



## International Covenant on Civil and Political Rights

Distr.: General  
22 August 2013

Original: English

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### Human Rights Committee

#### List of issues in relation to the second periodic report of Kyrgyzstan (CCPR/C/KGZ/2)\*

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Given that the Covenant is directly applicable in the State party, please provide information on cases where the provisions of the Covenant have been invoked directly before the courts, and on the availability of remedies, and their effectiveness, for individuals claiming a violation of the rights contained in the Covenant.
2. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. Please indicate what concrete measures have been taken to give effect to the Committee's Views adopted in respect of the State party, and provide information on whether compensation has been paid to victims.
3. Please explain whether any steps have been taken to bring the Ombudsman, in its capacity as national human rights institution, into line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

##### Non-discrimination, equal rights of men and women, and minority rights (arts. 2, para. 1, 3 and 27)

4. Please indicate all legislative measures adopted during the period under review to combat discrimination.
5. Please indicate whether the national Strategy on Gender Equality and the national plan of action 2012-2014 on gender equality have been approved by the Government and adopted by the Parliament. Please provide information on the mandate, human and financial capacities of these plans. Further to pledges made by women's organizations in the State party, please provide information on efforts to create a separate body in the executive power to be responsible for gender equality across all ministries.

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\* Adopted by the Committee at its 108th session (8-26 July 2013).

6. Please describe the measures adopted to prevent and punish discrimination based on gender identity and sexual orientation, together with the remedies available to victims of such discrimination. Please provide detailed information on the case of Mikhail Kudryashov, who was detained and beaten while in police custody in October 2010 for allegedly disseminating films depicting gay themes.

7. Please indicate whether the Ethnic Policy has been approved by the Government and provide detailed information on its goals and allocated resources.

#### **State of emergency (art. 4)**

8. With reference to the Committee's previous concluding observation (CCPR/CO/69/KGZ, para. 12) please provide detailed and updated information on the progress made to review the legislation governing the state of emergency in order to bring it into compliance with article 4 of the Covenant.

#### **Violence against women, including domestic violence, trafficking in persons, family life, and equality before the law (arts. 3, 7, 8, 23 and 26)**

9. Please describe legislative, institutional and awareness-raising measures adopted through the review period and their effectiveness, to (a) address the prevalence of violence against women, including domestic violence; (b) encourage police reporting of gender-based violence cases; (c) train the police on relevant legislation and the nature of violence against women; (d) systematically prosecute perpetrators and punish them adequately; (e) change societal attitudes on violence against women in particular within the family; and (f) establish State-run shelters for women and girl victims of violence.

10. Please provide the most recent data on trafficking, as well as information on the number of prosecutions, convictions and sentences imposed on convicted perpetrators of trafficking offences. Please describe the measures taken to improve the identification of victims and to enhance the effectiveness of the National Referral Mechanisms to protect, assist, support, compensate and rehabilitate victims of trafficking.

11. Please describe in detail the mandate and role of the Elders' court (*Aksakals*), a community justice system that handles some domestic disputes, including the legal prerequisites for referring cases to this mechanism, and its compatibility with the Covenant. Please respond to allegations that the police refer to the Elders' court too often and inappropriately, including when cases should be investigated as criminal cases, and in particular cases of violence against women, thus affecting adversely women's trust in the law enforcement institutions.

12. Please provide detailed information on measures taken to combat and eliminate practices of bride-kidnapping, early and forced marriage, and polygamy. Please provide statistics on the number of (a) complaints received (b) police investigations conducted, and (c) cases prosecuted and the type of penalties imposed.

#### **Right to life and accountability (arts. 2, 6, and 14)**

13. Please provide information on the number of deaths in custody, and their causes, that occurred during the reporting period. Please provide information on the investigations, prosecutions and sentencing of perpetrators, responsible for the death in custody of the following: Usmanzhan Khalmirzaev, Mamataziz Bizrukov, Hurmatullo Shermatov,

Hairulla Amanbaev, Ulugbek Khamrakulov, Esen Mambekov, and Feruzbek Fiziyeu. Was any compensation paid to the victims' family members?

14. Please indicate the legislative and institutional measures that have been adopted to combat terrorism, and their effects on the rights guaranteed under the Covenant. In this regard, please provide information on the special operation launched by the special services of the Kyrgyz Republic on 23 and 27 July 2008 under the title "On annihilation of terrorists", during which nine persons were killed, and comment on the alleged excessive use of force by law enforcement officers. Please indicate whether an investigation was carried out, the perpetrators were identified and brought to justice and compensation was provided to family members.

15. With respect to human rights violations committed during the violent inter-ethnic clashes between the Uzbek minority and Kyrgyz majority in June 2010 in the south of Kyrgyzstan, resulting in more than 400 deaths, thousands injured and over 2,600 homes destroyed (hereinafter: the June 2010 events):

(i) Please provide information on: (a) all inquiries launched as a result of these events and their conclusions, including the Ombudsman inquiry referred to in paragraph 325 of the State party report and the International Commission of Inquiry, (b) the State party's efforts to comply with the inquiries' recommendations, and (c) remedies provided to victims;

(ii) Please respond to allegations that police investigation into the June 2010 events have been and continue to be marred by serious human rights violations, and trials lack fairness and impartiality, thus rendering law enforcement and judicial investigative exertions in relation to June 2010 events ineffective. Please provide information on any steps taken to develop an independent police complaints commission to investigate past allegations of violations of rights under the Covenant committed by law enforcement personnel during and in the aftermath of the June 2010 events; and,

(iii) Please explain any disparity between the number of criminal investigations initiated in the aftermath of the June 2010 events against ethnic Uzbeks and those initiated against ethnic Kyrgyz.

### **Prohibition of torture and cruel, inhuman or degrading treatment, and fight against impunity (arts. 2, 6 and 7)**

16. Please provide information on the judicial reforms embarked upon after the 2010 presidential elections, in particular and as a matter of priority the revision and harmonization of the Criminal Code and Criminal Procedural Code. Please provide an update on efforts to reform the police with a view to fostering a zero-tolerance policy against torture and ill-treatment by law enforcement officials, and ending impunity.

17. Please provide a full breakdown of the following, based on the relevant articles of the national legislation, and specifically on article 305-1 of the Criminal Procedural Code - "Torture": (a) the number of claims of alleged torture and cruel, inhuman or degrading treatment during the reporting period; (b) the number of such cases investigated; (c) the outcome of these investigations, including prosecutions, and sanctions imposed; (d) the number of those convicted of torture and those who benefited from amnesty laws and/or suspended sentences; and (e) the measures taken for the rehabilitation of compensation of victims.

18. Please respond to reports that torture and other ill-treatment remain widespread despite decrees issued by the Prosecutor General in 2011, particularly in temporary and unofficial detention settings; in situations of incommunicado detention; and during interrogations carried out without the presence of a lawyer. Please comment on allegations that police officers are reluctant to register torture complaints brought by detainees, and about the undue delay in providing medical assistance to victims of torture. Please respond to reports that detention is not duly registered as a matter of practice, and that detainees are denied the right to access to a lawyer. Please update the Committee on steps taken to establish the Kyrgyz National Preventive Mechanism. Please also respond to allegations that torture is routinely used to extract confessions and that judges regularly disregard allegations of torture by detainees and accept allegedly coerced confessions of guilt as evidence presented by the prosecution.

19. Please describe the measures taken to implement the legal prohibition of corporal punishment in all settings in compliance with the Law on the Protection from Violence (2003) and Code on Children (2012). Please also provide information on steps taken to raise awareness about the harmful effects of corporal punishment, and on recourse to non-violent forms of discipline.

### **Right to liberty and security of person, treatment of persons deprived of their liberty and fair trial (arts. 9, 10 and 14)**

20. Please comment on reports of excessive use of pretrial detention and clarify the grounds on which pretrial detention may be authorized by a judge. Please describe efforts to comply with the Committee's previous recommendation to abolish the practice by courts of remitting cases back to the prosecution for re-investigation. Please indicate what measures have been adopted to prevent arbitrary detention and to guarantee that persons subjected to illegal and/or arbitrary detention are able to report such violations and are afforded effective judicial redress and compensation.

21. Please provide information on the measures taken to guarantee that all persons detained by the police are fully informed of their fundamental rights from the outset of their detention, and have immediate access to a lawyer and a medical doctor, and are systematically brought before a judge in compliance with the Covenant. Please indicate efforts to improve detention conditions, and in doing so please refer particularly to the Kara Suu district pretrial detention facility in Osh province. Please also indicate all measures taken to ensure a regular inspection of all places of deprivation of liberty.

22. Please provide information on the mandate of the Council for the Selection of Judges, and respond to allegations that the process of selecting judges lacks independence given the President's power to veto proposed candidates by the Council. Please explain how the executive power's oversight of judicial selection is compatible with the Covenant. Please describe legislative measures taken to ensure equality of arms, in particular, with regard to (a) access to legal counsel, to court files and evidence; (b) security and safety of the parties including defendants, lawyers and family members; (c) ability to summon witnesses; and (d) equal evidentiary weight of medical forensic reports.

23. Please clarify whether military courts can try civilians and if so, how and under what circumstances.

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**Freedom of conscience and religious belief, including the right of conscientious objection (art. 18)**

24. Please provide information on efforts to bring the 2008 Law on Freedom of Religion and Religious Organization in line with Covenant provisions. Please provide data disaggregated by religion on the religious organizations which have been registered since the above law came into force.

25. Please explain how the 2009 Military Service Law complies with the Committee's previous recommendation on conscientious objection. Please provide information on the arrest and detention of more than a dozen Jehovah's Witnesses who were imprisoned owing to their refusal to enlist in the military and participate in alternative service.

**Freedom of expression, freedom of assembly and of association (arts. 19, 21 and 22)**

26. Please provide information on persecution of individuals, including journalists and prominent human rights defenders for their criticism of State institutions in relation to the June 2010 events. Please explain how the closure of the two independent Osh-based Uzbek language television stations, Mezon TV and Osh TV, following the June 2010 events conforms to the Covenant's provisions on freedom of expression. Please also indicate how the crimes of "insult" and "insult of public officials" adopted in the Criminal Code (article 128) are compatible with the Covenant, in particular with regard to the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression.

27. Please provide information on the new Law on Peaceful Assembly, and the draft bill on Fighting against Legalization (Laundering) of Criminal Revenue and Financing Terrorist or Extremist Activity that allegedly imposes restrictive reporting obligations on non-governmental organizations (NGOs) to various State authorities, and their compatibility with the Covenant's provisions on freedoms of assembly and association.

**Birth registration and equality before the law (arts. 2, 24 and 26)**

28. Please explain why registration of newborns has been introduced in all regions except in the Uzbek-ethnic populated provinces of Osh and Jalal-Abad. Please also explain measures taken to eliminate difficulties faced by women without passports in registering their newborn children.

**Right to participate in public life and minority rights (arts. 25 and 27)**

29. Please describe in detail measures taken to increase the representation of ethnic minorities, especially persons of Russian and Uzbek origin, in parliament, government, public administration and law enforcement. Please provide data disaggregated by ethnicity on the representation of ethnic minorities in these State structures.

**Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

30. Please provide information on the steps taken to disseminate information on the Covenant and the Optional Protocols, the submission of the second periodic report of the State party, its examination by the Committee and the Committee's previous concluding observations on the State party's initial report. Please also provide information on the involvement of representatives of ethnic and minority groups, civil society, non-

governmental organizations and national human rights institutions in the preparatory process for the report.

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