



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### List of issues in relation to the fourth periodic report of Kyrgyzstan\*

#### A. General information

1. Please provide information on whether the new Constitution, adopted by referendum in April 2021, represents a step forward in terms of achieving progressively the full realization of Covenant rights. In particular, please provide information on the measures adopted in the Constitution or in its implementing legislation to give the provisions of the Covenant full effect in the State party's domestic legal order, as well as information on the engagement of civil society in this process. Please also provide information on the mechanisms in place to review the compatibility of domestic legislation with the provisions of the Covenant and on any cases in which the Covenant has been invoked in or applied by domestic courts. Furthermore, please provide information on the status of the comprehensive legal revision process, or "legal inventory", started on February 2021 and on how it contributes to the realization of economic, social and cultural rights.

2. Please provide information on how the new Constitution and its implementing legislation ensure the independence of the judiciary and provide the judiciary with the necessary instruments to protect economic, social and cultural rights. Please provide information on the measures taken, in particular under the new Constitution, to guarantee an enabling legal framework and civic space for civil society organizations and human rights defenders to work independently in favour of economic, social and cultural rights. Please explain how the restrictions authorized by article 10 of the Constitution do not imply an undue restriction on the activities of civil society organizations and human rights defenders.

3. Please provide information on any steps taken or envisaged to ensure that the Office of the Ombudsman fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please also provide information on the measures taken to ensure that the Office of the Ombudsman is independent and has the financial and human resources necessary to fulfil its mandate effectively.

4. Please indicate which measures have been taken to mitigate the impact of the coronavirus disease (COVID-19) pandemic on the enjoyment of economic, social and cultural rights, especially among the most disadvantaged and marginalized individuals and groups. Please provide information on measures taken to facilitate universal and equitable access to COVID-19 testing, treatment and vaccination.

5. Please provide information on progress made in meeting nationally determined contributions for reducing emissions, as set out in the Paris Agreement. Please indicate the impact of the adaptation measures taken, especially concerning disadvantaged and marginalized individuals and groups, including women living in rural areas, persons with disabilities and children from marginalized communities living in areas particularly

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\* Adopted by the pre-sessional working group at its seventieth session (7–11 March 2022).



vulnerable to climate change. Please provide information on the effectiveness of the State's institutional structure to implement climate change-related policies and the resources allocated to climate change adaptation activities.

6. Please provide information on the steps taken to ensure that businesses operating under the State party's jurisdiction, whether in the national territory or abroad, have a duty to exercise human rights due diligence in their operations and business relationships. Please inform the Committee about the impact of measures taken by the State party to mitigate the effects of mining operations on health and the environment, including information about the management of the Kumtor gold mine. Please also inform the Committee about the complaint and consultation mechanisms available for communities affected by extractive industries and about the measures taken to ensure that mining activities contribute to reducing poverty in remote areas affected by mining.

## **B. Issues relating to the general provisions of the Covenant (arts. 1–5)**

### **Maximum available resources (art. 2 (1))**

7. Please provide information on the evolution over the past 10 years of:

(a) The proportion of the population living below the nationally defined poverty line;

(b) The levels of inequality, defined both as the ratio between the total income accruing to the richest decile of the population and the total income of the poorest 40 per cent and as the ratio between the assets owned by the richest decile of the population and the assets owned by the poorest 50 per cent;

(c) The proportion of public revenue that is generated through taxes;

(d) Tax rates levied on corporate profits and on personal income, the value-added tax rate (exclusive of value-added tax on certain items, including luxury items) and the percentage of total revenue that is generated from personal income tax collected from the richest 10 per cent of the population;

(e) Public expenditure as a percentage of gross domestic product and, within total public expenditure, the proportion of the public budget that is allocated to social spending, including social security, food, water and sanitation, housing, health and education;

(f) Military expenditure as a percentage of gross domestic product and of the public budget;

(g) Any fiscal policy adopted to respond to the COVID-19 pandemic.

### **Corruption (art. 2 (1))**

8. Please provide information on the implementation and impact of the Government's plan of action to combat corruption for the period 2019–2021 and update the Committee on the remaining obstacles to combating corruption in the State party, particularly in areas such as public procurement, land administration, tax administration and public services. Please also provide information on the number of cases opened against public officials and local authorities owing to conflicts of interests or violations of legislation and on prosecutions brought and sentences handed down, if any, against high-level officials found guilty of corruption.

### **Non-discrimination (art. 2 (2))**

9. With reference to the Committee's previous concluding observations,<sup>1</sup> please provide information on any steps taken to adopt comprehensive anti-discrimination legislation concerning specific groups, as well as related complaints and sanctions. Please provide information on how the implementation of the interdepartmental plan of action for the implementation of the recommendations of the Committee on the Elimination of Racial

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<sup>1</sup> E/C.12/KGZ/CO/2-3, para. 5.

Discrimination, the human rights action plan for the period 2019–2021 and the new Criminal Code have helped to prevent and address discrimination in the enjoyment of economic, social and cultural rights. Please also indicate which steps have been taken to combat and prevent discrimination against disadvantaged and marginalized individuals and groups, including by health-care personnel.

#### **Equal rights of men and women (art. 3)**

10. Please inform the Committee about the implementation and impact of the national strategy and action plan on gender equality and the documents adopted thereon. Please also provide information on the impact of the law on amendments to the Constitutional law of Kyrgyzstan on the election of the President of the Republic and of the members of Parliament (2021) on the representation of women at all levels of government. Please also provide information on the implementation and impact of the law on protection against domestic violence of 2017. Please inform the Committee about measures taken to ensure that women and girls who are victims of domestic violence, including those living in rural areas, have adequate access to shelters, medical care, psychosocial support and socioeconomic services, that cases of domestic violence are investigated and that those responsible are prosecuted.

### **C. Issues relating to the specific provisions of the Covenant (arts. 6–15)**

#### **Right to work (art. 6)**

11. With reference to the Committee's previous concluding observations<sup>2</sup> and the information provided by the State party, please explain how the adoption of the law on the promotion of employment of 2015 (Law No. 214) has contributed to combating unemployment among women, young people under the age of 30, persons with disabilities and refugees, including by providing relevant disaggregated statistical data. Furthermore, please provide information on the impact of the steps taken:

(a) To respond to structural unemployment in the service and construction industries;

(b) To alleviate the impact of the COVID-19 pandemic on unemployment, especially for disadvantaged and marginalized individuals, including migrants and workers in the informal economy living in urban and semiurban areas.

12. Please provide statistical data disaggregated by sex, race, origin, sexual orientation, disability and HIV status on workplace discrimination in hiring, promotions and demotions, including in the public sector, and explain how the measures currently in place have contributed to the prohibition of such discrimination. Please provide information on the steps taken to ensure the effective implementation of the law on the rights of and guarantees for persons with disabilities and the Labour Code regarding the 5 per cent quota of employees with disabilities. Please also indicate the percentage of companies that have implemented the employment quota for persons with disabilities on a comparative basis for the past five years and provide information on the penalties available for those that do not meet the requirement.

#### **Right to just and favourable conditions of work (art. 7)**

13. With reference to the Committee's previous concluding observations<sup>3</sup> and the information provided by the State party, please also provide information on the enforcement of the minimum wage law and on the mechanism in place to review and regularly adjust the minimum wage in line with the cost of living so that workers and their families can enjoy a decent living. Please respond to reports that during the COVID-19 pandemic health-care personnel received unfair wages and operated in poor working conditions and comment on the remaining obstacles for guaranteeing the principle of equal pay for work of equal value.

<sup>2</sup> Ibid., para. 9.

<sup>3</sup> Ibid., para. 10.

14. With reference to the Committee's previous concluding observations,<sup>4</sup> please report on the findings of the interdepartmental working group established to investigate the non-observed economy and the status of implementation of the government action plan developed to reduce it. Please indicate whether any mechanisms for formalization are envisaged in the 2018–2022 development programme of Kyrgyzstan to ensure equal access to the formal labour market for disadvantaged individuals and groups, including young people under the age of 30, persons with disabilities, women and migrants. Please provide up-to-date statistical data, disaggregated by sex and age, on the number of persons employed in the informal economy on an annual comparative basis during the past five years and provide information about the measures taken to enhance the protection of their labour rights.

15. With reference to the Committee's previous concluding observations,<sup>5</sup> please report on the measures taken to bring the working conditions of migrant workers into conformity with the provisions of article 7 of the Covenant and on the impact of such measures in addressing labour exploitation, abuse and intimidation. Please also indicate the effectiveness of measures adopted to mitigate the impact of the COVID-19 pandemic on the families of Kyrgyz migrant workers living abroad and dependent on their remittances.

#### **Trade union rights (art. 8)**

16. Please provide information on the status of draft law No. 6-8263/19, amending the law on trade unions, and indicate the steps taken to ensure the compatibility of that draft law with the Covenant, as well as the extent to which workers' organizations and civil society participated in the process of adoption. Please also indicate what laws and practical measures have been taken to protect trade union members from violence and to ensure that they can operate freely and effectively.

#### **Right to social security (art. 9)**

17. With reference to the Committee's previous concluding observations<sup>6</sup> and the information provided by the State party, please indicate the mechanisms available to prevent pensioners from receiving pensions below the minimum subsistence level and ensure that social benefits are adequate. Please report on the steps taken to expand coverage of the monthly benefit for poor families with children and the unemployment compensation to a greater number of households in vulnerable situations and to prevent the exclusion of workers in the informal economy from these benefits. In addition, please provide information on the social security benefits available to persons working in the informal sector.

18. With reference to the information provided by the State party, please provide additional information on the impact of the State benefits law and whether it ensures that recipients of State benefits enjoy an adequate standard of living. Please provide disaggregated data on the proportion of the population covered by social assistance and social insurance schemes. Please also report on the steps taken to ensure that the social protection system provides coverage to disadvantaged and marginalized individuals and groups, including young people, persons with disabilities, migrant workers, the urban poor, sex workers, refugees and asylum seekers.

#### **Protection of the family and children (art. 10)**

19. Please provide detailed information on any measures taken or envisioned to repatriate and reintegrate the families, including children, of foreign terrorist fighters, especially women and children being held in de facto detention. Please also indicate the steps taken to provide social, psychological and educational support to repatriated women and children.

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<sup>4</sup> Ibid., para. 11.

<sup>5</sup> Ibid., para. 13.

<sup>6</sup> Ibid., para. 15.

**Right to an adequate standard of living (art. 11)**

20. Please provide information on the impact of the State party's poverty reduction strategy in decreasing the poverty rate and the high number of people living just above the poverty line and on the steps taken to mitigate the effects of the COVID-19 pandemic.

21. With reference to the Committee's previous concluding observations<sup>7</sup> and the information provided by the State party, please provide additional information and disaggregated statistical data on the implementation and impact of the 2015–2020 affordable housing programme to ensure that it meets the needs of disadvantaged and marginalized groups and reduces the number of homeless persons.

22. Please provide information on measures taken to develop a comprehensive housing policy that includes various forms of homeownership, including leased/rented housing and housing acquired through equity construction. Please inform the Committee about the steps envisaged to guarantee the right to adequate housing in cases of forced eviction and the participation of civil society in the process of developing housing laws and policies. Please also comment on current or planned regulations aimed at protecting lesbian, gay, bisexual, transgender and intersex individuals from discrimination by private landlords and at preventing forced evictions targeted at ethnic minorities. Please indicate the steps taken to support internally displaced persons affected by the April 2021 border conflict in terms of access to adequate housing, to education and to water.

23. Please provide information on the implementation and impact of the 2019–2023 programme for food security and nutrition and its action plan in terms of ensuring that all individuals have access to affordable and adequate food. Please also indicate the measures taken:

- (a) To ensure that all those in vulnerable situations, including the urban poor and migrants, have access to nutritious food;
- (b) To address the risk of food insecurity due to rising food prices;
- (c) To set up a public food distribution system for disadvantaged individuals and those living in remote regions.

**Right to physical and mental health (art. 12)**

24. Please provide information, including relevant statistics, on the implementation and impact of the programme of State guarantees and of the adoption of the national programme entitled "accessible country". Please also provide detailed information on the steps taken to increase the financial and human resources allocated from the State budget to provide adequate health-care services. Please inform the Committee of the steps taken to improve the quality of infrastructure and equipment, and indicate how the provision of quality personal protective equipment, quality working conditions for health personnel and the adequate capacity of health facilities are ensured in the context of the COVID-19 pandemic.

25. Please inform the Committee about the implementation and impact of measures taken to limit the use of out-of-pocket spending and informal payments in exchange for health care, and about measures envisaged to address corruption and improve transparency at all levels of the health-care system.

26. With reference to the Committee's previous concluding observations,<sup>8</sup> please provide information on the implementation and dissemination of the manual on the provision of medical and social care for transgender, transsexual and gender non-conforming persons (2017) and the guidelines on working with vulnerable groups on HIV prevention to guarantee adequate access to health care for lesbian, gay, bisexual, transgender and intersex persons and HIV-positive people without discrimination. Please report on the impact of article 143 of the Criminal Code (on infection with a venereal or incurable infectious disease) on HIV-positive people's access to health care and HIV-prevention services and provide information on the steps taken to ensure access to health-care services for sex workers. With reference to

<sup>7</sup> Ibid., para. 19.

<sup>8</sup> Ibid., para. 22 (a).

the information supplied by the State party, please provide additional information on any measures taken to ensure access to health-care services for refugees, asylum seekers, returning migrants and members of minority groups and to psychosocial support for communities in Batken and Leilek districts affected by the border conflict.

27. Please provide information on the steps taken to decriminalize drug use and possession. With reference to the information supplied by the State party, please indicate the budget allocated for harm reduction programmes and the steps taken to ensure specialized health-care services, psychological support and rehabilitation services to drug users and the engagement of civil society in this process. With reference to the Committee's previous concluding observations,<sup>9</sup> please indicate what steps have been taken to ensure that users have unhindered access to methadone treatment programmes.

28. Please inform the Committee about the implementation and impact of laws, policies and programmes adopted to address the adverse effects on health and the environment caused by the high level of industrial pollution. Please also provide information on the steps taken:

- (a) To strengthen the collection of up-to-date and accurate environmental data and indicators;
- (b) To develop a comprehensive environmental policy;
- (c) To address the increase in air pollution emissions and associated impacts;
- (d) To assess the impact of projects implemented to address the effects of uranium mining and milling tailings in Mailuu-Suu district.

#### **Right to education (arts. 13–14)**

29. Please provide information on the steps taken to increase the proportion of the State budget that is allocated to education and on measures planned to improve the quality of education. Please also provide information on the implementation and impact of the programme for the development of inclusive education for the period 2019–2023 to ensure equal access to education for all children without discrimination, including children with disabilities, refugee children, stateless children, asylum-seeking children and children who are members of minority groups. Please provide information on the impact on quality and access to education of strategies adopted to transition from in-person to remote learning during the COVID-19 pandemic and on measures envisaged to ensure that children living in remote areas, in areas affected by conflict and in households living in poverty have access to education.

#### **Cultural rights (art. 15)**

30. Please provide information on the implementation and impact of the programme to introduce multilingual education for the period 2017–2030, on the budget allocated and on the measures taken to promote the use of minority languages in the media, cultural life and education, including vocational and university education. Please indicate the status of adoption of the draft law on the State language, which provides for Kyrgyz to be used in all spheres of public life. Please also indicate whether measures adopted to close the digital divide in terms of geography, gender and language have been effective.

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<sup>9</sup> Ibid., para. 23.