

Alternative Report on Tajikistan's implementation of its obligations
under Articles 1, 2, 12 and 13 of the Convention against Torture and
Other Cruel, Inhuman or Degrading Treatment or Punishment

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UN Committee Against Torture

This report was prepared in connection with the Response to the List of Issues (CAT/C/TJK/Q/3) and the Third Periodic Report of the Republic of Tajikistan (CAT/C/TJK/3) on compliance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.



Introduction

1. This report has been prepared jointly with the NGO ‘Law and Prosperity’ (Pravo i Protsvetanye), which is the coordinator of the Legal Aid Group within the Civil Society Coalition against Torture and Impunity in Tajikistan,¹ and the Helsinki Foundation for Human Rights in Poland.² The conclusions presented herein are based on an analysis of strategic criminal proceedings conducted by the Coalition Against Torture in connection with complaints concerning torture or other ill-treatment of detainees and persons deprived of their liberty by law enforcement agencies.
2. The purpose of this report is to provide information on the violations in Tajikistan in the field of protection against torture and the obligation to thoroughly investigate all allegations of torture, based on examples that present specific problems in the work of law enforcement agencies.
3. This report takes into account three strategic cases conducted in connection with allegations of torture, that, according to the knowledge and experience of the Coalition against Torture, illustrate numerous systemic problems that exist in Tajikistan in the field of impartiality and objectivity of investigations and effective criminal prosecution of perpetrators of torture. The Coalition is also working on other cases of this kind.
4. The issues raised in the report concern violations of Articles 1, 2, 12 and 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
5. The present report complements the report submitted in June 2017 by the Coalition against Torture, the International Partnership for Human Rights and the Helsinki Foundation for Human Rights.³

¹ The Coalition of Civil Society against Torture and Impunity in Tajikistan (Coalition against Torture) was established in September 2011. It comprises 12 public organisations and six individual members on the territory of Tajikistan. As part of the Coalition’s work, the Legal Aid Group works to promote the establishment of an effective response system to allegations of torture and ill-treatment, as well as an independent mechanism for investigating torture in Tajikistan. The Legal Aid Group also coordinates the provision of practical legal assistance to victims of torture and their relatives.

² The Helsinki Foundation for Human Rights (HFHR) is a non-governmental organisation headquartered in Warsaw (Poland), founded in 1989. The activities of the Helsinki Foundation for Human Rights include strategic litigation by filing complaints and expert opinions with international and local courts, the implementation of educational programmes and training sessions, as well as thematic research in the field of human rights. HFHR is one of the most experienced, professional and influential non-governmental human rights organisations operating in Poland and other countries in Eastern and Central Europe. Since 2007, HFHR has held the consultative status at the Economic and Social Council of the United Nations (ECOSOC).

³ http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TJK/INT_CAT_ICO_TJK_27939_E.pdf

Freedom from torture – Articles 1 and 2

Cases of death in custody

6. The key issue in Tajikistan are cases of deaths in custody. The UN Committee Against Torture (hereinafter referred to as the "CAT") expressed its concern about this issue, both in the Conclusions and Recommendations based on the consideration of reports submitted by the State Party dated 7 December 2006 (CAT/C/TJK/CO/1) and in the Concluding Observations on the Second Periodic Report of Tajikistan dated 21 January 2013 (CAT/C/TJK/CO/2, paragraph 10). In this regard, CAT urged the authorities of Tajikistan to conduct prompt, impartial and effective investigation of all cases of death in custody and to prepare comprehensive updated information on all known deaths in custody (CAT/C/TJK/CO/2, paragraph 10).
7. The Third Periodic Report of Tajikistan dated 27 December 2016 (CAT/C/TJK/3) provides information whereby a total of 60 deaths of convicts were recorded during the first ten months of 2016. In 2015, a total of 57 such cases were recorded. It was found that in 18 cases, death occurred as a result of tuberculosis (paragraphs 38–39). In the List of Issues dated 27 December 2017 (CAT/CTJK/Q/3) prepared in connection with the analysis of Tajikistan's Third Periodic Report, CAT requested information on deaths reported during detention, their causes, investigation on the causes of death and related criminal cases in connection with the use of torture or ill-treatment (paragraph 29). The Reply to the List of Issues dated 9 February 2018 (CAT/C/TJK/Q/3/Add.1) indicates that 174 deaths of convicts were recorded in the country's criminal penal institutions in 2015–2017. The procedural measures carried out in connection with the deaths showed that in 163 cases death occurred as a result of a disease, whereas suicide occurred in four cases (paragraphs 81–83).
8. In the Concluding Observations on the Second Periodic Report dated 22 August 2013 (CCPR/C/TJK/CO/2), the Human Rights Committee also expressed concerns about cases of violent deaths in detention facilities and the lack of effective investigation in those cases. In connection with the foregoing, the Committee recommended that a full and prompt investigation of all deaths in places of detention be ensured (paragraph 9). In response to that recommendation, in its Third Periodic Report dated 29 November 2017 (CCPR/C/TJK/3), Tajikistan reported that for each case of death in criminal penal institutions, investigations were conducted by the public prosecution authorities in order to establish the cause of death (paragraph 44).
9. **Data on the number of deaths in custody provided by the Tajikistan authorities evoke serious concern, especially in the context of information on the widespread use of torture against detainees (paragraphs 13 and 14 of this report). All three cases presented in this report concern the deaths of detainees, with two deaths occurring in unclear circumstances.**

10. **Saymurod Orzuyev** was detained on 25 April 2014 by officers of the Department of the Ministry of Internal Affairs (hereinafter 'OMVD') at about 4:00-5:00 pm. On the next day, the father of the detainee was informed that his son was no longer in the OMVD building since he had been released the day before. The family of Saymurod Orzuyev tried to find their missing relative for the next four days. **In the morning of 29 April, the father of the missing man was informed that OMVD officers found his son's body in the mouth of a nearby river at about 1 am.** However, according to the victim's father, relatives had been at that place on the previous evening, during the search for Saymurod, and had not found a body there. **A fall from the bridge was reported as the cause of his death.**
11. **Shamsiddin Zaydulloyev** was detained on 8 April 2015 at about 8:00 pm by employees of the Drug Control Agency of the Republic of Tajikistan (two hours earlier, they had made an unsuccessful attempt at an arrest in the street, near Shamsiddin Zaydulloyev's house). On the night of 8 April, Shamsiddin Zaydulloyev was examined by the head of the medical department of the Drug Control Agency: the detainee reported no ailments, and no injuries were found on his body. His health problems began on 10 April (he reported abdominal pain). On 12 April, an ambulance was called to the detainee, then he was transported to the drug treatment clinic, and then to the emergency hospital. Despite the fact that Shamsiddin Zaydulloyev's health condition was very serious, he was brought back to the building of the Drug Control Agency late at night on 12 April and left without medical supervision for the whole night. **Shamsiddin Zaydulloyev died on 13 April 2015, around 5:00 am, after more than four days in custody. The reported cause of death was bilateral pneumonia.**
12. **Umar Bobojonov** was detained by OMVD officers on 29 August 2015 at about 8:00 pm. In the OMVD building he was brutally beaten by police officers, and became unconscious as a result. He was brought by an ambulance to the city hospital. **Umar Bobojonov no longer regained consciousness, and his life functions were artificially maintained until his death on 4 September 2015.**

The use of torture against detainees

13. In the Conclusions and Recommendations based on the consideration of reports submitted by the State Party dated 7 December 2006 (CAT/C/TJK/CO/1), CAT noted numerous allegations regarding the widespread use of torture by law enforcement officers and investigative personnel (paragraph 6). CAT presented similar comments in the Concluding Observations on the Second Periodic Report of Tajikistan dated 21 January 2013 (CAT/C/TJK/CO/2). CAT re-emphasised its serious concerns related to numerous and persistent allegations, confirmed by various sources, regarding the

common use of torture against suspects, mainly aimed at forcing them to make confessions that will be used in criminal proceedings, mainly in the first hours of the interrogation at police stations, in places of temporary detention. In connection with the foregoing, the Committee recommended that urgent action be taken to eradicate and prevent torture (paragraph 9).

14. Concerns about the widespread practice of torture against detainees were also expressed by the Human Rights Committee in the Concluding Observations on the Second Periodic Report of Tajikistan dated 22 August 2013 (CCPR/C/TJK/CO/2, paragraph 14), and the United Nations Special Rapporteur on Torture in his report of 28 January 2013 (A/HRC/22/53/Add.1, paragraph 31). In his report on the results of the second visit to Tajikistan in June 2014, the Special Rapporteur noted that despite the improvement of the legal framework, torture remains a problem. In addition, torture continues to be used under circumstances similar to those observed in 2012: torture was applied during the first hours of detention, during interrogations in pre-trial detention facilities, and in places of temporary detention (Report of 27 February 2015, A/HRC/28/68/Add.2, paragraph 27).
15. **All three cases analysed in this report fit into a pattern involving the use of torture in Tajikistan and call into question the effectiveness and practical compliance with the torture protection mechanisms adopted by this State.**
16. After his detention on 25 April 2014, **Saymurod Orzuyev** called his younger sister around 9–9:30 pm and said in a tearful voice that he was in the OMVD building of the Nurabad district. This was the last time he communicated with relatives. The forensic medical examination carried out after his death (21 May 2014) showed the presence of numerous fatal fractures.
17. On 9 April 2015, at about 10:00 am, Shamsiddin Zaydulloyev's mother went to see her son in the building of the Drug Control Agency of the Republic of Tajikistan (AKN). During the meeting, he confirmed that he had been beaten, and that he had a painful bump at the back of his head. His mother never saw him alive again. During the identification of their son's body on 13 April 2015 at the Republican Centre for Forensic Medical Examination (hereinafter 'RCSME'), parents noticed numerous bruises and haematomas all over the body. The presence of bodily injuries was confirmed during the autopsy performed on the day of his death and described report No. 61 on forensic medical examination conducted from 13 April to 5 May 2015 at RCSME. Bodily injuries in the form of bruises were also noticed by the physician from the Republican Clinical Centre of Narcology, who provided medical assistance to Shamsiddin Zaydulloyev on 12 April 2015.
18. According to a witness, physical violence against Umar Bobojonov was already applied at the time of arrest: one of the officers lifted him and then threw him head-on to the ground. The beatings continued after the arrival at the OMVD building. When Umar Bobojonov was lying on the floor, one staff member kicked him in the

chest with his foot. After that, the detainee tried to get up and ask why he was being beaten. In response, a police officer hit Umar with his foot in the face, after which Umar hit the back of his head against the wall and fell unconscious. According to the results of the forensic medical examination dated 4 September 2015, death occurred as a result of a brain injury.

19. Information received from Tajikistan on follow-up measures in connection with the Concluding Observations dated 5 February 2014 (CAT/C/TJK/CO/2/Add.1, paragraphs 26–27) and in the Third Periodic Report of 27 December 2016 (CAT/C/TJK/3, paragraph 35) stated that the number of allegations of torture was insignificant and the trend was decreasing, reflecting a gradual decline in the number of such cases. Only 80 complaints were received between 2012 and the end of the first half of 2016, of which a criminal investigation was initiated only in nine cases and six cases were sent to court. This statement of the State cannot be accepted because as the conduct of personnel that corresponds to the characteristics of the crime of "torture" is most often classified as other crimes, such as abuse of authority or abuse of office.⁴
20. In the analysed cases, criminal proceedings were initiated only in connection with the death of Shamsiddin Zaydulloyev, under Article 143-1 of the Criminal Code of the Republic of Tajikistan (use of torture). Despite the circumstances of the case, criminal proceedings in connection with the death of Umar Bobojonov were initiated under Article 110 of the Criminal Code (serious harm to health), whereas no criminal proceedings have been initiated to date in the case of Saymurod Orzuyev.

Effective investigation of torture – Article 12

21. In the Concluding Observations on Tajikistan's Second Periodic Report dated 22 August 2013 (CAT/C/TJK/CO/2/, paragraph 14), CAT expressed concern that allegations of torture did not become the subject of impartial and effective investigation, a development that promotes impunity of perpetrators of torture. In this regard, the Committee recommended that specific measures be taken to implement an independent and effective investigative mechanism in order to impartially and thoroughly examine complaints of torture and other ill-treatment, and to bring perpetrators to justice (paragraph 11). According to the Information received from Tajikistan on follow-up measures to the Concluding Observations of 5 February 2014 (CAT/C/TJK/CO/2/Add.1), the only measure adopted by the

⁴ More information about this can be found in the joint report by the Coalition against Torture, International Partnership for Human Rights and the Helsinki Foundation for Human Rights, submitted to CAT in June 2017, p. 12. http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TJK/INT_CAT_ICO_TJK_27939_E.pdf

Tajikistan authorities to ensure rapid and effective investigation of cases of torture was that the General Prosecutor's Office, with the assistance of the Office of the Organisation for Security and Cooperation in Europe, published a methodological manual entitled "Legal framework and organisation of the activities of the prosecutor's office for the prevention, detection and investigation of torture", issued in Tajikistan in November 2013 (paragraph 21). Training events on the practical application of the manual were organised for prosecutors and investigators in all regions of the country (paragraph 24).

22. The Third Periodic Report of Tajikistan (CAT/C/TJK/3) does not contain any specific information on measures taken to implement the recommendation to conduct impartial and effective investigation of reports of torture. The Reply to the List of Issues dated 9 February 2018 (CAT/C/TJK/Q/3/Add.1) only indicated that the examination of allegations of torture was the prerogative of prosecution authorities (paragraph 12).

23. The limited information provided by the Tajikistan authorities, as well as the way of dealing with the three cases described here indicate that there are no effective mechanisms to investigate allegations of torture.

24. Firstly, one characteristic of all three cases is the delay in proceedings, caused by the repeated termination of the proceedings by investigators or by refusal to initiate criminal proceedings, by failure to provide information to attorneys representing the interests of the victims regarding the procedural measures taken in the case. This delays the adoption of further steps. There is also a lack of response or long waiting period until investigators respond to attorneys' motions.

25. On 1 September 2015, the Prosecutor's Office in the city of Vakhdat opened a criminal case on the beating of Umar Bobojonov. The case was suspended for the first time on 29 February 2016 due to the failure to identify a person to be accused. A copy of this court decision was not transferred to lawyers until 25 June 2016, i.e. nearly four months later. On 23 July 2016, an appeal was filed with the General Prosecutor's Office against the ruling. As there was no response from the General Prosecutor's Office, on 11 November 2016 the attorney filed another complaint with the General Prosecutor's Office against the suspension of the criminal case. It was not until 6 December 2016, i.e. more than four months after the first appeal, that the General Prosecutor's Office announced the cancellation of the ruling to suspend the case, on 29 February, and re-directed the case to the Vakhdat Prosecutor's Office to resume the investigation. This indicates that almost a year passed between the decision to suspend the criminal case and its resumption by the higher body, and during that time no action was taken to clarify the case. On 30 December 2016, the Prosecutor's Office of the city of Vakhdat suspended the proceedings again without informing the victim and his attorney about it. During that time the attorney

attempted to speed up the investigation of the case (complaints about the inaction of the prosecutor's office) and, not knowing about the renewed suspension of the case, sent a motion to the Prosecutor's Office of Vakhdat on 30 May 2017, asking for written information as to the status of the case. The attorney did not receive a copy of the ruling of 30 December 2016 on the suspension of the investigation until 16 June 2017. On 13 November 2017, the General Prosecutor's Office resumed proceedings on the case without informing the parties about it. The parties learned about this fact only at the court hearing held on 8 December 2017 in connection with the statement of claim filed by the attorney on 22 July 2017 claiming moral damages for an ineffective investigation.

26. No criminal case on the death of Saymurod Orzuyev has been instituted to date. On 21 May 2014, the investigator of the Public Prosecutor's Office of the Nurabad district issued a decision, for the first time refusing to initiate a criminal case because of the absence of any elements of crime. Thus, despite the fact that the case concerned a sudden death of a man detained by OMVD officers, and despite the fact that the building of the OMVD was probably the last known place where Saymurod Orzuyev was seen alive, the investigator refused to initiate a criminal case a month after the incident. The refusal was appealed against to the General Prosecutor's Office, which, on 4 June 2014, quashed the investigator's decision and sent the case for additional verification to the Prosecutor's Office of the Nurabad district on 19 June. However, on 21 July 2014, the investigator of the Prosecutor's Office in the Nurabad district re-issued a refusal to initiate a criminal case. In the present case, the above-described pattern of actions taken by law enforcement agencies (i.e. the investigator's refusal to open a criminal case, the appeal by the lawyer, the decision of the General Prosecutor's Office to annul the investigator's decision) was repeated eight more times. The investigator refused to open a criminal case, in particular, on 13 July 2015, 26 October 2015, and 1 March 2016. After the tenth ruling on refusal, the attorney representing the victim's father appealed against the investigator's decision to court on 11 January 2018. Thus, in this case, the procedural actions taken in the course of four years were focused not on an impartial clarification of the circumstances of Saymurod Orzuyev's death but on the struggle for the initiation of a criminal case. Moreover, the examination of the case was hampered by long waiting periods until the decisions were adopted by procedural bodies. As an example, on 15 January 2015, i.e. after almost half a year, the attorney was informed at the General Prosecutor's Office about a decision to revoke the decision of the investigator of the Prosecutor's Office in Nurabad to refuse to open a criminal case that had been adopted on 21 July 2014.

27. Another problem that affected the effectiveness of criminal proceedings in cases of allegations of torture or death of detainees is the failure to fulfil the

requirement of impartiality. Analysis of the cases described above indicates that after the investigators' decisions are appealed against and quashed by the General Prosecutor's Office, cases are sent to the same prosecutor's bodies, and even to the same investigators whose decisions were quashed.

28. In the case of Saymurod Orzuyev, the General Prosecutor's Office sent the case for re-examination to the same investigator of the Prosecutor's Office of the Nurabad district each time the refusal to initiate a criminal case was quashed. This practice was applied despite the attorney's repeated requests (on 29 July 2014, 23 April 2016, 3 September 2016 and 1 April 2017) to transfer the materials of the case to another prosecutor's office or to the General Prosecutor's Office in order to conduct an impartial and objective investigation, and in connection with the investigator's apparent inaction when proceeding with the case (more details are provided in paragraph 31 of this report). Moreover, on 6 May 2017, the attorney and the victim's father were seen by the head of the Investigation Department of the Prosecutor's Office: during the meeting the head of the Investigation Department pointed to the shortcomings in the investigator's verification and said that administrative punishment would be applied against the investigator. Despite these declarations, after the Prosecutor's Office quashed the refusal to open a criminal case again, on 31 May 2017, the case was sent again to the same investigator in the Prosecutor's Office of the Nurabad district.
29. **Another problem concerns the quality of the work performed by investigators. The absence of a fair and effective investigation of allegations of torture has both substantive and procedural aspects. The substantive element is manifested in the issuance of decisions that do not take the entire evidence into account, in low evidentiary activity and the absence of arguments for the decisions made, including decisions about closing criminal proceedings. The procedural aspects consist in failure to inform or in delayed information to other parties regarding the procedural actions taken and the status of the case, failure to give access to the case materials to the parties (more details in paragraphs 34 and 35 hereof), failure to comply with the procedural deadlines for preparing responses to parties' motions and petitions, and absences at court hearings.**
30. The use of torture against Umar Bobojonov was witnessed by two people: a friend of Umar who was detained with him, and a man detained for an administrative offense who was in the OMVD building during the events described. Despite the witnesses' testimony regarding the personnel members who used violence against Umar, and also despite the fact that the witnesses identified two persons during the identification conducted on 5–6 January 2016, the investigator of the Vakhdat Prosecutor's Office, by a decision of 29 February 2016, suspended the preliminary investigation of the criminal case due to the failure to identify the person to be

prosecuted as the accused. The investigator also failed to conduct the main investigative steps requested by the attorney: interrogation of the OMVD officers, interrogation of an ambulance staff member, and obtaining a copy of the register of persons admitted to the facility.

31. The first refusal to open a criminal investigation into the death of Saymurod Orzuyev was issued by the investigator of the Prosecutor's Office of the Nurabad district on 21 May 2014. The General Prosecutor's Office quashed this decision on 4 June 2014 due to the need for additional procedural actions involving the hearing of the victim's sister (who was the last of all family members to talk on the phone with Saymurod), as well as receiving a list of phone calls made in the last days of April from the deceased's phone. The case was sent for additional verification to the same investigator from the Prosecutor's Office of the Nurabad district, who did not take the procedural steps specified by the General Prosecutor's Office and, on 21 July 2014, issued a new refusal to open a criminal case. Only after the meeting on 18 August 2017, i.e. almost three years after the Prosecutor General's instructions on the case were sent, did the attorney receive information from the Prosecutor's Office of the Nurabad district that the investigator had requested the telecommunications company to provide a list of calls made from the deceased's phone number.
32. **The lack of impartiality in the investigation is also reflected in the selective approach to the evidence: the only evidence that was taken into account was the one that did not indicate the guilt of law enforcement officials.**
33. As an example, it can be pointed out that the Republican Centre for Forensic Medical Examination ('RCSME') conducted three examinations in order to establish the causes of death of Shamsiddin Zaydulloyev. According to the results of the first examination (examination No. 61 of 5 May 2015, covering the autopsy and histopathological examination), death was caused by rapid bilateral pneumonia. Although the examination report described numerous bodily injuries visible on the body of the deceased, they were not analysed as having a possible connection with the detainee's death. The mother of the deceased and her attorney did not agree with the results of that examination. Therefore, on 3 August, the RCSME conducted a committee-based examination (examination No. 41, covering the analysis of the results of examination No. 61, exhumation and repeated autopsy, histopathological analysis and analysis of documentation relating to the progress of the detainee's illness while in custody, and an analysis of testimonies of doctors who provided medical care to the detainee). According to the findings of that examination, death could have occurred as a result of severe bodily injuries, as evidenced by a number of visible bodily injuries, clinical symptoms of severe internal injuries and patient's

complaints. Bilateral pneumonia was acknowledged only as a symptom of other bodily injuries. The investigator who worked on the criminal case found the results of the examination to be unreliable because the immediate cause of death was not stated (examination report No. 40 reads: "the cause of death cannot be established beyond doubt because of the progressive decomposition of the body"). In connection with the foregoing, the RCSME conducted a third forensic medical examination (examination of 4 October 2015) stating that death was caused by atypical bilateral pneumonia. Although it was stated that the injuries detected on the body had been caused by an impact of a hard object, the examination report indicated that they had no connection with the death. On 23 December 2015, an investigator of the General Prosecutor's Office, referring specifically to that examination report, issued a decision to close the criminal case as there were no signs of a crime.

34. With regard to non-compliance with the procedural deadlines for preparing a response to the parties to the proceedings, it should be noted that the attorney representing the victim in the case of Umar Bobojonov's death approached the investigator of the Prosecutor's Office in Vakhdat six times (2 September 2015, 7 September 2015, 14 October 2015, 4 November 2015, 11 November 2015, 7 December 2015) with motions for investigative actions to be taken, to obtain access to the case materials, including the decision to initiate criminal proceedings and reclassification of the criminal case in connection with the death of Umar Bobojonov. The attorney did not receive any reply to any of these motions.⁵

Right to appeal, protection of witnesses – Article 13

- 35. As the cases under analysis show, applicants face serious obstacles in the exercise of the right of appeal in practice. Investigators do not only leave motions unanswered (as indicated in paragraph 33) but also hamper the applicants' access to case materials. This practice violates the right of appeal and the right of access to information, and also undermines the effectiveness of the ongoing investigation. Attorneys and victims do not know which procedural steps have been taken, they are not informed about the status of the case or the grounds on which the investigator has issued a particular ruling on the case, which hinders the drafting of appeals under the**

⁵ According to article 175 of the Code of Criminal Procedure of the Republic of Tajikistan, **the investigator is obliged to consider all motions filed in the case.** At the same time, the investigator **has no right to refuse** the suspect, the accused, their defenders, as well as **the injured party**, the civil claimant, the civil defendant or their representatives to hear witnesses, to order expert examinations or to take other investigative actions, if the relevant circumstances mentioned in the motions may have significance for the case. The results of examination of a motion are to be notified to the person who filed the motion within **no more than five days**. In case of full or partial refusal to satisfy a motion, the investigator is obliged to issue a decision **specifying reasons** for refusal.

relevant appeal procedure. As there is no guarantee that the applicants will be granted access to the case materials, this poses a serious risk of arbitrary decisions terminating the criminal proceedings.

36. In the investigation into the death of Shamsiddin Zaydulloyev, the applicants received access to the case file only in December 2017, i.e. two and a half years after the victim's death. In the other two cases, such access has not been granted until now.
37. The progress in the case of Shamsiddin Zaydulloyev's death also illustrates the ineffectiveness of the appeal procedure. On 23 December 2015, the investigator from the General Prosecutor's Office issued a decision to terminate the criminal case. On 11 January 2016, the attorney appealed against the results of the preliminary investigation to the court of the Sino district in Dushanbe. Beginning on 3 April 2016, the attorney repeatedly petitioned the court to consider the appeal but it was constantly postponed under the excuse that the General Prosecutor's Office failed to provide the case materials. As the proceedings were further delayed, on 15 September 2016 the attorney submitted a motion to the court of the Sino district to retrieve the criminal case file from the General Prosecutor's Office. On 25 October 2016, the court sent a corresponding letter to the General Prosecutor's Office. The examination of the appeal was scheduled for 13 June 2017 but the hearing did not take place due to the absence of the public prosecutor. The same situation happened on 16 June 2017. Eventually, the hearing took place on 20 June 2017, i.e. almost a year and a half after the motion was filed with the court. After preliminary hearing of the parties, the judge announced a break until 28 June 2017. The case was not reopened until the submission of this report (the break has already lasted nine months).
38. The case of the death of Umar Bobojonov illustrates the **defenselessness of victims** in the examination of appeals. Appeals to the General Prosecutor's Office against the decision made by the Vakhdat investigator to suspend the preliminary investigation of the criminal case dated 29 February 2016 were filed twice: on 23 July and 11 November 2016. As there was no response, on 14 December the attorney complained against the inaction of the General Prosecutor's Office to the court of the Sino district. On 4 January 2017, the victim's father received a letter from the court stating that his complaint did not meet the requirements of the Code of Criminal Procedure as it contained no evidence that the General Prosecutor's Office had not responded to the appeals.
39. Other mechanisms that victims attempt to use are also ineffective. For example, the attorney representing the interests of the victim in the case of the death of Umar Bobojonov appealed to the Ombudsman of the Republic of Tajikistan with a request

to exercise supervision over the preliminary investigation within his competences. No answer to this request has been received.

40. Tajikistan also **fails to fulfil its obligations under Article 13 of the Convention related to the protection of witnesses** who testify against law enforcement officials. In the Concluding Observations on the Second Periodic Report of Tajikistan (CAT/C/TJK/CO/2), the Committee expressed its concern about the reports that victims and witnesses of torture did not file complaints with the authorities for fear of retaliation and in view of the absence of appropriate measures taken on complaints (paragraph 15). The Third Periodic Report of Tajikistan (CAT/C/TJK/3) states that in 2010 the Law "On State Protection of Participants in Criminal Proceedings" was adopted, ensuring, in particular, safety and social support for victims of torture (paragraph 90). In the Reply to the List of Issues (CAT/C/TJK/Q/3/Add.1), the Tajikistan authorities did not respond to the CAT request to provide information on measures taken to ensure the protection of persons reporting the use of torture, including victims, members of their families and attorneys (CAT/C/TJK/Q/3, paragraph 32a).

41. **The unlawful pressure exerted on witnesses seems to be the most effective method of removing evidence that may help to establish the guilt of law enforcement officials.**

42. For example, the father of Saymurod Orzuyev, who witnessed the detention of his son and who asked to indicate the reasons for the detention and the place where the son would be kept, was threatened by officers of the Ministry of Internal Affairs with a fine that is 20 times as high than the average monthly income in the country. According to available information, in all three cases presented in this report, various kinds of unlawful pressure were exerted on the witnesses.

43. **The practical problems with observance of the requirement of impartiality and effectiveness of investigations conducted in connection with deaths of detainees, as well as the use of torture against them, unreasonable delay in the actions adopted by the judiciary, and non-observance of the applicants' rights are reported at practically every stage of the analysed cases. This situation leads to a vicious circle a powerlessness in clarifying the circumstances of victims' deaths and bringing the perpetrators to justice.**

Recommendations

1. The State of Tajikistan urgently needs to take immediate and effective measures to prevent deaths of persons detained and deprived of liberty by law enforcement agencies.

2. The State of Tajikistan urgently needs to take immediate and effective measures to eradicate the widespread practice of torture and other ill-treatment of persons detained and deprived of liberty by law enforcement agencies.
3. It is necessary to introduce mechanisms to ensure, both in law and in practice, an effective investigation of every case involving the death of a person deprived of liberty or a complaint regarding the use of torture and other ill-treatment, including the following mechanisms:
 - a) counteract delays in proceedings;
 - b) ensure objectivity of criminal cases initiated, also through procedures that prevent cases from being repeatedly referred to investigators whose decisions were quashed;
 - c) introduce an independent mechanism for the supervision of proceedings;
 - d) ensure that victims and their legal representatives receive accurate and timely information on the status of their case and the procedural actions carried out, and that they are given an opportunity to get acquainted with the case materials;
 - e) adopt measures to protect victims, witnesses and other persons reporting torture, and ensure that law enforcement officers and the judiciary personnel are brought to justice if they exert unlawful pressure on participants in proceedings;
 - f) create an effective, independent and accessible mechanism for investigating all complaints related to the use of torture;
 - g) adopt specific measures to improve the knowledge of law enforcement officials, judges, medical personnel, and prosecutors with respect to the requirements of the Convention; it is also necessary to develop effective training programmes for these groups with the involvement of civil society experts working in the field of torture prevention.
4. The State of Tajikistan should provide up-to-date information on the situation regarding the proceedings in the cases of deaths **Saymurod Orzuyev, Shamsiddin Zaydulloyev, and Umar Bobojonov**, all of whom had been detained by Tajikistan law enforcement agencies. It should conduct an immediate, impartial and effective investigation into these cases, taking into account the violations described in this report, and it should also assess the degree of public officials' liability, ensure the punishment of the perpetrators and provide compensation to the victims' families.