



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Consideration of reports submitted by States
parties under article 19 of the Convention**

**Second periodic report of States parties due in 2002,
submitted in response to the list of issues (CAT/C/KGZ/Q/2)
transmitted to the State party pursuant to the optional
reporting procedure (A/62/44, paras. 23 and 24)**

Kyrgyzstan*, **

[3 April 2012]

* The initial report of Kyrgyzstan (CAT/C/42/Add.1) was considered by the Committee at its 403rd, 406th and 408th meetings, held on 16, 17 and 18 November 1999 (CAT/C/SR.403, 406 and 408). For its consideration, see A/55/44, paras. 70–75.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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Second report of Kyrgyzstan on implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for the period from 1999 to 2011

I. Introduction

1. Kyrgyzstan acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in September 1997. In accordance with article 19, paragraph 1, of the Convention, in 1998 it presented its initial report on the measures taken to give effect to the commitments it had undertaken under this instrument.

2. This report is being submitted in accordance with article 19, paragraph 1, of the Convention, following the general guidelines regarding the form and content of periodic reports to be submitted by States parties, and also in line with the list of issues presented by the Committee against Torture.

3. The report covers the period from 1999 to 2011 and contains information on developments that have taken place since the presentation in 1998 of the initial report. It also takes into consideration the conclusions and recommendations issued by the Committee following its consideration of the initial report (A/55/44, para. 75).

4. Kyrgyzstan is unswervingly committed to a policy which gives priority to the interests of the individual over those of society. It is constantly working to establish a general system of laws to protect human rights. The observance of generally recognized standards of international law, including respect for the commitments undertaken under international treaties, is a major theme of State policy.

5. This report has been drawn up by the Ministry of Internal Affairs with assistance from the staff of the Office of the United Nations Commissioner for Human Rights (OHCHR) in Kyrgyzstan. The report makes use of information received from Kyrgyz government ministries and departments. The basic information for this report came from the Ministry of Internal Affairs, the Ombudsman, the Office of the Procurator-General, the State Penal Correction Service, the Supreme Court, the State Committee on National Security, the Ministry of Labour, Employment and Migration, the Ministry of Health and the Ministry of Education and Science. The report was discussed at a round table held by OHCHR and the Ministry of Foreign Affairs, with representatives of State bodies and civil society making proposals and comments.

II. Specific information on the implementation of articles 1–16 of the Convention against Torture, including information regarding the previous recommendations of the Committee

Reply to the questions in paragraph 1 of the list of issues (CAT/C/KGZ/Q/2)

6. The concept of “torture” was introduced into the Criminal Code in 2003, when the Code was amended with article 305-1, entitled “Torture”, which reads as follows:

“The deliberate infliction of physical or mental suffering on any person for the purpose of extracting information or a confession, punishing a person for an act the person has committed or of which he or she is suspected, as well as for the purpose of intimidating or coercing the person to commit certain actions, when such acts are

committed by an official or by any other person with the knowledge or consent of an official, shall be punishable by deprivation of liberty of 3 to 5 years, with or without disqualification to hold certain posts for 1 to 3 years.”

7. Article 305-1 of the Criminal Code sets out penalties of deprivation of liberty of 3 to 5 years, with or without disqualification to hold certain posts for 1 to 3 years.

8. Article 9 of the Criminal Code categorizes offences as minor, less serious, serious and especially serious.

9. Article 305-1 of the Criminal Code places the crime of torture in the category of less serious offences, meaning that it is a premeditated offence punishable by deprivation of liberty of less than 5 years.

10. According to statistics from the Information Analysis Centre of the Ministry of Internal Affairs, the investigative units of the national law enforcement agencies handled no criminal proceedings or investigations under the article on torture, article 305-1 of the Criminal Code, between 2004 and 2009.

11. According to information from the Office of the Procurator-General, in the first seven months of 2011 procurators' offices initiated 34 criminal cases related to the use of torture and other inhuman, cruel or degrading treatment or punishment. After investigation, five cases were dropped (four because it was determined that no offence had been committed and one because the victim declined to press charges) and three cases were suspended because it was not possible to identify the accused. Thirteen cases are under investigation and another 13 cases involving 19 defendants have gone to court; 3 of these defendants have been found guilty, in 2 cases. One case was sent back to the investigating services because it was incomplete as presented, and two cases were suspended (as either the victim declined to press charges or charges were dropped when an agreement was reached with the victim). Two cases led to acquittals. Six cases involving 10 defendants are being heard by the courts.

12. The Supreme Court has presented the following information on the number of criminal cases heard under article 305-1. On 13 August 2007, C.T. and K.C. were acquitted by the Naryn municipal court of charges brought against them under articles 305-1 and 305, paragraph 2, subparagraphs 3 and 5, of the Criminal Code, as it was determined that their actions did not constitute an offence. An appeal was lodged against this judicial decision before a court of second instance. The Naryn provincial court changed the decision on 21 September 2007, acquitting C.T. and K.C. owing to insufficient evidence. A criminal case was sent to the procurator for Naryn province so that it could establish the identities of the perpetrators. Appeals for judicial review were lodged against the judicial decisions of the local courts, and the Supreme Court issued a supervisory decision on 11 December 2007 overturning the rulings of the lower courts and referring the criminal case to the investigation agencies.

13. The Naryn municipal procurator on 26 December 2008 decided to suspend the criminal case initiated against the defendants, in application of article 28, paragraph 1 (12) and article 225, paragraph 1 (2) of the Code of Criminal Procedure. On 26 April 2011 a case was brought before the Sverdlovsk district court in Bishkek for consideration on the merits; this case accused Z.A. and T.R., officers of the Sverdlovsk district internal affairs office in Bishkek, of offences under article 305, paragraph 2 (3), article 304, paragraph 2, and article 305-1 of the Criminal Code. The case is in the investigation stage. The Suzak district court on 4 May 2011 acquitted T.K., N.S., E.K. and I.M. of the charges brought against them under article 105, paragraph 2, subparagraphs 3 and 4, article 305-1, paragraph 1, and article 324, paragraph 1, of the Criminal Code, owing to insufficient evidence. An appeal was filed by the victim, and another appeal was presented by the

procurator of Suzak district. The case is currently being referred to the Jalal Abad provincial court.

Reply to the questions in paragraph 2 of the list of issues

14. There have been no cases in which the courts have applied the Convention.

Reply to the questions in paragraph 3 of the list of issues

15. Under article 24 of the Constitution, everyone has the right to freedom and security of person. No one may be arrested for more than 48 hours without a judicial order, and every person under arrest must urgently, and in any case within 48 hours of the arrest, be presented before a court so as to ascertain whether the arrest is legal. Every arrested person has the right to verify the legality of the arrest in accordance with the procedures and time frames established by law. In the absence of justification for an arrest, the person in question must be released immediately.

16. In all cases, arrested persons must be informed immediately of the reasons for their arrest. Their rights must be explained to them and ensured, including the right to a medical examination and to receive the assistance of a physician. From the actual moment of arrest, the security of arrested persons is ensured; they are provided with the opportunity to defend themselves on their own, to have the qualified legal assistance of a lawyer and to be defended by a defence lawyer.

17. The Act on Procedures and Conditions for the Custody of Suspects and Accused Persons¹ stipulates that detainees held in custody while awaiting an investigation or court proceedings have the following rights:

- To read the internal regulations of the place of detention and be aware of their rights and duties, the detention regime, disciplinary requirements and procedures for the submission of suggestions, applications and complaints;
- To security of person in places of detention;
- To meet with counsel, relatives and other persons listed in article 17 of the Act, in accordance with the provisions of the Code of Criminal Procedure;
- To submit suggestions, applications and complaints to bodies, including courts, regarding the legality and justification of their being held in custody and violations of their legal rights and interests;
- To maintain correspondence and use writing implements and stationery supplies;
- To receive food, material and medical provisions free of charge, including during their participation in investigations and judicial proceedings;
- To sleep for eight hours at night, during which time their participation in procedural and other activities is prohibited, with the exception of cases stipulated under the Code of Criminal Procedure;
- To have daily outdoor exercise for at least one hour a day;
- To use objects and items belonging personally to them, as listed and in the quantities specified in the internal regulations.

These guarantees are also set out in the current version of the Code of Criminal Procedure.

¹ Act No. 150 of 31 October 2002 on Procedures and Conditions for the Custody of Suspects and Accused Persons.

18. In addition, under article 42, paragraph 1, subparagraph 9, of the Code of Criminal Procedure, accused persons in detention have the right without hindrance to communicate with their defence lawyers in private and with no limitation on the number or duration of interviews.

19. The 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 (the lawyer's mandate). The staff members are able to see them, but not to hear their conversations.

20. Suspects and accused persons may be permitted, with the written authorization of the person responsible for the criminal proceedings, up to two visits, of up to three hours each every month, with relatives or other persons. Such visits are carried out with monitoring by the staff of the detention facility and are suspended ahead of time if an attempt is made to pass to the suspect or accused person prohibited items or information that may hinder the establishment of the truth in the criminal case.

21. Defence lawyers are allowed to visit when they have a lawyer's mandate (the document attesting to the lawyer's participation in the criminal case to defend the suspect, accused person or defendant), a written confirmation of participation in the criminal case issued by an investigator, procurator or court handling the proceedings of the criminal case and personal identity papers.

22. In accordance with Order No. 24 of 21 July 2008 issued by the Procurator-General and Order No. 40-r of 12 April 2011, the procuratorial agencies systematically check on conditions at temporary holding facilities and remand centres and carefully check all circumstances adduced as justification to apply preventive measures in the form of detention so as to prevent illegal detention and the use of illicit means of investigation of detainees.

23. In the first five months of 2011 procurators carried out 1,099 checks of internal affairs temporary holding facilities, resulting in the issuance of 36 recommendations for action and 8 injunctions, with the initiation of 4 criminal cases and 6 disciplinary procedures. Twenty officials of the internal affairs services were the subject of disciplinary action resulting from this procuratorial supervision.

24. With reference to the previous conclusions and recommendations of the Committee, please indicate what steps have been taken, in general, to prevent acts of torture and ill-treatment from occurring. In this relation, the Committee has noted that in July 2000, when examining the initial report of the State party under the International Covenant on Civil and Political Rights, the Human Rights Committee expressed grave concern about instances of torture, inhuman treatment, and abuse of power by law-enforcement officials and asked the State party to amend its legislation and ensure that acts of torture are indictable offences, and that all allegations of torture by officials are properly investigated by independent bodies and those responsible prosecuted. It also asked that a provision be made for medical examination of detained persons, particularly of persons held in pretrial detention, in order to ensure that no physical abuse of detainees occurs. Please indicate what steps have been taken to address these specific recommendations. Please indicate whether any centralized register of all complaints of torture and ill-treatment allegedly committed by law-enforcement authorities exists. Please provide information on the number of torture and ill-treatment claims allegedly committed by representatives of the State Committee on National Security, and their outcome.

25. Article 163, paragraph 3, of the Code of Criminal Procedure stipulates that criminal investigations into the use of torture are conducted by investigators of the procuratorial agencies.

26. The procuratorial agencies carry out specific measures to prevent torture and ill-treatment.
27. For example, on 21 July 2008 the Procurator-General issued Order No. 24 on procuratorial oversight of the legality of investigative and procedural activities limiting rights and freedoms. Under this instrument, procurators carried out weekly verifications of the legality of detention at temporary holding facilities.
28. On 12 April 2011 the Procurator-General issued Order No. 40-r. The Order strengthened procuratorial oversight of constitutional guarantees prohibiting torture and other inhuman, cruel or degrading treatment or punishment. This measure gave procurators at all levels the power systematically to carry out spot checks at police stations, cells holding persons detained for administrative offences, temporary holding facilities of the internal affairs services and narcotics squads, military detention and disciplinary facilities run by the Ministry of Defence and remand centres, disciplinary units and special cells of correctional facilities run by the State Penal Correction Service.
29. Currently, it is the procuratorial agencies that carry out supervision of all places of detention in order to prevent torture and other abuse of authority by law enforcement agencies.
30. Article 24 of the Constitution stipulates that each arrested person must be immediately told the reasons for the arrest and must be informed of his or her rights; those rights must be observed, including the right to have a medical examination and the assistance of a physician.
31. The Act on Procedures and Conditions for the Custody of Suspects and Accused Persons stipulates that when a suspect or accused person sustains bodily injury, medical assistance must be provided immediately by the medical officer of the place of detention, and the results of a medical examination must be recorded according to an established procedure and communicated to the victim. By decision of the director of the place of detention or a person or body handling the criminal case, or upon the request of the suspect or accused person or the person's lawyer, the medical examination may be conducted by the staff of the medical establishment. A refusal to permit such an examination may be the subject of an appeal to the supervising procurator.
32. Complaints and any other correspondence from the public are registered by the Office of the Procurator-General on the basis of the Instructions on record-keeping, which were approved by Order No. 16/7 of the Procurator-General, issued on 4 August 2005.
33. Documents are registered with the use of the ASKID document management system. There is no separate centralized registry or database for complaints from the public of torture or ill-treatment.
34. From April 2010 to May 2011 the Office of the Procurator-General received 27 complaints of this type. All the records covering the period from 1999 to April 2010 were destroyed in April 2010 by a fire at the Office.
35. There is no centralized registry at the Ministry of Internal Affairs of complaints from the public of torture and acts of ill-treatment allegedly carried out by law enforcement agencies.
36. At the same time, the internal security service of the Ministry of Internal Affairs has since January 2011 recorded complaints from the public of torture and acts of ill-treatment by internal affairs department staff.
37. In four months in 2011, the entire internal security service considered 94 complaints and applications from the public relating to violence, bodily injury and torture. Of these, 51

were found to be unsubstantiated, 62 were sent to investigative units and 5 criminal cases were initiated.

38. To ensure more effective handling of complaints concerning militia officers, the Ministry of Internal Affairs on 3 September 2009 issued Order No. 791 approving written rules for receiving complaints against the staff of internal affairs agencies.

39. To establish public oversight of the internal affairs bodies, on 3 September 2009 the Ministry of Internal Affairs also issued Order No. 792 approving the regulations for a public body overseeing the legality of actions carried out by internal affairs personnel.

40. Ministry of Internal Affairs Order No. 164 of 27 February 2009 approved a Code of Professional Ethics for staff of the internal affairs agencies. It is aimed at perfecting their knowledge and skills and ensuring that they unconditionally comply with the requirements of the law and observe human rights when performing their duties.

41. There are no provisions for the State National Security Committee to keep a centralized registry of illegal actions by officers of the law enforcement agencies. Each complaint of a violation of a citizen's rights and freedoms is carefully verified. If it is ascertained that misconduct has occurred, disciplinary action is taken. If it is determined that a crime has been committed, the case file is sent to the military procurator for a decision on whether to criminally prosecute the guilty official.

Reply to the questions in paragraph 5 of the list of issues

42. Under Order No. 40-r of the Procurator-General, which strengthened procuratorial oversight of the constitutional guarantees prohibiting torture and other inhuman, cruel or degrading treatment or punishment, the procuratorial bodies are responsible for strengthening procuratorial oversight of such guarantees during initial inquiries and investigations.

43. They are also to carry out systematic spot checks at police stations, cells holding persons detained for administrative offences, the temporary holding facilities of the internal affairs services and of the narcotics squads, military detention and disciplinary facilities run by the Ministry of Defence and the remand centres, disciplinary units and special cells of correctional facilities run by the State Penal Correction Service.

44. During these spot checks, they are to make the rounds of the offices of the bodies under their supervision, hold interviews with citizens, inspect complaints registries, check whether anyone shows signs of physical abuse and establish whether suspects and accused persons have had medical examinations upon their arrival at the places of detention.

45. They are also to take action immediately each time a statement or communication is received indicating that torture or other inhuman, cruel or degrading treatment or punishment has taken place and to carefully consider the evidence put forth.

46. The procuratorial bodies are also to scrupulously carry out verifications, and if it is ascertained that offences have been committed, to immediately initiate criminal cases, with special monitoring. They must comprehensively and objectively carry out investigations and bring criminal charges against the perpetrators of such acts.

47. They are also responsible for promptly considering the legality and justification of decisions not to initiate such criminal cases or to suspend or close them. Any time a decision is made without a legal basis or is unjustified or blocked by red tape, they must bring up the matter with the responsible officials.

48. They are also called upon to establish constructive cooperation with the law enforcement bodies and to carry out joint steps with them to devise additional measures to prevent and halt the practice of torture and other inhuman, cruel or degrading treatment or

punishment, and also to ascertain and eliminate the reasons behind and conditions facilitating such acts.

Reply to the questions in paragraph 6 of the list of issues

49. The rules for the detention of minors are set out in article 29 of the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons. The Act calls for the establishment at places of detention of a regime to uphold law and order, to ensure observance of the rights of suspects and accused persons, to allow them to fulfil their obligations and to provide for their confinement.

50. Male and female underage suspects and accused persons are held separately at remand centres, and also separately from adult detainees. Under the Act and the internal regulations for remand centres in the penal correction system run by the Ministry of Justice approved by Government Decision No. 631 of 30 August 2006, minors are quartered in accordance with the space of the cell, based on 3.25 square metres per person, with no more than four to six persons accommodated in each cell, and their cells are located in separate wings, sections or floors of the standard cell blocks. At remand centres, all cells housing minors or female detainees have wooden flooring and bunks.

51. Cell No. 13 at the temporary holding facility of the municipal internal affairs department in Bishkek has been assigned for the detention of minors. It can accommodate up to 10 inmates, but the maximum authorized occupancy is rarely reached. Usually there are fewer than five minors held in the cell.

52. In Osh, Talas and Batken provinces, depending on the size of the cell, no more than three or four minors may be housed in a single cell. During their verifications at temporary holding facilities, the procurators check the detainee placement registries to ensure that minors are not mixed with adult detainees.

53. Under article 94 of the Code of Criminal Procedure, the procurators are specifically responsible for monitoring observance of the rights of minors in detention. It is mandatory for all investigative activities involving minors to take place with the participation of their legal representatives and lawyers. There are no restrictions on the number of interviews they may hold.

54. When minors are arrested, they undergo a medical examination. When they are assigned to detention as a preventive measure, the procurators personally question the minors in all cases, paying careful attention to the criminal case file. No cases have been registered in which persons under 18 years of age held by the militia or awaiting trial were tortured.

Reply to the questions in paragraph 7 of the list of issues

55. Under article 29 of the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons and paragraph 1.12.1 of the internal regulations for temporary holding facilities of the internal affairs bodies approved by Government Decision No. 57 of 2 February 2006, minors are detained separately from adults.

56. During their verifications at temporary holding facilities, the procurators check the detainee placement registries to ensure that minors are not mixed with adult detainees.

57. Facility No. 14 (VK-14) located at Voznesenovka, in the Panfilov district of Chüy province, houses convicted males under the age of majority. It also has a remand centre for holding male minors whose cases are under investigation.

58. Article 28 of the Act stipulates that female and male suspects and accused persons are held separately at places of detention. Female, minor and male prisoners in pretrial

detention receive medical care from the medical services of the facilities in question, and if necessary, may be brought under escort to local civilian health facilities or may be hospitalized at curative facilities run by the Ministry of Health when such treatment is prescribed. Women are provided with better living conditions and gynaecological care. The Government sets higher nutritional and material standards for them. Pregnant women and women with children are not subject to any restrictions on the length of their daily exercise.

59. Additionally, women detained at the internal affairs temporary holding facility in Osh are under the constant surveillance of international organizations that, as part of their activities, ensure that they are provided with personal hygiene items. Previously, women suspects and accused persons were detained at the SIZO-50 remand centre at the village of Alga, in the Ysyk-Ata district of Chüy province, which had a medical ward that provided the necessary medical attention. However, Government Decision No. 424 of 29 July 2011 transformed that facility into a correctional establishment. Under a decision of the State Penal Correction Service, 29 of the 62 women detained at the temporary holding facility were transferred to remand centre No. 1 in Bishkek; the other 33 were transferred to the remand centre at VK-14, at Voznesenovka, in the Panfilov district of Chüy province.

60. Government Order No. 523-r of 26 July 2011, in accordance with the applicable procedures, transferred a disused special vocational school located at 57 Orozbekov St., Belovodskoe, Moskovsky district, Chüy province, vocational school N 2, along with its adjacent premises and auxiliary buildings, from the Ministry of Labour, Employment and Migration to the State Penal Correction Service.

61. A woman's correctional colony, with a remand centre, has been set up at that facility.

Reply to the questions in paragraph 8 of the list of issues

62. All actions carried out by the State Committee on National Security as part of its efforts against terrorism and extremism are taken with respect for the human and civil rights and freedoms guaranteed by the Constitution and international human rights standards. Measures taken against terrorism and extremism are based on the principles of ensuring and defending basic human and civil rights and legality, with priority given to protecting the life, health, rights and legal interests of persons who are subjected to dangers as a result of terrorist acts.

63. The Government has taken a series of measures to prevent terrorism, including the adoption of the Counter-Terrorism Act and the Act on Combating the Financing of Terrorism and the Legalization (Laundering) of Income Obtained by Criminal Means.²

Reply to the questions in paragraph 9 of the list of issues

64. The organizational structure and prerogatives of the Ombudsman do not correspond with the Paris Principles for national human rights institutions. The Constitution stipulates that the Ombudsman is independent and has immunity during his mandate. No one is entitled to interfere in the work of the Ombudsman, who presents an annual report on observance of human and civil rights to the Zhogorku Kenesh, the national parliament. However, article 7, paragraph 7, of the Ombudsman (Akyikatchy) Act³ establishes that, by law, if the annual report is not approved, the Ombudsman may be removed from his or her

² Act No. 178 of 8 November 2006, the Counter-Terrorism Act, and Act No. 135 of 31 July 2006 on Combating the Financing of Terrorism and the Legalization (Laundering) of Income Obtained by Criminal Means.

³ Act No. 136 of 31 July 2002, the Ombudsman (Akykatchy) Act.

post. The Ombudsman must thus constantly be mindful of the political balance of power in the parliament. Even in the drafting of the report itself, such caution is not conducive to the effective performance of the main task at hand: that of doing everything possible to promote human rights.

65. Seventy-nine officials work in the Ombudsman's Office. The Office is funded from the national budget, with the financing covering only budget items protected against cuts (salaries and services). A department for the protection of human rights at correctional institutions and places of pretrial detention has been established and handles complaints from people at those facilities.

66. In 2010 the Ombudsman received 410 complaints about law enforcement agencies, representing about 22 per cent of all complaints. They generally related to the illegal use of violence, especially at the initial inquiry and preliminary investigation stages. It is often very difficult and sometimes impossible to prove that torture has been used. Usually such offences fall under other articles of the Criminal Code. Only three cases can be cited where criminal cases were initiated under article 305-1 of the Criminal Code. This year, the situation has not improved. A fifth of the applications and complaints received by the Ombudsman's Office are related to attacks on the honour and dignity of citizens by law enforcement officials, and first and foremost, by members of the militia.

67. The Citizens against Corruption human rights centre has produced a documentary entitled *The Stigma of Torture* showing how torture is used in Kyrgyzstan. V. Pilipenko, a young student, was accused of murder. During the first initial inquiries, he was roughed up by members of the militia, in violation of the law. As a result, the district court found him not guilty. But no measures were taken against the militia officers who extracted his confession under duress. The procuratorial bodies paid no attention to the problem.

68. On 21 June 2008 R.K. was arrested by officers of the Central Criminal Investigation Department of the Ministry of Internal Affairs and taken to the Department's premises, where he was beaten with a special truncheon for several hours, resulting in physical and psychological trauma, the aim being to extract a confession. He was hospitalized at urology unit No. 3 of the National Hospital, run by the Ministry of Health, with the following diagnosis: contusions in both kidneys, haematoma on the right kidney and severe urinary retention.

69. On 27 June 2008 the Office of the Procurator-General initiated a criminal investigation of this incident, invoking article 305-1 of the Criminal Code.

70. On 11 November 2008 charges were brought against A. Chalbaev, an officer of the Central Criminal Investigation Department, for committing a crime covered by article 305, paragraph 2, subparagraphs 3 and 4, of the Criminal Code (exceeding official authority with the use of physical violence and special equipment). On 13 November 2008 this criminal case was sent for trial by the Pervomaisky district court in Bishkek.

71. This example shows that the current practice in criminal proceedings is such that when an official commits an act that can be qualified as "torture", the perpetrator is charged only under article 305, paragraphs 2 and 3, of the Criminal Code (exceeding official authority with the use of physical violence).

Reply to the questions in paragraph 10 of the list of issues

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

73. As an expression of its commitment to its international obligations, Kyrgyzstan has afforded international protection to over 20,000 refugees.

74. As at 1 June 2011 there were 193 refugees in Kyrgyzstan, 184 of whom were from Afghanistan and 9 from other countries (Islamic Republic of Iran, Syrian Arab Republic, Democratic People's Republic of Korea).

75. Additionally, 225 persons were seeking asylum, including 47 citizens of Afghanistan, 7 of the Islamic Republic of Iran, 1 of Pakistan, 13 of the Russian Federation, 1 of the Syrian Arab Republic, 1 of Turkey, 152 of Uzbekistan and 2 stateless persons (from Uzbekistan).

Reply to the questions in paragraph 11 of the list of issues

76. The provisions of the Convention against Torture must be taken into account in procedures for the administrative deportation or extradition of refugees and asylum seekers.

77. The following standards governing deportation and extradition are included in the legislation on refugees.

78. Article 11 of the Refugees Act⁴ establishes that "persons notified of the denial or loss of refugee status shall in no circumstances be deported to a country where their life or freedom is threatened on account of their race, ethnicity, religion, citizenship, membership of a specific social group or political beliefs or to a country where they may be victims of torture or be subjected to inhuman treatment".

79. The Act also guarantees that "refugees may not be returned against their will to countries that they leave for the reasons listed in article 1 of this act (article 12)". Article 1 defines the concept of a refugee as follows: "Persons not citizens of Kyrgyzstan who have applied for recognition as refugees with the Kyrgyz authorities and who have been forced to leave their places of permanent residence in another country because of a justified fear of persecution based on their race, religion, nationality, political beliefs or membership of a specific social group, or who are subject to a real danger of persecution in armed and international conflicts, and who, because of such fears, cannot or do not wish to make use of the protection of their own countries shall be recognized as refugees."

80. Under article 9 of the Act, a denial of refugee status can be appealed before a court from the moment the copy of the decision is received, in accordance with a procedure established by law.

81. When such an appeal is filed, all actions of the internal affairs services to arrange for the applicant's departure from the country are suspended until a definitive ruling is issued by a court.

82. Once a denial is received from the official State agencies and courts, asylum seekers must leave the country with their families within one month or be subject to deportation. However, after they receive the official denial, foreign citizens seeking refugee status in Kyrgyzstan (for the most part from Afghanistan) often submit their documentation to the Office of the United Nations High Commissioner for Refugees (UNHCR) in Kyrgyzstan, where they automatically receive the status of asylum seekers.

83. The law enforcement agencies of Kyrgyzstan do not have the right to deport persons officially recognized by the United Nations as asylum seekers.

84. In 2010, units of the Ministry of Internal Affairs and internal affairs bodies found 22 instances of illegal migration falling under articles 204-1 and 204-2 of the Criminal Code (there had been 72 such instances in 2009). The internal affairs bodies initiated four criminal cases relating to 16 instances (in 2009, six criminal cases were initiated, covering

⁴ Act No. 44 of 25 March 2002, the Refugees Act.

66 of the 72 instances detected). Administrative prosecutions were carried out relating to 1,947 foreign citizens (8,755 in 2009) for violating immigration laws and the rules for staying in Kyrgyzstan. Of these, 1,704 persons were fined (8,450 in 2009), for a total of 848,000 soms, and 240 were deported (305 were deported in 2009). There were 72 illegal border crossings detected in 2010 (in 2009, 30), with 96 persons arrested, leading to the initiation of seven criminal cases.

85. On 8 August 2006 the Procurator-General issued a decision to hand over four citizens of Uzbekistan who had previously been denied refugee status (including by a decision of the Supreme Court).

86. As a result Kyrgyzstan has come under criticism from UNHCR and other international organizations and NGOs in the United States and the European Union. Those organizations have asserted that the persons in question face a threat of torture and inhuman treatment in Uzbekistan.

Reply to the questions in paragraph 12 of the list of issues

87. This information is contained in the fifth, sixth and seventh periodic reports of Kyrgyzstan on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/KGZ/5-7).

Reply to the questions in paragraph 13 of the list of issues

88. Kyrgyz State agencies do not have the information in question.

Reply to the questions in paragraph 14 of the list of issues

89. In accordance with the Convention against Torture, any torture is recognized as a crime under the Criminal Code. The Constitution is in keeping with the standards of international law. The requirements of international human rights standards are reflected in the Constitution and accordingly in the country's other legislative enactments.

Reply to the questions in paragraph 15 of the list of issues

90. Since 1999, the Office of the Procurator-General has not received any requests from foreign States for the extradition of persons suspected of the crime of torture. Kyrgyzstan has thus not denied on any grounds any extradition requests from third countries relating to a specific person suspected of carrying out torture, and has thus not engaged its own prosecution.

Reply to the questions in paragraph 16 of the list of issues

91. For judges: The Judicial Training Centre of Kyrgyzstan conducts seminars and academic and practical conferences with judges, NGOs, procurators, lawyers and human rights defenders. It provides human rights training, including instructions relating to the prohibition of torture and cruel treatment, inter alia covering penalization commensurate with the gravity of the offence. There is cooperation with foreign legal, academic and educational institutions and international organizations, the aim being to study and make use of their experience. Information is also provided in accordance with national and international law through the responses of the Ombudsman and Kyrgyz NGOs, and also through the work of the appropriate courts at the local level.

92. For procurators: One of the main tasks of procuratorial oversight established under the Constitution is to ensure strict compliance with legal standards during the investigation of crimes and consideration of criminal cases in court.

93. Despite the measures taken, there have been cases in which procurators have neglected to give full and due consideration to an accusation or the evidence collected. They do not in each specific case verify the legality of bringing criminal charges and may overlook the fact that an unfounded criminal prosecution, with insufficient indications of a specific offence, can set the stage for the wrongful use of enforcement measures, for bias and for a tendency on the part of certain investigators to substantiate the charges at any cost.

94. The Office of the Procurator-General requires that the procuratorial services under its jurisdiction bear in mind, in the course of their investigative and procuratorial oversight duties, that there are no legal offences that cause the kind of moral and physical suffering brought about by the illegal arrest and unjustified prosecution and conviction of innocent people.

95. An order issued by the Procurator-General requires procurators to thoroughly verify that the use of enforcement measures is justified, that the presumption of innocence is observed and that the right to a defence is in fact ensured. The procurators have been instructed to take decisive action to stop the use of illegal investigation methods and to prevent bias in favour of prosecution when they collect evidence. When such cases are discovered, the procurators are instructed to immediately bring the perpetrators to account, as stipulated by law. They are instructed not to allow arrest and detention to be used as a means of extracting confessions from suspects or persons facing charges.

96. As this issue has become quite topical, procuratorial staff, understanding its importance, constantly take part in seminars and training events carried out by international organizations with the assistance of the Office of the Procurator-General.

97. For law enforcement personnel: To improve the knowledge and skills of the staff of the internal affairs bodies and ensure their unconditional observance of the law and of human rights, the Ministry of Internal Affairs on 27 February 2009 issued Order No. 164 approving the Code of Professional Ethics for internal affairs staff, based on the Code of Conduct for Law Enforcement Officials adopted by the United Nations and the European Code of Police Ethics. The Code contains a collection of ethical rules and guidelines for relations with colleagues, victims and offenders and also puts forward other rules, including standards of speech and rules for leisure time.

98. Veterans of the Ministry of Internal Affairs and internal affairs troops regularly hold training seminars at internal affairs bodies and units on the basic provisions of the Code of Professional Ethics.

99. Various training seminars have been held at internal affairs bodies by officials of the Ministry of Internal Affairs, in cooperation with an assistance programme of the Organization for Security and Cooperation in Europe (OSCE), addressing the following subjects:

- (a) Observance of human rights in the work of internal affairs bodies;
- (b) Prevention of domestic violence;
- (c) Prevention and dissipation of mass unrest;
- (d) Skill enhancement of internal affairs, State and municipal officials in respect of the rights of ethnic minorities and conflict management.

100. Work is under way to structurally and operationally change the Ministry of Internal Affairs so that it takes into account the democratic principles of civil society and the actual security threats to society and to the State.

101. The Ministry on 13 May 2008 issued Order No. 468 approving a policy framework to set up and develop a psychological service in internal affairs agencies. The aim was to improve the psychological underpinning of educational efforts with the staff in order to make them more effective and to increase the use of psychological approaches and methods in strengthening service discipline and respect for the law in internal affairs bodies. The post of psychologist-investigator was established in internal affairs services reporting to the Ministry of Internal Affairs and the central internal affairs directorates.

102. Work is now under way to consolidate the psychological services of the Ministry. A training seminar has been held for psychologist-investigators, and a project for the improvement of the psychological services has been drawn up.

103. To improve relations between militia officers and ethnic minorities, the central services of the Ministry of Internal Affairs and the internal affairs services of Chüy, Osh and Jalal Abad provinces, working with the OSCE High Commissioner on National Minorities as part of a project entitled "Representation of ethnic groups in the internal affairs agencies of Kyrgyzstan", have set up and are operating academic and methodological study units devoted to working with ethnic groups. Between 2004 and 2010, an NGO known as the Agency for Social Technology worked with the Ministry of Internal Affairs to draw up guidelines for a training programme entitled "Management of inter-ethnic relations for militia officers" and provided instruction to a group of militia officers from the southern provinces who became professional, highly motivated trainers. Over 1,400 militia officers received training, and the training of militia officers in the southern provinces has been institutionalized as part of the activities of the Centre for Internal Affairs Officers Skill Enhancement.

104. Ninety-four training seminars were held in 2009 and 2010 for internal affairs officers.

105. In accordance with their study plan and schedule, the staff of the border guard service of the State National Security Committee undergo training annually on the basics of military law (six hours) and international humanitarian law (four hours), specifically dealing with the following:

- Legal aspects of the performance of military service in the border guards service: two hours;
- Responsibility of members of the military for military offences: two hours;
- Social protection of servicemen: two hours;
- International law: concepts, standards, sources and responsibility in international law: two hours;
- International treaties prohibiting the use of certain types of weapons and ammunition in military actions: one hour;
- Code of conduct for participants in military activities: one hour.

106. The border guards also receive instruction on observing rules of conduct at the border. Explanatory work is constantly undertaken at border crossings with persons crossing the border and with the local population. Special booklets have been published for local people living in such areas on how to cross the border, on foreigners' entry and stay in Kyrgyzstan and on the protection of the legal rights and interests of citizens.

107. In order to prevent human rights violations and cruel treatment, officers of the border guard service take part in annual seminars and training sessions covering human rights.

108. Teaching materials entitled “Human rights” and “Ethics and the line of conduct for servicemen in border guard units stationed on the border” have been produced for the use of military units reporting to the border guards. The aim is to prevent cruel treatment and ensure observance of human rights.

109. The absolute prohibition of torture is reflected in article 22 of the Constitution, under which no one may be subjected to torture or other inhuman, cruel or degrading treatment or punishment. It is also reflected in article 10, paragraph 2, of the Criminal Code, which indicates that the use of threats, violence and other illegal measures is unacceptable during interrogations and other investigative or judicial proceedings.

Reply to the questions in paragraph 17 of the list of issues

110. The OSCE Police Assistance Programme in Kyrgyzstan began in 2003 and is still in operation. Its aims are as follows:

- To implement pilot projects to increase the effectiveness of internal affairs bodies;
- To provide training in observance of human rights and fundamental freedoms;
- To hold training seminars for internal affairs staff on the activities of the internal affairs agencies;
- To provide teaching aids;
- To cooperate in reforming the internal affairs services;
- To strengthen the material and technical capacities of the internal affairs agencies.

111. Results achieved and work done: Eight projects have been drawn up under the Police Assistance Programme and are now in operation:

- Improving the quality of internal affairs investigations;
- Improving capacity for drug interdiction;
- Setting up a modern and effective 102 emergency call service centre;
- Setting up the core of a national criminal information analysis system;
- Helping to set up a radio system for criminal investigation bodies;
- Strengthening the capacity of the internal affairs services to prevent conflict and peacefully manage public disorder;
- Introducing community policing methods as a pilot project in the Pervomaisky district internal affairs office in Bishkek;
- Strengthening the police academy.

112. The OSCE Police Reform Programme provided internal affairs bodies with teaching assistance and developed a new methodology for community policing, in keeping with international standards. It held training seminars with the participation of international experts and organized missions to neighbouring States and countries farther afield to exchange experiences in law enforcement work, training and public relations.

113. Between 2003 and 2010, over 5,000 internal affairs officers took part in various police training activities conducted under the OSCE Police Reform Programme, and 131 vehicles, over 400 computers and 200 sets of office furniture were provided under the programme. Five study centres were set up at the police academy run by the Ministry of Internal Affairs; up-to-date 102 emergency call service centres were created for the internal affairs services in Bishkek and Osh; the Ministry of Internal Affairs Central Department for Criminal and Forensic Analysis was established in Osh; and in Osh and Balykchy, criminal

forensic training centres were set up for the internal affairs services. Other measures were taken as well.

114. In 2005, to improve public safety and increase the effectiveness of the internal affairs services not only in Bishkek but also in the country's regions, the decision was made to implement a transitional assistance programme for the internal affairs services.

115. The OSCE Police Assistance Programme thus began a thorough reform of the militia service with the active participation of the Government, various ministries and departments and civil society institutions.

116. The following activities were identified under the reform and are still under way:

- A shift in priorities from protecting the interests of the State to defending the public and upholding human and civil rights and freedoms;
- The establishment of a relationship of trust with civil society by making the work of the militia more transparent and increasing its accountability;
- Transformation of the militia into a professional police service.

117. Since 2007, the Ministry of Internal Affairs has been implementing the OSCE Police Reform Programme together with the OSCE centre in Bishkek. The aim of the reform is to establish a national militia service that meets the standards of a democratic police force serving the people and accountable to the public, upholding the principles of the rule of law and human rights and possessing the wide range of knowledge and skills necessary to perform its duties. The Ministry of Internal Affairs issued Order No. 190 on 7 March 2008 setting out a programme to reform the internal affairs services in the period from 2008 to 2010.

118. The Ministry of Internal Affairs issued Order No. 914 on 20 October 2009 in order to ensure long-term cooperation between the Ministry and the OSCE Police Reform Programme. The Order approved a programme to reform the internal affairs agencies for the period from 2010–2012.

119. The reform programme includes seven priority themes:

- Strengthening social partnership with the public (introduction of neighbourhood policing);
- Improving training for supervisory staff;
- Improving the management system;
- Improving the quality of investigations;
- Strengthening public safety services;
- Strengthening the legal and social protection of militia officers and improving technical equipment in internal affairs bodies;
- Improving relations with other law enforcement bodies and the judiciary.

120. Since 2003 the OSCE office in Osh has worked in cooperation with the internal affairs services of Osh, Jalal Abad and Batken provinces to support monitoring efforts at places of deprivation of liberty. Repair work has been performed at temporary holding facilities and training sessions have been held with officers in the cities of Osh, Jalal Abad and Batken on how to combat human trafficking and domestic violence in southern Kyrgyzstan.

121. The OSCE Police Reform Programme provided fuel, food, medicine and portable radios to the Ministry of Internal Affairs in connection with the events of 7 and 8 April

2010. A total of 2,613,561.59 soms worth of assistance was provided by the OSCE Police Reform Programme between 9 and 15 April 2010.

122. At the initiative of the OSCE Centre in Bishkek, representatives of the Government, the Ministry of Internal Affairs, international organizations and civil society were invited to take part in drawing up the policy framework for the reform of the internal affairs services. The framework was adopted by the President on 18 March 2005. To coordinate the drafting of a policy framework for the reform of the judicial system and law enforcement agencies, in August 2010 an international expert on policing law was specially invited in the context of the OSCE Programme. The expert helped draw up a draft presidential decree establishing a coordinating council to reform the judiciary and the law enforcement agencies. The decree specified implementation measures that were to be presented to a council of representatives of all judicial and law enforcement bodies. A schedule was set for drawing up a policy framework for the reform of judicial and law enforcement bodies, and basic recommendations for its content were established. The corresponding material was sent in July 2010 from the Ministry of Internal Affairs to the President.

123. The Ministry of Internal Affairs will work with the 2011 OSCE Police Reform Programme to:

- Implement the Virtual Counter project for the internal affairs services in three provinces (Chüy, Jalal Abad and Osh) so that internal affairs bodies work more transparently and are more open to working with civil society;
- Further strengthen neighbourhood policing in the country, building confidence and partnership between militia bodies and the public;
- Establish a modern and effective 102 emergency call service centre, improving the effectiveness of responders and making a positive contribution to building mutual trust between internal affairs bodies and the public;
- Further improve the investigative and expert units of the internal affairs services;
- Strengthen and improve initial training at the Ministry of Internal Affairs specialized secondary school for the militia;
- Introduce a special course under the title “Specificities of law enforcement in a multi-ethnic society” in the curriculum of the academy of the Ministry of Internal Affairs. This special course will make officers more sensitive to human rights and ethnic minority issues, teach them modern means of conflict analysis and resolution and provide them with the skills required so that the militia can have good relations and maintain a dialogue with minorities.

124. Presidential Decree No. 76 was signed on 18 March 2005; it established a policy framework for the reform of internal affairs bodies up to the year 2010. The reform of the Ministry of Internal Affairs was mainly aimed at allowing it to reliably protect citizens, their rights, persons and property and the interests of society and of the State against criminal acts and at establishing in the public consciousness a new social model and a new image of militia officers.

125. The policy framework was not fully implemented. No implementation mechanism was established and no source of funding was defined.

126. With the establishment of a democratic State based on the rule of law, there have been increasing demands from society for the work of internal affairs bodies. Pursuant to Presidential Order No. 37 of 25 February 2011, the Ministry of Internal Affairs drew up a policy framework for the development of national internal affairs bodies between 2011 and 2015. To ensure a full public discussion of this programme, it was placed on the Ministry’s official site on 30 March 2011.

127. The draft sets the following objectives:

- Defence of human and civil rights and freedoms and protection of belongings and property, as well as the legitimate interests of society and of the State;
- Improvement of the legal foundation for internal affairs bodies;
- Transformation of the militia into a police force and structural and functional changes in the Ministry of Internal Affairs, taking into consideration democratic principles and the actual and current threats against the security of society and the State;
- Greater professionalism among staff of the Ministry of Internal Affairs, who should be better versed in the legal culture;
- A social partnership with the public based on trust, with transparency, public openness and regular accountability to civil society;
- Establishment of a civilian body to monitor illegal actions by members of internal affairs bodies;
- Strong State social and legal guarantees for staff of internal affairs bodies;
- Strengthening of the material base and technical capacities of internal affairs bodies.

Reply to the questions in paragraph 18 of the list of issues

128. The activities of law enforcement bodies related to these questions are based on the Criminal Code and the Code of Criminal Procedure.

129. Article 191 of the Code of Criminal Procedure, entitled “General rules for interrogation procedures”, reads as follows:

“(1) Prior to the interrogation, the investigator must clarify details regarding the identity of the person interrogated. If any doubts arise as to the ability of the person under interrogation to communicate in the language used for the proceedings, it must be specified what language the person will use.

(2) The person summoned for questioning shall be informed in what capacity and in what criminal case he or she will be questioned, and the person’s rights and obligations under the present Code shall be explained, with a note to that effect in the interrogation record. Persons called for questioning as witnesses or victims shall be warned of the criminal charges applicable if they refuse to give information or avoid doing so, and also of the penalties for intentionally submitting false information.

(3) The questioning shall begin with persons under interrogation being offered the possibility to state the circumstances of the case that are known to them, with any lack of clear relevance to the case in question being brought to their attention.

(4) After freely exposing the circumstances, the person under interrogation may be asked questions to provide more specifics and to supplement the information provided. Leading questions shall not be permitted.

(5) If the information involves figures or other information that is difficult to remember, the person being questioned may use documents and records, which on the investigator’s initiative and with the interrogated person’s consent, or at the request of the person under interrogation, may be included in the interrogation record.

(6) In the course of the questioning the investigator may present the person under interrogation with substantive evidence and documents, and at the end of the free testimony may divulge information from the criminal case file and may play sound and video recordings or film materials.

(7) If the questioning is interrupted the reason for the interruption shall be noted in the record, which shall be signed by the person under interrogation, others present and the investigator.”

Reply to the questions in paragraph 19 of the list of issues

130. The Ministry of Internal Affairs is carrying out work to improve conditions of detention at temporary holding facilities (IVSs). The International Committee of the Red Cross (ICRC) spent over US\$ 22,000 to refurbish the ventilation, showers, toilets and piping at six such internal affairs service facilities (in the Ysyk-Köl district of Ysyk-Köl province, in the Kemin and Ysyk-Ata districts of Chüy province, in the Batken district of Batken province, in the Jumgal district of Naryn province and in the Kara-Suu district of Osh province). For its part, OSCE has since 2007 funded more than 7 million soms worth of repairs at internal affairs temporary holding facilities (in Talas and the Kara-Buura district of Talas province, in Naryn and the Kochkor and At-Bashi districts of Naryn province and in the Sokuluk and Kemin districts of Chüy province).

131. Staff of the internal affairs services carried out 30,000 soms worth of work at the internal affairs temporary holding facility in the Nookat district of Osh province, replacing the piping and carrying out regular repairs.

132. In Ysyk-Köl district, 100,000 soms was allocated from the local budget to set up video surveillance of persons in custody and staff at the local internal affairs temporary holding facility.

133. In Karakol, staff of the internal affairs services repaired the toilet facilities to improve sanitation and opened a library for persons held in custody at the temporary holding facility.

134. Repair works are currently under way at the district internal affairs offices in the Özgön and Kara Suu districts of Osh province, the Bazar-Korgon and Suzak districts of Jalal Abad province, at the internal affairs administration in Osh, at the internal affairs office in Kyzyl Kyya and at the internal affairs administration in Batken province. On 2 May 2011 the district internal affairs office in Jaiyl district, Chüy province, received a new premises.

Reply to the questions in paragraph 20 of the list of issues

135. There are 47 temporary holding facilities in the country, with 268 cells, designed to accommodate 1,222 people. However, the actual population exceeds the acceptable standard by 20 per cent or more.

136. Renovation work meeting international standards has been performed at seven internal affairs temporary holding facilities with assistance from OSCE. At five of these facilities, pilot projects are continuing, with OSCE assistance.

Internal affairs administration temporary holding facilities in Kyrgyzstan, 2005–2009

		<i>Total, nationally</i>	<i>Bishkek municipal internal affairs adminis- tration</i>	<i>Osh municipal internal affairs adminis- tration</i>	<i>Chüy municipal internal affairs adminis- tration</i>	<i>Ysyk-Köl province internal affairs adminis- tration</i>	<i>Naryn province internal affairs adminis- tration</i>	<i>Osh province internal affairs adminis- tration</i>	<i>Jalal Abad province internal affairs adminis- tration</i>	<i>Talas province internal affairs adminis- tration</i>	<i>Batken province internal affairs adminis- tration</i>	<i>Internal affairs adminis- tration for transport</i>
1. Number of temporary holding facilities	2005	47	1	1	7	6	5	7	12	2	5	1
	2006	47	1	1	7	6	5	7	12	2	5	1
	2007	47	1	1	7	6	5	7	12	2	2	1
	2008	47	1	1	7	6	5	7	12	2	2	1
	2009	47	1	1	7	6	5	7	12	2	2	1
2. Number of cells at temporary holding facilities	2005	277	16	13	51	33	24	32	62	15	28	3
	2006	277	16	13	51	33	24	32	62	15	28	3
	2007	277	16	13	51	33	24	32	62	15	28	3
	2008	171	15	13	51	33	24	31	62	12	27	3
	2009	272	15	13	52	34	23	31	62	12	27	3
3. Nominal capacity	2005	1 351	94	54	352	124	69	162	285	86	111	14
	2006	1 341	84	54	352	124	69	162	285	86	111	14
	2007	1 285	80	54	303	124	69	162	281	81	117	14
	2008	1 242	80	54	328	118	69	136	236	83	124	14
	2009	1 197	47	54	306	128	61	136	244	83	124	14
4. Actual occupancy	2005	1 814	130	100	416	346	80	194	332	90	112	14
	2006	1 755	130	100	416	216	87	219	338	90	145	14
	2007	1 313	80	40	321	173	88	229	169	77	122	14
	2008	1 437	80	45	398	162	88	157	292	77	124	14
	2009	1 450	100	65	363	162	79	157	300	86	124	14

		Total, nationally	<i>Bishkek municipal internal affairs adminis- tration</i>	<i>Osh municipal internal affairs adminis- tration</i>	<i>Chüy municipal internal affairs adminis- tration</i>	<i>Ysyk-Köl province internal affairs adminis- tration</i>	<i>Naryn province internal affairs adminis- tration</i>	<i>Osh province internal affairs adminis- tration</i>	<i>Jalal Abad province internal affairs adminis- tration</i>	<i>Talas province internal affairs adminis- tration</i>	<i>Batken province internal affairs adminis- tration</i>	<i>Internal affairs adminis- tration for transport</i>
5. Total detained at temporary holding facilities; of whom:	2005	19 312	3 824	704	6 688	3 431	542	1 021	1 826	525	429	222
	2006	16 691	3 399	969	4 922	2 996	534	1 144	1 740	120	629	238
	2007	14 762	3 085	861	4 660	2 163	419	1 031	1 601	230	522	190
	2008	12 170	2 974	778	2 532	2 418	285	935	1 612	120	334	182
	2009	12 804	3 124	979	2 460	2 419	280	1 182	1 650	196	332	182
men	2005	-	-	-	-	-	-	-	-	-	-	-
	2006	-	-	-	-	-	-	-	-	-	-	-
	2007	-	-	-	-	-	-	-	-	-	-	-
	2008	10 854	2 480	626	2 297	2 289	264	842	1 475	113	304	164
	2009	11 418	2 634	840	2 229	2 269	256	1 061	1 494	174	294	167
women	2005	-	-	-	-	-	-	-	-	-	-	-
	2006	-	-	-	-	-	-	-	-	-	-	-
	2007	-	-	-	-	-	-	-	-	-	-	-
	2008	693	248	95	117	71	7	44	68	4	21	18
	2009	819	309	83	121	85	8	67	96	16	19	15
minors	2005	723	300	42	166	90	11	39	28	4	10	5
	2006	726	300	70	137	74	14	58	30	-	9	1
	2007	634	234	55	137	76	17	42	39	3	27	4
	2008	623	246	57	118	58	14	49	69	3	9	-
	2009	567	181	56	110	65	16	54	60	6	19	-

Reply to the questions in paragraph 21 of the list of issues

137. The Act on Procedures and Conditions for the Custody of Suspects and Accused Persons establishes that persons held in custody awaiting trial or investigation have the right to receive food, material and medical provisions free of charge, including during their participation in investigations and judicial proceedings.

138. Articles 40 and 42 of the Code of Criminal Procedure establishes that suspects have the right to a mandatory medical examination with certification and the issuance of the appropriate document whenever they are sent to a temporary holding facility and also whenever they themselves, or their defence lawyers or families, file complaints of the use of physical violence by the staff of agencies carrying out investigations and inquiries. The administration of the temporary holding facility is obliged to carry out a mandatory medical examination.

139. Accused persons have the right to request a mandatory medical examination with certification and the issuance of an appropriate document whenever they are sent to a temporary holding facility or remand centre, and also whenever they themselves, or their defence lawyers or families, file complaints of the use against them of physical violence by the staff of agencies carrying out investigations and inquiries. The administration of the temporary holding facility or remand centre is obliged to carry out the mandatory medical examination.

Reply to the questions in paragraph 22 of the list of issues

140. In 2010 the ICRC drew up and sent for the consideration of ministries and departments a draft agreement on cooperation and humanitarian activities for persons deprived of their liberty. The agreement called for unhindered access to all places of detention, with the right to make unannounced visits. Owing to the events of April–June 2010 and in line with the recommendations issued by the provisional Government, consideration of this matter was put off for an indefinite period.

141. A bill establishing a national mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment has now been drawn up and is being considered by the Zhogorku Kenesh, the national parliament.

142. Under Presidential Decree No. 212 of 29 September 2010 on improving collaboration between the State authorities and civil society, public oversight boards consisting of NGO representatives were set up in the State Penal Correction Service and the Ministry of Internal Affairs. The boards are advisory and monitoring bodies established to help ensure harmonious relations between these State agencies and civil society by rendering the administration's processes for making and implementing strategic decisions more transparent and by ensuring that the system for the enforcement of criminal penalties upholds legality and respects the rule of law.

143. By law, the President, deputies of the national parliament, the Prime-Minister and the Ombudsman have the right to visit closed establishments without notice.

144. Access by non-governmental and international organizations to places of deprivation of liberty is governed by a set of regulations entitled "Procedures for relations between institutions of the State Penal Correction Service and State, international, religious and other organizations". These regulations were approved by Order No. 25, issued by the State Service on 2 February 2010. The appropriate units of the State Service issue authorizations for visits by representatives of international and non-governmental organizations to carry out their various programmes and projects at correctional institutions. The Penal Enforcement Code also allows the directors of the institutions themselves to authorize

representatives of international and non-governmental organizations to visit their establishments.

Reply to the questions in paragraph 23 of the list of issues

145. Data for the period from 2000 to 2005 cannot be presented, as classified documents are kept only for a limited period. Please find below information on persons held at establishments of the State Penal Correction Service, disaggregated:

By sex:

	<i>As at 1 January 2007</i>	<i>As at 1 January 2008</i>	<i>As at 1 January 2009</i>	<i>As at 1 January 2010</i>	<i>As at 1 January 2011</i>
Men	12 062	9 322	771	7 965	7 687
Women	512	332	221	262	285

146. By age:

	<i>As at 1 January 2007</i>	<i>As at 1 January 2008</i>	<i>As at 1 January 2009</i>	<i>As at 1 January 2010</i>	<i>As at 1 January 2011</i>
Under 18	98	48	55	51	42
18 to 30	4 308	2 845	2 748	2 861	2 791
30 to 50	7 913	6 453	4 864	4 901	4 751
50 to 60	214	253	227	385	361
Over 60	79	55	38	29	27

147. By type of offence:

	<i>As at 1 January 2007</i>	<i>As at 1 January 2008</i>	<i>As at 1 January 2009</i>	<i>As at 1 January 2010</i>	<i>As at 1 January 2011</i>
Offences against life and health	1 874	2 075	1 904	2 001	1 983
Offences against property	5 727	4 113	3 218	3 310	3 118
Drug-related offences	1 901	1 087	1 018	995	933
Offences against sexual inviolability and freedom	459	401	382	421	441
Offences against public safety	1 269	828	654	781	801
Economic offences	256	13	12	9	13
Military offences	37	19	15	11	11
Offences of official misconduct	18	9	5	8	4
Offences against the underpinnings of the constitutional order	21	10	4	2	20
Other	1 050	1 099	720	689	648

In accordance with the Penal Enforcement Code, men, women and children are detained separately.

Reply to the questions in paragraph 24 of the list of issues

148. The offences covered by article 305-1 of the Criminal Code have a statute of limitations of three years from the commission of the crime.

149. Under article 11 of the Criminal Code, crimes covered by article 305-1 are classified as “less serious offences”.

150. Nine criminal cases were initiated in response to the use of torture under article 305-1 of the Criminal Code (three by the procurator’s offices in Jalal Abad province, one in Ysyk-Köl province, one in Osh province, two in Chüy province, one in Osh province and one by the Office of the Procurator-General). Of these, three cases involving five people have been sent to court (for hearings) and six are in the investigation phase.

151. Generally, the criminal cases have been initiated under article 305, paragraph 2, subparagraph 3, of the Criminal Code, for the following reasons:

- Article 305, paragraph 2, subparagraph 3 indicates in concrete terms the means of carrying out the offence, stating that it is with the use, or threat, of physical violence. Article 305, paragraph 1 does not contain any such description;
- The penalties under article 305, paragraph 2, subparagraph 3 are more stringent than those under article 305, paragraph 1. For the former, the sanction is 4 to 8 years of deprivation of liberty; for the latter, it is 3 to 6 years.

152. In 2010, for instance, 34 criminal cases were initiated (of which 28 were initiated under article 305, paragraph 2, subparagraph 3, entitled “exceeding official authority”, and 6 under both articles, article 305, paragraph 2, subparagraph 3 and article 305, paragraph 1). The investigations of the criminal cases produced the following results: 4 cases terminated; 6 cases suspended (owing to a failure to identify the perpetrator); 3 cases were in the investigation stage; and 21 cases involving 32 persons were sent to court (including 6 who were sentenced; 12 whose cases were terminated owing to the victims’ refusal to support the charges; 1 person who was acquitted and 13 whose cases were heard).

153. In the first four months of 2011, 22 criminal cases were initiated. The investigations had the following results: 1 case was suspended (for failure to locate the accused); 6 cases involving 10 accused persons were sent to court (2 cases involving 2 people were terminated owing to the victims’ refusal to support the charges and 4 cases involving 8 people were heard).

Reply to the questions in paragraph 25 of the list of issues

154. At approximately midnight on 15 April 2007, Mr. B. Akunov, born in 1954, committed suicide in an administrative detention cell at the Naryn city internal affairs temporary holding facility.

155. On 16 April 2007 the Naryn municipal procurator’s office initiated criminal case No. 160-07-96 relating to a violation of article 316, paragraph 2, of the Criminal Code (dereliction of duty, i.e., failure by an official to perform, or to perform properly, his or her duties as a result of a neglectful or careless attitude toward work, leading through negligence to the death of a person or other serious consequences).

156. On 21 April 2007, Mr. B. Kozhombardiev and Mr. B. Zhunushbaev, the officers on duty at the time of the suicide, were indicted for dereliction of duty leading to Mr. Akunov’s death. On 16 July 2007 the criminal case was finalized and sent to the Naryn municipal court to be heard. The court sent the case back to the procurator’s office so that more information could be gathered on the case. The court’s order remained in force, more information was collected, Mr. Kozhombardiev and Mr. Zhunushbaev were charged under article 316, paragraph 2, of the Criminal Code, and the case was sent to the Naryn municipal court.

157. The Naryn municipal court on 4 April 2008 found Mr. Kozhombardiev guilty as charged and sentenced him to 3 years of deprivation of liberty, suspended, in application of

article 63 of the Criminal Code; Mr. Zhunushbaev was acquitted. The court's sentence was upheld by higher courts.

158. On 10 June 2010, acting on an application submitted by Mr. Akunov's legal representative and lawyer, Mr. K. Dzhaloev, the Office of the Procurator-General reopened the case in the light of newly disclosed information. The proceedings were assigned to the provincial procurator's office of Naryn province.

159. A complaint was filed by Mr. Akunov's relatives against four militia officers in the city of Naryn.

160. Mr. U. Akunov, the legal representative of Mr. Bektemir Akunov, the activist who committed suicide at the internal affairs temporary holding facility in the city of Naryn, filed a petition with the Pervomaisky district court in Bishkek, applying for compensation from the Ministry of Finance and the Ministry of Internal Affairs for material losses and moral damages resulting from the offence.

161. On 27 June 2008 the Pervomaisky district court decided, in accordance with articles 132 and 133 of the Code of Civil Procedure, not to hear the case. The petitioner had not adduced evidence of an application for or a written denial of a pension for the death of a breadwinner or provided proof confirming the material losses of 350,637 soms, and had not enclosed the sentence handed down on 4 April 2007 by the Naryn municipal court.

162. No appeals were filed by the parties against this ruling.

Reply to the questions in paragraph 26 of the list of issues

163. On the night of 9 September 2005, Ms. Z. Tokhtonazarova and Ms. E. Mamazhanova broke into Ms. A. Osmonova's kiosk and stole goods valued at 1,580 soms.

164. In response to this offence, on 11 September 2005, Mr. M. Zhamankulov, an internal affairs investigator in Bazar-Korgon district, initiated criminal case No. 66-05-198 for an offence under article 164, paragraph 2, subparagraph 4, of the Criminal Code. Once the investigation was finalized the criminal case was sent to court.

165. On 15 June 2005 Ms. Tokhtonazarova stole a puppy worth US\$ 50, five chickens, a pair of shoes and a tape recorder from the home of her former mother-in-law, Ms. O. Mirzaeva.

166. In response to this offence, on 18 November 2005, Mr. A. Tashmatov, an internal affairs investigator in Bazar-Korgon district, initiated criminal case No. 66-05-259 for an offence under article 164, paragraph 3, subparagraph 4, of the Criminal Code. Once the investigation was finalized the proceedings were halted in accordance with article 221, paragraph 1, subparagraph 1, of the Code of Criminal Procedure, and a wanted notice was issued for Ms. Tokhtonazarova.

167. On 14 January 2006 the investigator's order halting the investigation was withdrawn by the district procurator, and the investigation resumed. As a result of the investigation, on 24 February 2006 the criminal case was sent to the Bazar-Korgon district court to be heard on the merits.

168. Because the accused, Ms. Tokhtonazarova and Ms. Mamazhanova, were in hiding, the hearing of the criminal case was postponed on numerous occasions and the Bazar-Korgon district court sent the case back pending the appearance of the defendants.

169. On 15 May 2006 the judge of the Bazar-Korgon district court issued a decision changing the preventive measures applicable to the defendants into pretrial detention and issued wanted notices.

170. On 16 June 2006 Ms. Tokhtonazarova and Ms. Mamazhanova were arrested by district internal affairs officers and taken to the internal affairs temporary holding facility in Nooken district.

171. Ms. Tokhtonazarova was sentenced by the Bazar-Korgon district court on 21 July 2006 to 5 years of deprivation of liberty under article 164, paragraph 3, subparagraph 4, of the Criminal Code, to be served at a women's correctional colony, with confiscation of property. Ms. Mamazhanova was convicted of violating article 164, paragraph 3, subparagraph 4, of the Criminal Code, and in application of article 63 of the Criminal Code received a suspended sentence of 5 years of deprivation of liberty.

172. On 16 October 2005 Ms. Tokhtonazarova reported to the Bazar-Korgon district procurator's office, through the Vozdukh human rights organization, that she had been beaten by Mr. M. Zhamankulov, an investigator with the investigation unit of the district internal affairs service. This report was checked by Mr. M. Sariev, an investigator with the district procurator's office, who on 26 October 2005 issued a decision refusing to initiate a criminal case under article 28, paragraph 2, subparagraph 1, of the Code of Criminal Procedure.

173. On 10 April 2006 Ms. Tokhtonazarova again filed a similar complaint with the district procurator's office.

174. On 13 April 2006 the order issued by Mr. Sariev refusing to initiate a criminal case was overturned by the procurator for Bazar-Korgon district. Further verification was assigned to Mr. K. Zholdoshbek uulu, an investigator in the district procurator's office.

175. In addition, we should like to report that the Jalal Abad provincial human rights organization known as The Law for All in March 2006 published issue No. 3 of its bulletin, containing an article by A. Askarov entitled "Old habits die hard".

176. In the article, the chief editor, Mr. A. Askarov, officially stated that on 9 September 2005 Ms. Tokhtonazarova was arrested by officers of the Bazar-Korgon district militia and placed at the district internal affairs temporary holding facility, where she remained until 16 September 2005. She was thus illegally held at the facility for seven days without a warrant from a procurator. It was also noted that Mr. Zhamankulov, the investigator in the Bazar-Korgon internal affairs investigation unit, ferociously insulted Ms. Tokhtonazarova, employing extremely abusive language, and thus coercing her into confessing a crime she did not commit. If she refused, he threatened to pour boiling water over her. He used a needle seven times to pierce her under her finger nails.

177. On 4 April 2006 the Ferghana.Ru website published an article entitled "Human rights: Go to jail in southern Kyrgyzstan and you can get pregnant, give birth, bury the child and be subjected to torture".

178. Following the official publication of this alleged violation of the law by an investigator, and in the interests of objectiveness and to ensure a comprehensive and thorough investigation, on 13 April 2006 the Bazar-Korgon district procurator initiated criminal case No. 166-06-109, investigating an offence covered by article 305, paragraph 2, subparagraph 3, of the Criminal Code.

179. On 2 May 2006, in response to the appearance of this article on the Internet, the Prime Minister, Mr. F. Kulov, published Order No. 227, which established a commission to verify information published in the electronic media.

180. The commission in question carried out a verification in Bazar-Korgon district and ascertained that the facts related by The Law for All in its bulletin were unsubstantiated. The information from the verification was sent through the Office of the Procurator-

General to the Bazar-Korgon district procurator, to be included in the case file for case No. 166-06-109.

181. During the verification, Mr. Askarov avoided meeting the members of the commission, invoking various reasons.

182. On 5 April 2006 the Bazar-Korgon district procurator received a complaint issued by Ms. Tokhtonazarova and addressed to the Procurator-General.

183. The complaint fully reproduced the text of the article published in the media.

184. The complaint in question was officially registered by the district procurator. Subsequently, on 7 April 2006, Ms. Tokhtonazarova was invited to the district procurator's office, where she was personally questioned by the procurator in the presence of her mother. She explained that she had communicated with the reporter, Mr. A. Askarov, once, in September 2005, about her beating at the hands of Mr. Zhamankulov. As for the complaint addressed to the Procurator-General, she said that it had not been written by her and that she was seeing it for the first time. The signature was not hers. The complaint had been typed and was in Kyrgyz. She said she did not speak Kyrgyz and did not have a typewriter.

185. To establish the truth objectively, the district procurator ordered a forensic examination of the document.

186. Forensic document examination No. 133/01 of 5 July 2006 concluded that the signature in the complaint written in the name of Ms. Tokhtonazarova and addressed to the Procurator-General and the procurator for Bazar-Korgon district and received at the district procurator's office on 5 April 2006 had not been written by Ms. Tokhtonazarova, but by another person.

187. The investigation thus established that the complaint sent in the name of Ms. Tokhtonazarova had been written by another person, without her knowledge, and was thus counterfeit.

188. During confrontations between Ms. Tokhtonazarova and the investigators from the investigation unit of the Bazar-Korgon district internal affairs office, Ms. A. Abdykalykova and Mr. Zhamankulov (who had previously investigated criminal cases involving Ms. Tokhtonazarova), the two investigators explained that all the investigation proceedings relating to Ms. Tokhtonazarova had been carried out in accordance with the law and without the use of any violence at all. Ms. Tokhtonazarova, in the presence of her lawyer, fully recognized her guilt in carrying out the offences in question.

189. When questioned, witnesses also denied the use of any physical coercion against Ms. Tokhtonazarova on the part of the investigators.

190. Mr. Askarov himself, who was questioned in this case as a witness, said that he published the reports in the media of Ms. Tokhtonazarova's beating by the investigators Ms. Abdykalykova and Mr. Zhamankulov and of other violent acts committed by militia officers against her on the basis of Ms. Tokhtonazarova's words.

191. The allegations contained in the media articles by Mr. Askarov and others and in the complaints filed by Ms. Tokhtonazarova herself relating to illegal acts committed against her at the temporary holding facility, with her rape in a cell at the facility, have thus been fully disproven by the investigation.

192. As a result of this investigation, the proceedings were terminated for case No. 166-06-109, on the basis of article 28, paragraph 1, subparagraph 1, of the Code of Criminal Procedure, as it was determined that no offence had been committed. The

provincial procurator's office examined this case in its supervisory capacity and found that the decision was justified.

Reply to the questions in paragraph 27 of the list of issues

193. On 18 January 2006 Ms. N. Turdieva filed a complaint with the Jalal Abad provincial procurator's office stating that she had been beaten by Mr. A. Mageev, an investigator with the investigation department of the provincial internal affairs office, resulting in a miscarriage.

194. At the same time, Ms. Turdieva reported this matter to the Spravedlivost human rights organization, which published an article in the Law for All bulletin under the title "They even beat pregnant women", recounting Ms. Turdieva's beating at the hands of Mr. Mageev.

195. To verify the facts, a forensic medical examination was ordered. Examination No. 91, of 1 February 2006, found no signs of bodily harm on Ms. Turdieva and concluded that the threat of a miscarriage at that stage of the pregnancy was attributable to anaemia.

196. Based on the results of the investigation by the provincial procurator's office, and in accordance with article 28, paragraph 1, subparagraph 2, of the Code of Criminal Procedure, the decision was taken on 1 February 2006 not to initiate a criminal case in response to Ms. Turdieva's complaint.

197. On 17 April 2006 that decision was overturned by the Office of the Procurator-General, and the case file was sent for additional investigation.

198. During the additional investigation the doctor who attended Ms. Turdieva, Ms. A. Turdukulova, indicated that Ms. Turdieva, when being treated, had indicated that a man had hit her with a chair, after which she had begun to feel abdominal pains, but that she had not specifically mentioned the name of the investigator, Mr. Mageev.

199. Upon questioning, the head of the environmental protection unit of the Jalal Abad provincial internal affairs service, Mr. A. Gaipov, and the deputy head of the unit, Mr. T. Myrzakulov, stated that they worked in the office next door to Mr. Mageev's, but that they had heard no cries or noises. The officers on duty at entry No. 2 to the internal affairs premises, Mr. A. Bazarkulov and Mr. I. Kambarov, stated that on 14 January 2006 they had registered Ms. Turdieva at 10 a.m. in the registry, and that she had stayed for three or four minutes with inspector Mageev and subsequently left calmly, with no cries or noises.

200. Ms. Turdieva was admitted for treatment at the Suzak district local hospital between 14 and 23 January 2006 and was discharged from the hospital in satisfactory condition.

201. Mr. Mageev, upon questioning, stated that he had been assigned criminal case No. 32-05-54, relating to Ms. Turdieva's husband, Mr. U. Burkhanov, involving the theft from Mr. K. Mamarazykov of some gold jewellery. He believed that Ms. Turdieva had begun to complain to all the bodies in question with fabricated information about a beating with the aim of preventing her husband from being punished and of stopping the criminal case against him.

202. The additional investigation concluded that Ms. Turdieva's allegations of a beating at the hands of Mr. Mageev were unfounded. On 12 May 2006 a decision was once again handed down not to initiate a criminal case against Mr. Mageev, as it had been determined that no crime had been committed.

203. On 16 March 2006, Mr. Mageev filed a case with the Jalal Abad municipal court seeking moral damages of 1 million soms from the Spravedlivost human rights organization for attacking his honour and dignity in the media. On 27 April 2006 he filed a complaint with the Jalal Abad municipal court calling for criminal charges to be pressed against

Spravedlivost employees Mr. A. Sharipov, Mr. V. Gritsenko and Mr. M. Abduzhaparov, as well as Ms. Turdieva and Mr. U. Ibragimov, for defamation and libel.

204. The proceedings of Mr. Mageev's complaint were terminated by the court after the parties came to a settlement through an initiative of Spravedlivost. In August 2006 Ms. Turdieva gave birth to a baby in full health.

205. The courts have not considered any other cases brought by militia officers against defamatory statements asserting that they have taken part in cruel treatment.

Reply to the questions in paragraph 28 of the list of issues

206. Guarantees of the independence and tenure of judges are improved through instruments such as the Constitution, the Constitutional Act on the Status of Judges, the Supreme Court and Local Courts Act,⁵ the Code of Criminal Procedure and other laws.

207. Kyrgyz law provides for the improvement of the guarantees of independence and tenure by:

- Setting out the conditions of work for judges (judges' chambers, equipment, court rooms, etc.);
- Increasing remuneration;
- Using the "Pravosudie 2" judicial information and management system to distribute cases among judges;
- Taking steps to provide for the security of judges and participants in proceedings during trials, with the involvement of the district internal affairs services.

208. In June 2011 five laws relating to the judicial system were enacted: the Constitutional Act on the Supreme Court Constitutional Chamber,⁶ an Act amending the Constitutional Act on the Status of Judges, an Act amending the Supreme Court and Local Courts Act, an Act amending the Judicial Self-Governance Bodies Act⁷ and the Judicial Selection Board Act.⁸

209. The independence of judges is ensured as follows:

- The administration of justice takes place exclusively as established by the law;
- There is a prohibition, under threat of prosecution, against interference in the work of judges from any quarter;
- Judges may not be removed from office;
- Judges enjoy judicial immunity;
- The State has the obligation to provide for the material and social well-being of judges commensurate with their high status;
- Judicial self-governance bodies ensure the independence of judges;
- Judges have the right to resign.

⁵ Act No. 35 of 30 March 2001, the Constitutional Act on the Status of Judges, and Act No. 153 of 18 July 2003, the Supreme Court and Local Courts Act.

⁶ Act No. 41 of 13 June 2011, the Constitutional Act on the Supreme Court Constitutional Chamber.

⁷ Act No. 35 of 20 March 2008, the Judicial Self-Governance Bodies Act.

⁸ Act No. 40 of 13 June 2011, the Judicial Selection Board Act.

210. Under the Constitution and the Judicial Selection Board Act, the Judicial Selection Board is responsible for selecting candidates for vacant posts on the Supreme Court, in the Constitutional Chamber of the Supreme Court and in local courts, for appointing judges to local courts and for providing for their rotation.

211. The Act specifies that the Judicial Selection Board must be an independent collegial body established in accordance with the Constitution. It is composed of 24 members and includes the judges and representatives of civil society on the Council of Judges, representing the parliamentary majority and opposition.

212. Local judges are at first appointed for five-year terms, and later until they reach the age limit.

Reply to the questions in paragraph 29 of the list of issues

213. On 21 July 2008 the Procurator-General issued Order No. 24, under the title “Procuratorial oversight of the legality of arrest, criminal prosecution, remand in custody, extension of an investigation and the period of remand, and procedural actions restricting the rights of citizens”. In line with the requirements of the Order, and to prevent illicit methods of investigation and questioning and illegal arrests, subordinate procurators’ offices are provided with reviews and manuals instructing them for example how to investigate the various categories of offences, how to deal with offences involving minors and how to conduct investigations at the scene of a crime.

214. The procuratorial bodies continuously monitor the application of the law. Whenever a violation comes to light they take appropriate action to restore any rights that have been violated.

215. To improve the consideration of complaints involving militia officers, the Ministry of Internal Affairs on 3 September 2009 issued Order No. 791 approving written rules for receiving complaints against the staff of internal affairs agencies.

216. Article 150 of the Code of Criminal Procedure reads as follows:

“Article 150. Grounds and justification for initiating criminal proceedings.

Criminal proceedings may be initiated on the basis of:

- Reports by citizens;
- A confession;
- A communication from an official of an organization;
- A media report;
- A direct finding, by the body conducting the initial inquiry, the investigator or the procurator, of evidence of an offence.

When sufficient information indicating that a crime has been committed is available, this shall serve as justification for initiating criminal proceedings.

“Article 155. Obligation to receive and consider complaints and reports of offences.

(1) The body conducting the initial inquiry, the investigator or the procurator shall be obliged to receive, register and consider complaints or reports of any offence that has been committed or is being prepared. The person filing the report shall be issued with a document proving that the complaint or report of the offence has been registered with the name of the person who has received it and the time of registration.

(2) An unjustified refusal to receive a complaint or report of an offence may be appealed to a procurator or a court in accordance with the procedures set out in articles 131 and 132 of this Code.

(3) A complaint or report of an offence delivered to a court shall be forwarded to the procurator and the person who has filed it shall be notified of this.”

Reply to the questions in paragraph 30 of the list of issues

217. The courts have heard no criminal cases initiated against lawyers and human rights defenders (including NGOs) for slander.

Reply to the questions in paragraph 31 of the list of issues

218. Such information is not kept in the statistics of the Office of the Procurator-General. The procuratorial bodies will take measures to ensure timely, impartial and thorough investigation of cases of torture. The question of whether to prosecute law enforcement officials who allow such acts to take place and to make the results public through the media is raised as a matter of principle.

219. Victims of torture, like all crime victims, are entitled to fair and appropriate compensation, in accordance with the principles underpinning the country’s criminal law. Article 21 of the Code of Criminal Procedure states that “Persons who have suffered from offences shall be entitled, in accordance with the provisions of this Code, to initiate criminal cases, to take part in criminal proceedings as victims or private plaintiffs and to receive compensation for any damages suffered”.

220. Article 15 of the Civil Code states that losses sustained by a citizen or a legal person as a result of illegal actions or a failure to take action by State or local government bodies or by officials of such bodies, including the publication by a State body of official documents not in accordance with the law, are subject to compensation by the State and by local government bodies in cases stipulated by law. A person whose rights have been violated may apply for full compensation for the losses sustained.

221. Article 999 of the Civil Code establishes that bodies conducting initial inquiries and preliminary investigations and procuratorial bodies and courts can be held liable. Damages caused to citizens as a result of illegal convictions or criminal indictments, the illegal use of detention as a preventive measure or restriction of freedom of movement or illegal administrative penalties in the form of detention or correctional labour are subject to full compensation by the Government as established by law, regardless of whether the officials in question are found guilty.

222. Persons who have been subjected to torture are fully entitled to compensation for moral injury under article 1027 of the Civil Code. Paragraph 2 of the article stipulates that, regardless of whether guilt can be established, moral injury is to be compensated when the harm is a result of the illegal conviction or criminal indictment of a person, or the illegal use of detention as a preventive measure or restriction of freedom of movement, or illegal administrative penalties in the form of detention or correctional labour.

Reply to the questions in paragraph 32 of the list of issues

223. Counter-terrorism operations involve measures allowed under Kyrgyz law, only to the extent permissible by law. Furthermore, there have been no civilian victims during special counter-terrorism operations. No complaints have been received from citizens of violations of human rights and freedoms during such operations. The Uzbek security forces have not been in the territory of southern Kyrgyzstan and have not carried out any activities there.

Reply to the questions in paragraph 33 of the list of issues

224. Article 20, paragraph 4, and article 22, paragraphs 1 and 2, of the Constitution prohibit the use of the death penalty, torture and other inhuman, cruel or degrading treatment or punishment. No one may be subjected to torture or other inhuman, cruel 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.

225. This is reaffirmed in article 10 of the Criminal Code, which establishes that the use of threats, violence and other illegal measures during questioning and other investigative and judicial proceedings is inadmissible.

226. Article 305, paragraph 2, subparagraph 3, of the Criminal Code covers cases where officials exceed their authority with the use or the threat of physical violence, and article 305, paragraph 1, addresses torture.

227. Article 81 of the Code of Criminal Procedure establishes that evidence collected in violation of the Code's provisions is inadmissible, must be deemed to be without the force of law and cannot be taken as a basis for decisions relating to a case or be cited as proof of any facts or circumstances.

228. Article 11 of the Internal Affairs Bodies Act⁹ establishes that officials of internal affairs bodies independently take decisions within the limits of their authority and are by law responsible for their actions or failure to take action when they are in violation of the law. In cases when they receive orders at variance with the law, they are to follow the law.

Reply to the questions in paragraph 34 of the list of issues

229. Patients undergo involuntary treatment at the national psychiatric hospitals in Chym-Korgon, Kemin district, Chüy province, and in Kyzyl Zhar, in Jalal Abad province, and in some cases at the National Mental Health Centre.

230. The information below is from the acute psychosis unit of the National Mental Health Centre (by sex, age and ethnic group).

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Kyrgyz</i>	<i>Russian</i>	<i>Kazakh</i>	<i>Tatar</i>	<i>Kurdish</i>
2000	-	-	-	-	-	-	-
2001							
2002							
2003	1	1	1 (age 55)	1 (age 53)			
2004	4		2 (ages 38 and 40)	1 (age 48)	1 (age 30)		
2005			2 (ages 32 and 37)				
2006	2			2 (ages 40 and 42)			
2007				1 (age over 60)			
2008		1					

⁹ Act No. 1360-XII of 11 January 1994, the Internal Affairs Bodies Act.

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Kyrgyz</i>	<i>Russian</i>	<i>Kazakh</i>	<i>Tatar</i>	<i>Kurdish</i>
2009		1		1 (age 48)			
2010	1	1	1 (age 28)				1 (age 42)

231. Information from the national psychiatric hospital in Chym-Korgon (by sex and ethnic group).

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Kyrgyz</i>	<i>Russian</i>	<i>Uzbek</i>	<i>Uighur</i>	<i>Tatar</i>	<i>Tajik</i>	<i>Ukrainian</i>	<i>Dungan</i>	<i>Kazakh</i>	<i>Turkish</i>	<i>Chechen</i>	<i>Greek</i>	<i>Kurdish</i>	<i>German</i>	<i>Roma</i>	<i>Avar</i>	<i>Azerbaijani</i>
2000	70	7	36/4	28/2		1	1				2	/1			2				
2001	60	5	30/1	27/4	1					1							1		
2002	78	2	40/1	30/1			1		1		1				2				
2003	49	4	19/4	11	3		10		2		2				1		1		
2004	59	3	30/3	21	1					3		1			1	1	1		
2005	51	1	25	19	1	1	1			1	/1	1							2
2006	67	5	32/2	23/2	2	1			5	2	/1	1			1				
2007	38	6	20/4	7	3		/1		2	3	/1						1	2	
2008	40	4	28/2	10/2	1											1			
2009	41	4	30/4	10	1														
2010	34	6	20/4	9/2	5														

232. Information from the national psychiatric hospital in Chym-Korgon (by sex and age).

<i>Year</i>	<i>Ages 20–30</i>		<i>Ages 30–40</i>		<i>Ages 40–50</i>		<i>Ages 50–60</i>		<i>Over age 60</i>	
	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
2000	25	2	27	2	20	1	2	2	1	
2001	22	1	23	2	15	2			1	
2002	10	1	27		30	1	10		1	
2003	17	3	13		17	1	1		1	
2004	15		16		18	3	6		4	
2005	15		19	1	11		5		1	
2006	29		17	3	15	1	5	1	1	
2007	12	2	11	2	10	2	3		2	
2008	20		10		5	4	4		1	
2009	20	1	15		5	3	1			
2010	10	2	5		15	3	2	1	2	

233. Information from the national psychiatric hospital in Kyzyl Zhar (by sex and ethnic group).

Year	Male	Female	Kyrgyz	Russian	Uzbek	Uighur	Tatar	Tajik	Ukrainian	Dungan	Kazakh	Turkish	Chechen	Greek	Kurdish
2000	31	8	22/6	2	5	/2	2								
2001	55	3	31/2	4	16/1		1			1	1			1	
2002	52	6	34/3	5/1	11/2		2								
2003	36	2	15/1	1	7/1	1		11							1
2004	51	7	30/1	3/1	13/5		4	1							
2005	79	1	50/1	2	23		1	1	1					1	
2006	63	3	36/1	6	18/2			1			1	1			
2007	66	8	39/3	4/1	20/4				1			1		1	
2008	60	4	41/2	3	14/2	1		1							
2009	68	2	47/2	5	9	1	2	4							
2010	86	4	56/1	4/2	24/1			1	1						

234. Information from the national psychiatric hospital in Kyzyl Zhar (by sex and age).

Year	Ages 20–30		Ages 30–40		Ages 40–50		Ages 50–60		Over age 60	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
2000	13	-	9	3	6	3	3	2	-	-
2001	30	1	16	1	4	2	2	-	3	-
2002	22	1	20	2	8	3	2	-	-	-
2003	12	-	6	1	10	1	2	-	6	-
2004	15	-	12	3	16	4	5	-	3	-
2005	26	-	26	1	22	-	4	-	1	-
2006	31	2	16	1	13	-	3	-	-	-
2007	28	2	23	2	13	4	2	-	-	-
2008	23	2	19	-	10	2	8	-	-	-
2009	24	-	16	-	20	1	5	-	3	1
2010	31	2	20	-	21	2	8	-	6	-

Reply to the questions in paragraph 35 of the list of issues

235. Since the establishment in October 2009 of the State Penal Correction Service (the successor to the penal correction system of the Ministry of Justice), the reform of the system for the enforcement of sentences begun in 2002 has been actively pursued. A major step in the reform of the system was the approval on 10 March 2006 by Government Decision No. 149 of a national programme for the reform of the prison system in the period up to 2010, known as UMUT (Hope). For the correctional system, the priorities of the programme included the following: improving the basic material conditions and technical foundations at prisons; providing better medical care and social rehabilitation of prisoners; ensuring public monitoring of places of deprivation of liberty; and involving religious groups, international organizations and NGOs in tackling problems.

236. The correctional system is currently facing significant financial difficulties in ensuring the viability of prisons. Funding from the State budget covers one third of needs, and generally is earmarked for such budget items as expenditure for food or wages. Financing is extremely limited or completely absent for the other budget items; if funded, they would permit the prison system on its own to solve all the problems that have accumulated over many years.

237. The reform of the correctional system has achieved some success in recent years in ensuring cooperation with international organizations, NGOs and other organizations.

238. To improve the conditions of detention and provision of food for inmates, the living facilities at several correctional facilities are currently being repaired under various projects. International organizations, NGOs and religious groups have in recent years actively provided humanitarian assistance in the form of clothes and shoes, bedding materials, soap and cleaning supplies, food, reading material and equipment (including television sets, DVD players and computers).

239. A project entitled "Improving conditions of detention and nutrition of tuberculosis patients at penal correction facilities" was implemented at open prison No. 26 beginning in March 2006, in accordance with article 2 of a debt conversion agreement of 31 August 2005 concluded between the Kyrgyz Government and the Government of Germany. The main themes of the project were the following: to set up a livestock production farm providing inmate tuberculosis patients with nutritious food and allowing them to obtain materials, bedding supplies and medicines, and to procure and install refrigeration and kitchen units at the facilities where such patients were found in the greatest numbers. The project was successfully implemented and thus established a material and technical basis for the further successful development of livestock production in the prison system. Tuberculosis patients now receive the required daily allowance of high calorie produce (including milk and meat, etc.).

240. The medical service of the State Penal Correction Service is responsible for 13 medical wards, 4 health units and 4 in-patient treatment facilities that provide medical care to persons awaiting trial and to convicts. A medical record is drawn up for each detainee in pretrial detention upon arrival at a remand centre and a preliminary medical examination is performed, with a fluorographic chest X-ray. Diseased patients are held separately from healthy patients at remand centres. If medical care cannot be provided to prisoners in pretrial detention when they are in their cells, they are transferred to the in-patient treatment facilities of the correctional system.

241. In 2010 an emergency ambulance service was set up at the correctional system's central hospital, with specialized vehicles. A mobile fluorographic X-ray machine has been in operation since 2008, providing on-site examinations of staff and detainees at the facilities.

242. It should be noted that since the middle of 2007 there has been a stable trend toward a reduction in the prison population. This has occurred because of the adoption of a law on the humanization of criminal law; the law was intended to abolish the death penalty and ensure broader use of alternative punishments.

Reply to the questions in paragraph 36 of the list of issues

243. To provide assistance to persons infected with HIV/AIDS, the Ministry of Internal Affairs AIDS laboratory located in Bishkek receives tests from correctional facilities in Chüy province and in Bishkek. Blood serum from the other correctional facilities is analysed at the local provincial AIDS centres. Prior to undergoing tests for HIV infection, patients are given a pretest consultation with a doctor (or assistant doctor, nurse, medical worker from a needle exchange or a social worker) specifically sent for the examination.

244. Final confirmation of the results of the blood serum test is carried out by means of a Western blot test conducted at the reference laboratory, the national AIDS unit in Bishkek. For each detected case of AIDS, an epidemiologist of the medical service under the State Penal Correction Service conducts post-test consultations and epidemiological research. Kyrgyz citizens found to be infected by the human immune deficiency virus (people living with HIV/AIDS) are subject to lifelong observation by the national AIDS unit in Bishkek, and inmates serving sentences are under the observation of the facility's medical unit. The HIV diagnosis and mortality are coded according to the International Classification of Diseases (ICD-10).

245. Information on people living with HIV is strictly confidential. Medical assistance is provided to them by specially assigned medical staff.

246. Analytical information on the health status of persons infected with HIV is regularly provided by the facilities to the national AIDS unit in Bishkek, and in the southern region to the laboratory of the Osh provincial AIDS centre, so as to establish their CD4 lymphocyte counts. The aim is to determine the severity of their immunodeficiency with a view to assigning them for antiretroviral treatment. In all, the number of newly detected HIV-positive cases registered was 84 in 2008, 154 in 2009 and 134 in 2010.

247. Syphilis at places of detention is generally registered at remand centres, among persons under investigation. Syphilis tests are given to 100 per cent of the detainees at remand centres. If the disorder is detected, treatment is initiated at the remand centre's infirmary. At closed institutions, the frequency of consultation for this disorder and epidemiological information are analysed.

248. When necessary, syphilis patients are hospitalized at the mixed ward of the central hospital in facility No. 47, in Bishkek. In all, the number of newly detected syphilis cases registered was 151 in 2008, 207 in 2009 and 124 in 2010.

249. Tuberculosis is detected in the penal correction system using both active and passive methods. At remand centres, fluorographic chest x-rays are taken within 10 days of the arrival of the detainees. Remand centres 1–5 have their own x-ray machines, while the provincial remand centres use the machines of the local tuberculosis-control facilities. Mobile machines are used twice a year to take chest x-rays at closed institutions.

250. A TB detection strategy is used for the early detection on TB in prison populations. The strategy includes a diagnostic algorithm for TB detection, rapid diagnostic kits (biochips) for use in sputum smear-positive cases (infectious TB cases/BK-positive cases) to determine sensitivity to isoniazid and rifampicin, and the timely transfer of patients to TB (isolation) clinics depending on the results of the sensitivity tests.

251. Bacteriological tests of phlegm are carried out at facilities Nos. 3, 8, 21, 27 and 31. Facility No. 1 carries out phlegm tests at the tuberculosis treatment hospital in facility No. 27. Facilities Nos. 2, 10, 14, 16, 19, 23, 24, 25 and 50 send their tests to local health establishments. Patients showing signs of active tuberculosis (with a positive test for Koch's bacillus) are placed in isolated cells at infirmaries or in separate rooms at remand centres.

252. Depending on their sensitivity, patients with the active form of tuberculosis are sent to tuberculosis treatment facilities. If no information on their sensitivity is available, they are sent to correctional colony No. 31. Facilities where tubercular patients have been found submit requests to the head of the Penal Correction Department for their transfer to a tuberculosis treatment establishment; a detachment order is then prepared and the patient is transferred as planned. For persons under investigation the treatment begins directly at the remand centre.

253. Once they complete their treatment at tuberculosis treatment facilities, convicts are returned to the facility applying the appropriate regime of detention and are placed under observation as a group at risk.

254. In all, the number of newly detected tuberculosis cases registered was 356 in 2008, 156 in 2009 and 202 in 2010.

255. No cases of torture or degrading or cruel treatment have been registered in the correctional system since the ratification by the Zhogorku Kenesh of the Convention against Torture and the issuance of the recommendations of the Committee against Torture.

256. Convicts have access to independent physicians, and the confidentiality of medical consultations is guaranteed. The Ombudsman has conducted inspections of prisons in Jalal Abad, Osh, Batken and Ysyk-Köl provinces.

257. The Ombudsman concluded that in nearly all the districts of the provinces in question the temporary holding facilities are located in basements, with no ventilation or heat. Those in custody have no possibility to receive information from newspapers, magazines, books or the radio. They are also unable to write applications and complaints to the appropriate bodies. The facilities are overcrowded. The detainees wait for months to be heard in court or to be transferred to correctional institutions.

258. At some temporary holding facilities there is only a little more than one square metre per detainee.

259. All persons who have been sent for pretrial detention as a preventive measure are held in the temporary holding facilities of the district and municipal internal affairs departments. A special prisoner transport vehicle periodically collects convicts from all the temporary holding facilities to transfer them to the places where they serve their sentences.

260. At the internal affairs temporary holding facility in the Toktugul district of Karaköl, in Jalal Abad province, a hot meal is served once a day, at lunch. There is no bedding available and other basic commodities are missing. There are no newspapers, magazines or radios. The right to information is not respected.

261. There is no bedding and there are no mattresses at the internal affairs temporary holding facility in Tash-Kömür, Jalal Abad province. There is no ventilation, and no opportunity to receive information. Upon verification it was ascertained that Mr. T. Razbekov, born in 1962 and residing at 2/6 Nekrasov Street, Tash-Kömür, had been detained there without the appropriate documentation; he was illegally detained.

262. A lack of drinking water is an urgent problem at the internal affairs holding facility in Aksy district of Jalal Abad province, where the employees of the facility have to haul between 200 and 250 litres of water 1.5 kilometres every day. The duty registry is not carefully kept up to date. A Mr. U. Kozhmatov was registered as being in detention but was not in the cell.

263. The worst facility, with the most horrible conditions of detention, is the holding facility in Suzak district of Jalal Abad province. There is absolutely no ventilation and the lighting is dim. Hot food is served once a day, and the daily allotment per prisoner is 35 soms. Five cells house 37 people. No mattresses are available. In two cells there were three minors, held with adults. Eight people sat in a single cell; one had active tuberculosis. The inmates complained that the recreation breaks were short, just 5 or 10 minutes. They asked for the breaks to be longer and they requested ventilation fans.

264. The floor at the holding facility in Özgön district, in Osh province, is at ground level. The facility is accessed through the front desk of the district internal affairs office. As elsewhere in the country, blackouts are a major problem. The ventilation and heat are cut off in winter due to power outages.

265. The OSCE and the Luch Solomona (Solomon's Beacon) Fund have provided assistance by laying water pipes and building shower stalls, and the ICRC has assisted with the acquisition of bedding materials.

266. At the temporary holding facility in Kara-Suu district of Osh province, on the day of the verification nine people were registered. During the inspection, though, four unregistered persons were found in two unlit cells, including a woman, whose cell was left entirely open. The cells were in complete darkness and gloom. When the representatives of the Ombudsman's Office asked where these people had come from, they were told that they were from remand centre 5 in Osh and had come to take part in judicial proceedings. They had reportedly been placed in detention at the temporary holding facility during the court's lunch break.

267. Remand centre 5 in Osh consists of three wings, with 60 cells. It contained 404 inmates. Many of the cells were overcrowded. For example, a cell with eight bunks housed 10 detainees, who took turns sleeping. The ventilation was out of order and there were no washing supplies or soap. One doctor attended the facility. In many cells the toilets were not working. There were also complaints about the lack of bedding.

268. In addition, a minor by the name of A. Matkarimov was detained together with adults in cell No. 37.

269. Nearly all the temporary holding facilities in Batken province lack bedding and crockery, in violation of article 22 of the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons.

270. The temporary holding facility in Balykchy, in Ysyk-Köl province, has outrageous conditions of detention, with a hot meal served just once every two days. The heating is electric, and there are constant power outages. There is no bedding and there are no other material supplies. The guards too have no specialized clothing. There are no facilities to heat food.

271. When they tried to visit the temporary holding facility in Tong district of Ysyk-Köl province, the officials from the Ombudsman's Office were blocked from carrying out an inspection by the head of the district internal affairs service, Mr. K. Kalykov. It was only after talks were held with the director of the Ysyk-Köl provincial internal affairs service, Mr. E. Esenaliev, that a visit was authorized.

272. Remand centre No. 3 in Karakol, Ysyk-Köl province, was built in 1934 and is designed to accommodate 128 people in 28 cells. It holds 113 inmates. With ICRC support, renovation work was done in the three cells for ill inmates and a self-contained unit was installed for medical examinations. The facility's medical staff consists of one physician. Many inmates complained that medical attention was not provided in a timely manner and medication was not available. At the time of the inspection there were 16 tuberculosis patients present, half of whom had active tuberculosis. There were also complaints about the lack of bedding supplies.

273. The epidemiological situation in the prison system remains complicated owing to material shortcomings in the conditions of detention, the incidence of tuberculosis and a failure to effectively control the disease, and other factors. Tuberculosis remains the number one cause of death. According to the data from 2007, 151 convicts died in correctional establishments, including 83 from tuberculosis (the number stood at 34 for the first 11 months of 2008) and 12 who committed suicide. The largest number of deaths was registered at correctional facility No. 27, where 45 detainees died. Correctional colonies Nos. 31 and 47 respectively had 25 and 24 deaths. Eleven more convicted persons or persons under investigation died at Bishkek remand centre No. 1. At correctional facility No. 3, located in Karakol, Ysyk-Köl province, where prisoners who persistently violate the

detention regime are transferred, 13 inmates died. At the other correctional colonies, colonies Nos. 1, 8, 16 and 19 and remand centre No. 5 of the Central Penal Correction Department, the number of people who died varied, reaching up to 10 at a single establishment. In 2007 alone, 333 new cases of active tuberculosis and 51 cases of HIV/AIDS were detected at correctional colonies. At Central Penal Correction Department establishments, in the first 11 months of 2008, the incidence of tuberculosis increased to the point where 427 people were affected. Other causes of death included cardiovascular disease, chronic hepatitis, cirrhosis, intoxication and trauma. Access to basic health care is extremely limited, and the prevalence of HIV/AIDS is significantly greater than on the outside. There is hardly any dental care. According to both the inmates and their doctors, regardless of the reason for tooth pain, the usual procedure involves extraction.

Reply to the questions in paragraph 37 of the list of issues

274. Officials from the military procurator's office carry out weekly inspections of military detention cells at garrisons to verify that persons under investigation are being held in accordance with the law. They hold individual interviews with each to determine whether they have any complaints or applications to make, including regarding the use of torture and cruel treatment. All persons accused of criminal offences whose cases are handled by the military procurator's office are provided with a defence lawyer.

Reply to the questions in paragraph 38 of the list of issues

275. The work of the psychiatric health service is governed by the Psychiatric Care and Patients' Rights Guarantees Act,¹⁰ which is intended to ensure respect for citizens' rights. The National Mental Health Centre has a patients' rights protection service that ensures a presence at psychiatric hospitals and that constantly makes the rounds of all closed services, meets with patients and provides them with consultations. NGOs have held human rights training seminars with its psychiatrists and middle-level medical staff.

276. One form of psychiatric care is provided through involuntary institutionalization. Under article 29 of the Psychiatric Care and Patients' Rights Guarantees Act, persons suffering from psychiatric disorders may be hospitalized at psychiatric hospitals without their consent or without the consent of their legal representatives prior to the issuance of a judge's decision if their cases can be investigated or treated only in an institutional setting and the psychiatric disorders are serious and present:

- A direct danger to them or the people in their entourage; or
- A state of helplessness, i.e., an inability to meet their basic vital needs on their own; or
- The possibility of significant harm to their health as a consequence of a worsening psychiatric state if they are left without psychiatric care.

277. There are about two or three cases of involuntary institutionalization a year. Other forms of psychiatric care include compulsory treatment, which is administered only by a decision or order of a court, whereby patients who have committed illegal acts and are dangerous to society are isolated involuntarily from society and are treated.

278. Compulsory treatment is carried out at the national psychiatric hospitals in Chym-Korgon, Kemin district, Chüy province, and in Kyzyl Zhar, in Jalal Abad province.

¹⁰ Act No. 60 of 17 June 1999, the Psychiatric Care and Patients' Rights Guarantees Act.

Reply to the questions in paragraph 39 of the list of issues

279. A Ministry of Internal Affairs plan has been adopted to meet the requirements of the Social and Legal Protection against Domestic Violence Act¹¹ and Presidential Decree No. 369 of 20 August 2007 on a national plan of action for gender equality for 2007–2010. Plan No. 1/3608 of 20 September 2007 is aimed at implementing the Framework for the 2007–2010 National Plan of Action for Gender Equality.

280. The plan in question establishes priorities and sets out the main directions of activity, dividing them into major areas, as follows:

- Better statistical reporting for all offences and crimes related to domestic abuse or violence against women;
- Improved enforcement of the Social and Legal Protection against Domestic Violence Act;
- Continued training of internal affairs officers in ways of preventing family violence;
- Monitoring of temporary restraining orders and a study of family violence prevention efforts with the aim of improving the legislation currently in force by amending it, as required.

281. In early 2009, the Centre for Research into Democratic Processes carried out monitoring of the enforcement of temporary restraining orders issued under the Social and Legal Protection against Domestic Violence Act.

282. Based on this monitoring, new rules were issued for the work of internal affairs services in suppressing and preventing family violence. A new type of temporary restraining order was also drawn up and was approved by Ministry of Internal Affairs Order No. 844 of 28 September 2009.

283. Ministry of Internal Affairs Order No. 321 of 27 April 2009 drew up and approved Instructions for statistical reporting on temporary restraining orders, on persons who have committed domestic abuse and on victims of family violence. It also approved forms for reporting by internal affairs services.

284. The table below presents information on the number of temporary restraining orders issued by internal affairs departments.

	<i>Bishkek</i>	<i>Osh</i>	<i>Chüy province</i>	<i>Osh province</i>	<i>Jalal Abad province</i>	<i>Batken province</i>	<i>Ysyk-Köl province</i>	<i>Talas province</i>	<i>Naryn province</i>	<i>Total</i>
2004							62			62
2005			6	84	2				9	101
2006			4	6					3	13
2007	11		5				22		3	41
2008	404	125	159	135	57	80	98	45	48	1 151
2009	586	95	352	204	231	155	230	71	128	2 052

Reply to the questions in paragraph 40 of the list of issues

285. In order to improve HIV/AIDS prevention efforts, Ministry of Internal Affairs Order No. 417 of 25 April 2008 prohibits interference in such work among vulnerable groups by

¹¹ Act No. 62 of 25 March 2003, the Social and Legal Protection against Domestic Violence Act.

services and units that have not been given special authority to work in this field. Internal investigations are conducted in response to any complaints or reports of illegal activities by internal affairs officers in respect of vulnerable groups.

Reply to the questions in paragraph 41 of the list of issues

286. The work of the internal affairs departments is governed by the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons and Ministry of Internal Affairs Order No. 263 of 29 March 2010 approving Instructions for the custody of suspects and accused persons. In the last five years there have been no cases of violence committed by staff of the temporary holding facilities.

287. The internal affairs departments constantly take measures to prevent the illegal use of physical force against people who have been arrested or who are in pretrial detention.

288. Order No. 263 (section 2) completely prohibits illegal actions by temporary holding facility staff against people who have been arrested and placed in their custody. There is no direct contact between them, and the keys to the cells are kept by the duty officer at the entry desk of the station where the cells are located, or by his assistants. Arrested persons are registered in the records in the facility's journals and are released only to those officers who brought them in, in accordance with the documentation for their cases.

289. Under the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons:

“Article 20. Suggestions, applications and complaints

Suggestions, applications and complaints from persons who are suspected or accused of offences that are addressed to State bodies, local administrations and voluntary associations shall be sent to the addressee through the administration of the place of detention.

Suggestions, applications and complaints addressed to the procurator, a court or other State authorities with the power to monitor places of detention of persons suspected or accused of offences shall not be subject to censorship, and no later than the day after they are sent, or if that day is a rest day or holiday, on the following working day, shall be sent in a sealed package to the addressee.

Suggestions, applications and complaints addressed to other State bodies or voluntary organizations and those sent to a defender shall be forwarded by the administration of the respective place of detention within three days of their submission.”

290. Correspondence containing information that may interfere with the establishment of the truth in the criminal case, coded messages, State secrets or other secrets protected by law shall be prohibited.

291. Complaints pertaining to the actions or decisions of a court, investigator, procurator or investigation agency are sent in accordance with the procedure set out in the Code of Criminal Procedure no later than three days after they are submitted.

292. Replies to the suggestions, applications and complaints are sent as registered mail, with a signed receipt, and are included in the personal file of the inmate in question.

293. No retaliation of any kind is permitted against persons who file suggestions, applications or complaints relating to violations of their rights and legal interests. Officials of places of detention who carry out such retaliation are liable to prosecution in accordance with the law.

Reply to the questions in paragraph 42 of the list of issues

294. Under the Procurator's Office Act,¹² it is the Office of the Procurator-General and procurators' offices subordinate to it that monitor compliance with the law at places of detention holding persons suspected or accused of committing offences.

295. The administrations at such places of detention are obliged to comply with procurators' decisions, orders and recommendations relating to the procedures for custody established by the Act. Article 17-1 of the Act on Procedures and Conditions for the Custody of Suspects and Accused Persons allows the President, the Chair (Toraga) of the Zhogorku Kenesh, the Prime Minister, deputies of the Zhogorku Kenesh and the Ombudsman (Akykatchy) to visit such places of detention without any special authorization.

296. In addition, Ministry of Internal Affairs Order No. 263 of 29 March 2010 approving the Instructions for the custody, protection and transfer of suspects and accused persons allows the following people to enter temporary holding facilities:

- Procurators monitoring compliance with the law at such facilities;
- Officials of internal affairs bodies supervising the way in which the protection and transfer of such persons is organized and carried out;
- Investigators (solely for the performance of investigations);
- Internal affairs department officers taking part in criminal proceedings;
- Medical staff called to the facilities to provide medical care to those who need it.

297. Guided by the principles and standards of international law and the international treaties ratified by Kyrgyzstan, the Ministry of Internal Affairs on 12 February 2010 issued Order No. 43 on measures to organize the study and improvement of conditions of detention at internal affairs temporary holding facilities. The Order permits ICRC delegates to visit internal affairs temporary holding facilities and to provide assistance there.

Reply to the questions in paragraph 43 of the list of issues

298. Article 40 of the Code of Criminal Procedure states that individuals in detention or being held in custody have the right to have a defence lawyer from the moment they are first questioned, and when they are arrested, from the moment that they are handed over to the body conducting the initial inquiry. If physical force is used by officers of such bodies or investigation agencies, a medical examination of the inmate is mandatory, with the production of the appropriate documentation.

299. Between 2005 and 2010, 25 deaths were registered at temporary holding facilities (2 in 2005, 4 in 2006, 6 in 2007, 4 in 2008, 8 in 2009 and 1 in 2010). Eleven people died as a result of disease and 14 committed suicide.

300. After any suicide, an internal investigation is performed to ascertain the reasons and circumstances. The Ministry of Internal Affairs and the State internal affairs administrations of Bishkek and Chüy province and the internal affairs administrations of the provinces and the city of Osh have issued orders imposing severe disciplinary penalties on a number of officials in this connection.

¹² Act No. 224 of 17 July 2009, the Procurator's Office Act.

Reply to the questions in paragraph 44 of the list of issues

301. The pertinent information is set out in detail in the third and fourth periodic reports of Kyrgyzstan, submitted in accordance with article 44 of the Convention on the Rights of the Child.

302. Through a project entitled “Further capacity-building of law enforcement agency personnel and strengthening of the principles of community policing in 2010”, the Ministry of Internal Affairs continued its cooperation with NGOs, building a trusting partnership with which to promote their joint endeavours aimed at preventing crime and violations of the law. A number of projects have thus been implemented, for instance to strengthen preventive social support centres and crime prevention programmes for minors and others, under the following titles:

- “Public safety: a result of joint efforts by the internal affairs services and the public”;
- “Efforts by the juvenile affairs inspectorates and other authorized bodies (family and child support units and head teachers) to ensure respect for the right of the child to protection against extortion at general educational schools”;
- “Say no to extortion in school”;
- “An anti-extortion network of youth centres”;
- “Our militia, working for women’s rights”;
- “The militia in the fight against domestic violence”.

Reply to the questions in paragraph 45 of the list of issues

303. A working group for the prevention of torture and other cruel or degrading treatment or punishment was established with the support of OHCHR in 2006; it functions under the presidential Human Rights Commission.

304. A website for combating torture has been set up by the Voice of Freedom fund, with assistance from international organizations. On the website of the Ombudsman, a section is in operation under the heading “Torture alert”.

305. On 5 February 2009 the regional office of OHCHR and the Ombudsman concluded a memorandum on the active promotion of a national preventive mechanism and on cooperation in setting up such a mechanism. In accordance with the memorandum, a national expert was designated to set up the legal basis and draft a budget for the mechanism.

306. In the past two years systematic work has been carried out on a draft law.

307. On 16 April 2009 a round table was held in Bishkek on the establishment of a national preventive mechanism. Representatives of the State, local and international non-governmental human rights organizations, foreign experts and members of the United Nations Subcommittee on Prevention of Torture took part in this event.

308. Based on the recommendations issued, the model for a national preventive mechanism drawn up by the working group was corrected. The administration of its funding and its structure, composition and powers were adapted accordingly.

309. A round table held in March 2010 also addressed the question of torture prevention. The work done in this regard by the procuratorial services is constantly reported in the media. Essential information, including on these questions, is posted on the site of the Procurator-General.

310. As part of an OSCE programme, a website has been set up in Kyrgyz and Russian for the Ministry of Internal Affairs, with the aim of increasing public awareness of the militia's work and improving relations between the Ministry and the public.

Reply to the questions in paragraph 46 of the list of issues

311. After the ratification of the Optional Protocol to the Convention against Torture, the Ombudsman in 2009 established a working group composed of representatives of State bodies and NGOs to prepare a bill entitled "National centre for the prevention of torture and other cruel, inhuman or degrading treatment or punishment". International human rights organizations such as OHCHR, the democratic governance programme implemented in Kyrgyzstan by a United Nations agency and a number of other bodies provided a great deal of assistance in drawing up this bill.

312. The bill was sent for consideration by the Zhogorku Kenesh, and a group of deputies has submitted it to the parliamentary Human Rights and Equal Opportunity Committee, which has now begun its consideration of this draft legislation.

313. The bill has been discussed at numerous round tables, with the participation of representatives of State bodies, NGOs and international experts and members of the International Association against Torture (AICT), who have expressed their high regard for it.

314. There is currently no independent system for the monitoring of all places of detention with the aim of preventing torture.

Reply to the questions in paragraph 47 of the list of issues

315. Kyrgyzstan, recognizing that terrorism and extremism are a threat to international peace and security and the development of friendly relations between States, and also a threat to the realization of basic human rights and freedoms, and with the aim of effectively combating such threats, has acceded to various conventions to combat terrorism and extremism in the framework of international organizations such as the Commonwealth of Independent States, the Shanghai Cooperation Organization and the United Nations. Additionally, bilateral agreements to combat terrorism have been signed with other countries both in the region and farther afield.

316. The country has adopted the Counter-Terrorism Act and the Act on Combating the Financing of Terrorism and the Legalization (Laundering) of Income Obtained by Criminal Means.

317. In addition, pursuant to the obligations it has undertaken under the international counter-terrorism treaties, Kyrgyzstan has recognized a number of actions as constituting criminal acts. It has established penal terms commensurate with the severity of such acts.

Reply to the questions in paragraph 48 of the list of issues

318. It is essential to consider the question of how to improve the law, as this would ensure that the measures taken are responsive and effective.

319. This problem can be tackled at two levels: the prevention of torture, and appropriate penalization of the use of torture. To ensure that prohibited methods of conducting initial inquiries and investigations are not used and will not be used in the future, the following measures should be taken:

- Establish that accused persons and persons suspected of offences who have filed complaints of torture must be examined immediately by a physician and have the opportunity to meet with a defence lawyer or a procurator. Before the complaint is

considered, the person in question must be protected by the procurator from a possible repeat of the torture or of other dangerous or degrading treatment;

- Record initial inquiries on electronic media; this will also be advantageous to investigative bodies;
- Institute a policy whereby photographs are immediately taken of any bodily injuries, with an indication of the date, so as to provide evidence of acts of torture.

320. The correctional system has to deal with many of the same problems that have been encountered by similar bodies in the other former Soviet republics, including:

- Insufficient material conditions and infrastructure to provide for the upkeep of inmates;
- Serious underfunding from the State budget;
- Inability to provide for separate custody of inmates of various categories;
- Inability to provide large-scale employment opportunities for detainees by developing productive activities;
- Limited capacity to train staff of the correctional system;
- Lack of supervisory staff and of a social benefits package of State services for staff of the correctional system;
- Limited capacity and insufficient provision of medical services to provide qualified and specialized care for inmates, resulting in diseases that pose a serious public health threat;
- Lack of a health-care system for staff of the correctional system and their families;
- Influence of the criminal community on the behaviour of inmates;
- A deficient taxation policy for institutions in the correctional system.

Reply to the questions in paragraph 49 of the list of issues

321. Kyrgyzstan is currently working on this question.

Reply to the questions in paragraph 50 of the list of issues

322. National laws have made provision for changes in the legal and institutional systems to promote and protect human rights at the national level. Article 20 of the Constitution (adopted by referendum on 27 June 2010) reads as follows:

“The adoption of subsidiary enactments restricting human and civil rights and freedoms is prohibited.”

The constitutional guarantees of prohibitions — including against the use of the death penalty and torture or other inhuman, cruel or degrading treatment or punishment — are not subject to any restrictions. The constitutional guarantee, for example, of the right of every person deprived of his or her liberty to be treated humanely and with decency is not subject to any restriction. Article 21 prohibits the death penalty. Article 24 states that if the grounds for the arrest are no longer valid, the person must be immediately released. Article 40 stipulates that the State guarantees the development of out-of-court and pre-court methods, forms and means of protecting human and civil rights and freedoms. Every person is entitled to use all means not prohibited by law to defend his or her rights and freedoms.

323. Order No. 121 of 4 May 2010 of the State Penal Correction Service and Order No. 252 of 17 May 2010 of the Ministry of Health established a coordinating council for the

reform of the correctional system; its activities are currently governed by Order No. 127 of 23 March 2011 of the State Penal Correction Service, entitled “Optimization of the Activities of the Coordinating Council for the Reform of the Correctional System”.

324. No judicial decisions have been handed down in this context.

Reply to the questions in paragraph 51 of the list of issues

325. International experts assessing the human rights situation in Central Asia consider that the region’s governments are slow to act, but that they have demonstrated an understanding of the importance of human rights. In the case of Kyrgyzstan, they point to the fact that its democratic institutions are weak. Generally, in relation to observance of human rights, they have criticized the fact that the Government has continued to persecute and bring pressure to bear against some human rights groups, although the Government commissioner for human rights (Ombudsman) has worked actively to defend individual rights.

326. The Constitution proclaims freedom, honour and dignity of the individual as the supreme values of society in Kyrgyzstan. Human rights are the mainstay of any peaceful and democratic society, and their recognition, observance and protection are also an obligation for our State.

327. Kyrgyzstan is now going through a complicated and tense transitional period. The previous stereotypes and foundations of private life and of the State have had to be revisited. New principles, ideas and points of reference have to be found.

328. Human rights and freedoms are the main criteria for assessing the quality of the State, its level of democracy and its commitment to legal principles, morality and the values shared by all of humanity. In a thorough reform of society and its political, social, economic and cultural spheres, human rights and freedoms are decisive. Without them, any movement towards democracy, a State based on the rule of law and legality is impossible.

329. The general reform strategy for law enforcement agencies is based on the need to take steps, including of a legislative or regulatory nature, to increase the system’s effectiveness and transparency. Institutional reforms are required to ensure professional and effective work by the entire legal system, with the aim of protecting human rights and freedoms.

330. Much importance is now attached to reforming State bodies. Civil society, the staff of law enforcement agencies and judicial bodies and international organizations all concur on the need for reform.

331. The framework for the reform of the judicial bodies and law enforcement agencies is based upon the need to unconditionally ensure the independence of the judiciary, to guarantee legality in the country, to ensure genuine protection of the rights of the individual and of civil society, to effectively combat crime through legal means and to establish entirely new criteria for the use of such means.

332. It is important to establish the basic directions to take and the ways and means to use in order to improve and develop the law enforcement and judicial systems and their relations with State bodies and civil society institutions. These efforts will include strengthening interaction with civil society, mobilizing cooperation with various international organizations so as to benefit from international experience and receiving the assessments and help of experts in implementing pilot programmes with non-governmental bodies and organizations, with a view to enhancing cooperation with them. Legal and social support will also figure in these efforts.

333. The expected results of reforming the law enforcement and judicial bodies include a guarantee of the observance of human and civil rights not only legally but also in practice, and also an improvement in the legal culture, better transparency and more public participation in shaping the way such bodies work.

334. The State Penal Correction Service is now drawing up a draft national strategy for the development of the penal correction system for 2011–2015. It calls for measures to improve the penal correction legislation and to make it more humane and develop productive capacities.

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335. No special provisions have been made to implement the Convention, as the effort to ensure observance of human rights and freedoms is part and parcel of the everyday duties of the procuratorial staff. It is assumed that the reform of the procuratorial bodies will continue, and this includes work to eliminate such phenomena. The Office of the Procurator-General considers it possible to raise the question of the establishment of a database containing information on people who have been tortured.

336. Whenever it is established that torture or cruel treatment has occurred, the courts issue injunctions calling for measures to prevent such acts and for those guilty of permitting their occurrence to be charged. If a complaint or a report of torture or other cruel, inhuman or degrading treatment or punishment is received, the appropriate law enforcement agencies are notified so that they can take measures. A memorandum on joint activities for the promotion of a national preventive mechanism and on torture prevention through monitoring of closed institutions has been signed by the Ombudsman (Akykatchy), OSCE and NGOs, representing civil society. A plan of work for the implementation of the memorandum is currently being drawn up.
