



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Reports of States parties due in 2004

**Tajikistan\***

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## **Initial report of Tajikistan on measures taken to implement the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

### **I. Introduction**

1. Tajikistan became a party to the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, in 1993.
2. Parliament ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in June 2002. On ratification, Tajikistan stated pursuant to article 3 (2) of the Optional Protocol that persons under the age of 18 were prohibited from volunteering for the country's Armed Forces.
3. This initial report of Tajikistan on measures taken to implement the Optional Protocol has been drawn up by a working group comprised of representatives of the Executive Office of the President and of other ministries and departments concerned.
4. During the preparation of the report, consultations were held with international and non-governmental organizations. A presentation of the draft report was organized with the support of the office of the United Nations Children's Fund in Tajikistan in August 2016 and was attended by representatives of the executive and the judiciary, law enforcement agencies, the Office of the Commissioner for Human Rights, academic circles and civil society organizations.
5. The working group wishes to thank the civil society organizations for their collaboration in drawing up this report.

### **II. General measures of implementation**

6. The Optional Protocol is implemented by the Ministries of Defence, Internal Affairs, Education and Science, Health and Social Welfare and Labour, Migration and Employment, the Committee for Youth, Sport and Tourism, the judiciary, the procuratorial agencies and other interested bodies within the scope of their competence. In order to implement the United Nations Human Rights Council's recommendations on protecting the rights and interests of minors and to contribute to ongoing efforts to prevent crime among young people, a youth crime prevention service has been set up in the Ministry of Internal Affairs system specifically to protect the legitimate rights and interests of young people. A children's rights unit was established in 2015 in the Executive Office of the President to coordinate the activities of State bodies in protecting the rights of the child. National human rights institutions — the Commissioner for Human Rights and the Commissioner for Children's Rights — are also active.
7. Tajikistan has civil society organizations that address matters relating to the Optional Protocol. The media also focus attention on the issue. Mechanisms are being established to ensure coordination between government bodies and civil society organizations in conducting the periodic assessment of implementation of the Optional Protocol.
8. Tajikistan does not currently have any registered specialized national human rights institutions that have the specific aim of monitoring implementation of the Optional Protocol. However, in practice, a significant number of registered independent voluntary associations and human rights organizations are engaged in activities aimed at protecting

the rights of citizens, including children and adolescents under the age of 18, thus fulfilling those functions. They include the Legal Initiative foundation, the national Save the Children organization, the Tajikistan office of Save the Children UK and others.

9. The Optional Protocol takes precedence over national law, since the Constitution provides that the international legal instruments recognized by Tajikistan are an integral part of its legal system. If an international agreement recognized by Tajikistan establishes rules other than those provided for by law, the rules of the international agreement apply.

10. The Constitution and civil, criminal, administrative and other areas of national legislation include norms governing the protection of children's rights. The main provisions of the Convention on the Rights of the Child are also contained in the Rights of the Child Act of 18 March 2015. There are no factors or difficulties affecting fulfilment of the obligations under the Optional Protocol.

11. On 3 December 2012, the Government approved the Human Rights Education Programme, 2013-2020, which had been developed on the initiative of the Commissioner for Children's Rights.

12. The Programme covers human rights education in the general education system and training and refresher courses for teachers, judges, civil servants, law enforcement officers and military personnel at all levels.

13. Its main objectives are to promote a culture of human rights, respect for human and civil rights and freedoms, the engagement of State bodies in protecting human and civil rights and freedoms, inclusion of human rights in the education system and broader scope for the introduction of human rights values and standards, taking into account the steps already implemented in secondary, vocational and higher education.

14. The Programme will be implemented in three phases: 2013 to 2014, 2015 to 2018 and 2019 to 2020.

15. In the first phase, an Interministerial Coordination Council was set up with representatives from the educational institutions of ministries and departments, universities and other establishments. The Council has six working groups that address key areas of the Programme. The working groups have developed 17 targeted programmes, which have been submitted to the Ministry of Education and Science for approval.

16. The programmes are being implemented in a number of educational establishments run by ministries and departments, including the Institute of Public Administration under the Office of the President, the State National Security Council College and Border Guard College, the Military Institute under the Ministry of Defence, the Procuratorial Agencies Career Development Centre, the Ministry of Internal Affairs academy, the Council of Justice Judicial Training Centre, the Further Training Institute of the Ministry of Justice and the Further Training Institute of the Ministry of Labour, Migration and Employment.

17. All curricula currently include specific class time for the study of children's rights. Particular attention is paid in educational activities to the Convention on the Rights of the Child and its Optional Protocols.

18. Teaching manuals and a compendium of national and international human rights instruments have been developed to improve the teaching of human rights to students on law and other courses and pupils in eleventh and twelfth grades.

19. A human rights school is being organized for the second phase of the Programme, with the objective of providing training for trainers on human rights.

20. In recent years, the Ministry of Education and Science has developed methodological recommendations for teaching human rights in the country's educational

institutions, with thematic lessons on the subject. The activities are carried out in an integrated manner and include training, after-school and extracurricular activities and the basic and extended education system, and involve not only teachers but also human rights experts. The key challenge for vocational education institutions is to ensure discipline in accordance with the principles of respect for the human dignity of children, the encouragement of tolerance and the improvement of students' legal awareness and knowledge.

21. Pursuant to the Constitutional Act on the Procuratorial Agencies and with the aim of protecting human and civil rights and freedoms and the lawful interests of society and the State, the Procurator's Office monitors ministries, government committees, services and other executive bodies, local government bodies, the military administration, monitoring bodies, their officials and the boards and directors of commercial and non-commercial organizations for respect for human and civil rights and freedoms, including compliance with the legislation governing military duty and military service. If violations of national legislation on conscription come to light, the procuratorial agencies take action to address them.

22. The Office of the Commissioner for Children's Rights was established in April 2016 on the initiative of the President, with the aim of guaranteeing respect for and observance and promotion of the rights and freedoms of the child. The activities of the Commissioner for Children's Rights are regulated by the Commissioner for Children's Rights Act.

23. The main function of the Office is to promote respect for children's rights and freedoms, the restoration of those rights and freedoms when violated, improved national legislation, legal education for citizens, including children, on children's rights and freedoms, cooperation between State bodies and civil society, the development and coordination of international cooperation in the field of children's rights and freedoms and the ratification of or accession to international human rights instruments.

24. In carrying out his or her functions, the Commissioner for Children's Rights may:

- Freely inspect government authorities, local self-governing bodies in towns and villages, institutions, organizations and enterprises, irrespective of their organizational or legal form, voluntary associations, penal institutions, temporary holding facilities, remand centres, other institutions providing social, medical or psychosocial assistance and other places of restriction of liberty.
- Request and receive from managers and officials the necessary information, documents and materials.
- Receive explanations on matters requiring clarification during such work from managers and officials, with the exception of judges in respect of judicial decisions.
- Undertake, individually or together with the competent State bodies, officials and civil servants, a review of the activities of government authorities, local self-governing bodies in towns and villages, penal institutions and other institutions, organizations and enterprises, irrespective of their organizational or legal form, in terms of their respect for human rights.
- Instruct the competent government authorities and academic institutions to conduct expert studies on issues arising in the course of the work.
- Examine criminal, civil, family and economic cases, cases related to administrative offences, judicial decisions that have entered into force, cases that have been terminated and materials on which criminal proceedings were not instituted.

25. The mandate of the Commissioner for Children's Rights includes the right to be received without delay by the leaders and officials of government authorities, local self-

governing bodies in towns and villages, institutions, organizations and enterprises, irrespective of their organizational or legal form, and voluntary associations, as well as military commanders and senior or administrative staff of temporary detention centres or places of deprivation of liberty in the country. The Commissioner for Children's Rights is entitled to attend meetings of the Majlis-i Milli and the Majlis-i Namoyandagon (the upper and lower houses) of the Majlis-i Oli (the national parliament), the Government and other government agencies. The Commissioner or an official of the Office with written instructions from the Commissioner may, acting in compliance with national legislation, attend sittings of courts of all instances, including in closed proceedings.

26. The Commissioner for Children's Rights may apply to a court or other appropriate government authority, including to petition for protection of the rights and freedoms of persons who, for health or other valid reasons, are not themselves able to have recourse to available remedies.

27. The Commissioner for Children's Rights monitors compliance with the country's obligations under the international legal instruments it has ratified, in particular the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. He or she also studies and analyses legislation, issues conclusions on draft regulatory acts related to children's rights in order to bring them into line with the Convention on the Rights of the Child and its Optional Protocols and disseminates information to the public on the provisions of those instruments, including at local meetings.

28. National progress reports on implementation of the human rights conventions ratified by Tajikistan are published regularly in the media and on the official website of the Commissioner for Human Rights. There are plans to include a link in the "Questions related to human rights" section of the Ministry of Internal Affairs official website to the relevant section of the website of the Commissioner for Human Rights. The Office of the United Nations High Commissioner for Human Rights assisted in the development of the website of the Government Commission on International Human Rights Obligations, which includes the international human rights instruments ratified by Tajikistan, all the recommendations of United Nations treaty bodies and their status of implementation.

### **III. Prevention**

29. Under the General Military Duty and Military Service Act of 29 November 2000, male citizens of Tajikistan aged between 18 and 27 years who are either registered for military service or should be so registered but are not and who have not served in the military reserve may be called up for military service.

30. Under article 29 (1) of the Act, male citizens aged between 18 and 40 years and female citizens aged 20 to 40 years may volunteer for military service. Thus, there is no possibility of citizens under the age of 18 volunteering for military service in Tajikistan.

31. Article 30 of the Act provides that male citizens who wish to attend public military college may be admitted to such institutions from the age of 17 or in the year in which they will become 17. Persons who are accepted into military training college are on active military service and are subject to the established requirements for conscripts. In accordance with the internal and departmental rules and regulations, cadets may participate in hostilities after they have completed their first year of studies. The Ministry of Defence currently has a military college and a lycée.

32. Under the General Military Service and Military Duty Act, the following persons are exempt from conscription:

- (a) Persons recognized as partially or wholly unfit for military service for health reasons;
  - (b) Persons who are currently performing or who have performed military or alternative service;
  - (c) Persons who have performed military service in another State;
  - (d) Persons who hold a master's degree or a doctorate.
33. Persons who have an unexpunged or outstanding conviction for an especially serious or serious offence may not be called up for military service.
34. The following persons have the right to be exempted from conscription:
  - (a) A person whose natural father (mother) or brother (sister) was killed (or died) during military service, either as a conscript or as a volunteer, with the position of sergeant, non-commissioned officer or officer, or while undergoing military training;
  - (b) A person who is the only (natural or adopted) son in the family.
35. Male citizens are first registered for military service by the city or district military recruitment commission between 1 January and 31 March in the year of their sixteenth birthday.
36. Female citizens are assigned to the military register by the municipal or district military recruitment commission after they have acquired a military specialization. The composition of the military recruitment commission is confirmed by decision of the president of the city or district as follows:
  - The city or district military commissioner or deputy (chair of the commission).
  - The secretary to the Commission.
  - Doctors who conduct medical examinations of citizens in connection with their placement on the military register.
37. The military recruitment commission must:
  - Arrange for a medical examination to determine whether citizens are suitable for military service.
  - Decide either to register citizens for military service or to exempt them from general conscription as unsuitable for military service for reasons of health.
  - Carry out a vocational and psychological examination to determine the person's possible use in military service.
38. The chair or the secretary of the military recruitment commission must inform the person concerned of the commission's decision and clarify his or her responsibilities in respect of joining the military.
39. Persons who have acquired Tajik citizenship are placed on the military register in line with the following procedure:
  - Males aged between 16 and 27: in line with the procedure laid out in the first paragraph of this article.
  - Others: by the city or district military commissioner.
40. For the purposes of military registration, citizens must:
  - Be registered with the military recruitment centre at their place of residence; if there is no military recruitment centre, they must register with the local self-governing

bodies in towns and villages; citizens who have the rank of officer and are in the State National Security Committee Reserve Force must register with the appropriate agency of the State National Security Committee.

- Present themselves at the scheduled time and place at the military recruitment centre or the local self-governing bodies in the town or village of their place of residence or temporary residence.
- On discharge from service in the reserve force, present themselves within two weeks from their date of discharge from the list of military personnel to the military recruitment centre of their place of residence for enrolment for military service.
- Report within two weeks to the military recruitment centre or the local self-governing bodies in the town or village of their place of residence to give notice of a change in family status, education, place of work or service or place of residence within the town or district.
- Apply for withdrawal from the military register if moving to a new place of residence or temporary residence (for more than three months) or if leaving the country for more than six months, and for placement on the military register within two weeks of arrival at a new place of residence or temporary residence or of return to Tajikistan.
- Take particular care of their military identity card, temporary identity card or replacement identity card, and certificate of initial recruitment of persons subject to conscription for military service.

41. In event of loss of the said documents, the person concerned must apply within two weeks to the military recruitment centre of their place of residence to request replacement documents. Citizens liable for military service who intend to travel away from their place of residence for more than three months during the call-up period must personally inform the military recruitment centre or local self-governing bodies in the town or village of their place of residence.

42. Citizens also perform other duties as laid down in the regulations on military registration.

43. Persons in full-time study at public higher vocational education institutions who have no health-related impediments to them performing military service and who meet the eligibility requirements may follow the reserve officer training programme in the military faculty of their educational institution, provided that they will be under the age of 27 by the end of their course of study in that institution.

44. Reserve officer training programmes in military faculties of public higher vocational education institutions are organized according to a procedure determined by the Government.

45. Reserve officer training programmes may include military training for female citizens.

46. Public higher vocational education institutions provide the necessary facilities for the military faculty, as well as the necessary training materials and equipment, with the help of the Ministry of Defence.

47. The Ministry of Defence monitors the military training of students.

48. Training sessions or internships provided for under the reserve officer training programme are considered to be military training.

49. To prepare citizens for military service, the Ministry of Defence and other ministries and departments in respect of which the Act provides for military service:

- Draw up lists of military specializations and military-related sports.
- In conjunction with the Ministry of Health and Social Welfare, draw up the health requirements for prospective and new recruits.
- Participate in the preparation of State educational standards, training programmes and methodologies to prepare citizens for military service.
- Take part in the establishment, financing and equipping of military faculties in public higher vocational education institutions, as well as establishments and organizations that train citizens for military service on a contractual basis.

50. The procedure for providing medical counselling on reproductive health for minors and young people, including members of risk groups, was approved under a Government Decision of 28 November 2015. It lays out the modalities for medical counselling, moral and sexual education, reproductive health education and preparation for family life for minors and young people, including members of risk groups (hereinafter: recipients of services).

51. Recipients of services and their legal representatives have the right freely to choose a doctor and a medical institution and to receive services on the basis of the principles of accessibility, good will, confidence and confidentiality.

52. There are currently 21 medical units in the country that provide counselling services for minors. The main objective in establishing such units is to provide free assistance to minors. In 2015, the units held 240 seminars, 475 lectures and 120 meetings for 8,260 secondary school pupils and college and university students. The events, which took place in Khatlon and Sughd provinces, addressed topics such as: “Preventing HIV/AIDS and sexually transmitted infections” and “Prevention of unwanted pregnancies”.

53. In addition to the guarantee of judicial protection established in the Constitution, Tajikistan has adopted a number of international human rights obligations that oblige it to grant legal assistance to citizens at all stages of the criminal justice process. A framework for the provision of free legal assistance was approved under Government Decision No. 425 of 2 July 2015. The framework provides for free legal assistance to minors who do not have a tutor or guardian, in addition to other categories of citizens.

#### **IV. Prohibition and related matters**

54. The Criminal Code contains a number of rules aimed at preventing acts relating to unlawful conscription into the Armed Forces. Actions (or omissions) of a person under certain circumstances are specified in individual articles of the Code: article 314 (abuse of authority), article 316 (improper exercise of authority), article 317 (misappropriation of official powers), article 323 (falsification of documents by an official) and article 322 (negligence).

55. Article 314 (1) of the Criminal Code (abuse of authority) provides that the use by an official of his or her official powers in a manner prejudicial to official interests, where the act is committed for gain or other personal motives or entails a serious violation of the rights and legal interests of citizens or organizations or of legally protected interests of society or the State, is punishable by a fine of 250 to 365 times the calculation index or forfeiture of the right to hold certain posts or engage in certain activities for up to 5 years or by deprivation of liberty for a period of up to 2 years; the maximum punishment is deprivation of liberty for up to 4 years.



56. Article 314 (2) (abuse of authority) provides that the same act, if committed by a person who holds a government post or is the leader of a local authority, shall be punished by a fine of 365 to 912 times the calculation index or by deprivation of liberty for a period of 2 to 5 years with forfeiture of the right to hold certain posts or engage in certain activities for up to 3 years.

57. Article 314 (3) (abuse of authority) provides that, if the acts referred to in paragraphs 1 and 2 of the article have serious consequences, the penalty shall be deprivation of liberty for up to 10 years with forfeiture of the right to hold certain posts or engage in certain activities for up to 3 years.

58. Article 316 (1) (exceeding official authority) makes exceeding authority punishable by a fine of between 250 and 730 times the calculation index or forfeiture of the right to hold certain posts or engage in certain activities for up to 5 years or by deprivation of liberty for a period of up to 4 years; the maximum punishment is deprivation of liberty for up to 4 years.

59. Article 316 (2) (exceeding official authority) provides that the same act, if committed by a person who holds a government post or is the leader of a local authority, shall be punished by a fine of 730 to 1,277 times the calculation index or by deprivation of liberty for a period of 4 to 7 years with forfeiture of the right to hold certain posts or engage in certain activities for up to 3 years.

60. Article 316 (3) (exceeding official authority) provides that, if the actions described in paragraphs 1 and 2 of the article have been committed:

(a) With the use or threat of force;

(b) With the use of arms or special munitions and means;

(c) Or with serious consequences, they are punishable by a fine of between 912 and 1,825 times the calculation index or by deprivation of liberty for a term of 5 to 10 years with forfeiture of the right to hold certain posts or engage in certain activities for up to 5 years.

61. Under article 323 (1), falsification of documents by an official, that is, the insertion into official documents by an official or civil servant, or an employee of a local government body who is not an official, of information that is known to be false, or the insertion into such documents of modifications in a manner that distorts their real content, or the issuance of documents known to be false, where such acts are committed for gain or other personal motives, is punishable by a fine of 250 to 365 times the calculation index, or punitive deduction of earnings for 1 to 2 years, or deprivation of liberty for up to 2 years, with or without forfeiture of the right to hold certain posts or engage in certain activities for up to 3 years.

62. Under article 322 (1), negligence, that is, non-performance or inadequate performance by an official of his or her duties as a result of an unconscientious or careless attitude to his or her work, where this causes a serious violation of the rights and legitimate interests of citizens or organizations or of the legally protected interests of society or the State, is punishable by a fine of 100 to 250 times the calculation index or compulsory labour for between 120 and 180 hours or by punitive deduction of earnings for up to 2 years.

63. Pursuant to article 322 (2), the same act resulting, by negligence, in the death of a person or other serious consequences, is punishable by a fine of 250 to 912 times the calculation index or deprivation of liberty for up to 5 years, with or without forfeiture of the right to hold certain posts or engage in certain activities for up to 5 years.

64. Article 130<sup>1</sup> (trafficking in persons) provides that trafficking in persons aimed at the exploitation (exploitation of the prostitution of others or other forms of sexual exploitation,

forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue) or the recruitment, transport, delivery, concealment or collection of persons through the use or threat of force or other forms of coercion, abduction, deceit, fraud, abuse of authority or condition of vulnerability, or bribery with money or advantages to obtain the consent of an individual having control over another person, is punishable by deprivation of liberty for a term of 5 to 8 years.

65. Under paragraph 2 of the same article, acts referred to in paragraph 1, if committed:

- (a) Repeatedly;
- (b) By a group of persons by prior conspiracy;
- (c) Against two or more persons;
- (d) With the use or threat of violence;
- (e) For the purposes of removing from the victim organs or tissue for transplantation;
- (f) By an official or representative of the authorities, using his or her official position or by another person holding an administrative position in a commercial or other organization;
- (g) With the transfer of the victim across the State border of Tajikistan;

are punishable by deprivation of liberty for a term of 8 to 12 years.

66. Under paragraph 3, if the acts referred to in paragraph 1 or 2 of the article:

- (a) Cause the death of a child victim of trafficking or other serious crimes;
- (b) Are committed by an organized group;
- (c) Are committed by a particularly dangerous repeat offender;

they are punishable by deprivation of liberty for a term of 12 to 15 years.

## **V. Protection, recovery and reintegration**

67. No child victims of the practices prohibited under the Optional Protocol are currently registered in Tajikistan.

## **VI. International assistance and cooperation**

68. In order to strengthen international cooperation in implementing the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Tajikistan works in constant collaboration and continuous cooperation with relevant bodies and United Nations entities.

69. To build up cooperation with the international community, it has signed bilateral and multilateral agreements on legal assistance and cooperation in related areas.

70. Taking into account the public danger represented by offences related to human trafficking and their possible negative social, political and economic implications, and in order to strengthen cooperation to combat these crimes at national, regional and international levels, Tajikistan ratified the Convention against Transnational Organized Crime and its Protocols against the smuggling of migrants by land, sea and air, and to prevent, suppress and punish trafficking in persons, especially women and children on 29 May 2002.

71. Tajikistan collaborates with the Office of the Special Representative of the Secretary-General for Children and Armed Conflict.

72. Tajikistan has not been mentioned in reports of the Secretary-General to the Security Council in accordance with resolution 1612, but it provides assistance, in line with the Optional Protocol, under relevant multilateral and bilateral cooperation programmes to immigrants and refugees, including children, from Afghanistan. There are 267 child refugees and immigrants from Afghanistan studying in Tajikistan.

## **VII. Other legal provisions**

73. In implementing the Optional Protocol, Tajikistan takes account of the provisions of international law relating to the prevention of trafficking in persons. Specifically, Tajikistan has ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

## Annex

1. From 1 January to 1 October 2016, 401 persons aged between 14 and 30 were registered as having illegally participated in armed conflicts in other States. They included:
    - 378 in Syria
    - 11 in the Islamic Republic of Iran
    - 6 in Iraq
    - 6 in Pakistan
  2. Of that number, 206 — 91 girls and 115 boys — were minors. Currently 204 families are in Iraq and Syria.
  3. Fifteen families with 13 minors — 8 boys and 5 girls — are from Khatlon province. Twelve families with 15 minors — 11 boys and 4 girls — are from Sughd province. One family with 2 minors — 2 girls — is from Kūhīstōni Badakhshon Autonomous Province.
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