



**The European Union's Thematic
Programme on Human Rights and Democracy**

THEMATIC ALTERNATIVE REPORT

on the implementation by the Republic of Tajikistan

**of the Convention on the Elimination of All Forms
of Discrimination against Women (CEDAW)**

**in relation to the rights of women released from places
of deprivation of liberty**

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соблюдению законности



The European Union is made up of 27 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms.

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This alternative report focuses on the implementation by the Republic of Tajikistan of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in relation to the rights of women released from places of deprivation of liberty.

The report contains information for the period from 2019 to 2023.

Present report within the framework of the project on “Protecting the social, economic and cultural rights of prisoners and ex-prisoners in Tajikistan” by the PO “Bureau on Human Rights and Rule of Law” in partnership with PO “Jahon” with the support of the European Union.

List of Abbreviations

CEDAW – UN Convention on the Elimination of All Forms of Discrimination against Women

CESCR – UN Committee on Economic, Social and Cultural Rights

HIV – Human Immunodeficiency Virus

MDEP – Main Department for the Execution of Punishments

PLHIV – Persons living with HIV

RT – Republic of Tajikistan

UN – United Nations

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I. Methodology

1. The following methods were used to prepare this Alternative Report:
 - Desk research: analysis of international and national reports and research, mass media, and available statistical data; review and analysis of national legislation with regard to compliance with international standards.
 - Information obtained empirically.¹

II. Context

2. In Tajikistan, statistics on the number of prisoners in Tajikistan's correctional institutions, including a gender breakdown, are not officially and openly published. As a rule, statistics are announced during various speeches at events or at press conferences.
3. According to data from the Main Department for the Execution of Punishments (MDEP) of the Ministry of Justice of the Republic of Tajikistan, between 2015 and 2019, 670 women were serving their sentences in correctional institutions of the MDEP. Approximately half of them were released under amnesties during these years.
4. At the end of June 2019, there were 290 convicted women in correctional institution 3/8 of the city of Nurek (a women's colony).²
5. In 2020, the number of prisoners reportedly amounted to around 10 thousand.³

¹ Data obtained by the Bureau of Human Rights and Rule of Law through confidential interviews with former inmates.

² <https://vecherka.tj/longread/>.

³ <https://asiaplustj.info/ru/news/tajikistan/power/20200813/v-tadzhikistane-budut-reformirovat-sistemu-ispolneniya-ugolovnih-nakazanii>.

6. According to data taken from other open sources, as of 2023, 9,317 prisoners are serving their sentences in Tajikistan.⁴ According to some data, more than half of amnestied women convicted under articles for theft and fraud relapse and return to the colony. The lack of employment and the social rejection of these women are considered to be the reason for this.⁵

III. Concluding observations of United Nations Treaty Bodies on Women Who Are Former Inmates

7. In its previous concluding observations from 14 November 2018, the Committee on the Elimination of Discrimination against Women recognized women who are former inmates as a disadvantaged group of women and expressed concern that “there is a lack of proper prison release management to support and integrate women who are former inmates, due to the lack of a specific legislative and policy framework” (para. 43 (b)). The Committee recommended that the Republic of Tajikistan shall “[ensure access, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), to detention facilities for international and civil society organizations for independent monitoring, adopt a legislative and policy framework for proper prison release management and the social integration of women who are former inmates, taking into account their specific needs, and

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https://ru.wikipedia.org/wiki/%D0%A1%D0%BF%D0%B8%D1%81%D0%BE%D0%BA_%D1%81%D1%82%D1%80%D0%B0%D0%BD_%D0%BF%D0%BE_%D0%BA%D0%BE%D0%BB%D0%B8%D1%87%D0%B5%D1%81%D1%82%D0%B2%D1%83_%D0%B7%D0%B0%D0%BA%D0%BB%D1%8E%D1%87%D1%91%D0%BD%D0%BD%D1%8B%D1%85

⁵ <https://cabar.asia/ru/tadzhikistan-kak-vyzhivat-byvshim-zaklyuchennym-zhenshinam>

provide support services to them and create a national protection mechanism” (para. 44 (f)).

8. The Committee on Economic, Social and Cultural Rights, in its Concluding observations to the Republic of Tajikistan of November 2022, welcomed the adoption of the Law on Equality and the Elimination of All Forms of Discrimination in Tajikistan, but expressed concern about the “ineffective implementation when it comes to discrimination not expressly included in the Act, such as discrimination based on criminal records”, and recommended to the State party to ensure effective implementation of the Act for all those facing discrimination (paras. 18, 19).

IV. Legal framework

9. The legislation of Tajikistan⁶ contains a number of guarantees for people released from places of deprivation of liberty: assistance in obtaining personal documents, free transportation, provision of food, clothing or money for travelling to the place of residence, etc. The labor law provides for the payment of unemployment benefits and support to find employment, including through a quota system.
10. According to the legislation,⁷ if a person has served his/her sentence in a place of deprivation of liberty, this is not a reason for infringement of the rights and legitimate interests of both the person and his/her close relatives.
11. A person is not obliged to inform his/her employer about the fact that he/she served a sentence, except in certain cases, for example, when working with children, working with material values, working in law enforcement agencies, and others.

⁶ Code of Execution of Criminal Penalties of the RT.

⁷ Code of Execution of Criminal Penalties of the RT.

12. Cancellation or expungement of a criminal record shall annul the legal consequences of criminal liability.⁸
13. In 2022, Tajikistan adopted a new Housing Code, which introduced the concept of social rent for people in need of housing in Tajikistan. So far, no practical mechanisms for the provision of social housing have been developed yet.
14. In 2020, the Penal Reform Strategy of the Republic of Tajikistan for the period up to 2030, aimed, inter alia, at the rehabilitation and social reintegration of persons released and discharged from places of deprivation of liberty, was adopted in Tajikistan. The strategy provides for the development of non-custodial measures and the establishment of a probation service in Tajikistan. The probation service can not only supervise those sentenced to non-custodial measures, but also facilitate the re-socialization of persons released from places of deprivation of liberty. In 2023, an official Working Group was established to draft the Law of the RT on Probation.
15. The Program for vocational training and job placement of convicts in penal institutions and persons released from places of deprivation of liberty for the period up to 2030 is being developed, with the participation of civil society.
16. The legislation of Tajikistan contains basic guarantees in the sphere of social assistance and support for former inmates after release, however, not all provisions of the legislation providing benefits to former convicts are implemented in practice.

Recommendations:

- *Consider adopting a special law aimed at the re-socialization of former inmates after release, taking into account gender factors.*

⁸ Criminal Code of the RT.

- *Adopt the Law of the RT on Probation and establish a probation service, which will supervise prisoners sentenced to non-custodial measures, as well as facilitate the re-socialization of persons released from places of deprivation of liberty.*
- *Provide, in practice, the guarantees and benefits set out in the respective laws.*
- *Conduct awareness-raising work with released and discharged persons about their rights and opportunities after release.*
- *Develop practical mechanisms to provide social housing for persons in need, including former convicts.*

V. Equality and Non-Discrimination

17. The Constitution of the Republic of Tajikistan⁹ prohibits discrimination and guarantees the rights and freedoms of everyone, without any discrimination as to their nationality, race, sex, language, religion, political beliefs, education, social and property status, and guarantees equality between men and women.
18. In July 2022, the Law of the RT "On Equality and Elimination of Discrimination" was adopted, but the law does not consider criminal records as a discriminatory characteristic.
19. The legislation of Tajikistan, including the Law of the RT "On State guarantees of equality between men and women and equal opportunities for their realization" does not take into account multiple discrimination against women who are former inmates.
20. There is stigma and discrimination in society against persons with criminal records. Individual examples indicate that

⁹ Article 17 of the Constitution of the RT.

released persons as well as their relatives may be discriminated against upon hiring.

21. Many employers require a criminal record certificate, although the law does not require a criminal record certificate for all job applicants. Such a certificate is required only in certain cases (e.g., when working with children, in public service, in law enforcement and judicial bodies, or when working with material values).

Recommendations:

- *Ensure that the Law "On Equality and Elimination of Discrimination" is effectively implemented as to all people who face discrimination, including ex-convicts.*
- *Make it clear to employers in which cases a criminal record certificate is required for employment. Hold accountable employers who unnecessarily require such certificates upon hiring.*

VI. Gender factors

22. The problems of male and female ex-convicts differ significantly. Female ex-prisoners are more socially condemned than men. Women are more influenced by the mentality and traditional distribution of roles in the family, they have more responsibilities at home, and they are taking care of children and other family members. In some cases, after a woman's release, her husband or his relatives do not allow her to see her children, and a woman's marriage often breaks up, as there is a stereotype in Tajik society that a woman after prison is a disgrace to the family. In addition to condemnation from other people, women themselves are ashamed in front of neighbors and relatives after release, they

shut themselves off, stop communicating with other people, self-isolate, become depressed, and have suicidal thoughts.

Recommendations:

- *Widely inform the public through the media and social networks about the problems of ex-prisoners, especially women, in order to eliminate stereotypes and support this category of the population.*
- *Train journalists to cover the problems of ex-convicts, including women, in the media, taking into account ethical standards, the "do no harm" principle, and without reproducing stereotypes.*
- *Take into account the rights and interests of women who are former inmates when developing state programs of the RT aimed at supporting women, along with other categories.*
- *Adopt a state program aimed at comprehensive support (social and legal, psychological, medical, etc.), support the resocialization of women who are former inmates through the establishment of crisis centers and temporary shelters, taking into account their multiple discrimination.*
- *Provide state support to public organizations working with women who are former inmates.*

VII. Women who are Former Inmates Living with HIV

23. Female ex-prisoners living with HIV face double discrimination. There is a widespread stereotype in society that women living with HIV, who are also ex-prisoners, are sex workers or promiscuous. And sometimes the mere fact that a woman is living with HIV leads to imprisonment.

Tajikistan's criminal legislation¹⁰ provides for 2 to 10 years of imprisonment, depending on the consequences. Basically, persons living with HIV (PLHIV) are convicted and sentenced to real prison terms not for the infection itself, but for knowingly putting another person at risk of HIV infection, which is punishable by up to 2 years of imprisonment.¹¹ Even if a woman's partner is not infected, the woman is subject to criminal prosecution. Law enforcement agencies and courts do not take into account the voluntary informed consent of the partner, the use of condoms during sexual contact and zero viral load. This situation actually deprives PLHIV of the right to private life and family formation. Practice shows that women are much more likely to be prosecuted and convicted under this article than men. This creates a threat that PLHIV will hide the presence of the virus, will not seek help and will not receive treatment in time.

24. Legislation and policy documents prohibit discrimination against PLHIV and provide for their full support. Tajikistan has adopted the National Program to Counter the HIV and AIDS Epidemic in the RT for 2021–2025. However, in practice, PLHIV, especially women, face discrimination everywhere. Confidentiality about the status is practically not respected, information about the presence of HIV is disclosed without the consent of PLHIV. Some representatives of law enforcement agencies and the judicial system have little knowledge of the specifics of the disease and are subject to stereotypes about HIV. At the local level there is even more stigma and discrimination against PLHIV, as there is often a misunderstanding of the implementation of legislative and program documents on the part of officials, there is a

¹⁰ Article 125 of the Criminal Code of the RT, “Infection with HIV”.

¹¹ Article 125 para. 1 of the Criminal Code of the RT.

substitution of concepts, when measures to support PLHIV are replaced by the fight against PLHIV.

Recommendations:

- *Implement the recommendation accepted by Tajikistan received under the procedure of the third cycle of the Universal Periodic Review: "Take concrete steps to address the stigmatization and discrimination faced by persons living with HIV/AIDS, including in law and in practice".*
- *Implement the recommendations of the human rights treaty bodies on HIV/AIDS, in particular the 2018 CEDAW Concluding Observations and the 2022 CESCR Concluding Observations.*
- *Implement in a timely and comprehensive manner National Program to Counter the HIV and AIDS Epidemic in the RT for 2021–2025.*
- *Decriminalize the crime of posing a threat of HIV infection.*¹²

VIII. Impact of the COVID-19 Pandemic

25. The COVID-19 pandemic particularly affected vulnerable populations in Tajikistan. During the active spread of COVID-19, many women who are former inmates were unemployed, as many of them worked in the public service and catering sectors, and catering outlets closed down during that period.
26. The situation of female ex-prisoners living with HIV was even more difficult, as fear of infection caused many people to stop using the home-based labor services of such women.

¹² Article 125 para. 1 of the Criminal Code of the RT.

27. Some women themselves or their loved ones were infected with COVID-19, but they could not buy medicines due to a lack of employment and money.

Recommendation:

Develop and approve an action plan to support vulnerable groups in case of emergencies by the competent ministries and agencies.

IX. Other issues of concern

28. In addition to the problems already described, former convicts face difficulties in finding employment, as in practice employers mostly do not hire a person with a criminal record.
29. Many female ex-prisoners do not have professional education and sometimes even secondary education.
30. They often lack a passport (passport expired or was lost) and residence registration (*пpонycka*). There is usually no money to pay the fees and charges to obtain a new passport. As a rule, there is also nowhere to register. Without a passport and a registration, it is virtually impossible to be officially employed, to receive unemployment benefits, and to have access to social benefits and medical care.
31. People released from prison often have problems with housing, including due to deterioration of family relations, as well as health and/or psychological problems (low self-esteem, depression, tension in family relations, etc.).

Recommendations:

- *To accelerate the adoption of the Program of vocational training and provision of employment for imprisoned persons and for persons released from places of deprivation of liberty for the period up to 2030.*

- *Promote vocational education for female ex-prisoners by including them in the list of categories of persons who can receive vocational education free of charge.*
- *To create opportunities for temporary residence registration of ex-prisoners in order to obtain identity documents as soon as possible.*
- *Legislatively enshrine benefits for passport recipients from this category of the population.*
- *Establish temporary residence centers for ex-convicts, taking into account the interests and needs of women who are former inmates.*
- *Develop and promote cooperation between public authorities, the private sector and civil society institutions to improve the reintegration of ex-convicts.*