

LAW OF THE REPUBLIC OF TAJIKISTAN

ON COMBATING TERRORISM

The present law establishes the legal and institutional groundwork for counter-terrorism efforts in the Republic of Tajikistan.

CHAPTER I. GENERAL PROVISIONS

Article 1. Aims of the present Law

Aims of the present Law are:

- to implement the state policy towards combating terrorism;
- to implement international commitments of the Republic of Tajikistan in the sphere of combating terrorism;
- to legally regulate the activities in the field of combating terrorism;
- to form the strong negative attitude towards terrorism with the population of the Republic of Tajikistan;
- to uncover, prevent and stop terrorist activity, to eliminate causes and conditions, that give rise to terrorism.

Article 2. Legal basis of the fight against terrorism

The legal basis of the fight against terrorism in the Republic of Tajikistan is formed by the Republic of Tajikistan Constitution, the Criminal Code of the Republic of Tajikistan, the present Law, other legal acts of the Republic of Tajikistan and international treaties to which the Republic of Tajikistan is a party.

Article 3. Definition of terrorism

Terrorism - is violence or the threat of violence against individuals, compulsion or threat of compulsion against legal entities, and also the destruction (damaging) of or threat to destroy (damage) property and other material objects of individuals and legal entities, which threaten to cause loss of life, significant damage to property, or other socially dangerous consequences and are implemented with a view to violating public security, intimidating the population, or influencing the adoption by state organs of decisions advantageous to terrorists, or satisfying their unlawful material and (or) other interests; attempts on the lives of statesmen or public figures perpetrated with a view to weakening the foundation of the constitutional order and security of the state or with a view to ending their state or other political activity or out of revenge for such activity; attempts on the life or infliction of a bodily harm to statesmen, public figures or representatives of authorities perpetrated because of their political or public activity, with a view to destabilizing the public order or influencing the adoption of decisions by organs of power or obstructing the political or public activity; attacks on representatives of foreign states or staffers of international organizations enjoying international protection, or members of family living together, and also on the offices, dwelling places or vehicles of persons enjoying international protection if these actions are committed with a view to provoking war or complicating international relations.

Article 4. Basic terms used in the present Law

The following terms are used in this Law:

terrorist action is the direct commission of terrorist crimes in the shape of explosion, arson, or the use of or threat to use nuclear explosive devices or radioactive, chemical, biological, explosive, toxic, noxious, aggressive or poisonous substances; the destruction, damaging, or seizure of vehicles or facilities; an attempt on the life of a statesman or public figure or representative of national, ethnic, religious, or other population groups; the taking of hostages and kidnapping; the creation of a danger of harm to the life, health, or property of a nonspecific range of people by creating the conditions for accidents and man-made disasters or the real threat of creation of such a danger; the dissemination of threats in any form and by any means; other actions creating a danger of loss of life; significant damage to property, or other socially dangerous consequences;

terrorist crimes are crimes envisaged by Articles 179-182; 185; 187; 310 and 402 of the Republic of Tajikistan Criminal Code. Other crimes envisaged by the Republic of Tajikistan Criminal Code may be categorized as terrorist crimes if they are committed for terrorist purposes. Penalties for the commission of such crimes are in accordance with the Republic of Tajikistan Criminal Code;

a terrorist group is a group of persons united with an aim to carrying out terrorist activity;

terrorist is a person participating in terrorist activity in any form;

a terrorist organization is an organization created with a view to carrying out terrorist activity or considering the use of terrorism possible in its activity. An organization is deemed to be terrorist if at least one of its subdivisions engages in terrorist activities with the knowledge of at least one of the organization's steering bodies;

the fight against terrorism is activity to prevent, uncover, stop, and minimize the consequences of terrorist activity;

a counter-terrorist operation is special measures aimed at stopping a terrorist action, ensuring the security of individuals, neutralizing terrorists, and also minimizing the consequences of terrorist action;

a counter-terrorist operation zone is the particular areas of territory, vehicle, building, installation, or premises and the adjoining territories within which the aforementioned operation is carried out;

a hostage is an individual seized and (or) held with a view to compelling the state, an organization, or individuals to carry out an action or refrain from carrying out an action as a condition for the release of the person who is being held;

agencies engaged in combating terrorism – entities that directly implement the fight against terrorism and entities that participate in the fight against terrorism.

Article 5. The Republic of Tajikistan 's international cooperation in the sphere of the fight against terrorism

In accordance with international treaties the Republic of Tajikistan cooperates in the sphere of the fight against terrorism with foreign states, their law enforcement agencies and special services, and also with international organizations engaged in the fight against terrorism.

CHAPTER II. AGENCIES ENGAGED IN COMBATING TERRORISM

Article 6. Agencies engaged in combating terrorism

The fight against terrorism is one of the priority objectives of the state, which carries out its functions in this sphere through legislative, executive and judicial organs of powers.

Agencies engaged in combating terrorism are divided into entities that directly implement the fight against terrorism and entities that participate in the fight against terrorism.

The Government of the Republic of Tajikistan carries out the general leadership of the fight against terrorism.

Article 7. Entities that directly implement the fight against terrorism

Entities that directly implement the fight against terrorism and ensure their own anti-terrorist security within the competencies laid down by the Constitution of the Republic of Tajikistan, the present Law, other laws and legal acts, are:

- Ministry of Security of the Republic of Tajikistan;
- Ministry of Internal Affairs of the Republic of Tajikistan;
- Ministry of Defense of the Republic of Tajikistan;

- Ministry for Emergency Situations of the Republic of Tajikistan;
- Committee for the Protection of the State Borders under the Government of the Republic of Tajikistan;
- Presidential Guard of the Republic of Tajikistan;

The list of the entities, which are directly involved in the fight against terrorism, can be amended or added only through relevant changes in the Law.

Article 8. Competencies of the entities directly engaged in the fight against terrorism

The Ministry of Security of the Republic of Tajikistan is the main entity that is directly involved in the fight against terrorism. It elaborates and submits in the established order the drafts of state programs and concepts of combating terrorism to the President of the Republic of Tajikistan; informs in the established order the Majlisi Oli of the Republic of Tajikistan, the President of the Republic of Tajikistan and the Government of the Republic of Tajikistan about the activities aimed at combating terrorism; coordinates the activities of entities engaged in the fight against terrorism; collects, analyzes and proceeds information about the state of and movements in terrorism, including information that is channeled to the centralized inter-institutional data bank on the problems of terrorism by the entities which are engaged in combating terrorism; elaborates proposals on improving the Tajik legislation in the established order in the sphere of the fight against terrorism. Moreover, the Ministry of Security of the Republic of Tajikistan carries out the fight against terrorism by preventing, uncovering, and stopping terrorist crimes, that pursue political, national, racial or religious-extremist aims; by preventing, uncovering, and stopping international terrorist activity; by ensuring security in the institutions of the Republic of Tajikistan overseas, staffers and members of families of these institutions; by ensuring security of the objects of state protection and ensuring safety to the state-protected persons.

The Ministry of Internal Affairs of the Republic of Tajikistan engages in the fight against terrorism by preventing, uncovering, and stopping terrorist crimes that pursue mercenary objectives.

The Ministry of Defense of the Republic of Tajikistan ensures the anti-terrorist security of the national airspace and when necessary, assists the organs of the state security in preparing and carrying out counter-terrorist operations.

The Ministry for Emergency Situations of the Republic of Tajikistan, together with the organs of the state security and other entities that are engaged in the fight against terrorism ensures the anti-terrorist security of the sites where the rescue operations and restoration of damages are held during the liquidation of the consequences of the emergency situations.

The Committee for the Protection of the State Borders under the Government of the Republic of Tajikistan carries out the fight against terrorism by: preventing, uncovering, and stopping the attempts of crossings the state borders of the Republic of Tajikistan by terrorists; stopping the illegal trafficking of arms, ammunition, explosives, poisonous and radioactive substances and other items which could be used for pursuing terrorist aims; providing assistance to the state security organs in the fight against the international terrorist activity; participating in the preparation and carrying out of the counterterrorism operations.

The Presidential Guard of the Republic of Tajikistan carries out the fight against terrorism by: participating in securing the anti-terrorist safety of the objects under the protection of the state and state-protected persons; participating in preparation and conduction of the counter-terrorism operations.

Article 9. Entities taking part in the fight against terrorism

Entities engaged in combating terrorism are the Ministry of Justice of the Republic of Tajikistan, the Ministry of Foreign Affairs of the Republic of Tajikistan, the Customs Committee under the Government of the Republic of Tajikistan and other organs of executive authorities, the list of which is set by the Government of the Republic of Tajikistan.

The participation in the fight against terrorism is organized in the following way:

- the Ministry of Justice of the Republic of Tajikistan is monitoring the activities of the non-governmental organizations and political parties, registered in accordance with the law;
- the Ministry of Foreign Affairs of the Republic of Tajikistan conducts talks with the foreign states during preventing, uncovering, and stopping the international terrorist activity as well as performs other relevant functions spelled out by the legislation of the Republic of Tajikistan;

- the Customs Committee under the Government of the Republic of Tajikistan stops the illegal trafficking of arms, ammunition, explosives, poisonous and radioactive substances and other items which could be used for pursuing terrorist aims and provides assistance to the state security organs in the fight against the international terrorist activity.

The office of a Prosecutor and courts of the Republic of Tajikistan participate in the fight against terrorism under the conditions and in the order laid down by the Constitution of the Republic of Tajikistan, laws of the Republic of Tajikistan, and by the laws of criminal procedure and civil procedure of the Republic of Tajikistan.

CHAPTER III. TERRORIST AND COUNT-TERRORIST ACTIVITY

Article 10. Terrorist activity

Terrorist activity is activity that includes:

- the organization, planning, preparation, and implementation of a terrorist action;
- the incitement to terrorist action, to violence against individuals or compulsion of organizations, or to the destruction of property and other material objects for terrorist purposes;
- the organization of an illegal armed formation, criminal association (criminal organization), or an organized group in order to perpetrate a terrorist action, and also participation in such action;
- the recruitment, armament, training, and use of terrorists;
- the funding of a known (the perpetrator knows that the organization is acknowledged to be terrorist – transl.) terrorist organization or terrorist group or other assistance to them.

Article 11. International terrorist activity

In accordance with its international commitments the Republic of Tajikistan acknowledges the international terrorist activity to be such an activity, which is carried out:

- by a terrorist or terrorist organization on the territory of more than one state;
- by citizens of one state against citizens of another state or on the territory of another state;
- in cases where both the terrorist and the victim of terrorism are citizens of the same state or different states but the crime is committed outside the territories of these states;
- with the aim of destabilizing the international legal order.

Article 12. Counter-terrorism activity

Counter-terrorism activity – activity aimed at ensuring the security of individuals, society and the state from the terrorist activity.

Article 13. Principles of the counter-terrorism activity

Counter-terrorism activity in the Republic of Tajikistan is based on the following principles:

- 1) legality;
- 2) respect for the rights and freedoms of a person and citizens;
- 3) the inevitability of punishment for terrorist activity;
- 4) the combination of overt and covert methods of fighting terrorism;

- 5) the priority of defending the rights of persons exposed to danger as a result of a terrorist action;
- 6) lawfulness of causing damage to a terrorist;
- 7) one-man command in the operational leadership of forces and resources involved in conducting counter-terrorist operations;
- 8) strict measures for the protection of information during the conduct of special counter-terrorist operations.

CHAPTER IV. THE FIGHT AGAINST TERRORISM

Article 14. Activities to uncover terrorist activities

To uncover terrorist activities in the order established by the law, organs of the Republic of Tajikistan, which implement the fight against terrorism, shall use all legal powers, means, forms and methods at their disposal.

State officials and citizens are obliged to promptly inform the organs of state security and (or) organs of internal affairs about any incident that features evidences of preparation or already implemented terrorist action.

The state guarantees the protection and security of persons, who provide assistance in combating terrorism. With the view to uncovering, preventing and suppressing the terrorist activity and in the order established by the Government of the Republic of Tajikistan, a special fund shall be established under the Ministry of Security of the Republic of Tajikistan. Remunerations shall be made from this fund for information provided to the entities engaged in counter-terrorism, which has led to the arrest or conviction of persons who participated in terrorist activities, or to the prevention or suppression of terrorist action.

The disclosure of information on persons who provided such assistance is possible only upon these people' consent.

Article 15. Prevention of terrorist activity

With the view to preventing the terrorist activity the following acts shall be prohibited on the territory of the Republic of Tajikistan:

- organization, registration and functioning of organizations that pursue terrorist aims;
- activity connected to terrorist propaganda;
- entry into, exit from or transit through the territory of the Republic of Tajikistan of persons, who have taken part in terrorist activities;
- granting of residence permits to persons who have taken part in terrorist activities;
- granting of citizenships to persons who have taken part in terrorist activities;
- receiving of luggage and hand luggage for storage by staffers of bus stations, train stations and airports (except by persons who work in the relevant cloak rooms);
- conduction of gatherings, meetings, rallies, demonstrations or pickets in the non-allocated places.

With the view to preventing the terrorist activity the following acts shall be allowed on the territory of the Republic of Tajikistan:

- use of additional forces and means of entities that are directly engaged in combating terrorism, in protecting the public order during the conduction of mass events;
- improvement of the level of trainings aimed at increasing safety, in the organs of state authorities and local self-government, on factories that may represent particular danger to life and health of people as well as environment;

- extradition (in accordance with the norms of international law) of persons, who have taken part in terrorist activity on the territories of other states, upon requests of the relevant authorities of these states;
- accumulation, processing, analysis of information on terrorist organizations, and persons who have taken part in terrorist activity and placing this data in the centralized inter-institutional data bank on the problems of fighting terrorism created within the Ministry of National Security of the Republic of Tajikistan;
- creation of special units under the entities, which directly implement the fight against terrorism.

Prevention of terrorist activity also includes carrying out of other measures provided for in the legislation of the Republic of Tajikistan and international treaties, to which Tajikistan is a party.

Article 16. Suppression of terrorist activity

While suppressing terrorist activities or a separate terrorist act army servicemen, staffers and specialists of entities carrying out the fight against terrorism, in accordance with the legislation, shall be obliged to apply any measures, which are set out in the legislation of the Republic of Tajikistan.

Article 17. Investigation of terrorism crimes

Investigation and preliminary inquiry in criminal cases relating to terrorist crimes are carried out by entities, which engage in combating terrorism and investigators of these entities on terms and in order spelled out in the law of criminal procedure of the Republic of Tajikistan.

Article 18. Hearing of criminal cases linked to terrorist crimes

Criminal cases linked to terrorist crimes and also civil cases involving compensation for damage resulting from terrorist activity may, through a decision by a court, be considered in a closed judicial hearing.

CHAPTER V. CONDUCT OF COUNTERTERRORIST OPERATION

Article 19. Conduct of counter-terrorist operation

Counter-terrorist operations are conducted by entities, which are directly engaged in combating terrorism.

Especially prepared army servicemen, staffers and specialists of entities enlisted in the Article 7 of the present Law and in exceptional cases servicemen, forces and means of entities enlisted in part 1 of the Article 9 of the present Law are engaged in conduction of counter-terrorist operations.

Counter-terrorist operation is conducted by an operational headquarters, which is set up for direct control of operation. From the moment the operation begins all servicemen, staffers, and specialists enlisted for the conduct of the counter-terrorist operation are under the command of the head of the operational headquarters to control the counter-terrorist operation.

No other person is permitted to interfere in the operational leadership of the counter-terrorist operation.

Article 20. Counter-terrorist operation zone and its legal regime

The head of the operational headquarters to control the counter-terrorist operation determines the borders of the counter-terrorist operation zone depending on the scale and extent of the social danger and the anticipated negative consequences of the terrorist action.

Within the counter-terrorist operation zone the persons conducting the operation have the right to:

- take where necessary measures to temporarily restrict or prohibit the movement of vehicles and pedestrians on streets and highways,
- check whether citizens and officials are in possession of identity documents, and in the event of the absence of such documents to detain the persons in question in order to establish their identity;

- detain and deliver to organs of internal affairs persons who have committed or are committing offenses or other actions aimed at impeding the legitimate demands of persons conducting the counter-terrorist operation, and also actions connected with an unauthorized entry or attempted entry into the counter-terrorist operation zone;
- freely enter housing and other premises belonging to citizens, territory and premises belonging to factories, institutions and organizations regardless of form of ownership, and vehicles in the course of the suppression of terrorist action or the pursuit of persons suspected of committing a terrorist action if delay may create a real threat to people's life and health;
- carry out upon entry on foot (by vehicle) into the counter-terrorist operation zone and upon exit on foot (by vehicle) from the zone the personal searches and inspection of vehicles, except for the vehicles of the diplomatic, consulate and other missions of foreign states, and items transported on them, including inspections with the use of equipment;
- use for official purposes means of communication, including special means, belonging to citizens and organizations regardless of forms of ownership;
- use for official purposes vehicles belonging to organizations regardless of forms of ownership, with the exception of vehicles belonging to diplomatic, consular, and other missions of foreign states, and in urgent cases also belonging to citizens, in order to prevent terrorist action, pursue and detain persons who have committed a terrorist action, or deliver persons requiring urgent medical assistance to a medical institution, and also to travel to the site of an accident.

Article 21. Other restrictions during the conduction of a counter-terrorist operation

In the counter-terrorist operation zone the head of the operational headquarters has the right to restrict the access of mass media representatives with the view to securing their personal safety, as well as restrict the activity thereof aimed at informing the public about the conduct of the counter-terrorist operation by refusing to provide information that:

- uncovers the tactics and methods of conducting an operation;
- contributes to propaganda and justification of terrorism;
- uncovers data on persons taking part in the operation;
- uncovers classified data;
- uncovers data that may insult honor and dignity of a hostage.

CHAPTER VI. REIMBURSEMENT OF DAMAGE CAUSED AS A RESULT OF TERRORIST ACTION. SOCIAL REHABILITATION OF PERSONS WHO HAVE SUFFERED AS A RESULT OF TERRORIST ACTION

Article 22. Reimbursement of damage caused as a result of terrorist action

Damage caused to individuals and legal entities resulting from terrorist actions shall be fully compensated through funds from the state budget, and subsequently the sum in question shall be recovered from the guilty parties in the manner provided for under the legislation of the Republic of Tajikistan.

Article 23. Social rehabilitation of persons who have incurred damage as a result of terrorist acts

The social rehabilitation of persons who have incurred damage as a result of terrorist actions shall be carried out through funds from the state budget with the aim of bringing these people back to normal life and shall consist of providing these persons with legal, psychological, medical and professional rehabilitation assistance, reinstating where necessary in a job and granting them housing.

The Government of the Republic of Tajikistan shall determine the order of social rehabilitation of persons who have incurred damage as a result of terrorist actions.

CHAPTER VII. LEGAL AND SOCIAL PROTECTION OF PERSONS ENGAGED IN COMBATING TERRORISM

Article 24. Persons taking part in the fight against terrorism who are subject to legal and social protection

The following persons are subject to legal and social protection:

- 1) servicemen, staffers and specialists directly engaged in the fight against terrorism;
- 2) persons permanently or temporarily helping state organs engaged in the fight against crime in preventing, uncovering, and suppressing terrorist activity and minimizing its consequences;
- 3) persons who provided information about the terrorist activity and other circumstances, that helped to prevent, uncover and suppress terrorist activity;
- 4) members of the families of persons listed in paragraphs 1-3 of the present Article if the need to provide them with protection stems from participation of the enlisted persons in the fight against terrorism.

Article 25. Reimbursement of damage to persons participating in the fight against terrorism and their social rehabilitation

Damage caused to the health or property of servicemen, staffers and specialists of entities directly engaged in the fight against terrorism is reimbursed in accordance with the procedure spelled out by the legislation of the Republic of Tajikistan. In the event of the death of above-mentioned persons in the course of a counter-terrorist operation or if a person is disabled or wounded and if this has not caused disability, the measures of social and legal protection shall be applied based upon the legal status of such persons, which are spelled out by relevant laws and legal acts of the Republic of Tajikistan.

Damage caused to the health or property of the persons listed in paragraphs 2-3 of the Article 24 of the present Law in connection with their participation in the fight against terrorism is reimbursed in accordance with the procedure spelled out by the legislation of the Republic of Tajikistan.

In the event of the death of persons listed in paragraph 2 of the Article 24 of the present Law in the course of a counter-terrorist operation or if a person is disabled or wounded and without being disabled, the measures of social and legal protection shall be applied which are spelled out by the Law of the Republic of Tajikistan "On operational search activities."

If persons listed in paragraph 3 of the Article 24 of the present Law who have taken part in the fight against terrorism in the course of a counter-terrorist operation are wounded and this has not caused disability, these persons are paid a one-time assistance grant of 100 times the minimum wage. If such persons are wounded and this has caused disability these persons are paid a one-time assistance grant of 500 times the minimum wage. In the event of the death of such persons members of the family of the deceased are paid a one-time assistance grant of 1,000 times the minimum wage, and are granted a pension in view of the loss of their breadwinner.

Social rehabilitation of persons listed in the paragraphs 2-3 of the Article 24 of the present Law who have incurred damage as a result of their participation in the counter-terrorist operation shall be carried out through funds from the state budget.

The order of carrying out social rehabilitation of persons mentioned above and also in the case of threat to their security, the procedures for the change in their passport data, their place of residence and work (study), alteration of their appearances through surgical operations are established by the Government of the Republic of Tajikistan.

CHAPTER VIII. LIABILITY FOR PARTICIPATION IN TERRORIST ACTIVITY AND EXEMPTION FROM RESPONSIBILITY

Article 26. Liability for participation in terrorist activity

Persons engaged in the terrorist activity or providing assistance to terrorists or terrorist organizations, and those who propagate the terrorist activity shall bear responsibility as provided by the Criminal Code of the Republic of Tajikistan.

Persons who are not members of the terrorist organizations, but who committed a terrorist act on behalf of a terrorist organization, or those who participated in the organization's creation, financing, training and armament shall bear the same responsibility as members of such an organization.

A person who possessed information about the existence of a terrorist organization or about particular people engaged in terrorist activity, but who have not informed the relevant state organs about this shall bear responsibility as provided by the Criminal Code of the Republic of Tajikistan.

Article 27. Liability of organizations for terrorist activities

In cases when in accordance with a court's decision an organization is recognized as terrorist it shall be disbanded and property belonging to it shall be confiscated and transferred to state ownership.

Article 28. Exemption from responsibility

Persons who assisted the entities, which take part in the fight against terrorism, shall be in accordance with the Criminal Code of the Republic of Tajikistan exempt from criminal responsibility for engaging in terrorist activity, if during their participation in the organization they consciously did not commit crimes.

In accordance with the Criminal Code of the Republic of Tajikistan servicemen, staffers and specialists of entities participating in the fight against terrorism shall not incur liability for moral, material and bodily damage caused to terrorists as a result of legal use of physical force, special means and firearms.

Persons who provided assistance in preventing or suppressing of the commission of the terrorist action upon request of representatives of law enforcement or other state organs or commanders of airships, are exempt from criminal responsibility for any actions undertaken against terrorists.

CHAPTER IX. FINAL PROVISIONS

Article 29. Preferential calculation of length of service and additions to monthly salary

When calculating length of service for pension purposes for servicemen and staffers serving (having served) in entities directly engaging (having engaged) in the fight against terrorism, the years of service shall be calculated by making one day of service equivalent to two days of service and the period of participation in anti-terrorism operations shall be calculated by making one day of service equivalent to three days of service (unless the legislation provides for a more preferential calculation of length of service) and the monthly and rank's salaries rise accordingly.

Article 30. Remunerating persons, participating (who participated) in combating terrorism

For participation in concrete counter-terrorist operations, servicemen, staffers and specialists serving in entities directly engaged in the fight against terrorism, and persons, who assisted in conduction of these operations, can be remunerated by the heads of relevant state organs with a one-time grant, the amount of which shall be established in accordance with the relevant legislation of the Republic of Tajikistan.

President of the Republic of Tajikistan – E. Rakhmonov

Dushanbe 16 November 1999

№ 845

REGULATION OF MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

ON ENACTMENT OF THE LAW OF THE REPUBLIC OF TAJIKISTAN

ON COMBATING TERRORISM

Majlisi Oli decides:

1. To enact the Law of the Republic of Tajikistan on combating terrorism after its official publication.
2. The Government of the Republic of Tajikistan should submit its suggestions to Majlisi Oli of the Republic of Tajikistan on how to bring the laws of the Republic of Tajikistan in compliance with the Law of the Republic of Tajikistan On combating terrorism; to bring its decisions in compliance with the present Law.

Chairman of Majlisi Oli of the Republic of Tajikistan S. Radzhabov

Dushanbe, 16 November 1999

№ 846