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НАЦИОНАЛЬНАЯ СЕТЬ ГРАЖДАНСКОГО ОБЩЕСТВА ПО МОНИТОРИНГУ СЕКТОРА ПРАВОСУДИЯ

REPORT ON THE RESULTS OF MONITORING THE CRIMINAL JUSTICE SYSTEM OF THE KYRGYZ REPUBLIC - SUMMARY

Area 2: The Judicial System

Bishkek, 2025

This analytical report is based on monitoring conducted by the Public Foundation "Institute for Public Analysis" within the framework of a project implemented by project implemented by International Partnership for Human Rights (IPHR) and Lawyers for Human Rights (LHR) with the support from the European Union.

The report covers Area 2 (Judicial System) in accordance with the comprehensive Methodology for Monitoring the Criminal Justice Sector, developed by recognized international and national experts within the framework of the project.[1] *It is part of a series of analytical reports based on monitoring conducted by members of "Akyikat Karegy" using the new methodology and with support from project experts.*

This document has been prepared with financial support from the European Union. The contents are the sole responsibility of IPHR and LHR and do not necessarily reflect the views of the European Union.

[1] The methodology (in Russian and Kyrgyz) is available at: https://iphronline.org/articles/new-methodology-for-monitoring-the-criminal-justice-sector-developed/

SUMMARY OF FINDINGS

The Constitution of the Kyrgyz Republic provides a foundational guarantee for the stability and independence of the judiciary, including the formal regulation of the establishment, reorganisation, and dissolution of courts. However, the absence of clear and detailed legal procedures for establishing or restructuring local courts leaves room for decisions that may bypass public interest and ignore input from judicial self-governance bodies. This highlights the need for a stronger legal framework to ensure transparency, predictability, and protection from executive interference.

Significant progress has been made in building a judiciary grounded in the principles of self-governance and competitive selection. Nevertheless, important challenges remain, particularly regarding transparency, inclusivity, and institutional autonomy. The influence of political bodies in the Council for Justice must be further balanced to avoid undue interference in the processes of appointment and promotion of judges. The procedures of the Council of Judges, including its gender and regional representation, and the transparency of its activities, require further alignment with international standards. Appointments to senior judicial positions must be based on clear, impartial criteria. Furthermore, the fact that the Higher School of Justice is financially dependent on the executive branch undermines the independence of judicial training, despite the quality and relevance of its programmes.

Although legal grounds provide for judicial disciplinary responsibility, ambiguities in the law hinder its uniform application. There is insufficient distinction between ethical and disciplinary violations, and a lack of classification of offences according to their severity. These gaps indicate a need to refine the regulatory framework. The composition of disciplinary bodies and their links to the Council of Judges must be strengthened in order to guarantee impartiality. Moreover, the involvement of political actors in early dismissal procedures poses risks of pressure on judges. The lack of appeals for disciplinary decisions, limited transparency of proceedings, and absence of regulation over the initial stages of criminal proceedings against judges further threaten judicial independence and accountability. Addressing these issues through strengthened procedural safeguards is critical.

The authority of court presidents—particularly that of the Supreme Court—has grown under the current structure for judicial governance. Although the process of appointing the president of the Supreme Court involves several institutions (including the Council of Judges, the President, and the Jogorku Kenesh), nevertheless transparency and objectivity are lacking at each stage. Open voting practices and weak procedural rules increase the risk of politicisation. At the local level, court presidents are appointed by the president of the Supreme Court, reinforcing a vertical power structure and concentrating influence over case assignment and staffing. While the automated case distribution system in place generally aligns with international standards, the authority of court chairs to initiate disciplinary proceedings or reassign judges requires additional safeguards to prevent undue external influence and protect judicial independence.

Financial independence is formally guaranteed, including judicial budget autonomy and provisions for material and social security. However, in practice funding falls short of court needs, and state programme financing targets for the judicial system remain unmet. The lack of transparency around remuneration—particularly the role of the President in setting judges'

salaries—raises concerns about potential influence on judicial impartiality. While social guarantees and state protection help ensure stability, insufficient and opaque financial arrangements continue to undermine trust in the independence of the judiciary.

The constitutional principle of irremovability of judges is not uniformly applied in practice. Judges of local courts are appointed for an initial five-year term, after which they must reapply through a competitive process that includes presidential approval. This multi-layered and discretionary system creates insecurity, even for judges who receive positive evaluations. The failure to consistently renew terms despite favourable assessments undermines judicial stability and increases vulnerability to external pressure. Resolving these procedural uncertainties is essential to strengthening judicial independence and public trust.

Overall assessment

The judiciary received a total score of 11.5 out of a possible 22 points, reflecting both solid legal foundations and the pressing need for reform to ensure genuine independence, accountability, and public confidence in the judicial system.

KEY ISSUES AND RECOMMENDATIONS

In the following we present an overview of key issues and recommendations per topic based on the monitoring conducted.

1. Formation and Structure of Courts

Key Issues:

- Constitutional guarantees exist against arbitrary interference in the creation or abolition of courts.
- However, there is no clear legal procedure for creating, reorganising, or dissolving local courts, which increases the risk of political manipulation and lack of transparency.

Recommendations:

- Define in law specific grounds and procedures for restructuring local courts (e.g., population changes, caseload volume, territorial reforms).
- Ensure judge transfers protect their status during reorganisation and are based on consent.

2. Appointment, Selection, and Career of Judges

Key Issues:

- Political bodies (President, Parliament) have disproportionate influence in appointing judges.
- Lack of transparency in nominating members to the Council on Justice.
- Judicial self-governing bodies lack regional and gender balance, and their selection processes are opaque.
- The selection of Supreme Court judges mirrors that of lower courts despite higher responsibilities.

Recommendations:

- Establish clearer, transparent nomination procedures with public disclosures and hearings.
- Guarantee the principle of inclusiveness in the Council of Judges' composition (regional and gender representation).
- Introduce differentiated and stricter selection criteria for higher court judges.
- Strengthen the role and autonomy of the Higher School of Justice in judicial training.

3. Role and Influence of Court Chairpersons

Key Issues:

- The President holds control over appointments of the Supreme Court Chairperson.
- Local court chairs are appointed by the Supreme Court Chairperson, creating a vertical power structure.
- Chairs hold extensive powers over disciplinary matters and judge rotations, potentially compromising judicial independence.

Recommendations:

- Introduce competitive and transparent selection processes for court chairs, including input from judicial self-governing bodies.
- Limit the powers of the chairperson on matters of disciplinary referrals and transfers of judges.
- Use secret voting in appointments of chairs to protect against executive pressure.

4. Disciplinary Accountability and Removal of Judges

Key Issues:

- The wording of the definitions of disciplinary grounds are overly vague (e.g., "gross violation") and open to subjective interpretation.
- Ethical violations are not clearly separated from disciplinary infractions.
- Disciplinary decisions are made by a non-independent body within the Council of Judges, with no appeal mechanism.
- Political authorities can initiate the early dismissal of judges, undermining independence.

Recommendations:

- Legally define and separate ethical from disciplinary breaches, and classify violations by severity.
- Create an independent disciplinary body outside of the Council of Judges.
- Introduce the rights of judicial appeal for all disciplinary actions.
- Limit political influence in dismissals and establish transparent, rule-based processes.

5. Transparency and Public Access

Key Issues:

- The Council of Judges lacks mechanisms for publishing decisions or allowing observer participation.
- No requirement to publish disciplinary decisions or committee reports.
- Limited public access to selection procedures and outcomes.

Recommendations:

- Require public disclosure of all decisions (with anonymisation where needed).
- Permit observers, including media and civil society, to access relevant Council proceedings.
- Standardise transparency rules for selection, evaluation, and disciplinary procedures.

6. Judicial Tenure and Irremovability

Key Issues:

- Judges are initially appointed for a 5-year term before reapplying for permanent tenure.
- Even successful candidates can be denied reappointment, creating uncertainty and the potential for external pressure.

Recommendations:

- Abolish initial 5-year term and introduce direct and permanent appointments until retirement age.
- If immediate reform is not feasible, simplify reappointment for high-performing judges, removing repeated competition requirements.

7. Financial Independence of the Judiciary

Key Issues:

- Court funding falls short of the necessary levels.
- Remuneration and financial benefits of judges are determined by the President, creating potential political influence.
- There is a lack of transparency in the judicial budget and pay structures.

Recommendations:

- Establish minimum thresholds for adequate court funding in legislation.
- Transfer control over judicial remuneration to an independent judicial body.

Publish budget and remuneration details to ensure transparency and public trust.