

CRIMINAL CODE OF THE REPUBLIC OF TAJIKISTAN

SECTION XV. CRIME AGAINST THE PEACE AND SAFETY OF MANKIND

Chapter 34. Crime Against the Peace and Safety of Mankind

Article 395. Aggressive War

1. Planning or preparation of an aggressive war is punishable by imprisonment for 12 to 20 years with confiscation of property.
2. Unleashing or conducting an aggressive war is punishable by imprisonment for 15 to 20 years with the simultaneous confiscation of property or death penalty.

Article 396. Public Appeals To Unleashing an Aggressive War

1. Public appeals to unleashing an aggressive war is punishable by a fine of 500 to 1000 times the minimum monthly wage or imprisonment for a period of 2 to 5 years.
2. The same actions committed using mass media or by persons who hold state positions of the Republic of Tajikistan are punishable by imprisonment for a period of 7 to 10 years with deprivation of the right to hold certain positions or be engaged in certain activities for up to 5 years.

Note: The list of persons who hold state positions is determined by the legislation of the Republic of Tajikistan.

Article 397. Production or Distribution of Mass Destruction Weapons

Producing, purchasing, keeping, transporting or selling nuclear, neutron, chemical, biological (bacteriological), climatic or other kind of mass destruction weapons prohibited by international treaty, as well as transferring initial or special fissionable materials, technologies which may be used for creating mass destruction weapons to any state which does not have nuclear weapons or transferring other kinds of mass destruction weapons to anybody or components which are necessary for producing them, is punishable by imprisonment for a period of 12 to 20 years.

Article 398. Genocide

Actions committed with the intent of full or partial destruction of a national, ethnic, racial, or religious group by full or partial physical extermination, violent diminishing of child-bearing or transfer of children from one of these human groups to another, causing grave injury to their health, as well as creation of living conditions leading to physical liquidation of members of the group are punishable by imprisonment for a period of 15 to 20 years or death penalty.

Article 399. Biocide

Using of nuclear, neutron, chemical, biological (bacteriological), climatic or other kind of mass destruction weapons with the intent of destruction of people and environment is punishable by imprisonment for a period of 15 to 20 years, or death penalty.

Article 400. Ecocide

Mass destruction of flora and fauna, poisoning the atmosphere or water resources, as well as commitment of other actions which may cause ecological disasters is punishable by imprisonment for a period of 15 to 20 years.

Article 401. Hiring of Mercenaries

1. Hiring, training, financing, or other material maintenance of mercenaries, as well as their using in armed conflicts or military operations is punishable by imprisonment for a period of 5 to 12 years.
2. The same actions committed by an individual using his/her official position or in relation to a minor are punishable by imprisonment for a period of 7 to 15 years simultaneously with confiscation of property.
3. The participation of a mercenary in armed conflicts or battle operations is punishable by imprisonment for a period of 12 to 20 years.

Article 402. Assault on Individuals and Institutions Enjoying International Protection

1. Assault on a representative of a foreign state or employee of an international organization enjoying international protection, or on members of his/her family, as well as assault on apartments and offices or means of transportation of persons being under international protection, if these actions committed with the purpose of provocation of war or aggravating international relations is punishable by imprisonment for a period of 5 to 10 years.
2. Threat of assault provided by Part 1 of the present article is punishable by imprisonment for a period of 2 to 5 years.
3. The same action specified by Part 1 of the present article, causing grave consequences is punishable by imprisonment for a period of 12 to 20 years.

Article 403. Intentional Violations of Norms of International Humanitarian Law Committed in the Course of Armed Conflicts

(1) Intentional violation of norms of International Humanitarian Law committed in the course of international or internal armed conflicts, i.e. assaults on population or certain citizens, assaults on installations or erections containing dangerous forces, assaults on a person who has ceased to participate in hostilities, assaults on areas which are not defended

and demilitarized zones, destruction and damage of historical monuments, works of arts, treacherous use of Red Cross and Red Crescent signs, and other signs and signals recognized in accordance with International Humanitarian Law, dislocation of the

population by occupiers to the territory which has been occupied by them, deportation or dislocation the whole or a part of the population of the occupied territory within this territory or out of the territory, unjustified delay with repatriation of prisoners of war or civil persons, using practice of apartheid and other humiliating actions insulting a person's dignity, based on racial discrimination and causing a person's death or serious injury to his/her physical and mental state, or causing serious damage, is punishable by imprisonment for a period of 10 to 15 years.

(2) Intentional violation of norms of International Humanitarian Law committed in the course of international or internal armed conflicts, aimed against persons who do not participate in battle operations, as well as against wounded men, sick men, medical and ecclesiastical staff, medical units or medical transport means, against prisoners of war, citizens, civil population being on occupied territories or in zones of battle operations, against refugees and stateless persons, resulting in:

- a) murder;
- b) tortures and inhuman treatment, including biological experiments made upon persons;
- c) grave sufferings or actions threatening physical or mental state;
- d) forcing a prisoner of war or a person under protection to service in armed forces of the enemy;
- e) depriving a prisoner of war or a person under protection the rights to impartial and fair legal proceedings;
- f) deportation, illegal exile or detention of persons under protection;
- g) taking hostages;
- h) arbitrary destruction of property made on a large scale and misappropriation of property,- is punishable by imprisonment for a period of 15 to 20 years or death penalty.

Article 404. Intentional Violation of Norms of International Humanitarian Law Committed During International or Internal Armed Conflicts With Threat to the Health or Causing Physical Mutilations

Medical treatment in relation to persons being in the power of an opposing side, arrested or deprived of freedom in any other way, which is not required due to the state of health and does not correspond to generally accepted medical norms, actions committed to such persons even with their consent, causing physical mutilations, performing medical, scientific experiments and transplant operations, is punishable by imprisonment for a period of 7 to 10 years.

Article 405. Other Violations of Norms of International Humanitarian Law

If there are no elements of crimes specified in Articles 403 and 404 of the present Code, pillage, that is seizure or taking of clothes from wounded or dead men in a battle situation as well as taking of citizen's property left in the zone of battle operations, using of the mentioned persons for covering troops or objectives from battle operations, using of means, materials and mass destruction weapons prohibited by international treaty, is punishable by imprisonment for a period of 10 to 20 years.

Article 15. Application of the Criminal Law in Regard to Persons who Committed Crimes outside the Republic of Tajikistan

(1) Citizens of the Republic Tajikistan and permanent residents without citizenship are liable to criminal responsibility for crimes committed outside the Republic Tajikistan in conformity with this Code in case if they were not punished under the court verdict of any other state.

(2) Foreign citizens and persons without citizenship not living constantly in the Republic Tajikistan are liable to criminal proceedings for crimes committed outside the Republic Tajikistan according to the present Code in the following cases:

a) if they committed a crime prescribed by norms of International law recognized by the Republic of Tajikistan or interstate treaties and agreements;

b) if they committed a felony or an especially grievous crime against citizens of Tajikistan or interests of the Republic Tajikistan.

(3) These rules shall be applied if foreign citizens and persons without citizenship, who are not permanent residents, were not convicted in any other state.

Article 59. Capital Punishment

(1) Capital punishment (by shooting) is imposed for aggressive war (Article 395, p. II), genocide (Article 398), biocide (Article 399), homicide (Article 104, p. II), rape (Article 138, p. III), terrorism (Article 179, p. IV), illegal trafficking of narcotics (Article 200, p. III), illegal cultivation of plants containing narcotic substances (Article 204), forcible seizure of power or forcible keeping of power (Article 306), encroachment on life of a statesman of the Republic Tajikistan (Article 310), intentional violation of norms of the international humanitarian law committed in the course of an armed conflict (Article 403, p.II).

(2) Minors under the age of 18 and women who have committed crimes are not subject to capital punishment.

(3) In case of a pardon death penalty may be changed to deprivation of freedom for a period of 25 years.