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Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Kyrgyzstan

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document is being issued without formal editing.



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1. Kyrgyzstan regards the universal periodic review as a unique mechanism for reviewing information on human rights in all United Nations Member States, and one which provides each country with the opportunity to report on the measures it has taken to improve its human rights situation and also to fulfil its obligations in this area.
2. Kyrgyzstan has carefully reviewed the 232 recommendations made by United Nations Member States during the thirty-fifth session of the Working Group on the Universal Periodic Review, on 20 January 2020.
3. Kyrgyzstan supported 193 recommendations, or 83 per cent of the total number. When recommendations are supported, it means that either they have already been implemented or are currently being implemented, or that there are plans for their implementation.
4. Thirty-nine recommendations were noted, as they require further study and, for various objective reasons, cannot be implemented.
5. The State party's comments on the noted recommendations are grouped by subject.
6. Those recommendations were discussed with civil society organizations and the regional office for Central Asia of the Office of the United Nations High Commissioner for Human Rights.

I. Ratification of international instruments

7. Recommendation 140.13 was supported.
8. Recommendations 140.1, 140.2, 140.3, 140.4, 140.5, 140.6, 140.7, 140.12 and 140.212 were noted:

140.1. The legislation of Kyrgyzstan provides for a sufficient level of protection of the rights of stateless persons and complies with international standards, as evidenced by the fact that in 2019 Kyrgyzstan became the first country in the world to eliminate statelessness. The possibility of ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness will be considered once studies of those instruments have been completed.

140.2, 140.3 and 140.4. Kyrgyzstan is currently not a party to the International Convention for the Protection of All Persons from Enforced Disappearance. Its criminal legislation includes a provision punishing enforced disappearance, i.e., it stands in solidarity with the international community in combating this phenomenon. The ratification of this Convention is under consideration.

140.5, 140.6 and 140.7. Certain provisions of the Rome Statute of the International Criminal Court are at variance with the Constitution. One such point is the obligation of the State to transfer suspects to the International Criminal Court. According to the Constitution, the State may not extradite own citizens.

140.12. Accession to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) is under consideration. We note, however, that in 2017, the Protection against Domestic Violence Act was adopted, which establishes the legal framework for preventing and combating domestic violence and for ensuring the social and legal protection and defence of persons who have suffered from it. More stringent measures have been introduced into the criminal law for crimes of domestic violence.

140.212. As questions related to aboriginal ethnic groups and indigenous peoples leading a tribal way of life are not relevant in the Kyrgyz Republic, ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) is not under consideration.

II. Cooperation with United Nations special procedures

9. All the corresponding recommendations in this section, 140.8, 140.9, 140.10 and 140.11, were supported.

III. Harmonization of national legislation with international obligations

10. All the recommendations in this section under numbers 140.14, 140.15, 140.16, 140.17 and 140.18 were supported.

11. Recommendation 140.25 was noted.

12. In accordance with article 6 of the Constitution, international treaties that have entered into force in accordance with the legally established procedure, and to which Kyrgyzstan is a party, along with the generally recognized principles and rules of international law, form an integral part of the legal system of Kyrgyzstan. The procedure and conditions for the application of international treaties and the generally accepted principles and norms of international law are determined by the legislation.

13. Under the internationally recognized principle of *pacta sunt servanda*, every treaty in force is binding upon the parties to it and must be carried out by them in good faith. Moreover, Kyrgyzstan, as part of the international community and a party to international human rights treaties, has undertaken to respect human rights and freedoms. Consequently, even if we do not take into account the constitutional norms mentioned above, Kyrgyzstan does not refuse to comply with international human rights treaties.

IV. National human rights institutions

14. All the recommendations in this section, 140.19, 140.20, 140.21 and 140.23, were supported:

140.21. In the Office of the Ombudsman, one of the deputy ombudsmen has already been assigned to work on implementing activities aimed at protecting children's rights and has begun to do so.

V. Rights of vulnerable groups

15. The following recommendations were supported: 140.22, 140.24, 140.26, 140.28, 140.29, 140.31, 140.36, 140.38, 140.39, 140.40, 140.43, 140.47, 140.50, 140.51, 140.105, 140.122, 140.123, 140.155, 140.208, 140.210, 140.211, 140.214, 140.215, 140.217, 140.218, 140.221, 140.222, 140.223, 140.224, 140.225, 140.227, 140.228 and 140.229.

16. The following recommendations were noted: 140.30, 140.32, 140.33, 140.34, 140.35, 140.37, 140.41, 140.42, 140.46, 140.48, 140.49, 140.52, 140.209 and 140.216.

17. In Kyrgyzstan, no one may be subjected to discrimination on the basis of sex, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, wealth or other status, or other circumstances. Special measures established by law and aimed at ensuring equal opportunities for various social groups in accordance with international obligations do not constitute discrimination.

18. In Kyrgyzstan, men and women enjoy equal rights and freedoms and equal opportunities to exercise them.

19. Under article 10 (3) of the Constitution, all the ethnic groups that make up the people of Kyrgyzstan are guaranteed the right to preserve their mother tongue and are ensured conditions conducive to the language's study and development.

20. More than 80 ethnic communities live in Kyrgyzstan. In accordance with the Health Care Act and in line with the programme of State guarantees, all citizens of Kyrgyzstan are

provided with the same medical care, regardless of their ethnic background or membership of a given community or organization.

21. Existing law is not discriminatory towards lesbian, gay, bisexual, transgender and intersex persons and realizes their rights in a positive manner. Kyrgyzstan is continuing to take steps to bring national law into line with international standards on the rights of persons living with HIV and lesbian, gay, bisexual and transgender persons. The most significant positive developments include a procedure for sex reassignment and the amendment of passport data. Equally significant has been the entry into force of the new Criminal Code, which distinguishes between unintentional and intentional HIV transmission and reduces the applicable penalties. Consensual same-sex sexual relations are not a criminal offence.

22. Everyone in Kyrgyzstan has the right to sex reassignment. This right is set out in the Health Care Act.

23. In accordance with the Civil Registration Act, corrections or changes to civil registration records are made by civil registration offices, including after the submission of due documentation of sex reassignment issued by medical facilities.

VI. Freedom of religious worship

24. All the recommendations in this section, 140.44, 140.45, 140.80, 140.83, 140.89 and 140.96, were supported.

VII. Prevention of torture

25. Recommendations 140.27, 140.54, 140.55, 140.56, 140.58, 140.59, 140.60, 140.62, 140.63, 140.64 and 140.67 were supported.

26. Recommendations 140.57, 140.61, 140.65 and 140.66 were noted.

27. Currently, in accordance with criminal law, pretrial proceedings under articles 143 (torture) and 321 (abuse of power) are conducted by investigators of the military procurator's offices or the State Committee on National Security. These are independent bodies, answerable only to the law. It would thus not make sense to establish another independent body.

28. The principles of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are not violated, and our legislation is fully in keeping with its requirements. In accordance with article 4 of the Convention, each State party must ensure that all acts of torture are offences under its criminal law.

29. It should be noted that in cases involving torture, the investigations carried out by the State Committee on National Security or investigators of a military procurators' office are monitored and effectively supervised by the procuratorial authorities so that the circumstances can be effectively investigated and those who partake in torture are punished accordingly.

VIII. Compensation for victims of the events of June 2010

30. Recommendation 140.68 was noted.

31. On 18 September 2010, Interim Government Decree No. 209 was adopted; it addresses State social support for the family members of those who died and to citizens who were victims of the events of 6 April 2010 in Talas Province, 7 April 2010 in the city of Bishkek, 13 and 14 May 2010 in the city of Jalal-Abad and in the events of June 2010 in the city of Osh and in Osh and Jalal-Abad Provinces. The aim was to provide State social support for the families of the deceased and for citizens who suffered from the events of 6 April in Talas Province and of 7 April in Bishkek.

32. Government Decision No. 91 of 22 February 2013 approved a procedure for awarding and disbursing additional monthly social allowances to the family members of people who died and other victims of the events of April–June 2010.

33. The legislation providing social protection for the family members of the persons killed as a result of the events that occurred in April–June 2010 and for others who were affected consists of Act No. 173 of 22 October 2012, which specifically addresses this question, and other normative legal acts. The Act establishes the basic and additional types and amounts of social guarantees for family members of the deceased and for other victims.

IX. Justice and the fight against corruption

34. Recommendations 140.71, 140.72, 140.73, 140.75, 140.76 and 140.77 were supported.

35. Recommendation 140.74 was noted.

X. Extremism and terrorism

36. Recommendations 140.70, 140.79 and 140.213 were supported.

37. Recommendation 140.84 was noted.

38. An interdepartmental working group is currently drafting a new version of the Act on Countering Extremist Activity.

XI. Freedom of expression and non-governmental organizations

39. Recommendations 140.81, 140.82, 140.85, 140.91, 140.93, 140.94, 140.95, 140.97 and 140.98 were supported.

40. Recommendation 140.78 was noted.

41. Taking into account the provisions of the Constitution, the Protection of the Professional Activities of Journalists Act, the Media Act and the Freedom of Access to Information (Safeguards) Act, we note that the country has a sufficient legal framework for the protection of the media, of freedom of speech, of freedom of expression and of media freedoms.

XII. Incitement to racial, ethnic, national, religious or inter-regional hatred

42. Recommendation 140.86 was noted.

43. Article 313 of the Criminal Code is not at variance with articles 19 and 21 of the International Covenant on Civil and Political Rights.

XIII. The case of A. Askarov

44. Recommendation 140.87 was noted.

45. In the criminal case against Mr. A. Askarov, the country's courts took all the necessary procedural steps, in compliance with the requirements of the criminal procedure legislation and, following appropriate legal assessment of the case file, court rulings were issued, in accordance with the national legislation.

46. In this connection, it should be noted that Kyrgyzstan has considered the Views of the Human Rights Committee and, within the framework of national legislation and in view of its international obligations, has made every effort to uphold the rule of law and protect human rights.

47. Kyrgyzstan respects the United Nations Human Rights Committee and cooperates with it in relation to its Views. In the light of the country's desire to cooperate in accordance with the Views issued by the Committee, between 2016 and 2020, new trials were held in Mr. Askarov's case, in accordance with fair trial principles.

48. Mr. Askarov died on 25 July 2020 at Institution No. 47 of the State Penal Correction Service.

XIV. Security of journalists and human rights defenders

49. The corresponding recommendations in this section, 140.88 and 140.90, were both supported.

XV. Peaceful assembly

50. Recommendation 140.92 was noted.

51. Under article 34 of the Constitution, everyone has the right to freedom of peaceful assembly, and no one may be compelled to participate in an assembly.

52. Everyone has the right to submit a notification to the authorities in order to ensure the conduct of a peaceful assembly.

53. Prohibitions or restrictions on the conduct of peaceful assemblies are not allowed, and proper arrangements for peaceful assemblies may not be denied on grounds of the absence of notification that a peaceful assembly is to be held or non-compliance with the format of such notification, the content or the time frames for submission.

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

55. The Peaceful Assembly Act sets out regulations governing the mechanism for realizing citizens' rights to peaceful assembly and for restrictions on holding and participating in them, as well as the responsibilities of government bodies in making provisions for peaceful assemblies, including those of the Internal Affairs Department.

56. The Act defines the obligations of the participants and organizers of peaceful assemblies. It also defines prohibitions, the violation of which is punishable by law.

XVI. Trafficking in persons

57. Recommendations 140.99, 140.100, 140.101, 140.102, 140.103 and 140.104 were supported.

58. Recommendation 140.69 was noted.

59. Government Decision No. 743 of 15 November 2017 on the government programme to combat trafficking in persons in the Kyrgyz Republic for 2017–2020 approved a government programme on this subject and an action plan for its implementation.

XVII. Fight against poverty

60. All recommendations in this section, 140.53, 140.106, 140.107, 140.108, 140.109, 140.111, 140.112, 140.113, 140.114, 140.115, 140.117 and 140.118, were supported.

XVIII. Provision of clean water and sanitation; medical personnel

61. All the corresponding recommendations in this section, 140.110, 140.116 and 140.119, were supported.

XIX. Rights of young people and access to education

62. All recommendations in this section, 140.120, 140.125, 140.126, 140.127, 140.128, 140.129, 140.130, 140.131, 140.132, 140.133, 140.134, 140.135, 140.136, 140.137 and 140.138, were supported.

XX. Reduction of maternal mortality

63. All the corresponding recommendations in this section, 140.121, 140.124 and 140.179, were supported.

XXI. Gender equality

64. All the recommendations in this section, 140.139, 140.140, 140.141, 140.144, 140.145, 140.148, 140.151, 140.152, 140.153, 140.154, 140.157, 140.158, 140.159, 140.160, 140.166, 140.167, 140.168, 140.170, 140.171, 140.175, 140.176, 140.183, 140.187 and 140.189, were supported.

XXII. Combating violence against women

65. Recommendations 140.142, 140.143, 140.146, 140.147, 140.149, 140.150, 140.156, 140.161, 140.162, 140.163, 140.165, 140.169, 140.172, 140.173, 140.174, 140.177, 140.178, 140.180, 140.181, 140.182, 140.184, 140.185, 140.186, 140.188, 140.190, 140.191, 140.192, 140.193, 140.195, 140.201 and 140.226 were supported.

66. Recommendation 140.164 was noted.

67. The new Criminal Code entered into force on 1 January 2019. Unlike the Criminal Code of 1997, the new Code, in chapter 28, entitled, “Crimes against the structure of the family and the interests of minors”, contains the following new articles related to bride abduction:

- article 175, entitled “Abduction of a person for the purpose of marriage”
- article 176, entitled “Coercion to enter into a marital relationship”
- article 177, entitled “Coercion to enter into a marriage”
- article 178, entitled “Violation of the law on the minimum age of marriage in the performance of religious ceremonies”

XXIII. Children’s rights

68. Recommendations 140.194, 140.196, 140.197, 140.198, 140.199, 140.200, 140.202, 140.203, 140.204, 140.205, 140.206, 140.207 and 140.220 were supported.

69. Recommendation 140.219 was noted.

XXIV. Migrants’ rights

70. Recommendations 140.230 and 140.231 were supported.

71. Recommendation 140.232 was noted.

72. Accession to the Global Compact for Migration is under consideration. In the event of accession to the Global Compact, the corresponding plan of action will be drawn up for its implementation.