

**REVIEW TO THE UN UNIVERSAL PERIODIC REVIEW
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1. Introduction

- 1.1. The Kyrgyz Republic is a party to the main UN treaties ensuring freedom of thought, conscience and religion, equality and non-discrimination for all, regardless of religion, and prohibiting coercion to express or renounce their religious and other beliefs. Universally recognized principles and norms of international law and international treaties to which the Kyrgyz Republic is a party are an integral part of its legal system.
- 1.2. The provisions of the Constitution of the Kyrgyz Republic aligned with the approaches of international standards and guarantee freedom of conscience and religion to each, prohibit any disparity and discrimination based on religion and belief.
- 1.3. The Law of Kyrgyz Republic “On the Freedom of Religion and Religious Organizations in the Kyrgyz Republic” adopted in 2008 negatively assessed by international and national human rights organizations. In 2014, a draft Law with amendments and additions to the current Law developed, which further tightened the existing requirements for religious communities. And only in 2018, a new draft law was substantially finalized by experts and discussed with the wide participation of stakeholders and organizations. However, until now, it has not been adopted by the legislative body.
- 1.4. Nevertheless, the issues of respect for the right to freedom of religion, interaction of the state and religious communities are becoming increasingly acute in Kyrgyzstan. To date, 3,274 religious organizations registered at the State Commission on Religious Affairs (SCRA) under the President of Kyrgyz Republic. Despite the State Commission’s efforts in building dialogue and interfaith interaction, the facts of intolerance and discrimination on the basis of religion are intensifying. In this regard, the lack of comprehensive anti-discrimination legislation is a serious gap. In addition, one of the most pressing issues is the question of respect for the rights and freedoms of believers in the context of countering extremism.

2. Limitations and restrictions on the exercising of religious activities.

- 2.1. According to the current Law of Kyrgyz Republic “On the Freedom of Religion and Religious Organizations in the Kyrgyz Republic”, the right to conduct religious activities by

an organization is tied to obtaining a certificate of registration issued by the State Commission on Religious Affairs. A religious community is required to have 200 initiators for registering a religious organization. Missions, religious schools, religious facilities and missionaries are subject to registration records.

- 2.2. The activities and functioning of religious organizations without record registration in the SCRA is prohibited. A person acting on behalf of an unregistered religious organization, according to the Code on Administrative Responsibility in force until January 1, 2019, was administratively responsible. On January 1, 2019, the Code of Violations entered into force, which included this provision unchanged. Thus, carrying out any religious activity without record registration is prohibited.
- 2.3. If there are reasons, the SCRA and the prosecution authorities are entitled to submit a proposal of the liquidation of a religious organization or the prohibition of its activities to the court. In case of court's decision in favor of liquidation of religious organization's record registration in SCRA leads to cease of legal capacity as a legal entity within Ministry of Justice. However, there are facts when even local self-governances make decisions on suspending the activities of a religious organization. The grounds for such decisions are part of the appeal of local residents.
- 2.4. Thus, for example, on September 27, 2016, the city Kenesh (Council/ local self-governance) of the Kara-Kul city of Jalal-Abad oblast issued a decree on the suspension of the Evangelical Christian Baptists Church's activities. This decision remains in force, despite the fact that the questions of banning the activities of a religious organization and its liquidation are not within the competence of local self-governance.
- 2.5. In the Kyrgyz Republic, any illegal missionary activity is prohibited. Persons violating this rule shall be liable. It also prohibits insistent actions aimed at converting adherents of one confession to another (proselytism). At the same time, the Law does not define the concept of "insistence", allowing a subjective interpretation, whereas precisely "insisting" actions for conversion to another faith should entail "liability".
- 2.6. The Code on Administrative Responsibility in force until January 1, 2019 provided liability of clergy and members of religious associations for violation of the legislation on religious associations in terms of violation of the rules for organizing and holding religious meetings, processions and other religious ceremonies established by Law. From January 1, 2019, this provision was completely transferred to the Code of Violations.
- 2.7. However, courts do not clarify which rules for organizing, holding religious meetings, processions and other religious ceremonies are violated.
- 2.8. Also, there are cases of detainees charged with administrative offence for "daavat" (Islamic missionary activity) without authorization documents based on part 1 of the Article 371 of the Code on Administrative Responsibility: "disobeying of a lawful order or request of law enforcement officers and other officials carrying out duties on protection of public order."(From January 1, 2019, this provision is reflected in Article 82 of the Code of Violations).
- 2.9. For instance, on April 13, 2016, the Naryn City Court convicted detained citizens for disobeying the law enforcement officers to stop the "daavat" and sentenced for 3 days of administrative detention. The grounds for the detention of persons conducting "daavat" and bringing their responsibility was the absence of permission from the Spiritual Administration

of Muslims of Kyrgyzstan, which is a religious organization, whose internal documents are in no way normative legal acts and are not included in the legislation of the Kyrgyz Republic.

2.10. In court hearings, it is not clarified which provision of the law requires a permit to conduct a “daavat” and which body is authorized to give such permission.

2.11. Recommendations:

2.11.1. Bring national legislation on freedom of religion into line with international human rights standards;

2.11.2. Eliminate the practice of arbitrary decision-making on the issue of restrictions and prohibition of religious activities;

2.11.3. Adherence to the principles of equality and non-discrimination for all, regardless of religion.

3. Manifestations of intolerance and discrimination based on religion or belief.

3.1. The Constitution of the Kyrgyz Republic prohibits discrimination on the basis of gender, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, as well as other circumstances, and does not allow propaganda of national, ethnic, racial, religious hatred, gender and other social superiority calling for discrimination, hostility or violence. This is one of the most important guarantees of equal rights and freedoms of a person and citizen by the State. However, there is a tendency of increasing intolerance and violence in Kyrgyzstan.

3.2. Thus, on the night of October 16, 2018 in the village of Tamchy of the Issyk-Kul oblast, three people broke into the house of a Christian resident, but at that time he was not at home, and a relative from another village named Satar uulu E., born in 1993, was in his house. Unidentified people asked what religion he practices, to which Eldos replied that he believed in Jesus Christ. Three individuals began to brutally beat Eldos, demanding to utter the Muslim prayer, which Eldos refused to, resulting in serious injuries and unconsciousness. The victim was hospitalized in serious condition with a broken jaw and a forensic medical examination was assigned. The press service of the Department of the Interior Affairs of the Issyk-Kul oblast, without initiating an investigation, claimed that the conflict occurred on a domestic basis. The victim’s defense has repeatedly made statements to the media, wrote complaints to the relevant state authorities, including the President of the country on the fact of beating on the grounds of religious hatred. On this fact a criminal case was initiated under the article "Hooliganism".

3.3. None of the similar cases involved the presence of intolerance based on religion, or addressed the issue of liability for the manifestation of religious intolerance.

3.4. It should be noted, the manifestation of hostility, violence and discrimination by the local population and local authorities in the burial of believers is against Kyrgyz Christian, in particular. There are facts when local residents opposed the burial of the dead at the local cemetery, dug up the corpse and buried it elsewhere. All actions were accompanied by pressure and threats of violence against the family of the deceased, including the demands to abandon the faith.

3.5. Thus, on October 13, 2016, a resident of the village of Sary-Talaa of the Ala-Buka district, who practiced Christianity, died. Relatives of the deceased gathered to bring her body to the ground, but the police officers, accompanied by the local imam, representatives of the Akimiat, the local Kenesh and the villagers, began to put forward conditions for the departed

family members to renounce Christianity and convert to Islam. By exerting psychological pressure on relatives and threatening to be stoned and not bring their bodies to the ground, they forced the daughter of the deceased to repeat the Muslim prayer. But even after that, as the brother and daughter of the deceased had renounced Christianity, they were not allowed to bury the deceased at the local cemetery. All this time, for 5-6 hours, police officers stood nearby and together with others insulted the relatives of the deceased. Representatives of the local authorities offered to bury the body of the deceased in the village of Oruktuu, since the body of the representative of Jehovah's Witnesses was buried there earlier, which was done. However, after the body was interred, the police together with the local residents again demanded the body to be dug out and taken to another cemetery. Only, in the village of Ala-Buka, a cemetery officer allowed the body to be buried for 5000 soms. However, on October 17, the same police officers called the daughter of the deceased and asked to come to the cemetery. According to the guard of the cemetery, unknown persons, together with police officers, dug the grave and took the body away in an unknown direction. Subsequently it became known that the deceased was reburied in the mountains.

- 3.6. Despite that on this fact two citizens from the local population were prosecuted and sentenced to suspended sentence with a probation period of 1 year. None of the police officers and local authorities has been brought to justice.
- 3.7. It is worth noting that the Kyrgyz Republic has repeatedly received a number of recommendations for the adoption of comprehensive anti-discrimination legislation, but no effective measures are being taken.
- 3.8. Recommendations:
 - 3.8.1. Bring national legislation into line with the principle of non-discrimination to ensure a comprehensive prohibition of discrimination;
 - 3.8.2. Conduct a full and effective investigation into the facts of intolerance based on religion;
 - 3.8.3. Strengthen the work on ensuring state-confessional dialogue on issues of equality, tolerance and non-discrimination.

4. Criminal prosecution on charges of possession and dissemination of extremist materials.

- 4.1. One of the most pressing issues today is the issue of respecting the guarantees of human rights and freedoms in the context of countering extremism. The term “extremism” is used in the Law of the Kyrgyz Republic “On counteracting extremist activity” in brackets along with the term “extremist activity” and lists only 13 acts representing various manifestations of extremist activity (extremism). At the same time, the law does not give a definition of the concept of extremism, which would reveal all its essential features.
- 4.2. The Law of Kyrgyz Republic “On Freedom of Religion and Religious Organizations in the Kyrgyz Republic” does not disclose the content of such concepts as: “insulting religious feelings”, “promoting religious exclusivity”, “religious extremism”, “religious separatism”, “religious fundamentalism”, “ideas of religious extremism, separatism and fundamentalism”, although it uses these terms in the text.

- 4.3. According to the judicial review on consideration of criminal cases on terrorism and extremism¹, in the Supreme Court of the Kyrgyz Republic, 244 criminal cases on extremism and terrorism were investigated against 254 persons to summarize judicial practice; 242 cases with conviction were investigated against 252 people (46 of them are women). In total, 213 people (84.5% of the total number) were convicted of “acquiring, manufacturing, storing, disseminating, transporting and shipping extremist materials, as well as willful use, including the display of symbols or attributes of extremist or terrorist organizations”.
- 4.4. Part 1 of Article 299-2 of the Criminal Code in force until January 1, 2019 established criminal liability for the acquisition, manufacture, storage, dissemination, transportation and transfer of extremist materials, as well as willful use, including the display of symbols or attributes of extremist or terrorist organizations. Thus, the criminal law established the responsibility for the “storage” of extremist materials, regardless of the intent to disseminate.
- 4.5. The Criminal Code, which entered into force on January 1, 2019, adopted the old standard specifying “storage for the purpose of dissemination”. However, even with this novation, a number of problems remain unsolved: first, the new Criminal Code does not contain the definition of the term “extremist materials”; the second, it is not clear how it will be determined that “storage” has a “purpose of dissemination” in relation to electronic materials and electronic media.
- 4.6. Broad, insufficiently precise wording on the basis of which convictions are made violate the universally accepted principle in matters of sufficiency and clarity of the formulation of punishable acts, so that each person has an idea for which acts responsibility comes.
- 4.7. The results of the analysis of court decisions made from January 1, 2017 to May 1, 2018 on charges of “acquiring, manufacturing, storing, disseminating, transporting and shipping extremist materials, as well as intentionally using symbols or attributes of extremist or terrorist organizations,” showed that in 100% of cases (91 cases) the court, when passing a sentence, refers to the conclusions of the expertise conclusions. In 94% of cases, religious or theological expertise was appointed; both are often used as synonyms, which is a serious methodological error.
- 4.8. Analysis of judicial acts shows that the courts often came to the conclusion that there were signs of extremism in the materials, relying on the legal assessment of the materials given by a religious expert or theologian, and not by the court itself. In many judicial acts, the courts did not attempt to analyze the texts and in decisions only reproduced the conclusion of the expertise conclusions.
- 4.9. Recommendations:
- 4.9.1. Bring anti-extremist legislation into line with international human rights standards to eliminate broad, ambiguous and obscure language;
- 4.9.2. Provide all accused persons with the full scope of rights and freedoms at all stages of inquiry, investigation and trial.

¹ Resolution of the Plenum of the Supreme Court of the Kyrgyz Republic No. 8 dated June 15, 2016 // Bulletin of the Supreme Court of the Kyrgyz Republic No. 2 (63) 2016. Available on the website: http://jogorku.sot.kg/sites/default/files/images/byulleten_263_2016.pdf