

**Alternative Report of the NGOs on the Implementation of the
Convention on the Rights of the Child by the Republic of Tajikistan**

Dushanbe 2016

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Introduction

This report has been prepared jointly by a group of non-governmental organizations of Tajikistan which work on various problems of the protection of the child. The coordination, collection and processing of the information was carried out by the public foundation “Legal Initiative”. The following organizations have contributed to the preparation of the report:

1. «Human Rights Center»;
2. «Law and Prosperity»;
3. «Independent Center for Human Rights Protection»;
4. «Bureau on Human Rights and Rule of Law»;
5. The League of the Women with Disabilities «Ishtirok»;
6. «Khayot Dar Oiyla».

The report includes the issues of respecting the rights of the children belonging to distinct vulnerable groups: children with disabilities, children from the families abandoned by migrants, neglected children (street children), children refugees, as well as individual thematic rights of the child: the right to protection from torture and violence, right to housing, and others. In particular, it covers the following articles of the Convention: 2, 3, 16, 19, 20, 21, 22, 23, 27, 37, 40. Unfortunately, due to the limited human resources and time we could not cover the remaining articles.

I. General Issues of the Protection of the Rights of the Child (articles 2 and 3 of the Convention on the Rights of the Child)

1. Child's Rights Protection System

In the course of the child protection reform in 2008 the commissions on juvenile affairs should have been merged with the guardianship and custodial agencies, and the Commissions on the Rights of the Child were established, but this process was not finalized. Presently there are regions where the guardianship and custodial agencies continue functioning along with the commissions on the rights of the child. The reform process must be regulated and the legislation must be brought into accordance so that the commissions on the rights of the child and the guardianship and custodial agencies do not duplicate their respective functions. Departments for the rights of the child (DRCs) are the secretariats of the commissions on the rights of the child and they carry out many functions. The number of DRCs' employees is limited, with normally 1-2 persons which significantly complicates their carrying out an effective work. The activity reports of the National Commission on the Rights of the Child under the Government of the RT are not public. Children themselves as well as the representatives of public organizations do not take part in the Commission's sessions.

2. Legislation “On the Protection of the Rights of the Child”

On 18 March 2015 the President of the RT signed the Law of the Republic of Tajikistan “On the Protection of the Rights of the Child”, pursuant to the recommendations of the UN Committee on the Rights of the Child. Before the adoption of this Law there was no one unified Law on the rights of the child.¹

In the Law, children orphans and children left without parental care are included as a separate category which may be viewed as discrimination because other vulnerable categories of children are not taken into account. Despite that these other categories are in need of state support they are however are highlighted as special categories but at the same time are not mentioned in the Law, for example, children who are victims of armed and inter-ethnic conflicts, ecological and technological catastrophes, natural disasters; children of the displaced persons; children who find themselves under extreme conditions; children victims of violence; children serving their punishment in the form of deprivation of liberty in correctional colonies; children in special educational institutions; children who are living in low-income families; children with behavioral abnormalities; children whose livelihoods has been objectively disrupted as a result of circumstances and who can not overcome those circumstances independently or with their family's help. *All these children along with children orphans and children with disabilities belong to the category of children “who find themselves in the difficult life situation”.*

¹ Concluding Observations of the UN Committee on the Rights of the Child with respect to Tajikistan, 53rd Session, 11-29 January 2010, para. 9. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fTJK%2fCO%2f2&Lang=en

Article 12 of the Law which deals with the right of the child to life, freedom, inviolability of his dignity and privacy, has a general nature. Its two points out of total three are devoted to the issues of ensuring children's equality (independently of various features) and carrying out social and economic measures with a view to providing favorable conditions for the child. Unfortunately, that article does not reflect the issues of protecting the child from violence and exploitation. Also, there is no direct prohibition to use the corporal punishment. Besides, it is necessary to provide, at the Law level, for measures of support and protection of children – victims of violence and exploitation, such as legal, psychological, medical and other types of help.²

Only one article of the Law (article 31 “Peculiarities of the Child's Responsibilities”) is dedicated to the issues of juvenile justice which appears insufficient. Besides, the issues of protecting the children victims and crime witnesses are not reflected at all. It is proposed either to significantly expand the Law's provisions on the matters of juvenile justice, or to adopt a separate Law concerning juvenile justice.

Recommendations:

- Complete the process of reforming the child's rights protection system;
- Increase the staff of the departments for the rights of the child and increase their potential;
- Ensure the participation of children and representatives of public organizations in the work of the National Commission on the Rights of the Child.
- Introduce into the “Law on the Protection of the Rights of the Child”:
- Issues on the protection of the rights of the children in “difficult life situations” (children who are victims of armed and inter-ethnic conflicts, ecological and technological catastrophes, natural disasters; children of the displaced persons; children who find themselves under extreme conditions; children victims of violence; children serving their punishment in the form of deprivation of liberty in correctional colonies; children in special educational institutions; children who are living in low-income families; children with behavioral abnormalities; children whose livelihoods has been objectively disrupted as a result of circumstances and who can not overcome those circumstances independently or with their family's help);
- Regulate at the level of the Law the issues of the protection of the child from violence and exploitation;
- Introduce a direct prohibition to the use of corporal punishment;
- Provide for the measures of support and protection of the children victims of violence and exploitation, such as legal, psychological, medical and other types of help.

II. Neglected Children (Street Children)

The difficult economic situation in the country, labor migration, the weakening of the major sectors of population's livelihood are the main reasons for the increasing child neglect. Some children have been abandoned by their parents or relatives, or their parents had died. Other children have themselves left their parents and they do not want to live in the state institutions. Some other children do live with their parents but they spend most of their time in the street.

² The analysis of the Law “On the Protection of the Rights of the child”, Legal Initiative, 2016.

The neglected children rather often become the victims of violence, exploitation and other crimes.

There is no updated available statistical data on the quantity of neglected children in the Republic. The latest information is dated 2007-2008. According to the Regulations on the Commission on the Rights of the Child its functions include the registration of: children living in the families that are in the group of social risk; neglected and homeless children and also children who left their educational establishments and do not work. There is no information on the number of such children which are in the register of the Commission on the Rights of the Child. The Plan of Action on the Protection of the Rights of the Child for the period of 2003-2010 had provided for the elaboration of the forms of statistical record on the situation with homeless and wandering children. However, up to the present time there is no data on even an approximate number of street children in the Republic. The Prevention Service is carrying out the registration of only those children who have committed any legal offenses – which may encompass both street and “non-street” children including those from stable families. The difficulty in determining the approximate quantity of street children is largely related with the fact that up until present there has been no commonly accepted definition of street children as well as their determination criteria in the Republic.³

According to the data from the Center for Strategic Research under the President of the Republic of Tajikistan (data of 2008), “practically all the homeless children are of school age”, and 52.4% of them have not studied in the schools of Dushanbe, Khujand, Kurgan-Tyube and Kulyab. According to this research, the majority of the homeless children in these cities are boys (86.2%). If the number of 9600 homeless children in those four main cities is to be taken as a basis then that percentage above makes 5030 children who are not attending school. Judging by the information from the Unit for Fighting against Crimes and Offenses among Minors of the Department for Interior of Dushanbe, the age of the homeless children ranges from six to eighteen. They mostly do begging.⁴

Recommendations:

- Carry out a comprehensive analysis of the situation with neglected children in Tajikistan;
- Conduct a statistical record on the situation of homeless and wandering children;
- Work out and implement programmes for providing for and protecting the street children from violence and exploitation.

III. Children from the Families Abandoned by Migrants

The analysis of the situation on the protection of children carried out by the international organization “Save the Children” in October 2011 has demonstrated that the migration increases children's vulnerability, particularly of those children who come from low-income families or those whose parents had decided to abandon their families and to create a new

³ “The Situation with Respect for Human Rights in Tajikistan, 2007”, The Bureau on Human Rights and Rule of Law, Dushanbe 2008.

⁴ “Tajikistan: Homelessness and Juvenile Delinquency Represent A Serious Threat to the Health of the Nation”, 05.03.2008, 12:10 msk, Olga Senchuk, (Dushanbe), available at <http://www.fergananews.com/article.php?id=5618&print=1>

family abroad.⁵ The children in those situations often live in the families led by women or children, or are distributed to boarding schools. The situation analysis has also shown the increased exposure of children to cruel treatment and child neglect within their families, communities and establishments.

The research has shown that one of the most important problems which are faced by the children from the families abandoned by labor migrants is the absence of an effective mechanism by which they could have an access to a definite list of services provided by the relevant state, public, private and international organizations. This is indicated in more detail in the situational analysis conducted by the organization “Save the Children” and International Organization for Migration in 2014.⁶

Recommendations:

- Work out an effective targeting and needs-oriented social help system;
- Take into account the importance of rendering a more intensive financial assistance to the abandoned families / children who are under the custody of one parent (usually the mother);
- Reduce the expenses related to the preparation of documents for civil registration and social assistance payments;
- Establish an organized system of social services under the guidance of MLSPP capable of overcoming institutional / sectoral barriers;
- Establish an effective mechanism whereby the state can intervene and provide for a temporary or long-term custody and protection to the children vulnerable to a certain risk of cruelty, violence or neglect;
- Establish a clear system of identification, assessment, referral for consideration and overview for children under an increased risk;
- Work out the interventions for social and psychological help to the children of migrants, at the level of schools.⁷

IV. Children Deprived of Their Family Environment (articles 20 and 21 of the Convention on the Rights of the Child)

1. Institutionalization

The practice of institutionalization of children (i.e., placement of children into boarding schools and orphanages) inherited from the Soviet times continues. Placing the child into an institution is one of the forms of supporting the large and low-income families on the side of the state. Placement into the boarding schools is still considered as one of the prioritized alternative forms of placement of vulnerable children including the children with disabilities.

In the national legislation of the Republic of Tajikistan the forms of educating the children deprived of their family environment are regulated by the Family Code, Civil Code, Civil Procedural Code and Standard Regulations on Educational Schools of the Boarding School Type in the Republic of Tajikistan, and Regulations on the Guardianship and Custodial

⁵ Child Protection Situation Analysis. - Save the Children International, Tajikistan Country Office, October 2011.

⁶ “Situation Analysis for Creating A Mechanism of Redirecting the Children from the Labor Migrants' Families That Remain in Tajikistan”, Gulchekhra Rakhmanova, a Child's Rights Expert. Dushanbe, 2014.

⁷ «The Influence of Labor Migration on the Children of Migrants Left in Tajikistan”, pp. 134-140, UNICEF, 2011. Available at: http://www.unicef.org/tajikistan/Web_Migration_Report_RUS_light.pdf

Agencies.⁸ However, a specific Law defining the basic concepts, establishing the order of placing the children into orphanages and boarding schools, securing the main rights and mechanisms for exercising the rights and benefits is presently absent.⁹

The children are more often handed to boarding schools by the low-income families, poorly educated single mothers left without the support of their close relatives, families of labor migrants left with financial support and families who have children with disabilities. The lack of legal, social or economical support of the vulnerable families lead to the violations of children's rights to life and to be raised in a family environment. No less important reasons for children's institutionalization are a low public awareness about the negative influence of the institutional environment on the child's social and psychological development and the absence of alternative social services.

According to the words of the Minister of Education, 11569 persons (out of which 304 are complete orphans, 480 children have no mothers, 2463 children have no fathers and 2289 children are with disabilities) were living and studying in the Republic's boarding schools in the beginning of 2015, which is by 2000 higher than the number for the previous year.¹⁰ Thus, the children who are in the boarding schools are mainly the “social orphans”, i.e., have either one or both parents. However, because their status is not regulated and the parents are not deprived of their parental rights such children can not be placed into other families.

Those children who study in the boarding schools are deprived of their communication with other children, they do not obtain their life skills and they graduate these institutions being unadapted to real life: they have no understanding of the dangers in modern life (drug-addition, infectious diseases, etc), they do not know how to manage their money, they are not prepared for a proper career choice, etc.

The National Plan on the Protection of the Rights and Interests of the Child provided for the development of the national policy and programme on the de-institutionalization of children, and for rendering the services more oriented towards helping the family and for the children vulnerable to the risk and deprived of their parental care. In 2003-2005 a pilot project on de-institutionalization of children was carried out with the support of UNICEF, however, this experience was not continued. Presently, the de-institutionalization is not considered by the Government as a priority direction of activities despite the recommendations of the UN Committee on the Rights of the Child.

Besides, the system of gate-keeping does not fully function. The problems are that the departments for the rights of the child experience the lack of staff (no responsables for the family placement), while the available personnel has a low potential for carrying out a full

⁸ Family Code of the Republic of Tajikistan of 13 November 1998; Civil Code of the Republic of Tajikistan, Part 1, articles 33-42 of 1999; Civil Procedural Code of the Republic of Tajikistan, Chapter 29, Adoption; Standard Regulations on Educational Schools of the Boarding School Type in the Republic of Tajikistan, approved by the Government of the RT on 30 June 2007, №347; Regulations on the Guardianship and Custodial Agencies, approved by the Government of the RT on 11 March 2000, № 98.

⁹ The Report based on the results of the analysis “International Norms and National Legislation of the Republic of Tajikistan in the Sphere of Ensuring the Rights and Interests of Children Orphans and Children Left without Parental Care”, p. 11, The Association of Young Lawyers “Amparo”, Khujand, 2012.

¹⁰ “The number of the “abandoned” children in Tajikistan has increased by 2000.” Available at: <http://tojnews.org/ru/comment/reply/1674> (last visited 20 September 2016).

assessment of the situation with the child and family, and the children are simply sent to the orphanages and boarding schools.

2. Alternative Family Care

Various projects on the provision of alternative family care are being implemented with the support of international organizations. The project “Preserving and Finding Families. Inclusive Social Services for the Vulnerable Early Age Children in Tajikistan” of 2013-2015 was financed by the European Union and a charity organization “HealthProm” in the Great Britain. The project was realized by the local partner public organizations “Khayot Dar Oyila”, “Iroda” in Dushanbe and “Sarchashma” in Khujand. The project's ally was the international organization UNICEF. The main task of the project was to prevent the placement of the early-age children to orphanages, by way of developing the new alternative social services and providing for the families' social support. The project's pilot institutions were the Orphanages (“Children's Home”) #1 and #2 in Dushanbe and the Orphanages in Khujand and Istaravshan.

Another example is the project “*The Prevention of Institutionalization of Vulnerable Children by Way of Informing the Population about the Alternative Family Care and Strengthening of Inter-sectoral Cooperation in the Rasht Region*”. Within the partnership between UNICEF Tajikistan and OS “Khayot Dar Oyila” on developing the alternative family care for the period of April to June 2016 a short-term project on raising the awareness of the community about the importance of educating and raising the child in the family. The project's main purpose was to inform the community on alternative forms of family care for the vulnerable children and thus to decrease the risk of institutionalization. The Rasht region was selected for the project as a pilot region.

The main difficulty consist in that the projects so far remain the “pilot” projects and they depend on the availability of donor funding. Up until the present time there have been no exclusively state programmes in the sphere of alternative family care.

3. Foster Families

Individual attempts to introduce foster care are based on article 44 of the Law “On the Protection of the Rights of the Child” that has defined the notion of “foster family”. However, no corresponding article has been included into the Family Code. Since there is no elaborated mechanism for realization of foster care and no responsible body for it has been assigned, that article simply does not work.

4. Adoption of Children by Foreign Citizens

According to the Family Code of the RT, adult citizens of the Republic of Tajikistan may be the adoptive parents. In accordance with this norm, only the citizens of the Republic of Tajikistan may adopt a child, correspondingly, the adoption of children by the foreign citizens is prohibited. That limitation has become the reason why even the close relatives who have the citizenship of the foreign state, most often the citizens of the Russian Federation, are faced with

gaps in the adoption of their nephews or other relatives who had been left with parental care, or had become orphans.¹¹

Recommendations:

- Take measures for halting the practice of placing the child in an institution due to reasons of poverty; it is much more effective to provide for a targeted support to such families, then the children would not be deprived of their right to be raised in the family;
- The process of de-institutionalization must be supported and continued;
- Work out and introduce the state programmes in the sphere of alternative family care;
- Introduce into the Family Code of the Republic of Tajikistan a norm that entitles the close relatives who have foreign citizenship with the right to adopt the children who have been left without parental care, or who became orphans;
- Introduce into the Family Code the notion of “foster family” and work out the mechanism of realizing the foster care.

V. Violence Against the Child (article 19 of the Convention)

The Law “On the Protection of the Rights of the Child” does not contain the concept of the “cruel treatment of the child or violence against the child”. The legislation does not contain any direct prohibition of corporal punishment against the child. Thus, in accordance with the Law “On the Responsibility of Parents” the parents must respect the honor and dignity of children and they **should not allow** a cruel treatment against them; involving the children in hazardous and hard work that is detrimental to their health, and also to other types of labor preventing the normal physical and psychological development of the child (article 8). The Law's formulation is such that it does not establish a direct prohibition of the cruel treatment of the child since “not allowing” does not equal “prohibition”.

The issues of ensuring the protection of children victims of violence must be regulated also at the local level. For example, for the purposes of realizing the Law “On Prevention of Domestic Violence” the Ministry of Interior has developed and adopted the “Instruction on Organizing the Work of the Interior Bodies' Employees in Cases of Domestic Violence” (approved by the Minister of Interior on 20.04.2016 by #27).

In this regard, there is a necessity in working out an instruction for the employees of the Commissions on the Rights of the Child / departments on the rights of the child for cases of violence (and on a more global scale in educational establishments), for the purposes of creating a response mechanism.

Article 57 of the Family Code of the RT stipulates the **obligation** of officials of organizations and other citizens who became aware of a threat to life or health of the child, violation of his

¹¹ The Report based on the results of the analysis “International Norms and National Legislation of the Republic of Tajikistan in the Sphere of Ensuring the Rights and Interests of Children Orphans and Children Left without Parental Care”, The Association of Young Layers “Amparo”, Khujand, 2012.

rights and lawful interests, **to inform** about it the custodial and guardianship agency at the child's actual location. Upon receiving such information the custodial and guardianship agency **must take the necessary measures** for the protection of the rights and lawful interests of the child. The custodial and guardianship agency is entitled to an unimpeded visit to the families where the children's stay poses a threat to their life and health, and to bring in the police authorities in necessary cases.

The Law “On Responsibility of the Parents for Educating and Raising Their Children” establishes an obligation of the **physical and juridical persons to alert the corresponding state bodies** in cases when a child is not covered by education and raising, when he/she commits unlawful acts, and also in determining the circumstances threatening his life and health (article 13 of the Law). Article 12 of the Law which defines the obligations of the pedagogues, state bodies, establishments and other organizations regulating the issues related to the education and raising of children, does not provide for the obligation to inform the corresponding state bodies about the threat to life and health of the child.

Recommendations:

- Provide for a direct prohibition of cruel treatment of the child and for an obligation of officials of organizations and other citizens to inform on the known cases of violence against children in such laws as the Law “On Protection of the Rights of the Child”, the Law “On Responsibility of the Parents for Educating and Raising Their Children”. Also, it is necessary to consider the possibility of introducing a liability clause for non-informing on the known cases of violence against children;
- Provide for the liability of the parents who use violence against children. In particular, to introduce into the Family Code the following article: “The child has a right to the protection of his/her rights and lawful interests. Ensuring the children's interests must be the primary concern of their parents. The child-rearing methods must exclude scornful, cruel, rude, or degrading treatment, insulting or exploiting the children. Parents who exercise their parental rights to the detriment of the rights and interests of children shall be liable in accordance with the order established by the law.”;
- Supplement article 11 of the Law “On Protection of the Rights of the Child” with the prohibition of corporal punishment and the State guarantee of the protection of the child's personal inviolability (from physical and (or) psychological violence, cruel, rude or degrading treatment, acts of sexual nature);
- Regulate at the legislative level the issues of ensuring the protection of children victims of violence and (or) cruel treatment to whom **medical, legal, and psychological assistance** needed for restoring their physical health and psychological well-being, as well as for their subsequent rehabilitation, must be provided in a mandatory order;
- Regulate at the legislative level the powers of the Commission on the Rights of the Child and Custodial and Guardianship Agencies, in order to avoid the duplication of their functions;
- Develop instructions for the staff of the Commissions on the rights of the child in cases of domestic violence (and on a more global scale in educational establishments, etc);
- Create a system of measures of social psychological and other assistance to children directed towards the protection from violence and the prevention of primary and secondary victimization.

VI. Protection of Children from Torture and Obligations Towards the Children in Conflict with the Law (articles 37 and 40 of the Convention)

According to the information provided by the Government for the database “TransMonee”, the level of juvenile delinquency in the country has increased over the last 5 years – from 589 offenses in 2009 up to 800 in 2014. The majority of the crimes committed by the juveniles is theft, i.e., the property-related crimes. According to the information from the MoI, **6855 juvenile offenders** have been identified and delivered over the period of 7 months in 2015.¹² Besides, it needs to be kept in mind that all categories of children who are not covered by the system of protection of the child, i.e., street children, children of migrants, victims of sexual and labor exploitation, children deprived of parental care, uneducated children, etc, are under the risk of entering into the conflict with the law. Therefore, in order to solve the problem the issues of systemic character must first be decided, that is, prevention, protection, rehabilitation and reintegration.

1. Reforms in the Sphere of Juvenile Justice

1.1. Legal Reform

There is no separate Law on the issues of juvenile justice in the country. The juvenile justice is mostly based on the Criminal Code, Criminal Procedural Code (CPC) and Criminal Executive Code. The new Codes adopted in the country after its gaining independence contributed into bringing the juvenile justice system under the conformity with international standards.

The CPC of the RT contains a separate chapter 44 that establishes the rules of treating the juveniles and the procedural order on cases of crimes committed by juveniles. The right of the prosecutor and also of the investigator, with the prosecutor's consent, to terminate the case, with the use of compulsory educational measures against the juvenile (cases on minor offenses committed for the first time).¹³ The child's right to legal counsel from the moment of detention and the right not to be interrogated in the absence of the defender.¹⁴ The detention of the juvenile in the custody may not exceed 6 months.¹⁵ Arrest of the juvenile until the court's decision on the preventive measure may amount to 72 hours.¹⁶

Detention as a preventive measure as well as the arrest may be used against the juvenile only in exceptional cases when grave and particularly grave crimes have been committed.¹⁷ Particularly grave crimes are those that entail the penalty of 12 and more years of imprisonment.¹⁸ However, in practice the detention of the juvenile until the trial is very common.

¹² The data is available at: <http://news.tj/ru/news/sovместnye-usiliya-po-iskoreneniyu-nasiliya-v-otnoshenii-detei-multimedia>

¹³ CPC, art. 432.

¹⁴ CPC, art.art. 49 and 227(3).

¹⁵ CPC, art.art. 112(1) and 427(3).

¹⁶ CPC, art. 92.2.

¹⁷ CPC, art.427(2).

¹⁸ The examples include murder, treason, espionage, sabotage, armed rebellion and large-scale drug trafficking. See Criminal Code, art.art. 113, 200, 305, 308 and 312.

The juvenile's parents or other legal representatives must be notified on the arrest, detention or extension of the detention period of the juvenile.¹⁹ The legislation does not contain any standard of immediate notification of the parents or legal representatives of the juvenile about the fact of juvenile's detention.

The CPC of the RT does not contain a requirement of the separate confinement of children and adults. The Law of the RT “On Order and Conditions of Detention” allows in exceptional cases and with prosecutor's consent to place the juveniles together with adults if they are characterized positively, and are being prosecuted for the first time for the crimes that do not belong to the category of grave crimes.²⁰ It is necessary to note that the provisions of the Law “On Order and Conditions of Detention” contradict the article 31 of the Law “On Protection of the Rights of the Child”,²¹ according to which “*It is prohibited to detain the child in the same cell with the detainees or with the convicted adult persons*”. The Law does not contain an exhaustive and clear list of such cases. According to different sources, the juveniles outside Dushanbe are detained together with the adults.²²

The Criminal Executive Code (or literary the “Code of Execution of Criminal Penalties”) adopted in 2001 provides for the confinement of the juveniles in the solitary cells as a disciplinary measure. The Law “On Order and Conditions of Detention” provides that in cases of violation of duties the following disciplinary measures may be applied against juveniles: a reprimand and placement in a punishment cell (“kartser”) or in solitary confinement cell for up to seven days.²³ The national legislation does not contain special provisions relating to the freedom of the child from torture and cruel treatment of children.

No recommendations of various international organizations on human rights for bringing the national legislation into correspondence with international standards have been implemented. In particular the proposal to reduce the detention period of juveniles until the court's decision on the restraining measure down to 24 hours as it was recommended by the UN Committee on the Rights of the Child. Proposals for diversion from the formal justice system in cases of average gravity and repeated commission of offenses have also not been accepted (taking the decision to use educational measures).²⁴ Another recommendation of the UN Committee on the Rights of the Child to reduce the term of legal procedures (including the pre-trial and trial stages) down to 6 months has also not been implemented.²⁵

There is no Law and strategy on the prevention of offenses among the juveniles and the youth (no mechanism for coordination of different state bodies on the prevention work has been determined). The Working Group on Developing the Draft Law “On System of Prevention of Offenses Among Juveniles” was created in 2014 under the MoI. As of September 2016, the Law has still not been adopted.

¹⁹ CPC, art. 427, p. 4.

²⁰ Article 34 of the Law “On Order and Conditions of Detention”.

²¹ Signed by the President of the Republic of Tajikistan on 18 March 2015 by #1196. Available at: <http://mmk.tj/ru/legislation/legislation-base/271/>

²² “The Assessment of Juvenile Justice in Tajikistan”, p. 18.

²³ Article 38 of the Law “On Order and Conditions of Detention”.

²⁴ The General Note #10 (2007), “Children's Rights within the Framework of Administration of Juvenile Justice”, CRC/C/GC/10, 25 April 2007.

²⁵ Proposed Changes, reference 22, p. 8.

1.2. State policy

The National Plan of Action for Juvenile Justice System Reform (2010–2015) was adopted by the National Commission on the Rights of the Child under the Government of Tajikistan on October 2009. The Plan is based on internationally recognized principles and most of the objectives it sets are appropriate. However, implementation of the plan was weak, coordination mechanisms were not effective, amount of needed financial resources was not defined, as well as time frames for some activities.²⁶ The monitoring of NPA on juvenile justice was not conducted.

The National Plan on implementation of UPR recommendations (2013-2015) was approved by the order of the President on April 3, 2013. The para.38 of the Plan is devoted to the children in conflict with the law. NPA on combating tortures on the recommendations on UN Committee against Torture and Special Rapporteur on torture and other cruel and degrading treatment was approved on August 15, 2013. The Program on Judicial Legal Reform (2015-2017) approved on January 5, 2015 foresees consideration of possibility of juvenile courts establishment. The Program on Police Reform (2014-2020)²⁷ contains provision for changing status of Reception Referral Center which is now under the Ministry of Interior.

1.3. Administrative reform/restructuring

Specialized department on the rights of the child was established under the Office of Ombudsman in 2012. 3 staff based in Dushanbe work in the department (one of them work on juvenile justice). Conduction of periodic monitoring of closed institutions has brought some positive results. The special lyceum and juvenile prison have been visited four times in 2013. Several complaints of mistreatment were investigated, and there have been some changes (for example, repair of a special Lyceum) made on the recommendations of the Ombudsman. The monitoring group to monitor closed institutions, consisting of NGOs and representatives of the Ombudsman was created in 2013.

Judges to consider all cases involving children were appointed in 23 district and city courts (out of 65) in 2012. They are also considering other cases involving m, including criminal cases, and where the victims are children and the case of the Family. There are no special requirements regarding the qualifications, education (trainings) for the specially appointed judges. They also consider the other category of cases (without involvement of children and juveniles). 581 cases in relation to juveniles have been considered by the courts and this is less than 1% of all considered cases. 7 child friendly court rooms were established by the Council of Justice with the support of UNICEF (4 out of them are equipped with CCTV for recording interviews with the child). There is no information about monitoring on how effective these rooms are used.

1.4. Allocation of resources

No information is available on budget allocations for institutions and programs related to juvenile justice. Nevertheless, wage rates do not allow to hire experienced professionals especially for the prevention and rehabilitation programs. For example, the budget of the

²⁶ National Plan of Action for Juvenile Justice System Reform, objective 1, 2 activity 1, 2, 6 and 7.

²⁷ Approved by the Government Resolution of the Republic of Tajikistan, dated 3 May 2014, # 296.

Available at: <http://mvd.tj/index.php/ru/obshchestvennyj-sovet/4000-programma-reformy-razvitiya-militsii-na-2014-2020-gody>

special school provided for 100 somoni as a salary to psychologist (less than 20 US\$). The budgets of the child rights departments are not sufficient for supporting of professional personnel necessary for provision of services to the children and families from group of risk.

1.5. Coordination

The National Commission on Child Rights was established in 2001, with a mandate to coordinate the implementation of the Convention on the Rights of the Child. It is chaired by the Deputy Prime Minister. It is a collegial body which had not full time staff until the recent time. The Department on Child Rights was established within the Division on Human Rights Guarantees under the Presidential Administration in 2015. The Department currently works as a secretariat of the National Commission on the Rights of the Child. Annual Reports on the activities of the Commission are not public. They neither published nor placed on the official web-sites. Representatives of the civil society are not represented in the Commission (formerly the Commission included 2 representatives of non-governmental organizations, but these organizations are now ceased their activities). Commission has produced good policy documents and guidelines, it has not been effective in coordinating the implementation of the policies adopted, in particular the National Plan of Action for Juvenile Justice System Reform (2010–2015).

In 2011, the Ministry of Justice established a small Juvenile Justice Unit which was transformed into to the department on child rights and juvenile justice in 2012.²⁸ The department coordinated preparation of the draft National Plan on justice for children (at the time of preparation of present report, the National Plan has not yet been adopted).

1.6. Data and statistics

None of the state agencies publish on regular basis data on juvenile justice. Even though Ministry of Interior, General Prosecutors Office and Council of Justice (the Supreme Court after the reform) do collect some statistical information (adults/children) it's rarely segregated by sex, age, conditions for committing crimes etc. The Child Rights Departments submit reports on their activities to the National Commission on Child Rights every three month (information on children under age of criminal responsibility and also children involved in antisocial behavior). This information is not available and never published.²⁹

1.7. Specialized prosecutors and investigators

There are no specialized prosecutors responsible for investigation of accused and suspect juveniles. The small group out of three investigators specialized on juvenile cases based in Dushanbe. They conduct cases of juveniles in Dushanbe (on particular crimes) and supervise conduction of cases in other regions.

1.8. Service for the Prevention of Offences Amongst Youth and Minors

In 2009, the juvenile police department (lit.: Inspection on Minors) of the Ministry of the Interior was transformed into a Service for the Prevention of Offences Amongst Youth and Minors comprising four departments, including one for the prevention of offending by children

²⁸ "Assessment of Juvenile Justice in Tajikistan", 2011, p. 15.

²⁹ Ibid.

and adolescents and one that operates the reception and referral centers.³⁰ Employees the Service work on prevention, work with children registered by police, conduct informational meetings in schools etc.

In some parts of the country, staff of Service for prevention sometimes undertake other functions, in addition to working with juveniles.³¹ The rooms for children at the police stations do not exist anymore (they existed at the time of Inspections for Minors). There is lack of personnel at the Service. Thus there are about 30 inspectors in Dushanbe. That cannot cover needs of the capital. In general, the Service has about 280 inspectors (4-5 thousand of children per inspector). Generally, the Service employs graduates of pedagogical faculties and the police academy. Several trainings on work with juveniles were held for inspectors' services with UNICEF support. However, Service employees do not receive specialized trainings on working with young people. The service operates on the basis of half-year work plans which are executed in cooperation with local authorities, the Ministry of Education and Youth Affairs Committee. Until recently, there was not any strategy for the prevention of offenses among minors and young people. The comprehensive analysis of Service for prevention of delinquency activity effectiveness have never been conducted. Taking into account that there is no juvenile police in the country the possibility of transforming Service for prevention into juvenile police with the function to investigate cases of juveniles should be considered.

2. Institutions for children in conflict with the law and torture in juvenile justice system

According to the research on children in closed institutions third part of covered by research children mentioned cruel treatment from the part of police. Children explained that police officers beat them and were cruel. Children are subjected to torture and other cruel treatment during period of transportation to police station, staying there and interrogation.³² Six out of nine children brought to the police station were subjected violence and cruel treatment. All cases of torture identified by the study were applied to boys.

With regard to children in institutions (juvenile prison for boys, special school and special vocational school) 3% of the children declared that they had witnessed abuse of children by staff in the form of bullying, ill-treatment of psychological and severe physical violence.³³

2.1. Centers for additional education

National Plan of Action for Juvenile Justice System Reform (2010–2015) foreseen expansion of rehabilitation and reintegration model (for example Juvenile Justice Alternatives Project - JJAP) in 32 districts in Tajikistan (para.32). Within reform implementation it was decided to take as a model centers of additional education as supporting JJAP centers was expensive and not sustainable. Para 14 of the NPA had foreseen:

³⁰ Part of the Service is responsible for prevention of delinquency among youth (people from 18 to 30 years).

³¹ "Assessment of Juvenile Justice in Tajikistan", 2011, p. 13.

³² "Torture and ill-treatment of children in the context juvenile justice in Tajikistan", NGO Child Rights Center, p.8.

³³ VOICE OF THE CHILD: a study on the stay of children in the closed institutions of Kazakhstan, Kyrgyzstan and Tajikistan, Penal Reform International (PRI), in October 2014.

- 1) change in Regulation of the centers for out school education for children and youth to provide services to groups of children in conflict with law;
- 2) Pexpansion of the number of functioning Centers for additional education for children and youth; reconstruction, repairmen and selection of personnel.

Proposals for making changes and amendments on work with children in conflict with the law to the Regulation on centers for additional education were prepared and submitted to the Ministry of Education in 2014. However, the changes and additions still are not introduced to the national legislation.

2.2. The Reception- referral center

The Reception referral center for minors is part of the Service for the prevention of juvenile delinquency and youth under the Ministry of Internal Affairs of RT. The room and the children's stay in the reception-referral center for minors is determined by the Regulations approved by Order of the Minister of Internal Affairs of the Republic of Tajikistan №210, dated March 26, 2009. The Regulation sets, that the work of the reception referral center is guided by the principles of the best interests of the child, freedom of expression of their thoughts, as well as non-use of a child punishment and inhuman treatment.

Annex 1 to the Regulations contains the rules for the provision of medical services to juveniles in the Reception referral center. This annex stipulates that during the process of child receiving to the Reception referral center, all children are subject to a medical examination in order to identify pediculosis and skin diseases. The moment of medical testing of the child for torture or ill-treatment evidences is not mentioned in the Regulation and its annex.

The minors may stay in the Reception referral center for minors for the period of up to 30 days. In extreme cases, where appropriate, by decision of the Commission on the Rights of the Child, this period may be extended to 30 days.

The program of the reform of the police [development] for 2014-2020 includes the study of transfer of the functions of a Reception referral center for minors under the Department of the Ministry of Interior for the prevention of juvenile and youth delinquency to the Ministry of Education and Science of the Republic of Tajikistan. The study of this issue continues, and the readiness of the Ministry of Education and Science of R to take responsibility for the detention center is to be confirmed.

2.3. Temporary isolation center and the Pre-trial Detention center

The Law of RT "On the procedure and conditions of detention of suspects, accused persons and defendants" sets the rules for the detention of juvenile detainees, detained and prisoners in custody, i.e. of those persons who are held in the pre-trial detention and Temporary Isolation centers. These centers create the conditions for obtaining a general secondary education by detainees in those centers, and therefore, children may also acquire and receive textbooks, school supply and stationery³⁴.

The Pre-trial detention centers of Dushanbe and all Temporary isolation centers do not observe the right of children to education, as provided by the Law "On the procedure and conditions of detention of suspects, accused persons and defendants".

³⁴ Art. 32 of the Law of RT "On the procedure and conditions of detention".

The Criminal Procedure Code of RT does not contain a requirement for the separation of children and adults. The Law of RT "On the procedure and conditions of detention" allows, in exceptional cases with the consent of the prosecutor, to place minors with adults, if their behavior is positively characterized, or if they are being held, for the first time, criminally responsible for those crimes that are considered as a crime of medium and high severity. It should be noted that the provisions of the Law of RT "On the procedure and conditions of detention" contradict the Art. 31 of the Law of RT "On protection of rights of the child", according to which: "It is forbidden to share the contents of a child in a cell with adult detainees in pretrial detention or with the convicted adult persons". The law does not contain an exhaustive and clear list of these cases.

According to a number of studies, there are cases where juveniles were held together with adults in the police stations and in the Pre-trial detention centers outside of the capital. The law does not contain an exhaustive and clear list of these cases³⁵. The Law also provides that in case of violation of the duties of minors following penalties may apply: a reprimand and placement in a punishment cell or in solitary confinement for up to seven days.³⁶

Placement in a solitary confinement is made on the basis of an order of the Detention center's Chief and on the basis of the conclusion of the medical worker about the possibility of placing the person in a solitary confinement. The cooler cell provides a separate bed and the bedding only during sleep.

It restricts the right to contacts with the outside world; in particular, the correspondence, visits, in addition to meeting with the defender, buying food and essential goods, receipt of parcels, the right to leisure are prohibited. The right to daily walks is saved, but walking time is reduced to 30 minutes.

In accordance with the Criminal Procedure Code the term of the Pre-trial detention center for juveniles may not exceed 6 months. However, there are several cases where juveniles were held in the Pre-trial detention centers for more than 6 months (7 months and more)³⁷.

The law does not provide for the duties of the Pre-trial detention centers and Temporary isolation centers' employees to conduct mandatory medical examination at admission and during the stay of suspects, accused persons and defendants in the Pre-trial detention centers and the Temporary isolation centers. This gap in the law gives an opening and an opportunity for law enforcement agencies to use torture and not permissible methods of investigation³⁸.

There are cases of the ill-treatment and violence against children and by staff. Children say that either they themselves were victims of violence, or they are aware of such cases. They were exposed to the following types of violence: threats, curses, beatings, placement in a cold and a hot place.³⁹ Mainly, the children do not tell that they have been victims of violence due to fear

³⁵ Results of the study of the stay of children in institutions of Kazakhstan, Kyrgyzstan and Tajikistan, art. 45. And also: "According to reliable reports, the detention centers and police cells outside the state capital do not ensure observation of the strict requirement of the separation of adults from minors." Mission Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his visit to Tajikistan, 2013, paragraph 76.

³⁶ Art. 38 of the Law of RT "On the procedure and conditions of detention".

³⁷ "Torture and ill-treatment of children in the context of juvenile justice in Tajikistan", NGO Child Rights Center, p. 25.

³⁸

³⁹ "Torture and ill-treatment of children in the context of juvenile justice in Tajikistan", NGO Child Rights Center, p. 27

of the consequences from a staff member. Any action against the offender was not undertaken.⁴⁰

2.4. Special vocational school and special school

The boys aged 14-18 years who have committed crimes, or whose behavior cannot be controlled within the family, are being sent to the Special school, which is under the administering of the Ministry of Education. Special vocational school (former special technical school) is administered by the Ministry of Labor, Migration and Employment of the population of the Republic of Tajikistan. The boys aged 14-18 who commit anti-social acts or multiple administrative violations are being sent to this institution. In 2010, the new Criminal Procedure Code of RT was adopted, according to which the compulsory stay of the person in the educational institution shall be allowed only by court order, of a judge (Art. 11). In addition, it is only the court may appoint the measures of educational character for the minor (art. 35).

According to the Regulations on the Commission on the Rights of the Child (executive body), the Commission does not make a decision to place the child in a special educational institution, but may request the court to place minors in the special educational institutions, if their criminal cases and related materials were terminated (claim 15 of the Regulation on Commission on Child Rights).

However, there are cases in practice when this requirement is not met, the Commission still makes decisions about the direction of children to the special educational institutions, even at the request of parents who are not able to educate their children. In addition, the Commission takes a decision on the extension of the child's stay in the institution.

The Regulation on the Republican special school, approved in October 2003 by the Minister of Education of RT, the General Prosecutor of the RT, as well as the Law of RT "On education" do not foresee specific obligations of employees of the special school to ban the use of torture and ill-treatment of children in a special school. Although the Regulation provides for the organization of medical aid station in a school, it does not provide for mandatory medical examination during the admission of children to a special school for the identification of signs of torture and ill-treatment.⁴¹

2.5. Educational colony for juveniles

Only one educational and correctional facility for the minors operates in the RT- children's colony, the place for stay of those boys who have committed crimes⁴². The deprivation of liberty continues to be practiced for those who commit non-violent offenses. Thus, 80% of juveniles detained in a juvenile detention, serving sentences for theft⁴³. In Tajikistan, the use of solitary confinement as a disciplinary measure for the children was eliminated in 2002, and reintroduced in 2010. Placement in solitary confinement, for violation of the regime can last a

⁴⁰ Voice of the child: a study on the stay of children in closed institutions in Kazakhstan, Kyrgyzstan and Tajikistan, Penal Reform International (PRI), in October 2014.

⁴¹ Ratification of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the establishment of a National Preventive Mechanism in the Republic of Tajikistan, the Office for Human Rights and Rule of Law, Dushanbe, 2015, p. 39

⁴² The psychosocial approach in the work with children in conflict with the law: // Guidelines Yunusova N.M., Kurganova D, Egorycheva S.V. -2009, page 8

maximum of 5 to 7 days⁴⁴. There were cases of placement of those minors, who have not violated the regime, in the disciplinary isolator⁴⁵.

The following prohibitions are being used towards the convicted, placed in a disciplinary isolator: extended visits; telephone calls; the purchase of food and other essentials; receiving of parcels and packages; watching movies and TV, playing table games. Solitary confinement, as a disciplinary measure against a minor, is considered in accordance with the international standards as "cruel, inhuman and degrading treatment."⁴⁶ This practice should be abolished without delay.

In 2013, for the first time the staff unit – psychologist was introduced in a juvenile colony, but to date, this position is vacant (already several years for now).

2.6. Women's penal colony in the town of Nurek

The minor girls, convicted of crimes, serve a sentence in the only women's prison in Tajikistan - in Nurek. Separate block for the girls is absent, and they are kept together with adult women and, therefore, they use all the service along with others, there is no special approach.

Convicted minor girls, serve a sentence in the only women's prison in Tajikistan in Nurek. Separate block for the girls is absent, and they are kept together with adult women and therefore receive all the services, along with the others - there is no a special approach.⁴⁷

2.7. Reintegration and rehabilitation of adolescents and young people returning from the closed and semi-closed institutions

International studies have shown that the stay of the children in the special closed institutions, in most cases, has a very negative impact on children, in spite of the quality care provided to a child in these facilities. When the family ties are broken, it is very difficult to recover them, and reintegration after 6 months becomes even more challenging. Very long period of separation forces the child to be away from his family in a very difficult period of his or her development.

The idea itself is in the provision of reintegration assistance to those children who have completed their rehabilitation process in the closed public institutions, and in their returning to their families and community. The role of the administration of the closed institution in the process of reintegration is central and crucial. At the beginning of the process, the staff of the facility should develop an individual reintegration plan for each child and follow it with the following steps that need to be completed until the child's reintegration:

- Provision of assistance in obtaining documents (passport, birth certificate);
- Assessment of his / her family's living conditions;

⁴⁴ Art. 144 Code of RT on execution of criminal penalties.

⁴⁵ "Torture and ill-treatment of children in the context of juvenile justice in Tajikistan", NGO Child Rights Center, page 33

⁴⁶ Rule of the UN relating to protection of the minors deprived from liberty (Gavan a Rule), right 67. Available at: <https://www1.umn.edu/humanrts/instree/Rj1unrjdl.html> See also General Comment number 10 of the UN Committee on the Rights of the Child Document: CRC / C / GC / 10, para. 89.

⁴⁷ Report on a visit of the pilot closed institutions in Tajikistan, NGO Coalition against Torture, 2014, p. 175.

- Identification of the opportunities for the child to return to his / her family, or the need for assistance in finding an alternative place of residence;
- Provision of assistance in his / her further education in school or in higher education institution, according to his / her intentions;
- Help in finding job.

After leaving the institution, the minor's situation should be monitored throughout the year. The minor must also be under the supervision of the Commission on the Rights of the Child and crime prevention services among adolescents and young people in the community. According to studies, some teens run away from home immediately after the release from the institution; some parents do not allow them to come back, and some just cannot be found at the address given in the personal file.⁴⁸ This issue may also concern those adolescents who are released from other state institutions, such as boarding schools. Special school is the only one in the Republic, to where children and minors from all over the country are being referred; the remoteness of the regions does not allow their parents see their children regularly.

Neither special school, nor a special Lyceum has a social worker in their staffing, who could carry out a child reintegration program. For some period of time, the reintegration was carried out with the support of UNICEF by the local non-governmental organization, but currently such a program does not exist. The juvenile colony has 3 employees in its staff, who must work on the integration of adolescents and young people, but according to the available information, this work is not conducted. So far, the analysis of the effectiveness of reintegration of the minors released from juvenile detention was not conducted. No information is available on that matter.

The reintegration of adolescents and young people should also have a place in amnesty cases. Practice shows that many previously convicted minors commit again a crime and go back to the closed institutions; thus, as per official statistics, in 2011, 69 juvenile offenders were granted amnesty, but 50% of them committed crimes again.⁴⁹

Para 25 of the National Action Plan on the juvenile justice system's reform for the period 2010-2015 envisages the creation of a specialized body in the colonies for minors and women's prison in order to implement the comprehensive rehabilitation and reintegration program (the implementing agency is the Ministry of Justice), with the dates of implementation 2010-2012 years. Unfortunately, this part of the National Plan has not been implemented.

3. Procedural issues

3.1. Confidentiality of the procedures

The right to privacy and confidentiality of a minor accused of an offense, according to the Convention on the Child Rights and the Beijing Rules, should be provided at all stages of justice. Child Rights Committee recommended that *"in order to protect the privacy of the child the court or other hearings of the accused child, who infringed the Criminal law, shall be closed. This rule allows for the presence of experts or other professionals with a special permission of the court. Public hearings in the juvenile justice system should be possible only in clearly defined cases and at the written decision of the court. The child should have the*

⁴⁸ Report on the impact of the institutions of closed type to further ability of the child's reintegration into the family and society, the Child Rights Center, Dushanbe, 2008.

⁴⁹ <http://http.news.tj/ru/newspaper/article/psikhologiya-agressii>

opportunity to appeal such a decision."⁵⁰ Article 273 of the CPC allows the carrying out of the closed proceedings against persons less than 16 years of age and in certain circumstances-based on a reasonable decision of the court. It does not apply to persons who are over 16 years but less than 18 years of age. This provision does not meet the requirements of the UN Convention, as interpreted by the UN Committee on the Rights of the Child.

3.2. The right to be represented by a lawyer

Despite legislative guarantees of the right of the child to legal assistance from the moment of actual detention, experience of children shows that the lawyer is being rendered either at the trial or during the conducted proceedings a lawyer is absent. The country does not have advocates specialized on children's rights.⁵¹

3.3. Complaints about use of torture

In accordance with current legislation⁵², the receiving complaints and statements from the persons in pre-trial detention, imprisonment and stay in the correctional facilities, is carried out through the administration of the correctional institution, and it is the administration that directs the complaints to the addressee. At the same time, the prisoner does not have a real opportunity to check till what extend and how faithfully the administration of the institution follows the restriction on censorship of the complaints and how it carries out its duties on sending thee complaints to the addresses.⁵³

In 2009, the Commission developed the document "Procedure for Making complaints by the children in the closed institutions"; besides, in the same year, some closed institutions have developed procedures to implement the above policy. These procedures are not binding, since they were not approved by the relevant ministries and agencies (Ministry of Interior, Ministry of Education and Ministry of Justice) and they are not applied in practice.

3.4. Compensation, rehabilitation and social reintegration of the minors- victims of torture and ill-treatment

According to the Resolution of the Plenum of the Supreme Court of the Republic of Tajikistan №1, dated June 25, 2012 "On the application of criminal and criminal procedural legislation on combating torture," the harm caused to a citizen as a result of torture and other ill-treatment shall be compensated in the manner prescribed by the Criminal Procedure Code and the Civil Code. The body conducting criminal proceedings shall be obliged to explain to the victim of torture his or her right to sue for compensation for material and moral damages and the procedure for making such a claim⁵⁴. Tajik legislation does not contain provisions on the social reintegration of children- victims of torture.

⁵⁰ General Comment number 10 (2007), Children's Rights under the administration of juvenile justice, CRC / C / GC / 10, April 25, 2007, p. 65. Available at:

<http://www1.umn.edu/humanrts/russian/crc/Rcrcomm10.html>

⁵¹ Torture and ill-treatment of children in the context of justice for minors in Tajikistan, 2012.

⁵² Criminal procedure Code, the law of RT On the procedure and conditions of detention of suspects, accused persons and defendants and the Code of RT on execution of criminal penalties

⁵³ Alternative Report of NGOs of Tajikistan on the implementation of the UN Convention against Torture by Tajikistan

⁵⁴ Alternative Report of NGOs of Tajikistan on the implementation of the UN Convention against Torture by Tajikistan, 2012 г., p. 62. Available at:

http://notabene.tj/documents/centr_asia_v_un/tajikistan/d_v_un/CAT%20Shadow%20Report%20Tajikistan%20Final%20Rus.pdf

4. Children- victims and witnesses

In March 2016, the Criminal Procedure Code of the Republic of Tajikistan was amended concerning the provisions on interrogation of minors (article 203). In particular, about the mandatory participation of a teacher and a witness during the interrogation of a minor who is witness or a victim (who is under 16 years). These changes and additions are temporary, but they do not relate to such investigative actions as a confrontation, identification and verification of evidence. Criminal procedural law needs further improvement, so it is necessary to make special provisions relating to:

- Mandatory use of video recording or filming during the investigation that involves a juvenile - victim or witness;
- Reducing the length of the investigative activities towards minors, including minors-witnesses and victims (present Criminal Procedure Code regulates only the length of the interrogation of the suspect and the accused minor - 4 hours in accordance with Article 428.) - With gradation of age - up to 7 years, from 7 till 14 years of age and for children older than 14 years (*the duration of the questioning must take into account the age characteristics of the child*);
- Prohibition of disclosure of information about the private life of the minor- victim who has not reached the age of 14 years, without the consent of their legal representative during the preliminary investigation, and others.

If during the interrogation there was received information about threats to life and health of a minor by a person living with the child, one of the options to ensure his or her security and safety may be *temporary placement of the minor to the institution*.

Currently, there are no instructions that *the interviews, examinations, and other forms of investigation should be conducted by trained professionals* for most trained inspectors who have had the necessary skills to work with minors. All the investigators who work with minors should, as a compulsory condition, undergo special training on such issues as children's rights and measures of their protection, special conditions and treatment adapted for children and applicable in the investigation course. Investigators must be trained on the techniques to communicate effectively with children of different age groups.

Recommendations:

- To create the juvenile justice system for children who are in conflict with the law, within the criminal justice system of Tajikistan, which will set up special courts for minors.
- In order to prevent child abuse in the penitentiary institutions, to fix legally that such measures as pre-trial detention as a preventive measure, and imprisonment, as a punitive measure, were used for children only in the exceptional cases.
- Apply alternative measures towards the minors *in-lieu* custody.
- Develop a clear mechanism for submitting the complaints by the children about cases of torture and other ill-treatment in places of detention
- Ensure the separation of children from adults in detention.
- Eliminate the regulation on the possibility to place the minors in a punishment cell and solitary confinement from the article 38 of the Law "On procedure and conditions of detention of suspects, accused persons and defendants"

- Eliminate the possibility of placement of a minor in a disciplinary confinement (solitary confinement as a punishment) from article 144 of the Penal Enforcement Code of the Republic of Tajikistan
- Amend the Law "On militia" with the change in the form of judicial control over the placement of a juvenile detained in the reception referral centers and the extension of the period of the child stay there (with the participation of the Commission on the Rights of the Child).
- Eliminate the norm of the possibility of placing the juvenile suspects, accused, defendants and convicted together with adult suspects, accused, defendants and convicts from the article 34 (part 2 n. 1) of the Law "On procedure and conditions of detention of suspects, accused persons and defendants"
- Carry out regular monitoring of the conditions of detention of children in prisons.
- Ensure medical examination upon admission of the child to a juvenile correctional facility for the presence or absence of physical injuries, as well as to identify the previous abuse.
- Promptly and thoroughly investigate all allegations of violence and ill-treatment against children in prisons and to ensure the punishment of those responsible.
- To ensure the rehabilitation and social reintegration of children- victims of violence, including in places of detention.
- To ensure the rehabilitation and social reintegration of children- victims of violence, including in places of detention.
- Develop and implement a mandatory training program on children's rights for law enforcement officials and prison officers.

VII. Refugee children (art. 22 of the Convention)

1. The access of refugee children to the refugee status determination procedure

Article 6 of Part 13 of the Law "On Refugees" provides that a person seeking asylum, who is under eighteen years of age and applying for refugee status and who arrived to the Republic of Tajikistan's territory unaccompanied by his legal representatives, taking into account the opinion of the guardianship and custody, can be handed a certificate of refugee.

However, the law does not provide for the sub-norms associated with the identification requirements (profiling), with the conducting the interviews and review of the application of persons who have not attained the age of 18 and who arrived to the Republic of Tajikistan as unaccompanied. As regards the opinion of the guardianship authority, to which the RT Law "On Refugees" refers, neither the Code of RT nor the Regulation of RT "On approval of provisions on the Guardianship Bodies", # 98 dated 11 March 2000, provides a clear mechanism for the settlement of this situation.

This is due to the fact that the Law "On refugees" does not include the norm, providing interaction of the joint permanent commission of the Ministry of Internal Affairs of RT for granting the refugee status with the guardianship authorities towards a person who has not attained the age of 18 years and who came to the territory of the Republic of Tajikistan and who seeks for recognition of his/ her status of the refugee.

Article 22 of the UN Convention on the Rights of the Child states that States - Parties shall take the necessary measures in order to ensure that a child who is seeking refugee status or who is

considered as a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or any other person, receive appropriate protection and humanitarian assistance in using the applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are parties.

2. Right to education for the minors- refugees

Foreign citizens and stateless persons have equal rights with citizens of the Republic of Tajikistan to receive pre-school education and upbringing, primary, general basic and general secondary education.

State academic scholarship is paid from the state budget of the Republic of Tajikistan to those foreign citizens and stateless persons, who are students under the quota allocated by the Government of the Republic of Tajikistan,

The State guarantees to its citizens the advantage of access to secondary vocational education by securing the right to choose of educational institutions and forms of education by the citizens of the Republic of Tajikistan, foreign citizens and stateless persons residing in the Republic of Tajikistan,

RT Law "On refugees", stipulates that refugees have the right to receive primary and secondary education.

According to the legislation, art. 41 of the Constitution of RT, Art. 6 of the Law of RT "On education" and Art. 12 RT of the Law "On Refugees", refugee children have the right to education on the same basis as nationals of the Republic of Tajikistan.

Despite the fact that, in accordance with the legislation of the Republic of Tajikistan, refugees has a right to free primary and secondary education in public schools, the financial problems in some families of refugees are the main reason for leaving the refugee children's education, because the problem entails provision of textbooks and clothes for children, and other expenses.

Children -refugees, most of whom are citizens of the IRA, speak Dari; but despite identical language environment, the requirement for the children to know the Cyrillic alphabet raises a problem for admission a child to school. We should take into account the fact that the education system in Afghanistan has a number of specialties and it differs from education in Tajikistan. The Republic of Tajikistan is still the National program for integration of refugees. Re-education of refugees is mainly provided by UNHCR and its implementing partners - local NGOs.

Afghan school "Somoniyon" functions in Dushanbe; it employs teachers who are Afghan refugee, but the education there is paid. It should be noted that there are large families where not all school-age children can go to school due to financial or material problems of the family, and many refugee- children have to help their parents to feed their families (these are, mostly, the older children).

3. Access to health services

Article 38 of the Constitution of the Republic of Tajikistan states that everyone has the right to health. Everyone, within the limits set by the law, enjoy free medical care in public health facilities.

Foreign citizens residing in the Republic of Tajikistan have the right to health. Foreign citizens permanently residing in the Republic of Tajikistan, receive medical assistance on an equal basis

with the citizens of the Republic of Tajikistan. Foreign citizens, temporarily staying in the Republic of Tajikistan, have access to health care services in the way and order prescribed by the Ministry of Health and Social protection of the Population of the Republic of Tajikistan.

Foreign citizens, stateless persons and refugees on the territory of the Republic of Tajikistan have rights and obligations in the field of health in line with the laws and other normative acts of the Republic of Tajikistan.

The Law of the Republic of Tajikistan "On Refugees" stipulates that a recognized refugee and those who arrived with him/her as members of the family are entitled to health care, in accordance with the normative legal acts of the Republic of Tajikistan, unless another order is envisaged. However, in practice this right is very difficult to realize. The experts note the limited access of refugee-children to health services. This is due to the fact that the range of free medical services health facilities is limited. In this regard, today there are many public hospitals that set tariff rates for the provision of medical services. Some refugees are unable to pay for these services.

At the same time, there is limitation in access to quality health services in those settlements, where, according to the Government Regulation of RT #325 dated 2000 year, with the addition in 2004, refugees and asylum-seekers are allowed to temporarily reside. This is due to both - the lack of medical facilities in some remote areas, and lack of medical personnel and restricted access to existing health facilities (remoteness, lack of public transportation, communication).

The Law of RT "On protection of rights of the child", dated March 18, 2015 contains an article # 24, which states that the State, through the relevant state authorities shall take the necessary measures to ensure the protection of the rights of children -refugees on the territory of the Republic of Tajikistan.

It should be noted that the difficult financial condition of individual refugee families leads to the fact that parents make older children to work in various fields. Basically, they either help their parents in the field of trade, self-employment, or transportation of goods in the markets, or washing the cars. Often, those families, where children – refugees are being left without their father – breadwinner, are forced to look for earning independently for the existence.

Part 5 of the Art. 5 of the Law of RT "On Refugees" stipulates that local executive authorities are obliged to assist in the integration of recognized refugees, taking into account the availability of jobs and vacancies in the labor market. In practice, this provision of the law practically does not work. This is due to the fact that there is no connection between the services of the Ministry of Labor, Migration and Employment of RT and the Ministry of Education and Science of RT, as well as local executive bodies of state power, on the issue of provision of information on the availability of vacancies for those refugees who are in need of employment. It is necessary to develop a mechanism of interaction between the authorities and to strengthen the work on refugee employment programs that will allow children –refugees do not work.

4. Access of children of stateless persons (at risk of statelessness) and refugees to the citizenship

The provisions on children's access to the citizenship of the Republic of Tajikistan are contained in the Article 13 and Chapter 4 of the Constitutional Law of the Republic of Tajikistan "On citizenship of the Republic of Tajikistan", dated 8 August 2015 (hereinafter - the Law dated 2015)

The law provides guarantees that protect children from statelessness. The provisions of the paragraphs 1- 6, 8 of the Law dated 2015 provide a guarantee for the children's access to the citizenship of the Republic of Tajikistan.

It is ought to be noted that the Law on Citizenship of the Law dated 2015 tightened the provisions related to citizenship of children born in the territory of the Republic of Tajikistan, from the parents stateless status. In particular, it specifies that the child is recognized as a citizen of the Republic of Tajikistan, if both parents, or one of them, reside constantly in the Republic of Tajikistan. Permanent residence - is a continuous residence of a stateless person for a residence permit on the territory of the Republic of Tajikistan Consequently, both parents of the child, or at least one of them, must have the RT residence permission. Consequently, children born in the Republic of Tajikistan, both from those parents who are stateless and in case if both have views for the RT's residence permission, will not have access to the citizenship of the Republic of Tajikistan. Previous Law of the RT "On Citizenship of the Republic of Tajikistan" dated 04.11.1995 year (Act 1995) provided the citizenship of the child, who is born in the territory of the Republic of Tajikistan from persons with stateless status without any pre-condition of permanent residence of one of the parents in the Republic of Tajikistan.

The Law, dated 2015, toughened the process of access to the citizenship for those children, whose parents are foreign citizens, or one of his parents is a foreign national, and the other is a stateless person or unknown. The law dated 1995 states that a child is considered a citizen of the Republic of Tajikistan, if the States of the parents of the child did give him/her the citizenship, while the new Law, dated 2015 says that the child is a citizen of the Republic of Tajikistan if, according to the legislation of these countries the child was refused in their citizenship.

The Law dated 2015 contains provisions for admission to the Republic of Tajikistan's citizenship in a simplified manner without observing the general conditions (permanent uninterrupted residence of stateless persons within 5 years from the date of obtaining a residence permit and command the state language at a communication level) of those persons born in the Tajik Soviet Socialist Republic, had the nationality of the former Soviet Union, living or residing in countries that were part of the Soviet Union, but have not received citizenship of these countries and are stateless.

Other stateless persons apply for the citizenship of the Republic of Tajikistan with the reduction of half of the period of residence (2.5 years).

The refugees, who were born in the Republic of Tajikistan, children who arrived to Tajikistan and they have been granted refugee status, cannot be accepted in the Republic of Tajikistan's citizenship through a simplified procedure under the new Constitutional Law "On the Citizenship of the Republic of Tajikistan." The Regulation that reduces the period of permanent residence for refugees by half (2.5 years) prior to filing for citizenship of the RT is not available in the Law of RT dated 2015.

Recommendations:

- The Resolution 325 has a discriminative nature to all the refugee children as not applied to the children of the foreigners. The Resolution 325 also affects children who are being denied access to schools in the areas prohibited for their residence. The Law on Education of RT does not envisage that children should only attend the schools based on the places of residence; hence this is also about the right to choose the schooling facilities.

- It is necessary to develop a social integration program with the involvement of the widest possible range of stakeholders and institutions, including ministries and agencies, international and national NGOs, associations of refugees. Given the limited capacity of the state budget, the development of social programs to ensure integration of social and economic rights of the refugees must be carried out jointly by the Government of Tajikistan and international donor community.
- Provide training opportunities to refugees, including older children of the refugees to command professions as per labor market needs. It is necessary to access the labor market in Tajikistan. For doing that it is proposed to develop jointly with the employment services of the Ministry of Labor, Migration and Employment of RT the refugee employment programs, including children of the refugees.
- In order to assist local integration it is important to develop targeted public education programs to study Tajik language and the Cyrillic alphabet for both children of the refugees and adult refugees.
- Many of the problems that arise in the execution of such fundamental rights of the refugees as the right to work, education, medical care, provided in the Law of RT "On Refugees" and other normative legal acts are due to the fact that they do not have financial support. Financing with indication of the source, the creation of real conditions and mechanisms for its implementation, is crucially important.
- Practice shows, the work of the Commission on the Rights of the Child of the local executive bodies of the Government to protect the rights of children - refugees is ineffective. It is possible to strengthen this component through the introduction of work plans for the Commission on the Rights of the Child's component of working with children - refugees.
- The Regulation on the joint permanent commission to secure a mechanism for cooperation during the consideration of petitions/ applications from children unaccompanied by legal representatives.
- Acceleration of the process of adoption of the Law of RT "On Amnesty and legalization of stateless persons illegally residing on the territory of the Republic of Tajikistan".
- Accession of the RT to the Convention related to the Status of Stateless Persons, dated 1954 year, and the Convention on the Reduction of Statelessness, dated 1961.

VIII. Children with disabilities (art. 23 of the UN Convention on Rights of the Child)

According to the legislation of the Republic of Tajikistan, a person is considered a child who has not attained 18 years of age, respectively, a child with a disability, it is considered a disabled child less than 18 years of age. In Tajikistan, disability is divided into 3 groups depending on the degree of disability, but the children with disabilities are not given the group of disability.

As of January 1, 2016, 153,248 people in Tajikistan are registered as disabled, including 25,000 disabled children.⁵⁵

The new Law of RT "On Social Protection of Disabled Persons" was adopted in 2010. In 2013, new laws have been adopted in the area of upbringing and educating children, including affecting the interests of children with disabilities. In 2015 the Law of RT "On protection of rights of the child" has been passed, where a separate chapter is devoted to the children with disabilities

To date, the UN Convention on the Rights of persons with Disabilities neither signed nor ratified by the Republic of Tajikistan, although according to studies and estimates, to date, there are no obstacles for the signing and ratification of the Convention on the Rights of Persons with Disabilities by Tajikistan

Existing buildings and constructions, for the most part, does not meet the standards of construction, and the vehicles are not equipped properly, taking into account accessibility for people and children with disabilities, while according to the law, issues of accessibility of the social infrastructure and the availability of means of transport are clearly stipulated in the legislation of the Republic of Tajikistan.⁵⁶

Pensions of the children with disabilities make 130 Tajik Somoni per month (equivalent to the US dollar - about 16 US dollars). At the same time, the law provides a supplementary pension for children with disabilities in the amount of 65 Tajik Somoni (about \$ 8), but because of the intricate legislation and legal practice, not all children with disabilities can obtain this supplement.

Benefits for housing to be paid to people with disabilities, utilities and taxes are distributed according to the law only among adults with disabilities and they do not affect families with children with disabilities, although in practice, when parents of children with disabilities apply to a variety of public services with requests for benefits and services, the later usually do not refuse.

For families with two or more family members with disabilities, as well as single parents with disabilities, bringing up a disabled child, the additional social support is being rendered in order, determined by the Government of the Republic of Tajikistan. In practice, the mechanism of provision of such kind of support is not in place.

According to Deputy Head of the Agency for Social Protection and Pensions of the RT Nazokat Odinazoda, during the first half of 2016 the Ministry of Health and Social Protection of the population of RT has double-tested 16 thousand persons, who receive disability pensions, on the subject of disability; and people during the repeated medical examination of about 12 thousand persons, disability has not been confirmed. Only 4,5 thousand people, who have passed repeated medical examinations, receive a pension in connection with the retirement age.⁵⁷

At the same time, it is unknown how much of this number of re-tested persons with disabilities are children, who have lost their pensions, that in turn is often the only source of material support of the child, not to mention the treatment and rehabilitation.

Legally free medical care for the children with disabilities is not always free in practice; in some cases, parents have to pay privately for the tests and treatment of their child.⁵⁸

There are certain problems related to the obtaining free medicines, as well as the necessary medicines are not always available in public pharmacies; and the allocated budget funds are

⁵⁶ Part 3 of Article 11 of the Law of RT "On Social Protection of Disabled Persons", adopted on 29 December 2010 and came into force in January 2011; Part 1 of Article 4 of the Town Planning Code of the Republic of Tajikistan, dated December 13, 2012.

⁵⁷ In Tajikistan, payment of pensions to 12 thousand of "the invalids" is seized, 18.07.2016, Source: "Avesta"

⁵⁸ "Observation of the rights of persons with disabilities in the Sughd region," according to the results of the monitoring reports, prepared by NGO "Bureau on Human Rights and Rule of Law", under financial support of UN-Women, 2012.

insufficient to cover the needs of all children with disabilities in receiving necessary medicines for treatment. After a medical diagnosis and determination of the child's disability, the family does not receive the necessary support in the form of training to nursing skills. Usually, it comes down to long-term drugs' based medical treatment, without physical therapy, that is harmful to the child's brain that is still developing.⁵⁹

To promote inclusive education in the Republic of Tajikistan, the National concept of inclusive education for children with disabilities in the Republic of Tajikistan for 2011-2015 was adopted in 2011⁶⁰. In 2013, Tajikistan had held legislative reform in the education sector and adopted new laws in the field of education. A number of educational institutions transfers to the work in the inclusive education system.

However, introduction of inclusive education in Tajikistan is in its infancy stage. Inclusion is often reduced to the integration of children with special needs in education, while when the environment (physical, visual, auditory) is not subject to adaptation, the curriculum is not being modified and the application of a flexible approach to teaching and evaluating students with disabilities is not considered and adopted. In general, schools accept so-called "light children."⁶¹

Recommendations:

- Sign and ratify the UN Convention on the Rights of Disabled Persons.
- Consider the needs of disabled people during architectural planning and the construction of roads, residential and office buildings and other objects of social and cultural values, as well as the equipment of vehicles.
- Increase the size of pensions and benefits for people and children with disabilities
- Allocate and pay an allowance and pensions for all children with disabilities.
- Provide hands-on access to the children with disabilities to free health care and free medicines that are vitally important and necessary.
- Establish offices of early intervention under the health centers.
- Provide conditions in pre-school and school institutions of general type for the education and training of children with disabilities, in doing so, to take into account the interests of children with different disabilities.
- To promote obtaining of higher and professional education for people and especially children with disabilities
- During the re-examination process of children with disabilities to ensure in practice the free passing of all medical procedures and inspections related to the re-examination, as well as to take into account the real state of health of the child when deciding on the withdrawal of disability.

⁵⁹ Source: www.news.tj/ru/news/ot-rannei-pomoshchi-do-inklyuzii

⁶⁰ Approved by the Government Resolution of the Republic of Tajikistan, dated 30 April 2011, №228

⁶¹ Sources: www.news.tj/ru/news/ot-rannei-pomoshchi-do-inklyuzii

IX. The right of children to adequate housing and the inviolability of the home (art. 16 and 27 of the Convention on the Rights of the Child)

1. Forced evictions as restriction of the rights and interests of children

It's only during 2014-2016 about 640 families with the minor children and children with disabilities applied for protection from forced evictions. (Among those disabled people, 45% are minors. Therefore, 100 families whose houses were demolished; 500 families from all around the country, have been warned of eviction as "Environmental deportees" and their land plots were withdrawn for the needs of the state and society; 60 families have been left homeless and evicted from the dormitories without providing other equivalent living place) .

Forced evictions tend to affect the whole family, but especially strong impact it makes on children. After forced evictions, family stability is often threatened and there is a risk of loss of livelihood and incomes. It is believed that the forced evictions have an impact on children's development, similar to the impact of armed conflict.

Most violations are related to the issue of *withdrawal of land plots for the needs of the state and society* under the pretext of the Republican General Plan of cities and regions' development. The violations themselves consist in the fact that there is no information about the general architectural plan according to which the citizens and their families, evicted from their living premises, while the presence of a minor child and children with disabilities, as well as their interests, are not taken into account, and there is no procedure for compensation and related expenses and inconveniences.

In addition, there are problems *concerning the recognition of ownership* of unauthorized structures, where minor children and children with disabilities live and grow for many years. Critical importance to ensure children's access to preschool institutions, schools, health centers and other services is the fact of where the housing is located. If the settlements are located far from schools and if transportation is either unavailable or too expensive, it is difficult for children to receive education or medical care⁶².

A large percentage of forced evictions falls on *evictions from the dormitories*. These procedures are hardly developed at the legislative level, and this fact practically leads to violations of the rights of residents of the dormitories. Particular attention should be paid, and issues related to the use of and eviction from dormitories *of children, who subsequently condemned to homelessness*. Rights of these citizens are not protected by the courts, as the court authorities are more inclined to protect the interests of the state bodies and institutions.

2. The right of orphans to housing

The law of RT "On protection of rights of the child" (Article 16 – child right to housing) does not contain guidance on the adoption of measures to preserve the dwelling for orphans and for children left without parental care. In particular, local state authorities should:

- Register and monitor the safety of the homes for orphans and children left without parental care;

⁶² UN HABIBAT. Right to sufficient housing – Facts, №21/rev.1. page 21, http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_ru.pdf.

- ensure the saving of home for orphans and children left without parental care until the moment of obtaining guardianship over these children in foster family care, in institutions of education, health and other organizations;
- establish trusteeship for orphans and children left without parental care;
- monitor the implementation of the duty on home safety for orphans and children left without parental care by the legal representatives of the children.

Additionally, this article should mention the responsibility of parents and officials of local executive bodies and the legal representatives of the child for failure to fulfill obligations on preservation and saving of the housing for orphans and children left without care.

3. Children - internally displaced persons

Experts, having studied the implementation of the state program on internal displacement of the population, faced with a new concept of "*environmental migrants*". That is, the residents that move out of the settlements located in the avalanche, mudflow, seismic, etc., areas, according with this program are recognized as environmental migrants. However, there is no legally introduced concept of "environmental migrants". And there are no procedures for relocation of this category of the population that leads to the problem of homelessness.

The main problem is the issue of equitable compensation. According to the para. 6 of the Decree of the Ministry of Labor, migration and employment of the population of RT, each head of the family - voluntary internal migrants- is entitled to 3,000 TJS (US \$ 384.62), and out of that amount 50% to be returned by the citizens to the state budget within 5 years, and the remaining 50% shall be replenished from the state budget.

It is worth noting that even the amount of 3,000 Tajik Somoni or 384.62 US dollars is far not enough for the construction of even a single room without finishing and decoration. There is also no additional benefit for the construction of dwellings or provision with communications that also leads to mass homelessness. Absence of home or place of residence among children often leads to children's homelessness and neglect of children that influence other situations (worsening of health conditions, child mortality, etc.).

4. Children without equivalent housing

In practice, during the local authorities' decision making process on the issue of termination of the right of ownership, it is not always the case that the issue is being considered on provision of equivalent property or compensation for damages and losses associated with the withdrawal of the property, and the local authorities do not take into account the rights and interests of minor children, because all legal relationships are being built with the owner, but not with members of his family.

In majority of cases, during the eviction, the available land for construction of the new housing is being given only to the name of the former owner of the demolished property. In cases of giving other available living premises, the latter cannot be recognized as equivalent in size for the families with minor children or with the children with disabilities, either due to location, the sanitary conditions and others.

National legislation considers as objects of the compensation recipients only those persons who have the legal rights to housing and land to be seized, and it does not take into account the presence of minors, whereas international standards indicate the opposite.

Recommendations:

- Measures should be taken to prevent homelessness. To adopt a national strategy in the field of housing, including for members of the owner's family, especially children.
- Introduce addition to article 16 of the Law "On protection of rights of the child" with the purpose of specifying the measures that should be undertaken by public authorities to save the home of orphans and children who are left without parental care.
- At the legislative level, equally with the restriction of access to adequate housing to provide guarantees for children's access to pre-school institutions, schools, health centers and other services.
- Enlarge articles in the Budget of the Republic to provide social benefits such as the proportionality of compensation during the forced evictions, taking into account the interests of children.
- At the legislative level to resolve the issue "The right to adequate housing."
- At the legislative level to consolidate the concept of "environmental migrants", and set the resettlement procedure for resettlement of such a category of the population by highlighting the special status of the rights and interests of minor children.
- In the housing legislation to define the base, under which the premises may be recognized subject to demolition or unfit for habitation.
- Establish an independent institute for evaluation of the living premises to be demolished and to adopt the relevant provisions, which will reflect the current market value of those premises.
- Ensure public access to a broad discussion of the General (architectural) Plans
- Ensure access to justice in cases of forced evictions in compliance with all legislative procedures, providing and protecting the rights and interests of minors especially.