



**International Covenant on  
Civil and Political Rights**

Distr.: General  
12 May 2020  
English  
Original: Russian  
English, French, Russian and  
Spanish only

---

**Human Rights Committee**

**Third periodic report submitted by Kyrgyzstan  
under article 40 of the Covenant, due in 2018\***

[Date received: 25 February 2020]

---

\* The present document is being issued without formal editing.

GE.20-06631 (E) 070720 080720



\* 2 0 0 6 6 3 1 \*

Please recycle 



## Introduction

1. Kyrgyzstan acceded to the International Covenant on Civil and Political Rights in accordance with Decision No. 1406-XII of 12 January 1994, adopted by the Zhogorku Kenesh, the parliament of Kyrgyzstan.
2. The present report has been prepared in accordance with the guidelines for the preparation of reports. It includes information received from State bodies and voluntary organizations, taking into account the concluding observations of the Human Rights Committee on the second periodic report of Kyrgyzstan, which were adopted at its 3060th meeting, on 25 March 2014 (CCPR/C/SR.3060).
3. The Committee's concluding observations on the second periodic report were discussed with representatives of State bodies and non-governmental organizations (NGOs).
4. Kyrgyzstan has remained committed to making further progress in the area of civil and political rights and freedoms. The country set targets for achieving the global Sustainable Development Goals, which were pursued under the National Sustainable Development Strategy of Kyrgyzstan for the period 2013–2017, approved by Presidential Decree No. 11 of 21 January 2013.
5. The Strategy for the period 2013–2017 identified the following main areas of action: building a State based on the rule of law and ensuring legality, holding free and democratic elections, strengthening the unity of the people, addressing social challenges and problems, and protecting the environment. It also defined the country's economic development priorities, including improving the business environment and investment climate and developing strategic sectors of the economy.
6. The National Development Strategy for the period 2018–2040 was subsequently approved by Presidential Decree No. 221 of 31 October 2018.

## Article 1

7. The Constitution of Kyrgyzstan establishes that Kyrgyzstan is a sovereign, democratic, secular, unitary and social State governed by the rule of law. Kyrgyzstan exercises full State authority over its territory and conducts its domestic and foreign policy independently.
8. Sovereignty rests with the people of Kyrgyzstan, who are the only source of State power. These constitutional provisions are fully realized in practice.
9. Article 12 of the Constitution establishes that the land, its subsoil, airspace, water, forests, flora and fauna and other natural resources are the exclusive property of Kyrgyzstan, that they are to be used in such a way as to preserve the shared environment as the basis for the life and activities of the people of Kyrgyzstan, and that they enjoy special protection by the State.

## Article 2

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Applicability of the Covenant in domestic courts, para. 5)**

10. In accordance with article 6 of the Constitution, international treaties that have entered into force in accordance with the legally established procedure and to which Kyrgyzstan is a party, along with the generally recognized principles and rules of international law, form an integral part of the country's legal system.
11. Domestic courts have been guided by the provisions of the Covenant in the following decisions:
  - Constitutional Chamber Decision of 31 October 2013 (Covenant, art. 25 (b))
  - Constitutional Chamber Decision of 27 January 2016 (Covenant, art. 25 (c))

- Constitutional Chamber Decision No. 2 of 2 September 2015 (Covenant, art. 14 (1))
- Supreme Court ruling of 24 June 2015 (the Committee’s Basic Principles on the Role of Lawyers, adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana from 27 August to 7 September 1990)
- Supreme Court ruling of 14 March 2016 (Covenant, art. 14 (1))

12. The following activities have been carried out to raise awareness among judges, lawyers and prosecutors about the Covenant and the direct applicability of its provisions in domestic law.

13. Every year, at the initiative of the Coordinating Council on Human Rights, and with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia, training seminars on the application of international human rights treaties are held for representatives of ministries, departments, the Supreme Court, the Office of the Procurator General, the Office of the Ombudsman and the National Centre for the Prevention of Torture. In 2017 and 2018, two-day training seminars were held, with independent local and international experts as invitees.

14. The School of Administration of Justice attached to the Supreme Court and the training centre attached to the Office of the Procurator General provide targeted procedural training for representatives of the judiciary (judges and other court officials) and the procuratorial system (procurators and investigators attached to procurator’s offices).

15. The Human Rights Action Plan for the period 2019–2021, which was approved by Government Order No. 55-r of 15 March 2019, provides for:

- Training for judges on the application of international human rights treaties and international standards, including those that concern freedom from torture and ill-treatment
- A review of judicial practice in criminal cases involving torture

16. In 2014–2015, the training centre of the Office of the Procurator General organized and conducted more than 70 lectures and workshops on international instruments and the protection of human and civil rights and freedoms. These were supported by NGOs, the United Nations Children’s Fund (UNICEF), OHCHR, the Department of Justice of the United States of America, the Embassy of the United States of America in Kyrgyzstan, the Organization for Security and Cooperation in Europe (OSCE), the Friedrich Ebert Foundation, the Kylym Shamy foundation and the Embassy of the United Kingdom in Kyrgyzstan.

17. In 2016, with the assistance of the aforementioned organizations, seminars were held on countering extremist activities and terrorism; combating terrorism and extremism; the religious situation in Kyrgyzstan and legal guarantees for religious activities; conducting expert assessments of religious literature and of print, audio and video materials; and international standards on freedom of religion and freedom from arbitrary detention.

18. In 2018, an agreement was reached with the International Organization for Migration (IOM) to hold two additional training sessions on combating trafficking in persons for 50 procuratorial officials.

19. In order to implement the plan of action of the State Programme for the Development of Justice for Children for the period 2014–2018, an interdepartmental two-day training event on juvenile justice was organized, with the support of UNICEF, for the bodies of the procuratorial system, the judicial system, the Bar, the Ministry of Internal Affairs, the State Penal Correction Service and the Ministry of Labour and Social Development, as part of a joint project with the Pokolenie Insan foundation to pilot a model juvenile justice system.

**Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Implementation of the Views of the Committee, para. 6)**

20. It should be emphasized that article 13 of the Covenant does not prohibit the expulsion of an alien; it provides that an alien may be expelled in pursuance of a decision reached in accordance with law.

21. When expelling citizens of foreign States who are accused of committing offences or have been convicted in a foreign State, Kyrgyzstan acts in strict compliance with the requirements of national legislation and international treaties.

22. Regarding the role of the Coordinating Council, it should be noted that the Coordinating Council on Human Rights attached to the Government was established in 2013.

23. The Coordinating Council's activities are aimed at enhancing the mechanisms in place to protect human and civil rights and freedoms and fulfil international human rights obligations.

24. The Coordinating Council is headed by the Deputy Prime Minister, who serves ex officio as its Chair. The Coordinating Council has 23 members, who represent government ministries and departments, the Office of the Ombudsman, the Office of the Procurator General, the Supreme Court, the State Commission on Religious Affairs and the National Centre for the Prevention of Torture.

25. National human rights reports are prepared under the auspices of the Coordinating Council.

26. The Coordinating Council also considers individual complaints submitted by citizens of Kyrgyzstan to the Human Rights Committee.

27. The Coordinating Council is guided in its activities by the following instruments:

- Government Decision No. 630 of 18 November 2013 on the Coordinating Council on Human Rights attached to the Government
- Government Decision No. 155 of 17 March 2014 approving the statute of the Coordinating Council on Human Rights attached to the Government
- Government Decision No. 731 of 8 November 2017 on cooperation among State bodies in the consideration of communications and decisions of the United Nations human rights treaty bodies

28. In accordance with chapter 5 of the regulations on cooperation among State bodies in the consideration of communications and decisions of the United Nations human rights treaty bodies, the secretariat of the Coordinating Council forwards decisions (Views) adopted by the United Nations human rights treaty bodies to the Supreme Court and the Office of the Procurator General for consideration as prescribed by law, i.e. in accordance with criminal and civil legislation.

29. Decisions (Views) that do not relate to criminal or civil proceedings are forwarded by the secretariat of the Coordinating Council to the relevant State bodies in accordance with the nature of the decisions (Views) to be considered.

30. The secretariat requests information from the relevant State bodies on the measures taken to consider the decisions (Views) of the United Nations human rights treaty bodies.

31. Once it has been approved by the Chair of the Coordinating Council, information about the measures taken or planned is forwarded to the Ministry of Foreign Affairs for subsequent transmission to the United Nations human rights treaty bodies.

**Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (National human rights institution, para. 7)**

32. In order to implement the recommendations in question, a new version of the *Akyikatchy* (Ombudsman) Act has been drafted. This new version of the Act will ensure that the Paris Principles adopted by the General Assembly of the United Nations are

reflected in national legislation, help Kyrgyzstan to fulfil the international commitments that it has assumed and serve to strengthen the country's foreign policy positions.

33. The bill is currently before the Zhogorku Kenesh.

**Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Violence against women, para. 11)**

*(a) and (b)*

34. Every three years, in accordance with the National Strategy for the Achievement of Gender Equality by 2020, which was approved by Government Decision No. 443 of 27 June 2012, the Government draws up a plan aimed at reducing discrimination and violence against women. These national action plans for the achievement of gender equality have been adopted for the periods 2012–2014, 2015–2017 and 2018–2020.

35. The current National Action Plan, for the period 2018–2020, was approved by Government Decision No. 537 of 19 November 2018.

36. On 27 April 2017, the Protection against Domestic Violence Act, No. 63 of 3 October 2017, was adopted with a view to reducing and eradicating violence against women and children. The Act is focused mainly on the prevention and suppression of domestic violence and the provision of social and legal protection to victims of domestic violence.

37. With a view to implementing the Act, templates for protection orders have been approved by government decision, and instructions on the work of the internal affairs agencies for protection against domestic violence were approved by a Ministry of Internal Affairs instrument.

38. In fulfilment of the Protection against Domestic Violence Act, No. 63 of 3 October 2017, the Administrative Liability Code was amended to strengthen the penalties for domestic violence and failure to comply with the conditions of a protection order (art. 66-3 (Domestic violence) and art. 66-4 (Failure to comply with the conditions of a protection order)).

39. On 1 January 2019, the Administrative Liability Code became inoperative and was replaced by the Code of Infractions, which establishes the offences of domestic violence (art. 75) and failure to comply with the conditions of a temporary protection order (art. 76).

40. Under article 75 of the Code of Infractions, domestic violence is punishable by a category II fine, category II punitive labour or category II community service.

41. The penalty for this offence was previously set at a fine of 1,000 to 2,000 soms or community service totalling 15 to 30 hours. Under current legislation, it is set at a fine of 15,000 to 60,000 soms or community service totalling 30 to 60 hours.

42. Under article 76 of the Code of Infractions, failure to comply with the conditions of a temporary protection order is an offence punishable by a category II fine or category II community service.

43. The penalty for this offence was previously set at an administrative fine of 1,500 to 3,000 soms, community service totalling 30 to 40 hours or administrative detention for 3 to 5 days. Under current legislation, a violation under the article in question is punishable by a fine of 15,000 to 60,000 soms or community service totalling 30 to 60 hours.

44. The penalties for these offences have thus been strengthened.

45. The statistics set out in table 1 show that the number of reported cases of domestic violence increased significantly between 2014 and 2018, which indicates increased trust on the part of citizens.

Table 1  
**Measures taken in fulfilment of the Protection against Domestic Violence Act over the period 2014–2018**

	2014	2015	2016	2017	2018
Number of recorded incidents of domestic violence	3 126	3 524	7 053	7 333	7 178
Number of (temporary) protection orders issued by the internal affairs agencies	2 619	3 358	6 966	7 323	7 114
Number of cases referred to the courts for the issuance of protection orders	–	61	40	–	–
Number of criminal cases opened for domestic violence	243	238	199	218	369
Number of persons upon whom administrative penalties were imposed for domestic violence	1 624	2 381	4 901	4 946	5 444
Number of persons registered with the internal affairs agencies as “domestic violence offenders”	1 776	2 003	4 111	3 712	3 260

46. The Ministry of Internal Affairs takes the necessary measures to respond to incidents of bride kidnapping, and special attention is devoted to the legality and validity of the procedural decisions taken by investigative units.

#### Measures taken to prosecute persons under articles 154 and 155 of the Criminal Code

Year	<i>Article 154 of the Criminal Code (Coercion of a person under the age of 17 to enter into de facto marital relations)</i>		<i>Article 155 of the Criminal Code (Coercion of a woman to marry, kidnapping of a woman for the purpose of marriage or obstruction of marriage)</i>	
	<i>Criminal cases opened</i>	<i>Cases referred to court</i>	<i>Criminal cases opened</i>	<i>Cases referred to court</i>
2014	9	6	33	20
2015	3	3	23	23
2016	7	6	25	23
2017	7	7	31	20
2018	3	3	30	30

47. On 28 May 2018, 20-year-old Burulai Turdaaly kyzy, who was kidnapped for the purpose of forced marriage, was killed by her kidnapper, M. Bodoshev, at a police station.

48. Mr. Bodoshev and A. Seiitov were found guilty by the Sverdlov District Court in Bishkek. Mr. Bodoshev was sentenced to 20 years’ imprisonment and Mr. Seiitov to 7 years’ imprisonment.

49. With regard to police officers’ improper performance of their duties in failing to prevent the killing of Burulai Turdaaly kyzy, on 28 May 2018, the procurator’s office of Jayyl District opened a criminal case under article 316 (2) of the Criminal Code (Dereliction of duty), which was investigated by the investigations division of the State Committee on National Security office for Chu Province.

50. On 9 April 2019, by decision of Alamudun District Court of Chüy Province, three employees of the Jayyl District internal affairs agency were found guilty and each was fined 260,000 soms. In addition, a total amount of 100,000 soms was awarded to the victim Turdali Kozhonaliev as compensation for moral damage. The Court dropped the criminal proceedings brought against two officers of the Central Administration for Road Safety.

51. An internal investigation was carried out into the killing of Burulai Turdaaly kyzy, and, in accordance with Ministry of Internal Affairs Order No. 541 of 4 June 2018, 23 internal affairs officers were disciplined. Of these, 5 were dismissed from the internal affairs agencies, 8 were removed from their posts, and 10 received other disciplinary penalties.

(c)

52. In accordance with the Government Social-Sector Procurement Act, 21 centres were established under the Ministry of Labour and Social Development between 2014 and 2016 in order to provide social services to families and children in difficult circumstances, and 11,460 persons have been provided with social services at these centres.

53. In total, the country has more than 60 centres, which provide rehabilitation and social services to children and families in difficult circumstances. Of these, six centres that provide comprehensive assistance to victims of domestic violence received 2.5 million soms from the State budget to carry out projects in accordance with the implementation plan of the 2018 State Procurement Programme. In 2018, the total amount made available for social projects under the social-sector procurement system was 36 million soms.

54. The Family Support and Child Protection Programme for the period 2018–2028 was adopted by Government Decision No. 479 of 14 August 2017.

(d) *Awareness-raising campaigns*

55. In 2018, with a view to raising public awareness of the problem of gender-based violence, the Ministry of Labour and Social Development, local State administration and local self-government bodies, NGOs and international organizations jointly carried out a large number of public information measures and other special initiatives. The campaign received special attention following the death of Burulai Turdaaly kyzy, a medical student, on the premises of a district internal affairs agency. As part of the campaign itself, special banners on domestic violence and on forced and early marriage were produced and displayed on city streets. The Ministry of Education and Science and the Ministry of Internal Affairs, in partnership with NGOs and international organizations, held lectures at vocational colleges and educational institutions and, in conjunction with the Public Television and Radio Corporation, the Pyramida television channel and some regional channels, broadcast special programmes, including a screening of the film *Ala-kachuu* (Bride Theft) and a music video on the same topic, entitled *Kyz Kadyry*.

56. It should be noted that innovative formats and methods are used in awareness-raising activities. These are associated with the development of new technologies (e.g. the Lifeline special smartphone application, which was developed during a hackathon organized by the Open Line foundation) and modern methods of mobilization (e.g. street art dedicated to the memory of Burulai, which was organized by the Women's Aid Centre voluntary organization to launch the "16 Days Without Violence" campaign in 2018).

57. On 19 and 20 April 2017, given the relevance of the problem of early marriage among minors, staff members of the Ministry of Internal Affairs delivered lectures at general education institutions in Bishkek on the consequences of early marriage among minors, as part of which a video was screened and handouts were distributed.

58. The country's local internal affairs agencies have been provided with manuals entitled "Sexual violence is unacceptable and constitutes a criminal offence" and "Recommendations for STOP violence specialists". These manuals were prepared as part of a project on the integrated provision of services for victims of sexual and gender-based violence. A video on early marriage among minors has also been produced and distributed.

59. Since the beginning of the 2018/19 academic year, with a view to preventing juvenile delinquency and giving effect to Interdepartmental Order No. 791 of 24 August 2018 on strengthening interdepartmental cooperation to prevent juvenile delinquency and crime among young people and minors for the period 2018–2019, 7,400 seminars, round tables, debates, meetings and discussions have been held with students and their parents. They included 1,450 on legal topics, 832 on military and patriotic topics, 1,685 on prevention of the spread of religious extremism among young people and minors, 1,287 on healthy lifestyles and prevention of drug addiction, alcoholism and smoking, and 1,685 on other topics that help to develop legal awareness. In addition, 80 open-day events have been held.

60. The Ministry of Health issued Order No. 226 of 30 March 2018 on measures to prevent early marriage in Kyrgyzstan and adopted a plan of action for its implementation.

61. In accordance with the plan, clinical guidelines on early pregnancy and childbirth, which cover the clinical psychological, sociomedical and legal aspects, are currently being prepared. They address such medical questions as the provision of information and advice on safe methods of terminating and preventing unwanted pregnancies, access to modern forms of contraception and childbirth.

62. The following materials were produced over the period 2014–2018:

- Guidelines on medical care for victims of sexual violence (2014)
- Practical guidelines for medical specialists on the effective documentation of violence, torture and ill-treatment
- Guidelines on the provision of psychological assistance to victims of gender-based violence
- Guidelines on the provision of psychological assistance to child victims of violence
- Guidelines for medical specialists at all levels of the health-care sector and other sectors in Kyrgyzstan on the provision of sociomedical assistance to transgender, transsexual and gender-nonconforming persons
- Clinical guidelines on pregnancy, childbirth and the post-partum period in women who use psychoactive substances
- Clinical guidelines on the health of adolescents who use psychoactive substances

63. The Ministry of Labour and Social Development has produced accessible and entertaining videos on the characteristics of adolescence, promotion of gender awareness among young people, prevention of psychoactive substance abuse, prevention of violence among young people, reproductive health and sexual relations, prevention of HIV infection and sexually transmitted infections, interpersonal relations and conflict resolution, and prevention of computer addiction and online violence among young people.

64. A national plan of action for the period 2018–2020 on the implementation of Security Council resolution 1325 (2000) on women and peace and security was adopted by Government Order No. 334-r of 21 September 2018.

### **Article 3**

65. Kyrgyzstan has comprehensive gender equality legislation in place to ensure the political participation of women. For example, the Constitutional Act on Presidential Elections and Elections to the Zhogorku Kenesh provides for mandatory gender quotas: neither sex may account for more than 70 per cent of the members of the legislature. The following provision has also been incorporated: “If the term of office of a female member of the Zhogorku Kenesh ends prematurely, her seat shall pass to the next registered candidate from among the female candidates.” This provision will enter into force in 2020. The Local Council Elections Act contains an identical provision.

66. On 13 August 2018, the National Sustainable Development Council adopted the Electoral Legislation Enhancement Strategy for the period 2018–2020.

67. The Electoral Legislation Enhancement Strategy for the period 2018–2020 is being implemented through an action plan, one of the priorities of which is to improve the inclusiveness of the electoral process by creating conditions more conducive to the full exercise by citizens, including women, of their right to vote and to be elected.

68. In implementation of the Strategy, amendments of the Constitutional Act on Presidential Elections and Elections to the Zhogorku Kenesh and of the Constitutional Act on Referendums have been drafted, as has a bill on local council elections.

69. In total, there are 8,384 local council members in Kyrgyzstan, of whom 7,456 (89 per cent) are men and 928 (11.0 per cent) are women. There are no mechanisms to ensure their representation among rural council (*aiylny kenesh*) members. In order to increase the representation of women in local councils, the aforementioned bill stipulates that 30 per

cent of seats on rural councils must be reserved for women and sets out the procedure for the allocation of reserved seats.

70. In accordance with article 23 (4) of the State and Municipal Civil Service Act, No. 75 of 30 May 2016, competitive selection procedures to fill vacant positions must ensure that citizens have equal access to the State and municipal civil service.

71. The regulations on competitive selection and promotion procedures in the State and municipal civil service, which were approved by Government Decision No. 706 of 29 December 2016, stipulate that competitive selection procedures must guarantee the constitutional right of citizens to have equal access to the State and municipal civil service in accordance with their abilities and professional training.

72. In addition, paragraph 50 of the regulations stipulates that, if two or more candidates receive an equal number of points, the selection board must recommend the candidate whose ethnic origin or gender is less well represented in the State body or local self-government body.

73. As at 1 January 2018, the actual number of civil servants in the public administration at the State level was 15,838, of whom 9,064 (57.2 per cent) were men and 6,774 (42.8 per cent) were women.

74. As at 1 January 2018, the actual number of civil servants in the public administration at the municipal level was 7,976, of whom 2,965 (37.2 per cent) were women.

## **Articles 4 and 5**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (State of emergency, para. 10)**

75. A state of emergency and martial law may be declared in the cases and manner prescribed by the Constitution and the Constitutional Act on States of Emergency.

76. On 24 May 2018, the Civil Defence Act was adopted. It regulates legal relations in the area of the civil defence of the population and the territory in emergency situations in both peacetime and wartime.

77. Information concerning the state of emergency declared in 2010 is contained in the combined second to fourth periodic reports of Kyrgyzstan on the implementation of the Covenant over the period 2007–2011, which were approved by Government Decision No. 141 of 20 February 2012.

## **Article 6**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Anti-terrorism measures, para. 13)**

78. Counter-terrorism activities are regulated by the Counter-Terrorism Act, the Act on Countering the Financing of Terrorism and the Legalization (Laundering) of the Proceeds of Crime, the National Security Act and the Government Programme to Combat Extremism and Terrorism for the period 2017–2022, which was approved by Government Decision No. 394 of 2 June 2017.

79. In accordance with article 22 of the Counter-Terrorism Act, the special measures provided for in legislation, up to and including the use of lethal force against terrorists, may be used to suppress terrorist activities or individual terrorist acts.

80. In addition, in accordance with the legislation in force, when actions by law enforcement and special services officers during special operations result in the death of a person, a legal assessment is carried out by the oversight bodies to ensure that there has been no violation of the right to life guaranteed under international instruments and domestic legislation. If it is confirmed that law enforcement and special services officers

made unreasonable use of lethal force, the perpetrators are held criminally responsible under the normal procedure.

81. In accordance with article 24 of the National Security Agencies Act, officers of the State Committee on National Security have the right to use special means or firearms in the cases specified in the Act. Moreover, special means or firearms may be used only after a warning has been given and after sufficient time has been left for a response, except in cases in which a delay in using special means or firearms would give rise to an immediate threat to the life or physical integrity of citizens or officers of the national security agencies or could have serious consequences.

82. In all cases in which the use of special means or firearms is unavoidable, officers of the national security agencies must attempt to minimize harm to citizens' physical integrity and damage to their honour, dignity and property, and to ensure that assistance and medical aid are rendered to victims.

83. Under articles 25 and 26 of the same Act, it is prohibited to use special means or weapons against women (women who are visibly pregnant), persons who have visible disabilities or children (minors).

84. Targeted measures are being taken on an ongoing basis to prevent, detect and suppress extremism and the recruitment and transfer of Kyrgyz citizens to areas of armed conflict.

85. Between 2014 and 2018, the internal affairs agencies uncovered 845 terrorism-related crimes:

<i>Year</i>	<i>Crimes uncovered</i>	<i>Criminal cases opened</i>
2014	86	23
2015	266	26
2016	198	57
2017	143	61
2018	152	56

86. In 2015, nine persons held in remand centre No. 50 who had been sentenced to life imprisonment, including for terrorism, killed four members of the remand centre's staff in a bid to escape, and then fled the scene.

87. On 12 October 2015, the investigation department of the State Penal Correction Service instituted criminal proceedings under article 97 (2) (1), (6) and (10) (Murder), article 336 (3) (Escape) and article 172 (3) (Motor vehicle theft) of the Criminal Code (1997 version).

88. Following the investigation, criminal proceedings against six persons were terminated on the basis of article 28 (1) (7) of the Code of Criminal Procedure (1998 version), that is, as a result of their deaths.

89. Three persons were charged under article 30 (3), article 31 (4), article 345 (3) (Obstruction of the normal activities of penal institutions), article 30 (3), article 31 (4) and article 97 (2), (4), (6), (8), (9) and (16) of the Criminal Code (1997 version).

90. On 29 June 2016, the Sverdlov District Court acquitted these persons for lack of evidence in respect of some of the charges, but found them guilty of the other charges, namely murder and robbery, and sentenced them to life imprisonment.

91. By decision of a chamber of the Bishkek City Court of 15 September 2016 and a Supreme Court decision, the sentences imposed on these persons were upheld.

92. On 20 October 2015, three prisoners died in remand centre No. 1 in Bishkek.

93. On 2 December 2015, in order to establish the circumstances of the case and the causes of their deaths, the office of the procurator responsible for overseeing respect for the

law in correctional institutions opened criminal case No. 183-15-238 under article 104 (4) (Intentionally causing grievous bodily harm) of the Criminal Code (1997 version).

94. During the time that these persons spent in remand centre No. 1 in Bishkek, the state of their health was serious, and they outright refused medical assistance, as is noted in their medical records.

95. These persons had confirmed in handwritten statements that they had no complaints against police officers or officers of the State Penal Correction Service regarding bodily injuries.

96. Regarding the nine members of international terrorist organizations who offered armed resistance to arrest, investigations were carried out in connection with criminal cases, following which, in accordance with the requirements of the Code of Criminal Procedure (1998 version), the criminal proceedings instituted against the officers of the State Committee on National Security who took part in the special operations were terminated.

97. The following is noted with respect to the killing of one person.

98. On 22 October 2015, law enforcement officials carried out operations to arrest a wanted person, A. Itibaev, who had escaped from remand centre No. 50 and was hiding in an apartment in Bishkek.

99. He offered active armed resistance to arrest. As a result, he was wounded and died at the scene, and an officer of the special rapid response unit under the Ministry of Internal Affairs also died.

100. On 23 October 2015, the Bishkek procurator's office opened criminal case No. 151-15-51 under article 241 (1) (Illegal acquisition, transfer, sale, storage, transport or carrying of firearms, ammunition, explosives or explosive devices) and article 340 (Murder of a law enforcement official or member of the armed forces) of the Criminal Code (1997 version). The investigation in the case was conducted by the Central Internal Affairs Department of Bishkek.

101. Following the investigation, the criminal proceedings were terminated on the basis of article 28 (1) (7) of the Code of Criminal Procedure (1998 version), that is, as a result of Mr. Itibaev's death.

102. With regard to the criminal case opened in relation to the deaths of civilians during the special operation to arrest Mr. Itibaev, his location was established on 22 October 2015. He was hiding in a housing complex in Bishkek and actively resisted arrest using firearms.

103. Mr. Itibaev was killed during the special operation. After the operation, apartment No. 87 was searched. This apartment is located on the second floor of the building, next to apartment No. 86, where the officers found the bodies of two civilians, B. Sooronbaeva and M. Kakeev, both of whom had gunshot wounds to the head.

104. On 23 October 2015, the Bishkek procurator's office opened criminal case No. 151-15-50 under article 97 (2) (1) (Murder) of the Criminal Code (1997 version).

105. Following the investigation, it was concluded that the actions of the "Bars" special rapid response unit under the Ministry of Internal Affairs disclosed evidence of an offence under article 101 (2) (Criminally negligent manslaughter due to improper performance of professional duties) of the Criminal Code (1997 version).

106. During the investigation, the victims applied to have the criminal proceedings terminated, as they did not wish to pursue the semi-public prosecution.

107. The aforementioned offence committed by officers of the "Bars" special rapid response unit under the Ministry of Internal Affairs is categorized as a minor offence within the meaning of article 10 of the Criminal Code (1997 version).

108. Consequently, on 23 April 2016, the criminal proceedings were terminated on the basis of article 28 (1) (12) of the Code of Criminal Procedure (1998 version), as the victim did not wish to pursue the semi-public prosecution.

109. Between 2014 and 2018, 11 deaths of persons held on remand for committing crimes were recorded in places of detention. This number includes four persons who escaped following the murder of officers of remand centre No. 50 and later died in institution No. 21 (remand centre No. 1) of the State Penal Correction Service after their arrest.

110. On 2 December 2015, in response to this incident, the office of the procurator responsible for monitoring respect for the law in penal correction bodies and facilities opened criminal case No. 183-15-238 under article 104 (4) (Intentionally causing grievous bodily harm) of the Criminal Code.

111. However, the investigation was suspended because no suspect could be identified.

112. Seven persons committed suicide in the holding facilities attached to the district and provincial internal affairs agencies and to the internal affairs departments of Bishkek and Osh.

113. Internal investigations were carried out into these incidents, and 36 officers of the internal affairs agencies were disciplined. Criminal proceedings have been brought against two holding facility officials and remain pending before the Tong District Court.

114. Between 2014 and 2019, 134 persons died in psychiatric inpatient facilities in the health-care system.

<i>Name of facility</i>	<i>Number of deaths</i>
National Mental Health Centre	28
Chym-Korgon National Psychiatric Hospital	68
Kyzyl-Jar National Psychiatric Hospital	27
Osh Provincial Mental Health Centre	7
Talas Provincial United Hospital	1
Leylek Local Hospital	1
Batken Provincial United Hospital	1
Naryn Provincial United Hospital	1

115. Causes of death:

- Acute cardiovascular failure (coronary heart disease): 76 persons
- Cardiopulmonary failure (chronic obstructive pulmonary disease): 20 persons
- Tuberculosis: 27 persons
- Liver cirrhosis: 3 persons
- Mechanical asphyxia (hanging): 4 persons
- Aspiration asphyxia: 2 persons
- Lung cancer: 1 person

#### **Deaths in psychiatric inpatient facilities over the period 2014–2018, in absolute numbers and percentages**

<i>Inpatient facilities</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
National Mental Health Centre	6 (0.1)	4 (0.1)	4 (0.1)	6 (0.1)	8 (0.2)
Chym-Korgon National Psychiatric Hospital	8 (1.0)	10 (1.2)	15 (1.8)	15 (2.0)	20 (2.3)
Kyzyl-Jar National Psychiatric Hospital	6 (0.3)	4 (0.2)	5 (0.3)	6 (0.3)	6 (0.3)
Jalalabad Provincial Mental Health Centre	–	–	–	–	–
Osh Provincial Mental Health Centre	2 (0.1)	5 (0.2)	–	–	–
Talas Provincial United Hospital	–	–	–	–	1 (0.6)

<i>Inpatient facilities</i>	2014	2015	2016	2017	2018
Leylek Local Hospital	–	–	1 (0.5)	–	–
Batken Provincial United Hospital	–	1 (0.8)	–	–	–
Naryn Provincial United Hospital	–	–	1 (0.4)	–	–
<b>Nationwide</b>	<b>22 (0.2)</b>	<b>24 (0.2)</b>	<b>26 (0.2)</b>	<b>27 (0.2)</b>	<b>35 (0.3)</b>
<b>Total: 134</b>					

116. Between 2014 and 2019, a total of 257 persons died in neuropsychiatric facilities in the social development system, all as a result of illness.

#### **Information on deaths among social service recipients in social inpatient facilities over the period 2014–2018**

<i>Adult neuropsychiatric social inpatient facilities</i>				
2014	2015	2016	2017	2018
56	34	32	51	56
<i>Children's neuropsychiatric social inpatient facilities</i>				
2	4	6	8	8
58	38	38	59	64

#### **Information on deaths among military personnel completing compulsory military service between 2014 and 2018**

<i>Armed forces of Kyrgyzstan (State Committee on Defence, Ministry of Internal Affairs, Ministry of Emergency Situations, State Committee on National Security and State Border Service)</i>						
	2014	2015	2016	2017	2018	
Violation of firearms regulations		1	–	1	1	1
Incitement to commit suicide		1	–	–	–	–
Violation of statutory regulations on relations among military personnel		–	2	1	–	–
Suicide		3	1	–	1	4
Road traffic accidents		–	1	–	2	1
Illness		1	2	–	–	–
Other		–	–	–	–	1
		6	6	2	4	7
<b>Total: 25</b>						
<i>Department for the Protection of Correctional Institutions and Transfers under the State Penal Correction Service</i>						
Violation of firearms regulations		1	–	–	–	–
Suicide		–	1	–	–	2
Injury caused by electric shock while carrying out work		1	–	–	–	–
		2	1	0	0	2
<b>Total: 5</b>						

**There were 30 deaths among military personnel over the period 2014–2018**

#### **Measures taken against those convicted**

117. Sentences have been imposed on five persons convicted in connection with deaths among military personnel:

- The Bishkek Garrison Military Court sentenced Warrant Officer M.O. Babaev to imprisonment for a term of 6 years and 6 months for inciting Private E. Kamchybek uulu to commit suicide
- On 13 January 2016, the Osh Garrison Military Court sentenced Private N. Usmanov to 9 years' imprisonment
- The Osh Garrison Military Court sentenced Private Amantur Ashimbek uulu to 10 years' imprisonment
- On 19 April 2016, the Balykchy Garrison Military Court sentenced Private A. Mirlanov to 6 years' imprisonment
- The Osh Garrison Military Court sentenced Private A. Shanaev to 12 years' imprisonment

118. Criminal proceedings have been instituted in respect of three deaths among military personnel.

119. Decisions were taken not to institute criminal proceedings in respect of seven deaths among military personnel.

120. Criminal proceedings were terminated in respect of one death among military personnel.

121. Criminal proceedings were instituted under article 316 (2) (Negligence) of the Criminal Code (1997 version) in respect of one death.

122. The Nookan District Court found the chief of staff of the Ministry of Emergency Situations, A. Asanbaev, and Company Commander K. Khabibulaev guilty and sentenced them to 1 year's imprisonment, suspended.

123. The Department for the Protection of Correctional Institutions and Transfers disciplined relevant officials for omissions in their work.

## **Article 7**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Torture and ill-treatment, para. 15)**

124. The Constitution provides that no one may be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Every person deprived of liberty has the right to be treated humanely and to have his or her dignity respected (art. 22).

125. On 1 January 2019, the new Criminal Code and new Code of Criminal Procedure entered into force. They strengthen the fundamental safeguards against torture during the police custody and preliminary investigation phases.

126. The maximum penalty for the offence of torture, as established in article 143 of the Criminal Code, has been lowered by 5 years. Courts may now impose a penalty of deprivation of liberty for a maximum of 10 years.

127. Torture has been moved from the section entitled "Offences by persons in an official capacity" to the section entitled "Offences against the person", as the protection of human and civil rights and freedoms, which are supreme values, is the State's primary responsibility.

128. Whenever a suspect is placed in a temporary holding facility and whenever a complaint regarding the use of violence, torture or ill-treatment by officials of the bodies conducting the initial inquiry or pretrial investigation is filed by the suspect or by his or her lawyer, close relative or spouse, he or she must be given a duly documented medical examination. The administration of the temporary holding facility is obliged to carry out the mandatory medical examination.

129. The Code of Criminal Procedure stipulates that its provisions on parole and the statute of limitations for criminal prosecution may not be applied in respect of persons convicted of torture.

130. The rights of suspects have been expanded. In addition to the requirement that a suspect must know what crime or infraction he or she is suspected of having committed, he or she also has the right to a medical examination and medical assistance after he or she has been detained. The administration of the temporary holding facility is obliged to carry out the mandatory medical examination.

131. Pursuant to article 4 of the General Principles of Amnesties and Pardons Act of 14 June 2002, amnesty may not be granted to persons who have committed serious or especially serious offences, regardless of the length of the sentence imposed by a court. The offence established in article 143 of the Criminal Code is categorized as a serious offence.

132. In 2017, the new Act on the Grounds and Procedure for Granting Amnesty was adopted. It stipulates that the Act is not applicable to persons who are standing trial for or have been convicted of torture, or murder with aggravating or especially aggravating circumstances.

133. In order to reduce the prevalence of violence, torture and cruel and inhuman treatment or punishment, since December 2014 the Ministry of Health has been actively implementing an adapted version of the Practical Guidelines for medical specialists in Kyrgyzstan on the effective documentation of violence, torture and ill-treatment, based on the principles set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The Guidelines were approved by Ministry of Health Order No. 680 of 7 December 2015. The principles of the Istanbul Protocol are being widely introduced into teaching and practical work in the health-care sector and training for medical workers.

134. However, the experience of the Ministry of Health in implementing the Practical Guidelines has shown that it is not enough to introduce medical documentation within the Ministry system alone; the Practical Guidelines need to be implemented in the medical institutions of all public and private organizations. There remains a significant shortage of medical workers trained to fill in the form, with instances of refusals and poor-quality completion of medical documentation and difficulties in assessing the quality of medical findings and forensic examinations.

135. In 2018, the Ministry of Health prepared a draft government decision on harmonization and standardization of the medical documentation of violence, torture and other cruel, inhuman or degrading treatment or punishment in order to make its provisions, the Practical Guidelines and the principles of the Istanbul Protocol mandatory for all agencies of the State. This matter was included in the programme of work of the Coordinating Council on Human Rights for 2019.

136. An independent State body, the National Centre for the Prevention of Torture, was established in 2012 to prevent torture and ill-treatment. Between 2014 and 2018, the Centre carried out over 4,000 monitoring visits. To date, most instances of torture have been found to have occurred before the suspect was taken into custody, for the purpose of extracting a confession.

137. There are a number of impediments to the effective operation of the Centre. Over the four years between 2014 and 2018, 46 cases of obstruction of the Centre's work were identified, 3 of which led to the initiation of criminal proceedings (in 2014, 2015 and 2017). While obstruction of and interference in the work of the Centre's staff are prohibited by law, such violations continue in practice.

138. Article 146-2, criminalizing obstruction of the Centre's activities, was removed from the new Criminal Code, which entered into force on 1 January 2019.

139. Between 2014 and 2018, the procuratorial authorities instituted criminal proceedings in relation to only 28 complaints of torture and ill-treatment, which constituted 3 per cent of the total number of complaints addressed to the Centre.

140. Torture was made a specific criminal offence in 2003, but not a single person was prosecuted under the relevant article until 2012.

141. Between 2012 and 2018, the courts found 18 officials guilty of torture in criminal cases. Of these officials, 14 worked for the internal affairs agencies and 4 worked for the State Penal Correction Service.

142. Punishment was waived in respect of six internal affairs officers, as the statute of limitations for criminal prosecution had expired, the acts in question having been committed before July 2012 (when the penalty for torture was increased). The remaining 12 persons were sentenced by the courts to between 7 and 11 years' deprivation of liberty. That figure includes 2 internal affairs officers convicted of having used torture against minors.

<i>Year</i>	<i>Number of registered complaints of torture and other cruel, inhuman or degrading treatment or punishment</i>
2012	371
2013	265
2014	220
2015	478
2016	435
2017	418
2018	377

143. In order to prevent torture and ill-treatment, a reception room equipped with a video surveillance and sound recording system has been opened at the premises of the Service for Combating Extremism and Irregular Migration attached to the Ministry of Internal Affairs.

144. On 16 March 2017, the Ministry of Internal Affairs issued Order No. 226 approving a set of regulations on the video surveillance system in internal affairs temporary holding facilities.

145. As at 1 January 2019, the internal affairs agencies were operating 46 temporary holding facilities in the country, which had 253 cells with 1,162 sleeping spaces. Of these:

- 295 were equipped with video surveillance cameras without a recording facility
- 255 were equipped with video surveillance cameras with a recording facility

146. All temporary holding facilities are equipped with video cameras, which transmit to the control rooms of internal affairs agencies. The video cameras in the internal affairs temporary holding facilities of Nookan District, Jalalabad, Jalalabad Province, Osh, Tokmok, Ysyk-Ata District and Balykchy transmit to the procurator's office.

<i>Province, city, etc.</i>	<i>Number of facilities</i>	<i>Number of cells</i>	<i>Video cameras installed</i>
Bishkek	1	14	27
Osh	1	11	1
Chu Province	7	52	37
Issyk-Kul Province	6	46	38
Naryn Province	5	34	31
Osh Province	7	31	15
Jalalabad Province	12	59	94
Talas Province	2	12	6
Batken Province	5	27	8
Ministry of Internal Affairs Internal Affairs Department	1	–	3

147. Pursuant to Ministry of Internal Affairs Order No. 226 of 16 March 2017, law enforcement officers working for authorities competent in matters of national security have access to video surveillance data for official purposes. Video surveillance recordings are not removed, but the overwritten footage is destroyed after the established time period. In accordance with the Outdoor Video Surveillance Act, materials recorded by a video surveillance system must be kept for three months.

148. All video cameras in the country's internal affairs temporary holding facilities have been installed since 2012, and their number is increasing each year as funding permits.

149. In 2017 and 2018, 80 video cameras were repaired and reinstalled in administrative buildings of internal affairs temporary holding facilities across the country.

150. However, the servers where the recordings are stored were not upgraded owing to a lack of funding and the storage periods remained unchanged. Moreover, an additional 258 cameras and 32 video recording devices for the country's temporary holding facilities are currently required, which would cost a total of 1,082,634 soms.

151. To ensure the protection of human rights and freedoms, the Regulations on the Ministry of Internal Affairs Internal Investigations Service, approved by Ministry of Internal Affairs Order No. 980 of 16 October 2018 (superseding Order No. 700 of 5 September 2017) establish that one of the Service's main tasks is to see to it that the rule of law, internal discipline and civil rights and freedoms are respected by internal affairs officials, employees and other personnel.

152. To fulfil this task, the Service's plan of organizational, investigative and preventive measures for the fourth quarter of 2018 included work to identify and suppress violations and infringements of rights by internal affairs officials and the adoption of measures to prevent such cases, which is a priority area of work for the Ministry of Internal Affairs.

153. Detailed information about the alleged use of torture against Azimjan Askarov and the miscarriages of justice in his case, and about torture and ill-treatment more generally, was included in the third periodic report of Kyrgyzstan on implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for 2012–2016, approved by Government Order No. 6-r of 28 January 2019.

## Article 8

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Trafficking in persons, para. 12)**

154. In accordance with the regulations on the return to the Kyrgyz Republic of child citizens deprived of parental care and located outside the country, approved by Government Decision No. 571 of 21 October 2013, the Ministry of Labour and Social Development organizes the return or repatriation of children deprived of parental care from the Russian Federation.

155. Once the child has arrived in the country, the Ministry works with the district or city social development department to find the child's relatives and reunite the biological family. If it is not possible to reunite the child with his or her biological family, a decision is taken on whether to place the child with a guardian or to arrange an adoption.

156. Between 2011 and 2018, a total of 89 children were returned (6 in 2011, 18 in 2012, 3 in 2013, 17 in 2014, 6 in 2015, 13 in 2016, 16 in 2017 and 10 in 2018).

157. Of the 89 children returned, 52 were adopted, 12 were placed with their families, 9 were placed with a guardian and 16 are in children's homes.

158. Adoption in Kyrgyzstan by citizens of the country, citizens of Commonwealth of Independent States (CIS) member States and other foreign nationals is carried out in accordance with international treaties acceded to or ratified by Kyrgyzstan as well as a number of national laws and regulations.

159. Between 2014 and 2018, 4,063 children were adopted by Kyrgyz citizens (626 in 2014, 985 in 2015, 978 in 2016, 718 in 2017 and 756 in 2018) and 98 by foreign nationals (17 in 2014, 27 in 2015, 22 in 2016, 12 in 2017 and 20 in 2018).

160. The State database on children deprived of parental care contains the personal details of 224 children who are up for adoption and 280 potential adoptive parents. There are currently 68 foreign nationals registered as potential adoptive parents (67 from the United States of America and 1 from the Netherlands).

161. Children adopted by foreign nationals are registered with the accredited diplomatic mission (embassy) or consular agency of Kyrgyzstan in the country of residence of the adoptive parents. Moreover, reports on the living conditions, upbringing and maintenance of the adopted children are submitted to the offices of accredited foreign agencies in Kyrgyzstan.

162. Seven accredited offices of foreign adoption agencies are currently operating in the country (six from the United States of America and one from the Netherlands).

163. In 2004, Kyrgyzstan became one of the first CIS countries to introduce live birth criteria (registration of stillborn babies from 22 weeks' gestation with a minimum body weight of 500 g and body length of 25 cm). Accurate statistics made it possible to analyse the situation and identify the problems, following which the main avenues for improvement of the situation and registration of births and neonatal deaths were elaborated.

164. A newborn register, which is a personalized database with information about newborns weighing at least 500 g and their mothers, was introduced in all regions of the country.

165. Over the period from 1990 to 2016, under-5 mortality decreased by more than two thirds (1.7 times) at the national level.

166. In recent years, the Central Asian countries have been taking active measures to combat trafficking in persons by developing strategies and national plans on the subject, improving the legal framework, strengthening international and regional cooperation and coordinating the work of law enforcement agencies.

167. The Ministry of Internal Affairs analysed and monitored Act No. 55 of 17 March 2005 on Preventing and Combating Trafficking in Persons, based on the experience of Central Asian countries in identifying victims of trafficking and with a view to bringing national legislation into line with international instruments on trafficking in persons.

168. On the basis of this study, Act No. 2 of 11 January 2018 was adopted, amending the aforementioned Act.

169. To implement the Act on Preventing and Combating Trafficking in Persons and the Government Programme to Combat Trafficking in Persons for the period 2017–2020, the Government adopted Decision No. 493 of 19 September 2019 on a national referral mechanism for victims of trafficking in persons, in order to introduce such a mechanism and criteria for identifying victims.

170. According to statistics from the Ministry of Internal Affairs, presented in tables 2 and 3, 45 criminal cases have been opened for trafficking-related offences. In 37 of these cases, a crime was found to have been committed.

Table 2

**Criminal proceedings initiated**

	<i>Criminal Code, art. 124 (Trafficking in persons)</i>					<i>Total</i>
	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	
<b>Total</b>	<b>18/15/3</b>	<b>9/6/3</b>	<b>7/6/1</b>	<b>2/1/1</b>	<b>9/9/0</b>	<b>45/37/8</b>

171. Of the 37 cases in which a crime was found to have been committed, 31 were referred to the courts and 6 were suspended at the investigation stage.

172. Of these criminal cases, 22 concerned trafficking in newborns (12 of the victims were boys and 10 were girls); a crime was found to have been committed in all of these cases.

Table 3  
**Criminal proceedings initiated**

	<i>Criminal Code, art. 124 (Trafficking in persons)</i>					<i>Total</i>
	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	
<b>Total</b>	<b>7/7/0</b>	<b>4/4/0</b>	<b>1/1/0</b>	<b>1/1/0</b>	<b>9/9/0</b>	<b>22/22/0</b>

173. The Ministry of Internal Affairs cooperates with foreign law enforcement agencies in cases of slavery involving Kyrgyz migrant workers abroad, including with CIS countries under the Inter-State Programme on Joint Measures to Combat Crime and as part of the Programme of Cooperation among CIS member States in Combating Trafficking in Persons. Official missions of the Ministry operate in certain foreign countries and a Ministry representative is present in the CIS Office for the Coordination of the Fight against Organized Crime and Other Dangerous Forms of Crime.

174. Jointly with the International Organization for Migration, the Ministry has developed a learning module for law enforcement officials on combating trafficking in persons, which includes teaching materials, case studies, instructions and practical recommendations for law enforcement personnel.

175. A lecture has been developed on the legal, organizational and tactical foundations of action to prevent and combat trafficking in persons. The lecture was attended by 128 internal affairs agency employees in 2016, 140 in 2017 and 139 in 2018.

## Article 9

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Liberty and security of person, para. 16)**

176. To ensure that all actions taken as part of pretrial investigations are registered in a single register of offences, in line with article 150 of the Code of Criminal Procedure, provisional regulations on such a register were approved by Government Decision No. 602 of 21 December 2018.

177. In accordance with the regulations, all legally mandated pretrial investigation actions are recorded in the register, including the full name and personal details of the arrested person or suspect, the grounds, reason, date and time of the arrest and other information.

178. Chapter 8 of the regulations specifies the procedure for registering persons suspected or accused of committing an offence in the single register of offences, based on forms completed when a person is declared a suspect, when any procedural decision is taken in respect of that person and when the pretrial investigation is terminated.

179. Pursuant to article 223 of the Code of Criminal Procedure, if there is sufficient evidence to suspect a person of having committed an offence, the competent official of the agency conducting the initial inquiry or the investigator notifies the person of this suspicion in writing.

180. The competent official of the agency conducting the initial inquiry or the investigator promptly records, in the single register of offences, the date and time of the notification and the legal designation of the offence the person is suspected of having committed, indicating the relevant article or paragraph of the Criminal Code or Code of Infractions.

181. In accordance with article 99 of the Code of Criminal Procedure, the order to detain a suspect is drawn up upon his or her arrival at the agency conducting the initial inquiry or investigation.

182. Chapter 16 of the regulations contains rules on monitoring and oversight, under which procurators and the heads of investigative units, agencies conducting initial inquiries and law enforcement entities are responsible for ensuring the accurate, objective, complete and timely entry of information in the register. If the forms entered in the register are not completed adequately or breaches of the regulations are identified, procuratorial action is taken to remedy them and hold the officials responsible to account.

183. On 10 August 2018, the Ministry of Internal Affairs and the regional office of Penal Reform International in Central Asia signed a memorandum of cooperation.

184. Under the memorandum, proposals for joint action by the Ministry and Penal Reform International are being carried out as part of a seven-phase programme of improving the criminal procedural work of the internal affairs agencies.

185. As part of the cooperation between the Ministry and Penal Reform International, a pilot project is to be carried out in the Bishkek Central Internal Affairs Department and the Osh Internal Affairs Department. The project will be aimed at improving the performance by internal affairs personnel of procedural actions in line with the new legal codes that entered into force in 2019. The project will include the piloting of smart technologies in local internal affairs agencies, enabling personnel in investigative and operational units to improve their work in this regard.

186. On 26 December 2018, at the Internal Affairs Department of the Sverdlov district of Bishkek, an event was held for the opening and presentation of specialized rooms equipped with an automated system for the single register of offences and the single register of violations.

187. The Constitution provides that everyone has the right to liberty and security of person and that all detained persons must promptly, and in any case within 48 hours from the time of their arrest, be brought before a judge for a decision on the lawfulness of their detention. All detained persons must immediately be informed of the reasons for their detention and must be informed of and able to exercise their rights, including the right to a medical examination and to medical assistance (art. 24).

188. In accordance with articles 99, 103 and 104 of the Code of Criminal Procedure, the order to detain a suspect is drawn up upon his or her arrival at the agency conducting the initial inquiry or investigation. At the actual moment of detention, the suspect must be told what he or she is suspected of and informed of the rights not to testify against himself or herself, to have the assistance of a lawyer and to make use of State legal aid.

189. If necessary, and at the request of the defence, the competent official of the agency conducting the initial inquiry or the investigator must provide prompt access (within 12 hours) to a suspect held in detention for the purpose of a medical examination and, if required, medical assistance.

190. Any complaint made by a detained suspect about actions, omissions or decisions of the agency carrying out the initial inquiry or investigation is immediately transmitted by the director of the place of detention to a procurator or court.

191. The complaint is considered by the court at the same time as the request of the investigator to apply a preventive measure or the review of the lawfulness of the detention according to the rules set out in article 256 of the Code of Criminal Procedure.

192. Detained suspects are held in temporary holding facilities. Communication between suspects and officers carrying out the investigation is allowed only with the written consent of the investigator or official of the agency conducting the official inquiry into the case, and only in the presence of the suspect's lawyer.

193. After the actual detention, the investigator or competent official of the agency conducting the initial inquiry must provide prompt notification of the arrest to the spouse or a close relative of the suspect, as well as the suspect's lawyer, and must allow the suspect to do this himself or herself free of charge.

194. In the event that a juvenile is detained on suspicion of having committed an offence, his or her legal representatives and the competent child protection authority are promptly notified.

195. In accordance with article 45 of the Code of Criminal Procedure, the rights of suspects include:

- The right to be assisted by counsel as soon as they have been notified that they are suspected of having committed an offence, and, in the event of detention, the right to State legal aid from the time of actual arrest, if they do not have counsel of their own choosing; the right to be assisted by counsel, including when the investigating judge is considering the investigator's request to apply preventive measures; the right to State legal aid in the circumstances provided for by law
- The right to a medical examination and medical assistance after their arrest

196. Suspects, accused persons and witnesses, as well as their legal representatives or other persons acting on their behalf or with their consent, choose their own defence counsel. The right of a suspect or accused person to be assisted by counsel in criminal proceedings is guaranteed by the investigator and the court. State-provided defence lawyers are remunerated through the Guaranteed Legal Aid Programme.

197. Payments to lawyers under the Programme totalled 1,648,800 soms in 2012, 4,732,800 soms in 2013, 10,552,500 soms in 2014, 18,322,076 soms in 2015, 19,240,068 soms in 2016, 20,837,000 soms in 2017 and 16,981,631 soms in 2018.

198. Suspects and accused persons must be represented by counsel in criminal proceedings if they have difficulty in independently exercising their right to a defence owing to a severe speech, hearing or visual impairment, a serious chronic illness, dementia, clear mental retardation or other physical or mental deficiency; if they have requested such representation; if they have no command or an insufficient command of the language of the criminal proceedings; if they are minors; if they are suspected or accused of having committed an especially serious offence; if they are military conscripts; if their interests conflict with those of another suspect or accused person who is represented by counsel; if the victim or plaintiff is represented by counsel; or if the criminal case will be tried by jury. Mandatory representation by counsel also applies to persons for whom compulsory medical treatment measures have been or are being decided upon, as soon as it is determined that they have a mental illness or other information calling their sanity into question is received, and in the event that a plea bargain is requested or concluded.

199. A suspect or accused person must be represented by counsel when the court is considering a procurator's request to apply preventive measures. This requirement also applies to the procedure for extending the period of application of the preventive measures (Code of Criminal Procedure, art. 52).

200. The State Legal Aid Act was adopted on 16 December 2016.

201. Plaintiffs, respondents, suspects, accused persons, defendants, convicted persons, acquitted persons, victims and underage witnesses are entitled to professional legal aid in civil, administrative and criminal proceedings if their annual income does not exceed 60 times the minimum wage, as determined on an annual basis in the national budget law.

202. Professional legal aid is also provided without means testing to, inter alia, minors (in their own interests); parents or guardians of minors (in the interests of their children); single mothers with minor children; and persons bringing up motherless minor children, in matters regarding the protection of the rights and legitimate interests of the children.

203. In accordance with article 22 of the Act, a lawyer is appointed by the legal aid coordinator immediately upon receipt of the relevant application. Persons detained on suspicion of having committed an offence are provided with a lawyer as soon as they are actually detained by the criminal prosecution authority.

204. There are currently 25 centres that provide free legal advice to individuals and legal entities in order to protect the rights and legitimate interests of citizens. These centres

employ qualified legal professionals who provide free legal advice to all citizens, regardless of their social status, on all subjects, including gender equality and female leadership.

205. Furthermore, the Ministry of Justice has prepared a draft procedure for monitoring the activities of lawyers providing State legal aid.

206. Pursuant to the new State Legal Aid Act, the Bar Association of Kyrgyzstan has developed and approved selection criteria for lawyers taking part in the State legal aid system. The criteria include a requirement for a certificate of legal training.

207. A standard form for medical examinations was approved by Ministry of Health Order No. 49 of 20 August 2013, which stipulates that any bodily injuries inflicted on detained persons must be recorded on special standard forms. Once the Government has approved the guidelines on medical documentation, the medical service of the State Penal Correction Service will begin to use the harmonized medical documentation form.

208. In accordance with the procedure for health-care provision in remand centres and other facilities of the penal correction system, approved by Government Decision No. 696 of 9 October 2015, all persons arriving at a remand centre undergo an initial examination. When a person with bodily injuries is admitted to a facility, a report is drawn up and the standard form for medical examinations on admission to remand centres of the penal correction system is filled out in order to document the violence that has occurred.

209. In accordance with article 17 of Act No. 150 of 31 October 2002 on Procedures and Conditions for the Custody of Suspects and Accused Persons, staff at places of detention allow suspects, accused persons and defendants to meet with their defence lawyers in private, and with no limitation on the number or duration of interviews, upon production of a document attesting to the lawyer's participation in the criminal case to defend the person in question (certificate of representation). When possible, it is ensured that staff members are able to see them, but not to hear their conversations.

210. The prison hospitals of the Ministry of Internal Affairs are issued clinical protocols for medical workers on the organization and provision of health care for victims of sexual violence.

211. Under an agreement between the Ministry of Internal Affairs and the Ministry of Health, doctors and other health workers are given free retraining and professional development on an annual basis to improve their level of qualification.

212. Pursuant to Ministry of Internal Affairs Order No. 279 of 6 May 2016 on the secondment of Ministry of Internal Affairs personnel, first aid train-the-trainer courses were provided in the context of cooperation between the Ministry of Internal Affairs, the Ministry of Health and the International Committee of the Red Cross (ICRC).

213. Police psychologists have been given training on investigative interviewing for the purpose of preventing the use of violence and torture against accused persons and suspects, and have received certificates from the delegation of the European Union to the Kyrgyz Republic and the regional office of Penal Reform International in Central Asia.

## **Article 10**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Conditions of detention, para. 17)**

214. The Act on Procedures and Conditions for the Custody of Suspects and Accused Persons establishes that the living conditions of suspects and accused persons must meet hygiene, sanitation and fire safety requirements and that such persons must be provided with an individual sleeping area, bedding, crockery and cutlery. All cells must be equipped with a radio and, where possible, with a television, refrigerator and ventilation equipment. The law states that the minimum living space per person in a cell is 3.25 m<sup>2</sup>.

215. In the State Penal Correction Service system, suspects and accused persons are assigned to cells on the basis of their personal and psychological compatibility with one another. If possible, smokers are housed separately from non-smokers.

216. A list of persons who must be placed separately is drawn up for use in assigning accused persons and convicted prisoners to cells.

217. In remand centres, accused and convicted minors of different sexes are held separately from one another and from adults and, where possible, in small cells of no more than four to six persons in separate buildings or units, or on separate floors of secure buildings, taking into account their age, physical development and any educational problems.

218. In Bishkek and in Chu Province, minors are held only in the remand centre attached to young offenders' institution No. 14. In the southern part of the country, all minors are held in remand centre No. 53.

219. As at 1 January 2019, the institutions of the State Penal Correction Service were operating at only 65.37 per cent of their capacity for convicted and remand prisoners.

220. In accordance with Government Decision No. 42 of 8 February 2008 approving daily food rations, substitution standards and rules on the application and substitution of the daily food rations for convicted prisoners and persons held in correctional system remand centres, the daily food rations consist of 21 products, the cost of which is fully covered by the sum received from the national budget.

221. With the support of international organizations, the State Penal Correction Service continues to teach various handicrafts (sewing, pottery, etc.) to prisoners. Given the active development of manufacturing in the correctional system, the State Penal Correction Service provides manufacturing jobs for prisoners at correctional colonies and open prisons.

222. In 2018, the number of prisoners who had a job in a correctional institution was 1,074, of whom:

- 756 worked in prison maintenance
- 318 worked in manufacturing

In the first half of 2019, the number was 909, of whom:

- 619 worked in prison maintenance
- 290 worked in manufacturing

223. In 2015, the State Penal Correction Service carried out a complete renovation of the tuberculosis hospital at institution No. 31 with the cooperation of ICRC.

224. Institution No. 31 provides a broad range of medical services to 197 inmates with a specific patient-centred approach, comprehensively addressing the issue of tuberculosis and all its co-morbidities, including improvement of psychosocial well-being, nutritional status and sanitation, and treatment for drug dependency.

225. On 26 June 2016, a new remand centre (institution No. 53 in Jalalabad) for juveniles and women was opened in the southern part of the country, with a capacity of 60 places. The remand centre was built with the support of donors (OSCE and ICRC) and meets all international standards. However, there is no remand centre for men in Jalalabad Province. This has resulted in violations of the legal time limits for detention in internal affairs temporary holding facilities in Jalalabad Province.

226. In 2016, a special complex for prisoners serving life sentences was opened at institution No. 19.

227. At institution No. 47, persons sentenced to life imprisonment were being held in basements. With ICRC support, an on-site area has been created at the institution to house prisoners with various illnesses who are serving life sentences. This area meets international standards and has all the necessary amenities, including an exercise yard.

228. While block No. 2 of State Penal Correction Service correctional colony No. 19 is under construction, the life prisoners due to be housed there are being held on a semi-basement floor of remand centre No. 1. Once the construction work is completed, these prisoners will be transferred to correctional colony No. 19.

229. As part of its cooperation with international organizations and NGOs, the State Penal Correction Service has carried out various repairs and renovations in 15 correctional facilities.

230. Pursuant to Zhogorku Kenesh Decision No. 2669-VI of 25 October 2018 on the special report of the Ombudsman (*Akyikatchy*) about respect for the rights of children in conflict with the law, an interdepartmental working group set up to review the operations of State Penal Correction Service institution No. 14 identified a number of violations.

231. The State Penal Correction Service has taken the following measures in institution No. 14:

- Educational and preventive work is carried out with juvenile prisoners.
- Major repairs have been carried out and equipment has been acquired in line with national and international standards.
- Surveillance cameras have been installed.
- Cosmetic repairs are ongoing.
- Opportunities for exercise have been provided.
- Notice boards displaying the address of an anti-corruption website and telephone numbers of helplines operated by the Government and the central office of the State Penal Correction Service have been put up.
- Complaint boxes have been installed to collect complaints and statements from citizens, prisoners and detainees regarding violations of rights.
- A telephone for calls to the children's hotline number 115 has been installed.
- Institution No. 14 is regularly visited by representatives of the National Centre for the Prevention of Torture, the Ombudsman and the special procurator's office to identify any violations of the rights of juveniles or obstruction or restriction of their access to the 115 hotline and the complaint boxes that might prevent complaints from being registered.
- The institution has a computer with Internet access for educational purposes and for use by the inmates to communicate with their parents over Skype.

232. In 2018, the following monitoring actions were carried out in State Penal Correction Service institutions:

- The National Centre for the Prevention of Torture conducted 237 preventive visits.
- The Office of the Ombudsman conducted 118 visits.

233. Of the visits conducted in 2018, 14 preventive visits by the National Centre for the Prevention of Torture and 8 visits by the Office of the Ombudsman were carried out in response to prisoner complaints.

234. On 2 March 2017, Oktyabr District Court in Bishkek sentenced four State Penal Correction Service employees to 7 years' imprisonment in a maximum-security correctional colony under article 305-1 (2) (2) (Torture) of the Criminal Code, for an offence committed on 29 January 2014.

235. The State Committee on National Security carries out routine activities and supports close cooperation with international organizations such as the OSCE Programme Office in Bishkek and ICRC to improve the conditions of detention for persons remanded in custody. Moreover, the State Committee's detention facilities are regularly visited by representatives of OSCE, ICRC, the Ombudsman and the National Centre for the Prevention of Torture.

236. Whenever a suspect is admitted to one of the State Committee's temporary holding facilities, he or she is examined by medical personnel employed at the facility and the examination is duly documented. If a detainee or his or her defence lawyer or relative makes a complaint of physical violence inflicted by officers conducting the initial inquiry or investigation, the person undergoes a compulsory medical examination by independent doctors. When necessary, a forensic medical assessment is ordered.

237. Information in the appropriate languages about the rights of detainees, including the right to make a complaint to the relevant authorities about violations of rights in connection with the detention, is displayed in the cells of the State Committee's temporary holding facilities.

238. Whenever a person held in custody is transferred to an investigator for questioning, a transfer request is drawn up, indicating the date, time, office and name of the investigator to whom the person under investigation will be transferred, which the investigator then signs to confirm the arrival of the accused or detained person.

239. In the State Committee's remand centres, lawyers are given access to their clients upon presentation of their certificate of representation and proof of identity. No special permission from the investigator is required.

240. If officials violate the rights of detainees and break the law, they are dealt with according to the relevant legislation. This can lead to disciplinary measures or criminal prosecution.

241. At the temporary holding facilities and remand centres of the State Committee, all legislative standards regarding detention are observed and the number of persons housed in each cell does not exceed the established limit.

242. As a result of collaboration with the aforementioned international organizations, concrete positive results have been achieved with regard to improving the conditions of detention of persons remanded in custody. Between 2014 and 2016, repairs were carried out in all cells and other secure areas of the State Committee's temporary holding facilities and remand centres in Bishkek and Osh. The exercise area at the remand centre in Bishkek underwent extensive renovations, and all bedding (mattresses, wool blankets, sheets, quilt covers and nightstands) and tableware was replaced.

243. As of 2018, the internal affairs system had 46 temporary holding facilities with 253 cells designed to accommodate 1,162 sleeping spaces.

244. In 2018, the country's internal affairs temporary holding facilities held a total of 8,735 detainees (9,431 in 2017), of whom 7,750 were men (8,450 in 2017), 799 were women (746 in 2017) and 186 were juveniles (207 in 2017).

245. All temporary holding facilities in the country are located in buildings operated by the internal affairs authorities and are monitored round the clock by the duty teams. Most such facilities were constructed between the 1960s and the 1980s and are not compliant with international standards or health and hygiene rules. The ability of detainees to maintain their personal hygiene and appearance is substantially limited owing to the state of disrepair of the showers, a lack of heating and hot water, a limited supply of cold water and a shortage of personal hygiene items and separate toilet cubicles. The overcrowding of temporary holding facilities remains a major issue, and not all detainees have their own individual sleeping spaces.

246. The reasons for the high concentration of remand prisoners in internal affairs temporary holding facilities are as follows:

- The Provinces of Jalalabad, Batken and Talas have no remand centres.
- The distance of the internal affairs temporary holding facility in the southern region from State Penal Correction Service remand centre No. 25 hinders the timely transfer of remand prisoners. For example, the round-trip journey between Toktogul and Osh and between Chatkal and Osh is more than 800 km. As this would necessitate significant expenditure, remand prisoners are held in the temporary holding facility until the end of the judicial proceedings.
- Criminal cases in district and provincial courts are not tried in a timely manner. In some instances, judicial proceedings are delayed, with the result that detainees are kept in temporary holding facilities for long periods.

247. Major repairs are being carried out only in the temporary holding facilities of Bishkek Central Internal Affairs Department and of the Tokmok internal affairs agency.

248. Furthermore, the temporary holding facility in Bishkek is being repaired despite the findings by an interdepartmental commission in 2014 that the temporary holding facility of the Bishkek Internal Affairs Department should be closed owing to the unsafe condition of the building and the temporary holding rooms, which rendered it unfit for repair and continued use.

249. In other temporary holding facilities, no major repairs are being carried out. The temporary holding facility in Kadamjai District was closed in September 2018 owing to its extremely poor condition, following the appearance of cracks in the walls of the building housing the facility and the internal affairs agency after the 2014 earthquake.

250. Temporary holding cells in basements and semi-basements remain in use. Of the 45 temporary holding facilities in operation, 10 are located in basements or semi-basements.

251. Article 16 of the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons establishes the right of suspects and accused persons to receive medical care, including during the period of their participation in investigations and court hearings. In cases where detainees or accused persons fall ill in internal affairs temporary holding facilities, an ambulance from a family health centre is called and, if necessary, they are hospitalized, with an assigned security guard.

252. Since 2014, a project for the delivery of medical services at temporary holding facilities has been implemented jointly with representatives of ICRC at 10 pilot facilities of the internal affairs agencies.

253. In 2016, it was proposed that ICRC assistance should be provided for repairs at five more temporary holding facilities in the country. In 2018, construction work began at the infirmaries of internal affairs temporary holding facilities in the Districts of Sokuluk and Jaiyl.

254. In 2018, ICRC representatives began construction of the Batken district internal affairs temporary holding facility, which is scheduled for completion in 2019 and will comply with international standards for conditions of detention.

255. In 2014, in order to prevent torture and ill-treatment of persons detained at the country's internal affairs temporary holding facilities, a plan of action to combat torture and other inhuman or degrading treatment or punishment was adopted by Government Order No. 469 of 23 October 2014. Ministry of Internal Affairs Order No. 601-r of 25 December 2014 was issued and sent to the country's local internal affairs bodies for implementation.

256. In accordance with these orders:

- Notice boards with information in Kyrgyz and Russian on the rights and regulations that apply to persons held in temporary holding facilities have been posted in all cells.
- In order to improve legal training and education of internal affairs officers, and in particular officers of the criminal police service, investigation departments and services responsible for conditions of detention of detainees and prisoners, relevant exercises have been included in the country's military and internal affairs service training plans and special attention is being paid to the moral and professional qualities of officers.

257. The Ministry of Internal Affairs issued Order No. 131-r of 20 March 2014 on measures to organize the work of the country's internal affairs temporary holding facilities. The Order provides that representatives of the Ombudsman's Office and the National Centre for the Prevention of Torture are to be given unimpeded access to such facilities upon presentation of the relevant documentation.

258. Supervisory bodies and other organizations inspect the temporary holding facilities every day. In the 12 months of 2018, a total of 7,883 inspections were carried out, of which 5,010 were conducted by the national directorate of temporary holding facilities, 2,226 by the Procurator's Office, 193 by the Ombudsman, 292 by the National Centre for the Prevention of Torture and 99 by NGOs.

259. All of the country's internal affairs temporary holding facilities have rooms for conducting activities related to investigations. In order to prevent torture, the Ministry of Internal Affairs issued Order No. 562-r of 24 August 2015 providing for the installation of additional surveillance cameras at all of the country's internal affairs temporary holding facilities.

260. Between 2014 and 2018, the following numbers of minors were held at the country's internal affairs temporary holding facilities: 283 in 2014, 298 in 2015, 215 in 2016, 209 in 2017 and 186 in 2018.

261. Along with other new laws that have come into force in Kyrgyzstan, such as the new Criminal Code, Code of Infractions, Code of Criminal Procedure and Penalties Enforcement Code, the Probation Act entered into force on 1 January 2019. During the reporting period, the first steps were taken to introduce probation as an institution.

262. By Government Decision No. 666 of 31 December 2018 on the creation of a probation authority, the Department of Probation, under the Ministry of Justice, was established as from 1 September 2019. The Department is responsible for ensuring the enforcement of criminal sentences not involving removal from society and of coercive measures under criminal law, and for supervising probation and monitoring persons released from correctional institutions on parole.

#### *Conditions in the health system*

263. Conditions of detention in psychiatric hospitals are acceptable, with the exception of Division No. 8 of the National Psychiatric Hospital, located in the village of Kyzyl-Zhar, in Jalalabad Province.

264. In 2018 a Ministry of Health commission found a number of violations at Custodial Division No. 8 of the National Psychiatric Hospital in Kyzyl-Zhar, and work is now under way to improve and reorganize that institution's activities.

265. Representatives of the Ministry of Health and the State Penal Correction Service visited this institution in 2018 to carry out an assessment and draw up preliminary estimates for renovation of the premises of the specialized divisions and to ensure proper functioning of the security system (walls, barbed wire, video surveillance, etc.). Estimates were drawn up for renovation of the forensic psychiatric and compulsory treatment divisions, with a strict and reinforced regime of surveillance by the National Psychiatric Hospital in the villages of Kyzyl-Zhar and Chym-Korgon. The works will require a one-time budget of 12.7 million soms.

266. The costs of repairing the custodial divisions will be covered as part of the measures to be implemented under the judicial and legal reform. The costs of maintaining security at the National Psychiatric Hospital custodial divisions in the villages of Kyzyl-Zhar and Chym-Korgon will be covered by tapping additional resources provided by the Ministry of Finance from the national budget, for the Compulsory Health Insurance Fund, in the amount of 10.3 million soms.

267. The Ministry of Health also plans to adapt and implement the recommendations adopted by United Nations General Assembly resolution 70/175 of 17 December 2015. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), in particular as they relate to the detention of juveniles and the reform of parallel health care, were included in the 2019 Plan of the Coordinating Council on Human Rights.

268. In addition, a document entitled "Medical Standards for Protecting Children in Difficult Circumstances against Violence" is now being drawn up. It includes the protection of children in conflict with the law. Detailed information on patients' rights to freedom from cruel treatment at psychiatric hospitals can be found in the 2017 report of the National Centre for the Prevention of Torture.

## Article 11

269. Article 24 of the Constitution stipulates that no one may be imprisoned merely on the ground of failure to fulfil a civil obligation. Criminal law makes no provision for imprisonment on the ground of inability to fulfil a contractual obligation.

270. Violations of contractual obligations give rise to civil liability. Article 356 of the Civil Code sets out the circumstances in which a person may be held liable for the breach of an obligation.

## Article 12

271. In accordance with the country's Constitution and laws and the international human rights instruments to which Kyrgyzstan is a party and which have entered into force under the legally established procedure, every Kyrgyz citizen has the right to freedom of movement and freedom to choose his or her place of residence or stay in Kyrgyzstan.

272. However, under article 20 of the Constitution, human and civil rights and freedoms may be restricted by the Constitution and the law in order to protect national security, public order, public health or morals or the rights and freedoms of others.

273. Thus, under the Internal Migration Act, freedom of movement and the choice of residence or place of stay may be restricted in the interests of national security, public order or the protection of public health.

274. The procedure for crossing the State border is governed by the State Border Act and the International Migration Act.

275. The State Border Service enforces decisions on the administrative and forcible expulsion of foreign citizens and stateless persons by officially transferring them to a representative of the foreign country to which they are being expelled or by monitoring their independent departure from the country.

## Article 13

276. In 1996, Kyrgyzstan acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

277. Since then, Kyrgyzstan, as part of its commitment to respecting its international obligations, has provided international protection to more than 20,000 refugees.

278. In recent years there has been a steady influx of asylum seekers, which bears witness to the attractiveness of Kyrgyzstan as a host country.

### Number of applicants for refugee status

	2014	2015	2016	2017	2018
Number of applicants for refugee status	229	176	190	125	73
Number of persons recognized as refugees	42	24	24	15	28

279. The number of asylum seekers as at 1 November 2018 was 94. It is worth noting that no asylum seekers were expelled between 2014 and 2018.

280. Requests for the extradition of foreign nationals accused or convicted of crimes in foreign States are considered by the Procurator General or his or her deputies, in accordance with an international treaty or on the basis of the principle of reciprocity (article 521 of the Code of Criminal Procedure of 2017).

281. Decisions on extradition are taken in accordance with the provisions of the Code of Criminal Procedure (2017 version).

## Article 14

### Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Independence of the judiciary, para. 18)

282. In the context of the judicial reform, Presidential Decree No. 147 of 8 August 2012 on measures to improve the administration of justice in Kyrgyzstan approved the recommendations made for the further reform of the justice system as a basis for action, and also defined the main conceptual goals, objectives and directions of the reform.

283. The Presidential Decree established the Council on Judicial Reform within the Office of the President and under the leadership of the Head of State. The Council adopted a Plan of Action on the reform of the judicial system for 2012–2014 to identify measures to be taken to address problems in the administration of justice.

284. As a result of the work of this Council, new versions of the Criminal Code, the Code of Infractions, the Code of Violations, the Code of Criminal Procedure and the Penalties Enforcement Code came into force on 1 January 2019.

285. The new legislation provides for a more humane approach to criminal justice, which will result in the release of 470 convicted persons.

286. The sentences of convicted persons will also be reduced.

287. The new codes provide for the introduction of new institutions. Among these are a single register, a single register of offences, a single register of violations, the institution of investigating judges, digitization of investigation rooms and courtrooms, probation and mediation.

288. The Probation Act was adopted on 24 February 2017. Its objectives are to protect the security of society and the State, to create the conditions for the rehabilitation and reintegration into society of persons on probation and to prevent recidivism by such persons.

289. The main task of the probation agency is to help persons who have committed crimes to return to normal life. Probation officers are involved from the moment of arrest and they guide the person at all stages, providing protection to persons who are being investigated or have been convicted.

290. Thus, the provision of social services and other assistance will help to reduce recidivism and foster the rehabilitation of convicted persons by enhancing their well-being, both materially, through the provision of social assistance, and psychologically.

291. The Mediation Act (No. 161 of 28 July 2017) has also been adopted. It was designed to create a legal framework for the use of mediation as a means of settling disputes, protecting the rights, freedoms and legitimate interests of citizens, developing business partnerships and business ethics and harmonizing relations in society. The Act regulates the use of mediation in disputes relating to civil, family and labour law. Mediation can also be used in disputes arising under criminal law, in cases where the law expressly so provides.

292. The new Code of Civil Procedure of 2017 has introduced the following improvements to civil proceedings in the country:

- The time frames for appeals procedures have been shortened and the procedure has been revised in order to improve the efficiency of court proceedings and the stability of court decisions. The former institution of cassation proceedings duplicated review proceedings, since the subject of the appeal was a court decision that had entered into force.
- In order to avoid the presentation of unjustified claims and complaints, the payment of a State fee has been introduced for the filing of court claims or applications.
- To strengthen the role of case preparation in court proceedings, the institution of a pretrial court session is being introduced into the procedural law. The participants in the proceedings are obliged to submit their objections, petitions and evidence in a timely manner before the case is assigned for court proceedings.

- In order to consolidate legal interpretations and do away with those that are excessively broad, the list of newly discovered facts has been revised and a list of new circumstances has been introduced, which includes the decisions of international courts or international treaty bodies and the decisions of the Plenum of the Supreme Court in specific cases.
- In order to expand the principles of adversarial proceedings, discretion and equality of arms, the roles and powers of judges, parties, procurators and third parties in civil proceedings have been reviewed, taking into account the need to include the parties as fully as possible in court proceedings and to strengthen procedural responsibility for violations of the requirements of the Code of Civil Procedure. The institution of mediation is being introduced at all stages of civil procedure.
- To avoid unjustified delays in the consideration of cases, a rule has been introduced whereby the withdrawal of a complaint prevents it from being resubmitted.
- In connection with the adoption, in 2012, of the new version of the Children's Code, according to which cases involving the adoption, guardianship or custody of children or their placement in residential institutions are to be considered by a court, separate rules have been introduced to govern the procedures for the consideration of such cases.
- In order to ensure that persons involved in court cases comply with the procedure for court hearings, procedural liability (in the form of fines) has been introduced for repeated violations of and disregard for court requirements.

293. Important steps have been taken to strengthen the independence of the judiciary and the role of the courts. Work has been done to establish a legislative basis for the operation of the courts, the regulation of issues related to the judicial system and procedure, the legal and social status of judges and guarantees of their independence, immunity and security of tenure. The annual increase in the number of cases considered by the courts is undoubtedly indicative of the growing authority of the judiciary and the implementation of constitutional guarantees to ensure judicial protection of the rights and freedoms of citizens and the rights of individuals and legal entities in business and other economic activities.

294. Work has continued with the aim of establishing a legislative basis for the operation of the courts, the regulation of issues related to the judicial system and procedure, the legal and social status of judges and guarantees of their independence and accountability.

295. The legal status of the Council of Judges, a judicial self-governance body, has been defined; according to the Constitution, the Council is mandated to consider such fundamental judicial matters as the drafting of the budget for the judicial system, advanced training for judges and disciplinary proceedings against judges.

296. The right of citizens to participate in the administration of justice as jurors has been constitutionally established. The practical exercise of this right has now been suspended for an indefinite period, owing to a lack of resources.

297. In accordance with the State's international obligations in the field of human rights, the authority to allow investigation services to apply preventive measures in the form of detention has been transferred from the procurators' offices to the courts. In order to effectively protect civil and human rights, the power to authorize other investigative actions that were previously within the jurisdiction of procurators, including search, seizure, wiretapping and other actions, has also been transferred to the courts.

298. Under the national law, serving judges may be reappointed only through an open competition held by a specially established constitutional body, the Judicial Selection Board, which consists of members of the judiciary, legal practitioners and civil society representatives. Anyone who meets the requirements for a position as a judge is eligible to take part in the competition. All the information on the selection of judges is made available to everyone.

299. In accordance with the newly adopted Constitution, the Constitutional Chamber of the Supreme Court, a constitutional oversight body, has been established to replace the Constitutional Court, which was abolished.

300. The procedure by which judges are appointed to the Supreme Court and to local courts has been modified. Judges of courts of first and second instance are appointed by the President initially for a five-year term, and subsequently until they reach the upper age limit. Supreme Court judges are elected by the parliament for a term that expires when they reach the upper age limit. The procedure for electing and appointing presidents of courts at all levels has also been changed. The presidents of the courts, including the Supreme Court and the Constitutional Chamber, are now elected at meetings of the judges of the respective courts for a three-year term. A person may not hold the post of president for more than two consecutive terms.

301. Among the important steps taken for judicial reform was the development and adoption of the National Sustainable Development Strategy for 2013–2017, which set out the main directions for the further improvement of the judicial system.

302. The measures in the National Sustainable Development Strategy have been implemented within the framework of the Presidential Decree of 8 August 2012 on measures to improve the administration of justice in Kyrgyzstan and the State programme for the development of the judicial system for 2014–2017, approved by Decision No. 4267-V of the Zhogorku Kenesh on 25 June 2014.

303. In addition to traditional means of publishing judicial rulings, alternative methods using information and communication technologies, primarily the Internet, are becoming increasingly common.

304. One positive development worthy of note is the introduction of the use by courts of the sot.kg Internet portal, developed by the Supreme Court.

305. The site provides easy access to information on the country's judicial system, court cases, the time and place of court hearings and court rulings that have been handed down.

306. The publication of court judgments in criminal, civil, administrative and other cases is mandatory, except in specific cases in which publication has been prohibited by law. As a result of the work carried out, the first electronic database of judicial decisions has been set up.

307. Access to court decisions will increase the accountability of judges and will make it possible to compare and analyse the decisions. This will undoubtedly enhance the quality of the administration of justice.

308. Work is under way to introduce audio and video recordings of proceedings in courtrooms. Such a system is currently in place in the Supreme Court and in some local courts. Audio and video recording will help to ensure that court proceedings are complete and objective and will help to ensure discipline on the part of both parties and judges.

309. There are plans for this site also to receive online appeals and applications filed by individuals and legal entities. This will also have a positive impact by increasing the transparency and openness of court activities.

310. Work has also started on the automated allocation of cases (e-justice).

311. With the specificities of information and communication technologies in mind, the Strategic Plan for the Development of Information Technologies in the Judiciary for the period up to 2018 was approved by a decision of the Judicial Council on 12 March 2015. The Plan ensures the transparency of the judicial system and addresses in detail such issues as information security, the replacement of computers and the installation of video and audio recording systems in courtrooms.

**Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Elders' court, para. 19)**

312. In Kyrgyzstan, the State supports popular customs and traditions that are consistent with human rights and freedoms. All persons have a responsibility to respect their elders and care for their family and those close to them, and there is a specific constitutional provision that refers to this responsibility. Article 59 of the Constitution provides that citizens may establish elders' courts. The procedure for establishing such courts, their

powers and their activities are specified in the Elders' Courts Act. The elders' courts may consider cases of property disputes and family disputes arising between citizens. They may also consider matters referred to them by courts, procurators or investigators concerning criminal cases that have been terminated, in order to issue public reprimands in accordance with the criminal procedure law. Their decisions can be appealed in court.

313. The elders' courts are one of the means whereby the justice system can "offload" many cases that do not involve a risk of crime. In addition to relieving the burden on the judicial system, alternative dispute settlement mechanisms such as elders' courts can have a positive impact on the public's legal culture, for example by performing preventive and educational functions.

314. Thus, it cannot be assumed that the elders' courts, in and of themselves, may jeopardize the right to a fair trial due to the fact that their decisions are taken by persons who do not have legal knowledge, on the basis of cultural and moral norms, and that their decisions in family matters may adversely affect women.

## **Article 15**

315. Under articles 2–12 of the Criminal Code of 2017, the criminal and punishable nature of an act, as well as other consequences under criminal law, are determined only by the Criminal Code.

316. "Legal certainty" means the capacity of the Code to precisely establish the basis for criminal liability for an offence, as well as all the elements of the offence.

317. Criminal law is not subject to expansive interpretation. The application of criminal law by analogy is prohibited.

318. Persons may be held criminally liable only for those acts or omissions, and the consequences thereof, for which their guilt has been established. No one may be found guilty of a crime and subjected to criminal penalties until his or her guilt has been proven in a lawful manner and has been established by an enforceable court decision.

319. The penalties and other measures under criminal law that are applied to a person who has committed an act covered by the Code must be consistent with the gravity of the crime and the circumstances in which it was committed. No one may be prosecuted again for the same crime or offence.

320. When deciding whether to find a person criminally liable and impose a sentence, the court must take into account the nature and gravity of the crime, the underlying motives and objectives, the identity of the perpetrator, the extent of the harm caused, extenuating and aggravating circumstances and the opinion of the victim. In the judgment, it must set out its reasons for selecting the means of punishment in the sentence.

321. The criminal and punishable nature of an act are determined by the law in force at the time it is committed. The time of commission of a crime is recognized as the time that a person commits an act or failure to act that is covered by the law.

322. A law that decriminalizes an act or mitigates the legal consequences of a criminal act has a retroactive effect. It applies to persons who have committed the act in question before its entry into force, including persons who are serving or have already served their sentences. A law that criminalizes an act or that provides for more severe legal consequences for a criminal act has no retroactive effect. A law that partially mitigates and partially strengthens the legal consequences of a criminal act has a retroactive effect only in mitigating such consequences. If the criminal law has changed repeatedly from the time of commission of the crime to the time of sentencing, the least severe law is applied.

## Articles 16 and 17

323. In the Code of Civil Procedure of 2017, the chapter on the recognition of a citizen as legally incompetent or partially incompetent includes a new rule on the appointment by a judge of an official legal defender.

324. After the adoption of a decision recognizing a citizen as legally incompetent, if the person does not have a representative, the judge appoints an official legal defender to represent and protect the interests of the person in the case in question.

325. The official legal defender has the powers of a legal representative. In accordance with the law, the legal aid provided by the legal defender is free of charge.

326. A new rule has also been introduced under which, if a citizen's personal participation in a court hearing at the courtroom poses a threat to his or her life or health or to the lives or health of others, the case must be considered by a court at the citizen's location, with his or her participation (art. 294).

327. Also, under article 295 of the Code of Civil Procedure, a court decision recognizing a citizen as legally incompetent serves as a basis for the court to appoint a guardian. Previously, guardians for persons recognized as incompetent had been appointed by the family and children's support unit, on the basis of a court order.

328. The Criminal Code that entered into force on 1 January 2019 strengthened the penalties for violations of privacy (art. 186); of the confidentiality of correspondence (art. 189); of the inviolability of the home (art. 190); and of medical secrecy (art. 160).

329. The legislation has strengthened liability for crimes against constitutionally recognized human and civil rights and freedoms by establishing substantial fines and punitive work, while at the same time taking into account the principles of proportionality and humanity in sentencing.

## Article 18

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Freedom of conscience and religious belief, para. 22)**

330. Missionary activity in Kyrgyzstan is regulated by the Freedom of Religion and Religious Organizations Act, the requirements of which must be met by religious organizations operating in the country and representatives of religious organizations from foreign countries who are in Kyrgyzstan for the purpose of spreading the ideas of their faith. Missions are not allowed to operate in the country if they are not duly registered in accordance with the established procedure.

331. At the same time, religious literature may be published and distributed if it has not been banned and does not call for change in the constitutional order, does not support religious intolerance and does not undermine the moral foundations of society. Such literature must be intended to serve the purposes of meeting the religious needs of believers, spreading religious beliefs, carrying out religious education, holding worship services or prayer meetings, or reading sermons and training spiritual specialists, members of the clergy and missionaries, or for other activities aimed at providing organizational and material support for the religious practices of religious organizations.

332. In order to eliminate restrictions in the current legislation that are incompatible with the Covenant, including in respect of missionary activities and the procedure for registering and disseminating religious literature, a bill was drawn up to amend the Freedom of Religion and Religious Organizations Act. The bill brings articles 10 and 12 of the Act into line with the Constitutional Chamber decision of 4 September 2014 and the norms of the Covenant. Specifically, the bill would void the requirement to provide a "list of citizens verified by a notary" for the purpose of registration.

333. This bill optimizes the procedure for the registration of foreign missionaries. Under the amendments introduced, missionaries who remain in the country for less than 10 days

do not have to register. Their stay is instead approved by the authorized State body on religious affairs. The religious organization that invites them provides full information about their planned activities and assumes responsibility for them.

334. The period of activity of missionaries who come to the country for longer stays has been reduced from three years to one year, which is the period of their mandatory registration (under the current law, missionaries are re-registered annually and are issued a certificate of registration for a maximum of one year). However, in cases where there have been no violations of the law by foreign missionaries, the authorized State agency for religious affairs extends the period of their missionary activities every year, and such activities are now not limited to three years' duration. Thus, there is no longer a problem of re-registration for law-abiding missionaries who have been in Kyrgyzstan for more than three years.

335. Ministers of duly registered religious associations may be invited to visit prisoners, at the prisoners' request. Prisoners at correctional facilities are allowed to perform religious rites and to have religious objects and religious literature. The facility's administration provides appropriate premises for this purpose, in accordance with article 13 of the Penalties Enforcement Code.

336. Since 2014, State bodies have been systematically conducting information and awareness-raising activities, including talks and seminars on State policy relating to religion, domestic legislation, the prevention of radicalism and extremism, human rights and freedoms and the prohibition of discrimination. Relevant teaching materials have been published on these subjects and are being distributed to representatives of State bodies and the public.

337. Article 14 of the Freedom of Religion and Religious Organizations Act sets out provisions on the judicial dissolution of religious organizations, missions and religious educational institutions and on the prohibition of their activities if they violate the law.

338. That article also lists the grounds on which the courts may dissolve religious organizations and prohibit the activities of religious organizations and missions.

339. As at 1 January 2019, 21 religious organizations had been banned by court decisions from operating in the country (a list of these organizations is available on the official website of the State Commission on Religious Affairs, at <http://religion.gov.kg/ru/>).

340. Under article 32 of the Act on Universal Conscription of Kyrgyz Nationals, and Military and Alternative Service, male citizens between the ages of 18 and 25 who do not have the right to deferment or have lost the right to deferment and have not completed their national service are subject to call-up for alternative service if they belong to a registered religious organization whose creed does not allow the use of weapons or service in the armed forces.

341. Between 2014 and 2018, only 144 citizens were called up for alternative service on the basis of their religious beliefs: 12 in 2014, 22 in 2015, 35 in 2016, 49 in 2017 and 26 in 2018.

## **Article 19**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Freedom of expression, para. 24)**

342. Under article 20 of the Constitution, no restrictions may be placed on guarantees of the right to freedom of thought and opinion.

343. Article 8 of the Protection of the Professional Activities of Journalists Act sets out guarantees for the protection of journalists' professional activities.

344. Thus, the professional rights, honour and dignity of journalists are protected by law. Journalists are guaranteed personal inviolability in the conduct of their professional activities. Journalists may not be prosecuted for publishing critical opinions. The State

guarantees the freedom of journalists to receive and impart information and ensures their protection during the conduct of their professional activities.

345. Interference in the professional activities of journalists or demands that they disclose any information acquired in the conduct of their professional activities are also prohibited.

346. In accordance with article 11 of the Act, foreign journalists accredited in Kyrgyzstan have the same rights and duties as Kyrgyz journalists.

347. Also, in accordance with the Media Act, journalists are able to exercise their right to freedom of expression without obstruction.

348. In accordance with the legislation in force, threats, intimidation and violence against human rights defenders and journalists are investigated by the relevant State bodies. The perpetrators are prosecuted and, if found guilty, punished, and the victims receive appropriate compensation.

349. In accordance with the Guarantees and Freedom of Access to Information Act, State, community and private media outlets ensure full transparency of information for all citizens and organizations, without singling out any special categories of information users.

350. Transparency of information includes both unimpeded access to periodicals and television and radio news programmes and the possibility to seek out sources of information, as stipulated by law. The requirements of this article do not apply to confidential information or information containing State, commercial or official secrets.

351. Foreign media outlets have the right to have their reporters accredited in Kyrgyzstan and to open local offices by agreement with the State bodies of Kyrgyzstan.

352. During the reporting period, there were no registered cases of intimidation, assault or violence targeting human rights defenders or lawyers.

353. However, law enforcement agencies in Osh Province recorded two cases in relation to journalists. Information on these cases is detailed in the third periodic report of Kyrgyzstan on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the period 2012–2016, approved by Government Order No. 6-r of 28 January 2019.

## Article 20

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Military courts, para. 20)**

354. By Constitutional Act No. 216 of 23 December 2016, the Constitutional Act on the Status of Judges was amended through the deletion of article 10 (2) thereof. Under that provision, judges of military courts who had military rank were not assigned salary grades, but were instead paid a supplement, corresponding to their military rank, over and above the official salary for their position.

355. By Constitutional Act No. 217 of 23 December 2016, provisions on military judges were deleted from several pieces of legislation in Kyrgyzstan.

356. These amendments were necessary because the military courts and the posts of military judges are being abolished.

357. The laws were adopted on the basis of recommendations made by the Judicial Reform Proposals Commission, a direct recommendation adopted at a plenary meeting under the Istanbul Anti-Corruption Action Plan, and the large disparities observed in the budgets of the courts.

358. The law provides for the transfer of military court personnel to the country's busiest local courts. Criminal cases involving military personnel and cases involving both military personnel and civilians are heard by ordinary courts.

## Article 21

359. Article 34 of the Constitution states that everyone has the right of peaceful assembly. No one may be compelled to participate in an assembly. Everyone has the right to file a notification with the authorities in order to ensure that a peaceful assembly can take place. Prohibitions or restrictions on the conduct of peaceful assemblies are not allowed, and proper arrangements for peaceful assemblies may not be denied on grounds of the absence of notification that a peaceful assembly is to be held or non-compliance with the format of such notification, the content or the time frames for submission.

360. Persons who organize or take part in peaceful assemblies may not be held liable for failure to provide notification or to comply with the format of such notification, the content or the time frames for submission.

361. The Peaceful Assembly Act governs relations related to the realization of the right of peaceful assembly for all.

362. Under article 2 of the Act, the exercise of the right to freedom of peaceful assembly may not be restricted except as provided by law to protect national security, public order, public health or morals or the rights and freedoms of others. Restrictions imposed on the exercise of the right to freedom of peaceful assembly must be proportionate to the stated objectives.

363. The adoption of secondary legislation that restricts the right to freedom of peaceful assembly is prohibited.

364. Under article 4 of the Act, State and local bodies are obliged to respect and ensure the right to freedom of peaceful assembly without any distinction based on sex, race, language, ethnicity, religion, age, political or other opinion, origin, property or other status or other circumstances.

365. Under article 88 of the Code of Infractions, unlawful obstruction of a peaceful assembly, obstruction of participation in one or coercion to participate in one is punishable by a category II fine.

## Article 22

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Freedom of association, para. 25)**

366. Article 35 of the Constitution states that everyone has the right of freedom of association.

367. In accordance with article 4 of the Constitution, Kyrgyzstan recognizes political pluralism and the multiparty system. Citizens may form political parties, trade unions and other voluntary associations on the basis of free expression of will and community of interests in order to realize and protect their rights and freedoms and to defend their political, economic, social, labour, cultural and other interests.

368. In accordance with the Non-Profit Organizations Act, non-profit organizations may, by mutual agreement, establish federations in the form of non-profit associations or unions, in order to coordinate their activities and represent and defend their common interests.

369. Associations and trade unions are subject to the general provisions of this Act and to the provisions regulating public associations.

370. The Trade Unions Act defines trade unions in Kyrgyzstan as voluntary associations of citizens based on their common interests, established by type of activity in the manufacturing and non-manufacturing industries to protect the labour and socioeconomic rights and interests of their members.

371. Trade unions operate independently and are subject solely to the law. They are neither accountable to, nor controlled by, State authorities, employers, political parties or

other voluntary associations. Unless otherwise provided by law, any interference that may restrict trade union rights or prevent the exercise of their statutory activities is prohibited.

372. All citizens aged 14 years or over who are in employment or studying at an educational institution, as well as pensioners, have the right to establish a trade union voluntarily, if such is their choice, or to join one, on the condition that they comply with its statutes.

373. Trade unions may be set up at enterprises, institutions and organizations, regardless of their form of incorporation, provided that they have three or more employees. Their representative bodies are committees or trade union leaders elected at trade union meetings (conferences).

## Article 23

374. The Constitution states that the family is the foundation of society. The family, fatherhood, motherhood and childhood are matters of concern to society as a whole and are protected by law as a priority (article 23 of the Covenant).

375. Family relations are regulated in accordance with the principles of equality of rights and responsibilities of spouses as to marriage and the family, settlement of family issues by mutual agreement, the need to ensure the best interests of the child, the primary responsibility of the family for the upbringing, welfare and development of children, and due protection of the rights and interests of family members who are minors or are unable to work.

376. The Children's Code establishes basic safeguards in respect of the rights and legitimate interests of the child that are provided for in the Constitution. The Code is intended to ensure that the State provides a standard of living adequate for the child's physical, mental, moral, spiritual and social development, as well as protection and special care for children in difficult circumstances.

377. Chapter 28 of the Criminal Code of 2017 criminalizes acts that are detrimental to family relations and the interests of minors, in particular abduction for the purpose of marriage (art. 175), coercion to enter into a de facto marital relationship (art. 176), coercion to enter into marriage (art. 177), violation of the law on the minimum age for marriage in the context of a religious marriage ceremony (art. 178), bigamy or polygamy (art. 179), enticement of a minor to commit an offence (art. 180), enticement of a minor to commit an antisocial act (art. 181), transport of a minor to an area of armed conflict or armed activity in a foreign country (art. 182), substitution of a child (art. 183) and breach of confidentiality in relation to adoption (art. 184).

378. In general, the legislation has strengthened liability for offences against family relations and the interests of minors.

379. Whereas abduction for the purpose of marriage against a person's will was previously punishable by 5 to 7 years' deprivation of liberty, as from 1 January 2019 the penalty is 2.5 to 4 years' deprivation of liberty for juvenile offenders and 5 to 7.5 years' deprivation of liberty for other individuals.

380. Whereas abduction of a person under the age of 18 for the purpose of entering into a de facto marital relationship or for the purpose of marriage against the person's will was previously punishable by 5 to 10 years' deprivation of liberty, as from 1 January 2019 the penalty is 4 to 6 years' deprivation of liberty for juvenile offenders and 7.5 to 10 years' deprivation of liberty and a fine of 80,000 to 220,000 soms for other individuals.

381. These criminal acts are classified as serious offences.

382. Accordingly, criminal proceedings can be initiated in the absence of a complaint by the victim, accused persons cannot go unpunished in cases where the victim refuses to press charges, and criminal cases in respect of such offences cannot be dropped.

383. Article 75 of the Code of Infractions establishes penalties for domestic violence. Any act that is committed intentionally by one family member against another family

member or person of equivalent status and that violates the victim's constitutional or other rights and freedoms or causes physical or mental suffering or harm to the victim's physical or mental development is punishable by a fine of 15,000 to 60,000 soms, 2 to 6 months' punitive work or 30 to 60 hours' community service.

384. Under article 78 of the Code of Infractions, parents who fail to make court-ordered support payments to their minor children, or to their adult children who are unable to work and in need of material assistance, are liable to a fine of 5,000 to 30,000 soms.

## **Article 24**

### **Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Birth registration, para. 26)**

385. Under article 14 (1) of the Civil Registration Act, the State registers births on the basis of:

- A birth certificate;
- Identity documents of one or both of the child's parents;
- Documents (medical certificate of birth, extracts from the register, birth certificate, etc.) issued by the competent authorities of foreign countries attesting to the birth of children born in a foreign country to parents who are nationals of Kyrgyzstan.

386. Under article 16 of the Act, one or both of the parents must report the birth of the child in writing to the civil registry office.

387. If the parents themselves are unable to report the birth of the child, the documentation must be submitted by a close relative of one of the parents or by another person authorized by one or both parents, or by an official of a medical institution or other establishment where the delivery took place or where the child is located.

388. In accordance with article 11 of the Kyrgyz Citizenship Act, citizenship is acquired:

- By birth;
- Through naturalization;
- Through the restoration of citizenship;
- On the basis of or in accordance with the procedure established in international treaties to which Kyrgyzstan is a party and which have entered into force as prescribed by law.

389. At the Economic and Social Commission for Asia and the Pacific (ESCAP) Ministerial Conference held in November 2014, a high-level political commitment was made to improving civil registration and vital statistics systems and to achieving a birth registration rate of 100 per cent by 2024.

390. On 1 November 2014, the State Registration Service launched an automated information system for civil status records, as a major component of the single State register of population.

391. On 11 February 2014, in cooperation with the Republican Medical Information Centre of the Ministry of Health and the National Statistical Committee, a "medical certificate" automated information system was launched as part of the implementation of the interdepartmental action plan (road map) developed with the support of the World Health Organization office in Kyrgyzstan.

392. In order to ensure the completeness and accuracy of the information in birth and death records, an automated system for registering medical certificates of births and deaths, integrated with the Ministry of Health, is being introduced in parallel. The "medical certificate" automated information system will create a centralized database and automate the issuance of medical certificates of births and deaths in order to ensure the appropriate processing of records. In this context, the automated information system for civil status

records is to be integrated with the automated system being developed within the framework of the Ministry of Health project on the introduction of automation in health-care organizations.

393. Taking into account the suggestions and comments made by the E-Health Centre of the Ministry of Health on the automated information systems for medical certificates and civil status records, adjustments have been made to the system for medical certificates to make it possible to register women's personal data (name and surname, date of birth, education, home address, family status) on the basis of their statements, without the need for identity documents.

394. On 1 April 2018, a new version of the State Benefits Act came into force, under which a lump-sum payment (*balaga suiunchu*) of 4,000 soms is provided upon the birth of each child. This increases the likelihood that individuals will register births in a timely manner and obtain birth certificates.

395. Under article 75 of the Code of Infractions, any act that is committed intentionally by one family member against another family member or person of equivalent status and that violates the victim's constitutional or other rights and freedoms or causes physical or mental suffering or harm to the victim's physical or mental development is punishable by a fine of 15,000 to 60,000 soms, 2 to 6 months' punitive work or 30 to 60 hours' community service.

396. Under article 81 of the Code of Infractions, the intentional use by a tutor or guardian of his or her status as such in a manner that is detrimental to the person under tutorship or guardianship, or the act of leaving such a person without supervision or adequate material assistance, is punishable by a fine of 5,000 to 30,000 soms.

397. In December 2018, in accordance with an instruction issued by the Prime Minister, the work of district headquarters for the prevention of child abuse and violence against children was resumed. In this connection, home visits to families are carried out in districts and cities in order to identify the children of migrant workers.

398. A total of 85,954 children of migrant parents were identified in the provinces. The work of interviewing families is ongoing.

399. In order to strengthen and carry out further work to prevent child abuse and violence against children, a draft government order has been drawn up on the approval of the Emergency Plan for the Prevention of Child Abuse and Violence against Children, 2019–2020.

400. In 2015, the Ministry of Labour and Social Development established a public institution known as the "111 Children's Helpline" Centre. The helpline operates 24 hours a day; calls from all regions of the country are free. In 2018, the 111 helpline received 745 genuine calls, of which 84 were from children.

401. Out of the 745 calls, in 262 cases the callers were given guidance and recommendations, 47 subscribers were provided with psychological advice by phone and 159 calls were forwarded to the relevant local subdivisions of the competent State bodies, depending on the nature of the calls. Of the 745 calls received, 174 (23.4 per cent) were from men, 571 (76.6 per cent) were from women and 84 were from children, including 24 (28.6 per cent) from boys and 60 (71.4 per cent) from girls.

402. With technical support from the United Nations Children's Fund (UNICEF), centres have been established in the city of Karakol, in the village of Tyup, Issyk-Kul Province, and in the city of Talas, Talas Province, to provide psychological and legal assistance to children who have suffered abuse or violence. More than 1,000 children receive services at these centres.

403. In addition, specialists from district and municipal social development offices, in cooperation with local authorities, raise awareness among parents wishing to work abroad of the need to appoint a guardian for their children if they leave the country.

404. The Ministry of Labour and Social Development has drawn up an Action Plan for the Prevention of Child Abuse, 2019–2024. The Plan is currently in the process of being finalized.

405. The issue of creating a database of children in difficult circumstances is under consideration and a technical description of the database has been developed.

406. The Ministry of Labour and Social Development has also taken the following actions to prevent child abuse and violence against children:

- Implementation of the Action Plan for the Prevention of Child Abuse and Violence against Children, 2015–2017, approved by Government Order No. 125-r of 25 March 2015
- Introduction of a mechanism for the early identification and social monitoring of children in difficult circumstances, including children who have been subjected to abuse or violence (Government Decision No. 391 of 22 June 2015)
- Approval, by Government Decision No. 479 of 14 August 2017, of the Government Programme for Family Support and Child Protection, 2018–2028, the purpose of which is to support, strengthen and develop the institution of the family, enhance family welfare and protect the rights and interests of children.

## **Article 25**

407. The National Sustainable Development Strategy for 2013–2017 was approved by Presidential Decree No. 11 of 21 January 2013.

408. One of the central aims of the Strategy is the holding of free democratic elections.

409. The following results were achieved in the framework of the goals set for the conduct of free democratic elections.

410. In 2014, the National Council for Sustainable Development approved a new electoral model, which provides for the preparation of electoral rolls on the basis of the single State register of population, the identification of voters on the basis of biometric data, and automatic vote counting using automated ballot boxes as a tool to cross-check the manual counting of ballots.

411. On 30 June 2014 the Biometric Registration of Kyrgyz Citizens Act was adopted, under which the single State register of population began to be compiled on the basis of personal and biometric data, and the biometric data of citizens began to be collected.

412. On 9 April 2015, amendments to the Constitutional Act on Presidential and Parliamentary Elections were adopted, whereby a new procedure was established for citizen participation in voting based on personal and biometric identification, and an automated vote counting system was introduced for use in presidential and parliamentary elections. The parliamentary elections of 2015 were carried out using the new electoral model.

413. On 21 January 2016 and 31 October 2016, respectively, the corresponding amendments were made to the Local Council Elections Act and the Constitutional Act on Referendums. Those amendments provided for the introduction of the new electoral model in the election of deputies to local councils and in the process of voting in referendums.

414. In order to ensure transparency in elections, the website <http://ess.shailoo.gov.kg> has been launched. The site offers online access to voting results for each polling station, the percentage of voter turnout and the results of the elections.

415. On the basis of an analysis of the campaigns conducted in 2015–2016, a number of new amendments to election laws have been developed and adopted by a working group, members of parliament and the Central Commission for Elections and Referendums. The aim is to resolve certain problems related to the voter rolls and to the tallying of voting results, ensure the stability of lists of candidates after the voting, and ensure that such lists continue to reflect gender quotas and quotas for ethnic groups and persons with disabilities.

416. Thanks to the new electoral model, preliminary results of the elections became known with 95 per cent certainty within two hours after the polls had closed. This facilitated the peaceful conduct of the elections. Citizens' trust in the election results, which was the main goal of the reform, has increased, as reflected in the results of the nationwide opinion polls conducted in 2015 and 2017 and in the absence of complaints about the voting results. The main achievements of the electoral system reform were to increase the reliability, transparency, competitiveness and inclusiveness of elections and to improve the legal and practical conditions for the free expression of the will of the citizens. Specifically:

- The implementation of the “one voter, one vote” principle has eliminated the potential for falsification of the number of voters.
- Reliability and full transparency of vote counting were achieved through the expansion of external oversight mechanisms and an analysis of the work of precinct election commissions in counting votes. The ability to compare the results shown by automated ballot boxes with those of manual counting, and the practice of sending scanned copies of manual counting reports and State Registration Service voter identification reports from each polling station to the website immediately after the completion of manual counting, have precluded the falsification of voting results.
- The system involves instant contactless transmission of the results from the automated ballot boxes at polling stations to the Central Commission for Elections and Referendums server. Manual vote counting results from the polling stations are automatically compiled on the server. By ensuring that voting results are published promptly and that all election commission observers are provided with copies of State Registration Service voter identification reports, automated ballot box results and precinct and territorial election commission reports on voting results, the system has created conditions for effective oversight by citizens.
- The consequent reliability and transparency of voter participation and voting results, together with effective measures to ensure the secrecy of the ballot, have improved the conditions for the free expression of the will of the citizens and have led to a progressive increase in the competitiveness of elections, as shown by the elections of 2015–2017.
- The consistent measures taken by the Government and the Central Commission for Elections and Referendums to compile the single State register of population, update the address register and ensure the transparent and open operation of the voter portal have made the voter rolls more inclusive; as a result, the number of voters on the rolls and the number who voted over the reform period have increased significantly.
- One other innovation was voter identification by biometric facial recognition, in cases where a voter cannot be identified by fingerprints.

417. The rights and responsibilities of observers appointed by candidates, political parties, voluntary associations or media representatives, as well as the procedure for their appointment and accreditation, are set out in detail in the Constitutional Act on Presidential Elections.

418. Non-profit organizations have the right to decide, in accordance with the procedure established by their charters, whether to participate in election observation and send members of civil society as observers.

419. In view of the importance of the institution of civil society observers, the procedure for accrediting such observers has been made as simple as possible. A circular letter with information on civil society observers accredited by the Central Commission for Elections and Referendums and a recommendation on the accreditation of civil society observers in accordance with the established application procedure has been sent to all election commissions.

420. On 15 October 2017, the day of the presidential elections, the voting process was monitored by a total of 19,596 observers, of whom 9,599 were civil society observers, 9,224 were observers appointed by candidates for the office of President and 773 were accredited international observers.

421. As at 26 December 2018, the number of political parties was 243.

## Article 26

### Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Non-discrimination and equality, para. 8)

422. Anti-discrimination provisions can be found in the Constitution and in a number of laws.

423. The Constitution provides that:

- No one may be subjected to discrimination on the basis of sex, race, language, disability, ethnicity, religion, age, political or other opinion, education, origin, property or other status, or other circumstances (art. 16 (2)).
- International treaties to which Kyrgyzstan is a party and which have entered into force as prescribed by law, as well as the generally recognized principles and norms of international law, are an integral part of the legal system of Kyrgyzstan (Constitution, art. 6 (3)). This provision became particularly important in the light of the ratification by Kyrgyzstan of a number of international human rights treaties and conventions.
- Activities of political parties, civil society or religious associations or representatives or affiliates thereof that are pursued for political ends and are aimed at the violent overthrow of the constitutional order, the undermining of national security or incitement to social, racial, national, ethnic or religious hostility are prohibited (Constitution, art. 4).
- Advocacy of national, ethnic, racial or religious hatred, or propaganda for the superiority of one gender or social group, that constitutes incitement to discrimination, hostility or violence is prohibited (Constitution, art. 31 (4)).
- The State is required to create conditions for the different social groups defined by law to be represented in State and local government bodies, including in decision-making positions (Constitution, art. 2).

424. Constitutional laws and other laws and regulations are adopted in accordance with the Constitution.

425. National legislation enacted in compliance with the Constitution contains provisions on non-discrimination and equality.

426. The Code of Infractions establishes that persons who have committed an act referred to in the Code are equal before the law and are criminally liable without regard to their sex, race, language, disability, ethnic background, religion, age, political or other opinion, education, origin, property or other status, or other circumstances (art. 4).

427. The Code of Infractions penalizes the unlawful obstruction of the activity of religious organizations or of the performance of religious rites and the violation of citizens' right to free choice of language.

428. The commission of an offence for reasons of racial, ethnic, religious or interregional hostility or hatred constitutes an aggravating circumstance under existing criminal law (Criminal Code, art. 75, and Code of Infractions, art. 53).

429. The Criminal Code penalizes incitement to racial, ethnic, religious or interregional hostility or hatred (art. 313) and the violation of the right to equality through the direct or indirect restriction of rights or the establishment of direct or indirect privileges on the basis of sex, race, nationality, language, disability, ethnicity, religion, age, political or other opinion, education, origin, property or other status, when such acts cause significant harm through negligence (art. 185). It also penalizes the establishment or leadership of extremist organizations whose activities are associated with incitement to ethnic, racial, religious or interregional hostility or hatred, the denigration of national pride or the promotion of

exclusivity, superiority or inferiority of citizens on the grounds of their religion, ethnic or racial background or place of residence.

430. In addition, the Criminal Code penalizes unlawful deportation, unlawful imprisonment, enslavement, mass or systematic execution without trial, intentional commission of a widespread and systematic attack directed against any civilian population, and forcible displacement, kidnapping, torture or acts of persecution committed against a civilian population for reasons of discrimination on the basis of sex, race, language, disability, ethnicity, religion, age, political or other opinion, education, origin, property or other status.

431. An interdepartmental plan of action on the implementation of the recommendations of the Committee on the Elimination of Racial Discrimination was adopted by Government Order No. 7-r of 28 January 2019. The plan provides for the conduct of a legislative review for the purpose of determining whether there is a need to amend existing legislation or introduce new legislation to combat racial discrimination.

**Comments on the Committee’s concluding observations on the second periodic report of Kyrgyzstan (Non-discrimination and equality, para. 9)**

432. With regard to lesbian, gay, bisexual and transgender persons, existing legislation reflects an attitude of non-discrimination and positive realization of citizens’ rights.

433. An underlying problem in this regard had been observed both in society and among State and non-State actors, together with widespread stigmatization of lesbian, gay, bisexual and transgender persons and cases of violence perpetrated by persons in their immediate environment. Previously, some cases of discriminatory treatment of transgender persons by public officials and medical and law enforcement personnel had arisen as a consequence of outdated knowledge, insufficient awareness of modern standards of medical care and lack of interdepartmental interaction with the State Registration Service. Ensuring that transgender persons are able to obtain identity documents corresponding to their gender identity is a responsibility of a State governed by the rule of law. It should be noted that the existence, in the State’s legal framework, of a system for changing the sex indicated on passports without discrimination, with respect for dignity, without additional requirements or conditions that would violate human rights, and in accordance with international standards of assistance and human rights is one of the country’s achievements in terms of human rights.

434. At present, the situation of lesbian, gay, bisexual and transgender persons has changed thanks to numerous harm reduction programmes, the 2014 Anti-Drug Programme and national programmes to combat HIV/AIDS (updated State programme to combat HIV infection for 2017–2021, adopted by Government Decision No. 852 of 30 December 2017). These initiatives involve non-discriminatory interventions and access to lesbian-, gay-, bisexual- and transgender-friendly medical services, including standards for the delivery of medical services to population groups that are vulnerable to the risk of HIV/AIDS, tuberculosis, viral hepatitis, sexually transmitted infections, etc.

435. Medical and social assistance for transgender, transsexual and gender-nonconforming persons is provided in health-care establishments in accordance with the procedure defined by the Ministry of Health. Such services include specialized medical and psychological assistance, medical check-ups and examinations and the preparation of medical reports, which serve as a basis for resolving the issue of changing the sex (gender marker) indicated on the person’s passport and in identity documents for the purposes of legal recognition of gender and assistance in social rehabilitation. All these types of assistance are components of transgender transition, or “gender reassignment”, within the framework of existing legislation (the Health Care Act of 2005 and the Civil Registration Act of 2005).

436. Kyrgyzstan is continuing to take steps to bring national law into line with international standards on the rights of persons living with HIV and of lesbian, gay, bisexual and transgender persons. The most significant positive developments include a new and improved procedure for gender reassignment and the amendment of passport data. Equally significant is the entry into force of the new Criminal Code, which distinguishes

between unintentional and intentional HIV transmission and reduces the applicable penalties. Consensual same-sex sexual relations are not a criminal offence.

437. Everyone in Kyrgyzstan has the right to gender reassignment. This right is set out in the Health Care Act. The first gender reassignment operations, for 15 transgender persons, were performed in Bishkek at the end of 2013. Article 38 of the Act provides that changes and reassignment of gender identity are to be carried out in health-care establishments through medical intervention, at the request of an adult patient, in accordance with medical, biological and socio-psychological indications and in line with the procedure determined by the competent State health-care authority.

438. In January 2017, the Ministry of Health issued the Manual on Provision of Medical and Social Care for Transgender, Transsexual and Gender-Nonconforming Persons, for use by medical professionals at all levels of the national health-care system and in other national institutions. In addition to recommendations for medical and social assistance, the Manual establishes procedures for examinations (diagnoses) and changes to the gender marker and name in trans\* persons' documents without requiring surgery or forced hospitalization, on the basis of a clearly defined list of medical assessments. Meeting the criteria set out in the tenth revision of the International Classification of Diseases is considered to be a sufficient indication for changing the gender marker in a person's passport. After an outpatient examination and observation of the patient, a medical report is issued on Form No. 048/u, which is the basis for making the necessary changes (name and gender marker in the passport) and issuing the relevant documents (legal recognition) at the civil registry office of the person's place of residence. This procedure is regulated by article 72 of the Civil Registration Act and by the instructions on civil registration procedures, paragraph 155 of which concerns amendments, additions and corrections to civil status records.

439. Over the period 2014–2018, 15 persons applied for corrections to be made to their civil status records by reason of gender reassignment. Of these persons, 8 had Kyrgyz passports that were issued under article 72 of the Civil Registration Act. The State Registration Service issued them with new passports on the basis of their medical files.

440. Kyrgyzstan does not have a law on the prohibition of discrimination based on sexual orientation, gender identity or gender expression.

441. Members of the parliament have prepared a bill on equality. The bill was discussed by the anti-discrimination coalition and experts. It covers all aspects of public life and is intended to prevent, combat and eliminate all forms of discrimination by State and local authorities and their officials, legal entities, and individuals.

**Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan, adopted by the Committee at its 110th session (10–28 March 2014) (Inter-ethnic violence, para. 14)**

442. In total, 325 criminal cases involving 638 persons have been heard by the courts in connection with the June events.

	<i>Jalalabad Province</i>	<i>Osh Province</i>	<i>Military court, Osh garrison</i>	<i>Total</i>
Prison sentences	33 persons	139 persons	6 persons	178 persons
Life sentences	27 persons	17 persons	–	44 persons
Suspended sentences	92 persons	82 persons	4 persons	178 persons
Fines	4 persons	10 persons	9 persons	23 persons
<b>Convictions</b>	<b>156 persons</b> (63 cases)	<b>248 persons</b> (133 cases)	<b>19 persons</b> (5 cases)	<b>423 persons</b> (201 cases)
Acquittals	7 persons (5 cases)	7 persons (5 cases)	–	14 persons (10 cases)

	<i>Jalalabad Province</i>	<i>Osh Province</i>	<i>Military court, Osh garrison</i>	<i>Total</i>
Orders to terminate proceedings	14 persons (7 cases)	14 persons (7 cases)	19 persons (15 cases)	47 persons (29 cases)
Remitted sentences	–	–	1 person	1 person
Returned to procurator's office for further investigation	57 persons (24 cases)	59 persons (26 cases)	–	116 persons (50 cases)
Returned to procurator's office for other reasons	17 persons (12 cases)	18 persons (13 cases)	–	35 persons (25 cases)
Referrals to a psychiatric hospital	–	8 persons (8 cases)	–	8 persons (8 cases)

443. Of the criminal cases considered by courts of first instance, appeals were filed in 92 cases involving 161 persons:

- The judgments in respect of 54 persons were amended.
- The judgments in respect of 27 persons were overturned.
- The judgments in respect of 63 persons were left unchanged.

444. Of the cases considered by courts of second instance under the supervisory procedure, appeals were filed in 44 cases involving 91 persons:

- The judgments in respect of 4 persons were amended.
- The judgments in respect of 36 persons were overturned.
- The judgments in respect of 46 persons were upheld.

445. Since 2010, the country's procuratorial authorities have registered 18 complaints from citizens or their representatives claiming that law enforcement officials had used torture or violence against them. On 30 September 2010, an article was published online about violence perpetrated against defendants by representatives of the victims in criminal cases related to the events of June 2010.

446. The procuratorial authorities investigated complaints from A. Askarov, K. Shermatov, D. Raimzhanov, S. Yuldashev and M. Maksudov, A. Tashirov, S. Iminov, U. Kholmiraev, M. Bizurukov, K. Amanbaev, D. Bazarov, S. Osmonov, K. Kadyrov, R. Zheenbekov, M. Soliev, E. Talant uulu, A. Atazhanov, Y. Gulyamov and F. Aliev and the online article.

447. After the investigation, five criminal cases were initiated on the basis of the complaints from S. Yuldashev and M. Maksudov, U. Kholmiraev, K. Amanbaev, K. Kadyrov and R. Zheenbekov. In three of these cases, seven internal affairs officials were tried and acquitted by the courts; the criminal case based on the complaint from Mr. Kadyrov was suspended under article 221 (1), subparagraph (3), of the Code of Criminal Procedure, and the criminal case based on the complaint from Mr. Zheenbekov was terminated under article 28 (1), subparagraph (2), of the Code of Criminal Procedure.

448. A decision was taken not to initiate criminal proceedings in relation to any of the other complaints on the grounds that no offence had been committed by anyone, i.e. because the complainants' allegations were not substantiated.

449. Chapter 46 of the Code of Criminal Procedure (1999 version, which expired on 1 January 2019) included provisions on compensation for damage caused by unlawful actions on the part of courts and agencies in charge of criminal proceedings. In other words, mechanisms were provided for the payment of compensation to persons whose rights had been violated by the court.

450. Under article 6 of the Code of Criminal Procedure that entered into force on 1 January 2019, one of the aims of criminal proceedings is to ensure that compensation is paid for material and moral damage.

451. Article 13 of the Code of Criminal Procedure establishes the principle of the protection of human and civil rights and freedoms in criminal proceedings, according to which compensation must be provided, on the grounds and under the procedure established by law, for any damage caused to a citizen as a result of a violation of his or her rights and freedoms in criminal proceedings.

452. Article 48 of the Code of Criminal Procedure sets out the definition of persons responsible for providing compensation for material and/or moral damage.

453. Under article 99 of the Criminal Code, compensation for material damage and compensation for moral injury are determined by the courts.

454. A person who has suffered material damage has the right to file a civil claim in pretrial proceedings in cases brought under the Criminal Code or the Code of Infractions. Civil claims may not be contrary to the objectives set out in article 6 of the Code of Criminal Procedure or to the principles of criminal procedure.

455. The law on criminal procedure provides for the possibility of bringing civil actions not only against suspects or indictees or persons bearing material responsibility for the actions of suspects or indictees, but also against the State in respect of consequences arising from the improper performance of the duties of public officials.

456. Under article 41 of the Code of Criminal Procedure, in cases where a victim of material damage and/or moral injury cannot be compensated at the expense of a suspect, indictee or convicted person, compensation for material damage and/or moral injury is paid to the victim out of a special fund in accordance with the procedure established by law.

457. In accordance with paragraph 12 of the Plan of Action for the implementation of the Code of Civil Procedure, the Code of Administrative Procedure and the Act on the status of court bailiffs and enforcement proceedings, approved by Government Order No. 120-r of 14 April 2017, the Ministry of Internal Affairs has drawn up a bill on the Victim Compensation Fund, which is currently under consideration by the Government.

458. Detailed information about the assault on defence counsel T. Tomina and others, and about threats in connection with the criminal trials related to the 2010 events in Osh, can be found in the third periodic report of Kyrgyzstan on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the period 2012–2016, approved by Government Order No. 6-r of 28 January 2019.

## Article 27

### Comments on the Committee's concluding observations on the second periodic report of Kyrgyzstan (Rights of minorities, para. 8)

459. Today, the aim of further developing multilingual education is actively supported by teachers and parents, primarily those who are members of ethnic minorities.

460. During the recent visit to Kyrgyzstan by Mr. L. Zannier, High Commissioner on National Minorities, the country's efforts on language policy were recognized as being effective and uniquely suited to the Kyrgyzstan context.

<i>Number of general education schools</i>	<i>2013/14</i>	<i>2014/15</i>	<i>2015/16</i>	<i>2016/17</i>	<i>2017/18</i>
<b>Total</b>	<b>2 207</b>	<b>2 205</b>	<b>2 218</b>	<b>2 236</b>	<b>2 262</b>
With one language of instruction, total	1 714	1 698	1 692	1 685	1 689
Including:					
Kyrgyz	1 443	1 434	1 439	1 423	1 427
Russian	203	203	198	216	226
Uzbek	65	58	52	43	33
Tajik	3	3	3	3	3

<i>Number of general education schools</i>	<i>2013/14</i>	<i>2014/15</i>	<i>2015/16</i>	<i>2016/17</i>	<i>2017/18</i>
With two or more languages of instruction, total	493	507	525	551	573
Including:					
Kyrgyz-Russian	346	360	369	397	409
Kyrgyz-Uzbek	60	54	54	49	52
Kyrgyz-Tajik	2	2	3	2	2
Uzbek-Russian	46	49	52	48	54
Uzbek-Tajik	–	–	1	1	1
Kyrgyz-Uzbek-Russian	35	38	43	50	51
Russian-Uzbek-Tajik	4	4	3	3	3
Kyrgyz-Russian-Uzbek-Tajik	–	–	–	1	1

461. The population of the country as of 2018 is 6,256,730. The indigenous population – 4,587,430, or 73.3 per cent – consists of persons of Kyrgyz ethnicity. Kyrgyz people live in all parts of the country and are the predominant group in most rural areas. Uzbeks are the second largest group, totalling 918,262 people, or 14.7 per cent of the population. They are concentrated in the southern parts of the country, in the areas bordering Uzbekistan. Persons of Russian background – 352,960 people, or 5.6 per cent of the population – are concentrated mainly in cities and villages in the northern part of the country. The population figures for other ethnicities are as follows: Dungans (70,534), Uighurs (57,002), Tajiks (54,976), Turks (43,411), Kazakhs (35,541), Tatars (27,200), Azerbaijanis (20,406) and Koreans (17,074).

462. The country has a “young” population, of which a significant proportion consists of persons of working age and children. Young people between the ages of 14 and 28 account for 25.7 per cent of the total population of Kyrgyzstan.

463. The regional public television and radio broadcasting company Yntymak was established in accordance with Government Decision No. 742 of 29 November 2011. The main objective of Yntymak is to strengthen inter-ethnic harmony, intercultural interaction and unity among the people of the country, to meet the population’s need for independent and objective information and for educational, cultural, entertainment and children’s programmes, and to enhance the role of public broadcasting. The channel broadcasts in three languages: Kyrgyz, Uzbek and Russian.

464. Currently, Yntymak broadcasts on television and radio stations in three provinces of the Republic: Osh, Batken and Jalalabad. It is also included in the “Social” package of television channels.

465. The regulations on the procedure for holding competitive examinations and on promotions in the State and municipal civil service, adopted by Government Decision No. 706 of 29 December 2016, contain a provision (para. 50) stipulating that, if two or more candidates receive an equal number of points, the Competition Commission recommends the candidate whose ethnicity or gender is less well represented in the State or local body concerned.

466. According to figures from the State personnel service, ethnic representation in the State and municipal civil service is now as follows:

- As at 1 January 2018, there were 15,838 administrative civil servants, of whom 855 belonged to various ethnic groups. There were also 20 holders of political office belonging to different ethnic groups.
- The number of holders of political office at the municipal level was 517, of whom 15 belonged to various ethnic groups. There were 7,976 municipal administrative civil servants, of whom 834 belonged to other ethnic groups.

467. Ethnic representation in local councils varies considerably from region to region. Persons of many different ethnicities have been elected to local councils. Of these persons, 86.7 per cent are Kyrgyz, 7.2 per cent are Uzbek and 6.1 per cent are members of other ethnic groups.

468. As at 20 February 2018, there were 8,384 deputies to local councils, of whom 7,296 were Kyrgyz, 134 were Russian, 610 were Uzbek, 41 were Tajik, 34 were Kazakh and 269 were members of other ethnic communities. The total included 7,456 men and 928 women.

469. The gender, age and ethnic composition of the membership changes constantly, as some deputies are appointed to government positions and their places are taken by the next candidate on the respective party list. These candidates have different demographic characteristics, and the breakdown by sex, age and ethnicity therefore changes.

---