, or applications registered during the pandemic. This created obstacles to the exercise of the right to file a complaint. Crime reports did not get registered, and procedural documents were issued with significant delays or not at all. Due to the epidemiological situation, courts indefinitely postponed the consideration of civil cases and only focused on criminal cases where the defendants were in pre-trial detention. As a result, the timelines for considering compensation claims in courts were significantly affected. Furthermore, even when a lawyer held a written permission to visit their client, physical meetings were banned due to the pandemic.

Risks and restrictions affecting the right to file a torture complaint

Individual complaints can be considered by courts, prosecutor's offices, and the internal security units of the Ministry of Internal Affairs and the State Committee for National Security. Most investigations into incidents of torture falling under Article 143-1 (torture) are carried out by the prosecutor's office, in accordance with Article 161-2 of the Criminal Procedure Code.

An applicant wishing to file a complaint is warned about potential criminal liability for knowingly providing false information in their report which they are required to sign. The law does not set out a procedure for notifying a detainee that their complaint has been received by the appropriate authority. Once an application has been filed, the authorities must decide within three days whether to institute a case or

dismiss the complaint. In exceptional cases, a prosecutor may extend the timeline for up to seven days. The decision to dismiss a complaint can be appealed, and there are legally established procedures for both the notification and the appeal process in such circumstances.

Tajikistan's legislation contains safeguards to protect victims of crimes, including torture, from the risks they may face after reporting a crime, such as pressure, retaliation, or threats. According to Article 12-3 of the Criminal Procedure Code, if there is sufficient evidence to suggest that victims, witnesses, other participants in criminal proceedings, or their families may be at risk, the court, judge, prosecutor, investigator, or inquirer are required to take measures to protect their life, health, honor, dignity, and property. However, in practice, the opposite often occurs, and victims of torture or their relatives face threats or reprisals after filing a complaint. In particular, there have been reports of law enforcement officials coercing victims of torture into withdrawing their complaints or refraining from the services of an independent lawyer.

Lawyers who refuse to step down and insist on continuing to help a torture victim or who are perceived as too zealous in defending a victim may also face threats and reprisals, sometimes affecting their families as well. Often, neither the applicants nor their lawyers appeal against the illegal actions of law enforcement officers for fear of further reprisals.

Promptness of initiating criminal proceedings

Criminal proceedings are not initiated in a timely manner. In authorizing a suspect's arrest and detention, courts disregard any allegations of torture, citing that this matter is not the subject under consideration. Likewise, prosecutor's offices do not usually respond to allegations of torture having been used during an investigation. In practice, the authorities only begin to respond and initiate inquiries after a lawyer intervenes in the case and prepares procedural documents, such as formal complaints and statements, reporting the use of torture.

In recent years, judges have more often instructed prosecutors to conduct investigations into statements made in court alleging torture or ill-treatment. While this trend is positive, not a single case is known where a prosecutor has confirmed the fact of torture, despite the availability of convincing evidence in at least some of the cases. Sometimes judges summon police officers accused of torture to testify in court. When a police officer denies the accusations, the judge usually dismisses the complaint of torture without further inquiry into the matter.

Promptness and quality of documenting medical evidence

The amendments to the Criminal Procedure Code (CPC) introduced in 2016, 2020, and 2021 include provisions for mandatory medical examination before placing a suspect in a temporary detention facility (Article 94-4). However, there is no requirement for a medical examination when a detainee is about to be transferred from a temporary detention facility (IVS) to a pre-trial detention facility (SIZO). A medical examination is performed subsequently at the pre-trial detention facility.

The amendments introduced in 2016 (Article 94-4 of the CPC) make it possible for a detainee or their lawyer to request a medical examination to be conducted by an independent medical doctor or forensic medical expert. However, as of now, there are no regulations in place to govern the practice of independent forensic experts in Tajikistan, nor are there any independent institutions for forensic medical examinations.

In practice, the medical examination of detainees often takes place in the absence of a lawyer and in the presence of law enforcement officers. Many detainees who have experienced torture do not report it for fear of being tortured again.

In November 2014, the Ministry of Health implemented the Istanbul Protocol into national legislation. By its Decree No. 918, the Ministry approved the "Collection of normative legal acts concerning forensic medical examinations and guidelines for establishing and conducting forensic medical examinations." This collection includes an annex that provides standard forms for documenting medical findings and formulating expert opinions, including a form that must be completed by physicians and other healthcare professionals when examining a detainee.

Whenever a detainee reports torture or ill-treatment, the healthcare professional must register the complaint and request an interdisciplinary assessment, which includes both a forensic medical examination and a psychiatric evaluation. In practice, however, physicians rarely fill out the above-mentioned forms for several reasons: the Ministry of Health has not provided enough forms, many physicians are unaware that such forms exist, and some medical professionals fear potential reprisals from law enforcement officers if they document evidence of torture.

Identification and interrogation of witnesses

The pre-investigative verification of a torture report is usually limited to questioning the alleged perpetrators who typically deny their guilt. If a statement alleging torture is made during a trial, the judge will summon the alleged perpetrators to be interrogated in court. Neither investigators nor courts make any effort to identify other potential witnesses and take their statements.

In the rare cases of criminal proceedings initiated into torture complaints, the investigator may summon and interrogate the victim's relatives as part of the proceedings.

Appointment of examinations

The absence of an independent non-governmental expertise system in the country significantly affects the quality of forensic medical examinations.

In practice, a complaint alleging torture rarely results in the appointment of a comprehensive assessment. Instead, the response is often limited to a mere check for the presence of physical injuries. If a forensic medical examination is appointed, the resulting report usually indicates that "harm to health" has been inflicted.

In Tajikistan, only psychiatrists are authorized to conduct evaluations and diagnose post-traumatic stress disorders caused by torture. The forms used to document the findings of psychiatric evaluations in Tajikistan have not been updated since 2001 and do not reflect the standards outlined in the Istanbul Protocol. The vast majority of psychiatrists in the country have never received training in applying the Istanbul Protocol. Psychological assessments are never undertaken.

Access to forensic medical examinations and psychiatric evaluations is further complicated by the practice of initiating such interventions only upon the investigator's request, according to Chapter 24 of the CPC. Even though Article 21-4 of the Law on State Forensic Examination provides that a forensic medical examination may be appointed not only on the basis of the investigator's order but also on the basis of a court ruling or the decision of a judge, inquiry officer, investigator, or prosecutor, as well as on the basis of a petition filed by an individual or a legal entity, the detainee, or their legal representative, there is no effective legal mechanism to avail of this provision in practice.

Keeping the victims informed about the progress of the proceedings and the decisions taken, and the comprehensiveness of such information

According to national legislation, victims are entitled to be informed about the results of the investigation only after its completion. In practice, victims of torture, their relatives and lawyers do not have access to the materials of the pre-investigative verification. The investigating authorities do nothing more than send

them a document stating their refusal to initiate a criminal case. The only way to obtain the details is for the lawyer to file a written request to receive the materials.

Independence of investigation and conflict of interest

Most investigations conducted by prosecutor's offices fall short of the standards of effectiveness and independence. The prosecutor's offices perform two functions: one of them involves prosecuting crimes, while the other concerns overseeing the legality of investigations, inquiries, and operational investigative methods. As part of their function of prosecuting crimes, the prosecutor's offices investigate various types of offenses. These authorities also act on behalf of the state as the prosecuting party in legal proceedings, including cases that have been investigated by other law enforcement agencies, such as the police. When presenting their case in court, the prosecutor relies on evidence gathered during the investigation, which includes evidence obtained through various operational investigative measures. By uncovering irregularities in the investigation process, such as the use of torture, the prosecutor's office raises doubts about the integrity of the evidence supporting their case and weakens its own position in court. In practice, this conflict between the functions of criminal prosecution and oversight over the investigation is often resolved in favor of the former, prioritizing the strengthening of the prosecution's position in court rather than thoroughly investigating complaints of torture and other irregularities raised by suspects and accused individuals.

If the prosecutor's office initiates an investigation, it is generally conducted by their own officers. However, the law allows them to delegate investigative measures and evidence collection to the police as well. Prosecutors and police officers serving in the same area often develop close professional and, sometimes, even personal connections. This situation can adversely affect the impartiality and independence of investigations. There is a possibility that a police officer against whom a complaint has been submitted may be assigned to collect evidence in the case.

The Coalition against Torture has documented numerous cases in which prosecutors and police investigators have refused to address complaints of torture.

When a complaint is filed with the Prosecutor General's Office against the decision of a local prosecutor's office to refuse to open criminal proceedings into torture/ill-treatment or to suspend an investigation, the typical practice is that the Prosecutor General's Office refers the case for further investigation back to the prosecutor's office mentioned in the complaint. As a result, cases can be transferred between prosecutor's offices for several months or even years.

Availability of rehabilitation programs for torture victims

No state-run rehabilitation programs for victims of torture are available in Tajikistan. Rehabilitation services are primarily provided by non-governmental organizations that rely on donor funding.