

# THE LAW OF THE REPUBLIC OF TAJIKISTAN

## ON FIGHT AGAINST HUMAN TRAFFICKING

The present law outlines legal and organizational basis of system of fight against human trafficking in the Republic of Tajikistan and legal status of victims of human trafficking.

### CHAPTER 1. GENERAL PROVISIONS

#### Article 1. Principal concepts

The following principal concepts are used throughout the present Law:

- a) **Human trafficking** – purchasing or selling of a person either with his/her consent or not, by fraud, recruiting, concealment, transfer, transportation, kidnapping, swindle, misuse of vulnerable status, bribery in order to obtain consent of a person in control of other person as well as other forms of coercion with the purpose of further trafficking, engaging in sexual or criminal activity, use in armed conflicts, pornographic business, forced labor, slavery or customs similar to slavery, debt bondage or adopting for commercial purposes.
- b) **Human trafficker** – a natural person or a legal entity that independently or in a group of people conducts any activities in connection to human trafficking as well as an authority that abets human trafficking by his/her actions or doesn't prevent or oppose them although he/she must do so in view of his/her official duties;
- c) **Victim of human trafficking** – the person suffered from human trafficking despite his/her consent for transportation, transfer, selling, or other activities in connection to human trafficking;
- d) **Recruitment** – hiring, enrollment for some work, involving is some activity including illegal, inclusion in composition of some organization including those prohibited by the law;
- e) **Exploitation** – forced labor or services, slavery or customs similar to slavery, dependent status, or removal of human organs and (or) tissues, exploitation of other persons as prostitutes as well as other forms of exploitation of person with a view of committing sexual abuse;
- f) **Forced labor** – conducting of any work or provision of services through coercion;
- g) **Slavery** – status or position of a person towards whom some or all warranties intrinsic to the propriety title are realized;
- h) **Debt bondage** – position or status originating from the mortgaging by the debtor his/her own labor or labor of a dependent if the value of the work performed is not credited towards debt repayment or if the duration of such work is not limited to some term, or if the nature of labor and the size of remuneration of labor is not identified;
- i) **Surrogate mother** – woman who gave birth to child as a result of using medical method of artificial insemination or embryo implantation for its bearing;
- j) **Fight against human trafficking** – the activity for prevention, detecting, suppression, minimization of the consequences of human trafficking, rendering assistance to victims of human trafficking;
- k) **Crimes in connection to human trafficking** – crimes foreseen in the following articles of the Criminal Code of the Republic of Tajikistan: 122 (Coercion for removal of human organs and tissues for transplantation), 130 (Kidnapping), 130<sup>1</sup> (Human trafficking), 131 (Illegal imprisonment), 132 (Recruitment of people for exploitation), 134 (Coercion), 138 (Rape), 139 (Sexual abuse), 140 (Compulsion for sexual activities), 141 (Sexual intercourse or other sexual activities with persons under 16), 142 (Lecherous actions), 149 (Incorrect limitation of migration, freedom of choosing place of residence, emigration and returning of a citizen), 167 (Trafficking minors), 171 (Substitution of child), 172 (Illegal adoption), 238 (Involvement in prostitution), 239

(Establishment or keeping of dens, procuration or pimping), 335 (Illegal crossing of state border), 336 (Violation of state border regulations), 339 (Theft or damaging documents, stamps, seals), 340 (Forgery, manufacturing or sale of forged documents, state decorations, stamps, seals, letterheads), 401 (Recruitment).

## **Article 2. Legislation of the Republic of Tajikistan in the field of fight against human trafficking**

The legislation of the Republic of Tajikistan in the field of fight against human trafficking is based on the Constitution of the Republic of Tajikistan and consists of the present Law, other normative-legal documents as well as international legal deeds recognized by the Republic of Tajikistan.

### **Article 3. Goals and objectives of the present Law**

1. The goals of the present Law are:
  - a) implementation of state policy and regulation of social relations in the field of fight against human trafficking;
  - b) implementation of international obligations of the Republic of Tajikistan in the field of fight against human trafficking;
  - c) reduction of risk of people of becoming victims of human trafficking;
2. The objectives of the present Law are:
  - a) regulation of social relations emerging from fight against human trafficking;
  - b) prevention, detecting and suppression of human trafficking and minimization of its consequences;
  - c) physical, psychological, social and legal rehabilitation of victims of human trafficking;
  - d) protection of person, state and society from human trafficking.

### **Article 4. Main principles of fight against human trafficking**

Fight against human trafficking in the Republic of Tajikistan is based on the principles of:

- a) legality;
- b) inevitability of liability of human traffickers;
- c) no discrimination of victims of human trafficking;
- d) provision of safe and fair treatment of victims of human trafficking;
- e) access to justice;
- f) combined use of preventive, legal, political, medical, social-economic and information measures;
- g) cooperation of public associations and non-governmental organizations.

### **Article 5. Classification of types human trafficking depending on the form of exploitation**

1. Depending on the form of coercion of victims of human trafficking the exploitation may be as following:
  - a) forcible physical coercion and (or) with the use of strong drug, alcohol, medicines;
  - b) economical coercion in the form of debt bondage or other material dependence including slavery or conditions similar to slavery;
  - c) psychological coercion by blackmailing, fraud, deceiving or threat of violation;
  - d) legal dependence in connection with adoption or guardianship or in connection to marriage without the purpose of establishing a family.
2. Depending on the activities of the victims of human trafficking the exploitation may be as following:
  - a) exploitation of human physiological organs, namely for transplantation of organs and tissues as well as the use of woman as surrogate mother;

- b) exploitation of labor in family life (domestic and communal services), manufacturing, agricultural work as well as criminal business (participation in armed units, manufacturing of illegal produce);
  - c) sexual exploitation;
  - d) exploitation of person for use in armed conflicts or military activities.
3. Consent of victim of human trafficking in regard to the forms of exploitation in attribution of the concrete activity to human trafficking should not be considered if any means of influence was used against this person aimed at human trafficking.

## **CHAPTER 2. PRINCIPLES OF ORGANIZATION OF FIGHT AGAINST HUMAN TRAFFICKING**

### **Article 6. Entities carrying out activities aimed at fight against human trafficking**

1. Entities directly carrying out their activities aimed at fight against human trafficking within their competency are:
- a) Prosecutor General and subordinate prosecutors;
  - b) Ministry on Interior of the Republic of Tajikistan;
  - c) Ministry of Security of the Republic of Tajikistan;
  - d) Ministry on State Income and Revenues of the Republic of Tajikistan;
  - e) Ministry of Labor and Social Protection of Population of the Republic of Tajikistan;
  - f) Ministry of Foreign Affairs of the Republic of Tajikistan, its offices abroad;
  - g) Ministry of Education of the Republic of Tajikistan;
  - h) Ministry of Health of the Republic of Tajikistan;
  - i) Ministry of Economy and Trade of the Republic of Tajikistan;
  - j) Committee on Protection of State Border under the Government of the Republic of Tajikistan.
2. Other entities participating in prevention, detecting and suppressing human trafficking are determined by the Government of the Republic of Tajikistan.
3. To coordinate the activities of the entities in fight against human trafficking the Government of the Republic of Tajikistan establishes an Interdepartmental Commission on fight against human trafficking.

### **Article 7. Interdepartmental commission on fight against human trafficking**

1. In accordance to the present Law the procedure of establishing and work of the Interdepartmental Commission on fight against human trafficking (hereinafter, Interdepartmental Commission) is established by the Regulations on Interdepartmental Commission on fight against human trafficking approved by the Government of the Republic of Tajikistan.
2. The Interdepartmental Commission solves the following tasks:
- a) working out the principles of state policy in the field of fight against human trafficking in the Republic of Tajikistan and recommendations aimed at increasing the effectiveness of activities regarding detecting and suppression of reasons and conditions contributing to origination of human trafficking and conducting such activities;
  - b) carrying out collection, analysis, summarizing and sharing of information about the scale, status and tendency of human trafficking;
  - c) coordinating the activities of regional commissions, considering suggestions of the state executive body on establishing specialized institutions as well as controlling the work of regional commissions and specialized institutions in accordance to their tasks;
  - d) participating in preparing international treaties for the Republic of Tajikistan in the field of fight against human trafficking;

- e) elaborating suggestions on improving the legislation of the Republic of Tajikistan in the field of fight against human trafficking;
- f) organizing awareness campaigns on the problems of human trafficking;
- g) annually submit a report on its activities on fight against human trafficking to the Government of the Republic of Tajikistan.

**Article 8. Competence of the entities carrying out activities on fights against human trafficking**

1. Within the framework of their authority the Prosecutor General and subordinate prosecutors supervise accurate and unified execution of this law, activities on prevention of human trafficking and also carry out other tasks identified in the legislation of the Republic of Tajikistan.
2. Ministry of Interior of the Republic of Tajikistan and its territorial offices fight against human trafficking through prevention, exposure and suppression of crimes in connection to human trafficking, discover links with terrorist organizations and organized criminal groups as well as through prevention, detecting and suppression of international human trafficking.
3. Within the framework of their authority the Ministry of Security of the Republic of Tajikistan and its territorial offices fight against human trafficking by detecting links with international terrorist organizations and organized criminal groups with human traffickers.
4. Ministry on State Income and Revenues of the Republic of Tajikistan carries out activities on detecting and suppressing the attempts of human traffickers to cross customs border of the Republic of Tajikistan as well as illegal transfer of victims of human trafficking through customs border of the Republic of Tajikistan.
5. Ministry of Labor and Social Protection of Population of the Republic of Tajikistan elaborates the suggestions on rendering assistance to victims of human trafficking, establishing and maintenance of specialized institutions, organizes labor migration and renders assistance to labor migrants.
6. Ministry of Foreign Affairs of the Republic of Tajikistan, its offices abroad provide protection of rights and interests of citizens of the Republic of Tajikistan – victims of human trafficking outside the borders of the Republic of Tajikistan and for that purpose develop efficient mechanisms of cooperation among diplomatic missions in the countries of destination and transit.
7. Ministry of Education of the Republic of Tajikistan includes in the existing liberal arts programs topics covering the problems of modern slave trade, principles of fight against human trafficking, legislation on fight against human trafficking.
8. Ministry of Health of the Republic of Tajikistan elaborates programs on rendering medical and psychological assistance to the victims of human trafficking as well as provision of specialized institutions with medications and ensures the implementation of these programs.
9. In accordance to the legislation of the Republic of Tajikistan Ministry of Economy and Trade of the Republic of Tajikistan exercises control over the charter activities of tourists' organizations and firms.
10. Committee on Protection of State Border under the Government of the Republic of Tajikistan fights against human trafficking by prevention, detection and suppression of the efforts of crossing the state border of the Republic of Tajikistan by human traffickers as well as illegal crossing of the state border of the Republic of Tajikistan by victims of human trafficking.

**Article 9. Main functions on entities engaged in fight against human trafficking**

1. Entities listed in the Article 8 of the present Law participate in the fight against human trafficking within their competence through elaboration and implementation of preventive, security, organizational, informational, educational and other measures for prevention, detection and suppression of human trafficking.

2. The procedure of providing material, technical and financial means, information, transportation and communication, medical equipment and medicines to specialized institutions rendering assistance to victims of human trafficking is determined by the Government of the Republic of Tajikistan.

**Article 10. Assistance to entities fighting against human trafficking**

State executive bodies of the Republic of Tajikistan, local authorities, public associations and non-governmental organizations, officials and citizens must render assistance to the entities fighting against humans trafficking.

**CHAPTER 3. PREVENTION OF HUMAN TRAFFICKING**

**Article 11. Organization of prevention of human trafficking**

1. The activities on prevention of human trafficking are organized and coordinated by the Interdepartmental Commission.
2. The system of the measures of prevention of human trafficking include:
  - a) carrying out monitoring of the problems of fight against human trafficking;
  - b) development of incentives program of employers for hiring victims of human trafficking;
  - c) development of programs aimed at eradication of social problems contributing to expanding the activities of human traffickers;
  - d) increasing the awareness of the society about dangerous situations in which potential victims of human trafficking may find themselves, protection measures granted by the state and specialized institutions, measures of criminal and administrative influence adopted by the state to counteract human trafficking;
  - e) design and implementation of educational programs for teachers and students of educational institutions, institutions for children-orphans as well as for parents of students, unemployed and illiterate, victims of human trafficking.

**Article 12. Collection and use of information on the problems of human trafficking**

1. Information on human trafficking including information about registered cases of human trafficking, human traffickers, victims of human trafficking, circumstances of human trafficking is collected by Interdepartmental Commission for analysis, summarizing and taking measures against human trafficking.
2. Entities fighting against human trafficking must submit information foreseen in the first part of the present article to the Interdepartmental commission following the established procedure.

**CHAPTER 4. SPECIALIZED INSTITUTIONS RENDERING SUPPORT AND ASSISTANCE TO THE VICTIMS OF HUMAN TRAFFICKING**

**Article 13. Specialized institutions rendering support and assistance to victims of human trafficking**

1. In order to provide protection and assistance to the victims of human trafficking following the procedure established by the Government of the Republic of Tajikistan centers for support and assistance to victims of human trafficking are established (hereinafter, centers).
2. Sources for support and provision of activities of such centers are determined by the Government of the Republic of Tajikistan. Additional funding of centers may be carried out from other sources not prohibited by the Republic of Tajikistan.

#### **Article 14. Centers for support and assistance to victims of human trafficking**

1. The main functions of the center for support and assistance of victims of human trafficking are:
  - a) provision of accessible information about existing judicial and administrative procedures protecting interests of victims of human trafficking;
  - b) provision of qualified psychological and medical assistance;
  - c) assistance in reintegration of victims of human trafficking in families and society;
  - d) provision of asylum for temporary lodging of victims of violence;
2. Asylum for temporary lodging in the centers is provided to the victim of human trafficking upon his/her personal request for up to one month despite the behavior of that person or his/her readiness to testify against human traffickers.
3. The duration of lodging in the asylum established in part two of the present articles may be extended for the whole period of investigation upon the suggestion of the regional commission, investigating agencies, prosecutor or court with the consent of the victim of human trafficking or upon motivated solicitation of the victim of human trafficking.

#### **Article 15. Cooperation with public associations and non-governmental organizations**

Upon the establishment of centers foreseen in Article 13 of the present Law, the Interdepartmental Commission may cooperate with public associations and non-governmental organizations working in the field of fight against human trafficking.

### **CHAPTER 5. SOCIAL REHABILITATION AND PROTECTION OF VICTIMS OF HUMAN TRAFFICKING**

#### **Article 16. Social rehabilitation of victims of human trafficking**

1. Social rehabilitation of victims of human trafficking is carried out in order to return them to normal way of life and includes legal assistance to said persons, their psychological, medical, professional rehabilitation and employment.
2. The procedure of social rehabilitation of victims of human trafficking is determined by the Government of the Republic of Tajikistan.

#### **Article 17. Measures on protection of victims of human trafficking**

1. Based on the decree of the body conducting operative -investigation activities, investigator, prosecutor, court the access to the information about victim of human trafficking in inquiry services and databases should be closed.
2. It is prohibited to disseminate information about victims of human trafficking or circumstances of human trafficking that may endanger life or health of victim of human trafficking or his/her relatives as well as people fighting against human trafficking.
3. In case life and health of victim of human trafficking is in real danger upon the decision of court, prosecutor, investigator, body conducting operative-investigation activities and desire of this person, he/she must be given an opportunity to change first name, last name and patronymic, date and place of birth in accordance to the legislation of the Republic of Tajikistan.
4. Divulging of information about security measures and confidential information about victims of human trafficking as well as information about initial investigation and security measures taken in regards to the participants of criminal procedure is persecuted in accordance to the legislation of the Republic of Tajikistan.
5. Officials of the state executive bodies as well as employees of public associations and non-governmental organizations participating in fighting against human trafficking are made answerable for divulging confidential information about victims of human trafficking and not

rendering assistance to such persons following the procedure established in the legislation of the Republic of Tajikistan.

**Article 18. Obligations of diplomatic representations and consular offices of the Republic of Tajikistan on rendering assistance to and protection of victims of human trafficking**

1. Diplomatic representations and consular offices of the Republic of Tajikistan outside the Republic of Tajikistan protect rights and interests of citizens of the Republic of Tajikistan – victims of human trafficking in the country of their residence and assist in their returning to the Republic of Tajikistan.
2. In case of loss or impossibility to get from human traffickers documents certifying the identity of the citizens of the Republic of Tajikistan – victims of human trafficking, consular offices of the Republic of Tajikistan draw up and issue documents allowing for returning to the Republic of Tajikistan of such people.
3. In accordance to the legislation of the Republic of Tajikistan and laws of the country of residence diplomatic representations and consular offices of the Republic of Tajikistan must submit information about the legislation of the Republic of Tajikistan on fight against human trafficking to the corresponding bodies of the country of residence and also disseminate information about rights of victims of human trafficking among corresponding people.

**Article 19. Rendering assistance to children – victims of human trafficking**

1. In case of rendering assistance to children – victims of human trafficking all measures must be taken in accordance with and mainly in the interests of a child and UN Convention on children's rights.
2. Entities fighting against human trafficking and centers must immediately inform bodies in charge of the issues of guardianship in case they have information about a child – victim of human trafficking in order to ensure and protect rights of a child in accordance to the legislation of the Republic of Tajikistan.
3. In case of accommodating children-victims of human trafficking in the asylums they must be separated from adults.
4. Children-victims of human trafficking accommodated in the asylums must have an opportunity to visit state educational institutions in accordance with the legislation of the Republic of Tajikistan.
5. In case child-victim of human trafficking is not in the custody of parents or doesn't know about the location of his/her family, measures on searching for family of the child or establishment of guardianship are taken in accordance to the legislation of the Republic of Tajikistan.

**Article 20. State guarantees to victims of human trafficking**

1. Court, prosecutor, and investigator take security measures foreseen in the legislation of the Republic of Tajikistan regarding victims of human trafficking declaring their willingness to cooperate with investigative authorities in an effort to detect persons suspected in human trafficking.
2. If a foreign citizen or a person without citizenship – victim of human trafficking is either recognized as a victim according to the criminal-procedural legislation of the Republic of Tajikistan or is a witness for the case, or assists law enforcement agencies, upon motivated solicitation of the court, prosecutor, and investigator no measures for expulsion such person out of the country can be applied before a decision on the criminal case regarding persons guilty of human trafficking is made. The victim of human trafficking must have a right for temporary stay in the Republic of Tajikistan despite the circumstances of his/her entry in the Republic of Tajikistan. Upon the motivated solicitation of the corresponding authority the execution of the resolution on administrative punishment for the violations in respect to human trafficking is stopped in regard to such person in case legal proceedings are instituted in case of human trafficking or a victim of human trafficking is recognized as a victim, or a

person assisting law enforcement agencies in detecting facts of human trafficking or searching for human traffickers.

3. Victim of human trafficking is not to be brought to account for conducting deeds regarded as administrative offense if such offence was carried out on account of circumstances provoked by human traffickers.

4. In accordance with the legislation of the Republic of Tajikistan the Ministry of Interior of the Republic of Tajikistan or its territorial offices draw up and issue residence permit for stay in the Republic of Tajikistan not taking into account the duration of stay in the Republic of Tajikistan to a foreign citizen or a person without citizenship-victim of human trafficking who assisted law enforcement agencies in clearance of crime and conviction of a person (persons) charged with human trafficking.

5. The procedure of stay in the Republic of Tajikistan indicated in part two of the present article can't be applied in regards to a foreign citizen or a person without citizenship-victim of human trafficking if he/she has no identification document or refuses to assist relevant authorities in his/her identification.

6. Security and assistance measures foreseen in part one of the present article may be cancelled if victim of human trafficking renewed contacts with persons with respect to whom operative-investigative measures or a hearing are carried out without coercion on their part.

## **CHAPTER 6. INTERNATIONAL COLLABORATION OF THE REPUBLIC OF TAJIKISTAN IN FIGHT AGAINST HUMAN TRAFFICKING**

### **Article 21. International collaboration of the Republic of Tajikistan in fight against human trafficking**

1. In accordance to norms and principles of international legislation the Republic of Tajikistan and its relevant authorities collaborate with foreign states and their relevant authorities in the issues of fight against human trafficking as well as with international organizations fighting against human trafficking and rendering assistance in protection of right of victims of human trafficking.

2. Guided by commitment in provision of security of individuals, society and state, considering transnational nature of human trafficking the Republic of Tajikistan persecutes persons involved in human trafficking on its territory, including cases when human trafficking or some of its stages were conducted outside the Republic of Tajikistan, caused harm to the citizens of the Republic of Tajikistan or the Republic of Tajikistan itself, and also in other cases foreseen in international legal deeds recognized by the Republic of Tajikistan.

## **CHAPTER 7. FINAL PROVISIONS**

### **Article 22. Peculiarities of legal proceedings for cases of human trafficking**

According to the legislation of the Republic of Tajikistan cases of such crimes as human trafficking as well as cases of compensation of damage caused to victims of human trafficking may be tried during private court sessions.

### **Article 23. Liability of a natural person or a legal entity for human trafficking**

1. Natural persons who allowed violations of the requirement of the present Law are called to account in accordance with the legislation of the Republic of Tajikistan.

2. In case the court determines the fact of human trafficking through a legal entity served as an indubitable cover for human trafficking such legal entity is subject to liquidation upon the decision of court.

3. In case the court recognizes a legal entity (its representation, branch) registered outside the Republic of Tajikistan as indubitably involved in human trafficking, the activities of such legal entity in the Republic of Tajikistan is prohibited and its representation (branch) in the Republic of Tajikistan is liquidated.

4. The property of the legal entity (its representation, branch) foreseen in the first and second clauses of the present article located in the Republic of Tajikistan is confiscated upon the decision of court and turns to state income.

5. The application for calling a legal entity (its representation, branch) to account for participation in human trafficking is submitted to court by office of public prosecutor of the Republic of Tajikistan as well as other interested parties.

**Article 24. The procedure of consummation of the present Law**

The present Law is to be consummated after its official publication.

**President of the Republic of Tajikistan**

Dushanbe

**E. Rahmonov**

**DECREE OF MAJLISI NOMOYANDAGON OF MAJLISI OLI OF  
THE REPUBLIC OF TAJIKISTAN**

On adoption of the Law of the Republic of Tajikistan  
“On fight against human trafficking”

Majlisi namoyandagon of Majlisi Oli of the Republic of Tajikistan decrees:

To adopt the Law of the Republic of Tajikistan “On fight against human trafficking”

The chairperson of Majlisi namoyandagon of  
Majlisi Oli of the Republic of Tajikistan

S. HAIRULLOEV

Dushanbe, June 30, 2004  
#1172

**DECREE OF MAJLISI MILLI OF MAJLISI OLI OF  
THE REPUBLIC OF TAJIKISTAN**

On the Law of the Republic of Tajikistan  
“On fight against human trafficking”

After examining the Law of the Republic of Tajikistan “On fight against human trafficking”  
Majlisi milli of Majlisi Oli of the Republic of Tajikistan decrees:

To approve the Law of the Republic of Tajikistan “On fight against human trafficking”.

Chairperson of  
Majlisi milli of  
Majlisi Oli of the Republic of Tajikistan

M. Ubaidulloev

Dushanbe,  
July 8, 2004  
#561