

Republic of Tajikistan: Sixth follow-up report (with re-ratings)



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I. Introduction

1. Within the 2nd round of EAG mutual evaluations, the 29th EAG Plenary in November 2018 approved the Mutual Evaluation Report of the Republic of Tajikistan (hereinafter referred to as the MER), following which the country was placed on enhanced monitoring in EAG. The 1st Follow-up Report (FUR) of the Republic of Tajikistan (without a request for re-rating) was presented at the 31st EAG Plenary in November 2019.
2. The 34th EAG Plenary in June 2021 discussed and approved the 2nd FUR of the Republic of Tajikistan (with a request for re-rating), where upgraded the ratings for Recommendation 7 (from "NC" to "PC"), as well as for Recommendations 16 and 35 (from "PC" to "LC").
3. The 3rd and 4th Progress Reports of the Republic of Tajikistan (with no request for re-rating) were presented at the 36th EAG Plenary in June 2022 and the 38th EAG Plenary in June 2023.
4. The 40th EAG Plenary in May 2024 approved the 5th FUR (with request for re-rating), and upgraded the ratings for Recommendations 6, 7, 12, 22 and 25 (from "PC" to "LC"). The ratings for R.26 and 28 were maintained at "PC", and the rating for R.17 was changed from "not applicable" to "PC".
5. The 6th Progress Report (with request for re-ratings) contains an analysis of progress achieved by the Republic of Tajikistan during 2024 in addressing the technical compliance deficiencies noted in the MER. The request for a rating review of the TC was considered in relation to Recommendations 8 and 38, for which country had provided justifications for significant improvements to the national AML/CFT system¹.
6. In accordance with the MER and the 2nd and 5th FURs of the Republic of Tajikistan, the country was assigned the ratings "PC" for Recommendations 8, 15, 17, 26, 28 and 38.
7. This Report does not provide an analysis of measures aimed at improving the efficiency of the Republic of Tajikistan.
8. The analysis of the request of the Republic of Tajikistan for technical compliance re-ratings and preparation of this Report was carried out by the following experts of the delegations and representatives of the Secretariat:
 - Ms Maria Olkhova, Advisor to the International Legal Division of the Legal Department of the Federal Service for Financial Monitoring of the Russian Federation;
 - Mr Alexander Prakopenko, Head of the Third Division of the Department of Financial Investigations of the State Control Committee of the Republic of Belarus;
 - Mr Soat Rasulov, AML/CFT/CPF Counsellor, EAG Secretariat (coordination).
9. Section II of this Report contains an analysis of the changes to the AML/CFT system aimed at improving the level of technical compliance, and Section III presents a conclusion on the results of the analysis and a table showing the ratings of the Republic of Tajikistan on the MER and the 2nd and 5th FURs, and updated ratings based on the findings of this follow-up report. The report is supplemented following the discussion at the meeting of the Working Group on Mutual Evaluations and Legal Issues.

II. Analysis of changes aimed at improving the level of technical compliance

10. This section contains an analysis of the amendments made by the Republic of Tajikistan, which are aimed at:
 - a) eliminating technical compliance deficiencies noted in the MER, and
 - b) assessing technical compliance with the requirements of the FATF Recommendations for changes that entered into force after the on-site mission to the country and approval of the 2nd FUR, for Recommendations 8 and 38.

¹Due to the amendments to paragraphs 9 and 128 of the 2nd Round Mutual Evaluation Procedures (WGEL (2013) 7 rev.21) and FATF interpretations, the assessment has been carried out on the basis of previous versions of Recommendations 8, 38 and the FATF Methodology.

2.1. Changes aimed at eliminating technical compliance deficiencies identified in the MER

11. The Republic of Tajikistan has demonstrated progress in addressing the deficiencies noted in the MER on Recommendations 8 and 38, which were assigned a technical compliance rating "PC".
12. Based on the analysis of the progress of the Republic of Tajikistan, the rating for Recommendations 8 and 38 was changed.

Recommendation 8 (rating in the MER and the 2nd FUR - PC)

13. The PC rating is assigned due to the following deficiencies: the nature of threats posed by terrorist entities to the NPOs or the way how terrorists abuse those NPOs had not been identified; the adequacy of laws related to public organisations only had been reviewed; no strategy/concept for promoting openness of NPOs; cooperation with NPOs to develop and refine best practices to address terrorist financing risk and vulnerabilities had not been conducted; supervisors did not apply the risk-based approach to supervision over NPOs; penalties provided for by the Tajik law were neither effective nor dissuasive.
14. **Criterion 8.1 (Mostly met)** In the MER and 2nd FUR, this criterion was rated as "Partly met" because Tajikistan did not identify the nature of the threats that terrorist organizations pose to NPOs and the way how terrorists might abuse NPO. The country reviewed laws and regulations that apply to public organizations only.
15. The 2024 NPO Risk Assessment Report (Report) identifies and describes in detail the nature of threats and vulnerabilities of NPOs that fall under the FATF definition, and provides statistics on them and information on the characteristics of various types of NPOs. The report was developed by an Interagency Working Group (IWG) established in January-March 2024 and comprised of representatives of oversight bodies and NPOs, which identified key areas of risk assessment for the NPO sector with the assistance of the UN Counter-Terrorism Office.
16. **Criterion 8.1 a)** The Report analyzes all types of NPOs existing in the country and identifies those that fall under the FATF definition considering the specifics of the activities, and that engaged in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works". Based on the analysis, those NPOs identified that are at risk of abuse for FT purposes (a total of 133 organizations) are identified.
17. **Criterion 8.1 b)** The Republic of Tajikistan determined the nature and factors of the threats that terrorist organizations pose to NPOs, as well as the way how terrorists can abuse NPOs. The Report contains information on the threats of terrorism in the country and identifies the risks to which the NPO sector is exposed. In addition, the Report notes that the IWG has identified FT threat factors against NPOs (including the psychological impact of terrorist organisations on vulnerable NPOs, geography, and lack of transparency and control over the use of grant funds).
18. **Criterion 8.1 c)** The report provided an overview of the legislative and regulatory framework governing them (19 acts in total), which led to identifying gaps in the regulation of a number of issues that are important in combating TF in the NPO sector. In order to address the identified gaps, the permanent Interministerial Commission on AML/CFT/CPF approved the Action Plan for the Protection of Non-Profit Organizations from Abuse for the Purpose of Financing Terrorism by its Resolution dated June 25, 2024 #22, which names measures to eliminate the gaps and the need to adopt relevant documents. As a result of its implementation, the risks of NPOs exposed to TF risk have been assessed, and a brochure on mitigating the risks of abuse of NPOs for TF purposes has been developed and published, and a number of training sessions for NPOs on countering the use of the sector for TF purposes has been conducted.
19. **Criterion 8.1 d)** In accordance with the Interministerial Commission's Resolution #22 of June 25, 2024 on the approval of the Report on the assessment of FT risks in the NPO sector, the Financial Monitoring Department under the National Bank of Tajikistan, together with the competent government agencies, should review the Report every two years, and conduct another assessment of the risks of TF in the

NPO sector and submit it to the Commission for approval. This decision is also enshrined in the Action Plan, which provides for the next sectoral assessment of the risks of TF of NPOs. This ensures that the sector is regularly reassessed, with new information on the sector's potential vulnerability to terrorist activities to ensure effective implementation of measures.

20. **Criterion 8.2 (Mostly met)** The MER assigned a rating of "Mostly met" for criterion 8.2. The reasons for this were the lack of a strategy/concept for ensuring transparency of NPOs and insufficient cooperation with NPOs to develop and improve best practices for TF risk management.
21. Since the previous assessment, Tajikistan has made some progress in strengthening cooperation with the NPO sector. The country regularly conducts training events with the participation of NPOs at high risk of exploitation by the criminal community. However, no additional changes have been presented in terms of improving measures to ensure the transparency of NPOs, and no specific state programs are being implemented to encourage NPOs to operate through regulated financial channels.
22. **Criterion 8.2 a)** As noted in the 2nd FUR, the Law #1575 of 02.01.2019 introduced amendments to the Law "On public organizations", which defined steps to ensure the transparency of NPOs and storage of information on financial transactions and storage and submission of information on the identification data of persons controlling or managing the activities of a public organization to the registering authority, including founders, members of managing divisions. The Law of the Republic of Tajikistan dated July 19, 2022, #1913 introduced amendments and additions to the Law of the Republic of Tajikistan "On Freedom of Conscience and Religious Associations" in terms of preventing persons who have committed serious crimes and especially serious crimes from becoming founders or employees of religious associations. The country has not presented any other changes to improve measures to ensure the transparency of NPOs.
23. **Criterion 8.2 b)** The powers of the NPO supervisory authorities defined by the basic Law of the Republic of Tajikistan include conducting explanatory activities among NPOs exposed to the risk of abuse in TF. In addition, paragraphs 7-8 of the Action Plan for the Protection of NPOs from Abuse for the TF Purposes dated 22.06.2024 #22 define provisions on the development and organization by competent government authorities of events to train NPOs falling under the FATF definition. The country provided information on holding a number of meetings, round tables and workshops with the participation of representatives of public organizations and religious associations, foundations and civil society from the 2nd half of 2023 to the 1st half of 2024 (12 events), at the national and international level, which also indicates the country's active actions aimed at reducing risks in the sector. Five of the above events are UNOCT-UNCCT seminars on raising awareness of the NPO sector, introducing best practices and typologies to protect the NPO sector from terrorist abuse, as well as strengthening cooperation and coordination with government agencies, and other 2 are seminars on the "Activities of public associations in Tajikistan". All the events were dedicated to and related to the TF in NPO. Besides, the country implements educational programs related to the clarification of the provisions of the sectoral assessment of risks and vulnerabilities of NPOs.
24. **Criterion 8.2. c)** In accordance with paragraph 4 of the Action Plan for the Protection of NPOs from Abuse for TF Purposes dated 25 June 2024, #22, the Ministry of Justice, in cooperation with the competent authorities, has developed a brochure for NPOs, which is posted on the website of the Ministry of Justice of the Republic of Tajikistan and describes the factors that may make the sector vulnerable to TF purposes, the risks of malicious use of NPOs, as well as the measures that need to be taken to mitigate the risks of such use. In addition, the brochure contains links to the TF Risk Assessment Report in the sector, the national and international lists of persons associated with TF, and FATF documents applicable to the sector. The authorities held a number of training for the sector representatives to explain the provisions in the Report, and FATF standard requirements, and review of assessment results and subsequent monitoring, and regional experience in risk assessment, etc. They shared practical experience in risk mitigation and application of preventive measures during these training.

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25. **Criterion 8.2 d)** In terms of encouraging NPOs to use regulated financial channels, the country provides examples of recommendations from the brochure for NPOs, posted on the websites of the Pension Fund of the Russian Federation and the Ministry of Justice of the Republic of Tajikistan, as well as benefits established by tax legislation regarding payments of humanitarian and charitable aid.
 26. **Criterion 8.3 (Mostly met)** In the MER and the 2nd FUR, the rating for criterion 8.3 was set as "Partly met", this is due to the fact that the supervisory authorities for NPOs in the Republic of Tajikistan did not apply a risk-based approach in supervision and monitoring over NPO sector.
 27. In order to eliminate the shortcomings in the criterion, the Resolution of the Interministerial Commission #22 of June 25, 2024 approved the "Guidelines for risk-based supervision of the activities of non-profit entities". The Guidelines require supervisors to determine the frequency, format and types of inspections based on the level of risk of abuse of NPOs for TF purposes and other criteria (frequency of reporting, geographic location, results of previous inspections, etc.). Based on the Guidelines, the country started conducting inspections of those NPOs that were determined as high risk according to the Report (12 out of 133 NPOs were inspected in 4 months).
 28. The measures taken by the country demonstrate the establishment of a risk-based oversight mechanism based on the NPO sector's risk assessment, which suggests significant progress in meeting the criterion.
 29. **Criterion 8.4 (Mostly met)** According to the MER, this rating for criterion 8.4 is due to the fact that the deficiencies identified in criteria 8.2 and 8.3 do not allow to highlight full compliance with the requirements of criterion 8.4. The analysis showed that some deficiencies identified in criterion 8.3 regarding the application of measures by supervisory authorities to NPOs have been eliminated. At the same time, there remains a deficiency in terms of NPO transparency, expressed in the absence of additional legislative changes aimed at ensuring it, in addition to those described in the 2nd FUR of the Republic of Tajikistan in accordance with criterion 8.2, which does not allow to conclude that the requirements of criterion 8.4 are fully met.
 30. **Criterion 8.4 a)** The supervisory authorities specified in the Law of the Republic of Tajikistan on AML/CFT/CPF apply a risk-based approach to supervision of the sector, as described in criterion 8.3, by conducting a risk assessment, and determining on this basis the measures and frequency of their application to NPOs that fall under a particular risk group according to the Guidelines. Supervisory authorities are authorized to conduct scheduled and unscheduled on-site and desk inspections, as well as outreach measures.
 31. **Criterion 8.4 b)** The MER noted that sanctions for NPO violations of AML/CFT legislation are not effective and dissuasive. The 2nd FUR indicated that amendments and additions to the Code of Administrative Offenses provide for a two-to-three and sometimes ten times increase in sanctions. In addition to the sanctions provided for in the Code of Administrative Offences, an NPO may be liquidated and subsequently struck off the Register of Legal Entities in the event of violations identified during inspections by the Ministry of Justice. There are also mechanisms of judicial suspension of activities, cancellation and revocation of the NPO's licence. All these can be recognised as a wide range of sanctions.
 32. **Criterion 8.5 (met)** The analysis according to the criterion contained in the MER 2018 remains relevant.
 33. **Criterion 8.6 (met)** The analysis according to the criterion contained in the MER 2018 remains relevant.
 34. **Assessment and conclusion:** Identifying NPOs falling under the FATF definition and analysis of their statistics, carrying out a comprehensive risk assessment of the NPO sector in the Republic of Tajikistan, determination of the nature of threats that terrorist organizations present to NPOs, as well as the provisions of the adopted Guidance on Risk-Based Supervision over NPOs enables the moderate progress in the implementation of the requirements of FATF Recommendation 8. The gaps identified in the MER have been eliminated to a moderate extent. Certain gaps that remain since the approval of the MER 2018 are minor, or is caused by the recent changes in regulations and are just starting to be
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applied in practice of competent authorities and the NPO sector. **In this regard, the rating for R.8 is increased to "LC".**

Recommendation 38 (rating in the MER – PC)

35. The "PC" rating is due to the following shortcomings: lack of the procedures for the freezing of property in response to international requests on criminal matters; the issue concerning the sharing of confiscation property with other countries remains unresolved.
36. **Criterion 38.1 (*Mostly met*)** The MER noted that Section XII of the Criminal Procedure Code (CPC), which covers international cooperation, lacks the procedure for the freezing of property in response to international requests on criminal matters. At the same time, in accordance with Part 1 of Article 473 of the CPC, orders from authorities and officials of foreign states to carry out investigative or judicial actions to identify, arrest and confiscate are executed according to the general rules of the CPC. The prosecutor's office is the authority for implementing operational actions within the framework of international cooperation in criminal matters.
37. The Law of the Republic of Tajikistan dated January 3, 2024, #2017 introduced amendments and additions to the CPC. There is no special authority for executing requests for MLA in terms of identifying, freezing, seizing² and confiscating assets in the country. Such requests are executed in accordance with the provisions of Part IV of the CPC in the general manner by authorized law enforcement agencies independently (when carrying out procedural actions that do not require the consent of the prosecutor and the sanction of the court) or are considered by central authorities – the Prosecutor General's Office (cooperation in the criminal procedure sphere) and the Supreme Court (provision of legal assistance during legal proceedings).
38. At the same time, in accordance with the CPC and other legislative acts, LEA have broad powers to identify, seize and confiscate assets (see R.4 of the MER), which can also be applied within the framework of international requests for MLA.
39. In addition, the CPC allows for the confiscation of all types of property listed in criterion 38.1. In accordance with article 57, paragraph 1, of the Criminal Code, confiscation of property is the compulsory seizure and conversion of the property of a convicted person into the ownership of the State on the basis of a guilty verdict without compensation. Such property (according to Article 57) includes:
 - cr. 38.1a – money, valuables and other property obtained as a result of offences, including ML, including laundered property;
 - cr. 38.1b – proceeds of property obtained by criminal means;
 - cr. 38.1c – instruments and/or means of committing the offence belonging to the perpetrator;
 - cr. 38.1d – money, valuables and other property used or intended for ML, TF or PF;
 - cr. 38.1e – If confiscation of the property is not possible, the court shall order confiscation of an equivalent sum of money.
40. The seizure and confiscation of property regulated in the CPC are valid indefinitely, until a decision is made to confiscate the seized property, or until a decision is made by the competent authority to cancel the seizure of property.
41. In addition, requests to freeze assets can be executed, if necessary, using the powers of the DFM under the NBT and in the absence of a criminal case. Article 20.5 of the AML/CFT Law of Tajikistan provides the DFM with the authority to suspend a transaction for up to 15 working days if there is a suspicion

² In the FATF Glossary, "Freeze" (in terms of R.38) means to prohibit the transfer, conversion, disposition or movement of any property on the basis of, and for the duration of the validity of, an action initiated by a competent authority or a court under a freezing mechanism, or until a forfeiture or confiscation determination is made by a competent authority or a court. "Seize" has a similar meaning, except for the difference: it is affected by a mechanism that allows the competent authority or court to exercise control over this property. However, the 2000 Palermo Convention defines that "freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority.

of ML/TF/PF or predicate offences. However, the short duration of such a suspension is a minor deficiency, as it is an additional measure to the main freezing and seizing mechanism described above, which is provided for in the CPC.

42. As noted in the MER (p. 478), the issues of identification of property subject to confiscation are also regulated by the Law "On Operational Investigative Activities". However, according to paragraph 63 of the MER, within the framework of the OIA there is no mechanism for obtaining information constituting a banking secrecy. In accordance with Article 48 of the Law of the Republic of Tajikistan "On Banking Activities", banking secrecy includes information on the existence of bank accounts, their owners, the presence of funds in them and the transactions carried out by clients on this account; on money transfers of individuals without opening an account and their senders (recipients); on funds and other valuables of the client, which are stored in the credit institution. This information can be provided only to the authorities of inquiry and preliminary investigation in criminal cases against clients of the credit institution - on the basis of a ruling (determination) of the court (judge) in accordance with the CPC.
43. The presence of the specified restrictions reduces the capabilities of the bodies authorized to carry out OIA in terms of identifying property subject to confiscation from persons suspected of committing serious crimes and especially serious crimes (corruption, establishing of an organized group, criminal community, etc.). In certain cases, the bodies authorized to carry out OIA may gain access to bank secrecy by sending requests to the DFM when taking measures and fulfilling duties and obligations or activities to combat ML, TF and PF (see p. 384 of the MER).
44. However, Article 48 of the Law of the Republic of Tajikistan "On Banking Activities" grants the right of access to banking secrecy to courts on the basis of a decision (determination) of the court (judge). In this regard, given that the Supreme Court is the central body in executing requests for MLA, the above-mentioned deficiency (access to banking secrecy without a criminal case in progress) in the context of criterion 38.1 is leveled.
45. **Criterion 38.2 (Not applicable)** The analysis based on the criteria contained in the MER 2018 remains relevant.
46. **Criterion 38.3 (Mostly met)** The MER has assigned a rating of "Mostly met" because the procedure for handling confiscated property transferred to financial authorities after the consideration of a criminal case by a court and the entry into force of a guilty verdict providing for confiscation has not been developed.
47. **Criterion 38.3 a)** The analysis on the criterion contained in the MER 2018 remains relevant. The Republic of Tajikistan is a party to the Chisinau Convention, which regulates, among other things, cooperation within the framework of MLA on issues of search, arrest and seizure of assets, enforcement of court sentences on the collection of fines and confiscation.
48. **Criterion 38.3 b)** In general, the MER contains a description of the mechanisms for managing and, if necessary, disposing of seized or confiscated property, which are regulated in the CPC and the Code of Execution of Criminal Punishments of the Republic of Tajikistan (hereinafter referred to as the CECP).
49. In order to eliminate the above-mentioned deficiency, amendments have been made to the CECP. Now Article 202 of the said Code regulates the procedure for transferring confiscated property to the responsible authority. In particular, cash, securities, precious metals, precious stones and other similar confiscated property are transferred to financial authorities, real estate, vehicles, technical equipment, food products and industrial products, construction materials, fuels and lubricants and other similar confiscated property are transferred to the state property management authority.
50. At the same time, according to Article 199 of the CECP, the property subject to confiscation also includes a share in the authorized (contributed) capital of commercial organizations. The procedure for confiscating the property of a convicted person, which is in the authorized (contributed) capital of commercial organizations, is determined by the Ministry of Finance in agreement with the Ministry of

Economic Development and Trade and the Ministry of Justice of the Republic of Tajikistan. However, the specified procedure was not presented to the experts.

51. Based on the List of property not subject to confiscation by a court sentence in the CECF, it follows that the accused may have his domestic animals confiscated. For example, expensive thoroughbred horses. The mechanisms for managing and disposing of the above types of property are not presented.
52. **Criterion 38.4 (Met)** In the MER 2018, the rating was assigned as NC for criterion 38.4, since the country did not have mechanisms for dividing confiscated property with other countries.
53. Currently, the current version of the CPC (Article 488) provides for the possibility of transferring to the requesting party property (as well as its monetary equivalent), confiscated in accordance with a sentence or other decision of the court of the requesting party that has entered into legal force.
54. The provisions of Article 488 of the CPC provide clear legal grounds to exchange confiscated property with any foreign state. This requires the issuance of an appropriate court judgement as provided for in Article 488(6) of the CPC.
55. **Assessment and conclusion:** The deficiency related to the lack of mechanisms for freezing property, noted in the MER 2018, remains and requires additional measures to eliminate it. At the same time, the country has completely eliminated the deficiency related to the procedure for dividing confiscated property with other countries. **In this regard, the rating on Recommendation 38 is increased to "LC".**

III. Conclusion

56. The Republic of Tajikistan has demonstrated moderate progress in addressing the technical compliance deficiencies identified in the MER and the 2nd FUR in relation to Recommendations 8 and 38.
57. As a result, the ratings for R.8 and 38 are increased from "PC" to "LC".
58. Taking into account the progress of the Republic of Tajikistan in improving the national AML/CFT system following the approval of the MER, the technical compliance ratings of the FATF Recommendations have been changed as follows:

R. 1	R. 2	R. 3	R. 4	R. 5	R. 6	R. 7	R. 8	R. 9	R. 10
LC	C	LC	LC	LC	LC	LC	LC (6 FUR) PC	C	LC
R. 11	R. 12	R. 13	R. 14	R. 15	R. 16	R. 17	R. 18	R. 19	R. 20
LC	LC	LC	LC	PC	LC	PC	LC	LC	C
R. 21	R. 22	R. 23	R. 24	R. 25	R. 26	R. 27	R. 28	R. 29	R. 30
C	LC	LC	LC	LC	PC	LC	PC	C	LC
R. 31	R. 32	R. 33	R. 34	R. 35	R. 36	R. 37	R. 38	R. 39	R. 40
C	LC	LC	LC	LC	C	LC	LC (6 FUR) PC	LC	LC

59. The Republic of Tajikistan remains under enhanced monitoring and will continue to report to the EAG on further progress in improving the national AML/CFT system.