

Kyrgyzstan

Situation of human rights defenders and legal prosecution

In recent years, the persecution of human rights organizations and human rights defenders who are actively involved in protecting the civil and political rights of citizens, ethnic minorities, religious practitioners and LGBT groups has periodically intensified in Kyrgyzstan.

Human rights NGOs are the most vulnerable to violation of their physical integrity. Human rights defenders are a special group of social activists whose freedom of activity is a direct indicator of the general level of human rights observance in a country. Most often human rights activists and civil society activists, including representatives of the LGBT community face threats aimed at intimidation, harassment, reduction and/or stoppage of human rights work.

Such vulnerability of NGOs engaged in the protection of human rights and promotion of civil interests, gender issues and advocacy is manifested primarily in the use by the country's government of increasingly severe anti-terrorism legislation and strengthening leverage of the government influence to limit the "political" activities of NGOs, which is sometimes accompanied by putting pressure on NGO leaders, as well as their family members.¹

During different periods, individual human rights defenders were forced to leave the country. The authorities denied employees of international organizations and experts entry into Kyrgyzstan. The latter case was related to the director of the Human Rights Watch office in Bishkek, Mihra Rittmann facing the refusal of entry.²

In March 2019, the issue of adopting the "foreign agent" law was raised again. Orozbek Opumbaev, the Deputy Head of the State Committee for National Security (SCNS), proposed the deputies to create in Kyrgyzstan the law on non-governmental organizations (NGOs) similar to the one adopted in Russia. The discussion was held on 13 March, 2019 at a general meeting of the parliament, at which they also discussed the women's march in commemoration of the International Women's Day (8 March) held in Bishkek and participation of the LGBT community representatives in it.

"The law on non-governmental organizations, which was adopted in Russia and in other countries, is the most necessary for today. The biggest problem is that funding goes unchecked, especially for LGBT people. How much money is provided to them and what is it spent on, which public events? If we pass this law, we will know which international organization is lobbying for a particular event, which foreigners arrive in the country, and how we can resist it," said Opumbaev. He added that the law on NGO activities should specify the goals and objectives of the organizations, as well as the responsibility of their management.³

At the end of May, there was an unprecedented case of disruption of the Coalition Against Torture event by a group of people who introduced themselves as members of the youth patriotic movements, Anti-terror Public Association, whose actions should receive legal assessment, and participants should be brought to strict liability.

In addition to the initiative to adopt the "foreign agent" law, a draft law on the activities of independent trade unions is also actively promoted in Kyrgyzstan. Since 12 April, 2019, a draft law on trade unions has been under

¹ The Tien-Shan AUCA Analytical Center with the support of the Central Asia in Motion Civil Partnership Platform and the HRM "Bir Duino-Kyrgyzstan", as well as the offices of DCA and ICCO in the Kyrgyz Republic. "Analysis of the NCO Development Enabling or Restricting Environment" (the results of the survey and focus group discussions). Page 12. Bishkek, 2014.

²http://zanoza.kg/doc/329258_glavy_bishkekskogo_ofisa_human_rights_watch_priznali_v_kr_personoy_non_grata.html

³<https://kloop.kg/blog/2019/03/13/gknb-predlozhitel-kyrgyzskim-deputatam-sozdat-zakon-ob-npo-kak-v-rossii/>

public discussion. Deputies propose to fix the mandatory requirements for the charter of the trade union, to specify the rights of trade unions and establish their duties. The document stipulates that the Federation of Trade Unions, the association of trade unions of the Republic will be the only authorized representative of workers and member organizations in social partnership with the government of the country. At the same time, the Federation should include more than half of the registered industry (or inter-sectoral) trade union associations. Representatives of the trade unions themselves strongly oppose the bill. They believe that it was prepared without the participation and without taking into account the views of the trade unions, whose activities it will directly regulate. In case of adoption of the document, it will put a lot of restrictions on the rights of trade unions.⁴

In May 2019, an event dedicated to the strategy of dialogue and interaction between the EU and the Kyrgyz Republic took place in Brussels. In January 2020 Kyrgyzstan will report on the human rights issues in the country under the Universal Periodic Review (UPR), and therefore the issues of protection of the rights of human rights defenders, their security, prevention of prosecutions and initiation of legal proceedings against them should be included and become the key elements in the strategies and recommendations for Kyrgyzstan.

Restriction of access to justice for human rights activist Azimzhan Askarov

Since 2010, victims of the interethnic conflict in southern Kyrgyzstan are waiting for justice. Today, in colony No. 19, human rights activist Azimzhan Askarov, a victim of torture and discrimination, is waiting for freedom and justice. The case of Askarov, who lost his freedom because of his human rights activities, is known throughout the world. Azimzhan Askarov is very sick and suffers from both poor health and psychological torture due to deprivation of access to fair justice.

During these years, lawyers applied to all the main instances for the protection of his constitutional rights and freedoms. On 21 April, 2016 the UN Human Rights Committee called on Kyrgyzstan to release Azimzhan Askarov and cancel the decision to convict him. In accordance with the decision, A. Askarov was detained illegally, held in inhuman conditions, subjected to ill-treatment and was deprived of the opportunity to properly prepare himself for defense during the court proceedings. The Committee, which includes 18 independent human rights experts, found that in the process of treating Askarov that way Kyrgyzstan violated several articles of the International Covenant on Civil and Political Rights, to which it has been is a State party. "The results of the forensic medical examination conducted by independent experts, along with other evidence, indicate that Askarov was tortured."⁵

On 12 July, 2016, the Supreme Court of the Kyrgyz Republic completed the process of considering the case of Azimzhan Askarov concerning new circumstances in accordance with the Statement on the Views of the UN Committee on Human Rights as of 31 March, 2016. According to the judgement of the Supreme Court dd 12 July, 2016, the case was sent for a re-examination by the Chui regional court, and Azimzhan Askarov was not released from prison. However, the processes that took place in the Chui court were of a formal nature, did not provide access to justice, and upheld the previous decisions of the courts.

Currently, Azimzhan Askarov is in prison No. 19, that holds persons sentenced to life imprisonment. A. Askarov's health has deteriorated significantly, he is very thin, constantly coughing. His cough is dull, with anguish, sometimes he is suffocating in a coughing fit. His feet are constantly freezing, the socks, shoes and attempts to warm his feet up do not help. The personnel comes into the cell twice a day with a check, and Askarov must stand up during those inspections. He can't stand for a long time, his vision becomes cloudy, and he feels dizzy. Firstly, he cannot sleep, iron bars stick out of his bed. Secondly, he suffers from coughing and nightmares. Sometimes his body temperature

⁴https://24.kg/obschestvo/117474_zaschita_trudyaschihsya_po-deputatski_zachem_profsoyuzyi_hotyat_sdelat_karmannyimi/

⁵<http://rus.azattyq.org/a/27689968.html>

rises and drops sharply, and he starts to sweat. He lacks the strength to go up the stairs of the building, when he has to do it, his legs are shaking, he is suffocating.

In accordance with his age and state of health, Askarov is a prisoner with special needs. Therefore, the HRM “Bir Duino-Kyrgyzstan” has appealed to the President of the Kyrgyz Republic, Ombudsman of the Kyrgyz Republic and the Chairman of the State Service for Execution of Punishment (GSIN) regarding the necessity to observe his rights in accordance with the UN principles concerning this category of convicts.

Attempts to confiscate A. Askarov's property

The HRM “Bir Duino-Kyrgyzstan” protects the property rights of Azimzhan Askarov’s wife due to the intention of the State Property Management Fund under the Government of the Kyrgyz Republic to confiscate the property of Azimzhan Askarov.

It has been reported, that the State Property Management Fund under the Government of the Kyrgyz Republic (SPMF) received a letter from the Bazar-Korgon district bailiff service regarding confiscation of property of the convicted Azimzhan Askarov. As per the letter, in accordance with the sentence of the Bazar-Korgon district court of Jalal-Abad oblast and on the basis of a writ of execution dated 23 May, 2012, the property of A. Askarov must be transferred to the state. The SPMF performed a physical inventory of the property of A. Askarov on 25 May, 2016.

The lawyers of Bir Duino-Kyrgyzstan stated that the Penal Code of the Kyrgyz Republic contains a list of property that cannot be confiscated, including a residential house or apartment where the convict or his family lives. Therefore, the confiscation of the house is illegal, since the Askarov family lives there, this is the only house of the Askarovs, and it cannot be confiscated.⁶ Thereafter, the Bazar-Korgon district court of the Jalal-Abad oblast released the house.

In 2019, the house of Azimzhan Askarov was seized again. The reason for this was that the spouse of the human rights activist Khadicha Askarova did not pay a compensation for moral damage to the wife of the murdered policeman Myktybek Sulaimanov. The seizure of the house is an illegal measure. According to the new legislation, property can be alienated only if it was pledged. The house, where the family lives cannot be seized.

Restrictions on activities, persecution of human rights defenders and lawyers, searches of the Osh office of BDK

Searches. On 27 March, 2015 the SCNS conducted illegal searches in the office of the Osh branch of the human rights movement Bir Duino-Kyrgyzstan (BDK), as well as in residential houses of the lawyers Valerian Vakhitov and Khusanbai Saliev. The lawyers and human rights defenders consider these actions of the SCNS as direct pressure on the activities of independent lawyers and human rights defenders from the national security agencies.

The grounds for the searches were the unjust decisions made by the Osh judges Kadyrbek Matisakov and Bolot Satybaldiev on March 26 and 27. The search warrants stated: the prohibited materials of extremist nature should be confiscated. The search warrants were issued under a criminal case initiated not against these lawyers, but against a foreign citizen Umar Farooq. However, according to the latest data, on 28 March the American journalist Umar Farooq was tried in the Osh city court. In accordance with the court’s decision, Umar Farooq’s actions are not sufficient for criminal prosecution, therefore, a decision was made to deport the journalist from the country.

⁶ <http://vof.kg/?p=31073&lang=kg>

However, according to article 13 of the Law of the Kyrgyz Republic “On Countering Extremist Activities”, information materials are recognized as extremist by a court decision based on the application of the prosecutor’s office, after which they are sent to the judicial authorities so they can include them in a list of extremist materials and inform the public about it.

In accordance with part 5 of article 29 of the Bar and Advocacy Act of the Kyrgyz Republic, “reclamation, seizure, inspection, verification, copying of documents, collection and use of information related to legal assistance in a particular criminal case are allowed only if an attorney is involved as an accused...” According to part 3 of the same article, a criminal case against a lawyer in relation to his/her professional activities can be initiated only by the Prosecutor General of the Kyrgyz Republic or his deputy.

No accusations were filed against the lawyers Vakhitov and Saliev, no criminal proceedings were initiated against them. Thus, the judges of the Osh city court and the SCNS employees violated the principles of independence of advocacy and the immunity of lawyers. Judicial sanctions were issued without the participation of prosecutors in violation of the requirements of article 8 of the Code of Criminal Procedure of the Kyrgyz Republic.

The search lasted 4 hours. Laptops, flash drives, voice recorders, disks and other materials were seized. Vakhitov and Saliev are known for their active human rights activities. As lawyers, they protect the interests of citizens at the national and international levels in cases involving torture, extortion, religious and interethnic issues.

The seized materials are related to criminal cases of human rights defender Azimzhan Askarov, the Kara-Suu Mosque imam Rashod Kamalov; the rape of a 9-year-old boy by a moldo (mullah) of madrasa; Rakhmanzhan kyzy Burulai, imprisoned with her 3-month-old child; Dilorzhon Dzhumabaev, who was beaten during the search by the SCNS employees; the Baibabaevs, businessmen, that employees of the SCNS extorted USD 20,000.00 from; Khakimzhan Abidzhanov and his elderly father, who was beaten during the search by the SCNS employees.

With regard to the case of Abidzhanov against the SCNS investigator Artur Shadybekov, a special court ruling was issued for violating the law in the process of investigation of this criminal case. The same investigator conducted a search at the house of the lawyer Kh. Saliev. The criminal case against the employees of the Human Rights Advocacy Center, who were defended by lawyers V. Vakhitov and Kh. Saliev, was discontinued by the prosecutor's office of the Osh region. With respect to the investigator Almanbet Dzhenbaev, information was submitted regarding bringing him to justice.

On 30 April, 2015, the Osh Regional Court reversed all three decisions of the Osh City Court, according to which the employees of the State Committee for National Security conducted searches in the office of the human rights organization Bir Duino and houses of the lawyers. All the procedural actions related to the seizure, inspection of the cases and actions of the investigators are recognized as illegal.

On 24 June, 2015, the Supreme Court declared searches in the Osh office of Bir Duino-Kyrgyzstan and the house of the lawyer Valerian Vakhitov illegal.

The above mentioned judicial acts of the Osh Regional Court and the Supreme Court of the Kyrgyz Republic categorically gave a legal assessment of actions performed by the investigators of the Investigating unit of the SCNS General Directorate of the Kyrgyz Republic in the city of Osh and the Osh oblast A. Jenbaeva and A. Shadybekov and the rulings of the judges of the Osh city court K. Matisakov and B. Satybaldiev dd 26 March and 27 March, 2015- as **UNLAWFUL**. The decision of the Supreme Court of the Kyrgyz Republic is final and not subject to appeal.

Unfortunately, not only these officials were not duly punished for their illegal actions, but also continue to hold positions of responsibility in law enforcement and judicial bodies of the Republic. Submitting repeated complaints

to the General Prosecutor's Office of the Kyrgyz Republic and the Osh Oblast Prosecutor's Office turned out to be in vain.

The charges of the State Committee of National Security in relation to the HRM Bir Duino-Kyrgyzstan on preventing the detention of a suspect in extremism. The human rights movement Bir Duino-Kyrgyzstan filed a lawsuit for the protection of honor, dignity and business reputation in relation to the press release issued by the State Committee for National Security (SCNS) on 24 January, 2017, claiming that representatives of the organization tried to prevent the arrest of a suspected extremist.

According to the SCNS, a large number of DVDs calling for the overthrow of the constitutional order in Kyrgyzstan, as well as materials related to the activities of Bir Duino, were found and seized during a search on 19 January in the house of the detainee A. Sh. The SCNS stated that in the process of the operative investigation activities, representatives of this non-governmental organization during the detention of A. Sh. gathered local people to hinder the search at the place of residence and tried to provoke a conflict situation.

In its lawsuit to the SCNS, "Bir Duino" reports that on 20 January a Kara-Suu resident came to the Osh office of the BDK and lawyer Valerian Vakhitov with a request to provide him legal assistance in relation to the detention of his brother Shukhrat Abdazov in the pre-trial detention center (SIZO) of Osh due to suspicion of distributing extremist materials.

According to the detainee's brother, during the search, "12 disks, a lap top, religious books, some documents, brochures such as Learn to Protect Your Rights that were received in 2013 in the Osh office of Bir Duino-Kyrgyzstan were seized, as well as my passport." On 20 January, he turned to the NGO for legal assistance. The explanatory notes written by the detainee's relatives, neighbors and the chairman of the residents' committee, state that nobody gathered any local people for the defense of Abdazov, there were no human rights activists there, no conflict situation arose.

As for the materials related to Bir Duino-Kyrgyzstan that were seized during the search, those were booklets and explanatory brochures on the rights and obligations of a citizen during his arrest performed by law enforcement officers. They were made as part of a project aiming to increase citizens' confidence in law enforcement agencies, to establish dialogue and mutual understanding, to eliminate corruption factors and conflicts during the detention of citizens. Booklets and brochures were distributed at public meetings in the presence of police officers, SCNS officers, prosecutors, and local government representatives.

The action proceedings were scheduled for 4 April, 2017 to be conducted by the Pervomaisky District Court. For more than four months the judge of the Pervomaisky District Court of Bishkek, M. Zholdoshaliev, did not consider the statement of claim of the HRM Bir Duino-Kyrgyzstan regarding protection of honor and dignity. On 20 June, 2017, M. Zholdoshaliev granted the petition of A. Alibaev, representative of the SCNS of the Kyrgyz Republic, to suspend the proceedings on the protection of honor and dignity, as well as business reputation, referring⁷ to the fact that the investigation of the criminal case had no relation to the application for protection of dignity and business reputation.

A private complaint was submitted to the Bishkek City Court regarding the ruling issued by Judge M. Zholdoshaliev with a request to cancel it and recognize the press release distributed on 24 January, 2017 by the Media and Public Relations Department of the SCNS of the Kyrgyz Republic stating, that in the process of the operative search activities during the arrest of A. Sh. representatives of the HRM Bir Duino-Kyrgyzstan gathered local population to prevent search at the place of residence and tried to provoke a conflict situation, as discrediting honor and dignity

⁷ Part 4, article 216, Code of Procedure of the Kyrgyz Republic.

as well as the business reputation of the Human Rights Movement Bir Duino-Kyrgyzstan. They also requested to oblige the SCNS of the Kyrgyz Republic to make a formal apology by refuting this false information in the media.

The Bishkek City Court overturned the decision of the Oktyabrsky District Court, stating that the press release of the SCNS refers to the organization Bir Duino, and not Bir Duino-Kyrgyzstan, which is a different organization. The Supreme Court upheld the decision of the Bishkek City Court.

Defamation of human rights defenders T. Ismailova and A. Abdirasulova

Defamation of human rights defenders T. Ismailova and A. Abdirasulova by the President of the Kyrgyz Republic A. Atambaev on Mother's Day, 14 May 2016, during the solemn ceremony of awarding Baatyr Ene orders to mothers with many children, accusations of “working for foreign grants” and having links with opposition groups.

On 14 May, 2016, at the ceremony of awarding women with many children, Almazbek Atambaev, President of the Kyrgyz Republic, in his solemn speech, listing his enemies including the leaders of the so-called “People’s Parliament”, mentioned among them the head of the Human Rights Movement Bir Duino-Kyrgyzstan Tolekan Ismailova and the head of the Kylym Shamy public foundation Aziza Abdirasulova, and accused the said human rights defenders of destabilizing the state, presenting them to the public as “loyally working for their foreign grants”. The reputational damage inflicted on the human rights defenders was particularly strong, since the President’s speech was delivered at the ceremony of awarding women with many children on the occasion of Mother's Day.⁸

On 16 May a protest rally was held, during which the human rights activists demanded an apology from the head of state or evidence of their guilt. On 18 May the Pervomaisky Court received complaints from the human rights defenders Tolekan Ismailova and Aziza Abdirasulova, demanding compensation of moral damage in amount of 4 million soms from President of the Kyrgyz Republic Almazbek Atambaev. The Pervomaisky District Court ruled not in favor of the chairman of the board of the HRM Bir Duino-Kyrgyzstan Tolekan Ismailova and the executive director of Kylym Shamy public foundation Aziza Abdirasulova. The court rejected the claims of the human rights defenders.

On 7 September, 2016 the Bishkek City Court denied the claim to human rights defenders Tolekan Ismailova and Aziza Abdirasulova against President of the Kyrgyz Republic Almazbek Atambaev.

On 22 May, 2016 the Supreme Court denied human rights defender Tolekan Ismailova a claim for the protection of honor and dignity against President Almazbek Atambayev in the amount of 10 million soms. The decision is final and not subject to appeal. The court made a decision only regarding Tolekan Ismailova.

Persecution of the HRM Bir Duino-Kyrgyzstan for cooperation with the UN

The HRM Bir Duino-Kyrgyzstan, in the process of reviewing the official website of the Ministry of Justice of the Kyrgyz Republic in March 2018, in Activities section found a list of extremist materials. A careful examination revealed that the document called List of Legal Entities and Internet Sites Banned on the Territory of the Kyrgyz Republic stated the item 26 in the column Name of Legal Entity (Organization) to read as follows: “Report of the ADC Memorial, provided by the **HRM Bir Duino-Kyrgyzstan PA** and the human rights organization Freedom House entitled “A Chronicle of Violence: the Events in the South of Kyrgyzstan in June 2010 (Osh Region)”, in the column “Ground for Inclusion of a Legal Entity in the List” it stated as follows: "Decision of Oktyabrsky District Court of Bishkek dd 5 January 2017”, and in the final column “Category of Legal Entity (Organization)” it stated: “Extremist”.

⁸<http://inozpress.kg/news/view/id/48812>

In the course of the year, the HRM Bir Duino-Kyrgyzstan was not aware of the Decision of the Oktyabrsky District Court of Bishkek dated 5 January 2017, according to which the materials of the alternative report of the ADC Memorial, that were provided jointly with the HRM Bir Duino-Kyrgyzstan PA to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the review report of the ADC Memorial, that was prepared together with the Norwegian Helsinki Committee and the human rights organization Freedom House published under the title "A Chronicle of Violence: the Events in the South of Kyrgyzstan in June 2010 (Osh Region)", were considered extremist and inciting interethnic hostility on the territory of the Kyrgyz Republic.

It is forbidden to publish, replicate, store, transport and distribute on electronic, audio, audiovisual and printed paper media, including posting on the Internet the alternative report of the ADC Memorial, provided jointly with the HRM Bir Duino-Kyrgyzstan PA to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the review report of the ADC Memorial, that was prepared together with the Norwegian Helsinki Committee and the human rights organization Freedom House published under the title "A Chronicle of Violence: the Events in the South of Kyrgyzstan in June 2010 (Osh Region)". It is prohibited to the ADC Memorial to operate on the territory of the Kyrgyz Republic.

The decision of the Judicial Collegium on Civil Cases of the Supreme Court of the Kyrgyz Republic dated 22 October 2018 completely rejected the decision of the Oktyabrsky District Court of Bishkek dated 5 January, 2017, which recognized the joint alternative report of the ADC Memorial and the HRM Bir Duino-Kyrgyzstan to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families as extremist, and the case was sent to the Oktyabrsky District Court of Bishkek for a new trial.

By the decision of the Oktyabrsky District Court of Bishkek dated 16 January, 2019 (chaired by A. B. Dzheenbekova) the request of the General Prosecutor's Office of the Kyrgyz Republic to the parties concerned, i.e. the SCNC of the Kyrgyz Republic and MIA of the Kyrgyz Republic, on recognition of the materials of the alternative report of the ADC Memorial and the HRM Bir Duino-Kyrgyzstan to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and "A Chronicle of Violence: the Events in the South of Kyrgyzstan in June 2010 (Osh Region)", as extremist and inciting interethnic hostility, on the prohibition of their publication, reproduction, storage, transportation and distribution on electronic, audio, audiovisual and printed paper media, on prohibiting the ADC Memorial to carry out their human rights activities on the territory of the Kyrgyz Republic, was left without consideration.

The court explained its decision by the fact that the General Prosecutor's Office, in accordance with part 3 of article 48 of the Code of Civil Procedure of the Kyrgyz Republic, has all the rights and obligations of the **plaintiff**, and respectively, as a plaintiff it has the right, according to part 7 of article 222 of the Code of Civil Procedure of the Kyrgyz Republic, to request a return of the application, and we, being not defendants in this case, but the party concerned, do not have the right to demand a substantive hearing of the case, according to the same part 7 of article 222 of the Code of Civil Procedure of the KR.

We submitted a private complaint about the above decision to the Supreme Court of the Kyrgyz Republic, which supported our complaint and sent the case to the Oktyabrsky District Court for consideration. The Oktyabrsky District court left the application of the Prosecutor General's Office without consideration and returned all case materials. The HRM Bir Duino-Kyrgyzstan intends to bring the representatives of the SCNS and the General Prosecutor's Office, who have falsified the case against our organization, to justice.

Persecution of the Human Rights Advocacy Center

In 2014, the National Security Committee initiated a criminal case against the Human Rights Advocacy Center, which carried out its work in collaboration with Freedom House. The goal of the project is to monitor the observance of the civil rights of ethnic minorities in the Batken and Jalal-Abad oblasts.

On 26 September, 2014, A. Jenbaev, investigator from the IU of the SCNS General Directorate Office in Osh and Osh Oblast, under the pretext that on 20 September, 2014 collective and individual appeals of individual Osh residents were submitted to take action on the illegal activities of Osh offices of international organizations Freedom House and USAID, a decision was made to initiate a criminal case on 26 September, 2014 (CC No. 082-14-02100) on the grounds of a crime under article 28 - 299 part 1 of the Criminal Code of the Kyrgyz Republic. The rationale for initiating a criminal case was the conclusion of the philological and political examination performed by the National Academy of Sciences of the Kyrgyz Republic No. 40/01-143 dd 25 September, 2014, according to which some questions of the questionnaires in the hidden and implicit form are actions directed on the incitement of national hatred, which can, under certain circumstances, provoke unrest on the basis of interethnic relations.

A criminal investigation related to the Human Rights Advocacy Center was conducted, while the Kyrgyz Republic actively participated in the Eurasian integration processes. Recently, Kyrgyzstan has also been copying Russia in social and political issues.

In March 2015, the office and employees of Bir Duino Osh were sanctioned to be searched, and investigators of the SCNS in Osh and Osh region seized more than 100 criminal cases of victims of the June tragedy, cases of Askarov and victims of torture and injustice.

Cholpon Dzhakupova's case

In 2015, Cholpon Idinovna Dzhakupova was elected as a member of parliament, i.e. a deputy of the Jogorku Kenesh of the Kyrgyz Republic. In protest against illegal and violent actions aimed at amending the Constitution, on 1 January, 2017 she voluntarily surrendered her deputy's mandate.

Currently, Ch. Dzhakupova is the director of the legal clinic Adilet, which provides legal services to protect journalists and the media in lawsuits initiated by the Prosecutor General of the Kyrgyz Republic in the interests of the President of the Kyrgyz Republic. She actively conducts human rights activities to protect freedom of speech and peaceful assembly, the rights of refugees, migrants, as well as people with disabilities.

The President of the Kyrgyz Republic A. Atambaev in his speeches repeatedly (on 15 and 24 March, 2017) not only criticized independent media, but also condemned the activities of human rights defenders who represent the interests of journalists working in the media.

Due to the active human rights and political activities of Ch. Dzhakupova, she was directly persecuted by the authorities.

For example, on 20 April, 2017, the Prosecutor General of the Kyrgyz Republic I. Dzholdubaeva filed a lawsuit with the Oktyabrsky District Court of Bishkek to collect the amount of 3,000,000.00 soms (USD 44,200.00) from Ch. Dzhakupova for her criticism on illegal actions of the authorities against their political opponents and independent journalists.

By the decision dd 26 April, 2017, the Oktyabrsky District Court of Bishkek satisfied the additional statement of the representative of the Prosecutor General's Office of the Kyrgyz Republic on taking measures to secure the claim and determined the following:

- Seize the cottage owned by Ch.I. Dzhakupova (the cost of the cottage is 50,000.00 US dollars)
- Prohibit Ch. Dzhakupova to leave the Kyrgyz Republic before completion of the proceedings.

The petition was not provided to C. Dzhakupova by the court. C. Dzhakupova learned about the trial from the media. This is a violation of articles 149, 150 of the Civil Procedure Code.

A private complaint was submitted against this court decision by a representative of Ch. Dzhakupova.

On 18 May, 2017, the appeal body of the Bishkek City Court dismissed the complaint of the representative of Ch. Dzhakupova, and the decision of the Oktyabrsky District Court of Bishkek was upheld. The Supreme Court of the Kyrgyz Republic also dismissed the complaint and upheld the judicial act on travel ban.

The above mentioned judicial acts of the district court, the city court and the Supreme Court prohibiting Ch. Dzhakupova to leave the Kyrgyz Republic before the end of the proceedings are illegal for the following reasons:

- According to the requirements of article 140 of the Code of Civil Procedure, securing a claim is allowed if the failure to take such measures may make it difficult or impossible to execute the court decision.

The act itself only requires Ch. Dzhakupova to compensate moral damage in the amount of 3,000,000.00 soms.

The court has already seized her immovable property, the market value of which fully covers the amount of the mentioned non-pecuniary damage, as a security for the claim.

Therefore, the measure in the form of a travel ban applied to Ch. Dzhakupova simply goes beyond the scope of the claims.

By the Decree of the Jogorku Kenesh of the Kyrgyz Republic dd 12 January, 1994, No. 1406-XII, the Kyrgyz Republic acceded to the International Covenant on Civil and Political Rights.

According to article 6 of the Constitution of the Kyrgyz Republic, international treaties that have entered into force in accordance with the law and to which the Kyrgyz Republic is a party, as well as generally recognized principles and norms of international law are an integral part of the legal system of the Kyrgyz Republic.

According to paragraph 2 of article 12 of the International Covenant on Civil and Political Rights, it is stated that every person has the right to leave any country, including his/her own.

This right may not be subject to any restrictions other than those necessary for the protection of state security, public order, public health or morals, or the rights and freedoms of others.

As it can be seen, none of the above grounds are in any way related to the suit filed against Ch. Dzhakupova.

Joining the generally recognized principles of international law, the Kyrgyz Republic in article 25 of the Constitution strictly stated: "Everyone has the right to freely travel outside the Kyrgyz Republic".

According to article 16 of the Constitution, all persons are equal before the law and the court in the Kyrgyz Republic. No one may be subject to any discrimination.

Furthermore, this summer, the claim of the Prosecutor General of the Kyrgyz Republic to Ch.I. Dzhakupova was examined on the merits and a decision was made.

Thus, by the decision of the Oktyabrsky District Court of Bishkek dated 30 June, 2017, the petition of the Prosecutor General was fully satisfied. The court ordered Ch.I. Dzhakupova to pay the President of the Kyrgyz Republic A. Sh. Atambaev 3,000,000.00 soms (approximately EUR 36,500.00) being a compensation for non-pecuniary damage.

The decision of the Bishkek City Court as of 17 August, 2017 upheld the decision of the Oktyabrsky District Court of Bishkek dd 30 June, 2017, the appeal of representatives of Mr Ch.I. Dzhakupova was dismissed.

On 19 April, 2018, the Supreme Court sent the case for a new investigation. In May 2018, the former president Almazbek Atambayev refused from the compensation in the amount of 30 million soms from the founders of Zanoza online publication Naryn Aiyp and Dina Maslova, as well as human rights activist Cholpon Dzhakupova.

Persecution of human rights defender Rita Karasartova

The Social Democratic Party of Kyrgyzstan (SDPK) filed a lawsuit against the human rights defender Rita Karasartova and the 24.kg news agency for protection of honor and dignity. The reason for the suit was the comment of the human rights activist published in the article of 24.kg under the title “The regions showed their teeth to the ruling party”. She thought that the reason for the suit could be one of her interviews in which she said that the election of mayors failed due to the corruption in the pro-presidential party.

The party lawyer Taalaibek Usubaliev said that the SDPK has filed a lawsuit against Karasartova and the 24.kg news agency for protection of their business reputation and compensation for moral harm. Usubaliev said that the reason for the suit was the comment by Karasartova in the article “The regions showed the teeth to the ruling party”. The human rights activist said the following about the SDPK: “They have played politics too much, selling positions left and right”.⁹

Failed event of the Coalition against Torture

From 21 to 23 May, in the Supara ethnic complex, the Coalition against Torture in Kyrgyzstan held a regular working meeting of lawyers and attorneys with renowned international experts Karina Moskalenko and Oksana Preobrazhenskaya. Nine people broke into the meeting and began to demand that they stop working. These individuals introduced themselves as members of the youth patriotic movement of Kyrgyzstan, and expressed the opinion that Western countries and the international organizations funded by them want to artificially shatter peace in Kyrgyzstan.

The meeting was devoted to discussion of issues related to current practices of dealing with torture cases at the national and international levels, as well as using the potential of lawyers in criminal proceedings related to changes in legislation.

The meeting participants stated: “We believe that the activity of this vigilant group of activists is carried out outside the legal field and demonstrates their appropriation of the control and judicial functions of the state. If, in the current situation of intimidation and attacks on human rights defenders, the participants of this provocation remain unpunished, this will signal that activists and other people can be subjected to attacks without any consequences, and this can show the inability of the authorities to fulfill their obligations to ensure safe and favorable conditions for human rights defenders.”¹⁰

Recommendations

1. State bodies, including law enforcement agencies, officials, should refrain from any intimidating or repressive actions that have the form of threats or intimidation against human rights defenders. State authorities, their officials should openly condemn such actions and show absolute intolerance towards them. Public authorities are required to be guided in their daily work by the OSCE Guidelines on the Protection of Human Rights Defenders.

⁹<https://kloop.kg/blog/2017/03/09/sdpk-budet-suditsya-s-pravozashhitnitsej-ritoj-karasartovoj/>

¹⁰

https://kaktus.media/doc/391990_na_vstrechy_koalicii_protiv_pytok_vorvalis_neizvestnyye_nazvalis_patriotami_video.html

2. The state should not prosecute human rights defenders for cooperation with UN structures, should not conduct secret court hearings in relation to human rights organizations interacting with the UN and carrying out human rights activities in Kyrgyzstan.
3. In the event that public officials or other entities commit any unlawful actions against human rights defenders, the authorities should immediately conduct a thorough and transparent independent investigation of the incident. Investigations must be effective and lead to the prosecution of perpetrators.
4. The state must guarantee full respect for the rule of law and the independence of the judiciary. Therefore, it is necessary:
 - To carry out reforms in this respect so that the security of human rights defenders was ensured and not a single violation of the rights of officials and other persons against human rights defenders remained unpunished.
 - To not allow application of politically motivated persecution or any other unreasonable persecution to human rights defenders due to their human rights activities.
5. Human rights defenders should not be subjected to judicial persecution, illegal judicial or administrative proceedings, or other administrative or judicial abuses, as well as arbitrary searches of their offices, houses, arrests, detention and other sanctions for actions related to their human rights activities.
6. The state should ensure protection of the physical and personal integrity of human rights defenders during court hearings.

The Lawyers engaged in human rights activities should not be subjected to intimidation or reprisals, threats to deprive them of the right to practice law due to their efforts to protect human rights or human rights defenders. They must be effectively protected from pressure exerted by government or other entities.
7. Officials of state bodies should stop discrediting human rights defenders and their human rights activities, refrain in their public statements from negative labeling or slander in one form or another.

They should publicly recognize the importance of the work of human rights defenders and the need to protect them, and also talk about the merits of specific human rights defenders, thereby increasing the legitimacy and status of human rights activities in the society.
8. The state should develop active and constructive interaction with human rights defenders, increase their participation in public life and public discussions. It is necessary to recognize the importance and usefulness of the work of human rights defenders, to promote continuous dialogue between human rights defenders and government bodies.
9. The state should stop actions and bring to justice patriotic and other organizations whose actions are aimed at discrediting and disrupting the activities of human rights organizations.

Recommendations to international organizations on protection of the rights of human rights defenders

1. International human rights organizations should continue to effectively monitor the situation of human rights defenders, drawing attention to Kyrgyzstan, where the discredit of human rights defenders and human rights activists has recently increased. Anti-Western sentiment and spy mania are observed among a separate part of civil servants, political scientists, experts and young people. The OSCE Guidelines on the Protection of the Rights of Human Rights Defenders should be applied in the process of work with Kyrgyz officials.
2. Projects should be developed to raise public awareness of the work of human rights defenders in order to create a system that, in the event of a threat, would help mobilize widespread support and ensure protection of activists. For this purpose, to include qualified journalists, human rights defenders at the local level, the media, etc., to provide for the publication of printed materials on the activities of human rights defenders, leaflets, booklets, reports in campaigns dedicated to human rights defenders, especially to support women human rights defenders.
3. Internet is one of the important channels for conveying information to different target audiences. Therefore, a specialized website should be created dedicated to the protection of human rights defenders, to exchange experience and information, recommendations on the protection of human rights defenders aimed at different

social and professional groups - the activists themselves, representatives of the media, parliamentarians, youth and citizens.

4. The strategy of working with foreign structures in the field of protection of human rights defenders should take into account the increasing anti-Western sentiment and spy mania, common among representatives of the Russian authorities. In our opinion, in these conditions, the emphasis in public work at the international level should be made on the intergovernmental organizations (UN, Council of Europe, EU), interaction with the missions of individual foreign states, in our opinion, should not be so public.

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