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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias en su informe sobre la visita que realizó a Tayikistán del 1 al 5 de julio de 2019

Informe del Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias*

Resumen

En el presente documento figura la información facilitada por el Gobierno de Tayikistán, las autoridades, la sociedad civil y otras partes interesadas sobre las medidas de seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias tras la visita que realizó al país en 2019^a.

En el párrafo 7 a) de su resolución 7/12, el Consejo de Derechos Humanos rogó a los gobiernos que hubieran aceptado visitas del Grupo de Trabajo que prestaran toda la atención necesaria a las recomendaciones del Grupo de Trabajo y los invitó a informar al Grupo de Trabajo de las medidas que adoptaran al respecto. El Consejo reiteró esta petición en el párrafo 16 a) de su resolución 21/4.

El formato actual de los informes de seguimiento tiene por objeto facilitar la identificación de las medidas concretas adoptadas en respuesta a las recomendaciones específicas y reflejar la información recabada de las distintas partes interesadas que participen en el proceso, a partir de lo cual el Grupo de Trabajo formula sus observaciones sobre el nivel de aplicación de sus recomendaciones.

El Grupo de Trabajo sigue ofreciendo su asistencia a los Gobiernos que hayan recibido una visita para cumplir las recomendaciones que se les haya formulado, y está dispuesto a ayudarlos en sus esfuerzos por prevenir y combatir las desapariciones forzadas.

^a Véase [A/HRC/45/13/Add.1](#).

* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en ruso.



Anexo

Seguimiento de las recomendaciones formuladas por el Grupo de Trabajo sobre las Desapariciones Forzadas o Involuntarias en su informe sobre la visita que realizó a Tayikistán del 1 al 5 de julio de 2019

1. On 22 December 2022, the Working Group on Enforced or Involuntary Disappearances requested the Government of Tajikistan to provide information on the measures taken to implement the recommendations it had made in its report on its visit to Tajikistan in July 2019.¹ The Working Group thanks the Government of Tajikistan for providing input on 14 March 2023.
2. At its 130th session, the Working Group decided to postpone considering the follow-up report due to a lack of sufficient inputs from other relevant stakeholders at the time.² The Working Group thanks all the stakeholders who have submitted information for its consideration for the present report.
3. Based on the information provided, the Working Group finds that Tajikistan has not taken any significant steps to ensure the enjoyment of the right to know the truth and to ensure accountability for enforced disappearances that began during the civil war. No steps have seemingly been taken either to grant measures of reparation for the harm suffered by victims of gross human rights violations, including enforced disappearance, perpetrated during the civil war.
4. In 2019, the Working Group observed with concern that the wounds left by the violations perpetrated during the civil war remained deep 20 years later, but were intentionally ignored. The Working Group observes with dismay that, five years later, the situation has not changed. While the desire for healing and reconciliation within Tajik society is fully shared by the Working Group, that cannot be achieved at the expense of the establishment of the truth regarding the crimes committed in that context, or of the provision of reparations and the promotion of accountability. The passing of time only makes more urgent the need to adopt effective measures to ensure that the State abides by its international obligations in that regard.
5. The Working Group reiterates its recommendations to the State to promptly adopt a truth-seeking policy and to develop specific mechanisms to deal with the enforced disappearances that began during the civil war, which lasted from 1992 to 1997, in particular bearing in mind the continuous nature of the crime of enforced disappearance. The Working Group also regrets that official memorial sites to pay tribute to victims of enforced disappearance from the civil war are yet to be established. They would contribute to the healing and reconciliation of the victims and of Tajik society as a whole.
6. The Working Group commends the Government for operationalizing, under the Ministry of Health and Social Protection, the DNA laboratories in the cities of Dushanbe and Khujand. However, the Working Group regrets that the personnel in the laboratories have reportedly not received adequate, dedicated training on enforced disappearance and the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The Working Group equally regrets that a national DNA databank for victims of enforced disappearance and their relatives has not been set up.
7. Concerning the legislative and institutional framework, the Working Group deplors the fact that Tajikistan has not yet adopted a national law criminalizing the autonomous offence of enforced disappearance, nor has it taken any steps to ratify or accede to the International Convention for the Protection of All Persons from Enforced Disappearance, or recognize the competence of the Committee on Enforced Disappearances to receive and examine individual and inter-State communications.

¹ Ibid.

² [A/HRC/WGEID/130/1](#), para. 71.

8. The Working Group notes with appreciation the efforts made by the Government of Tajikistan to incorporate training on the topic of enforced disappearance within the curriculum of the Academy of the Ministry of the Interior, but encourages the Government to ensure that training on the subject is also provided to law enforcement personnel, whether civil or military, medical personnel, public officials, judicial authorities and any other personnel who may be involved in the custody or treatment of any person deprived of liberty.

9. The Working Group remains concerned that cases of enforced disappearance in the context of transnational transfers and refoulement remain an issue in Tajikistan. Information was received concerning the Law on Combating Terrorism³ in relation to the definition of terrorism, which is overly broad, and the negative and disproportionate impact that such legislation may have on particular groups, on due process and on the right to liberty and security of person, which may lead to enforced disappearances.⁴ Furthermore, the collective expulsion of refugees and asylum-seekers from Tajikistan is a serious concern.⁵ In that regard, the Working Group recalls Human Rights Council resolution 9/5, in which the Council addresses the issue of the human rights of migrants, “requests States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party”.

10. The Working Group recalls the imperative to undertake effective measures to prevent and eradicate all instances of “short-term” enforced disappearances, especially by granting prompt access to information on any person deprived of liberty to anyone having a legitimate interest in that information, such as relatives of the person deprived of liberty, their representatives or their counsel.

11. Furthermore, the Working Group is troubled by the fact that the State often alleges that certain information that is potentially relevant to establishing the fate and whereabouts of disappeared persons or to understanding the progress of an investigation is covered by State secrets and that this would preclude its disclosure. In that regard, the Working Group recalls that in the case of violations of human rights, including enforced disappearances, State authorities cannot hide behind mechanisms, such as official secrets or the confidentiality of information, or behind reasons of public interest or national security, to justify not providing the information required by the judicial or administrative authorities in charge of an investigation or pending proceedings, or to avoid providing information to international human rights mechanisms in the context of dispute settlements or humanitarian procedures.

12. The Working Group is further deeply disturbed by information received concerning a progressively shrinking civic space, whereby human rights defenders, journalists and other members of civil society organizations are subjected to surveillance, threats, intimidation, harassment and often arbitrary detention. The Working Group calls on Tajikistan to put an end to this situation and to undertake effective measures to create an enabling environment for human rights defenders, including the families of disappeared persons and their representatives and organizations, and to promptly and thoroughly investigate such incidents and hold the perpetrators accountable.

13. The Working Group welcomes the cooperation with the International Committee of the Red Cross to strengthen the search for and the mapping and preservation of burial sites, cooperation on exhumations, the identification and return of mortal remains to relatives and the independent monitoring of detention facilities. The Working Group recommends that additional efforts are undertaken to disseminate and implement the Guiding Principles for the Search for Disappeared Persons.⁶

³ Law of the Republic of Tajikistan on Combating Terrorism, No. 845, 16 November 1999.

⁴ See communication TJK 5/2022, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

⁵ See communication TJK 4/2021, available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

⁶ See [OHCHR | Guiding principles for the search for disappeared persons](#).

14. The Working Group wishes to reiterate its recommendation to Tajikistan to continue to engage with special procedure mandate holders and consider extending invitations to visit the country to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. On its part, the Working Group restates that it stands ready to provide technical assistance to Tajikistan to overcome the obstacles identified.

Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visit to Tajikistan from 1 to 5 July 2019

<i>Recommendations^a</i>	<i>Situation during the visit^b</i>	<i>Observations: measures taken/current situation</i>	<i>Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)</i>
Enforced disappearances as the legacy of civil war			
70. Concerning enforced disappearances as the legacy of civil war, the Government should:	Paras. 7, 12, 13, 31–37	Government	The Working Group regrets to learn that little to no progress has been made by the Government with regard to preventing a recurrence of enforced disappearance. According to information received, there has been no implementation of the Working Group's recommendations with regard to cases of enforced disappearance that began during the civil war of 1992 to 1997.
(a) Adopt, as a matter of urgency, a truth-seeking State policy and develop specific mechanisms, supported by dedicated resources, for dealing with disappearances caused by and related to the civil war. That should include the creation of a national register to collect information on, and the search for, forcibly disappeared persons, the mapping and conservation of burial sites and the exhumation, identification and return to families of identified remains		<p>Together with the International Committee of the Red Cross (ICRC), the Government carries out active work on searching for, mapping and preservation of burial sites, exhumation, identification and return of the remains to relatives, as well as on training relevant personnel and learning best practices from other countries.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of the existence of any national register to collect information on, or the search for, forcibly disappeared persons.</p> <p>Other</p> <p>The authorities did not take any measures to implement these recommendations and the government response is too vague.</p>	<p>The Working Group also recommends that additional efforts are undertaken to disseminate and implement the Guiding Principles for the Search for Disappeared Persons.</p>
(b) Ensure full access to the register by relatives of the disappeared, lawyers, human rights defenders and any other concerned person	Paras. 26, 28, 37	<p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of the existence of a register or of any access to it by lawyers, human rights defenders and any other concerned person.</p>	The Working Group notes that families are not aware of the existence of a national register.
(c) Promptly complete the planned DNA laboratory in Dushanbe and further strengthen forensic capacities and training for staff on international	Para. 38	<p>Government</p> <p>According to the legislation of Tajikistan, the unlawful or allegedly unlawful killings are subject to preliminary examination by the relevant authorities</p>	The Working Group is pleased to learn that DNA laboratories are operational in the cities of Dushanbe and Khujand under the Ministry of Health and Social Protection. However, pursuant to information received,

<i>Recommendations^a</i>	<i>Situation during the visit^b</i>	<i>Observations: measures taken/current situation</i>	<i>Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)</i>
standards, such as the Minnesota Protocol on the Investigation of Potentially Unlawful Death		<p>(mainly the prosecution) for the elements of the crime committed. If such elements of a crime have been found, a criminal case is registered and a thorough investigation is carried out. In regard to disappeared persons, there are procedures and a term, upon the expiration of which, if the whereabouts of the person have not been established, the law enforcement authorities conduct a preliminary examination and take action to establish the whereabouts of the person concerned.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization have no information as to whether the planned DNA laboratory in Dushanbe has been completed.</p> <p>Other</p> <p>The DNA laboratory is operational in Dushanbe in the Centre for Forensic and Medical Expertise of the Ministry of Health and Social Protection, and in Khujand, Sughd region. However, staff were not trained on the Minnesota Protocol.</p>	<p>the staff have not been trained on enforced disappearances and the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The Working Group reiterates its recommendation in this regard.</p>
(d) Establish a DNA bank of affected families, with appropriate guarantees on reprisals and confidentiality for families coming forward, with external assistance if required;	Para. 38	<p>Journalists and Writers Foundation</p> <p>At the time of disappearance, the authorities did not take the DNA of any family member to search for the disappeared persons.</p>	
(e) Introduce certificates of absence that enable family members to complete the necessary administrative procedures;	Para. 40	<p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization were not provided with certificates of absence to enable them to complete the necessary administrative procedures.</p>	

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(f) Create a programme to provide full reparation to all families of enforced disappearance and consider requesting international support in that regard;	Paras. 30, 43–45	<p>Government</p> <p>As concerns the development of the programme of full reparation for all families of forcibly disappeared persons, appealing for international support should be considered.</p> <p>This recommendation is supported, given that in Tajikistan, as a result of the civil war that took place between 1992 and 1997, a huge number of forcibly disappeared persons have been registered. In that regard, families of such persons are in need of help, support and reparation, not only from the State, but also from intergovernmental organizations.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of any programme to provide full reparation to all families affected by enforced disappearances.</p> <p>Other</p> <p>There is no information about the steps taken to develop such a programme.</p>	<p>The Working Group regrets that its recommendation to ensure full reparation to all victims of enforced disappearance remains unimplemented. The Working Group also emphasizes that effective measures must be adopted to ensure that victims receive not only full reparation but also adequate psychosocial support.</p>
(g) Create a memorial day specifically for all victims of the civil war and other violent incidents, and erect national and local monuments to remember disappeared persons, in consultation with the victims' families and other stakeholders	Para. 45	<p>Government</p> <p>This issue deserves attention and support.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of any memorial day specifically created for disappeared persons.</p> <p>Other</p> <p>The issue was not discussed.</p>	<p>The Working Group regrets that its recommendation to honour all victims of the civil war and other violent incidents with a memorial day has not been implemented and further regrets that official memorial sites are yet to be established. The Working Group calls on the Government to take prompt action to establish memorial sites and local national monuments for the recognition and rehabilitation of victims.</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(h) Consider starting exchanges with other post-conflict States that have successfully employed mechanisms developed within the concept of transitional justice	Paras. 30, 61	Journalists and Writers Foundation The submitting organization has no information on exchanges between the Tajik authorities and other post-conflict States that have successfully employed mechanisms developed within the concept of transitional justice.	The Working Group notes that little progress has been achieved in this regard and reiterates the recommendation made following the visit.
Legislative and institutional framework			
71. Concerning the legislative and institutional framework, the Government should:	Paras. 19–30	Government Article 130 of the Criminal Code criminalizes secret, open, by deceit or betrayal of trust, or linked with violence unlawful appropriation (abduction) of a person. That norm fully covers the recommendations of the Working Group and does not need the introduction of additional norms.	The Working Group regrets that no steps have been taken to introduce an autonomous crime of enforced disappearance in the domestic criminal legislation, as required under article 4 of the Declaration on the Protection of all Persons from Enforced Disappearance. The Working Group notes that, while related crimes such as kidnapping, taking hostages, human trafficking, illegal deprivation of liberty, illegal arrest and detention, and abuse of power are all codified in the criminal legislation of Tajikistan, none of them encompasses all the elements of an enforced disappearance. Tajikistan shall take all necessary measures to codify the autonomous crime of enforced disappearance without delay.
(a) Introduce a specific prohibition against enforced disappearance in the Criminal Code, punishable by appropriate penalties that take into account its extreme seriousness. That should include:	Para. 23	More serious punishment follows if the crime is committed: (a) By prior conspiracy by a group of persons; (b) Using violence dangerous to life and health, or with the threat of such violence; (c) Using weapons and objects used as weapons; (d) Against two or more persons; (e) By an organized group; (f) And/or results in the unintended death of the victim or other grave consequences. If the said acts are committed by an official or person in command, then the responsibility is enhanced through the application of additional norms of the Criminal Code, for example articles 314 (abuse of power), 316 (exceeding official powers), 391 (abuse	
(i) Various modes of criminal liability, including in relation to any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance	Para. 23		
(ii) The application of command or superior individual criminal responsibility for such crimes	Para. 23		

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(iii) Explicit provisions indicating that enforced disappearance is a continuous crime to which amnesties or immunities or a statute of limitations cannot be applied	Para. 23	<p>of power or office, exceeding of powers or office, or inaction of the authorities).</p> <p>Journalists and Writers Foundation</p> <p>Only one family member of a victim contacted by the submitting organization was aware of the existence of a specific prohibition against enforced disappearance in the Criminal Code.</p> <p>Other</p> <p>Tajikistan still does not have enforced disappearance as a crime. There are separate crimes, such as kidnapping, taking hostages, human trafficking, illegal deprivation of liberty and illegal detention or arrest, abuse of power etc.</p>	
(b) Ratify the International Convention for the Protection of All Persons from Enforced Disappearance as soon as possible, with the express recognition of the competence of the Committee on Enforced Disappearances, according to articles 31 and 32 of the Convention	Paras. 22, 24	<p>Government</p> <p>It is noteworthy that the International Convention for the Protection of All Persons from Enforced Disappearance, adopted in 2006, entered into force on 23 December 2010 and by 2022 approximately 70 States had ratified or acceded to it.</p> <p>The Committee on Enforced Disappearances is set up for monitoring and control of the implementation of the Convention. It is composed of 10 experts, elected for four years with a possibility of one-time re-election. The functions of the Committee include:</p> <p>(a) Reviewing the reports the States parties are to submit within two years of the entry into force of the Convention;</p> <p>(b) Transmission of requests and recommendations to States parties to search for and establish the whereabouts of a disappeared person;</p> <p>(c) Reviewing communications regarding violations of the Convention by countries that allow such communications, having made a declaration under article 31 (communications on behalf of</p>	<p>The Working Group is concerned that Tajikistan has failed to implement the recommendation to ratify or accede to the International Convention for the Protection of All Persons from Enforced Disappearance, which was restated in the recommendations under the third cycle of the universal periodic review, adopted on 9 November 2021.^c</p> <p>The Working Group reiterates its call on the Government to ratify or accede to the Convention and to recognize the competence of the Committee on Enforced Disappearances, under articles 31 and 32 of the Convention, to receive and examine individual and inter-State communications.</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
		<p>individuals) or 32 (communications from other States parties, which made the same declaration);</p> <p>(d) Visits to States parties with their agreement or if there is information indicating that a State party is seriously violating the provisions of the Convention;</p> <p>(e) Submitting an annual report on its activities;</p> <p>(f) Bringing information about the widespread or systematic practice of enforced disappearance in a State party to the attention of the General Assembly.</p> <p>Given that the number of States which have ratified or acceded to the Convention is increasing every year and the Convention does not contradict the legal policy of Tajikistan, this recommendation deserves attention.</p> <p>Journalists and Writers Foundation</p> <p>Tajikistan has not signed, ratified or acceded to the International Convention for the Protection of all Persons from Enforced Disappearance. There is also no information about possible discussions or efforts at the national level aimed at acceding to the Convention.</p> <p>Other</p> <p>Under the third cycle of the universal periodic review, Tajikistan did not accept the recommendation to ratify the International Convention for the Protection of all Persons from Enforced Disappearance.</p>	
Transnational arrests and non-refoulement			
<p>72. Concerning transnational arrests and non-refoulement, the Government should:</p> <p>(a) Ensure that any extradition requests are dealt with in full</p>	Paras. 9, 53–56	<p>Government</p> <p>All matters related to extradition in Tajikistan are regulated by chapter 49 of the Criminal Procedure Code. In particular, according to article 478 of the Code, the review of extradition requests is assigned</p>	<p>The Working Group notes with concern that it has recorded cases of enforced disappearance in the context of transnational transfers.^d The Working Group has also received reports from stakeholders of illegal</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
compliance with international human rights law		<p>to the Prosecutor General. Furthermore, when deciding on extradition, the law enforcement agencies of Tajikistan are guided by the United Nations Convention against Transnational Organized Crime, the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases, and the Commonwealth of Independent States Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, as well as the principle of reciprocity.</p> <p>When deciding on the issue of extradition, irrespective of the category of a crime, all norms of international and domestic law are strictly adhered to.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of any prior or outstanding extradition requests against the victims.</p> <p>Other</p> <p>Tajikistan does not comply with international standards.</p>	<p>transfers from Türkiye and the Russian Federation in particular.</p> <p>The Working Group recalls article 8 of the Declaration on the Protection of all Persons from Enforced Disappearance and reiterates its recommendation in the report on enforced disappearances in the context of transnational transfers to review and repel agreements with third States that contravene the international human rights obligations of States regarding involuntary transfers of individuals and the prohibition of refoulement.^e</p>
(b) Ensure that refoulement of individuals to countries where there are substantial grounds to believe those individuals may be at risk of enforced disappearance is prohibited	Paras. 55–57	<p>Government</p> <p>The passport and registration service of the Ministry of the Interior has not registered cases of expulsion of asylum-seekers or refugees to countries where there are reasonable grounds to believe that they could be victims of enforced disappearance.</p> <p>Journalists and Writers Foundation</p> <p>Tajikistan is a State party to the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, and other relevant human rights instruments that strictly prohibit refoulement of individuals to countries where there are substantial grounds to</p>	<p>The Working Group notes that article 478 of the Code of Criminal Procedure of Tajikistan does not allow for the extradition of individuals to another State where there are reasonable grounds to believe that they are at risk of torture. Moreover, Tajikistan is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which enshrines in its article 3 the principle of non-refoulement. The Working Group regrets that the transfer of Afghan nationals, including women, children and persons with disabilities, was reportedly conducted without assessing the existence of the risk that they would be in danger of enforced disappearance upon return. This has been raised as a</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(c) Ensure that illegal entry by individuals seeking asylum is not criminally prosecuted and the individuals are able to submit an asylum application	Paras. 55–57	<p>believe they might be at risk of enforced disappearance.</p> <p>The direct involvement of Tajik State agents in the enforced disappearances and extrajudicial transfers of two victims to Türkiye in July and September 2023 respectively, in clear disregard of human rights instruments voluntarily accepted by Tajikistan, represents a serious violation of the country's obligations under international law.</p> <p>Other</p> <p>According to article 478 of the Criminal Procedure Code, a request for extradition of an individual will be rejected if there is information about his or her possible torture in the requesting State. However, in practice, Tajikistan has probably never used this rule. Last year several Afghan nationals, with or without status in Tajikistan, were extradited to Afghanistan under Taliban rule, despite the intervention of the United Nations.</p> <p>Government</p> <p>Article 335 of the Criminal Code of Tajikistan criminalizes the unlawful crossing of the State border; however it does not apply or extend to, or cover, cases of arrival in Tajikistan in violation of the border crossing procedure of citizens and stateless persons in order to exercise the right to political asylum in accordance with the Constitution.</p> <p>Asylum-seekers are not prosecuted for unlawful entry into Tajikistan and their applications for asylum are reviewed in a timely manner in accordance with the law on refugees.</p> <p>Journalists and Writers Foundation</p> <p>The submitting organization has information on two Turkish individuals at imminent risk of enforced disappearance and illegal transfer to Türkiye. The two individuals, who are now in hiding, are afraid of</p>	<p>concern in previous special procedure communications.^f</p> <p>As such, the Working Group further underscores the fundamental international protection principle of non-refoulement, which is a rule of international customary law and, as such, constitutes an indispensable component of the customary prohibition of torture and other cruel, inhuman or degrading treatment and punishment, and applies also vis-à-vis the jus cogens prohibition of enforced disappearance.</p> <p>The Working Group notes that article 335 of the Criminal Code of Tajikistan recognizes political asylum-seekers. However, it regrets that it does not cover other categories of asylum-seekers and, reportedly since July 2021, Tajik local authorities have suspended certain registration procedures in all refugee-populated areas, thus further restricting access to asylum for the newly arrived seeking protection measures.</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(d) Conduct training and awareness-raising among government officials on the principle of non-refoulement	Paras. 18, 24, 38	<p>seeking asylum with the Tajik authorities, not out of fear of criminal prosecution, but because they would be immediately subject to refoulement to Türkiye, without even being able to formally submit an asylum application.</p> <p>One family member of another victim stated being aware of another Turkish national entering illegally to seek asylum (escape persecution) and criminally prosecuted.</p> <p>Other</p> <p>Article 335 of the Criminal Code is limited only to political asylum-seekers and does not cover others.</p> <p>Government</p> <p>Two seminars were carried out in 2022 at the national level on the principles of work with asylum-seekers and refugees, as envisaged in article 31 of the law on refugees, including on the principle of non-refoulement.</p> <p>It is suggested that the following recommendations be introduced with regard to this section:</p> <p>(a) Creation of a working group, comprising mainly of specialists from the Office of the Ombudsperson and domestic lawyers, to study the International Convention for the Protection of All Persons from Enforced Disappearance, especially in relation to the personnel of the passport and registration service and district police inspectors;</p> <p>(b) Regularly conduct explanatory work and improve understanding of the Universal Declaration of Human Rights and the International Convention for the Protection of All Persons from Enforced Disappearance;</p> <p>(c) Learn from the experience of other countries in exercising the principle of non-refoulement;</p>	<p>The Working Group acknowledges the efforts of the Government in holding these seminars and welcomes the follow-up recommendations. The Working Group calls on the Government to implement the recommendations from these discussions.</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
		<p>(d) Introduce the topic “Definition and essence of the principle of non-refoulement of foreign citizens and stateless persons in the Republic of Tajikistan” into the official training curriculum;</p> <p>(e) Introduce topics related to strengthening the principle of non-refoulement of foreign citizens and stateless persons into the curricula of the universities.</p> <p>Journalists and Writers Foundation</p> <p>There is no information as to whether the Government has conducted any training or awareness-raising exercises among government officials on the principle of non-refoulement. Even if they have done so, the evidence on record at the time of the enforced disappearance of two victims to Türkiye during 2023 shows utter disregard by the authorities for the principle of non-refoulement.</p>	
Registration and notification in the criminal justice system			
<p>73. Concerning registration and notification in the criminal justice system, the Government should:</p> <p>(a) Ensure that families are promptly notified of the arrests of suspects from the moment of actual restriction of freedom of movement and freedom of action of an apprehended person, and ensure that the new legal guarantees on notification and registration following initial apprehension are systematically implemented in practice including through:</p>	<p>Paras. 14, 26, 27, 41, 46–52, 64</p>	<p>Government</p> <p>On 14 May 2016, the Criminal Procedure Code and the law “On procedure and conditions of detention of suspects, accused and defendants” were substantively amended:</p> <p>Amendments to the Criminal Procedure Code of 2016 introduce the concept of “moment of actual arrest”, which refers to the moment of factual limitation of a person’s liberty, including the ability to move freely, coerced retention in a specific place, coerced transfer to the criminal prosecution authorities and prevention of a person from carrying out other actions of their own free will, irrespective of whether any procedural status has been assigned to the person concerned, or whether other procedures have been carried out. Calculation of the period of detention starts from that very moment.</p>	<p>The Working Group notes with concern the persistence of delays in the registration and notification of the deprivation of liberty of persons in the criminal justice system. The Working Group has received reports of families attempting to ascertain the fate and whereabouts of their loved ones and not receiving information for several days or months. Allegedly, this occurred in particular following the protests in the Gorno-Badakhshan Autonomous Region and in the context of transnational transfer processes.</p> <p>The Working Group reiterates its call to ensure procedural safeguards upon arrest and during the first hours of deprivation of liberty, with the aim of preventing possible violations, including enforced disappearances. Such safeguards include the immediate registration and judicial oversight of detention, the notification of family members as soon</p>

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(i) Extending procedural protections related to notification and registration to administrative apprehensions and arrests and when individuals are de facto deprived of their liberty when being called and interviewed as witnesses;	Paras. 46–52	<p>Police officers responsible for arrests shall verbally notify the arrested persons of the reasons for their arrest and their rights at the moment of “actual arrest”. Those rights include immediate conversation with a close relative, immediate access to a lawyer and refusal to testify.</p> <p>The amendments to the Criminal Procedure Code also provide for compulsory registration in the arrest documents of all officials and other persons who participated in the arrest, information about the circumstances of informing the family and the exact time and method of the notification.</p> <p>The amendments also provide for compulsory medical examination before a suspect is placed in temporary detention.</p> <p>The person, applying the said restraint measure, is obliged to notify the relatives of the detainee and the prosecutor in writing, about the arrest and whereabouts (place of detention) of the detained person(s). Previously, the person initially responsible for the arrest had 24 hours to take the above-mentioned actions. However, law No. 1306 of 14 May 2016 reduced the term for notifying the prosecutor to 12 hours and for relatives without delay (article 100 of the Criminal Procedure Code, as amended by Law No. 1306).</p>	as an individual is deprived of liberty, the hiring of a defence lawyer of one’s choice and lawyer-client privilege.
(ii) Establishing a centralized digital registration system for all places of detention;	Paras. 15, 21, 26, 27, 29, 46, 50	Every case of arrest of a person on suspicion of committing a crime is thoroughly examined by supervising prosecutor and there is also a widespread practice of interrogation of the arrested person by the prosecutor before his or her transfer to a relevant place of detention, which creates additional conditions for compliance with all legal procedures in order not to violate the rights of detainees.	
(iii) Reducing the notification period for individuals moved to penitentiary facilities or transferred;	Paras. 46–52		
(iv) Conducting extensive training and awareness-raising among legal professionals, law enforcement	Paras. 18, 24, 38		

<i>Recommendations^a</i>	<i>Situation during the visit^b</i>	<i>Observations: measures taken/current situation</i>	<i>Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)</i>
<p>officials and the public on the guarantees;</p> <p>(v) Informing all law enforcement officials that delayed notification and falsification of records are prohibited and will not be tolerated, ensure that such practices are subject to an appropriate sanction and systematically punish persons who breach the requirements;</p>	<p>Paras. 18, 46</p>	<p>The recommendations provided were taken into account and Law No. 1306 amended the Criminal Procedure Code with regard to reducing the notification period of an arrest.</p>	
<p>(vi) Systematically investigating all alleged cases of torture and ill-treatment, cases where families are not notified of detention or registration records are falsified, and sanctioning perpetrators;</p>	<p>Paras. 10, 26, 31, 33, 34, 36, 42, 51</p>	<p>The prosecutor reacts quite strictly to violations of the notification terms, or delays in sending notification of an arrest, and in order to prevent concealment of this fact, the criminal procedure law contains special procedures that envisage the provision of documents and the arrest protocol to both the arrested person and the prosecutor, and registration of the arrested person in the places of his or her detention. In case of violation of this procedure, the official can be brought to a disciplinary body or accused of criminal responsibility.</p> <p>According to article 161 of the Criminal Procedure Code, criminal cases under article 1431 of the Criminal Code, which criminalizes torture, are investigated by the prosecution investigators, whose independence is guaranteed by the constitutional law on prosecution.</p> <p>As concerns the mechanism that allows for prompt, effective and impartial investigation of all cases of torture and ill-treatment, it is worth mentioning that in addition to the norms of the Criminal Procedure Code, there are internal instructions issued by the prosecution, which envisage mechanisms of prompt reaction and effective investigation of torture.</p>	

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
		<p>Furthermore, allegations of torture or ill-treatment are subject to examination, irrespective of victims' complaints.</p> <p>Protection of human rights, especially in the course of an inquiry (pre-investigative stage) and investigation on instructions from the Prosecutor General is one of the most important aspects of prosecutorial supervision and appropriate measures are taken for its implementation.</p> <p>Additionally, analysis of the legislation and the practices of investigation of crimes related to torture and ill-treatment, and practical measures on the improvement of operations in this sphere are carried out.</p> <p>It is worth mentioning that upon instructions of the President of Tajikistan, a working group has developed a new draft version of the Criminal Code.</p> <p>That draft envisages longer terms of imprisonment (up to 6 years under article 143.1, up to 9 years under article 143.2 and up to 12 years under article 143.3 of the Criminal Code).</p> <p>The draft is currently being refined by the working group.</p> <p>All facts regarding the use of torture on persons under investigation, or other parties to the case, as well as in cases of falsification of procedural documents (arrest protocol, arrest notifications, etc.) being discovered, are subject to investigation. All such actions are considered as crimes and those responsible, if their involvement has been established, are regarded as criminally responsible.</p> <p>Journalists and Writers Foundation</p> <p>Family members of victims are not notified of the arrest or detention of their relatives from the moment</p>	

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(b) Grant the existing monitoring groups, the International Committee of the Red Cross and other independent monitors access to all facilities, including those run by the State National Security Committee;	Para. 51	<p>of actual restriction of freedom of movement or action.</p> <p>Other</p> <p>In several cases family members have tried to find detainees over many days without success. Such were the cases after the detention of Pamiri activists after protests in the Gorno-Badakhshan Autonomous Region. Some detainees were extradited from the Russian Federation and some were detained inside Tajikistan.</p> <p>Government</p> <p>The Ombudsperson has established a monitoring working group, comprised of State authorities and non-governmental organizations (NGOs). The group regularly visits places of detention and reports on the conditions of detention of prisoners.</p> <p>Due to visits to places of detention by ICRC, the Government of Tajikistan has developed an agreement between itself and ICRC and submitted it for review. However, ICRC has not yet submitted its position on the draft agreement.</p> <p>It is also suggested that an action plan be developed, in accordance with the established procedure, on implementation of the recommendations of the Working Group on Enforced or Involuntary Disappearances.</p> <p>Journalists and Writers Foundation</p> <p>The submitting organization has no information on access granted to the existing monitoring groups, ICRC or other independent monitors.</p> <p>Other</p> <p>Monitoring of the working group under the Office of the Ombudsman is not independent. The group has</p>	The Working Group remains concerned that the monitoring working group is still not allowed unfettered access to monitor the facilities run by the State National Security Committee.

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(c) Fully implement the recommendations made by the Committee against Torture ^s (CAT/C/TJK/CO/3) and become a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	Para. 52	<p>never monitored the facilities of the State National Security Committee.</p> <p>Journalists and Writers Foundation</p> <p>In paragraph 30 of its concluding observations on Tajikistan, following its consideration of the implementation of the Convention against Torture, the Committee against Torture recommended, inter alia, that: “The State party should:</p> <p>(a) Refrain from expelling, deporting, returning or extraditing any individual at risk of being subjected to torture upon return;</p> <p>(b) Ensure that all individuals subject to expulsion, deportation, return or extradition have an opportunity for effective and impartial review by an independent decision-making mechanism of claims that they are at risk of being subjected to torture, and that the decisions of such a body have suspensive effect;</p> <p>(c) Consider revising its legislation, especially resolutions 325 and 328, exempt asylum seekers from criminal responsibility for border crossing and penalties for violating residence restrictions that result in revocation of refugee status and deportation, in line with the provisions of the Convention relating to the Status of Refugees, of 1951, and resume cooperation with the Office of the United Nations High Commissioner for Refugees;”^h</p> <p>It is undisputed that the above-mentioned recommendations have been intentionally disregarded by the State party.</p> <p>Tajikistan is not a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. There is no information on possible discussions, or efforts at the national level, towards becoming a party to the Protocol.</p>	The Working Group reiterates its recommendation for the Government of Tajikistan to fully implement the recommendations made by the Committee against Torture and become a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
Other			
During the third cycle of the universal periodic review, Tajikistan did not accept the recommendation to ratify the Optional Protocol.			
General			
<p>74. In general, the Government should:</p> <p>(a) Take decisive action and give clear orders at the highest level to prohibit any surveillance, threats, intimidation and harassment of human rights lawyers, civil society and families of disappeared persons, and create an enabling environment for their work;</p>	Paras. 9, 16, 30, 37, 63	<p>Government</p> <p>In accordance with international standards, Tajikistan guarantees the freedom of the legal profession.</p> <p>Government authorities ensure the guarantee of independence of the legal profession, finances the activities of lawyers working pro bono and, where necessary, in accordance with the established procedure, provide legal associations with offices, equipment and means of communication.</p> <p>Not a single person, who had previously practised law and is currently serving a prison sentence, has been convicted of politically motivated activities.</p> <p>Dissemination of information concerning the violent overthrow of power or change of constitutional regime, incitement to racial, national, local, religious or language hatred, propaganda of war, violence, terrorist and extremist activities, or damaging the integrity and independence of the State through the media is prohibited in Tajikistan.</p> <p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization are not aware of any intimidation or harassment of them or of the lawyers representing the victims.</p>	<p>The Working Group regrets that the civic space in Tajikistan is shrinking, following the announcement in November 2023 of the dissolution of 700 NGOs in the country, with several others choosing to dissolve themselves due to reprisals.</p> <p>The Working Group makes reference to its study on enforced disappearance and economic, social and cultural rights, in which it emphasized the need to ensure the existence of, and respect for, cultural diversity, and that ensuring the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents the targeting of human rights defenders.ⁱ</p>
Other			
In practice, we see that the civic space is continuing to shrink. Several human rights defenders and			

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(b) Guarantee the safety of those who met with the Working Group and those engaging with any other international human rights mechanism and protect them from any form of reprisals, threat or intimidation;	Paras. 5 and 16	<p>journalists have been attacked, threatened or imprisoned for raising issues of public interest.</p> <p>Journalists and Writers Foundation</p> <p>The submitting organization has no information on the safety of those who met with the Working Group and those engaging with any other international human rights mechanism, or whether they were protected from any form of reprisals, threat or intimidation.</p> <p>Other</p> <p>We do not have information about retaliation against those who met with the Working Group.</p>	<p>The Working Group welcomes the initiative to educate and train officials through the Academy of the Ministry of the Interior. However, in view of the Working Group's assessment that the national legislation does not comply with the State's obligations under international law, the Working Group expresses its concern that the training of officials may also fall below international standards.</p> <p>The Working Group emphasizes the need to mainstream human rights training for the security sector, including the police, intelligence personnel, the military, public officials, the judiciary and any other persons who may be involved in the custody or treatment of any person deprived of liberty, and ensure it is in line with international standards.</p>
(c) Instruct all public officials that any such actions will not be tolerated and will be punished accordingly;	Paras. 16, 18	<p>Journalists and Writers Foundation</p> <p>Family members of the victims contacted by the submitting organization have no information on whether any public official was punished for their role in the enforced disappearances of the victims.</p>	
(d) Include enforced disappearances in the training provided to law enforcement personnel, civil or military personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, as well as judges, prosecutors and lawyers;	Paras. 18, 24, 38	<p>Government</p> <p>The issues related to enforced disappearances are included in the educational process of the Academy of the Ministry of the Interior. The courses on criminal law, enquiry into the internal affairs agencies, prosecutorial supervision and criminology (forensics) include specific matters related to the grounds for and procedure of arrest, rules and tactics of its implementation and ensuring the rights of the arrested person.</p> <p>Journalists and Writers Foundation</p> <p>The submitting organization has no information on the training provided to law enforcement personnel on enforced disappearances.</p>	

Recommendations ^a	Situation during the visit ^b	Observations: measures taken/current situation	Level of implementation and observations (to be completed by the Working Group on Enforced or Involuntary Disappearances)
(e) Continue to engage with special procedure mandate holders and consider extending invitations to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to visit the country.	Paras. 11, 30	Journalists and Writers Foundation The submitting organization has no detailed information on the country's engagement with special procedure mandate holders.	No invitation to visit the country has been extended to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism or the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

^a See [A/HRC/45/13/Add.1](#).

^b Ibid.

^c See [A/HRC/49/12](#), para 123.33.

^d For instance, [A/HRC/WGEID/130/1](#), para 67.

^e See [A/HRC/48/57](#).

^f See TJK 3/2021, TJK 4/2021 and TJK 4/2022.

^g [CAT/C/TJK/CO/3](#).

^h Ibid.

ⁱ See [A/HRC/30/38/Add.5](#), para. 49.