



**Organization for Security and Co-operation in Europe
Office for Democratic Institutions and Human Rights
and Representative of Freedom of the Media**

**Information Submitted to the
Office of the United Nations High Commissioner for Human
Rights as a Stakeholder in the
Universal Periodic Review of Mongolia**



Warsaw October

OSCE/ODIHR and Representative of Freedom of the Media Submission of Information about an OSCE Participating State or Partner for Co-operation under Consideration in the Universal Periodic Review Process

Participating State: Kyrgyzstan

UPR Working Group Session and Date of Review: 49th Session

Background

1. Kyrgyzstan has been a participating State in the Organization for Security and Co-operation in Europe (OSCE) since 1992, and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in OSCE Documents.¹
2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Kyrgyzstan, to assist in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti.
3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation Kyrgyzstan and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms.

Legislation reviewed by ODIHR

4. Upon request by authorities of OSCE participating States, OSCE field operations or OSCE institutions, ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards.²
5. In 2019-2024, the following relevant legal opinions (on topics other than elections) were issued on legislation or draft legislation of Kyrgyzstan. Due to the high number of opinions and word limit of this submission, only the most important concerns are mentioned.

*Constitutional Reform – ODIHR and Venice Commission Joint Opinion on the Draft Constitution of the Kyrgyz Republic (19 March 2021)*³

¹ ODIHR, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (fourth edition)* 2023, and *Compendium of OSCE Human Dimension Commitments: Volume 2, Chronological Compilation (fourth edition)*, 2023; OSCE Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010.

² The legal reviews and opinions, often produced in co-operation with the Council of Europe’s Commission for Democracy through Law (Venice Commission), are available at www.legislationline.org. Basic information about the constitutional system and human dimension-related legislation of the Kyrgyz Republic is also available in English on www.legislationline.org.

³ *Kyrgyzstan: Joint Opinion on the Draft Constitution* | OSCE (2021).

6. The Joint Opinion, whilst noting positive changes, such as giving human rights and freedoms a prominent place in the overall framework of the Draft Constitution and re-establishing the Constitutional Court in line with earlier recommendations, found that many provisions regulating the institutional framework and separation of powers, defining the powers and competencies of the President, the Jogorku Kenesh (Parliament) and the judiciary, as well as some provisions dealing with human rights and freedoms are not in line with international standards and OSCE commitments. The overly prominent role and prerogatives of the President over the executive and the other branches of powers, with a weakened role of the Parliament and potential encroachments on judicial independence creates a real risk of undermining the separation of powers and the rule of law in the Kyrgyz Republic. The Constitution was adopted by referendum on 11 April 2021 without any major changes.

*Freedom of Association – Urgent Interim Opinion on the Draft Law on Non-Profit Non-Governmental Organizations and Draft Amendments on “Foreign Representatives” (12 December 2022)*⁴

7. With respect to the draft amendments on “Foreign Representatives” (i.e., non-profit non-governmental organizations that receive funding from abroad and participate in “political activities” in the Kyrgyz Republic), the Urgent Interim Opinion underlines the inherent serious deficiencies of such amendments, which lack legitimate justification and do not meet the requirements of international human rights law for acceptable restrictions on the right to freedom of association, fail to comply with principle of legal certainty and foreseeability. A number of legal terms used are vague and broad, creating risk of unfettered discretion on the part of the implementing authorities. The amendments introduce additional requirements for “foreign representatives”, including the obligation to apply for inclusion in a separate Register, to label all their materials as being produced, distributed or sent by “foreign representatives” and imposes new reporting obligations in addition to those already imposed on non-profit non-governmental organizations, which are not only unnecessary but also burdensome and costly. The authorities in charge of the implementation of the new regulation are granted wide powers to inspect and supervise their activities, expenditures and use of property contrary to the principle of non-interference with associations’ internal management, organization and affairs. In addition, in case of violation of the law, the supervisory authority may decide to suspend the organization for up to six months, and may initiate court proceedings to liquidate the NGO in case of failure to remedy the violation, potentially even for minor infringement, thereby going against the principle that dissolution should always be a measure of last resort in case of serious violations. The Opinion also notes that such measures are discriminatory and the risk of stigmatising organizations carrying out legitimate work. In its Urgent Interim Opinion, ODIHR called upon the initiators of the proposed amendments to abandon them entirely and engage in further consultation with stakeholders with a view to enhance the legal framework for the enjoyment of the right to freedom of association in the Kyrgyz Republic. The amendments on “Foreign Representatives” entered into force in April 2024, still containing many of the human rights concerns raised by ODIHR in its Urgent Interim Opinion.

⁴ OSCE/ODIHR: [Kyrgyz Republic: Urgent Interim Opinion on the Draft Law “On Non-profit Non-governmental Organizations” and Draft Amendments on “Foreign Representatives” | OSCE \(2022\)](#)

*Freedom of the Media - Interim Joint Opinion on the Draft Law on the Mass Media*⁵

8. While noting some positive features of the Draft Law, particularly with respect to the prohibition of censorship and of media monopolization as well as guarantees of journalistic freedoms, the Joint Opinion notes that a number of provisions raise serious concerns. Most notably, the regulatory system contemplated by the Draft Law fails to take into account the differences between the print and broadcast sectors and the Internet, in line with international recommendations and good practices. In particular, the press and online media should be excluded from the scope of compulsory registration. Moreover, certain content restrictions proposed in the Draft Law are problematic from the point of view of freedom of expression since they do not appear to pursue a legitimate aim and/or are not formulated in a clear and precise manner. Additionally, the Draft Law includes provisions that could restrict the media's ability to operate independently and investigate important issues by imposing stringent registration requirements on all mass media outlets. The Draft Law also does not introduce an independent media regulatory body; instead, media regulation is fully concentrated under government bodies. Lastly, the proposed system of sanctions, which may lead to suspension or termination imposed on the basis of vague and broad grounds, is likely to produce a chilling effect on media freedom. While the Draft Law was withdrawn, some of the same concerns have re-emerged in the context of developing the new Draft Law (see also

See also:

- [Legal review of the draft law of the Kyrgyz Republic “On the manipulation of information” | OSCE](#)
- [Legal Commentary to the Draft Information Security Concept of the Kyrgyz Republic for 2019 - 2023 | OSCE](#)

*Political Parties – Opinion on the Draft Law on Political Parties (8 April 2020) and Urgent Opinion on the Draft Law on Political Parties (13 June 2020)*⁶

9. ODIHR observed that the Draft Law contained several elements that are crucial for regulating political parties in line with international standards and good international practice. Yet, it was recommended to improve some aspects of the Draft Law in order to safeguard the rights to freedom of expression and free association, to not to unduly interfere with political parties' internal activities and to further the political participation of all segments of society, including persons with disabilities, women or youth. Many of these recommendations were taken aboard and in the Urgent Opinion ODIHR noted that the Draft Law, at times, overregulates internal party matters and recommended to close loopholes in funding of political parties, guarantee effective oversight and provide proportionate sanctions.

Parliament - Opinion on the Code of Ethics for the Deputies of the Jogorku Kenesh (Parliament) of the Kyrgyz Republic (15 November 2022) and Opinion on the Rules of

⁵ OSCE/ODIHR and OSCE Special Representative on Freedom of the Media: [Interim Joint Opinion on the Draft Law on the Mass Media, 28 August 2023](#)

⁶ [367 POLIT_KGZ_8April2020_en.pdf \(legislationline.org\)](#) and [376 POLIT_KGZ_13June2020_en.pdf \(legislationline.org\)](#)

*Procedure of the Jogorku Kenesh of the Kyrgyz Republic (24 May 2023)*⁷

10. The Opinion on the Code of Ethics noted that the Code would benefit from general revision primarily to strengthen the safeguards for deputies' exercise of their right to freedom of expression, provide higher ethical standards to address sexual or other forms of harassment or violence against women parliamentarians, as well as to introduce effective appeals and monitoring mechanisms affording due process guarantees. The Opinion on the Rules of Procedure recommended to give a more prominent role for the Jogorku Kenesh and its bodies in carrying out their core functions of oversight and representation, in particular pertaining to the parliamentary oversight and open, transparent, effective and inclusive public participation and expert involvement in public consultation processes. The Opinion also recommended to substantially review the provisions pertaining to the Ombudsperson, to strengthen guarantees of independence.

*National Human Rights Institutions/Ombudsperson - ODIHR Urgent Interim Opinion on the Draft Constitutional Law of the Kyrgyz Republic on the Akyikatchy (16 August 2023)*⁸

11. The Opinion noted that the Draft Constitutional Law provided some guarantees for independence, though that certain areas required improvement including by providing a clear, transparent and participatory merit-based selection and appointment procedures, to revising the grounds and process for dismissal which may undermine the security of tenure of the Ombudsperson and deputies, and providing functional immunity to the Ombudsperson and deputies and the staff.

Election issues:

12. ODIHR has observed three elections during the reporting period, most recently the 2021 parliamentary elections.

Parliamentary elections, 2021

13. ODIHR deployed a Election Observation Mission (EOM) for this election and referendum. ODIHR concluded that *“the 28 November parliamentary elections were competitive but constitutional changes weakening parliament, subsequent extensive legislative changes to key aspects of the elections, a stifled campaign and overall voter disillusionment hindered meaningful engagement. The new legislation provides an adequate basis for democratic elections but the overall legal framework is undermined by limitations on civil and political rights and diminished separation of powers and independence of the judiciary. Fundamental freedoms were generally respected during the campaign and the authorities displayed the political will to ensure “clean” elections; however, strict enforcement of subsequent measures led to candidates campaigning with caution. Voters had a wide range of political options to choose from, and technical aspects of the elections were handled by the election administration in an efficient way. Most media outlets were reticent to cover activities of contestants while the regular activities of the President and*

⁷ [KYRG CORR Opinion on the Code of Ethics of Kyrgyz Republic 15Nov2022 eng.pdf \(legislationline.org\)](#) and [2023-05-24 FINAL Opinion on the RoP of the Jogorku Kenesh of the Kyrgyz Republic clean.pdf \(legislationline.org\)](#)

⁸ [Final Urgent Interim Opinion Draft Constitutional Law Ombudsman Kyrgyz Republic.pdf \(legislationline.org\)](#)

authorities were extensively covered, limiting voters' ability to make an informed choice. While election day was peaceful and voting was well organized in the vast majority of polling stations observed, significant procedural problems were noted during the vote count and the initial stages of tabulation".

14. The Final Report⁹ included 7 priority recommendation, to support efforts to bring elections in Kyrgyzstan further in line with OSCE commitments and other international obligations and standards for democratic elections:¹⁰

- The legal framework, including provisions in the Constitution, should be reviewed to ensure compliance with OSCE Commitments, other international obligations and standards for democratic elections and address other identified shortcomings through an inclusive, consultative and transparent process well in advance of the next elections. The law-making process must comply with the principles of rule of law and law makers should refrain from using expedited procedures for introducing significant changes to election legislation that require proper consultation.
- To foster an environment in which campaign activities and meaningful voter and candidate engagement are not hindered, the involvement of the law enforcement bodies in enforcing campaign regulations should be confined to what is clearly prescribed by their mandate.
- Media freedom should be strictly upheld. Undue limitations on access to information and interference with the activities of journalists should not be tolerated, so that working conditions of media professionals are conducive to freedom of expression.
- To enhance the independence and impartiality of the CEC, the law should be amended to guarantee more balanced political representation. Consideration could be given to reverting to the previous model of the CEC formation.
- The legal definition of election campaign should be thoroughly amended, so that it does not allow for an interpretation preventing media from comprehensive reporting on and editorial coverage of contestants' campaigns.
- Continued efforts are needed to address the issue of vote-buying and pressure on voters, including through a civic awareness campaign, in order to promote confidence in the electoral process. A genuine commitment from political parties to combat vote-buying practices should be made.
- The courts should not deny admissibility of appeals on formalistic grounds. In order to enhance the effectiveness of judicial remedy in election-related disputes, consideration could be given to extending deadlines for filing certain types of appeals, primarily on inactions of the CEC and ongoing campaign violations.

Early Presidential Election And Referendum, 10 January 2021

⁹ EOM [Final Report](#), 26 May 2022

¹⁰ [1999 OSCE Istanbul Document](#), para 25, OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations".

15. Following an official invitation ODIHR deployed Limited Election Observation Mission (LEOM). The LEOM concluded that “the election and referendum were held against the backdrop of a political crisis that unfolded following the annulment of the October 2020 parliamentary elections. The legal framework allows for a competitive election, and fundamental freedoms were generally respected. The campaign, however, was dominated by one candidate who benefited from disproportionate financial means and misuse of administrative resources, resulting in an uneven playing field. Both electoral processes and debate were weakened by the linkage of presidential election and the referendum, and specifically to one candidate. Allocation of free airtime by public broadcasters provided a campaign platform to contestants; yet, an overall lack of critical media reporting, partially due to a restrictive legal media framework, limited the voter’s ability to make an informed choice. Election day was orderly and overall well administered, although COVID-related health regulations were not well implemented”.

16. The Final Report¹¹ offered 8 priority recommendations:

- The authorities should not hold elections and referendums on the same day, if the referendum is about the institution facing election.
- The appointment of referenda, as any legislative activity, must comply with the rule of law requirements, including the timeframes. In particular, it should be adopted at the end of an inclusive and consultative process.
- Decisions affecting the rights and duties of electoral stakeholders, including interpretation of the law and resolution of complaints, should be made by the Central Election Commission (CEC) in open sessions. As previously recommended, all CEC decisions should be published in a timely manner.
- Disproportionate restrictions to voting rights of people serving a prison sentence and limitations based on disabilities should be abolished.
- To ensure meaningful oversight, a full audit of financial reports should be conducted. The legal framework should regulate its procedures, timelines and publication.
- The Criminal Code should be amended in order to provide clear definition of what constitutes “incitement of national, racial, religious or interregional enmity”, limiting prosecution only to cases that incite discrimination, hostility or violence, as defined in the ICCPR. Limits for damages asserted in defamation and libel cases should be introduced, taking into consideration only actual harm proven by the plaintiff.
- The legal definition of electoral campaigning should be amended, so that it does not prevent media from editorial coverage of the campaign. The system of accreditation of media outlets, as a pre-condition for selling political advertisement, should be cancelled.
- The principle of equality in the electoral process should be respected. The CEC should ensure impartial consideration of complaints and equal treatment of candidates.

¹¹ LEOM [Final Report](#), 4 June 2021

17. ODIHR deployed a Limited Election Observation Mission (LEOM). for this election. ODIHR concluded that “elections took place under improved legislation and fundamental rights and freedoms were overall respected. The campaign was competitive and candidates could, in general, conduct their activities freely, but credible allegations of vote buying remain a serious concern. The elections were managed efficiently, despite the challenges posed by the COVID-19 pandemic, but a number of controversial CEC decisions raised questions about its impartiality. While public broadcasters fulfilled their obligation to provide free airtime to contestants, an overall lack of critical journalistic reporting and issue-based debate reduced the quality and variety of information available to voters. Election day was orderly and the process was generally transparent and well administered, although health protocols were not always followed”.
18. The Final Report¹² offered 7 priority recommendations:
- Robust efforts are needed to address the persistent issue of vote-buying and pressure on voters, both through a civic awareness campaign and prosecutions, in order to promote confidence in the electoral process. A concrete and genuine commitment from political parties to combat vote-buying practices could be made.
 - Media freedom should be strictly upheld. Interference with the activities of journalists and media outlets as well as undue limitations on the access to information should not be tolerated. The competent authorities should provide for safe environment for journalists and to ensure that all infringements of the freedom of the media are duly investigated and addressed.
 - To ensure the transparency of campaign funding, parties could be required by law to submit annual financial reports, subject to public disclosure and clearly established oversight procedures.
 - The law should guarantee that candidate deregistration is an exceptional measure applied only in case of gross violations of the law. Sanctions for electoral violations should be applied in a consistent manner.
 - Consideration should be given to banning the broadcasting of campaign material within news and current affairs programmes. Additionally, consideration could be given to require that paid political content is clearly and consistently identified as such.
 - Law-enforcement bodies must investigate reports about vote-buying and abuse of administrative resource in an efficient manner. Consideration could be given to enactment of an expedited procedure for investigation and adjudication of election-related offences.
 - The legal provisions for the secrecy of voting should be ensured in practice and enforced by PECs. Importance of ballot secrecy should be emphasized during the training of election commissions and in voter education materials.

¹² EOM [Final Report](#), 3 December 2020

Electoral Follow-up in Kyrgyzstan

19. Final reports include priority recommendations and as such are treated as a central element of any follow-up process. In view of the above-mentioned, ODIHR visited Bishkek to present the ODIHR final reports on 2020 and 2021 elections Kyrgyzstan. The reports' findings and recommendations were presented by the ODIHR to the CEC, representatives of various state institutions and parliamentary committee as well as civil society and media. The discussions covered both the positive steps taken before the elections and the recommendations that are yet to be implemented.
20. ODIHR also suggested potential areas for collaboration with national institutions, to bring the electoral process in line with OSCE commitments and international standards, offering support through legal reviews and thematic workshops. The authorities expressed an interest in engaging in further discussions to address these recommendations.

Tolerance and non-discrimination issues

21. Participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and ODIHR supports states in their implementation of those commitments.¹³ In this context, ODIHR produces an annual report on hate crime¹⁴ to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR also helps participating States design and draft legislation that effectively addresses hate crimes; provides training to build the capacity of participating States' criminal justice systems and the law-enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports the efforts of civil society to monitor and report hate crimes.
22. In respect of the 2022 Hate Crime Report¹⁵ and ODIHR's key observations¹⁶, ODIHR observes that Kyrgyzstan has not reported data and information on hate crimes to ODIHR since 2013. In the absence of an official submission and statistics, ODIHR is not able to provide further observations on hate crime data collection in Kyrgyzstan. In addition, ODIHR observes that Kyrgyzstan would benefit from raising awareness among and building the capacity of criminal justice officials to address hate crimes. For 2022, civil society monitoring the situation in Kyrgyzstan reported 39 hate incidents to ODIHR, including

¹³ OSCE participating States have committed to strongly condemn racial and ethnic hatred, xenophobia, discrimination, anti-Semitism and intolerance against Muslims, Christians and other religions, and have committed to address these phenomena in all their forms (Copenhagen Document, 1990). Since 2003, the OSCE participating States have established a normative framework of OSCE Ministerial Council (MC) decisions to reflect their commitments to address these phenomena: MC Decisions 4/03, 12/04, 10/05, 13/06, 10/07 and 9/09. Additionally, a number of OSCE human dimension commitments recognize the vital importance of participating States' realization of their binding human rights obligations under international treaties, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

¹⁴ <https://hatecrime.osce.org/>

¹⁵ [Kyrgyzstan | HCRW \(osce.org\)](#) (published in November 2023)

¹⁶ Findings on the information available to ODIHR on hate crimes in a particular participating State in relation to OSCE commitments are presented as Key Observations. There are, in total, 13 Key Observations linked to OSCE participating States' commitments in the area of addressing hate crime. This [methodology](#) has been in place since the 2020 Hate Crime Report.

several violent anti-LGBTI and gender-based hate incidents¹⁷. In 2024, the authorities in Kyrgyzstan appointed a new national point of contact on hate crimes to report to ODIHR.

¹⁷ [Kyrgyzstan | HCRW \(osce.org\)](#) (see section on ‘incidents reported by civil society’)