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# **KEY CONCERNS AND RECOMMENDATIONS ON THE PROTECTION OF FUNDAMENTAL RIGHTS IN KYRGYZSTAN**

**Briefing paper for EU-Kyrgyzstan Human Rights  
Dialogue, June 2017**



This briefing paper has been prepared by International Partnership for Human Rights (IPHR) and the Legal Prosperity Foundation (LPF) as a contribution to the EU-Kyrgyzstan Human Rights Dialogue, which is scheduled to take place in Brussels in June 2017. It provides an overview of current key issues with respect to freedom of expression and the media, freedom of association, freedom of peaceful assembly and human rights defenders in Kyrgyzstan. It was finalized on 24 May 2017.

**International Partnership for Human Rights (IPHR)** is an independent, non-governmental organization founded in 2008. Based in Brussels, IPHR works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities in repressive environments.

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# Freedom of expression and the media

## Intolerance of criticism and defamation lawsuits

Although the free speech and media climate in Kyrgyzstan is more favourable than in the other Central Asian countries<sup>1</sup>, and there are more opportunities for expressing different views, the situation has recently deteriorated. Public figures have demonstrated increasing intolerance of criticism, with journalists and other outspoken individuals being singled out for verbal attacks by public officials, in pro-government media and on social media. In particular, **President Atambayev has stepped up rhetoric against those critical of his policies.** In a statement made on 11 March 2017, he accused “a bunch of supposedly independent journalists, media and politicians” of slandering and discrediting him in the name of freedom of speech and claimed that their true objective is to “destabilize the situation” in the country.<sup>2</sup>

In a development of particular concern, **major independent media outlets have recently faced financially crippling defamation lawsuits because of reporting displeasing the president.** These excessive and disproportionate lawsuits threaten freedom of expression and risk contributing to self-censorship:

- In March 2017, Kyrgyzstan’s General Prosecutor **filed two defamation lawsuits against the Kyrgyz service of Radio Free Europe/Radio Liberty, Radio Azattyk and the independent Zanoza news site.** The general prosecutor requested a total of 26 million som (about 350 000 EUR) in compensation for articles that reported accusations against Atambayev made by arrested MP Omurbek Tekebayev – a former ally of Atambayev who fell out of favour after opposing controversial constitutional changes adopted last year - and those made by his Ata Meken political party.<sup>3</sup> These accusations were also reported by other media, which have not been sued. This suggests that Radio *Azattyk* and Zanoza were selectively targeted. The chief editor of Radio Free Europe/Radio Liberty has stressed that the outlet reported accusations made at public forums and that it has not accused anyone in its own name.<sup>4</sup>

In three additional separate lawsuits initiated in March-April 2017, the General Prosecutor’s Office **sued the Zanoza news site, its journalist and co-founder Narynbek Idinov (pen name Naryn Ayp), as well as its chief editor and co-founder Dina Maslova** for a total of more than 20 million som (some 270 000 EUR) over several other articles allegedly defaming the president.<sup>5</sup> These articles include one article critical of the president that was published already in 2015, and another article on a parliamentary debate on the arrest of Tekebayev. A third article that was argued to be defamatory reported statements made by former MP and head of the Adilet legal clinic **Cholpon Djakupova**, who

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<sup>1</sup> In the the 2017 Press Freedom Index published by Reporters without Borders, Kyrgyzstan was ranked 89th among 180 countries (down four positions from the previous year), while the other four Central Asian countries were ranked on place 149 and lower.

<sup>2</sup> The statement is available in Russian at:

[http://www.president.kg/ru/novosti/9394\\_zayavlenie\\_prezidenta\\_kyrgyzskoy\\_respubliki\\_ash\\_atambaeva/](http://www.president.kg/ru/novosti/9394_zayavlenie_prezidenta_kyrgyzskoy_respubliki_ash_atambaeva/)

<sup>3</sup> See *Kloop* overview of the defamation lawsuits initiated in protection of the president’s honour and dignity:

<https://kloop.kg/blog/2017/03/11/chest-i-dostoinstvo-prezidenta-s-kem-sudilsya-atambaev-2/>

<sup>4</sup> *Radio Azzatyk*, “«Азаттык»: Наши сообщения основаны на публичных выступлениях”, 13 March 2017,

<https://rus.azattyk.org/a/28364472.html>

<sup>5</sup> *Zanoza*, “Против Zanoza.kg подан пятый судебный иск”, 28 April 2017,

[http://zanoza.kg/doc/356510\\_protiv\\_zanoza.kg\\_podan\\_piatyy\\_sydebnyy\\_isk.html](http://zanoza.kg/doc/356510_protiv_zanoza.kg_podan_piatyy_sydebnyy_isk.html)

harshly criticized the president's recent actions against media at a roundtable organized by Kyrgyzstan's Human Rights Ombudsman. Djakupova was also herself sued over this article for 3 million som (some 40 500 EUR).

As a result of court decisions, the **bank accounts of Radio Azattyk and Zanoza were frozen** pending the outcome of the legal proceedings and **the articles under investigation were blocked** on their websites. On 18 May 2017, Bishkek City Court upheld **a travel ban on journalists Narynbek Idinov and Dina Maslova, as well as human rights defender Cholpon Djakupova** pending the outcome of the trials in their cases. This ban means that they are not allowed to travel abroad for either professional or personal reasons. The General Prosecutor's Office argued that the ban is needed to prevent "a delay" of the proceedings. The court also **approved the seizure of Djakupova's property as collateral** against the compensation she may be ordered to pay if the defamation suit initiated against her is approved by court.

**President Atambayev has publicly branded Radio Azattyk and Zanoza as "slanderers"** and said that he is ready to take the defamation case against the Kyrgyz service of Radio Free Europe/Radio Liberty "to international courts" if needed. However, in what appeared to be a partial change of heart, the president's office issued a **statement on 12 May 2017**, saying that Atambayev had **suggested that the General Prosecutor considers withdrawing the defamation suits against Radio Azattyk**. According to the statement, "a positive trend" had been observed since the president met with the head of Radio Free Europe/Radio Liberty Thomas Kent at the end of March 2017, resulting in "more balanced" reporting and "improved quality" of its coverage.<sup>6</sup> The statement **did not say anything about the claims against Zanoza, its journalists or Cholpon Djakupova**.

As of late May 2017, the General Prosecutor had not withdrawn any of the defamation suits initiated in recent months.

- In March 2017, the president's Social Democratic Party **sued the 24.kg news portal, its journalist Tatyana Kudryatseva and human rights defender Rita Karasartova** for defamation, requesting a total of 2 million som (over 25 000 EUR) in compensation because of an article published in February 2017.<sup>7</sup> This article discussed elections at the regional level in Kyrgyzstan and featured a quote by Karasartova, who accused the Social Democratic Party of "selling positions". According to the party, this allegation "has nothing to do with reality" and undermines its reputation "in the eyes of the people of Kyrgyzstan and, above all, the party's voters."<sup>8</sup>

Representatives of Kyrgyzstan's journalist community, civil society and human rights defenders have **criticized the huge defamation lawsuits initiated against the media outlets, journalists and human rights defenders as an attempt to intimidate critics of those in power and stifle free speech**. For example, a statement issued by Kyrgyzstan's Independent Journalist Union stressed that "insensitivity to criticism and inability to dialogue, as well as a discriminatory approach toward inconvenient media are impermissible in a democratic society" and

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<sup>6</sup> "Президент Алмазбек Атамбаев предложил Генеральной прокуратуре рассмотреть вопрос об отзыве исковых требований к учреждению «Азаттык медиа», 12 May 2017, [http://www.president.kg/ru/novosti/9706\\_prezident\\_almazbek\\_atambaev\\_predlozil\\_generalnoy\\_prokurature\\_rassmotret\\_vopros\\_ob\\_otzyve\\_iskovyih\\_trebovaniy\\_k\\_uchrejdeniyu\\_azattyk\\_media/](http://www.president.kg/ru/novosti/9706_prezident_almazbek_atambaev_predlozil_generalnoy_prokurature_rassmotret_vopros_ob_otzyve_iskovyih_trebovaniy_k_uchrejdeniyu_azattyk_media/)

<sup>7</sup> 24.kg, "СДПК требует от ИА «24.kg» один миллион сомов", 10 March 2017, [http://24.kg/obschestvo/46932\\_sdpk\\_trebueta\\_ot\\_ia\\_24kg\\_odin\\_million\\_somov/](http://24.kg/obschestvo/46932_sdpk_trebueta_ot_ia_24kg_odin_million_somov/)

<sup>8</sup> See the previous footnote.

called for the withdrawal of the lawsuits.<sup>9</sup> Ombudsman Kubat Otorbaev also made a similar appeal and urged national courts to issue “lawful and just” decisions in response to the lawsuits, unless they are pulled back.<sup>10</sup>

The **OSCE Representative of Freedom of the Media** has previously **called on the authorities in Kyrgyzstan not to impose disproportionate and excessive penalties for civil defamation**, stressing that: “Public officials must exercise great restraint when faced with critical reporting and tolerate a higher degree of criticism than ordinary citizens.”<sup>11</sup> The **UN Human Rights Committee** has also emphasized that “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism”. It has, further, pointed out that the “**penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression**”.<sup>12</sup>

National legislation requires the General Prosecutor to take legal action on behalf of the president in response to information defaming his honour and dignity, but also states that this should only be done when other measures have proven ineffective. In the cases described above, the General Prosecutor is not known to have taken any other measures prior to resorting to lawsuits. International institutions have **called on Kyrgyzstan to abolish the duty of the General Prosecutor to protect the honour and dignity of the president**, emphasizing that it is not consistent with democratic standards that this office acts as the president’s personal attorney.<sup>13</sup> At the beginning of May 2017, **the constitutional chamber of the Supreme Court admitted for consideration an appeal submitted by over 100 people**, requesting that the chamber deem unconstitutional provisions of the Law on the Guarantees of the President’s Activities that set out the obligation of the General Prosecutor to protect the president’s honour and dignity. The appeal stressed that all individuals should enjoy legal protection on an equal basis, in accordance with the principle of equality before the law.<sup>14</sup> According to lawyer Klara Sooronkulova, who was among those signing the appeal, the legal proceedings relating to the defamation suits initiated by the General Prosecutor are due to be suspended for the duration of the consideration of the appeal by the Supreme Court chamber. This may take two to six months.<sup>15</sup>

In another problematic development, some journalists have been denied access to public events, such as the president’s annual press conference in December 2016, when Fergana News correspondent Ulugbek Babakulov – who has repeatedly faced verbal attacks and threats<sup>16</sup> – and others were not allowed to attend.

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<sup>9</sup> *Radio Azattyk*, “Независимый союз журналистов выражает обеспокоенность в связи с исками против трех СМИ”, 10 March 2017, <http://rus.azattyk.org/a/28362068.html>

<sup>10</sup> Voice of Freedom, “Алмазбека Атамбаева призывают отозвать миллионные иски против СМИ”, 30 March 2017, <http://golos.kg/?p=35620>

<sup>11</sup> See statement from December 2015 at: <http://www.osce.org/fom/210251>

<sup>12</sup> UN Human Rights Committee, *General comment No. 34, Article 19: Freedoms of opinion and expression*, par. 38, 42, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f34&Lang=en#sthash.Za4ksTP6.dpuf](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f34&Lang=en#sthash.Za4ksTP6.dpuf).

<sup>13</sup> See OECD report on anti-corruption reforms in Kyrgyzstan, page 80, <https://www.oecd.org/corruption/acn/Kyrgyzstan-Round-3-Monitoring-Report-ENG.pdf>

<sup>14</sup> *Internews*, “Конституционная палата ВС КР рассмотрит обращение граждан в связи с исками генпрокурора к ряду изданий”, 5 May 2017, <http://internews.kg/?p=13022>

<sup>15</sup> See previous footnote.

<sup>16</sup> In particular, he was subjected to attacks on his person after drawing attention to nationalist rhetoric used in a leading Kyrgyz TV show in May 2015. See: <http://www.fergananews.com/articles/8550>

On that occasion, the president publicly accused the blacklisted journalists of being “PR:ists” who “do not need information” but are only interested in “throwing dirt” on him.<sup>17</sup>

## Measures targeting social media users

Recently reports have also surfaced about **efforts by security services to track down and intimidate social media users** who have published information critical of the president. In a letter that appeared online at the beginning of 2017<sup>18</sup>, the State Committee for National Security (SCNS) stated that measures had been taken to identify the IP-addresses of a total of **45 Facebook users posting negative information about the president**, in response to a request for action against such social media users by an MP from the president’s Social Democratic Party. According to media reports, a number of social media users were summoned, questioned and warned by security services because of negative posts about the president.<sup>19</sup>

In December 2016, poet **Temirlan Ormukov was summoned** by the General Prosecutor’s Office **because of his satirical poems about President Atambayev** posted on Facebook. According to the poet, he was told that his poems contained elements that “promote inter-ethnic hatred” and “discredit the honour and dignity of the president”. Later, a criminal case was opened against Ormukov under a criminal code provision that bans knowingly making false accusations about the commission of crimes (article 329) on the basis of a complaint filed by an MP, whom the poet has accused of corruption. The case was submitted to court in March 2017. The criminal code provision in question has been criticized for threatening freedom of expression and for de-facto representing a form of criminal defamation.<sup>20</sup> A conviction under it could result in imprisonment.

In March 2017, a few MPs put forward **draft legislation regulating the publication of information by internet users**, whose blog or social media posts are accessed by more than 1000 people a day.<sup>21</sup> The draft legislation, among others, proposed establishing a government register of such internet users and obliging them to verify the “accuracy” of the information they post. The initiative, which drew heavily on recent Russian legislation, **was met by a public outcry** with critics decrying it as an attempt to restrict freedom of expression online. As a result of the overwhelmingly negative public response, the initiators pulled back the draft legislation and said it will be revised.<sup>22</sup>

## Arrests of journalists

In another recent development of concern, on 26 February 2017, law enforcement authorities **detained several journalists who were covering the arrest of MP Omurbek Tekebayev** at Manas International Airport in

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<sup>17</sup> See *Kloop* article about the president’s press conference at: <https://kloop.kg/blog/2016/12/01/live-press-konferentsiya-prezidenta-atambaeva/>

<sup>18</sup> See more at: <https://kloop.kg/blog/2017/01/10/spetssluzhby-proveryayut-kritikov-atambaeva-v-fejsbuke/>

<sup>19</sup> *Radio Azattyk*, “ГКНБ сделал предупреждения за посты об Атамбаеве 11 пользователям соцсетей в Джалал-Абаде”, 10 January 2017, <http://rus.azattyk.org/a/28222926.html>

<sup>20</sup> See statement by the OSCE Representative on Freedom of the Media, referring to a legal analysis undertaken by her office prior to the adoption of the criminal code provision: <http://www.osce.org/fom/117942>

<sup>21</sup> *Kloop News*, “Аккаунт виртуальный, штраф реальный. Власти Кыргызстана хотят отслеживать, что вы пишете в соцсетях”, 4 March 2017, <https://kloop.kg/blog/2017/03/04/akkaunt-virtualnyj-shtraf-realnyj-vlasti-kyrgyzstana-hotyat-otslezhivat-chto-vy-pishete-v-sotssetyah/>

<sup>22</sup> *Radio Azattyk*, “Депутаты отозвали спорный законопроект”, 6 March 2017, <http://rus.azattyk.org/a/28353013.html>

Bishkek. Tekebayev, who – as already mentioned above – is a former ally turned opponent of the president, is facing fraud and corruption charges and was arrested when he returned to the country after attending an OSCE meeting in Vienna. Several media organizations issued a joint statement protesting against the detentions of journalists Zaryl Shermamatov and Munarbek Jorgomov from the September TV company, Ulan Egizbayev from the Kyrgyz service of Radio Free Europe/Radio Liberty and Murat Soorbekov from the Bia.kg site.<sup>23</sup> Although the journalists introduced themselves and showed their documentation, they were taken to a local police station, where they were held for some time before being released. The joint statement concluded that these actions violated the journalists' right to carry out their professional activities and called for a thorough investigation into the incident with a view to holding those responsible to account.

As described below (see the section on freedom of assembly under civil society space), **a BBC journalist was briefly detained in connection with the march in support of free speech held in Bishkek on 18 March 2017.** This measure violated the obligation of law enforcement authorities to ensure that media representatives can carry out their work without hindrance when covering assemblies.

## Recommendations

The authorities of Kyrgyzstan should be requested to comply with the following recommendations:

- Public officials should refrain from hostile and stigmatizing rhetoric portraying independent media, journalists, human rights defenders and government critics as threats to national security and instead publicly welcome and encourage open debate on problems and challenges facing the country.
- Public officials should refrain from initiating defamation lawsuits in retaliation against independent media, journalists, human rights defenders and others who criticize their policies, and the country's courts should ensure that no one is penalized merely for criticising authorities.
- The authorities should abolish the role of the General Prosecutor with respect to initiating legal action to defend the honour and dignity of the president, as being inconsistent with national and international human rights standards. All defamation lawsuits initiated by this office on behalf of the president should be withdrawn.
- Any defamation lawsuits submitted to court should be examined in full accordance with fair trial guarantees, and any decision handed down on such lawsuits should be consistent with international provisions protecting freedom of expression and the strict requirements with respect to restrictions on this right. Any amounts awarded in moral compensation should be reasonable and proportionate to the damage deemed to have been inflicted.
- The authorities should protect the right to freedom of expression on the internet and ensure that no measures are taken to unduly restrict the rights of social media and other internet users in violation of national and international standards.
- The authorities should ensure that journalists are not detained when carrying out their professional activities and investigate all reported cases of detentions carried out on this ground.

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<sup>23</sup> The joint statement is available at: <http://medialaw.kg/2017/02/27/zayavlenie-media-organizatsij-po-sluchayu-zaderzhaniya-zhurnalistov/>

- The authorities should ensure that journalists are not arbitrarily denied access to public events they seek to cover in their capacity as journalists.

## Freedom of association

The Constitution of Kyrgyzstan protects the right to freedom of association and states that citizens may establish associations on the basis of their free will and common interests. NGOs may operate with or without legal status and the registration procedure is quick and simple.<sup>24</sup> The **civil society sector in Kyrgyzstan is dynamic and several thousand NGOs currently operate** in the country.<sup>25</sup>

Recently, however, **the operating environment for NGOs has deteriorated** with the protracted public discussion on the Russia-inspired “foreign agents” law contributing to **negative and hostile attitudes** toward NGOs. This draft law, which would have required NGOs to adopt the stigmatizing label of “foreign agents” if they receive foreign funding and engage in broadly defined “political activities”, was eventually rejected by the parliament in spring 2016 after first being introduced by a group of MPs more than two years earlier. However, the discussion surrounding the draft law has had a long-lasting impact. Human rights defenders also **fear that new initiatives to restrict the funding and activities of NGOs may follow**. Such fears were reinforced by a speech delivered by President Atambayev on 3 April 2017. In this speech, he stated: “We must not allow certain figures, who pose as human rights defenders, opposition members or NGOs representatives but in reality ‘work off’ money received from abroad, to impose alien values on people and seek to turn our children into *mankurts* [meaning people who have lost touch with their roots]. Frankly speaking, it is time to defend our country against such human rights activists. [It is time to] [p]rotect the independence of Kyrgyzstan and the future of the people of Kyrgyzstan [as well as to] [p]rotect peace and stability in our country.”<sup>26</sup> This is not the first time that the president and other public figures have accused human rights defenders of acting on behalf of foreign donors and undermining national values, cohesion and security.

In the current negative climate, **some human rights NGOs have been subjected to intimidation and undue interference into their activities**. These are two examples involving human rights NGOs providing legal assistance in the southern part of the country:

- In late January 2017, the State Committee on National Security (SCNS) issued a press release **accusing the Bir Duino Human Rights Movement of obstructing a law enforcement operation to arrest an individual suspected of extremism** in the Osh region. Bir Duino has dismissed this accusation as groundless, saying that no one from the organization was present during the arrest, and that it

<sup>24</sup> Note: The term used by national legislation is “non-commercial organization” rather than NGO.

<sup>25</sup> According to the International Center for Not-for Profit Law, about 4500 NGOs currently operate in the country: <http://www.icnl.org/research/monitor/kyrgyz.html>

<sup>26</sup> The president’s statement (in Russian) is available at:

[http://www.president.kg/ru/news/vystuplenija\\_obraschenija/9505\\_prezident\\_aatambaev\\_osoznanie\\_otvetstvennosti\\_pered\\_istoriej\\_i\\_buduschim\\_obyazyivaet\\_nas\\_vyjty\\_na\\_rubej\\_2040\\_goda\\_silnyim\\_samodostatochnym\\_vyisokorazvityim\\_gosudarstvom\\_/](http://www.president.kg/ru/news/vystuplenija_obraschenija/9505_prezident_aatambaev_osoznanie_otvetstvennosti_pered_istoriej_i_buduschim_obyazyivaet_nas_vyjty_na_rubej_2040_goda_silnyim_samodostatochnym_vyisokorazvityim_gosudarstvom/)

considers this claim an attempt to discredit the organization.<sup>27</sup> It filed a lawsuit against the security services, and the trial began in late April 2017. In an earlier development that appeared aimed at putting pressure on Bir Duino, SCNS officials searched the organization's branch office, as well as the homes of two of its lawyers in Osh in March 2015, confiscating material in dozens of cases in which the organization was providing legal assistance.<sup>28</sup> These searches were subsequently deemed unlawful by the Supreme Court.

- In June 2016, representatives of the Jalal Abad-based *Spravedlivost* NGO were intimidated and questioned by law enforcement officials because of their efforts to defend the rights of primarily ethnic Uzbek residents facing forced eviction in connection with a public construction project. They were, among others, accused of promoting inter-ethnic tensions in the city. State-controlled media also reported negatively on the organization and its work.<sup>29</sup>

## Recommendations

The authorities of Kyrgyzstan should be requested to:

- Refrain from any new attempts to introduce legislation restricting the right to freedom of association of NGOs in ways that are incompatible with Kyrgyzstan's international human rights obligations.
- Closely cooperate with NGOs on developing and improving the country's legislation and policies, in particular with respect to any instruments or mechanisms that directly affect the operation of civil society organizations.
- Refrain from using negative and stigmatizing language against human rights NGOs and their representatives and instead publicly express support for their efforts to defend the rights of citizens.
- Ensure that NGOs are not subject to undue interference into their work and that allegations of such interference are promptly, thoroughly and impartially investigated and those responsible held accountable.

## Freedom of peaceful assembly

Kyrgyzstan's 2012 Law on Peaceful Assemblies<sup>30</sup> reflects the principle of presumption in favour of holding assemblies, in accordance with the OSCE Guidelines on Peaceful Assembly, and protects the right to organize and hold assemblies without requiring permission to do so.<sup>31</sup> The law sets out the obligation for state authorities to facilitate and protect both planned and spontaneous peaceful assemblies.

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<sup>27</sup> Заявление ПД "Бир Дуйно Кыргызстан о несогласии с полученным ответом из Джалал-Абадской прокуратуры," 20 April 2017, <http://birduino.kg/ru/pressa/614-zayavlenie-pd-bir-dujno-kyrgyzstan-o-nesoglasii-s-poluchennym-otvetom-iz-dzhalal-abadskoj-prokuratury>

<sup>28</sup> For more information on this case, see IPHR briefing paper from May 2015: [http://iphronline.org/wp-content/uploads/2015/05/iph\\_r\\_submission\\_on\\_civil\\_society\\_issues\\_to\\_eu-kyrgyzstan\\_human\\_rights\\_dialogue\\_2015.pdf](http://iphronline.org/wp-content/uploads/2015/05/iph_r_submission_on_civil_society_issues_to_eu-kyrgyzstan_human_rights_dialogue_2015.pdf)

<sup>29</sup> Frontline update from June 2016, at <https://www.frontlinedefenders.org/node/2379>

<sup>30</sup> The law (in Russian) is available at: <http://cbd.minjust.gov.kg/act/view/ru-ru/203664?cl=ru-ru>

<sup>31</sup> The OSCE Guidelines are available at: <http://www.osce.org/odihr/73405?download=true>

According to the Law on Assemblies, the organizers of assemblies should submit a written notification to authorities at least two days in advance. However, according to the constitution, **it is the right rather than the obligation of the organizers to notify authorities in advance**; the conduct of peaceful assemblies may not be prohibited or restricted because no notification has been submitted or because it has not been submitted fully in accordance with the technical requirements for notifications set out by law. Assemblies may only be banned if they are aimed at promoting certain unlawful objectives, such as propaganda of war and violence, and the time or place of assemblies may only be restricted in order to ensure the safety of the participants or other citizens. Authorities must request a court review of the lawfulness of any decisions to ban or restrict assemblies within 24 hours.

In practice, however, **authorities sometimes curtail peaceful protests simply because of the lack of advance notification or impose restrictions on the time and place of assemblies in violation of the requirements of the law**. Moreover, in some cases, law enforcement authorities have **unduly interfered with the conduct of peaceful assemblies and detained participants** on different pretexts. As described below, several recent protests against the high-profile arrests of opposition members and growing threats to freedom of expression have involved unjustified restrictions on the right to freedom of peaceful assembly, and violations of the rights of protest participants have been documented in these cases. Those responsible for violations of the right to freedom of assembly are typically not held accountable, resulting in impunity for such actions.

- In late February 2017, the head of the civil society Committee for the Protection of Free Speech **notified local authorities that a peaceful assembly would be held in Bishkek on 28 March to draw attention to violations of freedom of expression** and discrediting of political opponents. In response to this, the police department of the capital's Leninsky district, where the protest was planned to take place, submitted a petition to court requesting a **temporary ban on holding assemblies in this district from 20 March to 8 April**. In a decision issued on 17 March, the Leninsky District Court approved this request, with reference to public celebrations scheduled to take place in the district during the period in question and the need to safeguard public order and security and prevent terrorist threats. The court ordered all peaceful assemblies to be relocated to the Ak-kula hippodrome during this period. This **court decision was highly problematic**. As noted above, in accordance with the Law on Assemblies, restrictions on the venue of assemblies may be imposed to ensure the safety of participants or other citizens but there must be weighty grounds for concluding that such a threat exists and the circumstances must be carefully assessed in each specific case. The blanket ban on holding protests in an entire district of the capital, which the local court imposed for a period of almost three weeks, did not meet these requirements and violated international standards.
- On 18 March 2017, a **peaceful march in support of freedom of speech** took place in Bishkek.<sup>32</sup> Local authorities had been informed in advance. As the participants were marching along the planned route from the Victory Park towards the centre of the city, **several people were detained by police** when they left the pavement and walked directly on the street, thereby supposedly violating public order. Among those detained were an MP and a BBC journalist covering the event, both of whom were briefly held before being released. Five youth opposition activists were brought to court the same day and sentenced to five days' arrest on charges of unlawfully blocking the street, disobeying

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<sup>32</sup> *Respublika*, "Марш за свободу слова закончился арестом нескольких участников", 18 March 2017, <http://respub.kg/2017/03/18/marsh-za-svobodu-slova-zakonchilsya-arestom-neskolnix-uchastnikov/>

law enforcement authorities and minor hooliganism, all of which are punishable under the country's Code on Administrative Offenses. The Khylym Shamy human rights NGO, which monitored the assembly, voiced concern that **police immediately detained the participants accused of violating public order without first warning them** as required by law. The organization also noted with concern that the **defendants' lawyers were not allowed to be present** at the trial and that the court failed to read out its decisions, in violation of international fair trial standards.<sup>33</sup>

The detained march participants reported being **held in inhumane and degrading conditions** when serving their five-day sentences.<sup>34</sup> In an interview conducted by Radio *Azattyk*, one of them described the detention facility where they were held as badly overcrowded, cold, dark, and insanitary.<sup>35</sup> The country's Ombudsman subsequently carried out an inspection of this facility and concluded that conditions there amount to torture.<sup>36</sup> The National Centre for the Prevention of Torture arrived at a similar conclusion.<sup>37</sup>

- On 25 March 2017, several hundred people **gathered in Bishkek to call for the release of former MP and opposition politician Sadyr Japarov**, who was detained the same day at the Kazakhstan-Kyrgyzstan border because of a criminal case opened against him. During the protest, some participants tried to break through a police cordon outside the detention facility where Khaparov was held and hit police officers with sticks and threw bottles at them.<sup>38</sup> In response, the **police forcefully dispersed the protest and detained a total of 105 people**, out of which 12 were fined and 64 sentenced by court to two-five days of arrest on charges of administrative offenses.<sup>39</sup> Another 12 participants were criminally charged with hooliganism, using force against representatives of authorities and deliberately damaging and destroying property and were placed in pre-trial detention.

There are concerns that some protesters were detained by individuals in plain clothes using unidentified vehicles, as well as that some detained **protest participants allegedly were subjected to ill-treatment**, with some reportedly requiring emergency medical assistance.<sup>40</sup> Video footage circulated online showed a group of detained young men with what appeared to be injuries sustained as a result of police abuse.<sup>41</sup> The Ombudsman, who monitored the legal proceedings against those detained, documented **procedural violations** such as the failure to explain to detainees the charges

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<sup>33</sup> See Kylym Shamy statement, 18 March 2017 at: <http://ksh.kg/2017/03/18/tszpch-kylym-shamy-vyrazhaet-ozabochennost-zaderzhaniem-uchastnikov-mirnogo-sobraniya-pravoohranitelnyimi-organami-i-vodvoreniiem-ih-v-priemnik-raspredelitel/>

<sup>34</sup> 24.kg, "Задержанные в Бишкеке участники марша свободы утверждают, что их пытали", 27 March 2017, [http://24.kg/obschestvo/47979\\_zaderjannnye\\_vbishkeke\\_uchastniki\\_marsha\\_svobody\\_utverjdayut\\_chno\\_ihpyitali/](http://24.kg/obschestvo/47979_zaderjannnye_vbishkeke_uchastniki_marsha_svobody_utverjdayut_chno_ihpyitali/)

<sup>35</sup> Radio *Azattyk*, "Аттокуров: Условия в приемнике-распределителе – моральная пытка", 30 March 2017, [http://rus.azattyk.org/a/kyrgyzstan\\_azamat\\_atokurov\\_priemnik/28399749.html](http://rus.azattyk.org/a/kyrgyzstan_azamat_atokurov_priemnik/28399749.html)

<sup>36</sup> *Kloop* News, "Омбудсмен назвал «пытками» условия содержания в бишкекском приемнике-распределителе", 29 March 2017,

<https://kloop.kg/blog/2017/03/29/ombudsmen-kubat-otorbaev-nazval-pytkami-usloviya-soderzhaniya-v-bishkekском-priemnike-raspredelitele/>

<sup>37</sup> Akipress, "Условия в приемнике-распределителе ГУВД есть, но они нечеловеческие, - Наццентр по предупреждению пыток", 30 March 2017, <http://kg.akipress.org/news:1373359>

<sup>38</sup> Radio *Azattyk*, "ГКНБ задержал экс-депутата Садыра Жапарова", 25 March 2017, <http://rus.azattyk.org/a/28390093.html>

<sup>39</sup> *Kloop* News, <https://kloop.kg/blog/2017/03/28/sud-prigovoril-rodstvennikov-zhaparova-k-dvum-mesyatsam-aresta/>

<sup>40</sup> See reposted Facebook post at: <https://ru-ru.facebook.com/KylymShamy/posts/736431663230805>

<sup>41</sup> The video is available at: <https://www.youtube.com/watch?v=Ifp-FegRIzc>

against them and their rights, as well as the failure to grant them access to legal assistance during the trial.<sup>42</sup>

Law enforcement authorities also **failed to comply with the requirement of the Law on Assemblies to promptly request a court review of the lawfulness of the forcible dispersal of the protest.** According to the law, if authorities do not comply with this requirement, the use of force will be considered unlawful.

## Recommendations

The Kyrgyzstani authorities should be requested to:

- Refrain from actions restricting the right to freedom of assembly in violation of national legislation and take all necessary measures to facilitate the conduct of peaceful assemblies.
- Ensure that any restrictions imposed on the conduct of assemblies are consistent with the requirements of the Law on Assemblies and that such restrictions are promptly reviewed by court.
- Carry out prompt, thorough and impartial investigations into all allegations of violations of the rights of protest participants, including arbitrary detentions, the use of excessive force, ill-treatment, and fair trial and due process violations with a view to holding those responsible to account.

## Human rights defenders

As already noted above, the climate in which human rights NGOs and defenders operate have recently deteriorated. The **case of imprisoned human rights defender Azimjan Askarov remains of serious concern.** **Other human rights activists**, who have prominently defended the rights of him and other victims of the miscarriage of justice after the June 2010 inter-ethnic violence, **were subjected to renewed pressure in connection with the re-trial against him.**

- Human rights defender **Azimjan Askarov**, who is serving a life sentence for his alleged role in the June 2010 inter-ethnic violence in southern Kyrgyzstan, **has yet to be granted justice.** In a decision issued in March 2016, the UN Human Rights Committee concluded that Askarov had been arbitrarily detained, tortured and subjected to inhumane treatment and that his right to prepare his defence and examine witnesses had been violated. It called for his immediate release and for quashing his conviction. Following this, Askarov and his legal counsel requested Kyrgyzstan's Supreme Court to review the case in accordance with the Committee's decision. However, **the Supreme Court failed to release Askarov and repeal his conviction** as called for by the Committee and instead **sent the case back for retrial at the appeals level.**<sup>43</sup> The retrial began at Chui Regional Court in October 2016 on the basis of results of the flawed investigation carried out in 2010. Following three months of proceedings, Chui

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<sup>42</sup> Office of the Ombudsman, "Омбудсмен Кубат Оторбаев провел мониторинг судебных процессов по задержанным на митинге в защиту С. Жапарова", March 2017, at <http://bit.ly/2pXd3rb>

<sup>43</sup> For more information, see IPHR statement on the Supreme Court ruling: <http://iphronline.org/kyrgyzstan-iphr-statement-sc-ruling-askarov-20160712.html>

Regional Court issued its verdict on 24 January 2017, upholding Askarov's life sentence, although no credible evidence of his guilt was presented at the trial.<sup>44</sup>

The outcome of the retrial against Azimjan Askarov was widely criticized by representatives of the international community. The UN High Commissioner for Human Rights stated that the ruling "highlights serious shortcomings in the country's judicial system" and "clearly did not take into account the views of the UN Human Rights Committee".<sup>45</sup>

Immediately after the ruling in the retrial was issued, Azimjan Askarov launched a hunger strike to protest against it. He continued his hunger strike for a week before ending it in response to requests of his colleagues and friends.

The defence has announced that it will appeal the ruling of Chui Regional Court to the Supreme Court.

- Well-known human rights defenders **Aziza Abdirasulova and Toleskan Ismailova**, who have been prominently involved in efforts to defend the rights of Azimjan Askarov, were subjected to **surveillance, wiretapping and attacks in media** in connection with the retrial against Askarov.<sup>46</sup> In one example of a verbal attack, former Ombudsman Tursunbek Akun said the following about the two defenders in an interview published in January 2017: "[...] they act in a biased manner, dance to the tune of those who pay, brought Azimjan Askarov to the world stage, disgraced Kyrgyzstan [...] This is not an achievement, it is shameful. Some people want to beat them up for this [...] or even kill them".<sup>47</sup> Last September, Aziza Abdirasulova and Toleskan Ismailova faced intimidation, defamation on social media and the **threat of criminal prosecution after participating in an OSCE human rights conference** in Warsaw, where they appeared next to an ethnic Uzbek refugee from Kyrgyzstan who is wanted by the authorities of the country on what are believed to be politically motivated grounds.<sup>48</sup> In a speech delivered on the occasion of Mother's Day in May 2016, **President Atambayev suggested that the two defenders are part of a movement bent on toppling the government** and that they are "working off" their foreign grants to this end.<sup>49</sup> The two defenders went to court seeking a retraction of this statement. Following earlier rejections by lower level courts, the Supreme Court rejected an appeal filed by Toleskan Ismailova on 22 May 2017. Aziza Abdirasulova plans to submit an appeal to the Supreme Court later.

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<sup>44</sup> See IPHR statement, "No justice for human rights defender Azimjan Askarov", 24 January 2017, <http://iphronline.org/kyrgyzstan-no-justice-hrd-askarov-20170124.html>. The verdict is available at: <http://birduino.kg/ru/prensa/572-prigovor-chujskogo-oblastnogo-suda-po-delu-pravozashchitnika-a-askarova-ot-24-yanvarya-2017g>

<sup>45</sup> Statement by UN High Commissioner for Human Rights, 24 January 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21113&LangID=E>

<sup>46</sup> For more information, see Fergana News article from 8 December 2016: <http://www.fergananews.com/article.php?id=9189>; and statement by the Observatory for the Protection of Human Rights Defenders from 9 December 2016: <http://www.omct.org/human-rights-defenders/urgent-interventions/kyrgyzstan/2016/12/d24095/>

<sup>47</sup> The interview is available at: [http://www.gezitter.org/interviews/57201\\_tursunbek\\_akun\\_eks-ombudsmen\\_nelzya\\_dopustit\\_polnogo\\_opravdaniya\\_azimjana/](http://www.gezitter.org/interviews/57201_tursunbek_akun_eks-ombudsmen_nelzya_dopustit_polnogo_opravdaniya_azimjana/)

<sup>48</sup> See more in statement issued by members of the Civic Solidarity Platform on 24 September 2016: <http://iphronline.org/csp-statement-threats-kyrgyz-hrd-20160924.html>

<sup>49</sup> The full text of the president's speech (in Russian) is available at: [http://zanoza.kg/doc/338166\\_atambaev\\_perechislil\\_vragov\\_naroda\\_i\\_nazval\\_ih\\_derokratami.html](http://zanoza.kg/doc/338166_atambaev_perechislil_vragov_naroda_i_nazval_ih_derokratami.html)

## Recommendations

The Kyrgyzstani authorities should be requested to:

- Fully implement the UN Human Rights Committee's decision in the case of Azimjan Askarov, including by releasing him, quashing his initial conviction and granting him adequate compensation.
- Ensure that the treatment of Azimjan Askarov in detention corresponds to international standards, including by granting him access to adequate medical assistance, as well as all medication he needs for his health problems.
- Ensure that human rights defenders can carry out their work without pressure and properly investigate all allegations of intimidation and harassment targeting defenders.
- Take concrete steps, in accordance with the guidelines and recommendations of UN bodies, the Venice Commission, the OSCE Office of Democratic Institutions and Human Rights and other international human rights mechanisms to ensure an enabling environment for human rights defenders.