

Kyrgyzstan has submitted its report for the UPR

Every 5 years, Kyrgyzstan submits its National Report for the UPR to the UN member states, in which it reports on achievements and challenges in different areas in terms of respect to human rights. Last year, the HRM “Bir Duino Kyrgyzstan” PA carried out significant work to combine the efforts of civil society organizations and collect reliable information for the preparation of an alternative UPR report, which was presented in Geneva in December.

In 2015, during the second UPR cycle, 72 states gave 201 recommendations to Kyrgyzstan. Kyrgyzstan accepted 151 recommendations.

Following a meeting of civil society representatives with a delegation of state bodies of the Kyrgyz Republic on 17 January in the building of the Ministry of Labor and Social Development, a number of recommendations were made that were not reflected in the official report,

- Rejection of the Law on Foreign Agents by the Jogorku Kenesh in 2016;
- Increased penalties for “ala kachuu” in the new Criminal Code of the Kyrgyz Republic (the term of imprisonment is increased to 10 years, whereas it was up to 7 years before);
- Decriminalization of storage of extremist materials without the purpose of distribution according to the new Criminal Code of the Kyrgyz Republic;
- Membership of the Kyrgyz Republic in the Open Government Partnership (OGP) since 2017;
- Gender analysis of school textbooks, involving experts from civil society in 2019;
- On 31 October 2019, the Parliament passed a bill prohibiting the development of uranium and thorium deposits in Kyrgyzstan.

The final event was held on 20 January 2020 - the State delegation of Kyrgyzstan submitted its National Report within the framework of the 35th session of the UPR Working Group. Activists in Bishkek and Osh monitored the issues our government agencies reported on and how they did it. The activists were given the opportunity to do it at specially organized venues in the offices of human rights organizations. The OHCHR staff in Osh organized watching a broadcast at the UNICEF office. In Bishkek, it was organized in the office of the OHCHR Regional Office for Central Asia. This was an important event to further ensure the promotion, support and protection of human rights in practice. During the interactive dialogue, 89 UN member states submitted 232 recommendations concerning identified areas to address existing problems and strengthen the State’s capacity in the field of human rights.

The delegation included representatives of the Ministry of Foreign Affairs, Ministry of Labor and Social Development, Ministry of Internal Affairs, Supreme Court, Prosecutor General’s Office, Human Rights Council under the Government of the KR, and the Permanent Representative of the Kyrgyz Republic to the UN in Geneva.

The first speech of the head of the Kyrgyz delegation was concise and specific. The head of the delegation, First Deputy Minister of Foreign Affairs of the Kyrgyz Republic Nuran Niyazaliev noted that the report was prepared with the support of civil society and OHCHR and added that the country has “a strong and active civil society with which a constructive and useful interaction has been established”, which will continue in the future. Niyazaliev reminded the delegations that the parliamentary form of government, democratic institutions, the reform of the judiciary and law enforcement agencies, and the harmonization of national legislation in accordance with international standards continued to be strengthened in the country. After having spoken about the highest value of human rights and freedoms enshrined in the Constitution, he stated that the country is fulfilling its obligations fully. In November 2018, the President approved an ambitious national strategy for sustainable development until 2040 (referred to by all the delegation’s speakers).

“According to the strategy, by 2040, Kyrgyzstan will emerge as a strong, self-sufficient state that puts a person first treating him/her as the highest value, as well as his/her life and health, rights and freedoms and creating the most favorable environment for him/her.” He cited a speech by the head of the country on Human Rights Day, saying that “UN ideas aimed at protecting human rights and strengthening democratic principles are in line with the mentality of our society.” Kyrgyzstan has acceded to the 8 core UN international human rights treaties and regularly reports on their implementation. The country submitted 3 reports, including on the implementation of the Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture. This year it is planned to submit a report on the implementation of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and two pacts. The country is actively collaborating on the UN special procedures, all requests for visits have been supported and there are no pending requests. He listed the special rapporteurs on health issues, enforced disappearances and minority rights who visited the country. According to him, the special rapporteurs gave positive assessments to the country's achievements and offered useful recommendations, “which we are currently implementing.” Visits of 6 more special rapporteurs are expected.

Niyazaliev stated that “pluralism and freedom of the media in Kyrgyzstan are subjects of special pride for the country, since they are the hard-won results the country achieved during the years of independence”. “It should be noted that there is a steady development of the level of freedom of speech and the media in Kyrgyzstan. There are no obstacles to their free registration and functioning, there is no state censorship.” He gave an example of the case that took place in April 2019, when Kyrgyzstan took the 83rd place out of a hundred in the freedom of speech rating, which means it climbed 15 positions in the rating compared to 2018.

Among other achievements, he mentioned that, according to UNHCR, the State had solved the problem of stateless persons. “This was the result of the Government’s work identifying 12,700 stateless people,” he said. They are full-fledged citizens now.

Regarding the implementation of the recommendations provided during the second UPR cycle, he stated that the representative offices of the NCTP in each region are working successfully. To strengthen the institution of the Ombudsman, amendments to the Law on Ombudsman are currently being discussed. After their adoption, the Law will comply with the Paris principles. An important achievement of the state was the fact that it acceded to the Convention on the Rights of Persons with Disabilities in March 2019. Efforts are continuing to remove obstacles to the integration of PWDs into society.

“I emphasize that on 15 March 2019, the Government approved the Human Rights Action Plan for 2019-2021, which was developed on the basis of recommendations of various UN bodies,” the head of the delegation said.

At the session, it was repeatedly announced that one of the important achievements of the country is the adoption of new codes aiming at humanization and decriminalization. There is a Business Ombudsman in the country. Kyrgyzstan is a member of the Open Government Partnership.

The implementation of the Gender Equality Strategy has contributed to the advancement of women in the economy and politics, social entrepreneurship is gaining momentum in the country. The plan to achieve gender equality for 2015-2017 has covered 70% of the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women and Girls, including measures to eliminate early marriage.

The head of the delegation reminded that the country is implementing a nationwide program of

digital transformation. He said “Trust, unity, creation. For 2018-2022, a single platform of digitalization-based services is being formed to provide citizens with all public services in digital format.”

After the speech, Niyazaliev passed the floor to the judge of the Supreme Court of the Kyrgyz Republic Keneshbek Toktomambetov, who briefly spoke about the promotion of judicial reforms. The first thing that the judge emphasized was the introduction of new codes that meet international standards and the country's sustainable development strategy. He listed the introduction of new concepts and institutions: judicial control, deposit of evidence, investigating judge, probation, procedural agreements. The legal status of the council of judges as a body of judicial self-government was determined. The council was entrusted with consideration of the budgeting of the judicial system, ongoing training for judges, taking disciplinary measures. The national legislation of the country established the appointment of judges in an open competition held by the Council for the Selection of Judges. The procedure for appointing judges of the Supreme and local courts has been changed, according to which judges of the first and second instances are appointed by the president for 5 years first, and then - until the age limit is reached. The judges of the Supreme Court are elected by the Parliament of the Kyrgyz Republic until they reach the age limit. Instead of the abolished Constitutional Court, the Constitutional Chamber of the Supreme Court was formed.

Introduction of act.sot.kg portal is a positive development as well. He recalled that judicial acts are subject to mandatory publication in many categories of cases, with the exception of those cases in which the publication of acts is prohibited. Thus, the primary electronic database of judicial acts is formed. Audio and video recording of the hearings has been introduced in 80 courtrooms out of 150, the software for the information system has been introduced - this has been done to automate judicial work. The number of unilateral contacts between participants in the trial and judges are minimized. The coverage of public awareness is increasing. Taking into account the specificity of information technology, a Judiciary's Information Technology Strategic Plan has been approved.

In 2019, a new state target program (STP) for the development of the judicial system of the Kyrgyz Republic was established, which is awaiting parliamentary approval.

The next speaker was the Deputy Minister of Labor and Social Development, Janyl Alybaeva, who provided information on the issues of achieving gender equality and combating domestic violence in the framework of putting plans in place and implementation of international standards. “We have women leaders in the system of the Supreme Court and the Central Election Commission. In 2017, the representation of women among judges of the Supreme Court reached 45%,” she added.

The law on the election of deputies to the local parliament introduced a mechanism for reserving 30% of the mandates for women as members of the local parliament.

The government has a national council for women and gender development, under which a secretariat is being created to coordinate the implementation of the national and state programs. In 2020, the Ministry of Labor and Social Development was appointed as the state body authorized to coordinate the activities of entities for protection against domestic violence. In 2019, 27 committees to prevent domestic violence were created at the local level; it is planned to create them in each rural district, and there will be 453 such committees in the country.

There are 14 crisis centers in the country; it is planned to create two more centers in 2020.

The deputy minister listed the main areas of work for the parties in order to eradicate domestic violence, prevent early and forced marriages, and eliminate child labor. She listed the achievements such as the adoption of the law on payment of State benefits, lump sum payment upon the birth of a

child. A draft of the Civil Status Act has been developed. Speaking of the comments made by the Committee on the Rights of the Child, she said that in 2019, the development of the Code on Children was completed.

It is worth mentioning there were some more positive decisions of the state, which were emphasized by members of the delegation of the Kyrgyz Republic during the UPR:

- Rejection of the Law on Foreign Agents by the Jogorku Kenesh in 2016;
- Increased penalties for “ala kachuu” in the new Criminal Code of the Kyrgyz Republic (the term of imprisonment is increased to 10 years, whereas it was up to 7 years before);
- Decriminalization of storage of extremist materials without the purpose of distribution according to the new Criminal Code of the Kyrgyz Republic;
- Membership of the Kyrgyz Republic in the Open Government Partnership (OGP) since 2017;
- Gender analysis of school textbooks, involving experts from civil society in 2019.

Also, representatives of the delegation did not give an overview of the actual situation regarding the observance of every person’s right to freedom of peaceful assembly, which is closely linked to the right to freedom of speech. Only the norms of legislation guaranteeing the observance of the said rights were mentioned - the Constitution of the Kyrgyz Republic and the Law on Peaceful Assemblies adopted in 2012. However, no information was given regarding the practice of implementing these regulatory guarantees; comments were not made regarding the authorities still practicing the adoption of absentee decisions to ban or limit peaceful assemblies:

- in relation to an unlimited number of persons (not in relation to a specific peaceful assembly being organized and/or held (already in progress));
- in certain socially significant territories - in central squares, near the related administrative buildings;
- for a period of up to several months.

Thus, one of the publicly resonant illegal bans was introduced in Bishkek from 27 July to 20 October 2017 for the period of the presidential election. Therefore, consideration and assessment of this negative experience by Kyrgyzstan is especially important in anticipation of such a significant event for the country as the upcoming parliamentary elections in the fall of 2020.

It should also be noted that today, human rights violations due to the fight against religious extremism still occur in Kyrgyzstan and the torture prevention remains relevant. Thus, the concept of “extremism” in the legislation of the Kyrgyz Republic is given as an appraisal phenomenon, without providing its precise and clear definitions. This leads to the fact that law enforcement agencies, judicial experts, while assessing the materials of the so-called "extremist nature", are guided by their personal beliefs and concepts. This practice leads to a broad interpretation of the legislation on countering extremist activity, which often leads to human rights violations and corruption. To this day, there is no generalized practice of criminal courts on crimes of an extremist nature in the Kyrgyz Republic.

Despite all the efforts being made to prevent torture and other cruel, inhuman or degrading treatment, the problem of violation of human rights remains the main one in the country. The lack of independent experts, the difficulty in ensuring the safety of witnesses and victims, as well as the lengthy investigations of torture cases, and many similar omissions remain pressing issues today. The situation of convicts should also be mentioned. Cases of death of convicts in places of deprivation of liberty are not uncommon. This fact also indicates problems with medical care and release of seriously ill persons from prison.

In general, speakers representing the government agencies spoke about the results achieved in the field of human rights in Kyrgyzstan. At the same time, they didn’t focus on serious problems related

to violations and facts of discrimination or touched upon them in a superficial manner.

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After the official presentation of the delegation, recommendations were provided by the states participating in the UPR session. During the interactive dialogue, 89 countries gave 232 recommendations to Kyrgyzstan. Each speaker had 1 minute and 15 seconds to present. Almost every speech began with a greeting addressed to the delegation of Kyrgyzstan and positive feedback on the implementation of national and state action plans, accession to international conventions, introduction of legislative amendments and other points. Then, a representative of a participating state voiced from one to five recommendations, which, in their opinion, required attention of Kyrgyzstan to improve the human rights situation in chosen areas.

It should be noted that certain issues that concerned representatives of some foreign countries were not reflected in subsequent recommendations. These two parts of the speech were not always interconnected, but each recommendation was important for Kyrgyzstan. All recommendations were based on data received from the alternative UPR report submitted by the civil society of Kyrgyzstan. It was obvious that many representatives of different countries showed a keen interest in the situation in Kyrgyzstan. They had information in many areas of human rights protection.

Many recommendations were related to the continuation of work to improve conditions for people with disabilities, promotion of inclusion, and allocation of a budget for education, including for vulnerable groups.

Austria and Denmark officially recognized the positive result of human rights protection, i.e. canceling the adoption of the draft Law on Foreign Agents by the Jogorku Kenesh. At the same time, it was stated to be important for the KR to adopt in the future the Rome Statute of International Criminal Court to further promote the rule of law.

National Human Rights Institutions

Many countries welcomed the establishment of Children's Ombudsman in Kyrgyzstan and recommended the establishment of community services for the protection of children's rights (Bulgaria's recommendation). The delegations of Finland, Iceland and Georgia provided a recommendation for the Ombudsman institution to comply with the Paris principles. The delegation of Spain recommended that international norms prevail over national ones. Ukraine and other delegations called on Kyrgyzstan to issue a standing invitation to all UN thematic special procedures.

Rights of women and children

The states acknowledged Kyrgyzstan for its Gender Equality Action Plan, but recommend encouraging the participation of women in political, social and economic life, as well as combating discrimination and violence against women. A significant part of the recommendations was aimed at combating violence against women and children. Representatives of the states expressed their concern regarding the situation with the rights of women and girls and recommended that efforts be strengthened to ensure protection against domestic violence and prevention of early and forced marriages.

The representative of Algeria pointed out the need to work on reduction of child and maternal mortality by improving access to medical care. The representative of Afghanistan made a statement about the need for strict compliance with the UN Security Council Resolution No. 1325 regarding the role of women in maintaining peace and stability in society. In addition, the recommendation indicated the importance of creating the necessary favorable conditions for the educational

processes for representatives of minorities, as well as for overcoming gender inequality.

Noteworthy is the recommendation from Slovenia advising that Kyrgyzstan needs to promote the norms of the Istanbul Convention adopted by the Council of Europe on preventing and combating violence against women and domestic violence.

The states recommended Kyrgyzstan to provide access to quality, multilingual and inclusive education, especially for children with disabilities, children affected by migration. They also recommended combating child labor more effectively. In addition, many countries noted the need for training judges, prosecutors and lawyers in Kyrgyzstan.

Indonesia's recommendation was to take further steps to strengthen the strategy for promoting gender equality by incorporating a gender-sensitive budget in government programs and creating an environment to increase the number of women in parliament.

The right to freedom of association

Several states expressed their concern about the pressure on civil society through adoption of a law on foreign agents, which should not be allowed.

The delegation of Armenia made a recommendation on the advisability of promoting public non-profit organizations in Kyrgyzstan and providing support to civil rights defenders.

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The United Kingdom gave a recommendation to Kyrgyzstan on the need to improve national legislation regarding the activities of NGOs.

The right to freedom of speech and expression (media, Internet, public discourse)

Many states noted that Kyrgyzstan should step up its exercising the right to freedom of speech and expression, and protection of the media. They noted the existing pressure on investigative journalists and cases of filing multi-million dollar lawsuits against the media, stating it was unacceptable.

Switzerland recommended creating conditions for human rights defenders and journalists to exercise their right to freedom of expression. The US delegation also pointed out the need to protect freedom of expression in both the media and civil society. Estonia encourages the Kyrgyz Republic to continue its efforts to ensure freedom of expression online and offline. Croatia recommended guaranteeing freedom of expression. France noted the importance of ensuring the protection and safety of journalists.

Administration of justice, including impunity, and the rule of law

Kyrgyzstan should pay attention to improving the conditions of people in closed institutions. Quite significant in number were recommendations on protecting the rights of victims of torture, as well as on an effective investigation into the facts of torture and ill-treatment. The representative of Belgium said that victims of 2010 should receive compensation, especially those from vulnerable groups: women, children and members of ethnic minorities.

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Several countries, in particular the United States, Finland and Ireland, reminded Kyrgyzstan that human rights activist Azimzhan Askarov should be released from prison for humanitarian reasons (on health grounds).

Brazil, Canada and Chile noted the importance of conducting thorough investigations, as well as strengthening measures to prevent and avert torture.

Human rights in the face of climate change

The recommendation received from Fiji deserves special attention: to follow the principles of the international Sendai Framework in order to prevent global risks, emergencies, disasters and threats among local communities.

Rights of people with disabilities

In their turn, Bulgaria, Egypt, Estonia, France, and Georgia emphasized the ratification by Kyrgyzstan of the Convention on the Rights of Persons with Disabilities. At the same time, the necessity was mentioned to further adhere to the norms of the specified regulatory legal act.

Equality and non-discrimination

The importance of adopting anti-discrimination legislation in the Kyrgyz Republic in order to counter inequality and promote minority rights was announced by Germany, Switzerland, United States and other delegations.

Also, there was a significant number of recommendations on the adoption of anti-discrimination legislation (including legislation on gender, ethnic, sexual identity and LGBT). The states recommended Kyrgyzstan to ensure the rights of minorities, including LGBT rights, and take active measures to combat discrimination, investigate and punish those responsible for violence against them. They recommended the adoption of comprehensive anti-discrimination legislation, add its norms to the Constitution and publicly combat xenophobia. The Delegation of Spain emphasized that legislation should necessarily contain provisions on indirect and direct discrimination, including discrimination related to sexual identity and LGBT rights. The Netherlands recommended the prohibition of discrimination at all levels. The Delegation of Oman pointed to the need to eradicate racial and religious discrimination.

The delegation of Estonia recommended to legislatively identify illegal forms of discrimination in order to protect minorities.

A number of recommendations were related to ensuring that ethnic minorities were represented in government agencies. The Delegation of Poland called for a focus on minority rights in all areas. The US delegation pointed out the need to improve the economic opportunities of ethnic minorities. The representative of Afghanistan recommended improving access to quality multilingual education for children from ethnic minorities. The representative of Argentina called for combating stereotypes concerning ethnic minorities. The delegation of Peru pointed out the need to improve access to health services for representatives of ethnic groups such as Uzbeks, Uighurs, Mugabs.

Qatar and Senegal also recommended intensifying efforts to combat hate speech and rhetoric against various minorities.

Human rights and the fight against terrorism

There were many recommendations regarding cases of charges of extremist crimes. The Chinese representative noted the achievements of Kyrgyzstan in countering extremism and terrorism and recommended strengthening the fight against poverty.

The states recommended bringing national legislation in the field of combating extremism and terrorism into line with international standards, with regard to issues of terminology (too broad interpretation), adoption of the Rome Statute. Strategies to prevent violent extremism should be based on international standards, as the delegation of Lithuania emphasized in its recommendations to Kyrgyzstan.

The right to freedom of religion

There were recommendations on the observance of the right to free choice of religious beliefs. The representative of Croatia recommended promoting the observance of the right to freedom of religion and belief, noted the inadmissibility of persecution on religious grounds (denial of burial). Croatia recommended freedom of religion or belief, including the eradication of cases of persecution. The Vatican delegation recommended that religious registration be accessible for religious communities.

Migration

There were recommendations on issues of migration, combating trafficking in persons. Quite often the recommendation to adopt the Convention on Enforced Disappearance was repeated. In order to facilitate a fair trial, there were many recommendations for the adoption of the Rome Statute. Portugal recommended ratification of the Global Compact for Migration.

Human trafficking

Belarus recommended Kyrgyzstan to strengthen its efforts to combat human trafficking, as well as measures to counter human trafficking and identify its victims. The Philippines recommended the adoption of an anti-trafficking Action Plan and programs, as well as conducting widespread information campaigns.

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At the end of the interactive dialogue, the floor was given to representatives of the government agencies of Kyrgyzstan. The head of the delegation, Nuran Niyazaliev, stated that all the recommendations would be discussed with representatives of CSOs and international human rights institutions.

Regarding the case of the human rights activist Azimzhan Askarov, it was said that he was under the supervision of doctors in the colony, where he was serving his sentence and his condition was satisfactory. A complaint was filed with the Supreme Court regarding his case in mid-January, and it will be considered.

This document has been prepared following a meeting of representatives of public organizations, the Akyikatchy Institute of the Kyrgyz Republic, the National center against torture of the Kyrgyz Republic and experts with the state delegation before the travel to Geneva, a video broadcast monitoring and discussing the presentation of the Kyrgyz delegation, which was supported by the Office of the High Commissioner for Human Rights' (OHCHR) Regional Office for Central

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Asia in Bishkek and in Osh.

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