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АКЫЙКАТ КАРЕГИ

НАЦИОНАЛЬНАЯ СЕТЬ ГРАЖДАНСКОГО ОБЩЕСТВА ПО МОНИТОРИНГУ СЕКТОРА ПРАВОСУДИЯ

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

Area 7: Trial Stage

Bishkek 2025

This analytical report is based on monitoring conducted by a member of the Akyikat Karegi Civil Society Network for Justice Sector Monitoring in Kyrgyzstan in the framework of a project implemented by International Partnership for Human Rights (IPHR) and Lawyers for Human Rights (LHR) with support from the European Union.

The report covers area 7 of the methodology (the trial stage) under a comprehensive Methodology for Monitoring the Criminal Justice Sector, developed by recognized international and national experts under the project. [1] *It is part of a series of analytical reports based on monitoring conducted by "Akyikat Karegy" members using the new methodology with support from project experts.*

This publication has been prepared with the financial support from the European Union. The contents of this publication 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 legal framework of Kyrgyzstan formally enshrines key procedural guarantees — the right to a fair and public trial, the principle of adversarial proceedings and equality of arms, as well as special guarantees for certain categories of participants. However, their practical implementation is limited by systemic shortcomings and institutional barriers.

Structural imbalances in favour of the prosecution persist: the institution of preliminary inquiries, selective approval of procedural motions, limited access to free legal aid, the geographical remoteness of courts, and weak judicial oversight over respect for procedural rights. Legal uncertainty in the criteria for closing court hearings and outdated mechanisms for publishing judicial decisions reduce the level of transparency and create a risk of arbitrary restrictions on openness.

The exercise of procedural rights by the parties is hindered by protracted case timelines, a formalistic approach to assessing evidence and defence motions, the rare use of restorative and alternative measures in juvenile cases, as well as insufficient oversight of excluding evidence obtained in violation of the prohibition of torture. Problems remain with ensuring qualified interpretation and access to independent judicial expertise, which are exacerbated by the absence of clear regulation of several key procedures (video conferencing, publication of court decisions, termination of cases at early stages).

The potential of judicial digitalization is undermined by the unreliability of automatic video recording equipment, the absence of centralized data storage, limited access of participants to recordings, and the lack of independent technical audits. The automatic use of video conferencing for defendants held in custody, without individualized judicial assessment and without guarantees of confidential communication with defence counsel, does not comply with international standards. The absence of a mechanism for public access to online hearings further limits the transparency and accountability of the judiciary.

Overall assessment

Area 7 (“Trial Stage”) received a total score of 12.5 out of 24 possible points across the four main indicators and 24 benchmarks of the comprehensive Methodology for Monitoring the Criminal Justice Sector, indicating only partial compliance with international fair trial standards.

KEY ISSUES AND RECOMMENDATIONS

Judicial Guarantees and Equality of Arms

Key Issues:

While Kyrgyzstan's Constitution and Criminal Procedure Code (CPC) guarantee equality of arms, in practice the prosecution enjoys structural advantages. Defense often faces restricted access to case files, experts, and investigative actions. The "pre-investigation check" institution creates barriers to court access and undermines equality.

Recommendations:

- Abolish the pre-investigation check and grant applicants procedural status from the moment a crime report is filed.
- Strengthen judicial oversight of investigative bodies.
- Expand free legal aid, especially for vulnerable groups.
- Guarantee equal access to independent experts and evidence for both prosecution and defense.

Transparency and Publicity of Proceedings

Key Issues:

Normative gaps allow excessive use of closed hearings, outdated mechanisms for publishing judicial acts, and insufficient public information about court schedules. This limits transparency and creates risks of arbitrary secrecy.

Recommendations:

- Issue Supreme Court guidance on applying open justice principles.
- Mandate timely publication of hearing schedules and judgments in accessible digital formats.
- Modernize infrastructure to ensure physical and digital access for the public, including persons with disabilities.

Timeliness and Access to Justice

Key Issues:

Cases face lengthy delays due to overloaded courts, lack of digital tools, and weak procedural safeguards. Access to state-funded legal aid is limited by restrictive eligibility criteria, leaving many vulnerable groups without adequate defense.

Recommendations:

- Introduce the concept of "reasonable time" in proceedings, with compensation for undue delays.
- Develop a unified digital platform to track and manage case timelines.
- Broaden eligibility for state legal aid and increase its funding.
- Ensure courts systematically explain rights to defendants, including the right to refuse or replace counsel.

Juvenile Justice

Key Issues:

Although alternative and restorative measures for minors exist in law, they are rarely applied. Specialized juvenile courts do not exist, leading to formalistic treatment of child offenders.

Recommendations:

- Establish juvenile courts or specialized judicial panels.
- Mandate training and certification of judges, prosecutors, and probation staff on child-sensitive procedures.
- Institutionalize standards preventing re-victimization and prioritizing rehabilitation.

Protection Against Torture and Use of Evidence

Key Issues:

Courts seldom exclude evidence obtained through torture or coercion, and claims of ill-treatment are often ignored. This undermines the prohibition of torture and fairness of trials.

Recommendations:

- Require courts to proactively review the admissibility of confessions.
- Strengthen safeguards against coercion, including video recording of interrogations.
- Adopt a Supreme Court ruling standardizing exclusion of evidence obtained by torture or ill-treatment.

Witnesses and Defense Rights

Key Issues:

Defense requests to summon witnesses are often rejected without justification, while prosecution witnesses are prioritized. Responsibility for securing attendance is shifted to the parties.

Recommendations:

- Develop clear protocols for ensuring witness attendance, including compulsory measures when justified.
- Ensure equal treatment of prosecution and defense witness requests.
- Expand use of remote testimony via video link to facilitate participation.

Translation and Interpretation

Key Issues:

Quality and availability of interpretation remain poor, especially in remote regions. Written translations of core documents are rarely provided. No professional body regulates court interpreters.

Recommendations:

- Create a national certification and registry of court interpreters.
- Guarantee access to qualified interpreters, including sign language specialists.
- Increase funding for translation services, especially for vulnerable groups.

Judicial Reasoning and Expert Evidence

Key Issues:

Court decisions often lack sufficient reasoning, and independent expert opinions are frequently disregarded in favor of state experts. Access to independent expertise is costly and limited.

Recommendations:

- Require courts to provide clear, reasoned judgments.
- Ensure equal weight to independent and state expert reports.
- Develop accredited institutions for independent expertise and regulate expert standards.

Compensation and Rehabilitation

Key Issues:

Victims of judicial errors rarely receive compensation due to restrictive laws, bureaucratic hurdles, and inadequate enforcement of judgments.

Recommendations:

- Expand legal grounds for compensation in line with international standards.
- Simplify procedures for filing claims and ensure timely execution of awards.
- Create a dedicated compensation fund for victims of judicial errors.

Digitalization and Remote Justice

Key Issues:

Digital reforms are undermined by unreliable equipment, weak storage systems, and lack of public access to online hearings. Mandatory video hearings for detainees violate fair trial rights.

Recommendations:

- Develop a national system for audio-video recording with centralized secure storage.
- Guarantee defendants' right to in-person hearings, using video links only when justified.
- Ensure confidential communication between defendants and lawyers in video hearings.
- Enable public access to online hearings, with safeguards for privacy and sensitive cases.