



TAJIKISTAN

Torture and other ill-treatment of people deprived of their liberty and deaths in custody

Joint submission to the United Nations Human Rights Committee, for the 108th session, 8-26 July 2013

In view of the upcoming consideration of Tajikistan's second periodic report under the International Covenant on Civil and Political Rights (ICCPR) in July 2013, Amnesty International and the Coalition against Torture of Tajikistan, a coalition uniting 14 NGOs across Tajikistan, submits to the Human Rights Committee the following overview of concerns in relation to torture and other ill-treatment in Tajikistan.

This document supplements the information submitted in December 2012 by Amnesty International and by the Coalition against Torture prior to the Committee's pre-session meeting on Tajikistan in March 2013. It highlights recent developments and cases that are illustrative of Amnesty International and the Coalition against Torture's concerns about the failure of the authorities in Tajikistan to comply with its obligations under Articles 2, 6, 7, 9, 10 and 14 of the Covenant.

The information provided relates primarily to **question 11** (right to life) and **questions 13-16** (prohibition of torture and other cruel, inhuman or degrading treatment, liberty and security of person, treatment of prisoners) on the Committee's list of issues to be taken up in connection with the examination of Tajikistan's state party report.¹ For information on torture and other ill-treatment in relation to children, women and in the military, please refer to the report by the Coalition against Torture to the UN Committee against Torture (details below).

Further details to the information provided can be found in the following publications:

Coalition against Torture:

- Sections on Articles 6, 7, 9, and 10 in: *Information from NGOs of Tajikistan for compilation of the list of issues under the second periodic report of Tajikistan on progress of implementation of the International*

¹ The second periodic report of Tajikistan under the ICCPR is available at: http://www.un.org/ga/search/view_doc.asp?symbol=CCPR/C/TJK/2. The List of Issues to be taken up in connection with the review of the state report can be accessed at: http://www.un.org/ga/search/view_doc.asp?symbol=CCPR/C/TJK/Q/2.

Covenant on Civil and Political Rights (CCPR/C/TJK/2), available at:
http://www2.ohchr.org/english/bodies/hrc/docs/ngos/BHRRL_Tajikistan107.doc.

- *NGO report on Tajikistan's implementation of the Convention against Torture and other Cruel, Inhuman or degrading treatment or punishment*. CAT/C/TJK/2, available at:
http://www2.ohchr.org/english/bodies/cat/docs/ngos/CATI_Tajikistan_CAT49.pdf.

Amnesty International:

- *Amnesty International summary of concerns submitted to the Human Rights Committee prior to the adoption of the list of issues* (Index: TIGO IOR 40/2012.192), 19 December 2012, available at:
http://www2.ohchr.org/english/bodies/hrc/docs/ngos/AI_Tajikistan107.doc.
- *Tajikistan: Briefing to the United Nations (UN) Committee Against Torture – 49th Session November 2012* (Index: TIGO IOR 40/2012.156), 12 October 2012; available at:
http://www2.ohchr.org/english/bodies/cat/docs/ngos/AIBriefing_Tajikistan_CAT49.pdf.
- *Shattered Lives: Torture and other ill-treatment in Tajikistan* (Index EUR 60/004/2012), July 2012,
<http://www.amnesty.org/en/library/info/EUR60/004/2012/en>.

RIGHT TO LIFE (ARTICLE 6)

Question 11 on the list of issues

Ongoing concerns at the number of deaths in custody:

Amnesty International and the Coalition against Torture are concerned about frequent reports of deaths in custody. The prison authorities often claim that these are suicide cases, while the families allege that their relatives were tortured or otherwise ill-treated by prison officials. The number of reports of deaths in custody has increased since June 2012.

One such case was the death in custody of Hamza Ikhromzoda, which generated a public outcry in the Tajikistani media.

In September 2012, 27-year-old **Hamza Ikhromzoda** died in the isolation wing (SHIZO) of prison (corrective colony No. 3/1 in Dushanbe), allegedly after torture. In October, a forensic examination concluded that he had committed suicide, and also various government committees concluded that no ill-treatment had taken place. Former cellmates who alleged that they had witnessed his death were reportedly subjected to torture and other ill-treatment in prison in Dushanbe. Of the at least 50 prisoners who were transferred to high security prison colony No. 3/3 in Khujand from Dushanbe on 6 November 2012, several claimed to the media that their transfer was to punish them for their statements about the death of Hamza Ikhromzoda. Other witnesses subsequently withdrew their statements after saying they had been harassed and threatened. Families of the transferred detainees have told the press that their relatives reported having been ill-treated in Khujand prison following their transfer; and their lawyers have also had difficulty in seeing their clients at the new location.

In May 2013, a prison official was found guilty of negligence in relation to the death of Hamza Ikhromzoda and sentenced to 5 and a half years in prison. Three other officials alleged to have been involved in the torture of Hamza Ikhromzoda have not yet been tried including the head of the corrective colony number 3/1 (3/1 YA/C). All three remain in office while investigations against them are pending.²

² For further information on the case of Hamza Ikhromzoda please see Coalition against Torture in: NGO report on

Other reports, relating to the “Kirpichnayazona” detention facility in Vakhdat (prison facility 3/6), also claim that a series of reported suicides are linked to abuses by officials of the prison administration towards detainees: such cases include the deaths of **Adzhik Kayumov** on 26 June 2012; **Nimon Sattorkulov** on 12 June 2012; and **Alisher Kosimov** on 22 June 2012. On 30 December 2012, **Faizullo Mansurov** also reportedly hanged himself in this same detention facility.

In October 2012 the Vakhdat court ruled that the director and head doctor of prison number 3/6 were not responsible for the death of Adzhik Kayumov, but found the director guilty of “negligence” (Article 322 of the Criminal Code) and the head doctor guilty of not providing medical assistance in time.

On 2 February 2013, 21-year-old **Makhmadsharif Nasriddinov** reportedly committed suicide in corrective colony number 1 in Dushanbe. According to reports from his relatives to the press and to the NGO Human Rights Centre, his former cell mates reported that he had been beaten so badly by prison officials after he was found in possession of a telephone that he had hung himself at 2am. Prison officials, however, allege that he was mentally ill, implying that it was this that led him to commit suicide. His relatives dispute this. Makhmadsharif Nasriddinov was serving a three-year sentence for theft and was due to be released in 2014.

Relatives of detainees claim that the increasing number of reported suicides in prisons could be related to the use of torture and other ill-treatment as well as poor conditions and frequent abuses in detention facilities (see section on torture and other ill-treatment below). Since June 2012, the number of reports of torture and other ill-treatment of prisoners serving prison sentences has increased, and relatives of these prisoners have published several open letters with such allegations in relation to information received from their family members in detention.³

Update on compensation rulings in relation to deaths in custody:

The first compensation claims in relation to deaths in custody have recently been processed in Tajikistan in relation to two men:

In March 2013, Sino district court in Dushanbe ruled that the Ministry of the Interior (MIA) should pay 46,500 somonis (10,000 US Dollars) compensation to the widow of **Safarali Sangov** after he died in custody in March 2011. In May 2013, this decision was upheld by the Judicial collegiate on civil cases of Dushanbe city court.⁴

Also in March 2013, the widow of **Ismoil Bachadjonov** received 30,000 somonis (over 6,000 US Dollars) in an out of court settlement after the Ismoil Somoni court in Dushanbe ruled to award her material and moral damages after her husband died in custody in 2009 in an Izolator Vremmenogo Soderzhaniye (IVS - temporary detention facility) during a prison transfer.⁵

There have been no other cases of compensation awarded in relation to deaths in custody.

Tajikistan’s implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. CAT/C/TJK/2, pp 49-50. For information related to the cases of **Safarali Sangov** and **Bahromiddin Shodiev** specifically referred to in the List of Issues, as well as other cases of deaths allegedly resulting from torture such as the one of **Ismonboy Boboev**, see also the section on torture and other ill-treatment below.

³ More information can be found on the website of the Coalition against Torture: <http://www.notorture.tj>.

⁴ For further details on the case of Safarali Sangov see Amnesty International, *Shattered Lives: Torture and other ill-treatment in Tajikistan*, p 48; and *NGO report on Tajikistan’s implementation of the Convention against Torture and other Cruel, Inhuman or degrading treatment or punishment*. CAT/C/TJK/2, p. 43. See also the next section on Question 13 below.

⁵ For further details on the case of Ismoil Bachadjonov see Amnesty International, *Shattered Lives: Torture and other ill-treatment in Tajikistan*, p 49. See also the next section on Question 13 below.

PROHIBITION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT; LIBERTY AND SECURITY OF THE PERSON; TREATMENT OF PRISONERS (ARTICLES 7, 9, 10 AND 24)

Over the last two years, the state party has adopted a series of measures aimed at eliminating torture and other ill-treatment. These include amending the Criminal Code to make torture a criminal offence; developing guidelines for judges in cases of alleged or suspected torture or other ill-treatment; adopting recommendations for procurators on investigating incidents of torture; and, in March 2013, adopting a 2013-2015 National Implementation Plan concerning the 106 recommendations Tajikistan accepted during the UN Human Right Council's Universal Periodic Review (UPR). These include recommendations for the ratification of the second Optional Protocol to the ICCPR; improved protection of detainees' rights; strengthening measures to prevent and protect against torture and other ill-treatment and to ensure independent and effective investigations into all allegations of torture and other ill-treatment and into deaths in custody.⁶ In addition, the Ministry of Health has recently approved the creation of a working group to incorporate the Istanbul Protocol⁷ standards in local legislation governing standards for medical workers.

Whilst noting these positive commitments, Amnesty International and the Coalition against Torture continue to receive reports of torture and other ill-treatment in all types of detention facilities, particularly in pre-trial detention, indicating that this problem remains persistent in Tajikistan. NGOs and lawyers in Tajikistan registered over 96 complaints about torture and other ill-treatment between 2010 and 2012. Over the last year, however, there have been increasing numbers of complaints publicized in the Tajikistani media about torture and other ill-treatment from detainees serving prison sentences.

Question 13 on the list of issues

Lack of official statistics concerning torture and other ill-treatment:

In Tajikistan official statistics on complaints of torture and other ill-treatment are not compiled centrally. Since each government body compiles its own statistics, and these sometimes contradict each other, it is difficult to obtain accurate information on this point. The General Prosecutor's office is reportedly developing plans to centrally record statistics on complaints of torture and ill-treatment, although official statistics based on complaints are unlikely to accurately reflect the full extent of the problem.

The Human Rights Ombudsman reported that in 2012 he received 11 complaints about torture and other ill-treatment, and five in 2011. While the Ombudsman's office refers to statistics from the General Prosecutor's office stating that there were 22 complaints of torture and other ill-treatment in pre-trial detention registered in 2012, the General Prosecutor informed the press that for this period there were only 13 such complaints. According to statistics from the Ministry of Internal Affairs (MIA), 61 complaints were registered in relation to torture and other ill-treatment in 2012.

⁶ See Report of the Working Group on the Universal Periodic Review – Tajikistan, UN Doc. A/HRC/19/3, 12 December 2011, http://www.un.org/ga/search/view_doc.asp?symbol=A%20/HRC/19/3; and Addendum – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, UN Doc. A/HRC/19/3/Add.1, 27 February 2012, http://www.un.org/ga/search/view_doc.asp?symbol=A%20/HRC/19/3/Add.1.

⁷ Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Istanbul Protocol").

Despite assertions by the state party that the complaints about human rights violations by security officials significantly decreased in the period from 2007 to 2010, Amnesty International and the Coalition against Torture continue to receive reports from people who say they or their relatives have been tortured and ill-treated.

After his visit to Tajikistan in May 2012 the UN Special Rapporteur on torture reported that “pressure on detainees, mostly as a means to extract confessions is practised in Tajikistan in various forms, including threats, beatings, (with fists and kicking but also with hard objects) and sometimes by applying electric shocks”. While he was unable to say whether the practice was less prevalent or systematic in recent times he stated that he was “persuaded that it happens often enough and in a wide variety of settings that it will take a very concerted effort to abolish it or to reduce it sharply”.⁸

It is also important to note that many cases of torture and other ill-treatment go unreported as victims are often afraid to report it. Those who do lodge complaints with the prosecutor’s office frequently report reprisals and harassment from law enforcement officials to “persuade” them to withdraw their allegations⁹. This continues to occur despite the 2010 Law “On State Protection of Participants in Criminal Proceedings” and the State Programme for Protection of the Participants of Criminal Proceedings¹⁰ which was approved by government decision No. 604 on 2 November 2012 and should protect complainants¹¹.

For example, according to press reports and information received by the Coalition against Torture, in December 2012, 30 year old **Akmal Muzaffarov** was reportedly stopped by plain clothed police officers in Isfara. When he refused to show his documents, he was beaten and taken to a police station in Isfara where he was subjected to further beatings and forced to drink 200 ml of vodka. The next day his documents were returned to him and he was released, after being warned not to lodge a complaint about his treatment. Akmal Muzaffarov’s friends took him to hospital where he was diagnosed with a broken leg and other bodily injuries. Akmal Muzaffarov’s family lodged a complaint with Soghd oblast prosecutor’s office which opened a criminal investigation under Article 143.1 (torture) of the Criminal Code (CC) into the actions of the Head of the Isfara MIA Investigations Department. Prior to the opening of criminal investigations, the family reported to the press that they had received anonymous phone calls with threats that they should withdraw their complaint. The Head of the Isfara MIA Investigations Department has not been suspended from duty during the police investigation although he is not allowed to travel. The case is currently pending examination by the Isfara court.

Prison conditions and frequent abuses in detention; lack of independent and effective monitoring of places of detention:

Consistent reports also point to poor conditions in detention centres and prisons and frequent abuses against detainees. For example, NGOs and lawyers in the Coalition against Torture have received reports from relatives of detainees that in the corrective colony Ya/C 3/1 food parcels have reportedly been confiscated by prison officials from newly-arrived detainees and that detainees have been subjected to beatings by prison

⁸ Special Rapporteur on torture and other cruel, inhuman or degrading treatment of punishment, Juan E. Méndez, End-of-mission Statement/Preliminary findings on his country visit to the Republic of Tajikistan 10-18 May 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12166&LangID=E>. The Special Rapporteur’s full report on his visit to Tajikistan (UN Doc. A/HRC/22/53/Add.1, 23 January 2013) can be accessed at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add1_en.pdf.

⁹ Interviews with families of victims of torture and victims of torture, Amnesty International May 2013; Information from lawyers and representatives of NGO members of the Coalition against Torture resulting from ongoing consultations with victims of torture.

¹⁰ («О государственной защите участников уголовного судопроизводства») “On State Protection of Participants in Criminal Proceedings”

¹¹ The programme is funded from the state budget.

officials, in particular during the first two weeks after their arrival. Reports have also been received by NGOs and lawyers in Tajikistan as well as by Amnesty International from numerous sources that officials take bribes for allocating places in a better work “team” and for allowing detainees to make telephone calls and that detainees had to make financial contributions for repairs of sanitary facilities and offices in prison buildings. Detainees who refused to make contributions say they were beaten.

Detainees are punished also by being transferred to “spetskritii” (a block in SIZO No.1 in Dushanbe where detainees are sent during transfer from one prison regime to another) and pressured to pay bribes in order to avoid punishment. Former prisoners report that the conditions in SIZO No 1 in Dushanbe are amongst the worst in Tajikistan, and there have been reports of torture and other ill-treatment in this facility. For example on 23 June 2012 **Rakhmatullo Sharipov** was reportedly beaten by three prison officers after they found him in possession of a telephone.

With regard to conditions of detention, and in particular their impact on health, families of detainees and international observers have reported that there are no effective procedures in place to prevent transmission of tuberculosis from prisoners who are infected with it to those who are not.

Defence lawyers often find it difficult to meet with prisoners directly, and human rights defenders and NGOs are not allowed to carry out direct monitoring of prison facilities, so it is difficult to objectively assess and verify the sometimes contradictory information and claims of human rights abuses made by prisoners and their relatives. In view of this, it would be helpful if civil society representatives were able to monitor prison detention facilities.¹²

In 2011 a governmental working group was established to visit pre-trial detention facilities and penitentiary institutions. Civil society was not represented in this working group and the findings of monitoring visits were not published.

In his 2012 report, the Human Rights Ombudsman for Tajikistan stated that representatives of the Ombudsman’s office had visited pre-trial detention facilities and prisons such as SIZO YT 9/1, educational facility YC 3/12; corrective facilities YC 3/2, 3/3, 3/4, 3/5 and 3/6 under the responsibility of the Ministry of Justice as well as other places of detention together with the government committee. However, the report does not provide information on the conclusions of these visits apart from referring to the fact that “recommendations were made and sent to government bodies”.¹³

On 10 April 2013 the NGO Independent Centre for Human Rights wrote to the Head of the State Department of Corrective Prison Institutions (GUIN) requesting permission to carry out independent monitoring of detention facilities. They received a reply on 22 April from the head of GUIN saying that due to the political events planned for 2013 (i.e the elections) law enforcement officials would not have the capacity to assist with the organization of monitoring visits.

There remains an urgent need to strengthen the Office of the Human Rights Ombudsman to ensure that it can carry out independent monitoring with the power to make unannounced and unrestricted visits to detention centres and prisons and issue reports and make recommendations to the authorities which will be made public. That body should include representatives of civil society and a range of NGOs – not only those which provide humanitarian assistance.

¹² There have been few visits to places of detention from journalists and international observers and in some instances there have been reports from detainees that before the visits they were “prepared”, i.e. warned by prison officials not to complain about anything. See <http://news.tj/ru/news/zaklyuchennye-zhaluyutsya-na-uzhestochenie-rezhima-posle-smerti-khikromzoda>.

¹³ See section 2.5, page 38 of the report, available at: <http://ombudsman.tj/bitrix/file%20PDF/Doklad-tj-2012.pdf>.

Ongoing impunity – failure to investigate and bring those responsible for torture and other ill-treatment to justice:

The Tajikistani authorities regularly fail to conduct prompt and impartial investigations into allegations of torture and other ill-treatment. This means that impunity prevails as the prosecution of individuals suspected of torture or other ill-treatment remains the exception rather than the rule. Comparatively few law enforcement officials have been prosecuted and brought to trial for the crimes they are suspected of, and disciplinary proceedings continue to be used to the exclusion of criminal prosecutions.

According to the statistics from the MIA, the 61 complaints that were registered in 2012 in relation to torture and other ill-treatment led to nine criminal cases being opened in relation to nine MIA officials. Two of these criminal cases involved officials being prosecuted under Article 143.1 of the Criminal Code (torture). Disciplinary proceedings were taken in relation to 52 officials.

In response to the Coalition against Torture's request for official statistics on complaints of torture and other ill-treatment for 2012¹⁴, the General Prosecutor's office replied that they did not have statistical information relating to investigations of cases of torture, because this was the responsibility of the Ministry of the Interior. At the same time they provided statistical information on cases under articles 314 (Abuse of office), 316 (Exceeding official responsibility) and 354 (Coercion to testify during preliminary investigation by means of threats, blackmail or other unlawful acts) of the Criminal Code, which make it impossible to identify which cases were related to torture or other ill-treatment¹⁵.

In January 2013, the representative of the Supreme Court, Nusratullo Abdulloev, stated that in 2012 the Supreme Court reviewed 23 prosecutions for torture, however these were reviewed before the Criminal Code was amended to include torture as a separate crime. He stated that two cases were reviewed in 2012 under Article 143.1 on torture in Yavan and Khujand and that the accused had been found guilty and sentenced. In addition, the General Prosecutor's office stated that 17 criminal investigations were undertaken under Criminal Code Articles 314 (Abuse of official authority), 316 (Exceeding official responsibility) and 354 (Coercion to testify during preliminary investigation by means of threats, blackmail or other unlawful acts) in the first half of 2012, in seven cases criminal proceedings were opened, three cases were referred to Court, and in four cases the investigations are ongoing.

As set out in the section on deaths in custody above, in May 2013 an officer of the correctional facility 3/1 Ya/C in Dushanbe was found guilty of abuse of office (Article 316.3) and sentenced to 5 and a half years imprisonment in relation to the death of **Hamza Ikhromzoda** in September 2012. Investigations are ongoing in relation to the actions of three other officials in this case.

Prosecutor's offices are tasked with investigating allegations of torture. But in some cases there is evidence that close personal and structural links between prosecutors and police undermine the impartiality of investigations by prosecutors.

By law (Criminal Procedure Code Article 145.5), prosecutors are required to reply in detail to all complaints lodged within three days. In May 2013, Amnesty International received information from the General Prosecutor's office that an order had been given to all prosecutors' offices that motivated and detailed answers had to be given in answer to all complaints lodged. Guidelines on effective identification, prevention and investigation into torture for investigators and prosecutors have also been developed by the General Prosecutor's office.

¹⁴ Other official bodies such as the Ministry of Internal Affairs and the Council of Justice replied to the request for statistics on torture and other ill-treatment that it was necessary to address the request to the Committee for Statistics. But the Committee for Statistics does not hold this kind of information.

¹⁵ From the speech by the General Prosecutor of Tajikistan Sherhon Salimzod to the UN Committee against Torture hearing, November 2012.

While this is a welcome development, there continue to be reports from individual victims of torture or their families of prosecutors' offices failing to act on complaints or not disclosing information about how complaints are examined or the grounds for their decisions that there was no evidence of wrongdoing by officials.

One example is the case of **Dilshod Sharifov**, who was reportedly tortured by officials of the Department of Internal Affairs of Gissar in 2011. Dilshod Sharifov's lawyer challenged before the General Prosecutor's office the decision of the local prosecutor's office to refuse to open criminal proceedings against an officer of the Gissara department of internal affairs. For the third time in this case, the General Prosecutor's office has revoked the refusal by the local prosecutor's office to open criminal proceedings. The office of the Prosecutor of Gissara region informed Dilshod Sharifov that the period for investigations into the alleged torture and ill-treatment by officers of Gissar regional Department of Internal Affairs was extended until 22 June 2013. However no criminal proceedings against the officer concerned have as yet been initiated despite the conclusions of the forensic medical examination, photographic evidence and Dilshod Sharifov's statements.

There continue to be delays by prosecutors in ordering medical examinations of those who make allegations of having been subjected to torture and other ill-treatment, with the result that physical traces have sometimes disappeared by the time examinations are carried out. Also, during investigations into allegations of torture and other ill-treatment, victims and their families are sometimes not given regular updates or access to case materials. In May 2012, the Constitutional Court ruled a provision of the Criminal Procedural Code (point 8; part 2 Article 42) constitutional, thereby upholding the General Prosecutor's practice of limiting the access of the victims of human rights violations to evidence against the alleged perpetrators.

Furthermore, Amnesty International and the Coalition against Torture are concerned that in some cases law enforcement officials continue not to be prosecuted for torture but for crimes carrying less severe penalties instead.

For example, on 14 February 2013 the MIA Inspector for Dushanbe was convicted by a court of "negligence" leading to the death of **Bakhromiddin Shodiev** in October 2011, and sentenced to two years imprisonment. This was despite evidence from Bakhromiddin Shodiev's mother that she had seen signs of torture on her son's body when she visited him in hospital shortly before his death, and that he had regained consciousness briefly to tell her that he had been tortured with electric shocks and beaten. In this case the sentence passed on the senior officer was clearly not commensurate with the grave crime of torture. Three other police officers allegedly involved in the torture and ill-treatment of Bakhromiddin Shodiev have not yet been prosecuted.

In other cases, investigations against alleged perpetrators of torture and other ill-treatment are protracted and drawn out, or closed for apparently spurious reasons which seem to be designed to protect the interests of the security officials concerned.

For example, a year after the May 2012 ruling by Tajikistan's Constitutional Court that investigations should be carried out into the circumstances of **Ismonboy Boboev's** death in custody in February 2010, little progress has been made in practice. The investigations into the actions of two officers of the Soghd Regional Department for the Fight against Organised Crime have been closed and re-opened several times, ostensibly due to the poor health of suspects. At a court hearing at Khujand city court in March 2013 the lawyer for Ismonboy Boboev's family argued that medical records showed that one of the suspects had had flu, but that this was not sufficient grounds to indefinitely terminate the criminal investigation. The court overturned the decision by Soghd regional prosecutor's office and ordered the investigation to be re-opened. Representatives of Soghd regional prosecutor's office submitted individual appeals to Soghd regional court Judicial Collegiate on Criminal Cases, which refused the appeals on 5 June 2013.

In another case, in September 2012, a police inspector, the head of the Yavan department of Internal Affairs, was found guilty of torture in the case of a **17-year-old boy** in Khatlon region and sentenced to seven years in prison. This was the first time a police officer was found guilty and sentenced for torture in Tajikistan.

However, in March 2013 the collegiate of Khatlon regional court returned the case to the General Prosecutor's office for further investigation, allegedly due to the participation of another law enforcement officer in the torture and other ill-treatment who could not be identified.

In several cases, law enforcement officials sentenced for "exceeding official authority" were also released early under the 2011 Law on Amnesties or legal proceedings against police officers have been terminated under this law, which inevitably raises serious concerns about impunity.

On 11 July 2012, a decision was issued on terminating the criminal proceedings against two officers of Sino Department of Internal Affairs, Dushanbe, under the Law on Amnesties (Article 27.1). The two officers were accused of negligence (Article 322 of the Criminal Code) for the death in custody of **Safarali Sangov** on 5 March 2011. There were reports that Safali Sangov had been tortured and ill-treated, although police originally claimed he fell down the stairs in the police station. A complaint against the decision to terminate the criminal proceedings was turned down by the General Prosecutor's office. This decision is currently being appealed to the Ismoil Somoni district court in Dushanbe.

Similarly, on 15 September 2011, one of the officers convicted for negligence causing the death of **Ismoil Bahadjonov** and sentenced to three years imprisonment benefited from the law on Amnesty of 20 August 2011 and was immediately released from the court room. Two of his co-defendants were sentenced to 8 years' imprisonment but had their sentences reduced under amnesty to 6 years. Ismoil Bahadjonov was serving time in a maximum security prison for possession of drugs and died during transfer to a detention facility.¹⁶

Rehabilitation and compensation measures for victims of torture and other ill-treatment:

In September 2012, compensation was awarded to the family of the **17-year old boy** who was tortured in police custody in the Khatlon region – the first case of significant compensation being awarded in a case involving torture and other ill-treatment; the family of the victim was awarded material damages to cover the cost of his medical treatment. However, it should be noted that the compensation has not yet been paid despite the written instructions issued by the court.

As noted in the section on "deaths in custody" compensation was also awarded to the families of **Safarali Sangov** (46,500 somoni) and Ismoil Bachadjonov (30,000 somoni, in an out of court settlement).

However, such cases remain exceptions rather than the rule and many victims of torture and other ill-treatment continue to fight for recognition of their right to a remedy for violations of their human rights at the hands of law enforcement officials in Tajikistan.

Torture and other ill-treatment of persons suspected of belonging to banned Islamic movements and Islamic groups:

In March 2013, in its national plan for implementing the UPR recommendations, Tajikistan undertook to fight against all forms of discrimination in relation to people belonging to religious minorities.

However, in Tajikistan people accused of involvement in banned Islamic movements and Islamist groups or parties detained by the Interior Ministry and the Committee for National Security (SCNS), are often at particular risk of torture and other ill-treatment: access to their defence lawyers is routinely denied; and lawyers are not allowed adequate access to case materials against their clients.

¹⁶ For more information on this case please refer to previous submissions by Amnesty International and the Coalition against Torture.

In November 2012, the UN Committee against Torture noted “numerous and consistent allegations ... of routine use of torture and ill-treatment of suspects, principally to extract confessions ... primarily during the first hours of interrogation in police custody as well as in temporary and pre-trial detention facilities run by the State Committee of National Security [SCNS] and the Department for the Fight against Organized Crime.”¹⁷

The case of the so-called “**53 from Istravshan**”: In November 2012, the Supreme Court Collegium of Criminal Cases reviewed the case of **Ilhom Ismonov**¹⁸ and the other defendants in connection with the appeal they lodged against their December 2011 conviction. All of the accused men stated that they had been tortured and ill-treated while awaiting trial. In August 2012, the General Prosecutor’s office, at the request of the Supreme Court, reportedly ordered examinations into physical injuries of the defendants to be carried out. However, these were reportedly cursory in nature (the examination and interview of each of the 34 alleged victims of torture took an average of 10 minutes), and carried out in the presence of investigative personnel. Regarding the scarring on Ilhom Ismonov’s body, the examination stated that due to time lapsed it was difficult to establish the origins of scarring. A forensic expert admitted that they had not been trained on the standards of the Istanbul Protocol. The General Prosecutor’s office subsequently refused to open a criminal investigation into the torture allegations.

In another case, in August and November 2012, a **12-year-old boy** was reportedly held in incommunicado detention for three and then for two days in the duty office of the Dushanbe department of the SCNS and subjected to torture and other ill-treatment. There were press reports that he had been beaten with the aim of obtaining information about other detainees who were suspected of extremism and membership of the banned organization Hizb ut Tahrir. The boy’s lawyer submitted a complaint to the General Prosecutor’s office on 20 November 2012, and a medical examination was carried out. According to the lawyer the General Prosecutor’s office has not replied to their complaints and no criminal investigations have been undertaken.

Question 14 on the list of issues

Torture and other ill-treatment in pre-trial detention; in situations of prolonged incommunicado detention; during interrogations carried out without the presence of a lawyer:

Most instances of torture and other ill-treatment occur before the suspect is registered at a police station. Suspects are often not informed of their rights (to see a lawyer, to notify family or the right to remain silent) until the detention is registered, which should happen within three hours of a person being taken to a police station, but which in practice often happens much later. There are continuing reports of incommunicado detention, for example in duty offices of police stations, for several days before the detention is registered (see case of 12-year-old boy above).

By law¹⁹, detainees are entitled to a lawyer as soon as they are detained, but in practice lawyers continue to be dependent on police inspectors who can deny them access to their clients for days. NGOs and lawyers in

¹⁷ Committee against Torture, *Concluding observations on the second periodic report of Tajikistan, adopted by the Committee at its forty-nine session (29 October - 23 November 2012)*, Advance Unedited Version, para 9, <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.TJK.CO.2.doc>.

¹⁸ Ilhom Ismonov was convicted for “organization of a criminal group” (Article 187 of the Criminal Code) and sentenced by the Sughd Regional Court on 23 December 2011 to eight years in prison (reduced by one third under an amnesty at the same time). In November 2012, the Supreme Court upheld his conviction but reduced the sentence to six and a half years. Ilhom Ismonov was tried in a case which grouped together 48 other men on similar charges of “extremism” in a trial that fell short of international standards of fairness. He was apprehended on 3 November 2010 in Khujand city, Tajikistan, but his detention was not registered until 7 days later. Ilhom Ismonov alleges he was tortured and forced to sign a confession while being held in incommunicado detention.

¹⁹ Criminal Procedural Code of Tajikistan and the Law “On procedures and detention conditions for suspects and defendants”.

Tajikistan report that in the majority of cases suspects reported that they were allowed to see their lawyers only three to five days or even a week after being detained, sometimes first seeing their lawyers at remand hearings. Lawyers continue to report that they are sometimes required to obtain prior permission (in writing) from certain police inspectors in order to see their clients due to MIA internal regulations governing lawyers' access to clients in detention.

Such restrictions on access of lawyers are particularly prevalent in SCNS run detention facilities and in specialized MIA departments and the difficulties in seeing their defence lawyers means that detainees in these places are at particular risk of torture and other ill-treatment, and of being compelled to confess guilt, including falsely, or to make statements against their interest.

For example, on 3 August 2012, lawyers Sergey Romanov and Abdulrahmon Sharipov repeatedly requested to meet with their client, **Ismatullo Dodoev** who was sentenced to life imprisonment and was being held in SIZO No 1 in Dushanbe while he appealed against his sentence. However, prison officers required the lawyers to present a letter from the Supreme Court which was reviewing his appeal. When the letter was presented, the head of the SIZO still refused to allow the lawyers to see their client referring instead to the directive of the Head of the Main Directorate of Criminal Punishment (GUIN) requiring permission to be obtained from the GUIN. On 4 August 2012, the lawyers lodged a complaint about the actions of the Head of SIZO No. 1, but have not yet received an answer.

Also, on 24 July 2012 **Sherik Karamhudoev**, head of the opposition group Islamic Renaissance Party in Khorog (GBAO) disappeared during the unrest in the GBAO region in July 2012²⁰. His whereabouts were only made known to his family on 8 August, and he was not allowed to see his defence lawyers for nearly two months. He was reportedly tortured while in SCNS detention in Dushanbe. He was charged with organizing a criminal group and with illegal possession of firearms. However a forensic examination carried out on 4 October, in the presence of officials of the SCNS and the General Prosecutor's office, concluded that Sherik Karamhudoev had not been tortured and that his injuries were sustained as the result of a fall. The trial was held in closed court. Sherik Karamhudoev's defence lawyer was denied a copy of the findings of the forensic examination into Sherik Karamhudoev's allegations that he had been tortured. The conclusions of the forensic examination were that Sherik Karamhudoev had not been tortured and that his injuries were sustained as the result of a fall. On 10 May 2013, Sherik Karamhudoev was convicted and sentenced to 14 years imprisonment.

Excessive use of pre-trial detention:

Judges take the severity of the alleged crime as a basis for ordering pre-trial detention. Tajikistan's laws allow for other pre-trial measures, such as bail or house arrest, but these are not used in practice. The CPC stipulates (Article 112) that pre trial detention during investigations should not exceed 18 months; thereafter, once a case is sent to court the period of detention can last for a maximum of 12 months (CPC Article 289). However, a problem arises if the court sends the case back for further investigation, as in such cases the time taken for further investigations falls outside either of these stipulated maximum periods, with the result that the total period spent in pre-trial detention can exceed the maximum stipulated under the CPC.

For example, in the case of the "53 from Istravshan" the criminal case against **Valichon Gafurov** (Criminal Code Article 347.2 Failure to report a crime) was sent back for further investigation. Valichon Gafurov has now been in detention for two and a half years while the investigations continue, without any additional court approval. He is being held in SIZO 9/2 in Khujand.

²⁰ In July, clashes between government and armed groups took place in Khorog, Gorno-Badakhstan Autonomous Region (GBAO). In some of the most intense fighting since the end of the 1992-1997 civil war, unofficial reports vary in the numbers of soldiers and civilians killed during a government military operation launched against forces loyal to the deputy commander of the Ishkashim border unit, former opposition leader in the civil war Tolib Ayombekov.

Torture is routinely used to extract confessions; judges at remand hearings regularly disregard allegations of torture by detainees:

Defence lawyers report²¹ that judges at remand hearings examine only the issue of the legality of the detention and do not order investigations into torture and other ill-treatment if there are physical signs of abuse or complaints by detainees, but instead they tell detainees to lodge such complaints with the prosecutor. However, as set out above, many victims of torture and their relatives reported that they were afraid to lodge complaints with the prosecutor's offices for fear of reprisals.

Following his visit to Tajikistan in May 2012, the UN Special Rapporteur on Torture reported hearing "many cases in which defendants recanted their confessions as soon as they were in front of a prosecutor or a judge, and their allegations were dismissed as without merit, even when traces of mistreatment were visible. We have heard of no instance of investigation ex officio of torture in those cases, despite the clear international law standard to that effect".²²

Despite the Criminal Procedural Code stating that evidence obtained through torture should be excluded from court²³, there were no cases in 2012 where judges implemented exclusionary measures.

Question 15 on the list of issues***Persons being extradited or otherwise forcibly removed to Tajikistan, and subsequently subjected to torture:***

Amnesty International and the Coalition against Torture are profoundly concerned at the increasing number of cases in recent years where people who were extradited to or otherwise forcibly removed to Tajikistan by the authorities of other CIS countries have been tortured or otherwise ill-treated by law enforcement officials in Tajikistan.

In several recent cases that have given rise to applications before the European Court of Human Rights (ECtHR) the individuals concerned were reportedly abducted by Tajikistani security forces operating in the Russian Federation and forcibly returned to Tajikistan. Some of these people were reportedly subjected to torture and other ill-treatment upon return to Tajikistan. In November 2012, the UN Committee against Torture urged Tajikistan to "cease the practice of abducting and forcibly returning individuals to Tajikistan from other states and subsequently holding them in incommunicado detention, and ensure that they are not subjected to acts of torture".²⁴

The research of Amnesty International and the Coalition against Torture has documented that most of those extradited or forcibly returned to Tajikistan are held in incommunicado detention for several weeks after their return thereby increasing the risk of them being tortured or otherwise ill-treated.

The Special Rapporteur on torture reported hearing "testimonies pointing to a pattern of kidnapping, reappearance, remand and forcible return to Tajikistan, incommunicado detention and solitary confinement in

²¹ to the Coalition against Torture and to Amnesty International.

²² Special Rapporteur on torture, End-of-mission Statement, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12166&LangID=E>.

²³ Article 88.3 of the CPC of Tajikistan: "[e]vidence obtained during the inquiry and preliminary investigation by way of force, pressure, causing suffering, inhuman treatment or other illegal methods, is invalid and cannot form the basis of the accusation".

²⁴ Committee against Torture, *Concluding observations*, para 18 b).

the buildings of the State Committee for National Security, [...] and interrogations over the course of several months”.²⁵

The ECtHR has ruled in several cases since 2010 that Tajikistani nationals who were in Russia would be at a real risk of torture if extradited back to Tajikistan. In April 2013, in the case of *Savriddin Dzhurayev vs Russia* the European Court referred to the “context of harassment of non-traditional religious groups by the Tajik authorities” and ruled that this had “heightened the risk of [Savriddin Dzhurayev] being subjected to ill-treatment in detention with a view to extracting confessions relating to his religious activities”.²⁶

On 6 August 2012, in answer to an enquiry by the Coalition against Torture the General Prosecutor stated that in 2007 35 Tajikistani citizens had been extradited to Tajikistan, 25 in 2008, 61 in 2009, 60 in 2010, 62 in 2011 and 16 people in the first half of 2012. Amnesty International and the Coalition against Torture have not received new information from the Tajikistani authorities regarding the current situations of Tajikistani nationals previously extradited to Tajikistan from other CIS countries including: Sukhrob Koziev, Savriddin Dzhurayev, Nizomkhon Djurayev, Abduvosit Latipov, Murodjon Abdulkhakov or Rustam Zokhidov.

Question 16 on the list of issues

Concerns about lack of protection against refoulement for asylum seekers, refugees and stateless persons in Tajikistan:

In Tajikistan, national legislation does not specifically prohibit the extradition of individuals to a country where they are at real risk of torture and other ill-treatment. Extradition issues are mainly regulated by bi-lateral agreements as well as regional instruments such as the Minsk and Chisinau Conventions and the Shanghai convention on combating terrorism, separatism and extremism²⁷.

In its concluding observations on the second periodic report of Tajikistan, the Committee against Torture expressed its concern that “ the Criminal Procedure Code does not contain any provision on the absolute prohibition of extradition or deportation in cases where the subject would be at risk of torture, and that there are no clear procedures in legislation for challenging the legality before a court in extradition and deportation proceedings”, and recommended that Tajikistan “Clearly establish in law and respect its non-refoulement obligations under article 3 of the Convention, including the right to appeal the issuance of an extradition warrant, and refrain from seeking and accepting diplomatic assurances from a state where there are substantial grounds for believing that a person would be at risk of being subjected to torture.”²⁸

Also, Amnesty International and the Coalition against Torture are concerned at the legislative restrictions in place governing the right to residence in Dushanbe for asylum seekers and refugees. In some cases asylum

²⁵ Report of the Special Rapporteur on torture on his visit to Tajikistan, para. 80, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add1_en.pdf.

²⁶ CASE OF SAVRIDDIN DZHURAYEV v. RUSSIA (Application no. 71386/10), <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119416>.

²⁷ See also the report by the Special Rapporteur on torture, paragraphs 81 and 82 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add1_en.pdf.

²⁸ The Prosecutor General’s office is the only body with jurisdiction over extradition-related issues. In the reply to the enquiry by the Coalition against Torture referred to earlier, the General Prosecutor provided the following numbers for extraditions from Tajikistan to other countries: 2007: 1 person to Kyrgyzstan; 2008: 2 (Turkmenistan, Uzbekistan); 2009: 4 (2 to Russia, 2 to Uzbekistan); 2011: 5 (1 to Russia, 1 to Uzbekistan, 2 to Kyrgyzstan, 1 to Turkey); and in the first half of 2012: 5 (1 to Russia, 1 to Uzbekistan, 2 to Kyrgyzstan, 1 to other countries). The letter cited that Tajikistan extradites citizens to CIS countries on the basis of the Minsk and Chisinau conventions on legal assistance, and only when written guarantees of the non-use of torture are provided.

seekers and refugees had managed to obtain permission from the Ministry of the Interior to reside in Dushanbe but reportedly some of these people are being subjected to deportation under administrative proceedings. These administrative proceedings are outlined in Government resolution 325 – which provides for an administrative penalty of deportation of asylum seekers and refugees (Administrative Code of the Republic of Tajikistan Article 499.3). This legislation contradicts the Law on Refugees of the Republic of Tajikistan which forbids the refoulement of refugees or asylum seekers to countries where their life or freedom would be threatened (Article 14).

Amnesty International has learned of cases where asylum seekers and refugees living in Dushanbe have been targeted for “raids” by the SCNS, Migration Services and the Ministry of Foreign Affairs. In several such cases refugees and asylum seekers have been charged with administrative offences, have had their refugee status revoked and subsequently been deported in violation the non-refoulement principle.

In the last three months Amnesty International has been approached by individual asylum seekers and refugees from Afghanistan who reported being detained by the SCNS, interrogated, beaten and then deported to Afghanistan notwithstanding the real risk of torture and other ill-treatment, and other egregious human rights abuses they would face upon return. There are reports from international organizations that in one case the returned refugee was killed following his return to Afghanistan, and that in another case a child asylum seeker was deported to Afghanistan for “illegally” crossing the Tajikistani border. Amnesty International and the Coalition against Torture are alarmed at this apparent disregard of the non-refoulement principle by the Tajikistani authorities.