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**“Support to Civil Registration System Reform in Tajikistan”**

**Review of Legislative Frameworks, Coordination Mechanisms and Institutional Structure of Civil Registration System in Tajikistan**

**REVIEW OF LEGISLATION**

**IN THE FIELD OF CIVIL REGISTRATION IN THE**

**REPUBLIC OF TAJIKISTAN**

**Prepared by International Legal Expert Tomas Baranovas**

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# INTRODUCTION

The United Nations Development Programme in Tajikistan is implementing a Project “Support to Civil Registration System Reform in Tajikistan”, funded by the Swiss Office for Development and Cooperation. The overall goal of the Project is the assistance in better protection of women’s, men’s and children’s rights (civil, social, political and economic) by strengthened provision of civil registration services and by increased public access to the system.

On 27 June 2016, a Contract for the provision of services of International Legal Expert for assignment on Review of legislative frameworks, coordination mechanisms and institutional structure of Civil Registration System in Tajikistan, under the Project “Support to Civil Registration System Reform in Tajikistan”, came into effect.

The present Report has been prepared in order to implement the assignment on a detailed review of legislation in the field of civil registration in the Republic of Tajikistan. An inter-agency team of experts participated in the preparation of this Report: Tomas Baranovas (the United National Development Programme), Shahodat Haydarova (the United National Development Programme), Bahrom Abdulhakov (the United National Development Programme), Dilbar Turakhanova (UN Women) and Maria Africa (United Nations Population Fund).

The material for preparation of the report has been collected through the direct analysis of legislation of the Republic of Tajikistan, review of other documents on assessment of civil registration system of the Republic of Tajikistan and consultative meetings during three missions of the International Legal Expert to the Republic of Tajikistan (4-8 July, 8-19 August and 17 October – 4 November, 2016). With the aim of identification of practical problems in application of the legislation there has been prepared and distributed a questionnaire for staff of civil registration bodies and *jamoats* responsible for civil registration. The results of a comparative analysis of legislation on civil registration in the Russian Federation, Republic of Kazakhstan, Georgia, Republic of Moldova and Republic of Lithuania prepared in the framework of abovementioned project were also used in the process of preparation of the Report.

The proposals of experts have been discussed during consultative meetings on discussion of proposed amendments and additions to the legislation of the Republic of Tajikistan on state registration of acts of civil status held in Dushanbe (23 September, 2016) and Khujand (28 September, 2016) that were attended by representatives of civil society, international organizations, Ministry of Justice and civil registration bodies. Comments and proposals expressed during the consultative meetings were taken into consideration by expert team during finalization of their recommendations.

# I. REVIEW OF LEGISLATION IN THE FIELD OF CIVIL REGISTRATION IN THE REPUBLIC OF TAJIKISTAN

Civil registration in the Republic of Tajikistan, based on provisions of the Constitution of the Republic of Tajikistan, is regulated by the Family Code of the Republic of Tajikistan, the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status”, other regulatory legal acts of the Republic of Tajikistan and international legal documents recognized by the Republic of Tajikistan.

## The Constitution of the Republic of Tajikistan

The Constitution of the Republic of Tajikistan was adopted on November 6, 1994 through national referendum. In the same way, there were introduced amendments and additions to it on September 26, 1999, June 22, 2003 and May 22, 2016.

The provisions of the Constitution of the Republic of Tajikistan related to civil registration:

* The Republic of Tajikistan shall be a secular state (Article 1);
* Russian shall be the language of international communication (Article 2);
* The rights and liberties of the man and citizens shall be recognized, observed and protected by the state (Article 5);
* International legal documents recognized by Tajikistan shall be a component part of the legal system of the Republic. In case of inconsistency of laws of the Republic with the recognized international legal documents, the provisions of the international legal documents shall be applied (Article 10);
* Foreign citizens and stateless persons shall enjoy the rights and liberties and have the responsibilities and duties equal to citizens of Tajikistan, with the exception of cases stipulated by law (Article 16);
* All people shall be equal before the law and the court. The state shall guarantee the rights and liberties for every person irrespective of his nationality, race, sex, language, religion, political beliefs, knowledge, social and property status (Article 17);
* Men and women shall have equal rights (Article 17);
* Everyone shall be guaranteed judicial protection (Article 19);
* The collection, storage, utilization and dissemination of information about person's private life without his consent shall be prohibited (Article 23);
* A citizen shall have the right to freedom of movement and choose the place of residence, to leave the Republic and return back to it (Article 24);
* The state bodies shall be obliged to ensure that everyone has the opportunity to access and get documents affecting his rights and interests (Article 25);
* A citizen shall have the right to apply to the state authorities personally or jointly with a group of people (Article 31);
* The state shall protect the family as the basis of the society (Article 33);
* Everyone shall have the right to found a family. Men and women who have reached the marriage age shall have the right to marry freely. The spouses shall have equal rights in marital relations and dissolution of marriage (Article 33);
* Polygamy shall be prohibited (Article 33);
* A mother and a child shall be entitled to special care and protection by the state (Article 34);
* Parents shall be responsible for the upbringing and education of children, and adult and employable children shall be responsible for care and social protection of their parents (Article 34);
* The state shall care for the protection, upbringing and education of orphaned and disabled children (Article 34);
* Everyone shall have the right to health care. Everyone, within the framework established by law, shall enjoy free medical aid in the state health institutions (Article 38);
* Everyone shall have the right to education. The basic general education shall be compulsory (Article 41);
* The self-governance body of a settlement and village shall be *jamoat*, the law shall regulate the procedure of its establishment, powers and activities (Article 78);
* Supervision over exact and uniform execution of laws in the territory of Tajikistan shall be performed by the Prosecutor-General and his subordinate prosecutors within their powers (Article 93).

## The Family Code of the Republic of Tajikistan

The Family Code of the Republic of Tajikistan was adopted in 1998; amendments and additions were introduced in 2006, 2008, 2010, 2011, 2013, 2015 and 2016. The provisions of the Family Code related to civil registration are further outlined.

The family, marriage, motherhood, fatherhood and childhood in the Republic of Tajikistan shall be under state protection. The legislation of the Republic of Tajikistan is based on the need to ensure unimpeded implementation of their rights and duties by family members, and possibility of their judicial protection.

The marriage concluded only in the state civil registration bodies shall be recognized. The marriage concluded according to religious ceremony shall have no legal bearing.

Regulation of family relations shall be performed in accordance with the principles of voluntary nature of marital union of a man and woman, equality of rights of spouses in the family, priority of family upbringing of children, care about their well-being and development, ensuring priority protection of rights and interests of under-age and disabled family members.

Any forms of restrictions of rights of citizens entering into marriage and in family relations based on social, racial, national language or religious affiliation shall be prohibited.

State registration of acts of civil status shall be performed on the basis of the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status”. On the basis of and in order to implement this Code and other laws of the Republic of Tajikistan the Government of the Republic of Tajikistan shall have the right to adopt regulatory legal acts on family issues.

If an international treaty of the Republic of Tajikistan has established rules other than those stipulated by legislation of the Republic of Tajikistan on family, the rules of the international treaty shall be applied.

Protection of family rights shall be performed by court, bodies of trusteeship and guardianship, civil registration and other state bodies.

*Conclusion of a marriage*

A marriage is concluded in the state civil registration bodies. The rights and obligations of spouses arise from the day of state registration of the conclusion of a marriage in civil registration bodies.

Conclusion of a marriage requires a mutual consent of a man and woman entering into marriage, and reaching the marriage age by them.

In case if one of parties entering into marriage is a foreign national or stateless person, the following additional condition shall be met: 1) residence in the territory of the Republic of Tajikistan in the course of not less than last year; 2) mandatory conclusion of a marriage contract.

The marriage age is set at eighteen years. In exceptional cases, the court shall have the right to reduce the age of marriage for not more than one year at the request of persons wishing to marry.

Marriage between the following persons shall not be allowed:

* Persons of whom at least one person is already in another registered marriage;
* Close relatives (between father or mother and daughter or son, between grandfather or grandmother and grandson or granddaughter);
* blood and non-blood brothers and sisters (having the same father or mother);
* children of brothers, sisters, brothers and sisters;
* maternal uncle and niece, paternal uncle and niece, maternal aunt and nephew, paternal aunt and nephew;
* persons fed with milk of the same woman;
* persons who have not undergone a mandatory medical examination;
* adoptive parents and adoptive children;
* persons of whom at least one person has been recognized by the court as incapacitated due to mental illness or dementia;
* persons of whom at least one person has been recognized by the court as partially incapacitated as a result of abuse of alcoholic or narcotic substances.

Citizens of the Republic of Tajikistan, foreign nationals and stateless persons before entering into marriage shall undergo a free mandatory medical examination in the state health institutions at the place of residence or permanent residence in accordance with the legislation of the Republic of Tajikistan and familiarize with the results of the mandatory medical examination of each other.

*Termination of marriage*

A marriage shall be terminated as a result of death or declaration of one of spouses as dead by court. A marriage may be terminated by its dissolution (divorce) based on application of one or both spouses, guardian of a spouse recognized as incapacitated by the court, as well as by prosecutor.

A marriage shall be dissolved in court if the spouses have common minor children, with the exception of cases provided for by the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status”, or in the absence of consent of one of the spouses for dissolution of the marriage. A marriage is also dissolved in the court, when one of the spouses, despite his lack of objection, evades from the dissolution of the marriage in the civil registration bodies (refuses to file an application or does not wish to appear for registration of divorce, etc.).

A marriage terminated in the civil registration bodies shall be terminated from the moment of state registration of the marriage dissolution in the civil registration book, and in case of dissolution of the marriage in the court from the date the court decision enters into force. Dissolution of a marriage in the court shall be subject to state registration in the civil registration bodies within one year after the court decision enters into force in the manner prescribed for registration of acts of civil status. A divorce shall have a legal bearing for third parties from the moment of its registration.

In case of appearance of the spouse declared by the court as dead or recognized by the court as missing and reversal of relevant court decisions, the marriage may be restored by a civil registration body upon joint application of spouses.

The court shall, within three days from the day of entry into force of the court decision on annulment of a marriage, send an extract from this court decision to a civil registration body at place of state registration of the marriage. The marriage shall be recognized invalid from the moment of its conclusion.

*Establishment of origin of children*

The rights and obligations of parents and children shall be based on origin of children certified in the manner prescribed by law.

The origin of a child from a mother (motherhood) shall be established by a civil registration body on the basis of documents supporting the delivery of the child by the mother in a health facility, and in the case of a delivery of a child outside the health facility – based on medical documents, testimony or other evidence.

If a child was born of the persons being with each other in a marriage registered in a civil registration body, as well as within three hundred days of the moment of marriage dissolution, its annulment or death of a spouse of the mother, the husband (former husband) of the mother shall be recognized the father of the child, unless the contrary is proved.

If a mother of a child states that the father of the child is not her husband (former husband), the paternity of the child shall be established by submission of a joint application to a civil registration body by father and mother, or by court proceedings.

If there are circumstances giving the ground to believe that submission of a joint application on the establishment of paternity may be impossible or difficult after the birth of a child, the parents of the future child that are not in a marriage shall have the right to submit such application to a civil registration body during the pregnancy of the mother. A record about parents of the child shall be made after birth of the child.

The record of parents in the book of birth registration made in accordance with the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” shall be a proof of origin of the child from persons indicated in it and may be challenged only in the court at the demand of the person recorded as father or mother of the child, or the person who is actually the father or mother of the child, as well as by a guardian of the parent, the child by reaching him the age of majority, guardian (trustee) of the child, guardian of the parent recognized by court as incapacitated.

The demand of the person recorded as the father of the child on the basis of the Law of the Republic of Tajikistan “On Registration of Acts of Civil Status” on challenging the paternity may not be satisfied, if at the moment of record this person was aware that he was not actually the father of the child.

The person recorded as the father or mother of the child, or the person who is actually the father of the child in case of death of the mother or deprivation of her parental rights shall have the right to challenge the record made within one year from the moment, when he became or should have become aware about the record made.

*Rights of minors*

The child shall have the right to care by parents, ensuring his interests, and all-round development. In the absence of parents, deprivation of their parental rights and in other cases of loss of parental custody, the right of the child to upbringing in the family shall be ensured by trusteeship and guardianship bodies.

In case of violation of rights and lawful interests of the child, including the non-fulfillment or improper fulfillment by the parents (by one of them) of the obligations on upbringing, education of the child, the child shall have the right to apply to trusteeship and guardianship bodies for their protection, and upon reaching the age of fourteen, to the court.

The officials of organizations and other citizens, who have become aware of a violation of rights and lawful interests of the child, shall be obliged to inform the trusteeship and guardianship body at the place of actual location of the child about that. Upon receiving such information, the trusteeship and guardianship body shall be obliged to take necessary measures to protect the rights and lawful interests of the child.

The child shall have the right to surname, name and patronymic.

The parents shall have equal rights and equal obligations in relation to their children (parental rights).

Protection of rights and interests of minor children shall rest with their parents. The parents shall be obliged to ensure that their children receive basic general education.

*Adoption*

Adoption is a priority form of care for children left without parental care. Adoption of a child shall be subject to state registration in the civil registration bodies in the manner prescribed for state registration of acts of civil status. The court shall, within three days of the moment of entry into force of the court decision on establishment of the adoption of a child, send an extract from this decision to a civil registration body at the place of judgment.

The adopted child shall keep his name, patronymic and surname. The change of surname, name and patronymic of the adopted child shall be indicated in a court decision on his adoption. The change of date and place of birth of the adopted child shall be indicated in the court decision on his adoption.

At the request of adoptive parents, the court may take a decision on recording of the adoptive parents in the book of birth records as parents of the child adopted by them. The need to make such record shall be indicated in the court decision on child adoption.

Cancellation of a child adoption shall be performed by the courts. The court shall, within three days from the day of entry into force of the court decision on cancellation of child adoption, send an extract from this decision to a civil registration body at the place of state registration of adoption.

The court shall, within three days, inform the civil registration body, where the decision was registered, about the court decision, which entered into force, on declaring the adoption invalid.

*Application of legislation on marriage and family on foreign nationals, stateless persons and nationals of the Republic of Tajikistan residing abroad*

The conditions for conclusion of a marriage on the territory of the Republic of Tajikistan for each of the persons entering into marriage shall be determined according to legislation of the state, the national of which is the person at the moment of the marriage, by complying with the requirements of Part 3 of Article 12 and Article 14 of the Family Code regarding circumstances preventing the conclusion of marriage.

Marriages between citizens of the Republic of Tajikistan residing outside the territory of the Republic of Tajikistan shall be concluded in diplomatic missions and consular offices of the Republic of Tajikistan.

Citizens of the Republic of Tajikistan residing outside the territory of the Republic of Tajikistan shall have the right to dissolve the marriage with a spouse residing outside the territory of the Republic of Tajikistan, irrespective of his nationality, in the court of the Republic of Tajikistan. In cases, when dissolution of the marriage is allowed in the civil registration bodies according to legislation of the Republic of Tajikistan, the marriage may be dissolved in diplomatic missions and consular offices of the Republic of Tajikistan**.**

In cases, when the legislation of the Republic of Tajikistan allows the establishment of the paternity (maternity) in the civil registration bodies, the parents of a child residing outside the territory of the Republic of Tajikistan, of whom at least one is a national of the Republic of Tajikistan, shall have the right to file application on the establishment of paternity (maternity) to diplomatic missions or consular offices of the Republic of Tajikistan.

In order to establish the content of provisions of a foreign family law the court, civil registration bodies or other bodies may apply for assistance in the prescribed manner to the Ministry of Justice of the Republic of Tajikistan and other competent bodies of the Republic of Tajikistan or involve experts.

## The Law of the Republic of Tajikistan “On State Registration of Acts of civil status”

The Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” was adopted in 2006; amendments and additions were introduced in 2008, 2009, 2011, 2015 and 2016.

The Law regulates the procedure of state registration of acts of civil status, the procedure of correction, changes, restoration and annulment of registration of acts of civil status, the procedure of formation of books of state registration of acts of civil status, the procedure and time periods of storing the books of state registration of acts of civil status (registers), and legal status of the body conducting state registration of acts of civil status.

Acts of civil status are actions of citizens or events that influence the emergence, change and termination of rights and obligations that characterize the legal status of citizens. The following acts of civil status shall be subject to state registration in the manner prescribed by law:

1. birth,
2. death,
3. conclusion of a marriage,
4. dissolution of a marriage,
5. adoption,
6. establishment of paternity,
7. change of surname, name and patronymic,
8. restoration or annulment of registration of acts of civil status.

State registration of acts of civil status is established in order to protect property and personal non-property rights of citizens, as well as the interests of the state and society. The state registration of acts of civil status shall be performed by civil registration body by performing relevant registration of the act of civil status, on the basis of which a certificate on state registration of the act of civil status is issued.

Civil registration forms and forms of certificates issued on the basis of this registration, the procedure of their filling, forms of other documents supporting the facts of state registration of acts of civil status, as well as forms of applications on state registration of acts of civil status shall be determined by the Government of the Republic of Tajikistan. The forms of certificates on state registration of acts of civil status shall be produced centrally by typographical method on the paper having protection classes; each such form has series, number and Emblem of the Republic of Tajikistan.

A national of the Republic of Tajikistan with six-month internship experience, upon attestation of attestation commission, can be recruited to work in the civil registration bodies. A national of the Republic of Tajikistan, having higher legal education and professional working experience of not less than three years shall be appointed to the position of a head of the civil registration bodies.

The head of the civil registration body shall be appointed and dismissed from position by the Minister of Justice. In accordance with the Constitutional Law “On Local State Authorities” the heads of local structures of the central executive authorities financed from the Republican budget, shall be appointed and dismissed from position by heads of central executive authorities with written consent of chairmen of Gorno-Badakhshan Autonomous Province*,* provinces, Dushanbe city, cities and districts, and the decisions taken shall be submitted for approval to the relevant *Majlis* of People’s Deputies.

The documents supporting the facts subject to state registration in the civil registration bodies and identification document of the applicant shall be submitted during registration of the act of civil status.

The record of registration of the act of civil status shall be drawn in two copies. The first copies of records of registration of acts of civil status (for each type of records of registration of acts of civil status separately) drawn up within the year shall be collected in a chronological order in the register. The second copies of records of registration are collected in the register in the same order.

The state registration of acts of civil status in cities and districts is performed by civil registration offices of districts, cities, and in settlements and villages – by *jamoats* of settlements and villages. The state registration of marriages may be performed in Marriage Palaces and Houses. The state registration of acts of civil status of nationals of the Republic of Tajikistan residing outside the territory of the Republic of Tajikistan shall be performed by consular offices of the Republic of Tajikistan in foreign states.

Civil registration bodies of a district, city perform state registration of birth, conclusion of a marriage, dissolution of a marriage, adoption, establishment of paternity, change of surname, name and patronymic, death, amend, make addition, correct and annul the civil registration, restore the lost registration, as well as keep registers and issue duplicative certificates and relevant statements.

*Jamoats* of settlements and villages perform state registration of birth, death, conclusions of a marriage, with the exception of a marriage of nationals of the Republic of Tajikistan with foreign nationals and stateless persons, establishment of paternity and on a monthly basis submit reports to relevant civil registration bodies of a city (district). The bodies performing state registration of acts of civil status provide also other additional services.

Consular offices of the Republic of Tajikistan outside the territory of the Republic of Tajikistan:

1. perform state registration of acts of civil status provided for by Article 3 of the Law (birth, death, conclusion of a marriage, dissolution of a marriage, adoption, establishment of paternity, change of surname, name and patronymic, restoration or annulment of civil registration);
2. based on applications of nationals of the Republic of Tajikistan residing outside the territory of the Republic of Tajikistan, foreign nationals and stateless persons, take decisions on introduction of corrections and amendments to civil registration records, drawn up on the territory of the Republic of Tajikistan.
3. make corrections and changes to acts of civil status that they keep;
4. on the basis of acts of civil status that they keep issue duplicative certificates on state registration of acts of civil status and other documents supporting the facts of state registration of acts of civil status;
5. perform other duties related to state registration of acts of civil status.

The Ministry of Justice of the Republic of Tajikistan is the authorized body that manages the activities of the civil registration bodies.

The Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan is the body that controls and coordinates the activities of civil registration bodies. The Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan on the basis of notification of a civil registration body makes corrections, changes and additions to the second copies of civil registration, on the basis of civil registration maintains card index, and on the basis of civil registration and registers issues duplicative certificates and relevant statements (with the exception of certificates on family status).

Upon civil registration, the applicant shall be issued a certificate on the state registration of the act of civil status. The certificate forms on the state registration of the acts of civil status shall be produced centrally in a printing house by the authorized body.

In case of loss of the certificate on the state registration of the act of civil status, as well as spoiling, duplicative certificates on the state registration of the acts of civil status shall be issued by civil registration offices of a district, city and in exceptional cases by provincial and Republican archives of the civil registration body on the basis of records in the books of registration of acts of civil status or registers upon applications of citizens.

The person that personally applied to a civil registration body shall be issued a duplicative certificate on the state registration of the acts of civil status within ten days upon presentation of identification documents. In case if the person applied to a civil registration body with a written request, the duplicative certificate shall be sent to the civil registration body at the place of residence and it is reported to the address specified by such person within one month.

The civil registration bodies are financed at the expense of the Republican budget in the established procedure.

For the state registration of acts of civil status, a state duty shall be collected in the procedure, prescribed by the Law of the Republic of Tajikistan “On State Duty”. The staff of the civil registration bodies and authorized persons shall collect fee from individuals and legal entities for providing additional paid services related to the registration of the acts of civil status. The procedure and amounts of payment for additional paid services shall be determined by the Government of the Republic of Tajikistan.

Refusal in the state registration of the civil status act is allowed in cases, if: the state registration contradicts the Law; the submitted documents do not comply with the requirements set for them by the Law and other regulatory legal acts. Upon demand of the person (his representative), who was refused in the state registration of the civil status act the head of the civil registration body shall be obliged to inform such person (his representatives) about the reasons of refusal in writing.

The information gained by employee of the civil registration body in connection with the state registration of the civil status act shall be confidential and not subject to disclosure, except in cases established by the legislation of the Republic of Tajikistan .

The staff of the civil registration bodies, through the fault of whom the rights of nationals of the Republic of Tajikistan, foreign nationals and stateless persons have been violated during the state registration of acts of civil status, shall be liable in the manner established by the legislation of the Republic of Tajikistan.

*Registration of birth*

The grounds for state registration of birth are:

* the document of the established form about birth issued by a health organization, where the birth took place;
* the document of the established form about birth issued by a doctor or mid-level health personnel that provided medical aid during the delivery or to which the mother has applied after delivery, or by the person engaged in private medical activities – during the delivery outside the health organization;
* application of the person that was present during delivery about birth of the child outside the health organization and without medical aid;
* documents about finding, age and sex of a child found (dumped child) issued by bodies of internal affairs, trusteeship and guardianship and health organization.

The state registration of the birth shall be performed by the civil registration body at the place of residence of parents (one of parents). In exceptional cases determined by the Law, the registration of birth shall be performed at the place of birth of the child.

The parents (one of parents) shall file an application about birth of a child in writing to the civil registration body. In case if the parents (one of parents) do not have opportunity to personally file an application about birth of the child, the application about the birth of the child may be filed by a relative of one of the parents or another person authorized by parents (one of parents), trusteeship and guardianship body, or by official of a health organization, where the child was born, or by official of another organization, where the mother was during the delivery or where the child is.

Together with the submission of the application about birth of the child a document supporting the fact of birth of the child, as well as identification documents of parents (one of parents) or applicant and documents supporting his powers, and documents that are the ground for entering information about father to the civil registration of birth of the child shall be submitted.

The application for registration of a birth of a child shall be submitted no later than three months from the date of the birth of the child. Missing the established time period may not serve the ground for refusal in registration of birth by civil registration bodies.

The parent that has not submitted an application for state registration of the birth of a child to the civil registration bodies within three-month period shall be liable in accordance with the legislation of the Republic of Tajikistan.

The father and mother, who are married to each other, shall be recorded the parents of the child in the birth register upon application of any of them. Information about the mother of the child shall be entered into the civil registration record of the birth of the child on the basis of documents referred to in Article 16 of the Law, and information about father – on the basis of the marriage certificate of the parents.

In case if the parents are not married to each other, information about mother shall be entered into civil registration of the birth of the child in regular procedure. Information about father of the child in this case shall be entered: on the basis of civil registration of the establishment of paternity; upon application of the mother, if the paternity is not established. The surname of the child’s father shall be recorded according to mother’s surname, the name and patronymic of the child – by her indication.

Every person during state registration of the birth shall have the right to a surname, name, as well as patronymic, grounded by historical values and Tajik national culture. Naming and their accurate writing in the Republic of Tajikistan shall be done according to culture, national traditions and Register of Tajik National Names approved by the Government of the Republic of Tajikistan.

The surname of the person according to Tajik national traditions may be formed from the name of the father or the root of his surname with suffixes that form surnames -i, -zod, -zoda, -on, -yon, -iyon, -yor, -niyo, -far. The surname of the person may be formed from the name of the father or the root of father’s or mother’s surname without adding suffixes that form surnames.

The name of the child shall be recorded upon agreement of parents. Giving the child the name that is alien to the Tajik national culture, the names of things, goods, animals and birds, as well as insulting names and phrases degrading the honor and dignity of the person and dividing people into castes shall be prohibited. In the absence of agreement between the parents, the name of the child and (or) his surname (in case of different surnames of parents) shall be recorded in the birth register upon decision of the trusteeship and guardianship bodies.

The state registration of the birth of a stillborn child shall be performed on the basis of a document of the established form on perinatal death issued by a health organization or private doctor. The obligation on filing an application to the civil registration body about birth of a stillborn child or about birth and death of the child that has died within the first week of life shall be placed on:

* head of a health organization, where delivery took place or where the child has died;
* head of a health organization, the doctor of which has established the fact of the birth of a still-born child or the fact of death of the child that has died within the first week of life, or on the doctor engaged in private medical practice – in case of delivery outside the health organization.

The state registration of a birth of the child who has reached the age of one year or above, in case of availability of a document of the established form on birth, issued by health organization or a doctor engaged in private medical practice, shall be performed upon application of parents (one of parents) or other interested parties.

During the state registration of the birth of the child, who has reached the age of one year or above, a certificate on the absence of documents for him, issued by relevant archives of the civil registration body, as well as a reference from the place of birth, from the place of residence of the child and general educational institution attended by child shall be submitted. The reference provided by archives of the civil registration body shall be drawn up on the basis of checking five-year period (the year of birth of the child, two years before the birth and two years after his birth).

The state registration of a birth of the child, who has reached the age of one year or above, shall be performed only by civil registration bodies of cities and districts.

The state registration of a birth of the child, who has reached the age of majority, shall be performed upon his application. At the same time, along with the application to the civil registration bodies the following documents should be submitted:

1. a reference from the place of residence;
2. a reference from archives of the civil registration body at the place of residence and Department of Civil Status Acts;
3. a copy of the marriage certificate of father and mother;
4. a copy of identification documents of father and mother.

In the absence of a document of the established form on birth, the state registration of a birth of the child, who has reached the age of one year or above, shall be performed on the basis of a court decision on the establishment of the fact of birth.

The following information shall be entered into the civil registration record of the birth:

1. surname, name, patronymic, sex, date, time, gestational age, weight, height and place of birth of a child, still-born child, live-born child;
2. the number of children born (one, twins or more children);
3. information about the document supporting the fact of the birth of a child;
4. surname, name, patronymic, date and place of birth, nationality, place of residence of parents (one of parents);
5. information about the document that serves the ground for entering information about father;
6. surname, name, patronymic and place of residence of the applicants or name and location of the body or organization that filed an application about the birth of a child;
7. series and number of issued certificate of birth;
8. number and date of drawing up the record.

The certificate of birth shall be issued to the applicant after state registration of birth and its signing by civil registration body. At the request of the applicant, he is also issued a statement of birth for receiving an allowance in connection with the birth of the child.

*Registration of death*

The basis for state registration of the death shall be:

* document of the established form about death, issued by a health organization or a doctor engaged in private medical activities;
* court decision on the establishment of the fact of death or on declaring a person dead that entered into force.

The state registration of the death shall be performed by civil registration body at the place of last residence of the deceased, place of death, place of discovery of the deceased or at the location of the court that took decision on the establishment of the fact of death or on declaring the person dead.

The following information shall be entered into civil registration of death:

1. surname, name, patronymic, date and place of birth, last place of residence, work, family status, education, sex, citizenship, nationality, date, place of death of the deceased and special notes;
2. causes of death (on the basis of the document supporting the fact of death);
3. details of the document supporting the fact of death;
4. surname, name, patronymic, place of residence of the applicant or name and legal address of the body or institutions that filed an application about death;
5. series and number of the issued certificate of death;
6. surname, name, patronymic, place of residence of the person, who was issued the certificate of death.

*Registration of marriage*

The state registration of marriage shall be performed by civil registration body by choice of the persons entering into marriage at the place of residence of one of them or their parents. The marriage of nationals of the Republic of Tajikistan residing outside the territory of the Republic of Tajikistan shall be registered in consular offices of the Republic of Tajikistan in foreign states. The marriages that are registered in consular office of the Republic of Tajikistan in foreign states shall be equal to the marriages registered in the civil registration bodies.

Those persons entering into marriage shall submit a joint application for conclusion of marriage in writing to the civil registration body. The joint application should confirm the mutual consent for marriage, as well as absence of circumstances impeding the conclusion of marriage.

The following information is included to the list of documents that should be submitted along with submission of the joint application for conclusion of marriage:

* document supporting the mandatory medical examination of persons entering into marriage;
* if one of parties entering into marriage is a foreign national or stateless person, a supporting document about his residence in the territory of the Republic of Tajikistan within at least one last year and concluded marriage contract should be submitted on mandatory basis.

The state registration of the marriage shall be performed after one month of the date of submission of joint application for conclusion of marriage to the civil registration body. At the joint application of persons entering into marriage, this period may be changed by head of the civil registration body, and in settlements and villages – by chairperson of *jamoat* of settlement and village on the grounds provided for by regulatory legal acts of the Republic of Tajikistan.

The head of the civil registration body may refuse in the state registration of marriage, if he has evidences supporting the availability of circumstances impeding the conclusion of marriage.

The nationality of each of the parties entering into marriage, position and place of work, education of witnesses of marriage registration shall be entered into the civil registration of marriage.

*Registration of dissolution of marriage*

The grounds for state registration of dissolution of marriage shall be:

* joint application on dissolution of marriage by spouses that have no common minor children;
* application on dissolution of marriage filed by one of spouses, and a court decision (judgment) in respect of the other spouse that entered into force, if he is recognized missing, or legally incapable or convicted for commission of a crime to imprisonment for the term exceeding three years;
* standard document about the death of spouses or a court decision on recognition of one of them as dead;
* court decision on dissolution of marriage that entered into force.

The state registration of dissolution of marriage shall be performed by civil registration body at the place of residence of spouses or one of them.

By mutual consent of spouses that have no common children from this marriage for the dissolution of marriage, the dissolution of marriage shall be performed by civil registration body.

The data on nationality of each of spouses shall be included to the list of data that the spouses should indicate in the joint application.

The spouse who changed his/her surname to another one upon marriage shall have the right to keep this surname after dissolution of marriage upon consent of the other spouse, or at his/her demand during registration of dissolution of marriage by civil registration bodies he/she shall be given the premarital surname.

Information about nationality, position and place of work of each of parties dissolving marriage shall be included to the list of data entered to civil registration of dissolution of marriage.

*Registration of adoption*

The state registration of adoption of a child shall be performed by civil registration body at the place, where the court decision on adoption has been taken.

The state registration of adoption of a child shall be performed on the basis of written application of adoptive parents (adoptive parent) or upon notification of a trusteeship and guardianship body. If within one month of entry into force of the court decision on adoption these persons do not apply with application or notification, then the civil registration body at the place, where the court decision has been taken, shall make state registration of adoption.

Information about nationality of parents and adoptive parents shall be included to the list of data that are entered into civil registration record of adoption.

On the basis of civil registration of adoption relevant changes shall be made in the civil registration record of birth of the child. If on the basis of the court decision on the establishment of child adoption the place of birth of the child is changed, at the wish of adoptive parents (adoptive parent) a new civil record of birth of the child according to the place of birth indicated in the court decision may be drawn up by civil registration body, and initial civil record of birth of the child shall be annulled. The civil registration body at the place of storing of the civil registration record of the birth of the child shall issue a new certificate of his birth on the basis of changes or newly drawn civil registration record of the birth of the child in connection with adoption.

*Registration of establishment of paternity*

The state registration of the establishment of paternity shall be performed by civil registration body at the place of residence of the father or mother of the child that are not married to each other at the moment of birth of the child, or at the place of state registration of birth of the child, and in cases provided for by the Law, by civil registration body at the place, where the court decision on the establishment of paternity or on the establishment of the fact of acknowledgement of paternity has been taken.

Information about nationality of the person, who has acknowledged himself as the father of a child, and mother of the child shall be included to the list of data entered into joint application on the establishment of paternity.

Information about nationality of the father, who acknowledged himself as the father of a child shall be included to the list of data entered into application of the father on the establishment of paternity.

Information about nationality, position, place of work of the person acknowledged as the father of a child, and mother of the child shall be included to the list of data entered into civil registration of the establishment of paternity.

The civil registration body shall be obliged to report about making corrections and changes to the civil registration of birth of a child in connection with the establishment of paternity to social protection body at the place of residence of mother of the child within three-day period from the day of state registration of the establishment of paternity.

*Change of surname, name and patronymic*

The person, who reached the age of sixteen years, shall have the right to change his name, patronymic and surname. The change of a name of the person shall be made according to the Register of Tajik National Names, the change of a surname and patronymic – in accordance with the national traditions (with the exception of national minorities).

The change of the surname, name and patronymic shall be made by civil registration body at the place of residence of the person wishing to change his surname, name and patronymic.

Information about nationality of the applicant, as well as reasons for changing surname, name and patronymic shall be included to the list of data that are entered into application for changing surname, name and (or) patronymic.

The state registration of the change of a surname, name and (or) patronymic shall be performed on the basis of application for changing surname, name and (or) patronymic.

The application for changing surname, name and (or) patronymic should be considered by civil registration body not later than in three-month period from the day of submission of application. Upon valid reasons (failure to receive copies of civil registration records, to which changes should be made, etc.) the time period for consideration of the application for changing surname, name and (or) patronymic may be extended up to six months by head of provincial civil registration body, and in case of cities and districts of Republican subordination – by head of Republican civil registration body.

In case if the civil registration records, to which it is necessary to make changes in connection with the change of surname, name and (or) patronymic are lost, the state registration of the change of surname, name and (or) patronymic shall be performed only after restoration of civil registration records in the manner established by this Law for restoration of civil registration records. If there are discrepancies in the documents submitted together with the application for changing surname, name and (or) patronymic and in the received copies of civil registration records, such discrepancies shall be removed.

If the person wishing to change the surname, name and (or) patronymic has been refused in the state registration of the change of surname, name and (or) patronymic, the head of the civil registration body shall be obliged to report the reason of refusal in writing.

The civil registration body shall be obliged to report about state registration of the change of surname, name and (or) patronymic to internal affairs body and military registration and enlistment office at the place of residence of the applicant within 7 days of the day of the state registration of change of surname, name and (or) patronymic and send a notification to provincial, Republican archives of civil registration body in order to make corrections in the second copy of the civil registration of birth.

On the basis of the submitted documents and results of test the civil registration bodies at the place of residence of the applicant shall make a conclusion in the established manner about change of surname, name and patronymic or refusal in (changing) them in two copies. The decision on change of surname, name and patronymic shall be made by superior (provincial, Republican) civil registration body on the basis of the conclusion of the civil registration bodies at the place of residence.

Information about nationality of the person before changing the surname, name and (or) patronymic shall be included to the list of data entered to the civil record of change of surname, name and (or) patronymic.

On the basis of civil record of change of surname, name and (or) patronymic the changes shall be made to civil records that have been earlier drawn up in respect to the person that changed his surname, name and (or) patronymic, and new certificates of the state registration of acts of civil status shall be issued taking into consideration the changes made to the civil records.

In case of change of surname by parents and name by father, the surname, name and patronymic of the child under age of sixteen years shall be changed in the civil record of birth of the child.

*Making corrections, changes and additions to civil registration records*

The application for making corrections, changes and addition to a civil registration record shall be filed by interested persons to the civil registration body at the place of residence. If the civil registration record that needs to be corrected, changed or added is located in another civil registration office, then a notification on making changes or corrections, as well as necessary documents shall be sent to that civil registration office.

The applicant shall sign the application for making corrections and changes or additions to the civil registration record and indicate the date of its drawing up. At the same time with filing such application the certificate of state registration of the act of civil status that is subject to change in connection with introduction of corrections, changes or additions to the civil registration record, and documents supporting the availability of grounds for making correction, changes or additions to the civil registration record shall be submitted.

The application for making corrections, changes and additions to the civil registration record should be considered by the civil registration body within one-month period from the date of receipt of the application. Upon valid reasons (failure to receive copies of civil registration records, to which changes should be made, etc.) the time period for consideration of the application may be extended, but for not more than two months, by head of the civil registration body.

If the applicant is refused in making corrections, changes or additions to the civil registration record, the head of the civil registration body shall be obliged to report the reason for refusal in writing.

Introduction of corrections, changes or additions to the civil registration record shall be performed by civil registration body at the place of storing of the record subject to correction, change and addition. On the basis of corrections, changes and additions to the civil registration record the applicant shall be issued a new certificate of state registration of acts of civil status.

The head of the civil registration body shall be obliged to report about correction, change and addition made to the civil registration record to the provincial or Republican archives of the civil registration body and at the same time to internal affairs body and military registration and enlistment office at the place of residence of the applicant within three-day period of the day of introduction of such correction, change and addition.

*Restoration of civil registration records*

The application for restoration of a civil registration record according to approved form shall be filed to a district (city) civil registration body at the place of residence of the applicant. The application for restoration of civil registration records of nationals of the Republic of Tajikistan permanently residing abroad shall be submitted to consular offices of the Republic of Tajikistan in foreign states. The restoration of the civil registration records shall be performed by the civil registration body, where the corresponding record had been earlier available, at the requests of consular offices of the Republic of Tajikistan in foreign states.

## Provisions of other laws related to the civil registration

The Law of the Republic of Tajikistan **“On the Protection of Rights of the Child” (2015)** stipulates that a child from the birth shall have the right to a surname, name and patronymic, nationality and citizenship in the manner established by the legislation of the Republic of Tajikistan.

The Law of the Republic of Tajikistan **“On Responsibility of Parents for Education and Upbringing of Children” (2011)**, among other things, stipulates the following obligations of parents:

* to give a child a decent name in accordance with national values;
* after the birth of the child, within three month to make state registration of the act of civil status.

In cases, when the child is not covered with education and upbringing, and upon determination of circumstances threatening his life and health, the individuals and legal entities shall be obliged to notify relevant state bodies.

In cases of failure to fulfill or improper fulfillment of obligations on education and upbringing of children, provided for by this Law and other regulatory legal acts of the Republic of Tajikistan, the parents shall be held liable in accordance with the legislation of the Republic of Tajikistan.

**The Code of the Republic of Tajikistan on Administrative Offences (2008)** contains the following provision in Article 90:

“Failure to fulfill or improper fulfillment by parents or other lawful representatives of minors, as well as by persons engaged in the upbringing of a child on a contractual basis, of the obligations on maintaining, upbringing, education, protection of rights and interests, and in the absence of evidence of crime, shall entail a warning or imposition of a fine in the amount from three to five settlement indicators.”

The Constitutional Law of the Republic of Tajikistan **“On Local State Authorities” (2004)** stipulates that the heads of local structures of the central executive authorities in Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts financed from the Republican budget shall be appointed and dismissed from position by heads of the central executive authorities with written consent of the chairmen of Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts, and the adopted decisions shall be submitted for approval to relevant *Majlis* of People’s Deputies. The indicated provision shall not be applied to the appointment and dismissal of the heads of local law-enforcement and military bodies, as well as judges and prosecutors, in respect of whom the legislation of the Republic of Tajikistan has established other procedures for appointment and dismissal from position. The procedure for consideration of issues of appointment and dismissal from position of the head of local structures of the central executive authorities shall be determined by the Government of the Republic of Tajikistan.

The Law of the Republic of Tajikistan **“On Self-Governing Bodies of Settlements and Villages” (2009)** stipulates that the self-governing body of settlements and villages shall be *Jamoat,* which is elected by voters of settlements and villages, and addresses the issues of local importance within its powers. Certain state powers given to self-governing bodies of settlements and villages may include the registration of acts of civil status in accordance with the legislation, as well as issuing to citizens the documents confirming their place of residence, family and other status.

The delegation of certain state powers to self-governing bodies of settlements and villages shall be performed on the basis of regulatory legal acts and under the agreement of the parties with financing of these powers.

The chairperson of *Jamoat* in accordance with the legislation shall organize the registration of acts of civil status. *Jamoat* shall have its apparatus that is organized and managed by the chairperson of *Jamoat*. The provision on apparatus, structure and number of staff shall be approved by *Jamoat* upon proposal of the chairperson of *Jamoat*. The financing of the apparatus of *Jamoat* shall be provided within the limits provided by budget of the settlement and village.

The Law of the Republic of Tajikistan **“On Identification Documents” (2014)** stipulates that one of identification documents shall be a certificate of birth. The certificate of birth shall be issued on the basis of a civil registration record on the state registration of a birth of a child in accordance with the legislation of the Republic of Tajikistan. The certificate of birth shall be considered the identification document until receiving a passport of the national of the Republic of Tajikistan or a certificate of the stateless person. The certificate of birth shall be issued not later than 10 working days from the day of filing application.

The following records and notes related to the civil registration shall be entered in the passport of the national of the Republic of Tajikistan:

* on registration of marriage – by civil registration bodies and internal affairs bodies;
* on dissolution of marriage – by civil registration bodies in the passport of 1996 sample.

The identification documents shall be replaced in the following cases related to the civil registration:

* change of surname, name, patronymic, nationality, date and place of birth and other data;
* identification of inaccuracies, errors, falsification in the records of identification documents.

In case of change of surname, name, patronymic the identification documents shall be considered invalid and subject to return and destruction.

**The Law of the Republic of Tajikistan “On State Duty” (2004)** stipulates that the state duty shall be collected for the state registration of acts of civil status.

For performing actions related to registration of acts of civil status, the state duty shall be collected in the following amounts:

1) for conclusion of marriage, if at least one of the parties is a foreign national or a stateless person – in the amount equal to five settlement indicators;

2) for registration and issuance of a certificate of dissolution of marriage:

by mutual consent of spouses that have no common minor children – in the amount equal to one and half settlement indicators;

by court decision on the dissolution of marriage – in the amount equal to one settlement indicator;

with persons recognized in the established manner as missing or incapacitated as a result of mental illness or dementia, or with persons convicted for commission of a crime to imprisonment for the term not less than three years - in the amount equal to one settlement indicator;

3) for making conclusion and issuance of a certificate in connection with the change, addition and restoration of civil records of birth, conclusion of marriage, dissolution of marriage and death - in the amount equal to one settlement indicator;

4) for issuance of duplicative certificates of civil registration - in the amount equal to one settlement indicator;

5) for issuance of a certificate of change of name, patronymic and surname - in the amount equal to one settlement indicator.

The following shall be exempted from payment of the state duty in the bodies performing state registration of acts of civil status:

1) education, trusteeship and guardianship bodies, commissions for juvenile affairs – for the issuance of duplicative certificate of birth for referring orphan children and children without parental care to baby homes and boarding schools, as well as certificates of death of parents of these children;

2) citizens – for the state registration and issuance of relevant certificates of birth (including registration of birth of child, when the time period has been missed (restoration), death, conclusion of marriage (with the exception of foreign nationals and stateless persons), adoption, establishment of paternity;

3) citizens – for issuing to them archival references on state registration of acts of civil status required for submission to social protection bodies for awarding or recalculation of pensions or allowances;

4) citizens — for issuing to them duplicative certificates or replacement of the issued certificates of death of rehabilitated relatives.

The state duty shall be paid:

* for the state registration of acts of civil status, for making corrections and changes to civil registration records – when submitting the relevant applications;
* for the issuance of duplicative certificates and statements – when they are issued;
* for the state registration of dissolution of marriage by mutual consent of spouses that have no common minor children, - when registering the act.

## By-laws and regulations regulating the activities on registration of acts of civil status

According to the Decree of the Government of the Republic of Tajikistan **“On Measures for the Transfer of the Civil Registration Bodies to Subordination of the Ministry of Justice of the Republic of Tajikistan” (2011)**, as of January 1, 2012 the civil registration bodies were transferred from the subordination of local executive authorities to the subordination of the Ministry of Justice of the Republic of Tajikistan.

According to the **Regulations on Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan (2006)**, approved by Decree of the Government of the Republic of Tajikistan, the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan (hereinafter – the Department) is a state body controlling and coordinating the activities of the civil registration bodies. The Department is subordinated to the Ministry of Justice of the Republic of Tajikistan. The Department is a legal entity.

The main tasks of the Department are:

* ensuring timely, full and accurate state registration of acts of civil status;
* improvement of the activities of the civil registration bodies;
* all possible assistance in the regulation of new ceremonies and rituals at the state registration of acts of civil status, including at the state registration of birth and marriage;
* performing control over activities of the civil registration bodies in the performance of their actions related to the state registration of acts of civil status;
* coordination of activities of the civil registration bodies in the fulfillment of functions assigned to them by the legislation of the Republic of Tajikistan.

In accordance with the tasks assigned to it the Department:

1. assures overall management of the work of the civil registration bodies of the Republic of Tajikistan;
2. takes measures on improvement of activities of the civil registration bodies of the Republic of Tajikistan, inspects their work and provides guidance to them for improvement;
3. ensures strict compliance with the established procedure and time periods of the state registration of acts of civil status on the whole territory of the Republic of Tajikistan;
4. performs regular control over the work of the civil registration bodies of the Republic of Tajikistan on condition of civil registration records and issuance of certificates, as well as correctness of collection of state duties when issuing them;
5. checks the accuracy of civil status records received from civil registration bodies, and ensures the timely correction of the mistakes detected in them;
6. provides its opinion on the annulment of restored or re-drawn acts of civil status;
7. considers in the established procedure the requests of citizens of the Republic of Tajikistan for change of surname, name and patronymic;
8. organizes the storage and development of second copies of civil status records in the archive of the Department, as well as in archives of the civil registration bodies, performs control over the work of these archives;
9. performs control of proper storage of the first copies of civil status records in the archives of the civil registration bodies;
10. draws up and maintains the Republican card index on all types of civil status records;
11. ensures the timely submission of statistical reports by the civil registration bodies, studies the statistical data;
12. makes orders in the established procedure for the production of forms of registration records of acts of civil status, certificates and other documentation needed for the state registration of acts of civil status, and supplies the civil registration bodies with them;
13. summarizes and disseminates positive working experience of the civil registration bodies, takes measures for advanced training of their staff;
14. carries out activities to improve the culture of service provision to the population by the civil registration bodies;
15. carries out explanatory work among population on the procedure and time periods of the state registration of acts of civil status.

The Department summarizes the practice of application of the legislation on registration of acts of civil status and makes suggestions in the established procedure on its improvement.

The standard **Regulations of the Civil Registration Sector of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan (2015)**, approved by the Order of the Minister of Justice, determines the status, subordination, obligations, rights, functions of the civil registration sector, procedure for submission of reports, responsibility of staff.

**The Programme for Development of the Civil Registration Bodies in the Republic of Tajikistan for 2014-2019 (2014)**, approved by Decree of the Government of the Republic of Tajikistan, defines main directions of development of the civil registration sector in the Republic of Tajikistan, as well as the goals, objectives and paths to reform the civil registration sector for the period up to 2019.

The main objectives of the Programme are:

* organization of the Single Electronic System for registration of acts of civil status;
* ensuring of sustainable and targeted development of the sector, creation of legal, social-economic, financial and organizational conditions, which are essential for effective functioning of civil registration bodies of the Republic of Tajikistan and improvement of quality of services rendered by civil registration bodies;
* introduction of mechanisms for monitoring of the activities of the civil registration bodies;
* introduction of new information and innovative technologies and simplified procedures, accessible to all users of services of the civil registration bodies.

The Programme stipulates the fulfillment of the following tasks:

1. implementation of a “single window” mechanism in cities and districts – on the basis of civil registration offices and divisions, organization of a single point of reception, registration, record and timely issuance of documents to citizens, organizations and agencies;
2. regulation and standardization of services of the civil registration sector, development of minimal requirements on its quality provision (time periods, cost and level of service provision);
3. preparation of materials related to the civil registration in electronic form, development and analysis of information in order to create the Single Electronic System for registration of acts of civil status;
4. reduction of the number of mandatory documents and operations, saving time and funds of customers for respect (protection) and ensuring of rights and freedoms of citizens, reduction of direct contact of customers with officials of the sector through the mutually effective inter-agency cooperation when receiving necessary information and corresponding records management, including through internet;
5. improvement of legal support for activities of the civil registration bodies and bringing them in line with modern requirements;
6. satisfaction of needs of users of services of the civil registration bodies and bringing the necessary quality level of service provision in line with international standards;
7. consolidation and strengthening of material and technical framework and technical re-equipment of the civil registration bodies;
8. improvement of financing and control system in the civil registration bodies and increase the volume of attraction of external investments for development of the sector;
9. conducting sociological studies taking into account the need to address important issues of the sector related to its targeted development;
10. improvement of a management structure of the civil registration sector;
11. conducting design works for beginning of construction of necessary premises for civil registration offices and divisions in cities and districts of the Republic;
12. supplying the Department of Civil Status Acts, civil registration offices and divisions and archives of the civil registration offices and divisions with premises, technical and other necessary working equipment;
13. supplying the civil registration offices and divisions with banking terminals in cities, districts of the Republic and *jamoats* of settlements and villages;
14. organization of retraining courses for staff of the civil registration bodies on the basis of the Institute of Professional Development of the Personnel of Law Enforcement, Justice and Legal Services of Enterprises, Institutions and Organizations of the Ministry of Justice of the Republic of Tajikistan, conducting attestation of staff, improvement of theoretical knowledge and working skills of specialists of the sector;
15. dissemination of best practices of the civil registration offices and divisions related to new forms and methods of the state registration of acts of civil status;
16. preparation and publication of instructions on separate directions of performance of civil registration operations for the implementation of the Family Code of the Republic of Tajikistan, the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status”;
17. preparation and publication of brochures and booklets for the implementation of the Laws of the Republic of Tajikistan “On Responsibility of Parents for Education and Upbringing of Children”, “On Regulation of Traditions, Festivities and Rituals in the Republic of Tajikistan”;
18. with the aim of improving legal education of staff of the sector to regularly conduct round tables, seminars, training courses, regional and Republican conferences.

The Programme envisages the expansion and transformation of the Department of Civil Status Acts of the Ministry of Justice into the Main Department.

According to the Programme, taking into account the fact that the registration of four types of acts of civil status is performed by *jamoats* of settlements and villages, and at the same time this structure also performs 3 types of notarial actions in accordance with the Law of the Republic of Tajikistan “On State Notary Service”, there is a need to introduce to the structure of *jamoat* the person responsible for this area of work using the existing staff units. Since the secretaries of *jamoats* performing the civil registration activities are changed frequently, and this affects the quality of work of the sector, the employee of this structure should be recruited on competitive basis and should report to the Ministry of Justice.

Monitoring of the implementation of the State Programme for Development of Civil Registration Sector of the Republic of Tajikistan is performed by the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan.

The Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan:

* coordinates the process of implementation of the Programme;
* annually makes suggestions on financing priority areas of the sector taking into consideration its actual condition;
* every six months provides information on progress in implementation of the Programme to the Ministry of Justice of the Republic of Tajikistan.

Implementation of the Programme is divided into 3 phases (2014-2015, 2016-2017 and 2018-2019). The expenditure envisaged by the Programme for 2014-2019 is determined on the basis of developed annual Action Plans. The Action Plans for 2015 and 2016 were approved by Decrees of the Government of the Republic of Tajikistan. The Action Plan for 2014 had not been approved.

In the framework of the **Programme for Development of Justice System for 2015-2020 (2015)**, approved by Decree of the Government of the Republic of Tajikistan, the Ministry of Justice suggested to introduce the staff position of a “lawyer” in *jamoats* of settlements and villages, and to appoint them in agreement with the Ministry of Justice.

This Programme outlines that with the aim of development of justice bodies and improvement of areas of activities of the Department of Legal Assistance to Citizens and Legal Works of the Ministry of Justice it is necessary to transform it into the Main Department of Legal Assistance to Citizens and Legal Works and create a Department for Work with State Notarial System, the Bar and Legal Education of Citizens and Department for Work with Civil registration bodies.

**The Programme for Legal Education of Citizens of the Republic of Tajikistan for 2009-2019,** approved by Decree of the Government of the Republic of Tajikistan among its objectives includes organization and conducting of meetings with population with the aim of providing legal information to population by the civil registration bodies of the Republic of Tajikistan on the basis of a plan of activities, established by local executive authorities. It will be achieved through direct participation of staff of the civil registration bodies in leading legal awareness raising activities, conducting meetings and interviews with population on regular basis.

**The Procedure for Additional Paid Services to Individuals and Legal Entities in the Civil Registration Bodies of the Ministry of Justice of the Republic of Tajikistan and Other Authorized Bodies (2015)**, approved by Decree of the Government of the Republic of Tajikistan, establishes the amount of payment for additional paid services:

1. For blank form of the sample applications of acts of civil status: 5% of settlement indicator;
2. For filling in the application for registration of acts of civil status: 5% of settlement indicator;
3. For drawing up documents on registration of birth of children above 16: 25% of settlement indicator;
4. For the organization and conducting the state registration of conclusion of marriage in a festive atmosphere:

- in the premises of the civil registration body: 50% of settlement indicator;

- outside the premises of the civil registration body (restaurant, residence house, etc.) 1 settlement indicator;

1. For the organization and conducting the state registration of conclusion of marriage in health institutions or detention facilities: 50% of settlement indicator;
2. For the organization and conducting the marriage ceremony of national of the Republic of Tajikistan with foreign nationals and stateless persons: 3 settlement indicators;
3. For changing the time period of the state registration of marriage for a valid reason: 50% of settlement indicator;
4. For rendering marriage services:

- photographer: 50% of settlement indicator;

- music: 50% of settlement indicator;

1. For registration of dissolution of marriage:

- on the basis of joint application of spouses: 50% of settlement indicator;

- on the basis of a court decision: 30% of settlement indicator;

1. For drawing up documents on dissolution of marriage of nationals of the Republic of Tajikistan with foreign nationals and stateless persons: 3 settlement indicators;
2. For drawing up documents for registration of establishment of paternity of a child above 1 years old: 5% of settlement indicator;
3. For registration of documents on introduction of changes and additions to civil status records and change of surname, name and patronymic: 30% of settlement indicator;
4. Issuance of all types of references on registration of acts of civil status: 25% of settlement indicator;
5. Filling in duplicative certificates: 25% of settlement indicator;
6. Search of documents on the basis of archival books: 25% of settlement indicator;
7. Photocopy of all types of civil status documents and other documents (1 page): 5% of settlement indicator;
8. Computer typing (1 page) 2.5% of settlement indicator.

In spite of the fact that the Procedure outlines that provision of services to individuals and legal entities is performed on voluntary basis, some services (for example, issuance of the blank form of sample application) are actually mandatory.

The procedure for conducting mandatory medical examination of the persons entering into marriage is regulated by the **Rules for Conducting Mandatory Medical Examination of the Persons Entering into Marriage,** approved by Decree of the Government of the Republic of Tajikistan #374, of August 23, 2016.

The aim of the mandatory medical examination of the persons entering into marriage, which is conducted free of charge, is ensuring their constitutional rights to life and health, creation of conditions for the establishment of a healthy family, prevention of birth of persons disabled from childhood with congenital defects of development and hereditary diseases.

The civil registration bodies of the Ministry of Justice of the Republic of Tajikistan accept applications for conclusion of marriage only in the case of availability of the certificate supporting the fact of passing medical examination by each person entering into marriage.

In the case of detection by specialized doctor of infection with communicable form of tuberculosis, hepatitis “B” “C”, mental illnesses and drug addiction, the examined person is sent for treatment up to the level that does not pose a threat to the life and health of the other person entering into marriage. After passing treatment, a re-examination is conducted and an opinion of the specialized doctor about the absence of contraindications is issued. The number of re-examinations is not limited.

The family doctor issues a certificate on passing the mandatory medical examination, certified by signature and personal stamp of the doctor on the institutional form of the health institution, to each person entering into marriage at the place of residence or temporary living.

Introduction of the persons entering into marriage with the results of mandatory medical examination is carried out by family doctor and is certified by signature of the persons entering into marriage on the certificate of passing the mandatory medical examination.

**The Consular Statute of the Republic of Tajikistan (1998),** approved by Decree of the Government of the Republic of Tajikistan stipulates that the Instruction on the Procedure for Civil Registration by Consular Officer is approved by the Ministry of Justice of the Republic of Tajikistan and Ministry of Foreign Affairs of the Republic of Tajikistan. However, the mentioned Instruction is lacking.

**The Procedure for Appointment and Dismissal of Heads of Local Structures of the Central Executive Authorities (2014)**, approved by Decree of the Government of the Republic of Tajikistan, stipulates that the heads of local structures of the central executive authorities financed at the expense of the Republican budget, are appointed accordingly by heads of the mentioned bodies with written consent of chairmen of Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts, and the decision on their appointment is submitted for approval to the relevant *Majlis* of People’s Deputies.

The effect of this Procedure does not apply to the procedure of appointment and dismissal of heads of local structures of law enforcement bodies, military structures, anti-corruption bodies, judges, prosecutors, department of corrections, court executors, notary offices, tax and customs bodies.

**The Rules for Issuing a Passport of a Citizen of the Republic of Tajikistan (2014)**, approved by Decree of the Government of the Republic of Tajikistan stipulates that all citizens of the Republic of Tajikistan, who have reached the age of 16, shall be obliged to have a passport. When receiving passport for the first time the passport is issued on the basis of a birth certificate (for the citizens, who have reached the age of 16), passport of parents and their copies. The passport is registered in accordance with the data indicated in the official language in the certificates of registration of acts of civil status, passport of 1996 sample, passport of the citizen of USSR of 1974 sample.

The following are among the reasons, on the basis of which the passport is issued and replaced:

* change, correction, addition, restoration of personal data (change of surname, name, patronymic, date and place of birth and other data) in accordance with the established procedure;
* identification of inaccuracies, mistakes, falsification in the records of documents.

The passports of deceased citizens of the Republic of Tajikistan are submitted to the bodies performing the state registration of acts of civil status in the Republic of Tajikistan that send them, after registration of the fact of death, to territorial subdivisions of the Ministry of Internal Affairs of the Republic of Tajikistan. The passports of the citizens, who died abroad, are submitted to diplomatic missions or consular offices of the Republic of Tajikistan for further sending them to the Ministry of Internal Affairs of the Republic of Tajikistan.

**The Concept for Formation of Electronic Government in the Republic of Tajikistan (2011)** approved by Decree of the Government of the Republic of Tajikistan sets the following main goals of formation of electronic government in the Republic of Tajikistan:

* improving the efficiency of activities of the executive state authorities and public administration through wide use of ICT;
* improving the quality and accessibility of public services provided to citizens and organizations;
* simplification of procedures and reduction of time periods of provision of public services, as well as reduction of administrative costs related to provision of these services;
* increase the availability of information on activities of the executive state authorities;
* formation of a single information sharing system using electronic information resources and regular connection with system and limited network for record of all users;
* provision of economic incentives for use of internet and modern information technologies.

Until 2010, the civil registration bodies of the Republic of Tajikistan were guided by **Instruction on the Procedure for Registration of Acts of Civil Status in the Tajik Soviet Socialist Republic (1970)**. This Instruction was terminated by the Decree of the Government of the Republic of Tajikistan of February 27, 2010.

# II. PROBLEMATIC ASPECTS OF REGULATION OF REGISTRATION OF ACTS OF CIVIL STATUS IN THE REPUBLIC OF TAJIKISTAN

*Systemic issues*

The main problem of the civil registration system in the Republic of Tajikistan in terms of production of data for needs of the state and implementation of human rights is incomplete coverage of registration of birth and death.

Based on results of the Demographic and Health Survey conducted in 2012[[1]](#footnote-1), 18% of children under 5 years old had no birth certificate. At the same time, the number of girls having no certificate was higher by 2% in comparison with boys. The highest percentages of lack of certificates were observed in the Districts of Republican Subordination (DRS) – 23.1% and in Khatlon province – 21.9%. This situation hinders the implementation of child’s rights.

An important problem is declining indicators on registration of marriages. Thus, in 2015 in comparison to 2014 the number of registered marriages fell by 20 percent (from 95 478 to 77 020). The trend to decline is continuing – for 9 months of 2016 in comparison with the similar period of 2015 the number of registered marriages has fallen by 7 percent (from 53 005 to 49 389). As a result of collection of expert information it is possible to make an assumption that not all persons who got married by religious rites register their marriage in the state civil registration bodies, thus creating a risk for weaker party (women and children) in case of a divorce, however, the exact scale of this problem is not known and needs to be analyzed.

The systemic problem from the perspective of service receivers is the lack of general orientation for provision of quality and convenient services to service users when regulating, planning and providing public services in the field of registration of acts of civil status.

As a result of lack of Instruction detailing the provision of the Law “On State Registration of Acts of Civil Status” there is a difference in practice of application of the legislation on civil registration by different sectors of the civil registration bodies and *jamoats*. This creates inconveniences for the civil registration bodies, as well as for service receivers, who are required to submit information and references not specified in the legislation.

The main organizational problem is the lack of a single electronic database and electronic registration of acts of civil status. As a result of this situation, there is no opportunity to effectively check the civil status of applicants, and the burden of submitting of all sorts of evidences falls primarily on the applicant.

The results of the Questionnaire for staff of civil registration bodies and *jamoats* responsible for registration of acts of civil status are provided in Annex #3.

Further are outlined the specific problematic aspects of regulation of registration of acts of civil status in the Republic of Tajikistan.

Currently there is no single database (neither in electronic, nor in paper-based version) on civil registration in the Republic of Tajikistan. This situation creates difficulties in the activity of the civil registration bodies, contributes to emergence of inaccuracies in the civil registration, abuse and misuse by dishonest applicants, risk of corruption. Due to lack of the single database, the applicants need to submit a lot of references and statements from different organizations as a confirmation of application, when often these organizations are located in a long distance from a place of residence of the applicant.

The Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” (hereinafter referred to as “the Law”) has no provision that guarantees the right and equal access of citizens of the Republic of Tajikistan, foreign citizens, stateless persons and refugees to state civil registration.

The Law does not emphasize the obligatoriness and immediateness of the state registration of vital events.

One of the main problems of the system of state civil registration in the Republic of Tajikistan is incomplete and inadequate coverage of registration, including birth registration and state registration of marriages. Provision of incentives to and informing population should play an important role in addressing this problem.

The state does not have data on civil registration of nationals of the Republic of Tajikistan residing abroad, who have registered vital events in the civil registration bodies of the country of residence.

Currently, the registration of birth in the Republic of Tajikistan is not free. The applicant should pay for the application form and for services of civil registration body. In many cases, an additional service on filling in the application form is provided at civil registration body, which is paid by applicant. Moreover, there are cases in practice, when informal illegal payment is demanded for performing registration of birth. This creates an additional serious obstacle in achieving the goal of universal coverage of births with registration.

The Law does not stipulate the time periods of state registration and issuance of certificates on all types of civil registration. This creates uncertainty for applicants, as well as creates a risk of corruption.

When registering some acts of civil status, the Law establishes the obligation to specify redundant information, for example, data on last place of work, education, nationality of the deceased are entered to death record; information about nationality, position and place of work, education of each of persons entering into a marriage is entered to the marriage record (the same data are entered to marriage dissolution record); information about nationality, position, place of work of the person that is recognized as the father of the child, as well as position, place of work and nationality of the mother of the child is entered to the record on the establishment of paternity. The reasonability of collection of these data is doubtful; this practice is not applied in the countries that have progressed in the path of reforming the civil registration system (in Russia, Kazakhstan, Georgia, Moldova and Lithuania).

Collection of statistical information is an important objective of state civil registration in any country. The collection of statistical information is not specified as one of the objectives of state civil registration in the Law.

*Problematic aspects of the legislation at the level of code*

Article 1, Part 3 of the Family Code of the Republic of Tajikistan states that the marriage concluded only in state civil registration bodies shall be recognized. The marriage concluded by religious rites has no legal bearing. In practice, there are many cases, when the marriage is concluded only by religious rites and not concluded in the state civil registration bodies. In such cases, when divorcing the weaker party (usually a woman) remains legally not protected.

Article 13 of the Family Code of the Republic of Tajikistan indicates that the court, in exceptional cases, has the right to reduce the age of marriage from 18 to 17 by request of the persons that want to enter into a marriage. The Code does not specify exhaustive list of exceptional cases, when the court has the right to reduce the age of marriage, thereby leaving the solution of this issue at the discretion of the court. Early marriages are a serious obstacle to education and employment of women, in this connection it is necessary to introduce the exhaustive list of exceptional cases to the Family Code of the Republic of Tajikistan, when it is possible to reduce the age of marriage.

Article 15 of the Family Code provides for mandatory medical examination of persons entering into marriage. This creates an additional obstacle for conclusion of marriage, including due to practical difficulties (the remoteness of some settlements from health institutions), thus significantly complicating the right to conclusion of marriage.

According to Article 25, Part 2 of the Family Code, the dissolution of marriage in the court shall be subject to registration in civil registration bodies within one year after entry of the court decision into force in the manner established for civil registration, while in the case of dissolution of marriage in the court, the marriage shall be terminated on the date of entry of the court decision into force.

*Problematic aspects of the legislation at the level of law*

The Law stipulates that eight types of vital events shall be subject to state registration in the Republic of Tajikistan: birth, death, conclusion of marriage, dissolution of marriage, adoption, establishment of paternity, change of surname, name and patronymic, restoration and annulment of civil status records. In some countries that have progressed in the path of reforming the civil registration system (for example, in Moldova, in Lithuania), for the convenience of applicant and staff of the civil registration bodies a part of vital events are not registered by separate record. For example, the registration of adoption and establishment of paternity is made through making changes to records of other acts of civil status.

In accordance with Part 3 of the Law of the Republic of Tajikistan “On Identification Documents”, the identification documents used within the country are issued by authorized public bodies in Cyrillic alphabet (in Tajik and Russian languages). The identification documents used in the Republic of Tajikistan and abroad are issued in accordance with the requirements of international legal documents recognized by the Republic of Tajikistan, in Cyrillic letters (in Tajik language) and Latin letters (in English language). This does not correspond to provisions of Article 4, Part 5 of the Law “On State Registration of Acts of Civil Status” that records management in the civil registration bodies shall be performed in the official language of the Republic of Tajikistan.

In order to improve the quality of provided services on state civil registration, among other measures, it is necessary to increase the degree of personal responsibility of the head of a relevant civil registration body.

Article 4 (1) (Part 2) of the Law establishes that for the position of a head of civil registration body shall be appointed a citizen of the Republic of Tajikistan having a higher legal education and professional experience of not less than three years. The working experience at civil registration bodies is not required and it may lead to situation, where managers lack the knowledge and skills on civil registration.

In accordance with Article 20 Note 1 of the Constitutional Law of the Republic of Tajikistan “On Local State Authorities” the heads of local structures of the central executive authorities in Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts financed from the national budget, are appointed and dismissed by heads of the central executive authorities with written consent of chairmen of Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts, and the decisions taken are submitted for approval to relevant *Majlis* of People’s Deputies. Thus, the Minister of Justice does not have the right to appoint/dismiss the head of a civil registration body independently without consent of the head of local executive authorities.

In practice, the Chairmen of local executive authorities propose candidates that do not meet the requirements of legislative and other regulatory legal acts of the country. In this case, the Ministry of Justice does not support the proposed candidate. As a rule, if the Minister of Justice proposes his own candidate to this position, the candidate accordingly will not receive the consent of the Chairman of the local authority. Such situation may also negatively affect the activities of the civil registration body.

There are only two Marriage Registration Houses in Tajikistan, in Dushanbe and Khujand cities. There is no Marriage Palace, but Marriage Palaces are referred to in Article 6, Part 1 of the Law, as well as in Article 36, Part 6 of the Law.

There are 430 local self-governing bodies (*jamoats* of settlements and villages); in 405 *jamoats* out of this number, the civil registration (birth, death, conclusion of marriage and establishment of paternity) is performed by secretaries of *jamoats*. The registration is not the only obligation of secretaries of *jamoats*; therefore, there are delays in provision of services. Moreover, the secretaries do not have legal knowledge and it has a negative effect on quality of operations conducted.

It is necessary to improve the reporting mechanism to the competent authorities of foreign states, with which the Republic of Tajikistan has concluded an agreement on legal assistance and legal relations, on civil and family affairs, about state civil registration of citizens of these states.

The Law (Article 8) provides for powers of consular institutions on state civil registration outside the territory of Tajikistan. At the same time, it is necessary to mention that the consular institutions do not submit relevant reports on state civil registration and other actions performed in accordance with this Article.

The last paragraph of Article 8 of the Law (“perform other powers related to state civil registration”) stipulates broad interpretation that is not a clear definition of functions, creates ambiguity and prerequisites to corruption.

Bodies of different subordination, including *jamoats* and consular institutions of the system of the Ministry of Foreign Affairs participate in the process of state civil registration. With the aim of increasing the efficiency of control and supervision over execution of the state civil registration, it is necessary to specify the main aims and objectives of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan in the Law.

The Law does not stipulate that the forms of certificates are forms of strict reporting, though it is outlined in the by-laws. The practice shows that the forms of records of civil status registration are not produced centrally in a single center. This leads to shortage of the forms in the field, their production at the expense of own funds, mistakes and inaccuracies in the produced forms.

Article 11 of the Law states that “In the case of loss of a certificate on state civil registration, as well as its spoiling, the duplicative certificates on state civil registration shall be issued by civil registration offices of a district, city and in the exceptional cases by provincial and Republican archives of the civil registration body”. The list of exceptional cases is not provided and it creates ambiguity and prerequisites to corruption.

The provisions of the Law do not clearly determine in what cases the duplicative certificates on registration of acts of civil status should be issued.

Article 13 of the Law states that refusal in state civil registration shall be allowed in the cases, if the submitted documents do not meet the requirements imposed on them by this Law and other regulatory legal acts. At the same time, the referred list of other regulatory legal acts is not attached. This creates inconveniences for applicants, as in practice different documents are required, the list of which is not clear in advance. Such a situation also creates a risk of corruption.

Article 13 of the Law states that “by demand of a person (his representative), who was refused in state civil registration, the head of the civil registration body shall be obliged to inform this person (his representative) about the reasons for refusal in writing”. In practice, the obligatoriness of the demand complicates the receipt of reasons of the refusal in writing and, accordingly, the possibility of appeal.

The place of birth registration is a civil registration body at the place of residence of parents. This procedure does not take into account the realities of the society of the Republic of Tajikistan, in particular, the gaps in registration of birth and widespread internal migration of population (from villages to cities).

The Law does not clearly specify the responsibility of staff of the civil registration bodies for disclosure of confidential information in connection with the state civil registration.

Application about birth may be filed by following persons (Article 18 of the Law): parents of the child (one of parents); relative of one of parents or another authorized person of parents (of one of parents); body of trusteeship or guardianship; official of medical organization, where the child was born, or official of other organization, where the mother was during delivery or where the child is in.

Home deliveries are quite widespread practice in the Republic of Tajikistan. The results of Demographic and Health Survey conducted in the Republic of Tajikistan in 2012 showed that 23% out of total number of deliveries were home deliveries.[[2]](#footnote-2) Thus in order to record all cases of birth it is necessary to stipulate a provision in the Law of the Republic of Tajikistan, according to which the family doctors and medical nurses of rural health centers may have the right to make application about birth, if they revealed the fact of birth in the course of observation of pregnant women or visiting newborns, even if the pregnant woman was not observed by the doctor before the delivery and health workers were not present during delivery. They, in case of lack of state registration of birth, may file application to civil registration bodies about birth. At the same time, the civil registration bodies should have the power to travel to a place of residence of a newborn with the aim of birth registration.

Article 19 of the Law regulates the procedure for entering information on parents to civil registration of the birth of child. In contrast to common practice of other countries, the Law does not provide for opportunity, at the mother’s desire, not to enter information about the father of the child.

Article 26 (Part 2) of the Law states that “at the request of an applicant, he shall be also issued a statement about birth in order to receive an allowance in connection with birth of the child”. In practice, the obligatoriness of the request of the applicant creates difficulties upon receiving the allowance.

Article 35 of the Law provides that if one of the parties entering into marriage is a foreign citizen or stateless person, it is strictly mandatory to provide a document confirming his residence on the territory of the Republic of Tajikistan in the course of not less than one last year, and conclusion of a marriage contract. These requirements pose great difficulties for foreigners, especially for citizens of neighbouring countries, and do not contribute to the expansion of state registration of marriage. Such requirements are not applied in other countries that have progressed in the path of reforming the civil registration system.

Obligations of the civil registration bodies are strictly limited by formal procedures related to documentation. Other countries, for example, Ukraine, Lithuania went through different path, and, in addition to official registration of marriage, they set obligations on civil registration bodies to introduce the persons, who submitted applications for marriage registration, with their rights and obligations as future spouses and parents and warn them about liability for concealment of impediments to registration of marriage. Owing to importance of the state registration of marriage, as well as low awareness of citizens of the Republic of Tajikistan about their rights and obligations, including in marriage, such practice may serve as a good example for the Republic of Tajikistan too.

Article 36 of the Law stipulates that the time period for consideration of an application for registration of marriage is one month and may be reduced at the discretion of civil registration bodies or *jamoats*. However, the legislation does not provide for grounds, according to which the civil registration bodies or *jamoats* may change the time period towards its reduction, and also does not stipulate for what period the civil registration body has the right to reduce the time period for consideration of the application.

The Law lacks some provisions on inter-agency and intra-agency exchange of information on state civil registration.

One of the grounds for state registration of dissolution of marriage is indicated in Article 40, Part 3 of the Law, which is: “a standard document on death of one of spouses or court decision on the recognition of one of them dead”. However, in this case the marriage is terminated without the need in registration of the dissolution of marriage.

Article 45 of the Law stipulates that in case of marriage dissolution, the spouse, who has changed surname upon entering into a marriage, may keep this surname upon consent of another spouse. It is necessary to introduce amendments to this article. The husband or wife, who changed surname, may keep it without the need to ask for the consent of another party due to the fact that children may also use the same surname, and also such changes would require, on part of the husband or wife, additional costs and time for changing all other identification documents.

Chapter 8 of the Law regulates the state registration of change of name, patronymic and surname. Unlike other countries that have progressed in the path of reforming civil registration system, the Law of the Republic of Tajikistan does not provide for list of the valid reasons that would constitute the ground for change of name, patronymic and surname. In practice, there are cases, when the name and surname are often changed with the aim of evading restrictions on labour migration.

In spite of detailed regulation of the procedure of establishment of paternity in civil registration bodies, the Law does not provide for time periods for the procedure of state registration of the establishment of paternity in the civil registration bodies and by court decision, and issuance of a certificate on establishment of paternity.

Article 69 of the Law providing for the procedure for the state registration of change of surname, name and patronymic states that “upon valid reasons (failure to obtain a copy of civil status records, where it is necessary to enter changes, etc.) the time period for consideration of the application on changing surname, name and (or) patronymic may be extended to six months”. The lack of exhaustive list of valid reasons creates a risk of corruption.

Article 72, Part 3 of the Law states that in the case of changing surname by parents and name by the father, the surname, name and patronymic of the child that did not reach the age of sixteen shall be changed in the civil record of birth of the child. However, there is no need for changing the name of the child.

Article 80, Part 2 of the Law states that the conclusion of city (district) civil registration body on restoration of the civil registration record or on refusal in this shall be subject to approval by order of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan, civil registration offices of Gorno-Badakhshan Autonomous Province, provinces and Dushanbe city. The civil registration office of Dushanbe city is also mentioned in the same context in Part 3 of Article 80 of the Law. These provisions do not meet the reality, as there is no civil registration office of Dushanbe city.

Article 86 of the Law establishing liability for violation of the requirements of this Law does not in any way regulate the liability of citizens of the Republic of Tajikistan, foreign citizens and stateless persons.

*Problematic aspects related to the implementation of provisions of the Law at the level of by-law*

There are regulatory acts at by-law level in the countries that have progressed in the path of reforming the civil registration system that provide details of the procedure for state civil registration established at the level of law. Lack of such document in the Republic of Tajikistan leads to different interpretation of provisions of the Law and different practices in the state civil registration bodies. This has a negative effect on quality of services provided to population, as well as creates a risk of corruption.

Article 42 of the Consular Statute of the Republic of Tajikistan approved by Decree of the Government of the Republic of Tajikistan stipulates the adoption of an Instruction on Procedure for Civil Registration by Consular Officer to be approved by Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan, but this Instruction is lacking.

In practice, there is uncertainty how to implement the provision of the Law (Article 20, Part 3), according to which the surname of the child during state registration of the birth is written according to the surname formed from the name of the father. There is a need to clarify this provision.

By Decree of the Government of the Republic of Tajikistan #430 of July 02, 2015 there was approved the Procedure for Provision of Additional Paid Services to Individuals and Legal Entities in the Civil Registration Bodies of the Ministry of Justice and other authorized entities. This regulatory legal act stipulates that the funds received for provision of services will be directed for provision of incentives to staff and development of material and technical framework of the civil registration bodies of the Republic of Tajikistan and other authorized entities. At the same time there is no provision stipulating what part of these funds are directed to maintenance of material and technical framework of other authorized bodies.

# III. RECOMMENDATIONS FOR IMPROVEMENT OF THE LEGISLATION ON STATE REGISTRATION OF ACTS OF CIVIL STATUS IN THE REPUBLIC OF TAJIKISTAN

| **#** | **Problem** | **Recommendation for addressing the problem** |
| --- | --- | --- |
| *Systemic issues* | | |
|  | Currently there is no single database (neither in electronic, nor in paper-based version) on civil registration in the Republic of Tajikistan. This situation creates difficulties in the activity of the civil registration bodies, contributes to emergence of inaccuracies in the civil registration, abuse and misuse by dishonest applicants, risk of corruption. Due to the lack of a single database, the applicants need to submit a lot of references and statements from different organizations as a confirmation of application, when often these organizations are located in a long distance from a place of residence of the applicant. | We propose to establish a single electronic database on civil registration. We suggest introducing a provision that during registration of birth it is necessary to assign a personal identification number, which will be entered to the electronic database and identify the person when registering all vital events. |
|  | One of the main problems of the civil registration system in the Republic of Tajikistan in terms of production of data for needs of the state is incomplete coverage of registration of birth. | 1. Consider the possibility of involving the staff of the health institution, where the child was born, in filing application about birth of the child and its transfer to the civil registration body (following the example of Georgia). 2. Consider the possibility of registration of birth by civil registration body directly in the premises of the health institutions, where the child was born (following the example of Moldova). 3. Consider the possibility for the health institution to send a preliminary notice about birth of a child to the civil registration body, which in case of delay with registration of birth informs the local authorities about birth with the aim of leading active search of parents for registration of the birth of the child (following the example of Moldova). 4. Determine that in the case of lack of identification documents of parents at the time of state registration of birth the information about the parents is filled according to certificate of marriage or civil record of conclusion of marriage by entering the relevant note to the civil record of the birth (following the example of Kazakhstan, Moldova and Lithuania). |
|  | The Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” (hereinafter referred to as “the Law”) has no provision that grants the right and equal access of citizens of the Republic of Tajikistan, foreign citizens, stateless persons and refugees to state civil registration. | Introduce Article21 “The Right to Civil Registration” to the Law as follows: “Citizens of the Republic of Tajikistan, foreign citizens, stateless persons that are in the territory of the Republic of Tajikistan and refugees that have received an official status in accordance with the legislation of the Republic of Tajikistan shall have the right to registration of vital events in the civil registration bodies of the Republic of Tajikistan in the cases and grounds, provided for by legislation of the Republic of Tajikistan on state civil registration, regardless of their nationality, race, sex, language, religion, political beliefs, education, social or wealth status and other characteristics”.  We also propose to introduce the provision about peculiarities of civil registration of refugees to legislation. |
|  | The Law does not emphasize the obligatoriness and immediateness of the state registration of vital events. | Part 1 of Article 4 of the Law should be amended by adding the following sentence: “State registration of acts of civil status shall be mandatory and must be performed immediately after the onset of vital events in accordance with the time periods set out in the legislation on state registration of acts of civil status”. |
|  | One of the main problems of the system of state civil registration in the Republic of Tajikistan is incomplete and inadequate coverage of registration, including birth registration and state registration of marriages. Provision of incentives to and informing population should play an important role in addressing this problem. | Article 7 of the Law should be amended by adding Part 4 as follows: “4. The bodies performing state registration of acts of civil status shall implement measures on provision of incentives to population to timely perform civil registration and informing population about the procedure, time periods of state registration of acts of civil status and payment for provided services”. |
|  | The state does not have data on civil registration of nationals of the Republic of Tajikistan residing abroad, who have registered vital events in the civil registration bodies of the country of residence. | We propose to introduce a provision that the nationals of Tajikistan residing abroad shall be obliged to register vital events in the civil registration bodies of the country of residence, and shall be obliged to re-register vital events in the civil registration bodies of the Republic of Tajikistan within certain time upon arrival in the Republic of Tajikistan. |
|  | Currently the registration of birth in the Republic of Tajikistan is not free. The applicant should pay for the application form and for services of civil registration body. In many cases, an additional service on filling in the application form is provided at civil registration body, which is paid by applicant. Moreover, there are cases in practice, when informal illegal payment is demanded for performing registration of birth. This creates an additional serious obstacle in achieving the goal of universal coverage of births with registration. | According to recommendations of the UN Child Rights Committee to the Republic of Tajikistan (2010), the registration of birth should be performed for free. The payment should not be collected for issuance of the form, filling in application and provision of other services. |
|  | The Law does not stipulate the time periods of state registration and issuance of certificates on all types of civil registration. This creates ambiguity for applicants, as well as creates a risk of corruption. | We propose to stipulate in the Law the time periods of the state registration and issuance of certificates on all types of civil registration. For example, the certificate is issued, if possible, on the same day, but not later than 5 working days from the moment of submission of application. |
|  | When registering some acts of civil status, the Law establishes the obligation to specify redundant information. For example, data on last place of work, education, nationality of the deceased are entered to death record; information about nationality, position and place of work, education of each of persons entering into a marriage is entered to the marriage record (the same data are entered to marriage dissolution record); information about nationality, position, place of work of the person that is recognized as the father of the child, as well as position, place of work and nationality of the mother of the child is entered to the record on the establishment of paternity. The reasonability of collection of these data is doubtful; this practice is not applied in reference countries (in Russia, Kazakhstan, Georgia, Moldova and Lithuania). | We propose to exclude from the Law the requirements on indication of redundant information (on nationality, position and place of work, education) in agreement with other interested agencies. |
|  | Collection of statistical information is an important objective of state civil registration in any country. The collection of statistical information is not specified as one of the objectives of state civil registration in the Law. | We propose to determine the collection of statistical information as one of objectives of the state civil registration in the Law. |
| *Improvement of legislation (at the level of code)* | | |
|  | Article 1, Part 3 of the Family Code of the Republic of Tajikistan states that the marriage concluded only in state civil registration bodies shall be recognized. The marriage concluded by religious rites has no legal bearing. In practice, there are many cases, when the marriage is concluded only by religious rites and not concluded in state civil registration bodies. In such cases, when divorcing the weaker party (usually a woman) remains legally not protected. | With the aim of protecting the interests of vulnerable party of the marriage, it is proposed to consider the possibility to oblige the religious structures to conclude a marriage by religious rites only in the case of availability of evidence of conclusion of the marriage in state civil registration body. |
|  | Article 13 of the Family Code of Republic of Tajikistan indicates that the court, in exceptional cases, has the right to reduce the age of marriage from 18 to 17 by request of the persons that want to enter into a marriage. The Code does not specify exhaustive list of exceptional cases, when the court has the right to reduce the age of marriage, thereby leaving the solution of this issue at the discretion of the court. Early marriages are a serious obstacle to education and employment of women, in this connection it is necessary to introduce the exhaustive list of exceptional cases to the Family Code of the Republic of Tajikistan, when it is possible to reduce the age of marriage. | Provide in Article 13 of the Family Code of the Republic of Tajikistan the exhaustive list of grounds, guided by which the court has the right to reduce the established legal age of marriage of 18 for one year. |
|  | Article 15 of the Family Code provides for mandatory medical examination of persons entering into marriage. This creates an additional obstacle for conclusion of marriage, including due to practical difficulties (the remoteness of some settlements from medical institutions), thus significantly complicating the right to conclusion of marriage. | Assess the reasonability of the mandatory medical examination of persons entering into marriage (following the example of Russia, Kazakhstan, Georgia and Lithuania). |
|  | According to Article 25, Part 2 of the Family Code, the dissolution of marriage in the court shall be subject to registration in civil registration bodies within one year after entry of the court decision into force in the manner established for civil registration, while in the case of dissolution of marriage in the court, the marriage shall be terminated on the day of entry of the court decision into force. | It is proposed to remove the second part of Article 25 of the Family Code on the obligation of registration of dissolution of marriage in the civil registration bodies within one year after entry of the court decision into force, since in the case of dissolution of marriage in the court the marriage is terminated on the day of entry of the court decision into force. |
| *Improvement of legislation (at the level of law)* | | |
|  | The Law stipulates that 8 types of vital events shall be subject to state registration in the Republic of Tajikistan: birth, death, conclusion of marriage, dissolution of marriage, adoption, establishment of paternity, change of surname, name and patronymic, restoration and annulment of civil status records. In some countries that have progressed in the path of reforming the civil registration system (for example, in Moldova, in Lithuania), for the convenience of applicant and staff of the civil registration bodies a part of vital events are not registered by separate record. For example, the registration of adoption and establishment of paternity is made through making changes to records of other acts of civil status. | Reduce the number of civil status records through registration of adoption and establishment of paternity by making changes to records of other acts of civil status (to birth records, if necessary, to records of registration of marriage, dissolution of marriage, as well as to death records). |
|  | In accordance with Part 3 of the Law of the Republic of Tajikistan “On Identification Documents”, the identification documents used within the country are issued by authorized public bodies in Cyrillic alphabet (in Tajik and Russian languages). The identification documents used in the Republic of Tajikistan and abroad are issued in accordance with the requirements of international legal documents recognized by the Republic of Tajikistan, in Cyrillic letters (in Tajik language) and Latin letters (in English language). This does not correspond to provisions of Article 4, Part 5 of the Law “On State Registration of Acts of Civil Status” that records management in the civil registration bodies shall be performed in the official language of the Republic of Tajikistan. | Article 4 of the Law: Part 5 should be amended by adding the following: “taking into account the requirements of the legislation on identification documents”. |
|  | In order to improve the quality of provided services on state civil registration, among other measures, it is necessary to increase the degree of personal responsibility of the head of a relevant civil registration body. | Article 4 of the Law: Add a provision that the responsibility for accuracy of state civil registration and quality of drawing civil registration is rested upon the head of the relevant civil registration body. |
|  | Article 4 (1) (Part 2) of the Law establishes that for the position of a head of civil registration body shall be appointed a citizen of the Republic of Tajikistan having a higher legal education and professional experience of not less than three years. The working experience at civil registration bodies is not required and it may lead to situation, where managers lack the knowledge and skills on civil registration. | With the aim of improving professional level of heads of civil registration bodies, we propose to add the insertion “having the working experience at civil registration bodies for not less than three years”. |
|  | In accordance with Article 20 Note 1 of the Constitutional Law of the Republic of Tajikistan “On Local State Authorities” the heads of local structures of the central executive authorities in Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts financed from the national budget, are appointed and dismissed by heads of the central executive authorities with written consent of chairmen of Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts, and the decisions taken are submitted for approval to relevant *Majlis* of People’s Deputies. Thus, the Minister of Justice does not have the right to appoint/dismiss the head of a civil registration body independently without consent of the head of local executive authorities.  In practice, the Chairmen of local executive authorities propose candidates that do not meet the requirements of legislative and other regulatory legal acts of the country. In this case, the Ministry of Justice does not support the proposed candidate. As a rule, if the Minister of Justice proposes his own candidate to this position, the candidate accordingly will not receive the consent of the Chairman of the local authority.  Thus, there is an open conflict of interests. Moreover, such situation may also negatively affect the activities of the civil registration body. | Determine that the appointment and dismissal of the heads of local civil registration bodies is performed by the Minister of Justice without agreement with local executive authorities. |
|  | With the aim of increasing the efficiency of the state registration of acts of civil status and improving the quality of services provided to the population, and in order to implement the Programme for Development of the Civil Registration Bodies in the Republic of Tajikistan for 2014-2019 and following the example of other countries it is necessary to introduce an electronic registration of acts of civil status. | Article 5 of the Law: It is necessary to amend this article by adding Part 5 as follows:  “5. Civil status record shall be also drawn up in the form of an electronic document and signed by electronic signature of the authorized employee of the civil registration body.  Civil status records drawn up in the form of electronic documents shall be kept in the electronic system of the civil registration body at the place of state registration of the referred civil status records and in the information system of the state body, the authority of which includes the organization of activities on state registration of acts of civil status.  The information contained in the civil status records, drawn up in the form of electronic documents, is the information on the basis of which the basic state information resources shall be formed in the manner established by regulatory legal acts of the Republic of Tajikistan.  The requirements to the format of information entered to civil status records, drawn up in the form of electronic documents, shall be approved by the Ministry of Justice.” |
|  | With the aim of increasing the efficiency of the state registration of acts of civil status and improving the quality of services provided to the population, and in order to implement the Programme for Development of the Civil Registration Bodies in the Republic of Tajikistan for 2014-2019 and following the example of other countries it is necessary to introduce the electronic registration of acts of civil status, as well as create a State Register of Acts of Civil Status of Citizens. | We propose to introduce the concept of the “State Register of Acts of Civil Status of Citizens”. The State Register of Acts of Civil Status of Citizens is a state electronic information system containing information about acts of civil status, changes related to civil status records, their renewal and annulment and information on issuance of certificates on state registration of acts of civil status and on issuance of extracts from it.  The State Register of Acts of Civil Status of Citizens shall be maintained by state registration offices/sectors.  The holder of the State Register of Acts of Civil Status of Citizens shall be the central body of executive authorities in the field of state registration of acts of civil status.  The Administrator of the State Register of Acts of Civil Status of Citizens shall be a state enterprise belonging to the field of management of the central body of executive authorities in the field of state registration of acts of civil status. The Administrator of the State Register of Acts of Civil Status of Citizens shall carry out activities on creation and supporting software of the State Register of Acts of Civil Status of Citizens, maintaining and protection of the database, be responsible for its functioning, provide free access of civil registration offices to it, ensure the registration of this access and storing information about each access.  The procedure for maintaining the State Register of Acts of Civil Status of Citizens shall be established by the Government of the Republic of Tajikistan. |
|  | There are only two Marriage Registration Houses in Tajikistan, in Dushanbe and Khujand cities. There is no Marriage Palace, but Marriage Palaces are referred to in Article 6, Part 1 of the Law, as well as in Article 36, Part 6 of the Law. | Remove from Article 6 of the Law, as well as from Article 36, Part 6 of the Law the reference about Marriage Palaces. |
|  | There are 429 local self-governing bodies (*jamoats* of settlements and villages); in 405 *jamoats* out of this number, the civil registration (birth, death, conclusion of marriage and establishment of paternity) is performed by secretaries of *jamoats*. The registration is not the only obligation of secretaries of *jamoats*; therefore, there are delays in provision of services. Moreover, the secretaries do not have legal knowledge and it has a negative effect on quality of operations conducted. | It is necessary to amend Article 7 by adding a provision stipulating that “Civil registration in village and settlement *jamoats* shall be performed by a servant with higher education, who passed a special training course, reports to the head of civil registration sector of the district, where the *jamoat* is located in. The appointment of the civil servant shall be performed by the head of the civil registration sector of the district, where the *jamoat* is located in. |
|  | It is necessary to improve the reporting mechanism to the competent authorities of foreign states, with which the Republic of Tajikistan has concluded an agreement on legal assistance and legal relations, on civil and family affairs, about state civil registration of citizens of these states. | It is necessary to amend Article 7 by adding Part 4 as follows:  “4. State civil registration bodies shall report to the competent authorities of foreign state, with which the Republic of Tajikistan has concluded an agreement on legal assistance and legal relations, on civil and family affairs, about state civil registration of citizens of these states, if the rules of the agreements stipulate the provision of such information, with the exception of cases of refugees and asylum-seekers.” |
|  | The Law (Article 8) provides for powers of consular institutions on state civil registration outside the territory of Tajikistan.At the same time, it is necessary to mention that the consular institutions do not submit relevant reports on state civil registration and other actions performed in accordance with this Article. | With the regard to this Article, it is necessary to:- introduce reporting of consular institutions on actions performed in accordance with this Article;- introduce a reference to the Instruction on the Procedure for Civil Registration by Consular Officer that is adopted by the Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan that will establish the procedure for sending notification to the Department of Civil Status Acts (DCSA) about introduction of relevant amendments and additions. Add Part 2 that reads as follows: “Control and supervision in the field of state civil registration, performed by consular institutions of the Republic of Tajikistan outside the territory of the Republic of Tajikistan, shall be performed by the Ministry of Foreign Affairs together with the Ministry of Justice”. |
|  | The last paragraph of Article 8 of the Law (“perform other powers related to state civil registration”) stipulates broad interpretation that is not a clear definition of functions, creates ambiguity and prerequisites to corruption. | Remove the last paragraph of Article 8 from the Law (“perform other powers related to state civil registration”). |
|  | Bodies of different subordination, including *jamoats* and consular institutions of the system of the Ministry of Foreign Affairs participate in the process of state civil registration. With the aim of increasing the efficiency of control and supervision over execution of the state civil registration, it is necessary to specify the main aims and objectives of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan in the Law. | We propose to amend the Law by adding Article 91 “Control and supervision in the field of state civil registration”.The control over activities on state civil registration shall be performed by the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan. The Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan shall: - coordinate the activities on state civil registration and perform its methodological support;- perform supervision over compliance with the legislation of the Republic of Tajikistan during state civil registration, including conduct of inspections of activities of the bodies performing state civil registration, demand and obtain documents and bring in instructions on elimination of violations of the legislation of the Republic of Tajikistan in this area. |
|  | The Law does not stipulate that the forms of certificates are forms of strict reporting, though it is outlined in the by-laws.  The practice shows that the forms of the certificates of civil status records are not produced centrally in a single center. This leads to shortage of the forms in the field, their production at the expense of own funds, mistakes and inaccuracies in the produced forms. | It is necessary to provide for in Article 10 of the Law that the forms of certificates are the forms of strict reporting. Production of these forms of certificates shall be carried out by authorized body in the procedure stipulated by the Government of the Republic of Tajikistan at the expense of the national budget. |
|  | Article 11 of the Law states that “In the case of loss of a certificate on state civil registration, as well as its spoiling, the duplicative certificates on state civil registration shall be issued by civil registration offices of a district, city and in the exceptional cases by provincial and Republican archives of the civil registration body”. The list of exceptional cases is not provided and it creates ambiguity and prerequisites to corruption. | It is necessary to determine specifically what is meant under the concept of “in exceptional cases”, as such wording causes some duplication of functions, as well as leads to a risk of corruption in the activities of the provincial and Republican archives. |
|  | The provisions of the Law do not clearly determine in what cases the duplicative certificates on civil registration should be issued. | We propose to add the following to Article 11, Part 1 of the Law regarding cases, when the duplicative certificates on civil registration should be issued: “in the case of impossibility of its use (dilapidation, impossibility to read the printed text due to efflorescence)”. |
|  | Article 13 of the Law states that refusal in state civil registration shall be allowed in the cases, if the submitted documents do not meet the requirements imposed on them by this Law and other regulatory legal acts. At the same time, the referred list of other regulatory legal acts is not attached. This creates inconveniences for applicants, as in practice different documents are required, the list of which is not clear in advance. Such a situation also creates a risk of corruption. | Following the example of legislation of the Russian Federation, we propose to establish the following in the Law and Instruction:  1) It shall be prohibited to require and obtain documents and information not provided for by the Law of the Republic of Tajikistan on State Registration of Acts of Civil Status and Instruction on conducting state registration of acts of civil status, making changes to civil status records, their renewal and annulment;  2) The state civil registration bodies shall not have the right to require from applicant the submission of documents and information that are available to the state civil registration bodies, other state bodies, local self-governing bodies, and organizations. |
|  | Article 13 of the Law states that “by demand of a person (his representative), who was refused in state civil registration, the head of the civil registration body shall be obliged to inform this person (his representative) about the reasons for refusal in writing”. In practice, the obligatoriness of the demand complicates the receipt of reasons of the refusal in writing and, accordingly, the possibility of appeal. | Establish that the reasons for refusal in civil registration are provided to the applicant (his representative) in all cases in writing. |
|  | There are gaps in birth registration in the Republic of Tajikistan. According to results of the Demographic and Health Survey conducted in 2012, 18% of children had no birth certificate and were not registered in the civil registration bodies. At the same time, the number of girls having neither registration, nor certificate was 2% higher in comparison with boys. The highest percentages of lack of registration and certificate are observed in the Districts of Republican Subordination (DRS) – 23.1% and Khatlon province – 21.9%. The place of birth registration is a civil registration body at place of residence of parents. This procedure does not take into account the realities of the society of the Republic of Tajikistan, in particular, the widespread internal migration of population (from villages to cities). | Introduce amendments to Article 17 of the Law in order to diversify the list of places of birth registration and include into the list of places of registration the location of health facility, where the child was delivered, as well as in maternity houses. In addition, provide in this Article the right of civil registration bodies to perform birth registration in remote villages by travelling to these places for this purpose. |
|  | The Law does not clearly specify the responsibility of staff of the civil registration bodies for disclosure of confidential information in connection with the state civil registration. | It is necessary to provide for responsibility of staff of the civil registration bodies for disclosure of confidential information in connection with the state civil registration. |
|  | Application about birth may be filed by following persons (Article 18 of the Law): parents of the child (one of parents); relative of one of parents or another authorized person of parents (of one of parents); body of trusteeship or guardianship; official of medical organization, where the child was born, or official of other organization, where the mother was during delivery or where the child is in.  Home deliveries are quite widespread practice in the Republic of Tajikistan. The results of Demographic and Health Survey conducted in the Republic of Tajikistan in 2012 showed that 23% out of total number of deliveries were home deliveries.[[3]](#footnote-3) Thus in order to record all cases of birth it is necessary to stipulate a provision in the Law of the Republic of Tajikistan, according to which the family doctors and medical nurses of rural health centers should have the right to make application about birth, if they revealed the fact of birth in the course of observation of pregnant women or visiting newborns, even if the pregnant woman was not observed by the doctor before the delivery and health workers were not present during delivery. They, in case of lack of state registration of birth, may make application to civil registration bodies about birth. At the same time, the civil registration bodies should have the power to travel to a place of residence of a newborn with the aim of birth registration. | Introduce amendments to Article 18 of the Law and include into list of the persons having the right to make application about birth the doctors and medical nurses that found the fact of birth of a child as a result of going round and visiting households and who did not necessarily were present during the delivery. |
|  | Article 19 of the Law regulates the procedure for entering information on parents to civil registration of the birth of child. In contrast to common practice of other countries, the Law does not provide for opportunity, at the mother’s desire, not to enter information about the father of the child. | We propose to add the following to Part 3 of Article 19 of the Law: “at mother’s desire, the information about the father of the child may not be entered to the civil registration of the birth of the child”. |
|  | Article 26 (Part 2) of the Law states that “at the request of an applicant, he shall be also issued a statement about birth in order to receive an allowance in connection with birth of the child”. In practice, the obligatoriness of the request of the applicant creates difficulties upon receiving the allowance. | Establish that the statement about birth for receiving the allowance in connection with the birth of the child is issued in all cases. |
|  | Article 35 of the Law provides for that if one of the parties entering into marriage is a foreign citizen or stateless person, it is strictly mandatory to provide a document confirming his residence on the territory of the Republic of Tajikistan in the course of not less than one last year, and conclusion of a marriage contract. These requirements pose great difficulties for foreigners, especially for citizens of neighbouring countries, and do not contribute to the expansion of state registration of marriage. Such requirements are not applied in other countries that have progressed in the path of reforming the civil registration system. | We propose to abolish the requirement for the foreigner to provide the document confirming his residence on the territory of the Republic of Tajikistan for not less than last year, and conclusion of the marriage contract. |
|  | Obligations of the civil registration bodies are strictly limited by formal procedures related to documentation. Other countries, for example, Ukraine, Lithuania went through different path, and, in addition to official registration of marriage, they set obligations on civil registration bodies to introduce the persons, who submitted applications for marriage registration, with their rights and obligations as future spouses and parents and warn them about liability for concealment of impediments to registration of marriage. Owing to importance of the state registration of marriage, as well as low awareness of citizens of the Republic of Tajikistan about their rights and obligations, including in marriage, such practice may serve as a good example for the Republic of Tajikistan too. | Amend the Law by adding Article 351 as follows: “The civil registration body shall be obliged to introduce the persons, who submitted an application for marriage registration, with his rights and obligations as future spouses and parents and warn them about liability for concealment of circumstances impeding the registration of marriage”. |
|  | Article 36 of the Law stipulates that the time period for consideration of an application for registration of marriage is one month and may be reduced at the discretion of civil registration bodies or *jamoats*. However, the legislation does not provide for grounds, according to which the civil registration bodies or *jamoats* may change the time period towards its reduction, and also does not stipulate for what period the civil registration body has the right to reduce the time period for consideration of the application. | Part 3 of Article 36 of the Law should read as follows: “3. Based on joint application of the persons entering into a marriage, the time period established by Part 2 of this Article, may be changed by a head of the civil registration body, and in settlements and villages – by chairman of settlements and *jamoats* on the following grounds…” and further provide for exhaustive list of grounds for reduction of the time period for consideration of the application.  Stipulate that in case of a pregnancy of a bride, delivery of a child by her, and if according to medical grounds there is a direct threat to the life of a bride or a groom, as well as the presence of common children, the state registration of marriage shall be performed on the day of submission of the relevant application or any other day within one month upon wish of the groom and bride. |
|  | The Law lacks some provisions on inter-agency and intra-agency exchange of information on state civil registration. | Article 38 of the Law: Establish that in the case of state registration of dissolution of marriage at place of residence of spouses (one of spouses), the civil registration body shall be obliged to, within ten days, inform the civil registration body at place of state registration of marriage about the state registration of the dissolution of marriage.  In the case of state registration of the dissolution of marriage of a citizen of the Republic of Tajikistan by consular institution of the Republic of Tajikistan outside the territory of the Republic of Tajikistan, the consular institution of the Republic of Tajikistan shall be obliged to inform about the state registration of the dissolution of marriage the civil registration body at the place of storage of the record of state registration of the marriage within ninety days of the day of the state registration of the dissolution of marriage. |
|  | One of the grounds for state registration of dissolution of marriage is indicated in Article 40, Part 3 of the Law, which is: “a standard document on death of one of spouses or court decision on the recognition of one of them dead”. However, in this case the marriage is terminated without the need in registration of the dissolution of marriage. | Remove from Article 40, Part 3 of the Law the ground for state registration of the dissolution of marriage “the standard document on death of one of spouses or court decision on recognition of one of them dead”, as the marriage is terminated without the need in registration of the dissolution of marriage. |
|  | Article 45 of the Law stipulates that in case of marriage dissolution, the spouse, who has changed surname upon entering into a marriage, may keep this surname upon consent of another spouse. It is necessary to introduce amendments to this article. The husband or wife, who changed surname, may keep it without the need to ask for the consent of another party due to the fact that children may also use the same surname, and also such changes would require, on part of the husband or wife, additional costs and time for changing all other identification documents. | In Article 45 delete the words “…upon consent of another spouse…” in order to give the right to another spouse to keep the surname that was changed after conclusion of marriage in the case of marriage dissolution for the interest of children and reduction of possible costs and time needed for changing all other identification documents. |
|  | Chapter 8 of the Law regulates the state registration of change of name, patronymic and surname. Unlike other countries that have progressed in the path of reforming civil registration system, the Law of the Republic of Tajikistan does not set forth the valid reasons that would constitute the ground for change of name, patronymic and surname. | Enumerate in Chapter 8 of the Law the list of valid reasons, which is the ground for change of name, patronymic and surname. |
|  | In practice, there are cases, when the name and surname are often changed with the aim of evading restrictions on labour migration. | In order to avoid the cases, when the name and surname are often changed with the aim of evading restrictions on labour migration, following the example of legislation of Georgia, it is proposed to establish that a person of legal age shall have the right to change the name only once. |
|  | In spite of detailed regulation of the procedure for establishment of paternity in civil registration bodies, the Law does not provide for time periods for the procedure of state registration of the establishment of paternity in the civil registration bodies and by court decision, and issuance of a certificate on establishment of paternity. | Provide for in Chapter 7 of the Law time periods for consideration of application for the establishment of paternity and registration of paternity in civil registration bodies and by court decision, and correspondingly issuance of a certificate on establishment of paternity. |
|  | Article 69 of the Law providing for the procedure for the state registration of change of surname, name and patronymic states that “upon valid reasons (failure to obtain a copy of civil registration, where it is necessary to enter changes, etc.) the time period for consideration of the application on changing surname, name and (or) patronymic may be extended to six months”.  The lack of exhaustive list of valid reasons creates a risk of corruption. | With the aim of preventing corruption cases and red tape, it is necessary to clearly limit the list of valid reasons, on the basis of which the time period for consideration of applications may be extended to six months. |
|  | Article 72, Part 3 of the Law states that in the case of changing surname by parents and name by the father, the surname, name and patronymic of the child that did not reach the age of sixteen shall be changed in the civil record of birth of the child. However, there is no need for changing the name of the child. | We propose to remove the word “name” from provision of Part 3, Article 72 of the Law that states that in the case of changing surname by parents and name by the father, the surname, name and patronymic of the child that did not reach the age of sixteen shall be changed in the civil record of birth of the child. |
|  | Article 80, Part 2 of the Law states that the conclusion of city (district) civil registration body on restoration of the civil registration record or on refusal in this shall be subject to approval by order of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan, civil registration offices of Gorno-Badakhshan Autonomous Province, provinces and Dushanbe city. The civil registration office of Dushanbe city is also mentioned in the same context in Part 3 of Article 80 of the Law. These provisions do not meet the reality, as there is no civil registration office of Dushanbe city. | We propose to remove the mentioning of the civil registration office of Dushanbe city from Parts 2 and 3 of Article 80 of the Law. |
|  | Article 86 of the Law establishing liability for violation of the requirements of this Law does not in any way regulate the liability of citizens of the Republic of Tajikistan, foreign citizens and stateless persons. | Establish that the citizens of the Republic of Tajikistan, foreign citizens and stateless persons shall bear responsibility established by the legislation of the Republic of Tajikistan for violation of this Law. |
| *Issues related to implementation of provisions of the law at the level of by-law* | | |
|  | There are regulatory acts at by-law level in the countries that have progressed in the path of reforming the civil registration system that provide details of the procedure for state civil registration established at the level of law. Lack of such document in the Republic of Tajikistan leads to different interpretation of provisions of the Law and different practices in the state civil registration bodies. This has a negative effect on quality of services provided to population, as well as creates a risk of corruption. | Article 4 of the Law: It is necessary to stipulate in this article the availability of the Instruction for conducting state registration of acts of civil status, making changes to civil status records, their renewal and annulment in the activities of the civil registration bodies, which will be approved by the Ministry of Justice.  In order to improve the quality of provided services it is also recommended to develop standards on quality of services on registration of acts of civil status in the context of general improvement of provisions of public services to the population of the Republic of Tajikistan. |
|  | Article 42 of the Consular Statute of the Republic of Tajikistan approved by Decree of the Government of the Republic of Tajikistan stipulates the adoption of an Instruction on Procedure for Civil Registration by Consular Officer to be approved by Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan, but this Instruction is lacking. | Article 4 of the Law: It should be mentioned that the specifics of conducting state civil registration by consular institutions are determined by Consular Statute of the Republic of Tajikistan and Instruction on Procedure for Civil Registration by Consular Officer that is adopted by the Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan. |
|  | In practice, there is uncertainty how to implement the provision of the Law (Article 20, Part 3), according to which the surname of the child during state registration of the birth is written according to the surname formed from the name of the father. There is a need to clarify this provision. | We propose to clarify how to implement the provisions of the Law (Article 20, Part 3), according to which the surname of the child during state registration of the birth is written according to the surname formed from the name of the father: the surname in this case is formed by adding suffixes “-ov, -ev, -ova, -eva”. For example, Aziz is the name of the father. The surname of the child is “Azizov”, “Azizova”. |
|  | By Decree of the Government of the Republic of Tajikistan #430 of July 02, 2015 there was approved the Procedure for Provision of Additional Paid Services to individuals and legal entities in the civil registration bodies of the Ministry of Justice and other authorized entities. This regulatory legal act stipulates that the funds received for provision of services will be directed for provision of incentives to staff and development of material and technical framework of the civil registration bodies of the Republic of Tajikistan and other authorized entities (paragraph 8). At the same time there is no provision stipulating what part of these funds are directed to maintenance of material and technical framework of other authorized bodies. | Introduce a provision stipulating what part of the funds received for provision of services will be directed to maintenance of material and technical framework of other authorized bodies. |

# IV. CONCLUSIONS

The main problem of the civil registration system in the Republic of Tajikistan in terms of production of data for needs of the state and implementation of human rights is incomplete coverage of registration of birth and death.

Based on results of the Demographic and Health Survey conducted in 2012, 18% of children under 5 years old had no birth certificate. At the same time, the number of girls having no certificate was 2% higher in comparison with boys. The highest percentages of lack of certificates were observed in the Districts of Republican Subordination (DRS) – 23.1% and in Khatlon province – 21.9%. This situation hinders the implementation of child’s rights.

An important problem is declining indicators on registration of marriages. Thus in 2015 in comparison to 2014 the number of registered marriages fell by 20 percent (from 95 478 to 77 020). The trend to decline is continuing – for the 9 months of 2016 in comparison with the similar period of 2015 the number of registered marriages has fallen by 7 percent (from 53 005 to 49 389). As a result of collection of expert information it is possible to make an assumption that not all persons who got married by religious rites register their marriage in the state civil registration bodies, thus creating a risk for weaker party (women and children) in case of a divorce, however, the exact scale of this problem is not known and needs to be analyzed.

The systemic problem from the perspective of service receivers is the lack of general orientation for provision of quality and convenient services to service users when regulating, planning and providing public services in the field of registration of acts of civil status.

As a result of lack of Instruction detailing the provision of the Law “On State Registration of Acts of Civil Status” there is a difference in practice of application of the legislation on civil registration by different sectors of the civil registration bodies and *jamoats*. This creates inconveniences for the civil registration bodies, as well as for service receivers, who are required to submit information and certificates not specified in the legislation.

The main organizational problem is the lack of a single electronic database and electronic registration of acts of civil status. As a result of this situation, there is no opportunity to effectively check the civil status of applicants, and the burden of submitting of all sorts of evidences falls primarily on the applicant.

As a result of analysis of the legislation of the Republic of Tajikistan there have been identified its elements that need improvement. Taking into account the experience of the countries that have progressed in the path of reforming the civil registration system a number of proposals are made to improve the legislation of the Republic of Tajikistan with the aim of increasing the efficiency of the civil registration system, its convenience for service receivers, protection of human rights and freedoms.

# ANNEX #1. LIST OF NORMATIVE LEGAL ACTS USED DURING REVIEW OF LEGISLATION

The Constitution of the Republic of Tajikistan, adopted on November 6, 1994

The Family Code of the Republic of Tajikistan, adopted on November 13, 1998

The Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” #188, of April 29, 2006

The Law of the Republic of Tajikistan “On the Protection of Rights of the Child” #1196, of March 18, 2015

The Law of the Republic of Tajikistan “On Responsibility of Parents for Education and Upbringing of Children” #762, of August 2, 2011

The Code of the Republic of Tajikistan on Administrative Offences

The Constitutional Law of the Republic of Tajikistan “On Local State Authorities” #28, of May 17, 2004

The Law of the Republic of Tajikistan “On Self-Governing Bodies of Settlements and Villages” #549, of August 5, 2009

The Law of the Republic of Tajikistan “On Identification Documents” #1097, of July 26, 2014

The Law of the Republic of Tajikistan “On State Duty” #19, of February 28, 2004

The Decree of the Government of the Republic of Tajikistan #505, of October 7, 2011 “On Measures for the Transfer of the Civil Registration Bodies to Subordination of the Ministry of Justice of the Republic of Tajikistan”

The Regulations on Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan, approved by Decree of the Government of the Republic of Tajikistan #503, of November 1, 2006

The Regulations on Civil Registration Sector of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan, approved by Order of the Minister of Justice #110, of July 21, 2015

The Programme for Development of the Civil Registration Bodies in the Republic of Tajikistan for 2014-2019, approved by Decree of the Government of the Republic of Tajikistan #21, of January 3, 2014

The Programme for Development of Justice System for 2015-2020, approved by Decree of the Government of the Republic of Tajikistan #101, of February 28, 2015

The Programme for Legal Education of Citizens of the Republic of Tajikistan for 2009-2019, approved by Decree of the Government of the Republic of Tajikistan #253, of April 29, 2009

The Procedure for Additional Paid Services to Individuals and Legal Entities in the Civil Registration Bodies of the Ministry of Justice of the Republic of Tajikistan and Other Authorized Bodies, approved by Decree of the Government of the Republic of Tajikistan #430, of July 2, 2015

The Rules for Conducting Mandatory Medical Examination of Persons Entering into Marriage, approved by Decree of the Government of the Republic of Tajikistan #374, of August 23, 2016

The Consular Statute of the Republic of Tajikistan, approved by Decree of the Government of the Republic of Tajikistan #275, of July 30, 1998

The Procedure for Appointment and Dismissal of Heads of Local Structures of the Central State Authorities, approved by Decree of the Government of the Republic of Tajikistan #694, of October 31, 2014

The Rules for Issuance of Passport of Citizen of the Republic of Tajikistan, approved by Decree of the Government of the Republic of Tajikistan #406, of June 13, 2014

The Concept for Formation of Electronic Government in the Republic of Tajikistan, approved by Decree of the Government of the Republic of Tajikistan #643, of December 30, 2011

The Decree of the Government of the Republic of Tajikistan #325, of July 27, 2016 “On Register of Tajik National Names”

# ANNEX #2. LIST OF INSTITUTIONS CONSULTED DURING THE MISSIONS OF THE INTERNATIONAL LEGAL EXPERT TO THE REPUBLIC OF TAJIKISTAN (4-8 JULY, 8-19 AUGUST, 17 OCTOBER – NOVEMBER 4, 2016)

Ministry of Justice of the Republic of Tajikistan

Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan

Institute of Professional Development of the Personnel of Law Enforcement, Justice and Legal Services of Enterprises, Institutions and Organizations of the Ministry of Justice of the Republic of Tajikistan

Ministry of Health and Social Protection of the Republic of Tajikistan

State Institution “Republican Centre of Medical Statistics and Information”

Ministry of Foreign Affairs of the Republic of Tajikistan

Ministry of Internal Affairs of the Republic of Tajikistan

Ministry of Education of the Republic of Tajikistan

Ministry of Defense of the Republic of Tajikistan

Ministry of Finance of the Republic of Tajikistan

*Majlisi Oli* – the Parliament of the Republic of Tajikistan

Agency for Statistics under the President of the Republic of Tajikistan

Committee on Local Development under the President of the Republic of Tajikistan

Committee on Religion, National Traditions, Festivities and Rituals under the Government of the Republic of Tajikistan

Main Archive Department under the Government of the Republic of Tajikistan

State Savings Bank “Amonatbank”

Civil registration office in Gorno-Badakhshan Autonomous Province, Civil registration sector in Hissar and Shahrinav districts, Shohmansur, Sino and Somoni districts of Dushanbe City

Secretaries of *jamoats* of Karim Ismoili village and Yavan settlement of Yavan district

United Nations Development Programme

Staff of UNDP Project “Support to Civil Registration System Reform in Tajikistan”

Staff of UNDP Project “Maintenance of Basic Parameters of CRO Information System in Tajikistan”

Swiss Office for Development and Cooperation

United Nations Women

United Nations Population Fund

World Health Organization

United Nations Children’s Fund

United Nations High Commissioner for Refugee, Tajikistan Office

Deloitte (contractor of the United States Agency for International Development)

# ANNEX #3. QUESTIONNAIRE FOR STAFF OF CIVIL REGISTRATION BODIES AND *JAMOATS* RESPONSIBLE FOR CIVIL REGISTRATION

In total, 87 questionnaires were provided from civil registration divisions and *jamoats*: 2 provincial civil registration offices, 2 marriage registration houses, 49 civil registration sectors and 36 *jamoats*.

There are, in total, 68 civil registration sectors (district and city), 2 Marriage Registration Houses (in Dushanbe city and Khujand city), 3 provincial civil registration offices – Gorno-Badakhshan Autonomous Province, Sughd and Khatlon provinces in Tajikistan.

**1. What are the main problems that you face in the process of civil registration? Are there problems that are faced particularly by women?**

When applying the citizens instead of passport present ID cards, which lack information about nationality of the citizen, it is impossible to put a stamp on them about conclusion of marriage (that leads to recurring marriages) and dissolution of marriage. There are cases, when women do not have a passport of the citizen of the Republic of Tajikistan or a passport of the Soviet sample, they are not in a marriage, the husband is in migration, and they do not have opportunity for registration of the birth of a child (single mother). Sometimes the mother of the child wishes not to fill in the column about father of the child, i.e. to put a dash.

When registering the conclusion of marriage of citizens of the Republic of Tajikistan with foreign citizens there emerge difficulties in connection with the requirements of the Law on residence of foreign persons for not less than one year in the Republic of Tajikistan.

The problem is how to confirm whether the persons entering into marriage are / are not relatives to each other.

There is also a problem with submission of reports by *jamoats*. Due to long distances, lack of communication, the *jamoats* submit reports with delay. The responsibility for civil registration in *jamoats* is rested on secretaries of *jamoats*, who do not have opportunity to qualitatively perform civil registration due to large workload and staff turnover.

In some districts, the civil registration in *jamoats* is performed by staff of land management division, military registration offices.

There is lack of terminals in the field for transfer of money for certificate form and services that creates difficulties and takes lot of time for travel and requires certain costs.

Many citizens apply for obtaining a copy of civil records, which takes lot of time. There are no single forms of civil status records.

For registration of birth with the omission of time period of above 16 years old it is necessary to determine, what documents need to be submitted to civil registration body. There are problems when you ask for archive references, requests (you have to manually leaf over the archive for five years). There are difficulties when asking for immediate execution of request, applicant’s request (no data on birth, on conclusion of marriage, etc., they do not submit necessary documents).

When taking decisions by courts on reduction of the age of marriage, on dissolution of marriage, the copies of court decision are issued before it enters into force. On the basis of the court decision that has not entered into force (1 month for its entry into force), the citizens demand the immediate registration of the acts.

When considering cases on the establishment of paternity and adoption by courts the courts refer to medical certificate of birth and do not ask for birth record.

During registration of change of surname, name and patronymic, the citizens do not want changes according to national traditions with suffixes “zod”, “zoda”, etc. The Law does not specify the reasons for registration of change of surname, name and patronymic.

When obtaining certificate of birth while being abroad the citizens demand to register again the birth of children in the Republic of Tajikistan for obtaining the Tajik certificate of birth, as the certificates received abroad are not accepted by Visa and Registration Department of the Ministry of Internal Affairs, they do not put stamp on them regarding availability of citizenship, as well as they do not issue foreign passports based on them.

The Law of the Republic of Tajikistan “On State Duty” does not specify the collection of state duty in connection with obtaining duplicative certificates for minor children, and duplicative certificates of marriage.

When registering the dissolution of marriage – the selection of surname by wife, if during entering into marriage she had changed her surname to husband’s surname. This creates difficulties as in most cases the minor children are left with mother, and naturally she wants to keep a common surname with children.

Registration of birth in exceptional cases is performed at the place of birth. There is ambiguity in practice in determination of exceptional cases.

Lack of separate premises of civil registration body and proper conditions for work. Large workload, lack of communication. The salary is provided with delay.

Interference of local executive authorities to the activities of civil registration bodies, the staff of civil registration bodies is attracted to all events of the district.

**2. What are your proposals for addressing these problems? What can be simplified during civil registration?**

Create a single system of computerization. Provide the civil registration system with standardized forms of civil registration records, centrally, on quality paper.

Conduct training course for staff of civil registration system and secretaries of *jamoats* on annual basis. Allocate a staff unit for secretary of *jamoat* from staff of civil registration sector at the expense of special services.

Determine what documents need to be submitted when registering the change of surname, name and patronymic, making correction, addition, restoring the birth with the omission of time limit of 16 years old.

When registering the birth of the child, whose mother is not married (single mother), put a dash in the respective column.

Simplify the registration of marriage of citizens of the Republic of Tajikistan with foreign citizens (CIS countries), exclude the requirement on residence during one year.

Install terminals in the field for paying for services on state civil registration.

Introduce re-registration of birth that was registered abroad.

Conduct explanatory work among population on timely registration of birth, conclusion of marriage, on amendments introduced to the Law.

Do not discharge the mother with child from maternity house without certificate of birth to ensure full coverage of registration.

Conduct medical examination for free.

Do not perform registration of the establishment of paternity. Make changes to birth record on the basis of application of parents.

When concluding marriage, increase the one-month time period up to 3 months on the basis of valid reasons. In case of presence of minor children, register the marriage without providing one-month time period.

When registering marriage, do not ask for consent of a husband (wife) for keeping post-nuptial surname.

At the time of registration of birth with the omission of time period (above 16 years old), conclusion of marriage, correction, addition and change of surname, name and patronymic, do not ask for unnecessary documents – reference from place of residence, from *jamoat,* consent of husband for change after conclusion of marriage, certificate of medical examination, etc.

The staff of civil registration bodies propose, in case of making addition to surname, if the surname of child was not indicated in the civil record, to make addition for citizens of age from 16 to 18 on the basis of opinion of the civil registration body, avoiding the procedure of change of surname.

Issue the court decision to citizens only after entry of the court decision into force.

Create conditions for work. Supply with computers, organize training, seminars for staff.

Establish in the Law of the Republic of Tajikistan “On State Duty” the state duty for obtaining of duplicative certificates of birth for children when changing surname, name and patronymic by parents (parent).

The civil registration system of the Republic of Tajikistan carries out its activities on the basis of the Law “On State Registration of Acts of Civil Status” that has problems, there is no mechanism of implementation. In this regard, it is necessary to develop an Instruction on implementation of the Law On State Registration of Acts of Civil Status in order to include the existing issues. This proposal was supported by all workers of the civil registration bodies.

# ANNEX #4. REPORT ON RESULTS OF DISCUSSIONS OF PROPOSED AMENDMENTS AND ADDITIONS TO THE LEGISLATION OF THE REPUBLIC OF TAJIKISTAN ON STATE REGISTRATION OF ACTS OF CIVIL STATUS HELD IN DUSHANBE AND KHUJAND

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| --- | --- | --- |
| Confederation logo (horizontal) | https://intranet.undp.org/unit/pb/communicate/Communications%20Cluster%20Useful%20Documents/50th%20Anniversary%20Toolkit/Logos/UNDP_50_En.png | UN_Women_English_Blue_Small_ALONE |

**Consultative meetings on discussion of proposed**

**amendments and additions to the legislation of the RT**

**on state registration of acts of civil status**

**in Dushanbe and Khujand.**

**Report on Results of Discussions**

**prepared by Turakhonova D.,**

**Consultant of UN Women**

October 4, 2016

**1. Introduction**

In the framework of joint Project of UNDP, UN Women and United Nations Population Fund “Support to Civil Registration System Reform in Tajikistan” with financial support of the Swiss Office for Development and Cooperation it is planned to introduce gender approaches to planned reform of the legislation and programme for development of civil registration bodies. The overall goal of the Project is to assist in better protection of women’s, men’s and children’s rights by strengthened provision of civil registration services and by increased access of separate groups of population to these services. The Project focuses on establishment of more effective and functional civil registration system responsive to the needs of separate groups of population. Introduction of the gender approach is one of the approaches in implementation of this Project.

The Project has established an Expert Group on Reform of the Legislation and “Programme for Development of Civil Registration Bodies in the Republic of Tajikistan for 2014-2019” (hereinafter the Programme). The Expert Group is headed by International Expert, who is the head of the group. The Group also includes a National Expert on Legislation (B. Abdulhakov) and a national consultant on system of civil registration bodies (Sh. Haydarova). In addition, it is planned to include to the Group an international consultant of the UNFPA on exchange of data between the civil registration bodies and other agencies with the aim of improving the data collection system on vital events (birth, marriage, divorce, death, etc.). UN Women has also recruited a national consultant to ensure the introduction of gender approaches to the reform of legislation on civil registration and development of relevant recommendations.

In accordance with the terms of reference of the UN Women National Consultant there was prepared a report on gender analysis of the legislation in the field of civil registration and Programme in July 2016 that included a number of proposals on introduction of amendments and additions to the legislation and Programme. These proposals were discussed with the members of the Expert Group in the framework of training on gender issues.

The terms of reference also envisaged that except agreement of these proposals with the members of the Expert Group, it is necessary to conduct two one-day consultative meetings with representatives of civil society organizations (CSO) for discussion of the developed recommendations and finalization of proposals on amendments and additions to legislation. These meetings were held in Dushanbe city on September 23 and in Khujand city on September 28. The agenda of consultations and list of participants are brought in Annex 1 to this Report. The International Expert prepared a collection of all proposed amendments and additions in the form of a table for discussion in the consultative meetings. This document serves the basis for conducting discussions in Dushanbe and Khujand cities and discussed all the recommendations made by the Expert Group.

The Report highlights brief findings on discussions in the course of the consultative meetings, and the comments on each recommendation made by participants of the discussions are also provided in Annex 2.

**2. Executive summary of discussions during the consultative meetings**

The meeting in Dushanbe city started with opening remarks of Anthony Cameron, UNDP Project Manager and Zaitoona Naimova, UN Women Programme Specialist, who informed the participants about aims and objectives of the discussion, as well as the need to receive the opinion of CSOs about the proposed amendments and additions to the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status". Lola Latypova, the Lawyer of the UNDP Project introduced the participants with goals and objectives of the Project, as well as main results that the Project plans to achieve until its completion. She also informed the participants of the consultations about current and planned activities of the UNDP Project.

The meeting further continued with presentation of gender aspects of the legislation in the field of civil registration and Programme. The participants received information about methodology of the gender analysis, as well as main findings of the gender analysis of the legislation and Programme and made recommendations for addressing the identified gaps.

The discussion further continued with questions of participants and discussion of recommendations, for which the participants had questions and proposals. The format of discussion of the recommendations was based on questions and answers, i.e. the participants discussed those recommendations, for which they had questions and comments. Some of the recommendations referred to in the table were highlighted as priority for discussion. In this connection, the attention of the participants was also drawn to priority recommendations for discussion. Recommendations #1, 6, 10, 11, 12, 13, 14, 17, 18, 22, 33, 35, 37, 39, 40, 41, 42, 44, 46, 49, 56, 57 were discussed in Dushanbe city. The participants had no questions and comments on other recommendations. At the end of the discussions the participants were suggested to consider the proposed recommendations once again and in case if they would have recommendations, to send them to the UN Women.

The meeting in Khujand city was held with assistance of the Consultative Council of Civil Society Organizations of Sughd province, and except the CSOs, it involved several representatives of civil registration body in Sughd province. The meeting was opened by opening remarks of the UN Women Project Coordinator Shahlo Shoeva. She informed the participants about the aims and objectives of the consultations, and goals and objectives of the Project.

The meeting further continued with presentation of gender aspects of the legislation in the field of civil registration and of the Programme. The participants received information about methodology of the gender analysis, as well as main findings of the gender analysis of the legislation and Programme, and proposed recommendations for addressing the identified gaps.

In Khujand a decision was taken to discuss each of proposed recommendations. The discussion was moderated by Shahodat Haydarova, UNDP Consultant. In the course of discussion of each recommendation the participants shared their experience of addressing issues with civil registration bodies and highlighted gaps in their activities and in some cases exceeding of authority, particularly with the regard to refugees and foreign citizens. Besides, heated discussions were caused by issue of cancellation of all registration fees for issuance of certificate of birth. CSOs fully supported the recommendation on cancellation of fees for issuance of the certificate. The civil registration staff outlined that due to high birth rate the payment for issuance of the certificate is the main source of income of civil registration bodies. CSOs proposed to fully cancel the Decree of the Government of the Republic of Tajikistan #430, of 02.07.2015 on the Procedure for Provision of Additional Paid Services to Individuals and Legal Entities in Civil Registration Bodies of the Ministry of Justice and Other Authorized Entities, since these costs should be paid from the state budget, and not by population. The participants also discussed the issue of introduction of dissolution of marriage by courts as the main one. It was mentioned that such change would complicate the dissolution of marriage, primarily for women, since the procedures in courts are long and may be extended by courts by giving repeated time periods for reconciliation, etc. The issues of maintaining and care after incapacitated children and children with disabilities that reached the legal age can be actually considered by courts even if the marriage was dissolved in the civil registration bodies. Detailed comments on each recommendation are continued in Annex 2.

**3. Further actions**

As a result of discussions the participants came to the following conclusions with the regard to recommendations:

* Recommendations 6, 7, 9, 15, 18 (with more clear wording), 19, 20 (with additional justification), 21, 24, 25, 27, 29, 30, 31, 34, 36, 38, 39, 41, 43, 44, 47, 50, 51, 52, 53, 55, 58 are fully supported.
* Recommendations 16, 35, 37, 48, 59, 60 are not supported.
* Recommendations 1, 2, 3, 5, 8, 12,17, 23, 26, 28, 42, 54, 56 require improvement and agreement with other bodies.
* Recommendation 4 requires more detailed reflection in the Instruction.
* The opinion of participants of the consultations in Dushanbe and Khujand differed (either were not supported in the framework of one of the discussions or there were different versions regarding the wording of recommendations) on recommendations 10, 11, 13, 14, 22, 32, 33, 40, 45, 46, 49, 57.

Both in Dushanbe city and Khujand city the participants outlined the topicality of conducted reforms and relevance of the proposed amendments and additions to the Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status”. The participants of the discussions noted that for these amendments and additions to contribute to addressing the identified gaps and problems related to registration in the civil registration bodies, it is necessary to continue the discussion of these proposals in a wider format. It is necessary to involve not only CSOs, but also the staff of the following state bodies in these discussions:

* Civil registration bodies in the central apparatus and in the field;
* Passport and Registration Service of the Ministry of Internal Affairs of the Republic of Tajikistan;
* Consular Service of the Ministry of Foreign Affairs of the Republic of Tajikistan;
* Agency for Statistics under the President of the Republic of Tajikistan;
* Committee for Women and Family Affairs under the Government of the Republic of Tajikistan.

These discussions would help to develop recommendations that are more likely to be adopted by the Ministry of Justice of the Republic of Tajikistan, which, in turn, can use the results of the discussions for presentation of its position in the *Majlisi Namoyandagon* of the Republic of Tajikistan (Lower Chamber of the Parliament of the Republic of Tajikistan).

**Annex 1. Agenda of discussion in Dushanbe and Khujand and list of participants**

**“Support to Civil Registration System Reform in Tajikistan”**

**Public consultations on proposed draft amendments and additions**

**to the legislation of the RT in the field of state registration of acts of civil status**

**Venue:** Serena Hotel, Dushanbe

**Date:** September 23, 2016

**Time:** 09:00 – 13.45

|  |  |  |
| --- | --- | --- |
| **TIME** | **SESSION** | **REPORTERS** |
| **9.00 – 9.30** | Registration of participants |  |
| **9.30 – 9.45** | Opening remarks | * Deputy Minister of Justice of the Republic of Tajikistan Ms. Shahnoza Nodiri * UNDP Project Manager Mr. Anthony Cameron * Zaitoona Naimova, UN Women Programme Specialist * Lola Latypova, UNDP, Lawyer (general presentation about project) |
| **9.45 – 10.15** | Gender approach in the reform of the legislation on civil registration and proposed amendments to the Law of the RT “On State Registration of Acts of Civil Status” and to the Programme for Development of Civil Registration Bodies in the RT for 2014-2019 | * Ms. Dilbar Turakhonova, UN Women Consultant |
| **10.15 –12.00** | Discussion | * Moderator, Ms. Dilbar Turakhonova, UN Women Consultant |
| **12.00 – 12.30** | Wrap up and follow-up action | * Ms. Shahlo Shoeva, UN Women |
| **12.30 – 13.30** | Lunch |  |

**List of participants of the discussions in Dushanbe city**

|  |  |  |  |
| --- | --- | --- | --- |
| # | **Name** | **Organization** | **Region** |
|  | Ms. Hurinisso Gafforzoda | Head of Civil Society Organization “Oshtii Milli” | Dushanbe |
|  | Ms. Guljahon Bobosadykova | Head of Civil Society Organization “Women with Higher Education” | Dushanbe |
|  | Ms. Gulbahor Safarova | Head of Civil Society Organization “INIS” | Dushanbe |
|  | Ms. Saida Inoyatova | Civil Society Organization “League of Women with Disabilities “Ishtirok” | Dushanbe |
|  | Murod Latipov | EPOS | Dushanbe |
|  | Dilorom Kadirova | UNHCR | Dushanbe |
|  | Ms. Mavlyuda Huseynova | Lawyer of “Bovari”, PDV Project | Dushanbe |
|  | Anthony Cameron | UNDP | Dushanbe |
|  | Lola Latypova | UNDP | Dushanbe |
|  | Yusufjon Kholov | UNDP | Dushanbe |
|  | Shakarbek Niyatbekov | Swiss Office for Development and Cooperation | Dushanbe |
|  | Dilbar Turakhonova | UN Women Consultant | Dushanbe |
|  | Bahrom Abdulhakov | UNDP Consultant | Dushanbe |
|  | Goziev Jurakhon | Department of Civil Status Acts of the Ministry of Justice of the RT | Dushanbe |
|  | Naimova Zaitoona | UN Women | Dushanbe |
|  | Bonu Shambezoda | UN Women | Dushanbe |
|  | Natasha Montenegro | UN Women | Dushanbe |
|  | Shahlo Shoeva | UN Women | Dushanbe |

**“Support to Civil Registration System Reform in Tajikistan”**

**Public consultations on proposed draft amendments and additions**

**to the legislation of the RT in the field of state registration of acts of civil status**

**Venue:** “Tajcity” Business Center, Khujand city

**Date:** September 28, 2016

**Time:** 09:00 – 13.45

|  |  |  |
| --- | --- | --- |
| **TIME** | **SESSION** | **REPORTERS** |
| **9.00 – 9.30** | Registration of participants |  |
| **9.30 – 9.45** | Opening remarks | * Representative of the Department for Women and Family Affairs of the Executive Authorities of Sughd province * Shahlo Shoeva, Coordinator of the Project “Support to Civil Registration System Reform in Tajikistan”, UN Women |
| **9.45 – 10.15** | Gender approach in the reform of the legislation on civil registration and proposed amendments to the Law of the RT “On State Registration of Acts of Civil Status” and to the Programme for Development of Civil Registration Bodies in the RT for 2014-2019 | * Ms. Dilbar Turakhonova, UN Women Consultant |
| **10.15 – 10.45** | Proposed amendments to the Law of the RT “On State Registration of Acts of Civil Status” | * Ms. Shahodat Haydarova, UNDP Consultant |
| **10.45 –12.00** | Discussion | * Moderator, Ms. Dilbar Turakhonova, UN Women Consultant |
| **12.00 – 12.30** | Wrap up and follow-up action | * Ms. Shahlo Shoeva, UN Women |
| **12.30 – 13.30** | Lunch |  |

**List of participants in Khujand city**

|  |  |  |  |
| --- | --- | --- | --- |
| # | **Name** | **Organization** | **Region** |
|  | Hasanova Shujoat Hasanovna | Chairwoman of the Consultative Council of CSOs of Sughd province, Director of CSO “Khurshedi Zindagi” | Khujand |
|  | Shirinbek Davlatshoeva | CSO “Consortium of Initiatives” | Khujand |
|  | Alimova Gulnora | CSO “Ehyo – Farhang va Taraqqiyot” | Khujand |
|  | Boboeva Rafoat | CSO “Chashmai Hayot” | Khujand |
|  | Usmanova Madina | CSO “Human Rights Bureau” | Khujand |
|  | Bobokhonova Muyasara Akhmedovna | “Woman and Society” Association | Khujand |
|  | Babajanova Saboat | CSO “Gulrukhsor” | Khujand |
|  | Bobojonova Iroda | CSO “Mir” | Khujand |
|  | Khojaeva Zebo | CSO “Khurshedi Zindagi” | Khujand |
|  | Tyuraeva Mukhbira | New Generation | Khujand |
|  | Abdurahmonova Bahriniso | CSO “Diyor” | Khujand |
|  | Azimov Azam | CSO “ANTI” | Khujand |
| 1. Х | Khatyukhina Tatyana | CSO “Human Rights Center” | Khujand |
| 1. Р | Roziya Jarkinzoda | CSO “Gurdofarid” | B. Ghafurov |
| 1. Р | Rasulova Muharram | CSO “Saodat” | Khujand |
|  | Maksud Oripov | UNDP | Khujand |
|  | Dilbar Turakhonova | UN Women Consultant | Dushanbe |
|  | Shahodat Haydarova | UNDP Consultant | Dushanbe |
|  | Bonu Shambezoda | UN Women | Dushanbe |
|  | Shahlo Shoeva | UN Women | Dushanbe |
| 1. А | Amir Madaminov | UN Women | Khujand |
| 1. М | Muminzoda Khursheda | CSO “League of Women-Lawyers” | Khujand |
|  | Valizoda I. | Civil Registration Office of Sughd province | Khujand |
| 1. Ю | Yuldasheva F. | Woman and Society Association | Khujand |
|  | Hoshimzoda M. | Civil Registration Office of Sughd province | Khujand |
|  | Kodirova M. | Civil Registration Office of Sughd province | Khujand |

**Annex 2. Comments of the participants on recommendations**

**List of problematic issues on regulation of**

**civil registration in the Republic of Tajikistan[[4]](#footnote-4)**

| **#** | **Problem** | **Recommendation for addressing the problem** |
| --- | --- | --- |
| *Systemic issues* | | |
|  | Currently there is no single database (neither in electronic, nor in paper-based version) on civil registration in the Republic of Tajikistan. This situation creates difficulties in the activity of the civil registration bodies, contributes to emergence of inaccuracies in the civil registration, abuse and misuse by dishonest applicants, risk of corruption. Due to lack of the single database, the applicants need to submit a lot of references and statements from different organizations as a confirmation of application, when often these organizations are located in a long distance from a place of residence of the applicant. | We propose to establish a single electronic database on civil registration.  **Comments:**  Dushanbe: vital and good proposal. It is necessary that this system is prepared by specialists, and staff of civil registration system should be trained on how to use it.  It is proposed to introduce a provision that during registration of birth in civil registration bodies it is necessary to assign a certain identification number that will be with the child all over his life, which will be also the Individual Identification Number (IIN) of taxpayer of the person (following the example of Norway)  Khujand: this database need to be also agreed with the database of the Passport and Registration Service of the MIA of the RT. |
|  | The Law of the Republic of Tajikistan “On State Registration of Acts of Civil Status” (hereinafter referred to as “the Law”) has no provision that guarantees the right and equal access of citizens of the Republic of Tajikistan, foreign citizens, stateless persons and refugees to state civil registration. | Introduce Article21 “The Right to Civil Registration” to the Law as follows: “Citizens of the RT, foreign citizens, stateless persons, residing in the territory of the RT on temporary or permanent basis”, and refugees shall have the right to registration of vital events in the civil registration bodies of the RT in the cases and grounds, provided for by legislation of the RT on state civil registration, regardless of his nationality, race, sex, language, religion, political beliefs, education, social or wealth status and other characteristics”.  **Comments:**  Khujand: it is necessary to give a reference to specific legislation, especially, it is important with the regard to refugees. It is necessary to add that those refugees, who have been recognized as refugees in accordance with the legislation of the RT on refugees, shall have the right to registration.  Except the provision in the Law, this issue needs to be described in more details in the Instruction in order to establish transparent procedures for addressing the issues of registration with the regard to foreign citizens and refugees.  The cases of sending inquiries to a mission of the country of origin of refugee is observed in the practice of civil registration bodies in order to check, for example, for availability of marriage registration and personality of the refugee, etc. In accordance with Article 3 of the Law of the RT “On Identification Documents” the certificate on recognition of refugee shall be an identification document for the refugee. In connection with the fact that the refugee has left his country due to persecution, sending an inquiry to the mission of the country of his origin contradicts the international standards on protection of refugees, since his place of location is not subject to disclosure. Besides, the issue of conclusion of marriage between foreign citizens in the RT still remains unsolved. |
|  | The Law does not emphasize the obligatoriness and immediateness of the state registration of vital events. | Part 1 of Article 4 of the Law should be amended by adding the following sentence: “State civil registration shall be mandatory and must be performed immediately after the onset of vital events in accordance with the time periods set out in the legislation on state civil registration”.  **Comments:**  Khujand: it is proposed to provide for in the Law the list of vital events that are subject to registration and the concept of the vital event. It is also proposed to stipulate in the legislation the methods for motivation of persons to immediately register vital events. |
|  | One of the main problems of the system of state civil registration in the Republic of Tajikistan is incomplete and inadequate coverage of registration, including birth registration and state registration of marriages. Provision of incentives to and informing population should play an important role in addressing this problem. | Article 7 of the Law should be amended by adding Part 4 as follows: “4. The bodies performing state civil registration shall implement measures on provision of incentives to population to timely perform civil registration and informing population about the procedure, time periods of state civil registration and payment for provided services”.  **Comments:**  Khujand: these measures should be clearly prescribed in the Instruction. |
|  | The state civil registration in registration bodies of the Republic of Tajikistan should be mandatory for citizens of the Republic of Tajikistan regardless of residence outside the country. | We propose to introduce a provision that the citizens of Tajikistan residing abroad shall be obliged to perform civil registration at registration bodies of the Republic of Tajikistan.  **Comments:**  Dushanbe: it is proposed to work further on this recommendation, for example, in the case of birth the consular office shall not have the right to issue a certificate, but only may register the fact of birth on the basis of the birth certificate issued in the country of stay. Thus, it is proposed to make recommendation on notification of the consular office about registration of any vital event performed in the country of stay of the citizen of the RT.  Khujand: it is proposed to introduce a requirement on conducting re-registration of the vital event, which took place in the country of stay, in the RT, within certain time period after arrival in the RT. That is, for example, the birth in abroad needs to be re-registered in the RT within one month after arrival in the RT. |
|  | Currently, the registration of birth in the Republic of Tajikistan is not free. The applicant should pay for the application form and for services of civil registration body. In many cases, an additional service on filling in the application form is provided at civil registration body, which is paid by applicant. Moreover, there are cases in practice, when informal illegal payment is demanded for performing registration of birth. This creates an additional serious obstacle in achieving the goal of universal coverage of births with registration. | According to recommendations of the UN Child Rights Committee to the Republic of Tajikistan (2010), the registration of birth should be performed for free.  **Comments:**  Dushanbe: it is supported by all participants.  Khujand: it is proposed to formulate this recommendation more specifically in order to exclude any payment, including also for additional services, forms, etc. |
|  | The Law does not stipulate the time periods of state registration and issuance of certificates on all types of civil registration. This creates uncertainty for applicants, as well as creates a risk of corruption. | We propose to stipulate in the Law the time periods of the state registration and issuance of certificates on all types of civil registration. For example, the certificate is issued, if possible, on the same date, but not later than 5 working days from the moment of submission of application.  **Comments:**  It is fully supported by all participants. |
|  | When registering some acts of civil status, the Law establishes the obligation to specify redundant information, for example, data on last place of work, education, nationality of the deceased are entered to death record; information about nationality, position and place of work, education of each of persons entering into a marriage is entered to the marriage record (the same data are entered to marriage dissolution record); information about nationality, position, place of work of the person that is recognized as the father of the child, as well as position, place of work and nationality of the mother of the child is entered to the record on the establishment of paternity. The reasonability of collection of these data is doubtful; this practice is not applied in reference countries (in Russia, Kazakhstan, Georgia, Moldova and Lithuania). | Exclude from the Law the requirements on indication of redundant information.  **Comments:**  Khujand: this recommendation needs to be agreed with statistical bodies, since they also ask for these data. According to another opinion this recommendation needs to be promoted, since these data are redundant even for statistics. Besides, it is proposed to compare also the laws on statistics of other countries in order to understand why these data are not collected there by civil registration bodies, and how the gap in data is filled in other states. |
|  | Collection of statistical information is an important objective of state civil registration in any country. | We propose to determine the collection of statistical information as one of the main objectives of the state civil registration in the Law.  **Comments:**  It is an important recommendation and fully supported by all participants. |
| *Improvement of legislation (at the level of code)* | | |
|  | Article 18 (Part 5) of the Law states that “the parent that did not submit an application for state registration of birth of the child in the time period, established by Part 4 of this Article, shall be liable in accordance with the legislation of the Republic of Tajikistan”. At the same time, the Code of the Republic of Tajikistan “On Administrative Offences” does not provide for liability for late registration of the birth of the child. | Provide for in the Code of the Republic of Tajikistan “On Administrative Offences” the administrative liability of parents for late registration of the birth of the child.  **Comments:**  Dushanbe: it is suggested that such proposals should be made carefully, and it is necessary to discuss once again the reasonability of introduction of such amendments, since in practice the certificates are not obtained mainly by persons from vulnerable groups due to lack of funds for its obtaining. It is necessary to make sure that such provisions of the legislation will not become a reason for imposing administrative liability for late registration of birth.  Khujand: it is necessary to make changes to the text of this article and change the “parent” into “parents”, since in practice mainly women bear such responsibility, and they pay the fine. It is necessary to make sure that this provision will not become punitive.  Now the prosecutor bodies collect information on those, who missed the time period for registration of birth.  There is also an opinion that it is necessary to exclude this amendment and fully exclude this provision, since it is punitive and in practice the punishment is mainly imposed on women with low material status.  According to this article such violation of action of civil registration bodies is outlined as checking the visa of one of parents – foreign citizen, though in accordance with this article of the Law only the presentation of copies of passports of both parents is required. Such actions of the civil registration bodies are illegal. |
|  | Article 1, Part 3 of the Family Code of the Republic of Tajikistan states that the marriage concluded only in state civil registration bodies shall be recognized. The marriage concluded by religious rites has no legal bearing. In practice there are many cases, when the marriage is concluded only by religious rites and not concluded in state civil registration bodies. In such cases, when divorcing the weaker party (usually a woman) remains legally not protected. | With the aim of protecting the interests of vulnerable party of the marriage, it is proposed to consider the following options:  1) create opportunity to register the marriage concluded by religious rites in state civil registration bodies (following the example of Lithuania), provided that the conditions for conclusion of marriage and legal consequences of the marriage established by the Family Code are complied with;  2) oblige the religious structures to conclude a marriage by religious rites only in the case of availability of evidence of conclusion of the marriage in state civil registration body.  **Comments:**  Dushanbe: only item 2) of this proposal should be left in order to ensure that marriage registration and *nikah* take place at the same time (but it has its own nuances). It is necessary to describe this recommendation more specifically so that without the registration of marriage in the civil registration bodies, conducting the religious rite of “*nikah*” would not be possible. Before making this recommendation it is necessary to consult with the Committee on Religious Affairs, Centre on Islam Studies and Centre on Legislation in order to clearly establish the status of religious marriages in the RT. In addition, it is proposed to make also a recommendation on divorces, performed according to religious rites and how the civil registration system will record these divorces.  Khujand: This recommendation is not supported at all, the participants proposed to exclude it as the religion in the RT is separated from the state, the state should not interfere with the business of religion, and also such proposals may contribute to expansion of polygamy and its legalization. |
|  | Article 13 of the Family Code of RT indicates that the court, in exceptional cases, has the right to reduce the age of marriage from 18 to 17 by request of the persons that want to enter into a marriage. The Code does not specify exhaustive list of exceptional cases, when the court has the right to reduce the age of marriage, thereby leaving the solution of this issue at the discretion of the court. Early marriages are a serious obstacle to education and employment of women, in this connection it is necessary to introduce the exhaustive list of exceptional cases to the Family Code of RT, when it is possible to reduce the age of marriage. | Provide for in Article 13 of the Family Code of the Republic of Tajikistan the exhaustive list of grounds, guided by which the court has the right to reduce the established legal age of marriage of 18 for one year.  **Comments:**  Dushanbe: during justification of this recommendation it is necessary to link it to the need of prevention of early marriages. It is also proposed to provide the exhaustive list of exceptional cases, as its absence may serve the risk of corruption. In addition, it is suggested to introduce amendments to the legislation that would make the courts obliged to involve the child rights departments and ombudsman on child’s rights when considering the issue of reduction of the age of marriage.  Khujand: establish the specific list taking into consideration the interests of persons entering into marriage. There is the law on anti-corruption examination of legislation provides for exclusion of corruption risks, therefore it is necessary to introduce an exclusion in order to exclude the corruption risks. |
|  | CRO procedure on dissolution of marriage on the one hand has a simplified form and does not require for large expenditures and time, on the other hand it has its risks on termination of legal relationship of spouses, who may later regret about hasty decision taken. In addition, such simplified procedure of dissolution of marriage questions the intention of the government to protect the family and take measures aimed at its preservation and strengthening. | Introduce amendments to the Family Code of the RT and the Law with the aim of establishing a court procedure for dissolution of marriage as the main one, and keep administrative procedure of dissolution of marriage only for those spouses, whose marriage is terminated by mutual agreement in absence of children.  **Comments:**  Dushanbe: it is proposed to make more specific comment, when the use of the mechanism of administrative procedure is impossible when there are adult incapacitated children.  Khujand: the procedure of dissolution of marriage in the court is complex, the time period for consideration may be extended due to provision of time period for reconciliation, etc. It is suggested not to complicate the procedure for dissolution of marriage, as the dissolution of marriage in the civil registration bodies does not cancel the right of former spouses to apply to the court for alimony or with the issues of care after adult incapacitated children. |
|  | According to Article 25, Part 2 of the Family Code, the dissolution of marriage in the court shall be subject to registration in civil registration bodies within one year after entry of the court decision into force in the manner established for civil registration, while in the case of dissolution of marriage in the court, the marriage shall be terminated of the date of entry of the court decision into force. | It is proposed to remove the second part of Article 25 of the Family Code.  **Comments:**  Dushanbe: it is proposed to keep this article without changes as the dissolution of marriage needs to be registered in any case. The court should notify the civil registration bodies about dissolution of marriage, but for time being it is also necessary to keep the existing procedure in order to register the dissolution of marriage in the civil registration bodies.  Khujand: it is supported by participants. |
| *Improvement of legislation (at the level of law)* | | |
|  | In accordance with Part 3 of the Law of the Republic of Tajikistan “On Identification Documents” the identification documents used within the country are issued by authorized public bodies in Cyrillic alphabet (in Tajik and Russian languages). The identification documents used in the Republic of Tajikistan and abroad are issued in accordance with the requirements of international legal documents recognized by the Republic of Tajikistan, in Cyrillic letters (in Tajik language) and Latin letters (in English language). | Article 4 of the Law: Part 5 should be amended by adding the following: “taking into account the requirements of the legislation on identification documents”.  **Comments:**  It is fully supported by all participants. |
|  | In order to improve the quality of provided services on state civil registration, among other measures, it is necessary to increase the degree of personal responsibility of the head of a relevant civil registration office. | Article 4 of the Law: Add a provision that the responsibility for accuracy of state civil registration and quality of drawing civil registration is rested upon the head of the relevant civil registration office.  **Comments:**  Khujand: it is not supported, since it is the task of every individual employee to do his job correctly. |
|  | Article 4 (1) (Part 2) of the Law establishes that for the position of a head of civil registration body shall be appointed a citizen of the Republic of Tajikistan having a higher legal education and professional experience of not less than three years. The working experience at civil registration bodies is not required and it may lead to situation, where managers lack the knowledge and skills on civil registration. | With the aim of improving professional level of heads of civil registration bodies, we propose to add the insertion “having the working experience at civil registration bodies for not less than three years”.  **Comments:**  Dushanbe: this recommendation is supported, it is also proposed to set age qualification for holding the position of a head of the civil registration body, for example, not younger than 30.  Khujand: it is supported by all participants. It is also proposed to introduce the requirement to have a higher education for other staff members of the civil registration bodies (specialists, etc.) |
|  | In accordance with Article 20 Note 1 of the Constitutional Law of the Republic of Tajikistan “On Local Executive Authorities” the heads of local structures of the central executive authorities in Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts financed from the national budget, are appointed and dismissed by heads of the central executive authorities with written consent of chairmen of Gorno-Badakhshan Autonomous Province, provinces, Dushanbe city, cities and districts, and the decisions taken are submitted for approval to relevant Majlis of People’s Deputies. Thus, the Minister of Justice does not have the right to appoint/dismiss the head of a civil registration office independently without consent of the head of local executive authorities.In practice, the Chairmen of local executive authorities propose candidates that do not meet the requirements of legislative and other regulatory legal acts of the country. In this case, the Ministry of Justice does not support the proposed candidate. As a rule, if the Minister of Justice proposes his own candidate to this position, the candidate accordingly will not receive the consent of the Chairman of the local authority.Thus, there is an open conflict of interests. Moreover, such situation may also negatively affect the activities of the civil registration office. | Introduce amendments to the procedure of appointment and dismissal of head of local civil registration bodies.  **Comments:**  Dushanbe: It is proposed to provide for power on appointment of heads of local civil registration bodies only by the Minister of Justice without the need to agree with local state authorities.  Khujand: it is supported by all participants. It is also suggested to check the Law of the RT “On Local State Authorities” for corruption risks in order to exclude such situations. |
|  | With the aim of increasing the efficiency of the state civil registration and improving quality of services provided to population, following the example of other countries, it is necessary to introduce electronic civil registration. | Article 5 of the Law: It is necessary to amend this article by adding Part 5 as follows:  “5. Civil registration shall be also drawn in the form of electronic document and signed by electronic signature of the authorized employee of the civil registration office.  Civil registration records drawn in the form of electronic documents shall be stored in information system of the civil registration office at place of the state registration of the mentioned acts of civil status and (or) in the information system of the state body that is responsible for organization of activities on state civil registration.  The information contained in civil registrations that are drawn in the form of electronic documents is the information on the basis of which, in the manner established by regulatory legal acts of the Republic of Tajikistan, basic state information resources shall be formed.  Requirements on formats of information entered to civil registration records, drawn in the form of electronic documents, shall be approved by the Ministry of Justice.”  **Comments:**  It is supported by all participants. |
|  | With the aim of increasing the efficiency of the state civil registration and improving quality of services provided to population, following the example of other countries, it is necessary to introduce electronic civil registration and create a State Register of Acts of Civil Status of Citizens. | We propose to introduce the concept of **“State Register of Acts of Civil Status Citizens”** to the Law. The State Register of Acts of Civil Status of Citizens – is a state electronic information system containing information about civil registration records, changes related to civil registration records, their renewal and cancellation, and information about issuance of a certificate of civil registration and about issuance of excerpts from it. The State Register of Acts of Civil Status of Citizens shall be maintained by departments/sectors of state civil registration.  The holder of the State Register of Acts of Civil Status of Citizens shall be a central body of executive authorities in the field of state civil registration.  The administrator of the State Register of Acts of Civil Status of Citizens shall be state enterprises belonging to the field of administration of central body of executive authorities in the field of state civil registration.  The administrator of the State Register of Acts of Civil Status of Citizens shall carry out activities on creation andmaintaining of software of the State Register of Acts of Civil Status of Citizens, maintenance and protection of databases, be responsible for its operation, provide free access of civil registration departments to it, and ensure registration of such access and storing information about each access.  The procedure of maintenance of the State Register of Acts of Civil Status of Citizens shall be established by the Government of the Republic of Tajikistan.  **Comments:**  Khujand: in order to justify and promote this recommendation it is possible to make a reference to the State Programme on Introduction of Electronic Government and Programme for Development of Civil Registration Bodies. |
|  | There are only two Marriage Registration Houses in Tajikistan, in Dushanbe and Khujand cities. There is no Marriage Palace. | Remove from Article 6 of the Law the reference about Marriage Palaces.  **Comments:**  It is fully supported by all participants. |
|  | There are 425 local self-governing bodies, in 405 *jamoats* out of this number the civil registration (birth, death, conclusion of marriage and establishment of paternity) is performed by secretaries of *jamoats*. The registration is not the only obligation of secretaries of *jamoats*, therefore, there are delays in provision of services. Moreover, the secretaries do not have legal knowledge and it has a negative effect on quality of operations conducted. | It is necessary to amend Article 7 by adding a provision stipulating that “Civil registration in settlement and village *jamoats* shall be performed by a lawyer. The appointment of the lawyer shall be performed in the established procedure in agreement with the Ministry of Justice of the Republic of Tajikistan”.  It is necessary to establish the liability of *jamoats* of settlements and villages for late submission of reports, incorrect or improper civil registration.  **Comments:**  Dushanbe: it will be difficult to implement this recommendation as it will be difficult to find lawyers at the level of *jamoats*. In addition, the majority of lawyers are men, thus such position will be practically inaccessible to women, and at the same time the majority of such positions in *jamoats* (that perform registration) are held by women. In order to address this problem it is necessary to introduce the requirement on mandatory passing the training courses on registration as a condition for starting this activity in *jamoat*.  Khujand: One of the recommendations is to rest this responsibility on a chairman of *jamoat* as it will be problematic to find a lawyer in every *jamoat*. At the same time entrusting this obligation on the chairman of *jamoat* is not also realistic due to the fact that the chairman has a wide range of powers in *jamoat*. It is proposed to introduce a separate staff unit in *jamoat*, who will perform this work, but this person does not necessarily need to be a lawyer. |
|  | It is necessary to improve the reporting mechanism to the competent authorities of foreign states, with which the Republic of Tajikistan has concluded an agreement on legal assistance and legal relations, on civil and family affairs, about state civil registration of citizens of these states. | Itisnecessary to amend Article 7 by adding part 4 as follows: “4. State civil registration bodies shall report to the competent authorities of foreign state, with which the Republic of Tajikistan has concluded an agreement on legal assistance and legal relations, on civil and family affairs, about state civil registration of citizens of these states, if the rules of the agreements stipulate the provision of such information”.  **Comments:**  Khujand: it is necessary to introduce the following text to this article: “with the exception of refugees and asylum-seekers, since they have left their country because of persecution”. |
|  | The Law (Article 8) provides for powers of consular institutions on state civil registration outside the territory of Tajikistan.At the same time it is necessary to mention that the consular institutions do not submit relevant reports on state civil registration and other actions performed in accordance with this Article. | With the regard to this Article it is necessary to:- introduce reporting of consular institutions on actions performed in accordance with this Article;- introduce a reference to the Instruction on the Procedure for Civil Registration by Consular Officer that is adopted by the Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan that will establish the procedure for sending notification to the Department of Civil Status Acts (DCSA) about introduction of relevant amendments and additions.Add Part 2 that reads as follows: “Control and supervision in the field of state civil registration, performed by consular institutions of the Republic of Tajikistan outside the territory of the Republic of Tajikistan, shall be performed by the Ministry of Foreign Affairs together with the Ministry of Justice”. **Comments:**  It is supported by all participants. |
|  | The last paragraph of Article 8 of the Law (“perform other powers related to state civil registration”) stipulates broad interpretation that by itself causes certain problems in practice. | Remove the last paragraph of Article 8 from the Law.  **Comments:**  It is supported by all participants. |
|  | Bodies of different subordination, including *jamoats* and consular institutions of the system of the Ministry of Foreign Affairs participate in the process of state civil registration. With the aim of increasing the efficiency of control and supervision over execution of the state civil registration, it is necessary to specify the main aims and objectives of the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan in the Law. | We propose to amend the Law by adding Article 91 “Control and supervision in the field of state civil registration”. The control over activities on state civil registration shall be performed by the Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan.  Department of Civil Status Acts of the Ministry of Justice of the Republic of Tajikistan shall: - coordinate the activities on state civil registration and perform its methodological support;- perform supervision over compliance with the legislation of the Republic of Tajikistan during state civil registration, including conduct of inspections of activities of the bodies performing state civil registration, demand and obtain documents and bring in instructions on elimination of violations of the legislation of the Republic of Tajikistan in this area. **Comments:**  Khujand: discuss this recommendation and further work on it, so that it would be possible to conduct inspections in relation to the MFA. |
|  | The practice shows that the forms of the certificate of civil registration are not produced centrally in a single center. This leads to shortage of the forms in the field, their production at the expense of own funds, mistakes and inaccuracies in the produced forms. | It is necessary to provide for in Article 10 of the Law that the forms of certificate are the forms of strict reporting. Production of these forms of certificates shall be carried out by authorizes body in the procedure stipulated by the Government of the Republic of Tajikistan at the expense of the national budget.  **Comments:**  It is fully supported by all participants. |
|  | Article 11 of the Law states that “In the case of loss of a certificate on state civil registration, as well as its spoiling, the duplicative certificates on state civil registration shall be issued by civil registration department of a district, city and in the exceptional cases by provincial and Republican archives of the civil registration office”. | It is necessary to determine specifically what is meant under the concept of “in exceptional cases”, as such wording causes some duplication of functions, as well as leads to a risk of corruption in the activities of the provincial and Republican archives.  **Comments:**  Khujand: it is proposed to enumerate a specific list of exceptional cases. |
|  | The provisions of the Law do not clearly determine in what cases the duplicative certificates on civil registration should be issued. | We propose to add the following to Article 11, Part 1 of the Law: “in the case of impossibility of its use (dilapidation, impossibility to read the printed text due to efflorescence)”.  **Comments:**  It is fully supported by all participants. |
|  | Article 13 of the Law states that refusal in state civil registration shall be allowed in the cases, if the submitted documents do not meet the requirements imposed on them by this Law and other regulatory legal acts. At the same time, the referred list of other regulatory legal acts is not attached. This creates inconveniences for applicants, as in practice different documents are required, the list of which is not clear in advance. Such a situation also creates a risk of corruption. | Following the example of legislation of the Russian Federation, we propose to establish the following in the Law:  1) It shall be prohibited to require and obtain documents and information not provided for by the Law of the Republic of Tajikistan on State Registration Of Acts of Civil Status;  2) The state civil registration bodies shall not have the right to require from applicant the submission of documents and information that are available to the state civil registration bodies, other state bodies, local self-governing bodies, and organizations.  **Comments:**  It is fully supported by all participants. |
|  | Article 13 of the Law states that “by demand of a person (his representative), who was refused in state civil registration, the head of the civil registration office shall be obliged to inform this person (his representative) about the reasons for refusal in writing”. In practice the obligatoriness of the demand complicates the receipt of reasons of the refusal in writing and, accordingly, the possibility of appeal. | Establish that the reasons for refusal in civil registration are provided to the applicant (his representative) in all cases in writing.  **Comments:**  It is fully supported by all participants. |
|  | There are gaps in birth registration in the RT. According to results of the Demographic and Health Survey conducted in 2012, 18% of children had no birth certificate and were not registered in the civil registration bodies. At the same time, the number of girls having neither registration, nor certificate was 2% higher in comparison with boys. The highest percentages of lack of registration and certificate are observed in the Districts of Republican Subordination (DRS) – 23.1% and Khatlon province – 21.9%. The place of birth registration is a civil registration office at place of residence of parents. This procedure does not take into account the realities of the society of the RT, in particular, the widespread internal migration of population (from villages to cities). | Introduce amendments to Article 17 of the Law in order to diversify the list of places of birth registration and include into the list of place of registration the location of health facility, where the child was delivered, in maternity houses. In addition, provide for in this Article the right of civil registration bodies to perform birth registration in remote villages by travelling to these places for this purpose.  **Comments:**  Dushanbe: it is also necessary to provide for registration of birth of children in places of confinement.  Khujand: It is supported by all participants. |
|  | The Law does not clearly specify the responsibility of staff of the civil registration bodies for disclosure of confidential information in connection with the state civil registration. | It is necessary to provide for responsibility of staff of the civil registration bodies for disclosure of confidential information in connection with the state civil registration.  **Comments:**  Dushanbe: a question has raised with the protection of personal data, when the electronic system would be introduced.  Khujand: It is supported by all participants. |
|  | Application about birth may be filed by following persons (Article 18 of the Law): parents of the child (one of parents); relative of one of parents or another authorized person of parents (of one of parents); body of trusteeship or guardianship; official of medical organization, where the child was born, or official of other organization, where the mother was during delivery or where the child is in.  Home deliveries are quite widespread practice in the RT. The results of Demographic and Health Survey conducted in the RT in 2012 showed that 23% out of total number of deliveries were home deliveries.[[5]](#footnote-5) Thus in order to record all cases of birth it is necessary to stipulate a provision in the Law of the RT, according to which the family doctors and medical nurses of rural health centers may have the right to make application about birth, if they revealed the fact of birth in the course of observation of pregnant women or visiting newborns, even if the pregnant woman was not observed by the doctor before the delivery and health workers were not present during delivery. They, in case of lack of state registration of birth, may make application to civil registration bodies about birth. At the same time the civil registration bodies should have the power to travel to a place of residence of a newborn with the aim of birth registration. | Introduce amendments to Article 18 of the Law and include into list of the persons having the right to make application about birth the doctors and medical nurses that found the fact of birth of a child as a result of going round and visiting households and who did not necessarily were present during the delivery.  **Comments:**  Khujand: It is supported by all participants. |
|  | In accordance with the Law the time period for submitting application between the moment of birth and registration of birth should not exceed three months. This time period is long. International standards recommend reducing this time period up to one month. | Introduce amendments to Part 4 of Article 18 of the Law with the aim of reducing the term for submission of application between the moment of birth and registration of birth from three to one month.  **Comments:**  Both in Dushanbe and in Khujand this recommendation was not supported by participants due to the fact that there is a traditional 40 day time period, and also sometimes the villages are located far from *jamoat* and there emerge problems with access to *jamoat* in winter months. In this connection, it is proposed to keep the 3-month time period and not to reduce it. |
|  | Article 19 of the Law regulates the procedure for entering information on parents to civil registration of the birth of child. In contrast to common practice of other countries, the Law does not provide for opportunity, at the mother’s desire, not to enter information about the father of the child. | We propose to add the following to Part 3 of Article 19 of the Law “at mother’s desire, the information about the father of the child may not be entered to the civil registration of the birth of the child”.  **Comments:**  It is fully supported by all participants. |
|  | In Georgia, by setting the primary responsibility for submission of application on birth of a child to an official of the health institution where the child was born, it was possible to improve the situation with coverage of births with registration. | We propose, following the example of Georgia, to establish that the primary responsibility for submission of application on the birth of a child is set on the official of the health institution where the child was born.  **Comments:**  Dushanbe: Registration of birth in health institutions should be introduced, but not as responsibility of health institutions. The responsibility should rest primarily on parents of the child.  Khujand: it is not supported. |
|  | Article 19 of the Law establishing the procedure for entering information about parents to the birth record of a child state that information about the father of the child is entered on the basis of a marriage certificate of parents. Thereby no opportunity is provided for the mother to state that the father of the child is not a spouse. This violates the right of the mother and child. | Provide for a provision in the Law that in the cases, when the father of the child is not the spouse of the mother, the mother has opportunity to state about it and indicate the father of the child with the aim of establishing the paternity.  **Comments:**  It is fully supported by all participants. |
|  | Article 26 (Part 2) of the Law states that “at the request of an applicant, he shall be also issued a statement about birth in order to receive an allowance in connection with birth of the child”. In practice, the obligatoriness of the request of the applicant creates difficulties upon receiving the allowance. | Establish that the statement about birth for receiving the allowance in connection with the birth of the child is issued in all cases.  **Comments:**  It is fully supported by all participants. |
|  | Article 35 of the Law provides for that if one of the parties entering into marriage is a foreign citizen or stateless person, it is strictly mandatory to provide a document confirming his residence on the territory of the Republic of Tajikistan in the course of not less than one last year, and conclusion of a marriage contract. These requirements pose great difficulties for foreigners, especially for citizens of neighbouring countries, and do not contribute to the expansion of state registration of marriage. Such requirements are not applied in other countries that have progressed in the path of reforming the civil registration system. | We propose to abolish the requirement for the foreigner to mandatory provide the document confirming his residence on the territory of the Republic of Tajikistan for not less than last year, and conclusion of the marriage contract.  **Comments:**  Dushanbe: remove the requirement on the need to reside in the RT within one year, but keep the provision on marriage contract.  Khujand: it is proposed to fully exclude this article as it does not provide any protection to women and on the contrary impedes the registration of marriage in the civil registration bodies of the RT. For example, the foreigners prefer to register their marriage with citizens of the RT in foreign embassies, or may conclude marriage only by religious rites if both parties profess Islam. |
|  | Obligations of the civil registration bodies are strictly limited by formal procedures related to documentation. Other countries, for example, Ukraine, Lithuania went through different path, and except official registration of marriage, they set obligations on civil registration bodies to introduce the persons, who submitted applications for marriage registration, with their rights and obligations as future spouses and parents and warn them about liability for concealment of impediments to registration of marriage. Owing to importance of the state registration of marriage, as well as low awareness of citizens of the RT about their rights and obligations, including in marriage, such practice may serve as a good example for the RT too. | Amend the Law by adding Article 351 as follows: “The civil registration body shall be obliged to introduce the persons, who submitted an application for marriage registration, with his rights and obligations as future spouses and parents and warn them about liability for concealment of circumstances impeding the registration of marriage”.  **Comments:**  Dushanbe: introduce the system of informing about rights and obligations of spouses and parents using mass media with the focus on youth.  It is also necessary to include the issues of awareness about marriage contracts.  Khujand: It is supported by all participants.. |
|  | Article 36 of the Law stipulates that the time period for consideration of an application for registration of marriage is one month and may be reduced at the discretion of civil registration bodies or *jamoats*. However, the legislation does not provide for grounds, according to which the civil registration bodies or *jamoats* may change the time period towards its reduction, and also does not stipulate for what period the civil registration body has the right to reduce the time period for consideration of the application. | Part 3 of Article 36 of the Law should read as follows: “3. Based on joint application of the persons entering into a marriage, the time period established by Part 2 of this Article, may be changed by a head of the civil registration body, and in settlements and villages – by chairman of settlements and *jamoats* on the following grounds…” and further provide for exhaustive list of grounds for reduction of the time period for consideration of the application.  **Comments:**  Dushanbe: provide for that in case of a pregnancy of a bride, delivery of a child by her, and if according to medical grounds there is a direct threat to the life of a bride or a groom, the state registration of marriage shall be performed on the day of submission of the relevant application or any other day within one month upon wish of the groom and bride.  Khujand: include also such ground as “presence of common children” to the list of grounds. |
|  | The Law lacks some provisions on inter-agency and intra-agency exchange of information on state civil registration. | Article 38 of the Law: Establish that in the case of state registration of dissolution of marriage at place of residence of spouses (one of spouses), the civil registration body shall be obliged to, within ten days, inform the civil registration body at place of state registration of marriage about the state registration of the dissolution of marriage.  In the case of state registration of the dissolution of marriage of a citizen of the Republic of Tajikistan by consular institution of the Republic of Tajikistan outside the territory of the Republic of Tajikistan, the consular institution of the Republic of Tajikistan shall be obliged to inform about the state registration of the dissolution of marriage the civil registration body at the place of storage of the record of state registration of the marriage within ninety days of the day of the state registration of the dissolution of marriage.  **Comments:**  It is fully supported by all participants. |
|  | One of the grounds for state registration of dissolution of marriage is indicated in Article 40, Part 3 of the Law, which is: “a standard document on death of one of spouses or court decision on the recognition of one of them dead”. In this case the marriage is terminated without the need in registration of the dissolution of marriage. | Remove from Article 40, Part 3 of the Law the ground for state registration of the dissolution of marriage “the standard document on death of one of spouses or court decision on recognition of one of them dead”.  **Comments:**  It is supported by all participants. |
|  | Article 40 of the Law states that the ground for state registration of dissolution of a marriage shall be a joint application on dissolution of marriage of spouses that do not have common children that are under legal age. However, at this instance the interests of adult children that are duly recognized as incapacitated or partially incapacitated by court decision, are not taken into account. | The mentioned ground should be amended by adding the following: “and adult children that are duly recognized as incapacitated or partially incapacitated by court decision”. It is necessary to introduce relevant amendments to Article 21 of the Family Code of the Republic of Tajikistan “Dissolution of marriage in court”.  **Comments:**  Khujand: Some participants outlined that these amendments should be rejected as the issue of maintaining of such children is not connected with the dissolution of marriage. Such issues may be resolved both in case of divorce in the civil registration bodies and through court proceedings. However, there was an opinion that such amendments are necessary, but instead of the words “incapacitated or partially incapacitated” indicate “children with disabilities” in the Law, since the status of “incapacitated” is determined in the court through complex procedure. |
|  | There are situations, when family couples have adult incapacitated or partially incapacitated children. With the aim of protecting the rights of this category of persons, it is necessary to provide for the procedure of dissolution of marriage only by court proceedings. | The title of Article 42 and hereinafter should be amended by adding the following wording: “and adult children that are duly recognized as incapacitated or partially incapacitated by court decision”. It is necessary to introduce relevant amendments and additions to the Family Code of the Republic of Tajikistan.  **Comments:**  Dushanbe: Similar to recommendation 13, i.e. it is necessary to delete that from the Law, i.e. dissolution of marriage out of the court (instead of addition).  Khujand: similar comment as above. |
|  | Article 45 of the Law stipulates that in case of marriage dissolution, the spouse, who has changed surname upon entering into a marriage, may keep this surname upon consent of another spouse. It is necessary to introduce amendments to this article. The husband or wife, who changed surname, may keep it without the need to ask for the consent of another party due to the fact that children may also use the same surname, and also such changes would require, on part of the husband or wife, additional costs and time for changing all other identification documents. | In Article 45 delete the words “…upon consent of another spouse…” in order to give the right to another spouse to keep the surname that was changed after conclusion of marriage in the case of marriage dissolution for the interest of children and reduction of possible costs and time needed for changing all other identification documents.  **Comments:**  It is fully supported by all participants. |
|  | Chapter 8 of the Law regulates the changes of name, patronymic and surname. Unlike other countries that have progressed in the path of reforming civil registration system, the Law of the Republic of Tajikistan does not set forth the valid reasons that would constitute the ground for change of name, patronymic and surname. | Enumerate in Chapter 8 of the Law the list of valid reasons, which are the ground for change of name, patronymic and surname.  **Comments:**  Khujand: this recommendation is not supported, as there should be freedom for changing at the will of a citizen, irrespective of reason. It is also important for labour migrants, who try to evade the ban of entry to the RF by this way. |
|  | In practice there are cases, when the name and surname are often changed with the aim of evading restrictions on labour migration. | In order to avoid such cases, following the example of legislation of Georgia, it is proposed to establish that a person of legal age at his desire shall have the right to change the name only once.  **Comments:**  Dushanbe: It is supported by all participants.  Khujand: this recommendation is not supported, as there should be freedom for changing surname, name and patronymic at citizen’s will as many times as they wish. |
|  | In spite of detailed regulation of the procedure of establishment of paternity in civil registration bodies, the Law does not provide for time periods for the procedure of state registration of the establishment of paternity in the civil registration bodies and by court decision, and issuance of a certificate on establishment of paternity. | In Chapter 7 of the Law, with the regard to establishment of paternity, set the time periods for consideration of application on establishment of paternity and registration of paternity in the civil registration bodies and by court decision, and accordingly, issuance of the certificate on establishment of paternity.  **Comments:**  It is fully supported by all participants. |
|  | Article 69 of the Law providing for the procedure for the state registration of change of surname, name and patronymic states that “upon valid reasons (failure to obtain a copy of civil registration, where it is necessary to enter changes, etc.) the time period for consideration of the application on changing surname, name and (or) patronymic may be extended to six months”.  The lack of exhaustive list of valid reasons creates a risk of corruption. | With the aim of preventing corruption cases and red tape, it is necessary to clearly limit the list of valid reason, on the basis of which the time period for consideration of applications may be extended to six months.  **Comments:**  It is fully supported by all participants. |
|  | Article 72, Part 3 of the Law states that in the case of changing surname by parents and name by the father, the surname, name and patronymic of the child that did not reach the age of sixteen shall be changed in the civil record of birth of the child. However, there is no need for changing the name of the child. | We propose to remove the word “name” from this provision.  **Comments:**  It is fully supported by all participants. |
|  | Article 80, Part 2 of the Law states that the conclusion of city (district) civil registration body on reissuance of the civil registration record or on refusal in this shall be subject to approval by order of the Civil Registration Office of the Ministry of Justice of the Republic of Tajikistan, civil registration departments of Gorno-Badakhshan Autonomous Province, provinces and Dushanbe city. The civil registration department of Dushanbe city is also mentioned in the same context in Part 3 of Article 80 of the Law. These provisions do not meet the reality, as there is no civil registration department of Dushanbe city. | We propose to remove the mentioning of the civil registration department of Dushanbe city from Parts 2 and 3 of Article 80 of the Law.  **Comments:**  It is fully supported by all participants. |
|  | Article 86 of the Law establishing liability for violation of the requirements of this Law does not in any way regulate the liability of citizens of the Republic of Tajikistan, foreign citizens and stateless persons. | Establish that the citizens of the Republic of Tajikistan, foreign citizens and stateless persons shall bear responsibility established by the legislation of the Republic of Tajikistan for violation of this Law.  **Comments:**  Khujand: it is necessary to clearly indicate by what specific law this liability is determined. |
| *Issues related to implementation of provisions of the Law at the level of by-law* | | |
|  | There are regulatory acts at bylaw level in all countries of reference group (in Russia, Kazakhstan, Georgia, Moldova and Lithuania) that provide details of the procedure for state civil registration established at the level of law. Lack of such document in the Republic of Tajikistan leads to different interpretation of provisions of the Law and different practices in the state civil registration bodies. This has a negative effect on quality of services provided to population, as well as creates a risk of corruption. | Article 4 of the Law: It is necessary to stipulate in this article the availability of the Instruction for Conducting State Registration of Acts of Civil Status in the activities of the civil registration bodies, introduce amendments to civil registration records, their renewal and cancellation that will be approved by the Ministry of Justice. **Comments:** It is fully supported by all participants. |
|  | Article 42 of the Consular Statute of the Republic of Tajikistan approved by Decree of the Government of the Republic of Tajikistan stipulates the adoption of an Instruction on Procedure for Civil Registration by Consular officer by Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan, but this Instruction is lacking. | Article 4 of the Law: It should be mentioned that the specifics of conducting state civil registration by consular institutions are determined by Consular Statute of the Republic of Tajikistan and Instruction on Procedure for Civil Registration by Consular Officer that is adopted by the Ministry of Justice of the Republic of Tajikistan together with the Ministry of Foreign Affairs of the Republic of Tajikistan.  **Comments:**  Dushanbe: it is necessary to develop a mechanism of registration of birth of children, who were born outside the territory of the RT, so that there would be an interaction between the civil registration bodies and consular offices. In addition, it is necessary to provide for the obligation of consular offices to inform the citizens of the RT that it is possible to register children and perform other actions on registration of vital events in the consular office.  Khujand: it is fully supported. |
|  | In practice, there is uncertainty how to implement the provision of the Law (Article 20, Part 3), according to which the surname of the child during state registration of the birth is written according to the surname formed from the name of the father. There is a need to clarify this provision. | We propose to clarify that the surname in this case is formed by adding suffixes “-ov, -ev, -ova, -eva”. For example, Aziz is the name of the father. The surname of the child is “Azizov”, “Azizova”.  **Comments:**  Dushanbe: in general it is outlined that the Law does not give clear explanations on how to correctly write the name and surname in the certificate in case of using traditional writing of name and surname in the Tajik language. It is necessary to develop clear instructions for staff of the civil registration bodies on how to correctly write names and surnames in the Tajik language (together with scientists, lawyers). In addition, there are situations in the practice, when the civil registration bodies insist that it is impossible to give surname with suffixes “ov”, “ova”. It is necessary to introduce amendments in order to prohibit the civil registration bodies to insist on this, as the Law stipulates that it is the right of parents to take such decision. In addition, it is proposed to introduce a register of prohibited names instead of the register of allowed names as it is practiced in other countries, so that the parents could decide themselves what names they want to give to their child.  Khujand: It is supported by all participants. |
|  | Neither the Family Code of the Republic of Tajikistan, nor the Law establish mechanisms to verify the absence of impediments to conclusion of marriage, as the ground for denial in state registration of marriage. Such procedures should be regulated by regulatory legal acts at the level of bylaws. | Part 9 of Article 36 of the Law should be amended by adding the following: “Civil registration office shall verify the absence of circumstances hindering the conclusion of marriage, established by the Family Code of the RT. The procedure for conducting verification shall be established by Instruction on State Civil Registration, approved by the Ministry of Justice of the RT”. Accordingly, while developing the indicated Instruction, it is necessary to establish a clear mechanism of verification of the absence of such circumstances.  **Comments:**  It is fully supported by all participants. |
|  | Article 15 of the Family Code provides for mandatory medical examination of persons entering into marriage that should be conducted for free. In spite of the provision on free procedures, de facto, they are paid. | The Ministry of Health together with the Ministry of Justice are to develop the procedure for conducting free medical examination in accordance with the Family Code and conduct monitoring of implementation of this provision.  **Comments:**  Khujand: the procedure has been developed and adopted recently. Nevertheless, the participants noted that this article should be fully removed from the Family Code of the RT, since it causes additional costs, travels to district centre for conducting medical examination. It is necessary to restore the previous procedure, when the medical examination could be conducted upon wish of future spouses on voluntary basis. Such mechanism does not protect spouses at all and moreover, may serve as one of impediments for conclusion of marriages in the civil registration bodies. |
|  | By Decree of the Government of the Republic of Tajikistan #430 of July 02, 2015 there was approved the Procedure for Provision of Additional Paid Services to individuals and legal entities in the civil registration bodies of the Ministry of Justice and other authorized entities. This regulatory legal act stipulates that the funds received for provision of services will be directed for provision of incentives to staff and development of material and technical framework of the civil registration bodies of the Republic of Tajikistan and other authorized entities (paragraph 8). At the same time there is no provision stipulating what part of these funds are directed to maintenance of material and technical framework of other authorized bodies. | Introduce a provision stipulating what part of the funds received for provision of services will be directed to maintenance of material and technical framework of other authorized bodies.  **Comments:**  Khujand: it is proposed to cancel this procedure at all, since such costs should be paid from the state budget and not by population. |

1. Health and Demographic Survey of Tajikistan// Agency for Statistics under the President of Tajikistan, Ministry of Health of the Republic of Tajikistan and ICF International, Dushanbe, Tajikistan, Calverton, Maryland, USA - 2013, p. 134. [↑](#footnote-ref-1)
2. Tajikistan Demographic and Health Survey //Agency for Statistics under the President of RT, Ministry of Health of RT and ICF International, Dushanbe, Tajikistan, Calverton, Maryland, USA - 2013, p. 134. [↑](#footnote-ref-2)
3. Tajikistan Demographic and Health Survey //Agency for Statistics under the President of RT, Ministry of Health of RT and ICF International, Dushanbe, Tajikistan, Calverton, Maryland, USA - 2013, p. 134. [↑](#footnote-ref-3)
4. This is a working document developed with the aim of fulfilling the task “Analytical Report on Detailed Review of Legislation in the Field of Civil Registration in the Republic of Tajikistan” under UNDP Project (funded by the Swiss Cooperation Office) “Support to Reform of Civil Registration Office (CRO)”. The list is preliminary and intended for discussion. The version as of 16.09.2016. [↑](#footnote-ref-4)
5. Tajikistan Demographic and Health Survey //Agency for Statistics under the President of RT, Ministry of Health of RT and ICF International, Dushanbe, Tajikistan, Calverton, Maryland, USA - 2013, p. 134. [↑](#footnote-ref-5)