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A REFERENCE AND TRAINING MANUAL FOR  
THE RESOLUTION OF ELECTION DISPUTES  
IN THE KYRGYZ REPUBLIC

Produced with the Cooperation of the Central Election Commission  
By the International Foundation for Election Systems

Bishkek, Kyrgyz Republic  
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S. Imanbaev  
CEC Chairman

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## FORWARD

Election disputes inevitably accompany elections. This interaction is caused by the universal participation of different layers of the population, social groups, and political forces in the establishment of representative bodies.

Actually, the judiciary of the Kyrgyz Republic is also at the beginning of its relationship with the elections process. Not only citizens but even practicing lawyers do not have enough knowledge about electoral law. The laws are new, and there was not enough practice in the resolution of election disputes under the previous legislation.

Election disputes are caused by different reasons. There is a lack of legislation on some points. There are contradictions in the law. And there are violations of electoral legislation by voters, candidates, political parties, election officials, other participants of the elections process, and illegal interference of state bodies into the activity of election commissions.

One of the main reasons for election disputes is a lack of high level of civic understanding of the law and the electoral process.

It is evident therefore that this Manual is necessary for the practical application of the law in resolving disputes that arise in preparation and conduct of elections.

S. Imanbaev  
CEC Chairman

## INTRODUCTION: HOW TO USE THIS MANUAL

This manual is designed as a guide for the resolution of electoral disputes. It does not presume to answer every conceivable question about the nomination, registration, campaigning or election of candidates to public office. It provides instead summaries of the law relevant to the rights associated with voting, as well as extracts of the applicable law in a format that is easy to use. In short, it provides the decision maker with the tools for making informed, reasoned and accurate decisions.

The manual is divided into three main parts. The first part consists of nine chapters, each devoted to a separate issue or cluster of issues. In summary, those issues are the appeals process under the new elections code, jurisdiction, the formation of election commissions, voter registration, the registration of political parties and the nomination of candidates, campaigning, campaign funding, voting, and election outcomes.

Each of these chapters contains summaries of the law relevant to its subject, and in the interests of thoroughness, that law includes international and constitutional standards, as well as the requirements of the new elections code and other related domestic legislation. In one instance, at least, it also includes an opinion of the constitutional court. The summaries are short and issue-specific, and for quick reference, each summary is separately entitled. Each summary title is additionally included in the Detailed Table of Contents that begins this volume.

The second part of the manual is an appendix containing the actual law required for the resolution of election disputes. Included in the appendix are relevant selections of treaties and international conventions, the constitution of the Kyrgyz Republic, the administrative and criminal codes. In addition the complete text of the new election code and the new law on political parties is reproduced. Although all of this law is summarized in the first part of the book, it is included in the appendix to permit independent interpretation and in anticipation of issues that have not been summarized.

The third part of the manual is likewise an appendix, but it contains forms used by candidates and electoral commissions. Intended for use as exemplars, the forms are grouped according to the chapter topic they affect, and are referenced in the text of the narrative wherever possible. Also included in the second appendix are resolutions and explanatory notes published by the Central Elections Commission meant to clarify the law and simplify the work of subordinate commissions.

Given this organization of the manual, the decision maker is advised to begin his research with the Detailed Table of Contents. Once

the general subject area has been identified, he should proceed to identify those issues that relate to his particular complaint, and from there read the relevant issue summaries, excerpted law and necessary forms. Following this order will hopefully save the decision maker time and worry about the accuracy of his decision.

Finally, a manual of this sort invites revision as the law it describes becomes settled. Recommendations for its improvement therefore are encouraged and welcomed.

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## **1.0 Election Appeals Process and the New Elections Code**

### **1.1 INTERNATIONAL STANDARDS**

Neither an international convention to which the Kyrgyz Republic is a signatory nor general principles of public international law require or prohibit the resolution of election disputes by courts or electoral commissions or a combination of the two.

### **1.2 NATIONAL CONSTITUTION**

#### **1.2.a Election Commissions**

The Constitution of the Kyrgyz Republic mentions a Central Elections Commission, describing its composition (Art. 46, 6 5); Art. 58, 1 7); Art. 58, 3 13)) and enumerating some of its powers (Art. 56, 6), but it does not even hint at the complicated relationship of the commissions to the courts in resolving electoral disputes, nor does it mention the existence of commissions subordinate to the CEC.

#### **1.2.b Courts**

Similarly, the Constitution is just as silent about the relationship of the courts to electoral commissions, articulating only the species of courts authorized in the republic (Art. 79, 2) and adding that the particulars of their activities are to be defined by law. (Art. 79, 3) This leaves the adjudicative functions of both commissions and courts to the elections code and related statutes.

### **1.3 ELECTIONS CODE**

The Elections code of the Kyrgyz Republic gives to courts and electoral commissions the power to hear and resolve election disputes. The number of claims that can be heard by a court are more extensive than those that can be heard by a commission, but several types of claims can be heard by either a commission or a court. Claims filed with a commission are to be resolved within a strict time period, and their decisions on those claims are appealable to higher commissions or to the courts. On the other hand, claims filed with a court are likewise to be resolved within a certain period but are only appealable to higher courts.

Because courts and commissions share jurisdiction over certain issues, and because the code does not require a litigant to exhaust his administrative remedies before seeking judicial redress, it is possible for the same claim to be filed simultaneously with a court and a commission. In such an instance, however, the proceedings before the commission are suspended and effectively terminated because resolution of the issue by the court will be binding on the commission. In other words, actions commenced in a commission can be finished in a court, but not the other way round.

This chapter generally describes the division of responsibility between the various commissions and the courts. The following chapter discusses the details of their jurisdiction.

### *1.3.a. Election Commissions*

The elections code creates five levels of election commissions and assigns different responsibilities to each. (Art. 9, 2)

#### *1.3.a.1. Precinct Election Commissions*

Precinct election commissions are authorized to review applications and complaints alleging violations of the elections code and to rule on them. (Art. 15, 8)) Being the lowest level commission, precinct commissions hear original complaints, but they do not hear appeals. Decisions of precinct commissions are appealable to higher commissions, the specific commission being determined by the subject matter of the original claim.

#### *1.3.a.2 Rayon / City Election Commissions*

Rayon and city election commissions coordinate the activity of precinct election commissions and hear complaints about them. They hear original claims on the action or inaction of precinct commissions and appeals of precinct commissioners' decisions. (Art. 14, 2, 3) This appellate jurisdiction is limited however to decisions rendered by precinct election commissions in an election for president of the republic. (Art. 54, 4)

#### *1.3.a.3 Territorial Election Commissions*

The code gives territorial election commissions broader authority. Ultimately responsible for the activity of precinct election commissions, the territorial commissions hear original complaints on their action or inaction and appeals from their decisions. (Art. 13, 2, 12)) Specifically, territorial election commissions can hear appeals regarding violations of voters' rights (Art. 54, 1) and appeals regarding alleged violations of the code during elections to the Legislative Assembly or the People's Representative Assembly of the Jogorku Kenesh (Art. 54, 3) According to a memorandum published by the Central Elections Committee, territorial election commissions can also hear appeals of complaints filed with precinct commissioners over violations of the code in elections to local keneshes. (See The Guarantees of Freedom of Elections, Appendix B)

#### *1.3.a.4 Oblast / Bishkek Election Commissions*

Oblasts and Bishkek city itself constitute the next level of electoral commissions, the code giving them authority over the inferior commissions within their territory. They have original and appellate jurisdiction over the actions, inactions and decisions of subordinate commissions. (Art. 12, 1, 14)) Specifically, oblast and Bishkek city commissions have appellate jurisdiction over decisions of rayon and city election commissions regarding complaints filed in presidential elections. (Art. 54, 4) In addition, a memorandum published by the Central Election Commission indicates that oblast and Bishkek city commissions have jurisdiction over appeals from territorial commissions of complaints filed in the conduct of elections to the local keneshes. (See The Guarantees of Freedom of Elections, Appendix B)

#### *1.3.a.5 Central Election Commission*

Responsible for the conduct of elections in the republic and the protection of the rights associated with voting (Art. 10), the Central Election Commission is the final appellate body within the commission structure. The CEC enjoys original and appellate jurisdiction over the actions, inactions and decisions of subordinate election commissions. (Art. 10, 1, 31) In respect to alleged violations of voters' rights by election officials (Art. 54, 2) or in elections for the president (Art. 54, 4), the CEC has appellate jurisdiction over decisions of the oblast and Bishkek city election commissions. In respect to alleged violations during elections for the Legislative Assembly or Peoples' Representatives Assembly of the Jogorku Kenesh, the CEC hears appeals from the territorial election commissions. (Art. 54, 3) Additionally, a memorandum of the commission indicates that it has authority to hear appeals from oblast and Bishkek city commissions concerning complaints filed during local kenesh elections.

#### *1.3.b The Decision Making Process of Electoral Commissions*

Regardless of its level of authority, every election commission is organized the same. To commence activity, 2/3 of the members of a commission must be in attendance. (Art. 18, 2) Significantly, this necessity of a quorum apparently only exists at the start of a meeting. Decisions on the following subjects require a majority of the total number of commissioners, regardless of the number of commissioners present:

- financing;
- candidate registration;
- election results;
- invalidity of an election;
- repeat voting;
- repeated election;

**CIS convention on human rights**

signed in Minsk, 26 May 1995, never ratified

**Article.29**

According to the national legislation, every person in the country of his citizenship has the right and the opportunity to

- a) participate in governing and state affairs directly as well as by freely elected representatives;
- b) to vote and be elected on the basis of universal suffrage by secret ballot which ensures the free will of the voters;
- c) be admitted to the public service on general conditions of equality.



# CONSTITUTION OF THE KYRGYZ REPUBLIC

#### *1.4 OTHER RELEVANT LAW*

##### *1.4.a The Code of Civil Procedure*

The Code of Civil Procedure describes only generally the rights of parties seeking redress of grievances in the courts. In regards to filing or appealing claims, the code provides that any interested party has the right to apply to a court, and interference with that right is illegal (Art. 4), that a court must rule on a complaint within three days of receiving it (Art. 236) and that a dissatisfied litigant must bring an appeal within 10 days of the court's unfavorable decision. (Art. 286)

##### *1.4.b The Law on Citizenship*

The definition of, requirements for obtaining and conditions for losing citizenship in the Kyrgyz Republic are addressed in a separate law. The law defines two groups of citizens: those who were citizens at the time of the acceptance of the declaration of Kyrgyz sovereignty, who were not otherwise citizens of other states, and those who acquired Kyrgyz citizenship after independence. (Art. 1.1; Art. 1.2)

The law describes two basic ways of acquiring citizenship in the republic: by birth on the territory of the republic (Art. 12; Art. 15) or by birth to (Art. 14) or adoption by (Art. 16) at least one citizen parent, regardless of the place of birth. The law specifically provides that marriage does not affect an individual's citizenship. Marriage to a non-citizen does not extinguish the citizenship of the Kyrgyz spouse, nor does marriage of a non-citizen to a Kyrgyz citizen bestow citizenship. (Art. 7) Finally, although the law does not explicitly detail the process of naturalization of non-citizens, it does acknowledge its existence by proscribing the grant of citizenship to persons who have been convicted of serious crimes, have carried out activities inimical to the state interests of the Kyrgyz republic or have fomenting national or racial hatreds or advocated war. (Art. 22)

In addition to categorizing citizenship and describing its method of acquisition, the law indicates that citizenship, however acquired, can be lost. Among the reasons given for terminating citizenship include serving in a foreign military and living abroad for three years without consular notice. (Art. 25)

Finally, while the law gives the president of the republic the power to award citizenship (Art. 27), it makes the Supreme Court responsible for resolving disputes related to the grant or denial of citizenship. (Art. 39)

#### *1.5 CASE LAW*

At present, there are no opinions of the Supreme Court of the Kyrgyz Republic (or any other high-level court) elaborating on the issues discussed in this chapter.

## *1.6 DISCUSSION PROBLEM/ HYPOTHETICAL/ QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

### *1.6.a The Ejected Observer*

#### *1.6.a.1 Facts*

On election day, Chinara, a domestic observer, was asked to leave a polling place by the precinct chair. Angered by her ejection, she filed a complaint with the territorial election commission having responsibility over that precinct. Chinara's petition alleged that the precinct commissioners violated the elections code by refusing to permit her to observe voting. She named the individual members of the commission and singled out the precinct chair, whom she additionally claimed had ejected her without having an adequate basis under the law.

The precinct chair, meanwhile, filed a complaint with the local prosecutor's office who commenced proceedings against Chinara in the local rayon court.

#### *1.6.a.2 Questions Presented*

- 1) Did Chinara file her complaint with the proper electoral commission and what would be the consequences if she did not?
- 2) What effect, if any, did the commencement of proceedings in the rayon court have on the complaint filed with the superior commission?
- 3) If the territorial election commission can decide the case, by when must it issue a decision?

### *1.6.b The Absent Commissioner*

#### *1.6.b.1 Facts*

A month before scheduled elections, seven out of ten members of an electoral commission met. Of the absent members, two were away on business and the third was recovering from an illness. The chair of the commission did not notify the three absent commissioners and did not provide those in attendance with an agenda in advance of the meeting. This was unfortunate because several of the commissioners were unable to remain throughout the entire meeting and had to leave before its

conclusion. Nevertheless, the commission resolved a number of important issues that day. Among the issues resolved were the registration of a candidate and an appeal from a subordinate commission.

Upon returning from his business trip commissioner Alisher learned of the actions of the commission in his absence and filed a written objection with the chair. The commission chair duly forwarded the objection to a superior electoral commission that ruled within the required time against the objecting commissioner. Dissatisfied with the result, commissioner Alisher then filed an original action with the court.

#### *1.6.b.2 Questions Presented*

- 1) If the commission voted to deny a candidate's registration by 6 to 1, would its action be valid? Would the answer be different if the vote was 5 to 2?
- 2) If the commission voted to overrule the decision of a subordinate commission by a margin of 4 to 3, would that decision be valid?
- 3) Would the result be different if the commission ruled on the appeal from the subordinate commission after three of its members had left the meeting?
- 4) If the commission chair forwarded the commissioner's objections unsigned, would it void the decision of the commission on which the complaint was based, the complaint itself or both?
- 5) How long does the court have to decide these issues?

## 2.0 Jurisdiction

### 2.1 INTERNATIONAL STANDARDS

#### 2.1.a *Applicability of International Law*

According to the Constitution of the Kyrgyz Republic, ratified interstate treaties and general principles of international law are binding. (Art. 12:3; Art. 16:1) In the case of ratified treaties, they appear to have a force equal to the Constitution itself, being superior to ordinary legislation and requiring no enabling legislation from the parliament to make them effective. In the event therefore of a conflict between ordinary legislation and a ratified interstate treaty, the treaty must prevail because, being incorporated into the Constitution by reference, ratified treaties are equal in effect to the Constitution itself, that is of the "highest judicial force." (Art. 12:1)

The status of "generally recognized principles and norms of international law" appears to be only slightly less. Though qualified to concern only "basic rights and freedoms of the person" these general principles are held to be both "recognized" and "guaranteed." Presumptively therefore, ordinary legislation that conflicts with generally recognized principles of international law concerning the basic, personal rights and freedom must be harmonized with those general principles. As a practical matter, this means that a generally acceded to convention could be binding in the Kyrgyz Republic even if it had not been ratified. In respects to international models of jurisdiction, this is important since the Kyrgyz Republic apparently is not a party to any international agreement that directly concerns jurisdiction.

#### 2.1.b. *General Principles*

There are, however, two international documents that address judicial enforcement and protection of the right to vote. The first of these is the Draft General Principles on Freedom and Non-Discrimination in the Matter of Political Rights. (See Appendix A) The document, which is not a convention and has not been ratified by the Kyrgyz Republic, asserts the logical consequence of a right to vote guaranteed in law. A right is merely abstract without the accompanying power to enforce it, and so the Draft Principles recognize a right to sue to enforce the right to vote. Specifically, the Draft Principles provide that the decisions of electoral commissions shall be reviewable by the courts or other independent and impartial bodies. (VIII, d)

An additional statement of principles puts the obligations of impartial administration and methods of resolving disputes even more

generally. The Framework for Future Efforts (for guaranteeing genuine elections) exhorts "national institutions" to ensure universal and equal suffrage and impartial elections, in part, by providing means for the resolution of electoral disputes. (III.) (See Appendix A) Neither of these statements of principle amounts to a treaty, of course, but the general norms they express nevertheless are binding in the Kyrgyz Republic, being stated explicitly in the republican constitution.

## *2.2 NATIONAL CONSTITUTION*

The preamble to the Constitution of the Kyrgyz Republic asserts that the newly constituted government is devoted "to the rights and freedoms of the person" and explains that it was constituted in order to establish the Kyrgyz Republic "as a free and democratic civil society." Elections are considered a part of that society, and in the event that the rights and freedoms of the person associated with voting and the electoral process are violated, the constitution anticipates several organs of government having the power (and the responsibility) to correct those violations. When it comes to the jurisdiction of these organs, the constitution, as befits a constitution, is general, leaving the specific powers of the ordinary officials, administrative bodies and courts to be defined in greater detail by specific legislation. Nevertheless, the Constitution of the Kyrgyz Republic addresses itself to jurisdictional issues on several occasions.

### *2.2.a General Jurisdiction*

The most general of these is that of "the state and all its agencies and officials" to "provide full, unconditional and immediate defense" of the rights and freedoms of citizens. (Art. 38:1) When the rights and freedoms involved are those connected with the electoral process, it stands to reason that every official and agent, from the highest to the lowest, has the obligation and the duty to protect them. This interpretation is reinforced by the constitution's assertion of its supremacy over ordinary law (Art. 12:1) and its clear statement that laws are to be enacted in pursuance of its goals and not in conflict with them. (Art. 12:2) Given additional, strong language in the text about how ordinary legislation should not "rescind or diminish the rights and freedoms of the person" (Art. 17:1) and that even in times of extremity, contemplated limitations on these basic rights may not infringe of the fundamental "nature of constitutional rights and freedoms" (Art. 17:2), rights associated with elections cannot be abridged except in the most extraordinary of circumstances, and must be protected at every level of the government.

### *2.2.b Equal Treatment before the Law*

Moreover, the constitution embraces a concept of legal equality, providing that laws enacted in pursuance of its general ends "should be

identically applied." (Art. 22) The obligation to treat all persons equally under the law, as well as the obligation to protect basic personal rights and freedoms rests with all government officials. Three bodies mentioned by the constitution, however, have extra responsibilities when it comes to the protection of electoral rights.

#### *2.2.c The Electoral Commission*

The constitution does not designate a single agency or official for the redress of violations of electoral rights. It does recognize a Central Commission on Elections and Conduct of Referenda, but the responsibilities the constitution places on it concern the removal of deputies from parliament. (Art. 56:6,7) None of the constitutional grounds for removal of a deputy however include violations of the electoral law.

#### *2.2.d The Courts*

Despite its brevity on electoral commissions, the constitution supplies more detail on the nature and power of the courts. The constitution itself has the "highest judicial force" in the republic (Art. 12:1), and "the principles of justice" established in its articles apply to "all courts and judges of the Kyrgyz Republic" and are to be applied uniformly. (Art. 90) It declares the judiciary to be independent of the other branches of government (Art. 7:1) gives judges "the rights of inviolability and immunity" and promises them "material and other guarantees of that independence." (Art. 79:4) Moreover, the constitution emphatically decrees that "judges are subordinate only to the constitution and the law." (Art. 79:4) These bold assertions of judicial duty aside, the constitution only treats the jurisdiction of two courts that might hear election disputes.

#### *2.2.e The Constitutional Court*

The first of these courts is the Constitutional Court. Described as the arbiter and interpreter of the constitution in the republic (Art. 82:1), the Constitutional Court enjoys original jurisdiction, being a court of first instance for constitutional disputes (Art. 82:3 (2)) and an appellate court for interlocutory appeals from actions commenced in other courts involving questions of constitutional interpretation. (Art. 87:2) In either kind of case, its judgment is "final and not subject to appeal." (Art. 82:4), and the constitution states expressly that a decision of the Constitutional Court repeals contrary legislation, though it does not say whether the decision replaces it. (Art. 82:4)

### *2.2.f The Supreme Court*

The text of the constitution is not as clear when it comes to the jurisdiction of the Supreme Court. Designated as the "highest organ of judicial power in the sphere of civil, criminal and administrative law." (Art. 83:1), it appears to be a final appellate court for all issues except constitutional ones. Whether it has any original jurisdiction, and whether it can hear interlocutory appeals is not mentioned. The breadth of its appellate jurisdiction, however indicates the variety of forums where an original action involving electoral rights can begin – the administrative, civil or criminal courts.

### *2.2.g Courts of First Instance.*

Unfortunately, the constitution does not define the jurisdiction of these inferior courts, and refers to them only generally. For instance, it gives the president the power to appoint and remove judges of the city, rayon, oblast, Bishkek, arbitration and military courts (Art. 46:2 (6)) without defining the jurisdiction of any of them. Similarly, it obliges the courts not to "apply a normative act which contradicts the constitution" (Art. 87:1) but gives decisions in conformity with the constitution binding effect over all "state bodies," economic entities, "public associations, state officials and citizens" (Art. 86:1). What kind of cases can be heard by which courts, however, is omitted, with one curious exception.

The constitution permits elders courts, and acknowledges their jurisdiction over "property, family disputes and any other matters allowed by law." (Art. 85:2) The constitution does not exclude election disputes from these "other matters," but it does indicate that the jurisdiction of these courts results from a consent agreement signed by the parties and not the force of law. The function of these courts is clearly the "reconciliation" of disputes rather than strict adjudication. Nevertheless, the constitution states that a decision of an elders' court may be appealed to a rayon or municipal court. (Art. 85:3) It does not, however, further describe the jurisdiction of a rayon or municipal court. Instead, the specific powers of the judiciary to hear election disputes are left to statute.

### *2.3 ELECTIONS CODE*

The elections code gives electoral commissions and the courts the power to resolve election disputes. To oversimplify somewhat, the code gives superior commissions jurisdiction over inferior ones, and it gives courts jurisdiction over commissions and other public officials, legal entities, associations and individuals. Thus for alleged violations of the rights associated with voting, both courts and commissions have concurrent jurisdiction over the action, inaction and decisions of electoral commissions, but the courts alone have jurisdiction over the acts of others.



This section summarizes the code's provisions on who can resolve election disputes and the related question of who can bring them. In other words, issues of jurisdiction and standing are treated together, first generally and then by the specific topics that constitute the subsequent chapters of this manual. The discussion below is concerned exclusively with who can bring a particular action and who can resolve it, leaving to subsequent chapters questions of when a complaint must be filed, what must be proved to make a case and the consequences of making it.

### *2.3.a Electoral Commissions*

#### *2.3.a.1 Jurisdiction Generally*

When it comes to the jurisdiction of election commissions, the electoral code makes a subtle distinction between the power of a commission generally and the power of a commission to hear complaints about alleged violations of the code. It should be borne in mind that the former relates to any function of a commission while the latter relates to its decision making function. Each is treated in the following discussion, but as this manual concerns dispute resolution, the latter is given priority.

The elections code decrees that election commissions shall be independent within the limits of their authority from interference by other state and local governmental bodies. (Art. 9, 4) Provided they operate within that authority, the decisions of electoral commissions shall be binding on those governmental bodies and on voters. (Art. 9, 5) In the event, however, that a commission exceeds its authority or violates the constitution, the elections code or other legislation, it can be reversed by a superior electoral commission or a court. (Art. 9, 6) The specific authority of each level of commission is discussed below.

##### *2.3.a.1.a Central Election Commission*

Among its general powers, the Central Election Commission has the authority to issue instructions, resolutions and regulations in clarification of this code. (Art. 10, 1 3)) It is also authorized to hear reports from ministries and other agencies on issues pertaining to the preparation and conduct of elections. (Art. 10, 1 16)) Finally, along with inferior commissions, the CEC prepares and conducts elections itself (Art. 59, Art. 71, etc.), having the exclusive responsibility of deciding on the format of signature sheets (Art. 62, 9) and ballots (Art. 10, 1 13)), as well as registering candidates for president (Art. 63) (*See also 8.3.b.1 below*).

Among its decision making powers, the CEC has appellate jurisdiction over claims lodged against the actions and decisions of subordinate commissions. (Art. 10, 1 31))

### *2.3.a.1.b Oblast / Bishkek City Commissions*

Likewise responsible for the preparation and conduct of elections for president (Art. 59) and both houses of parliament (Art. 71), the oblast and Bishkek city electoral commissions have general functions and decision making authority. Among their general functions, oblast and Bishkek commissions establish subordinate commissions (Art. 12, 1 5)), direct their activity (Art. 12, 1 2), 7)), organize elections (Art. 12, 1 2)), and ensure the proper application of the law. (Art. 12, 1 1))

Among their decision making functions, oblast and Bishkek city commissions hear reports from subordinate commissions, leaders of companies, establishments, organizations and public associations (Art. 12, 1 10)), and consider issues of repeat elections within their territories. (Art. 12, 1 13) (*See 9.3.d below*) Unfortunately, the code gives oblast and Bishkek commissions the authority to hear reports from private businesses and public associations without explaining why they would want to.

Finally, oblast and Bishkek city commissions have jurisdiction over actions and decisions of subordinate commissions. (Art. 12, 1 14))

### *2.3.a.1.c Rayon/city Commissions*

The code succinctly describes the jurisdiction of territorial commissions, giving them the power to coordinate the activity of precinct commissions, consider complaints against them and rule. (Art. 14 3))

### *2.3.a.1.d Precinct Commissions*

Along with their responsibilities for conducting presidential (Art. 59) and parliamentary (Art. 71) elections, precinct commissions are also obligated by the code to draw up voters' lists (Art. 15, 2)), acquaint voters with the lists and review complaints of their inaccuracy (Art. 15, 3)) (*See also 4.3.b below*), and enforce rules on the posting of campaign materials on precinct territory. (Art. 15, 4)) (*See 6.3.d.2.f below*) Precinct commissions also enjoy original jurisdiction over complaints against violations of the electoral code and the authority to decide them. (Art. 15, 8))

### *2.3.a.1.e Decision Making Process*

As was discussed in the previous chapter in more detail (*See 1.3.b*), the decision making process for all commissions is the same. A quorum of 2/3 of the members of a commission must be present before commission business may commence (Art. 18, 2), and while most business requires only a majority vote of members present (Art. 18, 8), certain decisions require a majority of the total number of commissioners. These are

decisions on financing, candidate registration, election results, the invalidity of an election, repeat voting, repeated elections and repeal of a previous commission decision. (Art. 18, 7) In either category of vote, the chair of the commission casts the deciding vote in the event of a tie (Art. 18, 9), and commissioners who disagree with a commission decision can lodge their dissent with a superior commission. (Art. 18, 11)

### *2.3.a.2 Standing Generally*

Unlike its treatment of the parties with standing to file complaints in court (see 2.3.b.2 below), the elections code does not separately list those parties who may bring claims before commissions, with one exception. Commissioners themselves are authorized to file complaints with either the courts or superior commissions. (Art. 16, 9) It is unclear however whether the complaining commissioner must have a personal interest in the complaint or merely a general one. What is clear from context at least is that the same parties who have standing to bring actions before the courts have standing to bring complaints before commissions. That is, voters; electors; candidates, their trusted persons and authorized representatives; political parties; election blocs; public associations; gatherings of voters; observers; and election commissions all may complain. This authorization is not to be found in a single paragraph, however, being found instead in descriptions of specific causes of action.

### *2.3.a.3 Specific Complaints*

#### *2.3.a.3.a The Formation of Election Commissions*

See Chapter 3, generally, especially section 3.3.c Creation, Composition and Term of Commissions.

#### *2.3.a.3.b The Registration of Voters*

As registration is a pre-requisite to the exercise of the right to vote, interference with voter registration gives standing to those whose rights have been denied. Voters have standing to file a complaint in either a superior commission or a court if their names have been excluded from a voters' list by a commission. (Art. 22, 3) They also have standing to file in either forum if prevented from viewing the list. (Art. 22, 2)

#### *2.3.a.3.c The Registration of Political Parties*

While the registration of political parties is an obligation of electoral commissions, the code seems to prefer that the courts resolve disputes over registration. For instance, the refusal of a territorial commission to register authorized representatives of candidates, political parties or party blocs, lies with the courts, not a superior commission. (Art. 26, 6)

#### *2.3.a.3.d The Nomination of Candidates*

The elections code gives to election commissioners the right to be present at the nomination conventions of voters' meetings. (Art. 87, 2) In addition, if the number of candidates nominated is less than the number of mandates, a commission can prolong the nominations period for an additional twenty days. (Art. 87, 8) Unfortunately, this paragraph does not explain what a commission must or may do if after the expiration of that period an adequate number of candidates has still not been nominated.

In addition to its authority to be present at nominations and to extend the nominations period, the Central Elections Commission also has the obligation to review slates of candidates and register those whose nominations conform to the code. (Art. 73, 4) If the CEC refuses to register a candidate, it must issue a reasoned statement for its refusal, obviously giving the refused candidate a cause of action.

For a commission's refusal to register a candidate, the elections code gives standing to the candidate himself. (Art. 27, 6) The candidate has the option of filing his complaint with a superior commission or with a court. In case the office he was seeking was the presidency and the commission that denied his registration was the Central Elections Commission, he has standing to complain directly to the Supreme Court. (Art. 63)

A similar cause of action is created by a constituency commission's refusal to register a candidate for an election to a local *kenesh*, although the code does not designate whether the claim should be filed in a court or a superior commission. (Art. 88, 2))

Many of the rights enjoyed by candidates themselves are extended to their trusted persons. One that is unique is the trusted person's right to file claims against a commission and to be present at their resolution. (Art. 29, 5)

Finally, commissions have the power to invalidate the results of an election if they determine that the code's requirements for nomination of candidates has been breached and that such breach prevented the ascertainment of the voters' intentions. (Art. 46, 4)

#### *2.3.a.3.e Campaigning*

The code puts numerous restrictions on campaigning, both by candidates and by others on their behalf. The code does not, however,

define exactly who has standing to complain of violations of the rules on campaigning. For instance, it gives the election commission that registered a candidate the power to cancel his registration for violation of the campaigning rules (Art. 28, 10), but it does not clearly state who has standing to bring a complaint before a commission. The code is clearer when it describes who may bring a similar complaint before a court. (See 2.3.a.3.e below) (See also 6.3.d.3 et seq.)

Courts do have clear authority to cancel the results of an election for violations of its rules on pre-election campaigning (among other grounds) provided that in its judgment the violations prevented the ascertainment of the voters' intentions. (Art. 56, 2)

Moreover, commissions have the power to distribute television and radio air-time to different candidates based on the principle of equal time and with the input and agreement of the broadcasters. (Art. 32, 8) (See 6.3.c.2.b.1, below)

### *2.3.a.3.f Campaign Funding*

Election commissions enjoy considerable power over the campaign funds of a candidate or political party. The code gives commissions the power to grant candidates, political parties and party blocs permission to open special campaign fund accounts. (Art. 51, 5) Then it empowers the commission that registered the candidate or party to require regular accountings from the depository of the funds. (Art. 51, 12) (See 7.3.b.1 below) Presumably, this jurisdiction of a commission over the funds of a candidate creates causes of action for the commission against candidates and banking institutions who do not comply with its requirements and causes for the candidates and banking institutions against the commission's actions.

Finally, a court can also cancel the results of an election if it finds that its procedures for campaign funding were violated and that those violations prevented the ascertainment of the will of the people. (Art. 46, 4)

### *2.3.a.3.g Voting*

Among the parties having standing to complain against voting and polling place violations are voters themselves and observers. As for observers, assuming that they have met the registration, accreditation and notice requirements in the code, then domestic as well as foreign observers have standing to file complaints against a precinct or other electoral commissions in a superior commission, the Central Elections Commission or a court. (Art. 17, 8 g))

### *2.3.a.3.h Counting of Votes*

(See 8.3.d et seq. below.)

### *2.3.a.3.i Election Outcomes*

Territorial commissions bear the responsibility of determining the results of local kenesh elections on the basis of protocols from precinct commissions. (Art. 90, 1)) Failure to do so properly presumably gives the candidates and the precinct commissioners a cause of action.

In addition, a territorial or constituency commission has the obligation of informing a successful candidate for deputy of his election. (Art. 78, 1) The code does not describe the form of the notice required, but presumably failure to give the elected deputy notice of some sort would give him a claim against the responsible commission. Notice also brings the elected deputy within the jurisdiction of the CEC and makes him liable to inform the commission within three days of being notified of his election of any conflicts he has with the status of deputy. (Art. 78, 1) (See 5.3.g.5 below)

### *2.3.b Courts*

#### *2.3.b.1 Jurisdiction Generally*

As the treatment of specific complaints below illustrates, the elections code treats the jurisdiction of the courts incidentally. When it discusses jurisdiction generally, it does so broadly, leaving much of the powers of the courts to be gleaned from other codes. Nevertheless, the code gives the court a handful of clear grants of authority to resolve election disputes.

Concerned first with the independence of the judiciary, the code prohibits courts, and other "law enforcement bodies" from making contributions to the campaign fund of a candidate. (Art. 51, 3) This encouragement of distance from the political process should be read together with other law on the independence of the courts.

With judicial independence expected if not presumed, the code goes on to delineate those areas in which the courts are to exercise jurisdiction over election disputes. The most general of these is the courts' power to hear complaints on the decisions, action and inaction of electoral commissions. (Art. 55, 1) Regardless of subject matter, the courts are given the power to try a case in the absence of the parties, provided they have been notified twice of the proceeding. (Art. 55, 8) The code itself however, says nothing about the content required of that notice, presumably leaving these matters to the practice described in the civil procedure code. (See 2.4 Other Relevant Law, below)

Another power of the courts is that of disqualifying candidates, and under the code, it takes two forms. The first of these is the withdrawal of a candidate from the election process. The code describes three instances in which a candidate may be withdrawn from an electoral contest:

- judicial recognition of his incapacity;
- judicial recognition of his death;
- judicial recognition of his guilt, i.e. a verdict. (Art. 79, 1, 2). 3), 5))

Interestingly enough, the code lists death separately as a ground for terminating a candidature, implying that death and the judicial recognition of it are two separate legal acts. The code does not, unfortunately, explain whether there are forms or procedures for courts to certify the removal of a candidate for one of these reasons nor a format for notifying the appropriate election commission.

The second way a court can end a candidate's ambition for office is by canceling his registration. The code does not make clear whether a court alone or a court and a commission may cancel the registration of a candidate for violations of the nomination, registration, and campaigning procedures. (Art. 56, 1) It is clear however, that a court may cancel the election of a candidate for the same violations after a commission has tabulated its results. (Art. 56, 2, 3) Moreover, a court can declare an entire election invalid if it cancels the results in at least 1/3 of the polling stations. (Art. 56, 4) Indicating that the code gives courts the exclusive jurisdiction to cancel elections, courts are described as the finders of fact when the actions of candidates, political parties or party blocs are alleged as the basis for canceling an election. (Art. 47, 3)

### *2.3.b.2 Standing Generally*

In a single paragraph, the elections code conveniently lists those parties who may bring an action in the courts for the enforcement of the rights associated with voting. Those parties consist of: voters; electors; candidates, their trusted persons and authorized representatives; political parties; election blocs; public associations; gatherings of voters; observers; and election commissions. (Art. 55, 5) This paragraph gives to each of these parties the general right to sue to enforce the law relevant to elections, while other sections of the code give standing to parties with specific causes of action.

### *2.3.b.3 Specific Complaints*

#### *2.3.b.3.a The Formation of Election Commissions*

(See 3.3.c et seq., below)

#### *2.3.b.3.b The Registration of Voters*

A voter has standing to complain to an election commission or a court if he is denied access to a voters' list (Art. 22, 2) or improperly excluded from the list. (Art. 22, 3)

#### *2.3.b.3.c The Registration of Political Parties*

The elections code seems to prefer the courts to the commissions when it comes to the resolution of disputes regarding the registration of political parties. (See Political Parties Law in 5.4 Other Relevant Law below) Likewise, if a territorial commission does not register an authorized representative of a candidate, political party or party bloc, it gives the applicant for registration standing to challenge its decision in court, not another commission. (Art. 26, 6) (See also 5.3.e.2)

#### *2.3.b.3.d The Nomination of Candidates*

If a commission refuses to register a candidate, that candidate has standing to bring a complaint in a court or superior commission. (Art. 27, 6) Additionally, if the Central Election Commission refuses to register a candidate for president, the candidate has a right of appeal directly to the Supreme Court. (Art. 63) (See 5.3.g.3 below)

#### *2.3.b.3.e Campaigning*

Although the elections code treats the subject of improper campaigning extensively (see chapter six), it does not clearly define who may complain of the violation of its campaigning rules. It states in one instance that election commissions, as well as other bodies, organizations and citizens have standing to petition a court to cancel a candidate's registration. (Art. 36, 8) That paragraph however refers to incitement in the media by a candidate, political party or party bloc, leaving the question of who has standing to sue for less serious violations of the campaigning rules uncertain.

#### *2.3.b.3.f Campaign Funding*

(See 7.3.b et seq. below).

#### *2.3.b.3.g Voting*



When the code bestows upon "observers" the right to sue to enforce the law relevant to elections, it does not distinguish between domestic observers and international observers. (Art. 55, 5) Assuming that they have met the registration, accreditation and notice requirements discussed in chapter eight, then domestic and foreign observers have standing to file complaints against electoral commissions in either a superior commission or a court. (Art. 17, 8)

#### *2.3.b.3.h Counting of Votes*

*See 8.3.d.2 et seq. below*

#### *2.3.b.3.i Election Outcomes*

As was discussed previously, a court can cancel the determination of an election commission on the outcome of an election if it finds that violations of the law prevented the ascertainment of the voters' intentions. (Art. 56, 3) The code further provides that a court may cancel the entire election if it invalidates 1/3 of the outcomes of polling stations. (Art. 56, 4) While these paragraphs give the courts the jurisdiction to void elections, they do not indicate who has standing to allege such violations, whether the allegations must be made by a singular party in a singular cause of action or whether they can be joined together from the separate actions of separate parties.

#### *2.3.c Local Government*

The elections code gives limited responsibility to local government. While one of these responsibilities, the maintenance of public order, necessarily entails the jurisdiction to resolve disputes, the other, providing premises to voters' meetings, does not. (*Compare 2.3.c.1 with 6.3.c.2.d*)

##### *2.3.c.1 Maintaining Public Order*

The code obliges the office of the public prosecutor and internal affairs bodies to ensure strict observance of the Constitution, the elections code and the laws of the republic. (Art. 53, 1) This obligation exists from the start of an election period until election day, when the office of the public prosecutor and internal affairs must be open. (Art. 53, 2) In addition, internal affairs bodies and "organizations on the exploitation of housing stock" must assist electoral commissions upon request. (Art. 53, 3) The code mentions two specific and one general category of assistance: keeping public order, voters' lists and "other questions." It

does not define the form or content of the commission's request, nor does it indicate the nature of the assistance to be rendered to a requesting commission. (Art. 53, 3)

#### *2.3.c.2 Voters' Meetings Premises*

The code also recognizes the jurisdiction of local government over the premises of voters' meetings, requiring the responsible bodies to consider requests for such meetings upon receipt. Unfortunately the code does not describe the form or content of such a request, nor does it describe the procedure a local government body must follow in granting or denying a request, or the consequences of either. Presumably, though, the courts have jurisdiction to hear complaints on such matters.

### *2.4 OTHER RELEVANT LAW*

#### *2.4.a Code of Civil Procedure*

The Code of Civil Procedure describes causes of action generally and one cause of action involving voters' rights specifically. In general, the courts of a specific territory have jurisdiction over causes of action arising in that territory. Interestingly, however, the only court of first instance remaining in the code after amendments in 1999 are the rayon courts. (Art. 114) Likewise, the civil procedure code treats questions of standing generally, proclaiming that "any interested party" can seek redress in the courts. (Art. 4)

In respects to original claims arising from administrative action, the code specifically mentions complaints of the accuracy of voting lists (Art. 233) and devotes an extra article to the requirements of such complaints. The alleged activities giving rise to complaints are:

- non-inclusion in a list;
- exclusion from a list;
- incorrect inclusion in a list;
- misspellings.

Interestingly, the code still requires the court to refer the complaint first to the local kenesh before ruling. (Art. 235) The applicant must be notified of the transfer and appears to have a right to be present at the deliberation of the executive committee of the kenesh. The complaint must then be resolved within three days of its submission. (Art. 236) Oddly, the code seems to require the receiving court to issue a ruling, which it delivers to the complainant and the executive committee of the kenesh, the latter being responsible for changing the voters' list in accordance with the ruling. (Art. 237)

It should be noted that the Code of Civil Procedure is very out of date. For instance, it does not actually direct the courts to refer claims to local keneshes, describing them instead as "soviets of peoples' deputies."

Finally, and far more generally, the code also permits complaints against the action of "authorities and officials" and for "other matters" (Art 233) depriving citizens of their rights at law. (Art. 241-1)

In respects to appellate actions, the code requires that appeals are to be filed within ten days of the unfavorable ruling in the original action (Art. 286) and that an appellate court must rule within one month from its receipt of that appeal. (Art. 286-1)

#### *2.4.b Law on Legal Proceedings in the Constitutional Court*

The law on legal proceedings in the Constitutional Court (December 1993) describes the powers of the court, the contents of petitions filed with the court (Art. 21) and the order of resolution of disputes (Art. 23). Relevant to the subject of this chapter, that law also defines the parties with standing to bring complaints before the court:

- the president of the republic,
- deputies of the Jogorku Kenesh,
- the government,
- the prime minister,
- other courts,
- the prosecutor general,
- local representative assemblies (keneshes),
- legal entities and citizens of the republic on questions directly affecting their constitutional rights. (Art. 14).

#### *2.4.c Law About the Constitutional Court*

A separate law about the Constitutional Court defines the structure of the court.

#### *2.4.d Law About the Supreme Court and Local Courts of General Jurisdiction*

The powers (Art. 18), structure (Art. 20) of the Supreme Court, as well as the order of disposal of legal proceedings before it (Art. 19) are described in a separate law about the court (May 1999). Among those powers is that of interlocutory appeal of constitutional questions directly to the Constitutional Court. (Art. 18, 10))

In addition, section 2 of the law describes the structure and power of regional (Art. 37), oblast and Bishkek city courts (Art. 42), military courts (Art. 51) and local courts (Art. 58).

None of the powers mentioned for these courts however include specific jurisdiction over election disputes.

## 2.5 CASE LAW

## 2.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

### 2.6.a *The Opinionated Journalist*

#### 2.6.a.1 *Facts*

Bakit is the editor of an independent newspaper. In advance of upcoming elections, and within the time designated for campaigning, he published an editorial opinion endorsing a candidate. The candidate was self-nominated and not the representative of any political party. Nevertheless, Bakit had heard the candidate speak at a campaign rally and liked his ideas enough to support him. He liked him so much that in his editorial, Bakit made dire predictions for the future of the country if his candidate were not elected.

When published, the editorial caused a controversy, and a citizen's group in a neighboring oblast brought an action against Bakit. The complaint alleged that Bakit was attempting to incite violence by writing about what could happen if his candidate were not elected.

#### 2.6.a.2 *Questions Presented*

- 1) Does the citizen's group have standing to complain against Bakit if its place of residence is an oblast other than that where the alleged violation occurred?
- 2) Can an electoral commission hear the complaint?
- 3) If Bakit's editorial is found to constitute incitement, can the candidate be held responsible, and if so how?

### 2.6.b *The Invalid Election*

#### 2.6.b.1 *Facts*

Scenario One: On election day, thirty minutes before the polls were scheduled to close, Voter A arrived at the polling station and found the doors locked. Seeing cars in front of the building, the voter assumed that there were still people inside, and wishing to exercise her right to

vote, began pounding on the door to gain entrance. After a while, an annoyed commissioner unlocked the door and told the voter that the polls were closed. The voter went immediately to the nearest court and filed a complaint.

Scenario Two: On the same day at another polling station, Voter B stood in line to cast his ballot. While waiting, he noticed that a domestic observer was assisting an elderly woman complete her ballot. He complained to the polling place official on duty, and the observer was forcibly ejected and the elderly woman left, taking her incomplete ballot with her. The next day, when the results of the election were published, the polling station reported 100% voter turnout. The ejected observer however, believing that the percentage was impossible, sued.

Scenario Three: Outside a third precinct, in a trash dumpster behind the polling station, two boys saw something smoldering. Afraid that the fire would spread, they threw a bucket of water onto the papers and discovered that they were completed ballot returns. The boys took the charred papers home and showed them to their father, who happened to be a judge.

#### *2.6.b.2 Questions Presented*

- 1) Does Voter A have standing to challenge the validity of the election? Does the observer? Do the boys?
- 2) If they have standing, can they complain to a commission, a court or both?
- 3) If the results in any of the three precincts described were declared invalid, what effect would it have on the entire election?

### 3.0 Complaints & Appeals Relating to the Formation of Election Commissions

#### 3.1 INTERNATIONAL STANDARDS

##### 3.1.a Applicability of International Law

As discussed previously, the Constitution of the Kyrgyz Republic specifically incorporates international law into the law of the republic. Ratified interstate treaties are declared to have direct force, and presumably are equal to the Constitution in effect. (Art. 12:1; 12:3) In addition, general principles of law, at least to the extent that they affect basic, personal rights and freedoms, likewise appear to have effect in the republic. (Art. 16:1) Obviously, as voting is considered a basic, fundamental, individual right, the sources of law that could be used to resolve electoral disputes would include ratified, unratified and generally agreed international principles as well as domestic legislation.

##### 3.1.b General Principles

Interestingly enough, however, there appear to be no international treaties concerning electoral commissions. There are only statements of general principle. Specifically, the Draft General Principles on Freedom and Non-Discrimination in the Matter of Political Rights argues for the "genuine character" of elections, referendums and preparation of voters' lists. (See Appendix A) While not specifically calling for the creation of election commissions, the Draft Principles nonetheless describe entities "whose independence and impartiality are ensured and whose decisions are subject" to review either by judicial or "other independent and impartial bodies." (VIII d)

A further document, the Framework for Future Efforts (for the enhancement genuine elections) more generally obliges "national institutions" to the "independent supervision" and "impartial administration" of the electoral process. (III) (See Appendix A) While neither of these documents rises to the level of a treaty, and hence is not directly binding in the Kyrgyz Republic, each nevertheless recognizes two important international norms for the establishment and oversight of election commissions: independence and impartiality. This is especially significant since those norms are not explicitly mentioned in the articles of the Constitution of the Kyrgyz Republic dealing with electoral commissions.

#### 3.2 NATIONAL CONSTITUTION

While the Constitution of the Kyrgyz Republic explains the rights and obligations of citizens at length, and includes among those rights, "free, general, secret, direct and equal voting," (See 4.2 below), it curiously does not provide much guidance for the realization of that right. It does acknowledge a Central Commission on Elections and Conduct of Referenda, but refers more to the composition of the commission than its functions. For example, the constitution gives the president the power to appoint the chairman of the commission (Art. 46:6 (5)) and gives the president and each house of parliament the responsibility of appointing one-third of the commission members (Art. 46:6 (5), Art. 58:1 (7), Art. 58:3 (13)). Other than that, the constitution only describes the commission's power to remove deputies from parliament.

The constitution assigns to the commission the responsibility of removing deputies by resolution. Unfortunately, it does not mention whether such a resolution is final or subject to appeal. It does, however, describe several grounds warranting the issuance of such a resolution. These include conviction of a crime, acknowledged inability to perform, relocation outside the Kyrgyz Republic or resignation. (Art. 56:6) Evidently because of this removal power, the constitution gives the commission the responsibility of collecting information on a deputy's adherence to his or her constitutional duties and ethical obligations. (Art. 56:7) Again, the constitution does not describe whether this function is reviewable.

### *3.3 ELECTIONS CODE*

The elections code defines electoral commissions as "collegial bodies organizing and providing preparation and conducting of elections." (Art. 8) The functions, status, creation and termination of commissions, as well as issues relating to the appointment, privileges and immunities and removal of commissioners are discussed below.

#### *3.3.a Function*

The code obligates election commissions to administer the preparation and conduct of elections and to realize and protect the election rights of citizens. (Art. 9, 1) The general functions of commissions and their decision-making authority were discussed previously. (See 2.3.a *et seq.*)

#### *3.3.b Legal Status*

The code addresses the legal status of commissions briefly. For instance, it makes oblast and Bishkek commissions permanent and gives them separate legal personality. (Art. 11, 1) The CEC itself is also a permanent legal entity as it pre-existed the code. Beyond this assertion of the legal status of oblast and Bishkek commissions and this presumption of the status of the CEC, the code defers to the constitution of the republic and other legislation for the legal status of electoral commissions. The

legal status of commissioners, however, is defined, and is discussed below.

### *3.3.c Creation, Composition and Term of Commissions*

#### *3.3.c.1 Central Election Commission*

The Central Election Commission was created pursuant to a power given the legislature in the 1993 Constitution of the Kyrgyz Republic. Its existence is therefore presumed in the text of the subsequent 1996 constitution and the 1999 elections code. The composition of the Central Election Commissions is also not discussed in the elections code, having been addressed by the constitution. (See 3.2 above) Finally, the existence of the CEC is presumed to be perpetual.

#### *3.3.c.2 Oblast / Bishkek City Commissions*

Oblast and Bishkek city commissions were to be established by the Central Elections Commission within 30 days of the entry into force of the elections code. They are to consist of 7 members, plus a chair and a secretary, all of them appointed by the Central Election Commission for five-year terms. The commissions themselves however are deemed to be permanent. (Art. 11, 1)

#### *3.3.c.3 Territorial Commissions*

The code distinguishes between two types of territorial commissions, and the creation and composition of each differ.

First, territorial commissions for the election of deputies to the Jogorku Kenesh are to be created by the Central Election Commission, and are composed of 13 commissioners, also appointed by the CEC. (Art. 11, 2)

On the other hand, territorial commissions for the election of deputies to oblast and Bishkek city keneshes are to be established by the oblast or Bishkek city commission responsible for that territory, which shall appoint 7 members, a chair and a secretary to the commissions. (Art. 11, 4; Art. 12, 1 5))

No matter the type, territorial commissions are to be created and their commissioners appointed within 10 days of the announcement of elections. (Art. 11, 2, 4) Territorial commissions for the election of deputies to oblast and Bishkek city keneshes expire upon the official publication of the results of an election. (Art. 11, 9) The code does not state as clearly when territorial commissions for the election of deputies to the Jogorku Kenesh expire.



Jogorku Kenesh or local kenesh; an official of state or self-government body; a judge; a candidate, candidate's spouse, employee or person otherwise under the direct command of a candidate; trusted person; authorized representative; or member of an other election commission. (Art. 16, 1)

While clearly making the removal of commissioners conditional, the code also makes it obligatory. Finally, if a commission does remove a commissioner, it must replace him within 10 days of his removal. (Art. 16, 3)

### *3.3.g Privileges of Commissioners*

The privileges granted to commissioners by the code include an additional income and vacation. Generally, the code conceives of the work of commissioners as voluntary. (Art. 11, 3) Nevertheless, in order to do their commission work, commissioners are entitled to be released from their normal places of employment, and if not released are due additional vacation time (Art. 16, 5); are to receive their average monthly salary (Art. 16, 4); and may be paid a supplemental amount by the election commissions. That amount is to be 10 minimum salaries for members of rayon, city, oblast, Bishkek and territorial commissions. The total shall be based on the amount of a minimum salary on the day elections were appointed. (Art. 16, 4 )) The number of minimum salaries precinct commissioners can receive depends on the total number of voters in their precincts:

- up to 500 voters – 5 minimum salaries;
- from 500 to 1000 voters – 6 minimum salaries;
- from 1000 to 2000 voters – 7 minimum salaries;
- from 2000 to 3000 voters – 8 minimum salaries. (Art. 16, 4(2))

It should be noted that commissioners are not entitled to payment. Rather, the code provides that they "can" be paid from funds allocated to the conduct of elections, giving the responsible commissions the authority to establish their own procedure. (Art. 16, 4)

### *3.3.h Immunities of Commissioners*

In addition to the afore-mentioned privileges, the code also extends several immunities to commissioners. These include job security and immunity from civil and criminal prosecution.

First, during the preparation and conduct of an election, and for six months thereafter, a commissioner cannot be fired. He also cannot be transferred to another job without his consent during the same period. (Art. 16, 8)

Second, during the preparation and conduct of elections, commissioners cannot be prosecuted or held liable administratively

without the consent of the prosecutor. (Art. 16, 6) Moreover, members of the Central Election Commission cannot even be sued, nor can they be detained or arrested without the consent of the President or either house of the Jogorku Kenesh, unless apprehended at the crime scene.

Finally, a criminal action against the Chairman and members of the CEC can only be brought by the Prosecutor General.

### *3.4 OTHER RELEVANT LAW*

Two articles of the Administrative Code touch on the general responsibilities of commissions, if not their actual formation. First, "any official" who fails to fulfill a request or execute a decision of an elections commission is subject to a fine between 10 and 50 minimum salaries. (Chapter 7, Section 49) Also, any election commission chair who fails to publish a budget report shall be fined between 20 to 50 minimum salaries. (Section 60)

### *3.5 CASE LAW*

### *3.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

#### *3.6.a Mama, the Election Commissioner*

##### *3.6.a.1 Facts*

Mama, the widow of a former member of the Supreme Soviet, was appointed to the election commission responsible for the oblast in which she lives. Mama, who spent all of her married life in a political environment, had never held elective or appointive office before. She was appointed by a friend of her late husband, thinking that she would be as quiet and compliant as the chair of an oblast commission as she had as the wife of his old colleague.

To everyone's surprise, however, Mama turned out to have a mind of her own, and rather than do what was expected of her by the men who appointed her, did what she thought the Constitution and the elections code required. As a result, she became a very unpopular with her fellow commissioners, but a symbol to the voters in her oblast.

Fearing that she has become too popular, one of her opponents decides to undermine her credibility and get her removed from the

commission. He files a complaint alleging that her original appointment was invalid as being against the law.

### *3.6.a.2 Questions Presented*

What would be the result if:

- 1) Mama was the wife of a former candidate for public office?
- 2) Mama is a very close friend of a candidate running for office in another oblast?
- 3) Mama and her late husband had been convicted of corruption before independence and spent five years in exile before being allowed to return to Kyrgyzstan?
- 4) Mama's son was a member of the commission? Would it matter if she were appointed before or after him?

### *3.6.b The Unpaid Commissioner*

#### *3.6.b.1 Facts*

Almaz served as one of eight members of a territorial commission for the election of deputies to the Jogorku Kenesh. Appointed by the Bishkek city commission, Almaz took off time from work to fulfill his duties as a commissioner, in part out of civic responsibility and also in part to earn some extra money. Once the elections were over, however, his commission was terminated, and his troubles began.

First, his employer told him that he could not afford to pay Almaz for the time that he had spent working as a commissioner, but would be able to compensate him with extra vacation time if Almaz worked for him another 6 months.

Second, he was not paid for his work by the commission that appointed him. Very unhappy, Almaz brings a complaint against both his employer and the Bishkek commission. His employer, in response, immediately fires him.

#### *3.6.b.2 Questions Presented*

- 1) Has Almaz's employer broken the law by refusing to pay him?
- 2) Has his employer broken the law by offering him vacation time more than 6 months after Almaz completed his service on the territorial commission?
- 3) Did the commission terminate with the termination of the election period?
- 4) Has the Bishkek commission broken the law by not compensating Almaz?
- 5) If it has, how much should it have paid him?

### *3.6.c The Charming Deadbeat*

#### *3.6.c.1 Facts*

A new commissioner is a charming failure. Almost every business and personal relationship he has ever had has ended in disaster, with one exception. He charmed his way into an appointment on an election commission.

When his name was published in the mass media, along with those of the other new commissioners, one of his creditors recognized his name and filed suit for the collection of a debt. Also, his most recent ex-wife sued him for the return of certain personal property she alleged he took from their former house. Finally, the local traffic police issued a warrant for his arrest for a number of unpaid traffic offenses.

#### *3.6.c.2 Questions Presented*

- 1) Can a court hear any one of these claims?
- 2) Would the answer be different if the incidents on which the suits were based occurred after he was appointed commissioner?
- 3) If one of the alleged traffic offenses was refusal to stop when requested by a member of the traffic police, could that policeman arrest or detain the commissioner?

## 4.0 Complaints & Appeals Relating to the Registration of Voters

### 4.1 INTERNATIONAL STANDARDS

#### 4.1.a Applicability of International Law

As the Constitution of the Kyrgyz Republic provides for the direct application in law of ratified international agreements (Art. 12:3), as well as "recognizing and guaranteeing" general international norms regarding basic personal freedoms (Art. 16:1), the rights of voters in the Kyrgyz Republic are affected by a large body of international law. That law involves principally the right to vote in general and to citizenship and residency pre-requisites to the exercise of that right.

#### 4.1.b International Conventions on Voting

Regarding the right to vote, the Universal Declaration of Human Rights, to which the Kyrgyz Republic became a state party in 1991, provides that "everyone has the right to take part in the government of his country" (Art. 21:1) (See Appendix A) The relationship of the individual to his country will be explored in the discussion of citizenship below (See 4.2.a), but for the moment, the Declaration bases its conception of voting on a right of participation. That participation may be direct or indirect, "through freely chosen representatives." (Art. 21:1) The Declaration then elaborates on the basis of the voting right and its implications. The right of participation exists because the "authority of government" itself rests on the "will of the people." The breadth of this basis means that all people are entitled to vote, and therefore the Declaration decrees that suffrage shall be universal and equal. (Art. 21:3) It further provides that elections shall be "periodic and genuine" because without being periodic, a change in the will of the people could not be discerned, and without being genuine, it could not be discerned accurately. Thus the International Convention on Civil & Political Rights, reiterating the Declaration and ratified by the Kyrgyz Republic in 1994, declares that every citizen shall have the right and opportunity to take part in public affairs either directly or through freely chosen representatives and to vote at periodic and genuine elections, which guarantee the free expression of the will of the voters. (Art. 25:a, 25:b) (See Appendix A) Though there are minor differences in emphasis between the two documents, it is the Convention that makes clear that the rights of participation and voting are to be enjoyed by citizens.

#### 4.1.c International Conventions on Citizenship as a Condition of Voting

International documents refer to nationality, residency and the freedom of movement in their treatment of the aspects of citizenship. While not attempting to define the conditions of citizenship, the Universal Declaration of Human Rights states that "everyone has the right to a nationality." (Art. 15:1) (See Appendix A) It further provides that a person may not be "deprived of his nationality" arbitrarily, and that commensurate with the right to a nationality is the right to exchange nationalities. (Art. 15:2) Elaborating on these general rights, the Convention on the Elimination of All Forms of Discrimination Against Women, signed by the Kyrgyz Republic in 1996 requires that state parties grant women equal rights in the acquisition, retention and exchange of their nationality, regardless of marital status. (Art. 9:1) (See Appendix A) That is, a woman does not automatically acquire her husband's nationality whether he was a foreign national at the time of their marriage or changed his nationality subsequent to it because the right of nationality is an individual right.

#### *4.1.d International Conventions on Residency as a Condition of Voting*

An equally individual right is the right to free movement and residence. The Universal Declaration of Human Rights acknowledges that right in "everyone" and adds that the right to freedom of movement includes the "right to leave" any country and the right "to return" to his own. (Art. 13:1, Art. 13:2) (See Appendix A) In respects to residence, as it may be a condition of voting, the International Convention on Civil & Political Rights likewise recognizes the right to leave, though it slightly qualifies the right to return by adding that the right may not be denied "arbitrarily." (Art. 12:2, Art. 12:4) Moreover, the Convention further narrows the definition of who has the right to free movement. While the Declaration simply states that "everyone" has the right, the Convention limits the right to "everyone lawfully within the territory of a state." (Art. 12:1) (See Appendix A) Though a subtle distinction, it is one with significant consequences as it acknowledges the legitimacy of legal conditions to the exercise of otherwise fundamental freedoms, and is all the more significant since nationality and residency requirements are often conditions of the right to vote.

#### *4.1.e General Principles*

An additional convention that has at least persuasive authority on the right to vote in the Kyrgyz Republic is the Convention on Basic Human Rights & Freedoms. Repeating that the purpose of voting is to gauge the "will" of voters, the convention declares that suffrage shall be enjoyed by all citizens, and that they shall express their will by secret ballot. (Art. 29) (See Appendix A) Interestingly, the convention is not strictly binding on the Kyrgyz Republic because while it signed the

convention, it never ratified it. Neither did enough of the other anticipated parties to bring the convention into effect. Nevertheless, by signing the document, the Kyrgyz Republic consented to its content. Under international law, and by the terms of its own constitution, this recognition of a general norm regarding personal rights and freedoms would be enough to bind it.

#### *4.2 NATIONAL CONSTITUTION*

Though the Constitution of the Kyrgyz Republic holds basic personal rights and freedoms such as voting "absolute and inviolable" (Art. 15:2), it does not develop the conditions for their exercise. By distinguishing between the rights of persons generally and citizens, however, the constitution does establish a basis for the exercise of the right to vote.

##### *4.2.a Citizenship as a Condition of the Right to Vote*

"All people" in the republic might be "equal before the law and the courts" (Art. 15:3), and even "foreigners and stateless persons" might enjoy "the rights and freedoms of citizens" (Art. 14:2), but the constitution limits the right to vote to citizens. (Art. 1:4, 6, Art. 23) It makes an individual's "status" dependent on his citizenship (Art. 13:1), prohibits citizens of the Kyrgyz Republic from contemporaneously holding the citizenship of another state (Art. 13:2), and forbids interference in a citizen's "right to change her or his citizenship." (Art. 13:3) The constitution does not however, define "citizen" nor describe the conditions for the acquisition or rescission of citizenship.

##### *4.2.b Residency as a Condition on the Right to Vote*

As it does not define "citizen," the constitution likewise does not define "resident," providing merely that the right to freedom of movement enjoyed by all persons in the republic includes the freedom to choose a "temporary or permanent residence" anywhere within the territory of the nation (Art. 16:2). No additional time requirement is mentioned, leaving questions of how long a person must reside in the republic to be a citizen or a voter entirely up to statute.

This freedom of movement within the territory also includes the "freedom of departure out of the country and unhindered return to it." (Art. 16:2) Citizens and non-citizens alike enjoy a right of departure, but only citizens living or traveling abroad are guaranteed "protection and patronage" from the government. (Art. 13:4) Presumably, this protection includes the right to vote. (See 4.3.b.2.c.6 and 8.3.c.1.c)

#### *4.2.c Age as a Condition on the Right to Vote*

One condition on a citizen's right to vote is clear. To vote, a citizen must have attained 18 years of age. (Art. 1, 6)

#### *4.3 ELECTIONS CODE*

In plain language, the elections code describes the right to vote as general (Art. 3), direct (Art. 5) and equal (Art. 4). These attributes subsequently inform the code's sections on voter constituencies, voters' lists and residency requirements for voting. Each of these issues is discussed in turn, below.

#### *4.3.a Constituencies*

##### *4.3.a.1 General Requirements*

The elections code gives to electoral commissions the responsibility for creating constituencies. It also gives them a number of guidelines for their creation.

Principally, because the constitution and other articles of the code require the right to vote to be equal, constituencies are to be based on the number of voters in a territory and not just the total population. (Art. 19, 1, 4) The code recognizes, however, that exact equality is not possible and requires only that the number of voters in equivalent constituencies deviate by no more than 10%, generally, and 15% for remote places. (Art. 19, 4)

When drawing the borders of constituencies, a commission is to consider administrative and territorial boundaries of the republic, although the code does not prohibit commissions from crossing those boundaries. (Art. 19, 5) Regardless, a commission may not establish constituencies consisting of more than one part, as a constituency must have a single, uninterrupted border. (Art. 19, 4) In addition to its border, a commission must establish the center of each constituency it establishes, as well as assign a number to it and identify its total number of voters. (Art. 19, 3)

The time period allowed for the establishment of constituencies is very short:

- five calendar days after the announcement of elections: constituencies established by responsible electoral commissions; (Art. 19, 2)
- five days after their establishment, a superior commission must approve of the constituencies; (Art. 19, 3)
- three calendar days after their adoption by an election commission, the mass media must publish the scheme adopted, including a graphic representation of the constituencies. (Art. 19, 6)



Although the code presents these time requirements in the given order, it does not clearly indicate that the relationship between them is causal. For instance, the code does not say which commission shall inform the media about the establishment of constituencies. This makes it uncertain whether the media are to publish the announcement three days after the constituencies are established or three days after they are approved. Furthermore, the code likewise omits any description of the form or content of the notice to be given to superior commissions, criteria for granting approval or the consequences of a proposed constituency being refused. Nevertheless, the adopting superior commission can make changes to the list of constituencies and their borders. (Art. 19, 7) The specific responsibilities of different commissions are discussed in the next section.

#### *4.3.a.2 Electoral Commissions*

##### *4.3.a.2.a Central Election Commission*

The elections code makes the Central Election Commission a constituency election commission and a superior commission.

In elections for deputy to the Legislative Assembly of the Jogorku Kenesh, the CEC serves as the constituency election commission without superior when the constituency is the entire territory of the republic, i.e. unified, national. (Art. 10, 1, 5)) When the constituencies are single mandate, on the other hand, the code says that the CEC both establishes the constituencies and approves and publishes the lists of single mandate constituencies presumably established by inferior commissions. (Art. 10, 1 6)) This apparent contradiction could be interpreted away either by reading the code as giving the CEC the power, but not the obligation, to establish constituencies, leaving the task in the main to subordinate commissions, or by regarding its approval of constituencies as its means of establishing them.

Either interpretation would be necessary for the establishment of single mandate constituencies for the election of deputies to the Peoples' Assembly of the Jogorku Kenesh as well, since the code gives the CEC the power to "establish" them as well. (Art. 10, 1, 6))

Whether the CEC has independent authority to establish constituencies or not, the code clearly makes it a superior commission, obligated to approve the constituencies drawn by subordinate commissions. The obligation however is limited to elections for parliament. (Art. 10, 1, 6))

##### *4.3.a.2.b Oblast / Bishkek City Commissions*

The elections code makes Bishkek and oblast election commissions responsible for the establishment of constituencies for the election of deputies to Bishkek and oblast keneshes. It also gives them the authority to approve the establishment of constituencies by presumably inferior commissions. As with the powers of the CEC discussed in the previous section, the code does not clearly indicate whether the authority of the Bishkek and oblast commissions to "establish" constituencies is concurrent with that of subordinate commissions or exclusive. Either way, the Bishkek and oblast commissions do clearly have the authority to approve the constituencies established by rayon and city election commissions (Art. 14, 2, 4)), and they have the obligation of publishing in the media those constituencies that have been approved. (Art. 12; 1, 4))

#### *4.3.a.2.c Territorial Commissions*

Despite being granted the power to administer funds (Art. 13, 2, 13), sum up election results (Art. 13, 2, 9)) and even invalidate elections in a constituency within its territory (Art. 13, 2, 16)), territorial election commissions are not granted the power to establish constituencies. Neither are they granted the power to approve the constituencies established by other commissions.

#### *4.3.a.2.d Rayon / City Commissions*

On the other hand, rayon and city commissions are clearly empowered to establish constituencies for the election of deputies to rayon and city keneshes. Distinct from all other commissions discussed by the code, they are also clearly obligated to submit lists and borders of the constituencies they establish to their superior oblast or Bishkek electoral commission. (Art. 14, 2, 4)) In addition, rayon and city commissions have the authority to establish constituencies for the election of deputies to city, settlement and village keneshes. (Art. 14, 2, 5))

A further power of the commissions is unclear. Either rayon and city commissions can serve as the agents of their superior oblast or Bishkek commissions or they can act independently in approving of the establishment of constituencies for the election of deputies to city, settlement or village keneshes. (Art. 14, 2, 5))

#### *4.3.a.2.e Precinct Commissions*

Finally, the elections code does not give precinct election commissions the power to establish or approve of the establishment of constituencies. Neither does it obligate precincts to inform the media of the establishment of constituencies.

#### *4.3.a.3 Categories of Constituencies*

The elections code defines three types of constituencies: single mandate, multi-mandate and national.

Voters in a single mandate constituency elect one deputy from among competing individual candidates, while voters in a multi-mandate constituency elect deputies to fill more than one vacancy. The deputies elected represent a discrete territory, but not the whole republic. (Art. 8)

In a unified, national constituency, in contrast, voters cast their ballots for slates of candidates nominated by competing political parties or party blocs. The deputies elected represent the entire territory of the republic. (Art. 8)

Different offices have different constituencies, as is discussed below.

#### *4.3.a.4 Elective Offices*

##### *4.3.a.4.a The Presidency*

The whole territory of the republic is the constituency of candidates for president. (Art. 19, 1)

##### *4.3.a.4.b Parliament*

Although there are two houses of parliament, the elections code does not base its distinction in the constituencies of candidates to the Jogorku Kenesh on this constitutional division.

Candidates to the People's Assembly run in single mandate (Art. 19, 2) or one of 45 multi-mandate constituencies. (Art. 70, 1)

Candidates to the Legislative Assembly can run as individuals in one of 45 single mandate constituencies (Art. 70, 1, 2; Art. 19, 2) or as members of a slate of candidates nominated by a political party or party bloc in a national constituency. (Art. 19, 2) The code sets the number of deputies elected to the Legislative Assembly from a national constituency at 15. (Art. 70, 1)

##### *4.3.a.4.c Other Keneshes*

While the actual number of mandates established for the election of deputies to other keneshes depends on the number of voters within the constituency of that kenesh (Art. 19, 1, 4) (*See also 4.3.a.1 above*), the maximum number of mandates that can be established depends on the level of the kenesh.

- Oblast and Bishkek keneshes: 20;

- Rayon or city keneshes: 10;
- Town or village keneshes: 7.

All of these constituencies are multi-mandate. (Art. 19, 8; Art. 86)

#### *4.3.b Voters' Lists*

##### *4.3.b.1 Central Election Commission*

The code instructs the Central Elections Commission to establish a system of voter registration. (Art. 10, 1, 19)) It adds that the CEC shall work together with state and local self-government bodies, as well as oblast and Bishkek election commissions, but does not detail the nature of that work. Whatever the system, however, the majority of the work of registering voters is given to precinct election commissions.

##### *4.3.b.2 Precinct Commissions*

The code gives precinct commissions the responsibility of composing a list of precinct voters (Art. 15, 2)) and allowing voters (Art. 15, 3)) and observers (Art. 17, 8) to familiarize themselves with the lists.

Precincts are to be established by superior commissions at least 45 calendar days in advance of elections. (Art. 20, 2) They are to consist of no more than 3,000 voters and must be within the borders of a constituency. (Art. 20, 2) The guiding principle of their organization is to be the convenience of voters (Art. 20, 1), and voters are to be entered into lists in the precincts in which they reside. Once established, their locations are to be published at least 40 days before a scheduled election. (Art. 20, 6) The composition of voters' lists, as well as voters' rights to view the lists are discussed below, with an extra section devoted to residency requirements.

##### *4.3.b.2.a Voters' Lists*

Although the elections code does not explicitly make registration a condition of voting, it does seem to condition a voter's right to vote on his inclusion in a voters' list (Art. 21, 1), and the lists themselves seem to be based on voter registration records. (Art. 21, 5) Voters' lists shall consist of all voters within a precinct who are eligible to vote on election day. (Art. 21, 2)

The process of creating voters' lists consists of compiling the necessary data and confirming it. The responsibility for compiling the data rests with undefined local executive bodies in the case of general voters (Art. 21, 4), military commanders in the case of servicemen, their dependents and other persons residing on the territory of military units

(Art. 21, 4), and managers, wardens and unspecified officers of diplomatic missions in the cases of guests of temporary stay facilities, prisoners and otherwise qualified voters living, working or traveling abroad. (Art. 21, 7) The individuals responsible for registering voters are to collect their data by January 1 and June 1 of each year (Art. 23, 4), and precinct election commissions are to compose their lists based on the registration records in existence at the time of the commissions' creation. (Art. 21, 5; Art. 22, 3) The completed list shall be signed by the chair and secretary of the precinct commission and affixed with an official stamp. (Art. 21, 10)

Both voters themselves and precinct commissions have the responsibility to confirm the accuracy of lists. Commissions are to receive the assistance of governmental bodies in reviewing information on registered voters (Art. 23, 5) and are to review voters' lists. (Art. 21, 11) The code unfortunately does not elaborate on the commissions' responsibility to confirm lists, giving more guidance on voters' rights to check and correct their personal information, which is discussed in the next section. In the event that a commission discovers an error in a list, it can change it anytime before the closing of the precinct on election day. (Art. 22, 4)

#### *4.3.b.2.b Voters' Right to View and Correct Voter Registration Information and Lists*

The elections code provides that voters have a right to free access to information about themselves used for the creation of voter registration records, and it authorizes them to review that information in full and correct inaccuracies. (Art. 23, 6) This right exists regardless of where the information is stored, and it includes the right to know who collected the information and how it was or will be used. (Art. 23, 6)

While voters apparently have the right to check registration records any time, obviously they can only check voters' lists after they have been created. Voters lists' must be completed and available for viewing no later than 15 days before an election for ordinary precincts and no later than 5 days before an election for precincts established in places of temporary stay. (Art. 22, 1) (See 4.3.b.2.c.2) Additionally, the code imposes criminal, administrative and other liability on persons who interfere with the right of citizens to familiarize themselves with voting lists. (Art. 57, 1))

Commensurate with the right to check voter registration information and voters' lists, the code gives voters the authority to correct them. While the code does not require any formalities for the correction of voter registration records (Art. 23, 6), it does describe the process by which a voter should inform a precinct commission of errors or inaccuracies in a voters' list or of the voter's exclusion from that list. (Art. 22, 2)

Complaints of the accuracy of a voters' list shall consist of an application and documents submitted to substantiate the allegation of error. The responsible precinct commission then must decide within 24

hours if the error was alleged before the election day and 2 hours before the close of voting if it was alleged on the day of the election. (Art. 22, 2)

Complaints against a commission for its failure to include a voter in a list follow a slightly different procedure. Inadvertent exclusion of a voter would follow the same procedure as any other error. Conscious exclusion, however, requires that a commission base its decision on information received from the appropriate bodies responsible for compiling voter registration information, specify a date and reason for such exclusion on the voters' list itself, which must also be signed by the precinct chair. (Art. 22, 3)

For either category of complaint, the appellate process is the same. An unfavorable decision by a precinct election commission on either the accuracy of a voters' list or the exclusion of a voter from the list can be appealed to a superior election commission or a court, which must decide the issue within three days if submitted prior to the day of voting or immediately if submitted on election day. (Art. 22, 2, 3)

#### *4.3.b.2.c Precincts and Residency Requirements*

The code provides that voters are to be included in the lists of the precincts of their permanent or main residence, and in exceptional cases, temporary residence. (Art. 21, 3)

##### *4.3.b.2.c.1 Permanent or Main Residence*

The elections code imposes residency restrictions on the right to elect and the right to be elected. It does not, however, define resident, and omits determinative criteria for the establishment of a voter's residence, creating potential problems in respects to persons who regard places the code lists as temporary as their permanent residence, students, military personnel and voters living, working or traveling outside the borders of the republic. Each of these problems is discussed below, however, all of them could be resolved with a definition of residence based on a voter's intention. Only the voter's intention to reside in a particular location would be determinative. That intention would have to be manifested, however, by something as simple and verifiable as registering to vote. This objective expression of a subjective intention would remove all doubt about a voter's place of residence and would render the distinction between temporary and permanent places of residence irrelevant.

Until such time, however, the code merely defines place of residence by listing places where an individual might reside. Those places include houses, apartments, offices, student dormitories, hotels, asylums, and homes for the elderly, disabled and veterans. (Art. 8) The code also recognizes hotels as places of temporary residence.

#### *4.3.b.2.c.2 Temporary Residence*

The code lists places of temporary stay, evidently intending to distinguish them from residences. These include hotels, sanatoria, guest houses, hospitals, campgrounds, tourist stations and recreational facilities. (Art. 8)

Despite its problems of definition, the code states that precincts can be established in places of temporary stay, remote regions and prisons no later than 5 days before a scheduled election (Art. 20, 3) Such precincts are to be a part of the constituency in which they are located. (Art. 20, 3) Unfortunately, the code does not describe the process of establishing such precincts, omitting for instance whether the initiative for them must come from election commissioners or can come from the voters themselves.

Further complicating matters, the code seems to dispense with residency requirements altogether in respects to voters living, working or traveling abroad and voters who reside in one precinct but obtain a strike off the register certificate to be added to the rolls of another where they do not. (See 4.3.b.2.c.7 below) (See also 8.3.c.1.c)

#### *4.3.b.2.c.3 Multiple Residences*

The code does not permit a voter to be included in the voters' list of more than one precinct (Art. 21, 9) regardless of whether the voter maintains two or more permanent residences.

#### *4.3.b.2.c.4 Students*

The code does not provide any clear guidance to where students reside and can therefore be registered. In fact, it considerably confuses the issue by classifying dormitories as places of permanent residence. (Art. 8) As no other article of the code even mentions students, it must be presumed that an otherwise qualified voter cannot be excluded from a voters' list simply for residing in a dormitory.

#### *4.3.b.2.c.5 Military Personnel*

Individuals serving in the military are to be entered into the voters' lists of the precincts in which they reside, presumably. (Art. 20, 4) The code does not state this clearly however, stating only that military personnel are to vote at "common precincts" (Art. 20, 4) The issue is further confused by the code's prohibition against soldiers voting in local kenesh elections unless they were permanent residents of that precinct before they joined the service. (Art. 21, 6) Problematically, the code says that the personnel thus prohibited are those serving a "fixed period" in the

military. (Art. 21, 6) This definition creates more problems than it solves because it would encompass conscripts, contractors, reservists and careerists completing a known term. It also omits military dependents and other personnel whom other articles of the code say can be included in voters' lists of precincts established on the territory of military units. (Art. 21, 4) Finally, whomever the code prohibits from being included in voters' lists, it only excludes them from elections of deputies to local keneshes. (Art. 21, 6) Therefore from the text of the code, even soldiers serving a fixed period in the military can be registered, included in the voters' lists and vote in other elections.

Additionally, the code implies that in one instance at least even the temporary nature of a military unit cannot be used to prevent soldiers from voting. For instance, special precincts can be established within military units stationed in remote places. (Art. 20, 4) A remote post would presumably be temporary and the soldiers sent there presumably temporary residents, but because the code permits the establishment of special precincts, an otherwise qualified voter, temporarily residing in a remote military outpost could not be denied his right to vote. If this reading is correct, it only removes the significance of the distinction between temporary and permanent residence; it does not resolve other issues surrounding the establishment of special precincts in military units.

For instance, the code provides that such precincts can be established by the commander of the military unit with the permission of the responsible election commission. Unfortunately, it does not say whether only the military commander can request a special precinct from a commission or whether any voter in the unit can make that request. Furthermore, it does not describe the form or content of the request nor the criteria or consequences of a commission's decision.

#### *4.3.b.2.c.6 Voters Outside the Borders of the Kyrgyz Republic*

The situation of voters outside the borders of the republic is considerably simpler. They can vote in precincts established by embassies and consulates of the Kyrgyz Republic, without regard to the number of voters in the precinct. (Art. 20, 5) The code does not indicate whether the establishment of such precincts requires an initiative from the Central Election Commission or its approval, indicating only that the CEC has the authority to recommend how such voters are to be assigned to single mandate constituencies (Art. 10, 20), and that the CEC and the Ministry of Foreign Affairs shall determine a procedure for entering the votes cast in such precincts into the returns of a certain rayon. (Art. 20, 5)

#### *4.3.b.2.c.7 Voters New to a Precinct*

As previously discussed, a voter can be included on the voters' list of only one precinct. (Art. 21, 9) However, in two instances, the elections



code recognizes that a voter who is new to a precinct can be added to a voters' list and allowed to vote. First, voters recently relocated to the territory of a precinct can be added to the list, which the code says can be changed up to the close of voting on the day of elections. (Art. 22, 4)

Second, voters actually on the rolls in another precinct but unable to be there on election day have the right to be added to the list of the precinct where they will be. If within the borders of the Kyrgyz Republic, the voter must obtain a strike off the register certificate from an election commission. (Art. 38, 1) If outside the republic and unable to obtain a certificate, the voter may simply appear at the polling station established by the consulate or embassy and be added to the list of that precinct. (Art. 21, 8) Voters outside of the republic may only do this, however, on the day of parliamentary or presidential elections. (Art. 21, 8) No similar restriction exists for voters within the republic.

#### *4.4 OTHER RELEVANT LAW*

The Administrative Code prescribes a fine of between 20 and 50 minimum salaries for persons who interfere with a citizen's right to familiarize himself with a voters' list and for commissioners who refuse to give him a motivated answer for rejection his application to change the list or ignore a court decision to change it. (Section 59)

#### *4.5 CASE LAW*

#### *4.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

##### *4.6.a The Protestor*

##### *4.6.a.1 Facts*

Bermet is an 18 year old student at a branch of a major university. She came to the campus only 6 months ago, when her program began, and immediately fell under the influence of a charismatic professor. She quickly became his lover and a follower of his political program. Together they traveled throughout their oblast as he spoke at campaign meetings and gave interviews. He was not running for office, however, rather he

was lecturing and campaigning for candidates of the party he had started two years before.

When one of those candidates was disqualified from running in the upcoming election, the professor was outraged. He openly criticized the authorities who disqualified his candidate, and he took certain actions that eventually led to his arrest. Devastated, Bermet decided to protest.

She moved her things out of her lover's apartment and put them in a tent in a public campground near the jail where the professor was being held. She then contacted the media, who came to her tent and let their cameras roll.

#### *4.6.a.2 Questions Presented*

- 1) If Bermet wants to vote in the upcoming elections, who will collect her personal data and what will it consist of?
- 2) If Bermet moved from her parents' home in another oblast when she started to school, lived in the dormitory in one precinct for two weeks, then her professor's apartment in another precinct for several months, and then the campground in yet another precinct, where is her residence? Would the answer be different if Bermet still had personal possessions in each of these locations?

#### *4.6.b The Invalid*

##### *4.6.b.1 Facts*

Anurbek is terminally ill, and because of his illness, he is frequently in and out of the hospital. Because he is incapable of getting out of bed, he agrees to move in with his daughter for a short time because her apartment is a block away from the hospital and he would not have to suffer being transported all the way back to his home. The hospital and his daughter's apartment lie in the same precinct, while Anurbek's home is in another.

##### *4.6.b.2 Questions Presented*

- 1) In which precinct can Anurbek vote?
- 2) If Anurbek's name appears on the voters' list in the precinct of his home but he wants to vote in the precinct of his daughter's apartment, what must he do?
- 3) If his doctors think that Anurbek will never return to his own home but will die within two months, what consequences does that have for his registration or inclusion on a voters' list?

That only these circumstances may justify interference with the freedom of expression by political entities is indicated when the Covenant declares that "everyone shall have the right to freedom of association with others" (Art. 22:1) and that no restrictions may be placed on the exercise of this right except if "prescribed by law and necessary" to protect the interests of national security, public safety, public order, public health or morals or the rights and freedoms of others. (Art. 22:2)

#### *5.1.d Candidates*

As the protection of political parties follows logically from the protections of freedom of expression and association in the Declaration and the Covenant, so too the nomination of candidates is logically protected. The Declaration provides that everyone has a right to participate directly in government (Art. 21:1) and adds that "everyone has the right to equal access to public service." (Art. 21:2) (See Appendix A) Expanding on these rights, the Covenant bestows them on "citizens," whom, it declares, have a right to take part directly in the conduct of public affairs (Art. 25:a), to have equal access to public service (Art. 25:c) and to be "elected at genuine periodic elections" (Art. 25:b) Although the right protected is the right to run for office, rather than actually be elected, it would necessarily require a free and fair nominations process when, to be elected, candidates must be put forward by political parties. In other words, the rights recognized and protected by the Declaration and the Covenant -- rights of voting, running for office, the freedoms of association and expression -- do not begin and end on election day but extend to the entire process of gauging the will of the people upon which the authority of legitimate government rests. (Decl. Art. 21:3)

Those rights are likewise recognized by the Convention on Basic Human Rights & Freedoms which the Kyrgyz Republic signed in 1995. (See Appendix A) Although an insufficient number of states parties signed the convention to bring it into effect, its consent to the norms articulated in the convention would be enough to bind the Kyrgyz Republic under the terms of its own constitution, as well as international law. As relates to running for office, the convention provides only that all citizens have the right and shall have the opportunity to be elected. (Art. 29)

#### *5.2 NATIONAL CONSTITUTION*

The Constitution of the Kyrgyz Republic says nothing about the registration of political parties, nor does it address the process of nominating candidates. It does address the existence and lawful activity of parties, however, and it establishes qualifications for candidates for office.

### *5.2.a Political Parties*

Though the Constitution of the Kyrgyz Republic permits the formation of political parties, deriving it from the right to free expression (Art. 8:1), it limits their activity. It recognizes and protects the rights to freedom of expression, association and peaceable assembly, but the constitution also reserves to itself and the government the power of restricting the exercise of those rights. For instance, in one article it provides that "citizens and their associations" have the rights of assembly and expression, but they are only free to engage in such "acts and activities" that are not proscribed by the constitution and the laws. (Art. 21:1) What the law proscribes will be dealt with later, but for now, the constitution proscribes numerous party activities.

For example, the constitution expressly forbids the President of the Republic from engaging in party activity until the beginning of a new election (Art. 43:5), which, according to the text, cannot begin earlier than two months prior to the expiration of his term. (Art. 44:1) Moreover, the constitution makes it "unlawful" for the state and a political party "to merge" institutions (Art. 8:4). Similarly, state employees may only engage in the activities of political parties if they are "unconnected" with their employment, and employees of the military or "an internal affairs, national security, justice, procuracy or court agency" may neither "join" nor "expressly support" any political party. (Art. 8:4) Finally, despite the freedom of religious belief (Art. 15:3) and the aforementioned freedoms of expression, association and peaceful assembly (Art. 16:2), the constitution prevents the combination of those freedoms by prohibiting the formation of political parties on the basis of religion. (Art. 8:4)

The constitution does not stop there, however, for as well as describing very clearly what a political party may not do, it states just as clearly what a party may do. "Political parties may participate in state affairs, only through nominating their candidates for election" (Art. 8:2)

### *5.2.b Nomination of Candidates*

As well as limiting the activities of a political party to the nomination of candidates, the constitution also limits who may be nominated by establishing qualifications for elective office. In outline, those qualifications include age and residency requirements, with additional requirements on candidates for president.

### *5.2.c Residency Requirements*

Candidates to the organs of local government in villages, towns, cities, districts and regions presumably must be residents of the territory they seek to represent as they are to be elected by the population of voters who reside in that territory. (Art. 92) In respects to candidates for

parliament, the residency requirement is somewhat clearer. A candidate must have resided in the republic for no less than five years prior to his or her nomination (Art. 56:1), and if elected can be removed from office for relocating his permanent residence outside of the republic. (Art. 54:6) The constitution does not require, however, that the candidate reside for any period in the territory he or she hopes to represent, and it further does not explain whether the period of residency must be consecutive or may be cumulative. Similar unanswered questions attend the residency requirements of presidential candidates. Though increasing the length of time to 15 years, the constitution does not otherwise define the time as cumulative or consecutive (Art. 43:3), and of course, no question of territory attends the one elected official who is supposed to represent the interests of every city, rayon and oblast. (See 5.3.g.5.b below)

#### *5.2.d Age Requirements*

In addition to territorial and residency requirements, candidates for at least the parliament and the presidency must also satisfy certain age requirements. Candidates for deputy must have attained at least 25 years of age (Art. 56:1), while candidates for president must be at least 35. (Art. 43:3) Interestingly, the constitution puts an age limit on candidates for president, 65 (Art. 43:3) but imposes no similar limit on candidates for Parliament. No minimum or maximum age is prescribed for candidates in local elections.

#### *5.2.e Additional Requirements for Presidential Candidates*

Two additional requirements are demanded of candidates for president. First, a candidate must be fluent in Kyrgyz because the constitution requires the president to be. (Art. 43:3) Second, to run for president, an individual must collect the signatures of 50,000 voters to be "registered as a candidate." (Art. 44:3) Whether those voters have to be registered to vote or merely eligible to vote is not clear, but more striking is not necessary and may not be permitted. The collection of signatures alone is the constitutional requirement. In fact, the paragraph limiting the activities of political parties to the nomination of candidates mentions only the nomination of candidates to parliament and local government offices. (Art. 8:2) The nomination of presidential candidates is conspicuously omitted, though not explicitly prohibited.

### *5.3 ELECTIONS CODE*

#### *5.3.a Registration of Political Parties, Generally*

The elections code treats the subject of political parties lightly, leaving the details to a separate law. (See 5.4 Other Relevant Law, *below*) Generally though, political parties must be registered legal entities. The Ministry of Justice is responsible for the registration of legal entities, and the elections code gives it an added responsibility. It must inform the Central Elections Commission which parties are registered and able to participate within 10 days of the announcement of coming elections. (Art. 27, 3) Political parties do not have to be registered separately with electoral commissions, except for party blocs, which are to be registered with the CEC.

#### *5.3.b The Central Election Commission and Election Blocs*

The code describes the Central Election Commission's relationship to election blocs in spare terms, stating merely that it has the responsibility to "register election blocs." (Art. 10, 1, 22)) Absent specific provisions otherwise, the code presumably intends that its description of the commission's general decision making process applies to decisions about election blocs as well. (See 2.3.a.1.e *above*)

#### *5.3.c Election Blocs*

Two or more registered parties can form a party bloc. (Art. 25, 1) Blocs are formed evidently to combine the strengths of the associated political parties, but the formation of a bloc deprives the separate parties from acting independently and from entering into other associations. (Art. 25, 2) Blocs are only temporary, however, existing for the conduct of a single election, and although the code does not describe the process by which blocs terminate, it does describe the process by which they are formed.

The code says that a party can decide to join a bloc at a party congress, which may mean a general session of the individual party concerned and not a congress of the aligning parties. (Art. 25, 3) Nevertheless, the decision to join a bloc requires the following:

- protocols from the parties forming the bloc;
- a signed, joint decision of the parties' leaders to form the bloc;
- copies of the parties' registration certificates and registered articles. (Art. 25, 4)

These documents are to be submitted to the Central Elections Commission, which the code requires to register the bloc within five days of its receipt of these materials. (Art. 25, 4)

#### *5.3.d Consultative Commissioners*

After registration, the code authorizes political parties or party blocs to appoint one representative to the election commission that registered it. Apparently intended to promote transparency on electoral commissions, the member is to have one consultative vote. (See 3.3.d. above) Despite the seeming permission granted in the law, the Central Elections Commission does not accept consultative commissioners from the party blocs it registers. Blocs are allowed, however, to have authorized representatives.

### *5.3.e Authorized Representatives*

The code decrees that candidates, political parties, party blocs shall appoint authorized representatives (Art. 26, 1)

#### *5.3.e.1 Appointments Process*

The elections code sets slightly different criteria for the appointment of authorized representatives, depending on whether they are nominated by individuals or organizations. Individual candidates can nominate an authorized representative personally and execute a written power of attorney authorizing the nominee to act on their behalf. The executed power of attorney, along with an application containing the nominated representative's full name, date of birth and place of residence can then be filed with the responsible territorial election commission. (Art. 26, 2; 3)

Curiously, the code seems to permit a candidate to nominate an authorized representative before his candidacy has been registered, stating that a candidate shall submit his intention to run in a particular constituency and the application of his nominated representative, apparently at the same time. (Art. 26, 2) The code also does not indicate whether an individual candidate can have more than one authorized representative at a time, however.

The process of nominating authorized representatives of political parties, party blocs differs slightly. Rather than nominating authorized representatives individually, political parties, party blocs nominate them in a congress. The code does not prescribe any procedure for such congresses, evidently leaving the matter to the internal rules of the organizations. Once representatives are nominated, however, the organizations are obliged to execute a protocol memorializing the decision of the congress as well as a power of attorney authorizing the nominee to act on its behalf. The powers of attorney are then submitted to the responsible territorial election commission. (Art. 26, 2)

If the nominating organization is a political party, it must also submit a copy of its registration certificate from the Ministry of Justice and a copy of the articles it filed with the ministry to obtain its registration. (Art. 26, 4) The code does not require anything similar from

party blocs, even though their constituent parties must be registered with the same ministry and the bloc itself must be registered with the Central Elections Commission.

Finally, the code seems to contemplate multiple representatives of organizations, requiring that the full name, date of birth and place of residence of each nominated representative be included in a list submitted along with the protocol, power of attorney and registration certificate, if necessary.

In summary, the items that must be submitted to the territorial commissions are as follows:

- Individual Candidate:
  - application;
  - nominee's full name, date of birth and place of residence
  - power of attorney executed by the candidate.
- Political Party:
  - protocol of a congress appointing the representative or representatives;
  - list of nominee or nominees, containing the full name, place of birth and residence of each;
  - executed power of attorney for each nominee;
  - copy of the party's registration certificate from the Ministry of Justice;
  - copy of the articles of registration of the party.
- Party Bloc or Gathering of Voters:
  - protocol of a congress appointing the representative or representatives;
  - list of nominee or nominees, containing the full name, place of birth and residence of each;
  - executed power of attorney for each nominee.

#### *5.3.e.2 Registration by Territorial Commissions*

The code provides that a territorial commission has five days from the time these documents are submitted to decide on the registration of authorized representatives. (Art. 26, 5) The responsible commission should judge the documents' compliance with the code and other applicable law, and in the event that it decides to register the representatives, issue them registration certificates. (Art. 26, 5)

On the other hand, in the event that the commission refuses to register the nominated representatives, it must issue a (presumably) written decision, setting forth the reasons for the refusal. (Art. 26, 6) This refusal can then be appealed to a court. (Art. 26, 6) (*See also* Chapters 1 & 2, generally)



### *5.3.e.3 Functions of Authorized Representatives*

Authorized representatives shall have the general power to represent and act on behalf of the candidate, party, bloc or gathering of voters that appointed them. (Art. 26, 1) They shall also be authorized to handle the financial matters connected with an election of the individuals or groups they represent. (Art. 26, 1) In addition to these general responsibilities, authorized representatives shall:

- be responsible for the entire process of gathering and submitting voters' signatures;
- campaign;
- participate in a lottery held by an election commission to distribute broadcast air time;
- attend sessions of election commissions that concern them
- execute other instructions of the candidate, party, bloc that appointed them. (Art. 26, 7)

### *5.3.e.4 Privileges & Immunities Authorized Representatives*

Although the code offers certain privileges and immunities to political candidates (*See 5.3.e below*), it does not extend them to their authorized representatives. Any rights enjoyed by representatives as a result of their relationship to candidates, political parties, party blocs depends on other law.

### *5.3.f Parties Nominating Candidates for the Legislative Assembly*

The code imposes two final, peculiar requirements on political parties nominating candidates for the Legislative Assembly of the Jogorku Kenesh. It requires them to have been registered with the Ministry of Justice for at least one year before the election day and to have the nomination of candidates as one of the purposes in their charter. (Art. 92) Significantly, the code does not require parties running candidates for any other office to have been registered for a comparable period.

### *5.3.g Nomination of Candidates to Different Offices*

The code distinguishes between two election rights, a passive right to elect candidates to representative offices and an active right to be those candidates and seek those offices. (Art. 8) Indeed, the preamble of the code instructs that elections are the means by which a sovereign people declare their intentions. (Preamble) Ascertaining those intentions therefore depends not only on the right to vote but the right to have someone to vote for. The code devotes considerable attention to the process of nominating and registering candidates, the details of which are discussed below, but

generally, the code describes who can and cannot be elected and defines candidate, independent candidate and list of candidates.

#### *5.3.g.1 Generally*

According to the code, there are two types of candidates – those nominated by others and those nominated by themselves. Both must be registered according to the procedure described in detail below, but the code refers to the self-nominated candidate as an independent one, while referring to the one nominated by others as simply a candidate. (Art. 8) Additionally, the code provides that political parties and party blocs may nominate a list of candidates but that lists of candidates are only to be nominated in elections to the Legislative Assembly of the Jogorku Kenesh. (Art. 8)

The right to nomination itself the code likewise divides into three: voters, citizens nominating themselves and political parties or party blocs. (Art. 24, 1) According to the code, this right to nominate cannot be limited, any number of candidates being possible (Art. 24, 3), and parties and party blocs can nominate non-members. While otherwise unlimited, the right to be nominated is limited to citizens (Art. 3, 1), who have either never been convicted of a crime or whose convictions have been expunged (Art. 3, 4) and who additionally meet the age and residency requirements of the offices they are seeking. (*See below 5.3.g.5.b*)

#### *5.3.g.2 Role of Commissions*

Election commissions oversee the nominations process and register candidates. The specific responsibilities of specific commissions are discussed below.

##### *5.3.g.2.a The Central Elections Commission*

The code obliges the Central Elections Commission to develop protocol forms for voter signature lists and candidate nomination (*See Appendix B*) (Art. 10, 1, 14)) Subsequently, the CEC registers (Art. 10, 1, 23)) and issues certificates (Art. 10, 1, 25)) to lists of candidates nominated in elections for the Legislative Assembly of the Jogorku Kenesh. Other commissions register other candidates for other offices.

##### *5.3.g.2.b Oblast & Bishkek City Electoral Commissions*

When it comes to the nomination of candidates, the oblast and Bishkek city commissions are authorized to attend nominating

conventions. (Art. 12, 1, 6)) The code does not otherwise authorize oblast and Bishkek commissions to register candidates though.

#### *5.3.g.2.c Territorial Electoral Commissions*

Similarly, the code obliges territorial election commissions to attend nomination meetings. (Art. 13, 2, 4)) Unlike oblast and Bishkek commissions, however, territorial electoral commissions can also register candidates and issue them certificates. (Art. 13, 2, 5))

#### *5.3.g.2.d Rayon and City Electoral Commissions*

As the code makes rayon and city electoral commissions identical to territorial commissions in the election of deputies to rayon, city, village and *aiyl keneshes* (Art. 14, 1), presumably the authority to attend nomination conventions and register candidates extends to rayon and city commissions for these elections.

#### *5.3.g.2.e Precinct Electoral Commissions*

The code apparently excludes the right or obligation to attend nomination conventions or register candidates from the responsibilities of precinct electoral commissions (See Art. 15, *generally*)

#### *5.3.g.3 Registration Procedure*

For those commissions authorized to register candidates, the procedure is the same. Commissions must review a specific set of documents, evaluate them against a specific set of criteria and either register a candidate and issue a certificate of registration or refuse to register the candidate and issue a written statement of reasons for the refusal. Decisions on the registration of candidates must be taken by a majority of the total number of members of a commission, not just a majority of those present at the time of the decision. (Art. 18, 7) In the event of a tie, the chair casts the deciding vote (Art. 18, 9), and decisions are to be signed by the chair and the secretary. (Art. 18, 10) Finally, commissioners dissatisfied with the decision can file a written objection which must be forwarded by the chair to a superior commission. That commission must rule within three days of its receipt of the objection, or if on the day before, day of or day following the election, immediately. (Art. 18, 11)

The candidate whose registration was refused can also appeal the decision of the commission to a court or a superior commission. (Art. 27, 6) As the code does not specify the time for a decision by the court or

commission receiving the complaint, ordinary time periods for decision-making must be presumed. (See 2.3.a.3.b and 2.3.b.3.b above)

#### *5.3.g.4 Liability*

The code imposes criminal, administrative or other responsibility on persons who interfere with the right of citizens to seek to be elected to public office. (Art. 57, 1) In addition, the code provides that a candidate's registration can be cancelled for violations of the previously summarized procedure for nomination and registration. (Art. 56, 1) A candidate whose registration is cancelled must return the contents of his campaign fund to his contributors immediately. (Art. 51, 14) (See also 7.3.c)

#### *5.3.g.5 Documents Required for Nomination*

The responsible election commission must receive the following documents before it can decide to register or refuse to register a candidate. The candidate personally, or the authorized representative of the candidate, political party or party bloc shall submit the materials within the time period required for the office being sought. (See below 5.3.g.7)

For self-nominated candidates, the commission requires:

- a declaration of intent to run, including a promise to abandon activity inconsistent with the status of the office being sought, if elected; (Art. 27, 1, 2))
- the full name, date of birth, place of residence, place of work and position of the candidate; (Art. 27, 1, 3))
- documents certifying an election deposit; (Art. 27, 1, 4)) (See also 5.3.g.5.a)
- other documents certifying the candidate's conformity to any specific requirements of the office, such as age and residency. (Art. 27, 1, 5)) (See also 5.3.g.5.b)

In addition to the foregoing, candidates nominated by political parties or party blocs must submit an executed protocol of the organization that nominated them. (Art. 27, 1, 1)) Finally, an independent candidate may include a declaration of his party affiliation, but is not required to. (Art. 27, 5)

#### *5.3.g.5.a Election Deposits*

Two items on the preceding list require elaboration because the amount of the election deposit and the age and length of residency required of a candidate depend on the office being sought.

First, as for election deposits, they are separate and in addition to the campaign funds required of candidates. (See 7.3.b) Another distinction is that election deposits are to be comprised of the candidate's personal

funds and not the donations of contributors. Also, election deposits are made to a special account of the Central Elections Commission and not a bank, evidently being a means by which the government pays for the elections process. (Art. 73, 2) Lastly, only candidates for president and both houses of parliament are required to make such deposits.

A candidate for president must deposit personal funds in the amount of 1,000 minimum salaries into the special account of the CEC. The deposit shall be returned if the candidate wins more than 10% of the vote. (Art. 63, 3) Presumably the funds are also refundable if the CEC refuses to register a candidate or after being registered the candidate withdraws, although the code does not specifically address either of these possibilities.

When it comes to candidates for parliament, the code likewise requires an election deposit. The code simply provides that candidates for deputy to the Jogorku Kenesh must deposit personal funds in the amount of 300 minimum salaries in the special account of the CEC. (Art. 73, 2) This requirement appears to apply only to candidates running in single and multi-mandate constituencies for seats in either the Legislative Assembly or the People's Representative Assembly because the code imposes a different requirement on candidates running in the unified, national constituency for seats in the Legislative Assembly: they are not obligated to deposit any personal funds at all, as they are prohibited from having a personal campaign fund (Art. 51, 1) (*See also 7.3.b.5.b*) Instead, the political party or party bloc that nominated them is responsible for depositing an amount equal to fifty minimum salaries for each candidate in its list of candidates. (Art. 73, 2)

The funds are refundable to individual candidates who withdraw at least fifteen days prior to the election or who received more than 10% of the vote. The deposits of political parties or party blocs are refundable if their list of candidates received 5% or more of the vote.

#### *5.3.g.5.b Age, Residency and Other Requirements*

The age and residency and other requirements of candidates also depend on the office being sought. A candidate for president must be between the ages of 35 and 65 (Art. 58, 3), must be able to speak (Art. 58, 3), read, write and make public speeches in Kyrgyz (Art. 61, 2), and must have lived in the republic for at least 15 years before being nominated. (Art. 58, 3) The candidate must also have collected at least 50,000 signatures in support of his candidacy. (Art. 62)

Interestingly, the time required since the independent Kyrgyz Republic has not even existed for 15 years. Fortunately, these potential problems do not attend the age or residency requirements of candidates for parliament.

The code sets slightly different residency requirements for candidates to different houses of parliament, but the age requirement is the same. A citizen must have attained the age of 25 to be nominated as a

candidate for either house. (Art. 69, 1, 2) Candidates for the Legislative Assembly however are to have resided permanently in the republic for not less than five years before their nomination. (Art. 69, 1) Candidates for the Peoples' Representatives Assembly must have resided permanently in the republic for the same time, the last three of which were spent in the territory of the oblast they seek to represent. (Art. 69, 2) Unlike its requirement for candidates for the Legislative Assembly or the presidency, the code requires candidates for the Peoples' Representative Assembly to submit documents proving their residency. (Art. 73, 3)

While not obligated to deposit personal funds in order to be registered, candidates for the local keneshes must comply with age and residency requirements. Candidates must be citizens who are at least 20 years of age and who have resided in the territory they seek to represent for at least two years prior to their nomination. (Art. 81)

#### *5.3.g.6 Criteria for Decision Making*

The responsible commission shall then review the documents and determine whether the process of nomination conformed to the requirements of the code. Among the criteria the commission can evaluate are:

- the authenticity, number and propriety of collecting voters' signatures in support of a candidate;
- the propriety of the establishment of the candidate's election fund and expenditures from that fund. (Art. 27, 6)

The time periods given to the commissions to evaluate these criteria are discussed separately in the next section.

#### *5.3.g.7 Time Periods for Decision Making*

The time periods in which candidates or their authorized representatives must submit their required documents and in which commissions must decide and announce their decisions depend on the level of the commission decision and on the office being sought.

Candidates for president must submit their documents no later than 45 days before a scheduled election to the Central Election Commission. (Art. 63, 1) The CEC must then decide to register or refuse to register the candidate within 10 days of its receipt of the documents (63, 2), but no later than 35 days before the election when the registration period ends. (63, 4) In the event that the CEC refuses to register the candidate, it must inform him personally. (63, 5)

If, on the other hand, the CEC registers a presidential candidate, it must publish his full name, place of residence, place of work, occupation and party affiliation (if the candidate wishes) within 7 days of its decision to register him.

Similarly, candidates for parliament must submit their documents to the appropriate commission at least 45 days before the scheduled parliamentary election (Art. 73, 1), but candidates running in different constituencies submit their documents to different commissions. Candidates running in the unified, national constituency for seats in the Legislative Assembly submit their documents to the Central Election Commission. The CEC must then decide to register or refuse to register the candidates within 10 days of the receipt of their documents (Art. 73, 4) but no later than 25 days before the election when all registration must end. (Art. 73, 5) If the CEC refuses to register a candidate, it must inform him or his authorized representative (Art. 27, 6), but if it registers him, it must publish his full name, date of birth, place of residence, place of employment, occupation and party affiliation (if the candidate permits it) within 7 days of its decision. (Art. 27, 9)

In contrast, candidates running in single or multi-mandate constituencies for seats in either the Legislative Assembly or the Peoples' Representative Assembly must submit their documents to the commission responsible for that constituency. (Art. 73, 4) That commission must then decide to register or refuse to register the candidate within 5 days of its receipt of the his documents (Art. 73, 4) but no later than 25 days before the election when the nominations must cease. (Art. 73, 5) If the commission refuses to register a candidate, it must inform him or his authorized representative (Art. 27, 6), whereas if it decides to register a candidate, it must transmit its decision to the Central Elections Commission (Art. 73, 6), which presumably is responsible for publishing it within 7 days of the decision. (Art. 27, 9)

#### *5.3.g.8 Registration Certificates*

Within two days of the decision to register a candidate, the registering commission shall issue a certificate to the candidate. That certificate shall identify the constituency in which the candidate is running and the date of his registration. (Art. 27, 11)

#### *5.3.g.9 Registration of Trusted Persons*

Like political parties and party blocs, registered candidates have the right to appoint trusted persons. (Art. 29, 1) While the code does not clearly distinguish the role of trusted persons from that of authorized representatives, it suggests that trusted persons act as general agents of the individuals or organizations they represent whereas authorized representatives can act in the stead of their principals. (Art. 26, 7) (*See also 5.3.e.3*) Whatever the distinction, the code requires that trusted persons be registered and issued certificates by the electoral commission that registered the candidate, party or bloc that appointed them. (Art. 29, 2) To register a trusted person, a commission must receive the following:

- written application of the candidate, party or bloc nominating the individual to be their trusted person;

- written application of the person, consenting to be appointed. (Art. 29, 2)

Peculiarly, the code omits the inclusion of biographical data required of candidates and authorized representatives from the application for the registration of trusted persons. Likewise it omits the executed power of attorney required for the registration of authorized representative. Finally, it omits any proof of citizenship, even though foreign citizens are not allowed to be trusted persons. (Art. 29, 3)

Once registered, trusted persons have the right to execute the responsibilities granted to them by their candidates, political parties or party blocs (Art. 29, 4), including but not limited to the following:

- campaigning;
- making presentations and participating in discussions and debates;
- receiving assistance from state and local government in the organization of voters' gatherings;
- attending election commission meetings;
- observing voting, counting and summing up of results in a polling station;
- viewing election commission documents, including protocols on election results;
- filing complaints against the actions or decisions of commissions and attending the resolution of those complaints. (Art. 29, 5)

In contrast, trusted persons may not interfere with the work of election commissions, interfere with the rights of a voter in a polling place or participate in media coverage of an election if they are journalists. (Art. 29, 6) In addition to prohibiting these activities, the code also prohibits members of the government, the military, law enforcement agencies and the courts from being trusted persons. (Art. 29, 3)

The code extends trusted persons one privilege, but evidently no immunities. Upon request, they are to be granted an unpaid vacation from their employer in order to execute their political duties. (Art. 29, 7)

Finally, the period of service of a trusted person ends upon the occurrence of one of the following events:

- their recall by the individual or organization that appointed them and consequent annulment of their certificates by the commission that registered them; (Art. 29, 8)
- the cancellation of the registration of their candidate, party or bloc; (Art. 29, 9) or
- presumably, the publication of the results of the election for which they were appointed.

### *5.3.g.10 Nomination Procedures*



In general, candidates can be nominated by gatherings of voters, political parties or party blocs or self-nominated. The details of the nominations process differ depending on the office being sought.

#### *5.3.g.10.a Candidates for President*

Candidates for president can be nominated by gatherings of voters, political parties or party blocs, or they can nominate themselves. Candidates for president can be nominated by a gathering of at least 100 voters by any procedure the gathering selects. (Art. 60, 2) They can also be nominated at conventions of political parties or party blocs (Art. 60, 1) by secret ballot. (Art. 60, 4) In either case, the voters' gathering, party or bloc can only nominate one candidate for president. (Art. 60, 3) Self-nominated candidates must file a declaration of intent with the Central Elections Commission. (Art. 60, 5) Finally, the nominations period for candidates for the presidency ends 60 days prior to the scheduled presidential election. (Art. 60, 6)

In contrast, the nominations period for parliamentary candidates ends 30 days before the scheduled elections. (Art. 72, 2) [The details of the process differ depending on the type of constituency in which a candidate will be running and whether the candidate is nominated by a group or is self-nominated.

#### *5.3.g.10.b Candidates for Parliament*

Independent candidates for either the Legislative Assembly or the Peoples' Representative Assembly nominate themselves by filing a declaration of intent to run with the electoral commission responsible for the territory they hope to represent. (Art. 72, 5)

Candidates for the Legislative Assembly or the Peoples' Representative Assembly running in a single mandate constituency may be nominated by a political party or party bloc by secret ballot (Art. 72, 3) or by the majority vote of those present at a gathering of voters. (Art. 72, 4) In any event, parties, party blocs and voters gatherings shall only nominate one candidate per mandate. (Art. 72, 3)

Candidates for the Legislative Assembly running in the unified, national constituency shall be nominated by a convention of a political party or party bloc. (Art. 72, 3) The candidates nominated shall form a list of candidates, and the total number of candidates on the list cannot exceed 30. (Art. 72, 3)

#### *5.3.g.10.c Candidates for the Local Keneshes*

As for local kenesh elections, candidates likewise can be nominated by gatherings of voters, political parties or party blocs or can be self-

nominated. An independent candidate nominates himself by filing a declaration of intent with the elections commission responsible for the territory he hopes to represent. (Art. 87, 5) Candidates can also be nominated by conventions of parties or party blocs by secret ballot. (Art. 87, 3) Finally, gatherings of voters can nominate candidates. Distinct from similar nominations of candidates for the presidency or parliament, the code requires that the voters present at the nominating gathering be residents of the territory the candidate will attempt to represent. (Art. 87, 2) Regardless of whether the nominating organization is a gathering of voters, political party or party bloc, the number of candidates it can nominate cannot exceed the number of mandates available for that constituency. (Art. 87, 2)

### *5.3.g.11 Privileges & Immunities of Registered Candidates*

#### *5.3.g.11.a Privileges*

Like election commissions, registered candidates enjoy a number of privileges and immunities by virtue of their status. In describing privileges, the code distinguishes between candidates according to their employment. Candidates employed in the private sector are to be released from work with pay (Art. 28, 3), and the time of their candidacy cannot be deducted from their total time of employment. (Art. 28, 5) To be released, the candidates must merely file an application with their employers. The code does not prescribe the form or content of that application, however, nor does it require a copy of it to be filed with the election commission that registered the candidate. In addition, a candidate cannot be fired or transferred to another position without his consent during the period of the campaign. (Art. 28, 4) Unlike commissioners, apparently, registered candidates do not continue to enjoy that protection for anytime after the campaign. (Art. 28, 7) (*See also 3.3.h*)

In contrast, candidates employed in the public sector also enjoy the privilege of being released from work, but the code requires that they file a certified copy of an undefined resolution, presumably from their employer releasing them from service during the period of the campaign. (Art. 28, 8) The code does not separately provide that such candidates are to continue receiving their salary, nor does it say anything about whether the time of their absence can be deducted from their labor record. It also omits any privilege from being transferred or fired either during or after the campaign. Finally, the code does not adequately define the persons entitled to this limited privilege.

The code appears to distinguish categories of public servants. The privilege of being released from work extends to candidates who are either on public service or serve in representative local government bodies. (Art. 28, 8) If by the latter the code means deputies of local keneshes, it does not specifically provide, leaving the matter in doubt. Further complicating

this issue is the fact that the code apparently does not extend the same privilege of being released from work to candidates employed at the highest levels of government, in an equally undefined category A. While this could include ministers or high level judges or even deputies in the Peoples' Representative Assembly, it emphatically does not include the president or deputies to the Legislative Assembly, which the code explicitly excepts from this restriction. (Art. 28, 9)

A final minor uncertainty is whether candidates employed in mass media companies can be released from work with pay like private sector employees or released possibly without pay like candidates employed in public service. The uncertainty arises because the code places candidates working for mass media together with candidates in public service, but elsewhere it distinguishes privately owned mass media companies from those enjoying public participation or benefits. (*Compare* Art. 30, 9 with Art. 30, 10) (*See also* 6.3.c.2.b.1) Either way, candidates employed in mass media are certainly privileged to be released from work.

#### *5.3.g.11.b Immunities*

Fortunately no such problems of definition accompany the codes' grant of immunity to candidates. The code does not attempt to distinguish candidates on the basis of their employment sector. Rather, it apparently grants all candidates the immunity from arrest and criminal and administrative process without permission of the public prosecutor. In the even such permission is granted, the prosecutor must inform the election commission that registered the candidate of the impending action. (Art. 28, 6) The code does not prescribe any time periods for this notice, nor describe its content or even whether it has to be written. Also, and oddly, the code omits the exception it grants law enforcement officers to arrest election commissions caught at the scene of a crime. (Art. 16, 6) (*See also* 3.3.h)

Finally, the code states explicitly that the privileges and immunities it grants to candidates expire automatically upon the official publication of election results by the election commission that registered them (Art. 28, 7), with the exception that the privileges and immunities of candidates resume in the event of a runoff. (Art. 28, 7)

#### *5.4 OTHER RELEVANT LAW*

##### *5.4.a The Law on Political Parties*

The Law on Political Parties, adopted in 1999, supercedes the provisions related to the establishment and activity of political parties contained in The Law on Public Associations. (Art.23) Its provisions for the creation of parties are discussed in this section, while its provisions for

the activity of parties, specifically campaign activity are discussed in Chapter 6.

The law defines political party as a voluntary association of citizens sharing common political goals and working to implement their political will. (Art. 1; Art. 4) It refers to the Constitution, the text of the law itself and other, unnamed law as providing the legal basis for the organization and regulation of parties. As for their organization, one law that would be relevant is the Law on Registration of Legal Entities. (See 5.4.b below)

Among the legitimate purposes of political parties are the formation of fractions in representative bodies and the nomination of candidates to public office. (Art. 3) Furthermore, it forbids the formation of political parties with violent goals, and forbids the establishment of branches of foreign political parties on the soil of the republic. (Art. 3)

Parties can be established by a minimum of 500 citizens through a general convention in which a charter containing the following is to be adopted (Art. 5):

- its title;
- location;
- organizational structure;
- periods of conferences/assemblies;
- procedure for admission and termination of membership;
- rights and obligations of the party;
- procedure of decision-making;
- sources of financing;
- procedure for amending the charter;
- procedure for terminating its existence. (Art. 8)

In elaboration of these requirements, the law obliges the governing bodies of a party to be located in the territory of the republic. Once chartered, the party must be registered (Art. 10) (See also 5.4.b), and once registered, the party and its members have numerous rights and duties.

Among the rights of the party as a legal entity are the equal protection of the law and a right to be free of state interference, except in cases foreseen by other, unnamed law. Among its duties is the responsibility to respond to inquiries from the Ministry of Justice about violations of its charter. (Art. 12) The law catalogues a number of other rights of parties, including the right to disseminate information on their goals and activities, form political blocs, participate in elections, nominate candidates and fulfill other permissible functions. (Art. 11)

Among the rights of party members is free will, and membership or non-membership in a party cannot be a basis for restricting the citizen's rights. (Art. 7) To join a party, however, an individual must be a citizen, at least 18 years of age, and must have joined the party voluntarily. While not prohibiting public officers from joining parties, the law does prohibit them from conducting party activity in connection with their official duties. (Art. 6) That prohibition, however, is vague.

Two final comments are necessary. First, the law permits the body that registered the political party to suspend its activities for two months if

the party violates its charter or the law. Unfortunately, however, the political parties law does define which state body has that power, whether the Ministry of Justice or the Central Elections Commission, and it likewise does not describe the procedure for suspending or renewing a suspended party. Secondly, the law permits termination of a political party for the commission of prohibited activities (*See 6.4 below*) and upon the decision of the party itself to merge, incorporate or fragment the party, or otherwise end its existence. (Art. 15)

#### *5.4.b The Law on Registration of Legal Entities*

A second law affecting the organization of political parties is the law on the Registration of Legal Entities. Its provisions describe the process of registering a legal entity with the Ministry of Justice. Those requirements are general though, and do not specifically address political parties, and they are clear. Therefore, the text of the law is not separately reproduced in Appendix A, nor is any additional commentary necessary.

#### *5.5 CASE LAW*

#### *5.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

#### *5.6.a The Party Bosses*

##### *5.6.a.1 Facts*

One month before the election, two political parties decided to increase their chances of victory by combining forces. The leaders of the respective parties met and discussed their common goals and resolved to set aside their differences in the short term and try and unseat a particular elected representative.

They returned to their party headquarters and had protocols executed to form a party bloc. They forwarded the completed protocols to the Central Elections Commission and included in them all required information. While the CEC was considering their application, the leaders again met and after much haggling decided to nominate a candidate, whose nomination they likewise submitted to the CEC. Finally, they designated authorized representatives for the candidate, the bloc and the individual parties and executed applications with all the required information and submitted those to the commission as well.

#### *5.6.a.2 Questions Presented*

- 1) Would the formation of the bloc be valid if the general membership of the parties forming it did not meet in a general congress and only their leaders met? Would the nomination of the candidate?
- 2) If the bloc were registered, and the candidate nominated was seeking a mandate in the Jogorku Kenesh, did the bloc submit its nomination to the correct electoral commission?
- 3) If one of the parties had been founded less than a year ago, would the nominee of the bloc be rejected? Would it matter if the candidate was seeking a mandate in a local kenesh?
- 4) Could the party leaders be the authorized representatives of the candidate and the bloc respectively?
- 5) Could the candidate have an authorized representative in each of the precincts of the territory he hoped to represent?

#### *5.6.b The Crazy Candidate*

##### *5.6.b.1 Facts*

Azamat is crazy. For years he has been loitering in the backstreets of the capital with a dog he calls Bakai. Azamat is convinced that his pet is the wise advisor to Manas, reincarnated, and claims to follow her guidance on everything. It was on her advice, he says, that he left his home in the mountains many years before, and it is on her advice, he says that he has decided to run for office.

More amazing than that, Azamat and his leader and pet Bakai have a following among the poor, destitute and homeless people living in the city, and due to Bakai's good counsel, Azamat manages to collect the requisite number of signatures to file an application to be a candidate. Again with Bakai's assistance, Azamat appears on the steps of the appropriate election commission and hands in his declaration of intent to run, biographical information and enough money to pay the election deposit for the office he is seeking.

##### *5.6.b.2 Questions Presented*

- 1) If Azamat raised the money by selling old bottles, could the election commission cite that as a reason for refusing to register him? Would it matter if he said he had stolen the bottles?
- 2) If Azamat gives as his address a trash dumpster, can the commission refuse to register him?

- 3) If Azamat proves his identity by producing a faded copy of his birth certificate, claiming to have lost the original when he left his home years before, can the commission refuse to register him?
- 4) Finally, if Azamat writes on the bottom of his declaration of intent that he decided to run for office because he was told to by his dog but he has met all of the other requirements for registration, can the commission refuse to register him?

## 6.0 Complaints & Appeals Relating to Electoral Campaigns

### 6.1 INTERNATIONAL STANDARDS

#### 6.1.a *Applicability of International Law*

Given that the Constitution of the Kyrgyz Republic gives ratified international treaties the direct force of law and guarantees basic personal freedoms in accordance with generally recognized principles and norms (Art. 12:3, Art. 16:1), international law affects election campaigning in the republic. That law, unfortunately is very general, and derives essentially from the rights to freedom of expression and assembly.

#### 6.1.b *The Universal Declaration of Human Rights: Freedom of Expression*

For instance, the Universal Declaration of Human Rights acknowledges a "right to freedom of opinion and expression." (Art. 19) (See Appendix A) As it involves the right to "impart information and ideas," this right could be easily interpreted to include information and ideas about, for or against certain political parties or candidates. Indeed, given the right to take part in government either directly or through freely chosen representatives (Art. 21:1), that right itself would be meaningless without the complementary right of a candidate or campaigner to "impart information and ideas." Furthermore, if as the Declaration states, everyone has the right to freedom of peaceful assembly and association (Art. 20:1), then those assemblies and associations should enjoy the right of imparting information also.

#### 6.1.c *The International Convention on Civil & Political Rights: Freedom of Expression & Restrictions*

The International Convention on Civil & Political Rights accepts that, though it likewise accepts the occasional need to restrict the freedom of expression, while setting out the very limited circumstances in which such restrictions would be permissible. (See Appendix A) Like the Declaration, the Convention conceives of the freedom of opinion as inviolable. No power may interfere with it. (Decl. Art. 19, Conv. Art. 19:1) The Convention again tracks the Declaration in its conception of the freedom of expression, adding that the freedom to impart information shall include the freedom to impart "ideas of all kinds." (Art. 19:2) Presumably, political ideas, information about candidates and parties, and information against them cannot be restricted. In fact, the only restrictions the Convention recognizes as legitimate are those which are "provided by law



and are necessary" to protect the rights and reputations of others, to protect national security or public order, or to protect public health or morals. (Art. 19:3 (a), (b)) The Convention goes on to indicate what it considers justifiable restrictions, limiting them to merely "propaganda for war," and incitement to national, racial or religious "discrimination, hostility or violence." (Art. 20:1, Art. 20:2) Other than in these instances, international law certainly requires very free and open expression of ideas and information, and therefore other than in these circumstances, international law would appear to prohibit the expression of ideas and information by candidates, campaigners or political associations or assemblies.

## *6.2 NATIONAL CONSTITUTION*

The constitution itself does not prohibit campaigning. Indeed, given the inviolability of political belief and the necessary consequences of a right to express it, the constitution does not provide much of a basis for even limiting it.

### *6.2.a Campaigning and Free Expression*

Every person in the republic enjoys the right "to free expression and dissemination of thoughts, ideas and opinions" (Art. 16:2). This presumably includes the freedom to express political thoughts, ideas and opinions as the constitution clearly prohibits interference with the right to hold them. (Art. 15:3) It does, however, recognize a distinction between holding political opinions and expressing them, making the one "absolute and inviolable" (Art. 15:2) and the other subject to numerous restrictions. In summary, the constitution only permits restrictions of basic rights and freedoms in order to protect other rights, freedoms, honor and dignity (Art. 13:1) and to prevent incitement to violence and "inter-ethnic animosity." (Art. 9:4) The constitution describes rights and obligations as complementary (Art. 21:2), and while imposing on individuals the obligation to respect the rights of others and on the state to protect those rights (Art. 39:2), the constitution prohibits laws "which rescind or diminish" personal rights and freedoms. (Art. 17:1) It permits such limitations "only for the purposes of ensuring the rights and freedoms of other persons." (Art. 17:2) Furthermore, "such limitations may not affect the nature of constitutional rights and freedoms." (Art. 17:2)

Given the stature of voting in the constitution and its necessity for ascertaining the will of the people, it is difficult to see how political campaigning could not be a constitutionally protected form of free expression.

## *6.3 THE ELECTIONS CODE*

Though regularly including citizens among the persons authorized to campaign, the elections code does not afford any special privileges to citizens. It only recognizes their general right to participate in the elections process (Preamble; Art. 2) and mentions them frequently in its description of permitted forms of campaigning.

#### *6.3.c.1.b Candidates*

As discussed previously (See 5.3.g.11) the code requires registered candidates to be released from work, school or military service in order to campaign. (Art. 28, 3) In addition to their general rights of campaigning, candidates also enjoy the right to give speeches on radio or television without interruption or comment. (Art. 32, 5). This odd privilege seems to conflict with the general right of open campaigning since it would be impossible to discuss a candidate's program comprehensively (Art. 30, 2) without being able to comment on a speech. Also, whatever the justification for prohibiting interruptions and comment, the code prohibits them only during broadcast time. Therefore perhaps the proper reading of this prohibition is an extremely narrow one, as merely a general principle of ensuring decorum during radio and television broadcasts.

#### *6.3.c.1.c Public Associations*

Public associations, other than religious and charitable ones, enjoy the general right to campaign. (Art. 30, 1)

#### *6.3.c.1.d Political Parties & Party Blocs*

Political parties and party blocs enjoy the general campaign rights described in the code, with any additional rights or restrictions being left to a separate law on political parties. (See 6.4 Other Relevant Law, below)

#### *6.3.c.1.e Trusted Persons*

Registered candidates, political parties and party blocs have the right to appoint trusted persons (Art. 29, 1) who are authorized by the code to campaign in any permitted form. This includes making presentations at gatherings or meetings of voters, participating in campaign discussions or debates or otherwise promoting their candidates or lists of candidates. (Art. 29, 5)

#### *6.3.c.1.f Authorized Representatives*

Similarly, registered candidates, political parties and party blocs can appoint authorized representatives, as can gatherings of voters. (Art. 26, 1) Among the permissible activities of authorized representatives are campaigning, the code permitting them to participate in the casting of lots by an election commission to distribute broadcast airtime, to distribute campaign materials and to execute other campaign duties entrusted to them. (Art. 28, 7)

#### *6.3.c.2 Authorized Activity*

In addition to authorizing certain persons to campaign, the code authorizes certain kinds of campaigning. Generally, those authorized kinds include campaigning in mass media, mass actions or through the printing and distribution of campaign materials. (Art. 30, 4) Each of these is discussed in turn in the following sections.

##### *6.3.c.2.a Mass Media*

The elections code distinguishes between the electronic and print media. It nevertheless gives candidates, public associations, political parties and party blocs the right to determine the form and content of their mass media campaign. (Art. 30, 5) Within the limits of permissible activity, this right is assumed to be exclusive.

##### *6.3.c.2.b Television & Radio*

In addressing permissible campaign activities in the electronic media, the code follows a general principle of equality. Television and radio stations are obliged to provide broadcast time under equal conditions. (Art. 32, 7) Obviously, time is unique, and the code does not obligate the electronic media to provide the impossibility of simultaneous broadcast. What it requires instead is that firms establish equal conditions such as the amount, cost and distribution of broadcast time. (Art. 32, 8) Even as it distinguishes between privately owned media companies and those with public participation or benefits, the code requires each to charge those wishing to advertise on their stations the same amounts for the same products. (Art. 30, 10; Art. 32, 4) This does not necessarily mean that private broadcast companies must charge the same rates as public ones, nor does it necessarily mean that an individual company must charge the same rates for broadcasts at different times in their schedules. The code merely requires that broadcast companies do not discriminate between candidates, parties or blocs but make access available to all under the same conditions.

### 6.3.c.2.b.1 Broadcasters of State-Owned or Benefited Media Companies

The code's distinction between public and private media companies wants further elaboration. It places a number of unique obligations on media companies that enjoy state participation or benefits. State participation includes:

- being founded or co-founded by a state authority or local governmental body, organization or institution;
- being financed fully or partially from a governmental budget. (Art. 30, 9)

While this clearly encompasses state-owned media companies, privately owned companies would be encompassed as well if they enjoyed preferential treatment in the payment of taxes or fees, regardless of their ownership or source of financing. (Art. 30, 9) As a consequence of their public participation or benefits, these media companies bear some additional obligations under the code.

First, they are obliged to provide both free and paid airtime to candidates, political parties and party blocs. The free broadcast time must be between the hours of 8 pm and 12 am. (Art. 32, 1) The total amount of free broadcast time between those hours depends on the type of election and the size of the broadcaster. Apparently only candidates, political parties and blocs in presidential and parliamentary elections enjoy the right to free airtime since the code conspicuously omits the provision for local kenesh elections. (Art. 32, 2)

Large broadcasters are to commit a total of at least one hour per working day, local broadcasters a total of at least 30 minutes and broadcasters on the air for less than two hours a day, a quarter of their total broadcast time. (Art. 32, 2) Unfortunately, the code does not provide any guidelines to differentiate local from any other kind of broadcaster, nor does it define working days, leaving it in doubt whether the code means 5 or 6 days a week or simply every day a particular station is on the air.

Further complicating matters, the code requires that 1/3 of the total amount of free airtime allocated is to be given over to discussions of various formats in which all candidates, parties or party blocs can participate equally. Presumably, the code means all the candidates registered in a given election and the registered parties or blocs running candidates in that election, and in the case of local broadcasters, only those registered candidates, parties or blocs campaigning within their broadcast area. In other words, while probably meaning less than all, the code nonetheless says all. Finally, while the total amount of free time given over to promotion is also to be distributed equally (Art. 32, 8), the code claims to leave the process of dividing that time to other law (Art. 32, 6), but elsewhere indicates that at least the order of broadcast is to be determined by casting lots. (*Compare* Art. 32, 6 with Art. 32, 8) (*See also* Art. 28, 7)

Despite the uncertainty in the code, a convenient schema of its requirements might be constructed. Between 8 pm and 12 am every working day during parliamentary and presidential elections, the television

and radio stations of media companies enjoying public participation or benefits must provide the following amounts of free airtime to candidates, political parties and party blocs:

For large broadcasters, a minimum of:

- 40 minutes, equally divided, and
- 20 minutes for discussion.

For local broadcasters, a minimum of:

- 20 minutes, equally divided, and
- 10 minutes of discussion.

For broadcasters on air for less than two hours a day, a maximum of:

- 10 minutes, equally divided, and
- 5 minutes of discussion.

In addition to requiring the radio and television stations of state owned or preferentially treated media companies to provide free broadcast time, the elections code obligates them to provide paid air time. In contrast to free time, however, paid time does not have to be broadcast between certain hours, the time of broadcast being as much a matter of contract between the parties as the price. (Art. 32, 4) The code only requires that all parties be charged equivalent amounts for equivalent times. (Art. 32, 4) In order to ensure equal treatment in price, the code requires such broadcasters to publish a fee schedule at the beginning of the election. (Art. 32, 4) Finally, the code requires broadcasters to make available paid time in an amount not less than the total amount of free time, without making clear whether that means free time potentially or actually available. (Art. 32, 4)

#### *6.3.c.2.b.2 Private Broadcasters*

Significantly less complicated are the requirements for the radio and television stations of privately owned media companies. They are not obligated to provide anyone free airtime, are not required to broadcast anything between certain hours and are not required to divide campaign propaganda between promotion and discussion. They are simply obligated to provide candidates, parties and party blocs with airtime at equivalent rates for equivalent times (Art. 32, 7), the price of which shall not be more than the amount they charged the day before the announcement of elections. (Art. 30, 10)

#### *6.3.c.2.c Print Media*

The code's distinction between private and state-owned or benefited media companies applies to the print media as well as the electronic media, and the essential distinction in their responsibilities remains. State owned or benefited media are obligated to provide free advertising space, while private ones are not. Despite its lengthy treatment

of the responsibilities of broadcasters, however, the code is surprisingly terse on the responsibilities of publishers. Other than requiring that the publishers of state-owned or preferentially treated media companies must provide an amount of free advertising space to candidates, political parties and party blocs, it defers to unnamed other legislation for the details of its allotment. (Art. 33, 1) The code adds that regardless of ownership or benefits all publishers are to provide all candidates, parties and blocs with advertising space on equal terms. (Art. 33, 2)

#### *6.3.c.2.d Mass Actions*

The second campaign activity that the elections code authorizes is campaigning through various mass actions. Among the activities included in the code's definition of mass actions are gatherings, meetings with citizens, public debates and discussions, rallies, demonstrations and marches. Aside from prohibiting certain activities at these mass actions and guaranteeing that those attending such actions have the right to discuss the programs and political, business and personal qualities of candidates freely and comprehensively (Art. 30, 2), the code only addresses the issue of state assistance to the organizers of such actions and the arrangement of premises.

As for assistance, the code requires state authorities and local government to provide whatever assistance is necessary for the conduct of gatherings, discussions and rallies, etc. This assistance includes providing security at campaign events (Art. 34, 1), and it includes cooperating with election commissions in arranging the premises for such events. (Art. 30, 2) The code adds that state authorities and local governmental bodies are to consider applications for such premises upon receipt. (Art. 34, 2) Unfortunately, it does not also describe the form or content of such applications, establish deliberative criteria nor set a deadline when these unspecified authorities must decide. Finally, it likewise omits any further elaboration of the relationship of these authorities and the various election commissions.

As for the premises required for mass actions, the code requires that public spaces be provided to the organizers free of charge. (Art. 34, 3) The code also insists that other candidates, parties and blocs enjoy an equal opportunity to use the same premises, even, it appears, if those premises are privately owned. (Art. 34, 3) Other than these guidelines, however, the code does not treat mass actions extensively.

#### *6.3.c.2.e Printing & Distribution of Campaign Materials*

The third means of campaigning authorized by the code is the printing and distribution of campaign materials. The code imposes no specific content restrictions on such materials but nevertheless requires candidates, parties and party blocs to submit drafts of the materials they

intend to distribute, apparently before they are printed. (Art. 35, 1) While the code says that the purpose of such submissions is to prevent the distribution of materials that violates it or other legislation, it does not say what happens to the materials after submission. It sets no criteria for their evaluation, no standards of judgment, no process of decision-making and no deadline for making a decision. Unfortunately, the general decision-making process prescribed for commissions – majority vote of commissioners present (Art. 18, 7) – only resolves one of these issues.

Regardless of these difficulties, the code clearly requires all campaign materials to be identified. All printed materials must include the full names and addresses of persons or organizations that prepared or ordered the printing of the materials. The volume of the materials printed and the date of their printing must also be included. (Art. 35, 2) The materials are to be prohibited if they do not contain this information. (Art. 35, 2) (*See also* 6.3.d.3)

Once identified and submitted to the appropriate election commission (and presumably approved), the printed materials can be posted on:

- the premises of buildings, constructions and other objects with the consent of their owners, (Art. 35, 3) and

- places established within the territory of a precinct by local government upon the proposal of an election commission (Art. 35, 4),

but not:

- inside election commission premises,
- at the entrance (or presumably inside) polling places, or
- upon monuments or buildings of historical, cultural or architectural value. (Art. 35, 3)

Unfortunately, this list raises a number of questions that the code does not answer such as the form of the consent an owner must give before campaign materials can be posted on his property and how the historical, cultural or architectural value of a building is to be designated. Also the code does not explicitly say whether materials posted in violation of these rules can be taken down, giving election commissions only the power to confiscate materials and institute criminal proceedings if they are forged or improperly identified. (Art. 35, 5) (*See also* 6.3.d.3)

#### *6.3.d Prohibited Campaigning*

The elections code concerns itself more with prohibited than permitted campaigning, distinguishing between persons who may not campaign and impermissible activities.

##### *6.3.d.1 Unauthorized Persons*

While the code permits citizens, public associations, candidates, political parties and party blocs, as well as their trusted persons and

authorized representatives to campaign (Art. 30, 1), it prohibits some persons from campaigning altogether and even prohibits persons in the permitted categories from engaging in certain campaign activities.

#### *6.3.d.1.a Citizens*

The code generally permits citizens of the Kyrgyz Republic to campaign (Art. 30, 1), but entirely prohibits foreign citizens and persons without citizenship. (Art. 30, 7)

#### *6.3.d.1.b Observers*

While acknowledging the function and propriety of domestic and international observers in ensuring transparency in the elections process, the code prohibits observers from campaigning, regardless of their citizenship. (Art. 17, 9, g))

#### *6.3.d.1.c Other Individuals Prohibited*

Other individuals entirely prohibited from campaigning include:

- election commissioners;
- non-candidate governmental officials;
- chancellors; and
- on duty employees of law-enforcement bodies or the military.

(Art. 30, 6)

Although not specifically mentioned in this paragraph, the courts are considered law enforcement bodies elsewhere in the code (Art. 51, 3) meaning judges and other employees of the judiciary maybe should be included in this list. Even then, however, the code seems to prohibit campaigning by employees of law enforcement bodies only during their work time, implying that they can campaign during their free time.

#### *6.3.d.1.d Public Associations*

While the code generally permits public associations to campaign (Art. 32, 5), it completely prohibits a small group of associations and other legal entities. The prohibited group consists of:

- welfare institutions;
- religious associations; (Art. 30, 6)
- international organizations;
- international public movements. (Art. 30, 7)

Finally, although neither a public association nor an entity registered under the laws of the Kyrgyz Republic, foreign governments are also



included in this list of organizations not authorized to campaign. (Art. 30, 7)

#### *6.3.d.1.e Political Parties and Party Blocs*

The code leaves restrictions on the campaigning of political parties and party blocs to a separate law. (See 6.4 Other Relevant Law, *below*) This is not true of the various representatives of parties and blocs, however, which the code does address.

#### *6.3.d.1.f Trusted Persons*

Appointed by registered candidates, parties and party blocs, and themselves registered by election commissions (Art. 29, 1) trusted persons enjoy limited authority to represent their candidates, parties or blocs, including campaigning. (Art. 29, 5) (See also 5.3.g.9) The code, however, expressly prohibits trusted persons from doing radio or television commercials and from participating in news coverage of campaigns if they are journalists, creative workers or officials employed by mass media companies. (Art. 29, 6) While leaving unclear whether this prohibition includes all commercials or just those promoting a candidate or issue, the code does explicitly exclude campaigning by trusted persons during the free airtime required of television and radio stations of media companies enjoying state participation or benefits. (Art. 30, 8; Art. 30, 9) (See also 6.3.c.2.b.1)

#### *6.3.d.1.g Authorized Representatives*

The elections code permits candidates, parties and party blocs, as well as gatherings of voters to appoint authorized representatives who enjoy the authority to act on behalf of the individual or group that appointed them. (Art. 26, 1) (See also 5.3.e.3) That of course includes campaigning. (Art. 26, 7) The code does not place any specific restrictions on the campaigning of authorized representatives, whose rights, being derivative, would be limited by the same limitations placed on political parties and party blocs by other legislation (See 6.4 Other Relevant Law, *below*) and the limitations placed on candidates by the elections code.

#### *6.3.d.1.h Candidates*

##### *6.3.d.1.h.1 Candidates Employed in Government Service*

While generally permitting candidates to campaign in the authorized forms, the code restricts one category regardless of form. The restriction applies only to candidates working for the government at a high level, the undefined category A. (See also 5.3.g.11.a) They are only permitted to campaign on days off, vacation, holidays and other days of rest. (Art. 28, 9) Apparently, they do not share the right of other candidates to be released from work (Art. 28, 3), presumably performing tasks in the government that are deemed essential. Thus it is odd that the code excepts a sitting president and deputies of the Legislative Assembly from this restriction, permitting them to campaign regardless of the category of their employment or the character of their work. (Art. 28, 9)

Additionally, the code prohibits candidates employed at any level of government from using the benefits of their rank or position to campaign. These benefits include:

- assigning subordinates campaign work during their normal work time;
- conducting campaign activities on state property not available to other candidates;
- using state communications, information or technical equipment for the purposes of campaigning;
- using state means of transportation;
- collecting signatures or campaigning during official business trips;
- obtaining beneficial access to gather signatures or campaign. (Art. 28, 2)

The code excepts deputies of the Legislative Assembly from the prohibition against using state transportation. Otherwise the restrictions apparently apply to all candidates in government service.

#### *6.3.d.1.h.2 Candidates Employed in Mass Media*

This concern about candidates unfairly using the benefits of their position also apparently underlies the code's restrictions on the activities of candidates employed by the mass media. Specifically, candidates who are journalists, creative workers or officials of mass media companies are prohibited from conducting television or radio programs or even covering news about them. (Art. 30, 8) As with trusted persons working for the mass media, however, the code lifts this restriction for candidates who campaign during the free time required of the broadcasters of state-owned or benefited media companies. (Art. 30, 8; Art. 30, 9) (See 6.3.d.1.f above)

#### *6.3.d.2 Unauthorized Activities*

The elections code proscribes a number of campaign activities, prohibiting some altogether while curtailing others that it generally

authorizes. In summary, the code completely forbids interference with the rights associated with voting including inappropriate use of an official or business position, defaming candidates, and incitement, bribery or otherwise influencing voters. Each of these will be discussed in turn.

#### *6.3.d.2.a Using a Business or Official Position*

The code prohibits the use of a business or an official position to affect the elections process. (Art. 57, 2)) It likewise prohibits the defaming of candidates.

#### *6.3.d.2.b Defamation & Incitement*

While defamation is the subject of other law, in summary, the elections code prohibits:

- the spreading of deliberately false information on candidates, or
- other actions damaging to their dignity. (Art. 57, 3))

In addition to defamation, the code also prohibits incitement. Though curiously limiting its restrictions to campaigning in the mass media, the code disallows:

- exciting social, racial or national hatred;
- calling for seizure of power, violent change in the constitutional structure or violation of the integrity of the state, and
- advocating war. (Art. 36, 2)

Narrower prohibitions against the interference of voting and election rights include prohibitions against bribery and influencing of voters.

#### *6.3.d.2.c Bribery & Other Influence*

Candidates, political parties and party blocs, along with their trusted persons and authorized representatives are forbidden to bribe voters with immediate gifts (Art. 36, 3) and are also forbidden to attempt to influence them with promises of future gifts. (Art. 36, 4) The code considers the following activities to be bribery and forbids them:

- paying voters money;
- giving them presents other than printed campaign materials;
- offering them goods or services, free of charge or on preferential terms. (Art. 36, 3)

Other prohibited means of attempting to influence voters include:

- promising to transfer funds or securities to them;
- promising to provide them with services on illegal terms. (Art. 36, 4)

In addition to these generally unauthorized campaign activities, the code restricts certain activities in the otherwise authorized categories of campaigning by mass media, mass actions or the printing and distribution

of campaign materials: (Art. 30, 4) Each of these is the subject of a separate section below.

#### *6.3.d.2.d Mass Actions*

In addition to forbidding incitement by or through the media, the code puts three unique restrictions on campaigning via radio, television or the press. One of these, the prohibition on interrupting or commenting on speeches during a broadcast has already been discussed (*See above* 6.3.c.1.b) The two other restrictions, however, concern candidate criticism and publishing the results of polls.

##### *6.3.d.2.d.1 Criticism*

As for criticism of candidates, the code not only seems to prohibit deliberately false statements intended to affect the outcome of voting (Art. 57, 3)), but it also describes an elaborate process of controlling statements that are not false.

The code describes the full and comprehensive examination of a candidate's program and political, business and personal qualities as a right. (Art. 30, 2) It likewise attempts to protect the dignity of candidates. (Art. 57, 3)) It then manages to balance the potential conflict between these goals by obliging those who might publish or broadcast damaging statements to allow the candidates affected an equal opportunity to explain or refute them. (Art. 36, 6) The explanation or refutation is to appear in the very next issue of the publication or segment of the broadcast that first disseminated the allegedly damaging information. (Art. 36, 6)

Several things about this process are not clear. For example, the code does not explain whether the affronted candidate must respond to criticism at the next opportunity after the original publication or broadcast, the next one after learning of the allegedly damaging statement or even a reasonable time thereafter to prepare a response. That the latter interpretation is the better is suggested by the code's imposition of civil liability for the broadcaster or publisher that does not provide the allegedly damaged candidate with an opportunity to respond before the expiration of the campaign period. (Art. 36, 7)

##### *6.3.d.2.d.2 Opinion Polls*

The next unique restriction on campaign activity in the media appears to be contradictory. One article of the code flatly prohibits the publication of opinion polls from the moment a candidate is registered until the results of an election are officially announced. (Art. 31, 3) Another article, in contrast, requires the mass media to include the

following information in each publication or broadcast of the results of a public opinion poll:

- the name of the organization that conducted the poll;
- when it was conducted;
- the method of information collection;
- the precise wording of the question; and
- the estimator of possible error. (Art. 30, 11)

Unfortunately, nothing in these articles themselves and nothing in the rest of the code offers any guidance to resolving this contradiction.

#### *6.3.d.2.e Mass Actions*

Oddly, while recognizing a variety of mass actions as authorized means of campaigning, the code does not place any specific restrictions on the conduct of gatherings and meetings of voters, public debates and discussions, rallies, demonstrations or marches. (Art. 34, 1) Considering the potential for disturbance in such actions, however, it is particularly strange that the code's prohibition of inciting social, racial or national hatred is directed at mass media. (Art. 36, 2) As a result, the code seems to permit demagoguery at public events. It just prohibits its broadcast.

#### *6.3.d.2.f Printing & Distribution of Campaign Materials*

The elections code sets very few explicit restrictions on the printing and distribution of campaign materials. As previously discussed though, it requires candidates, political parties and party blocs to submit true copies of the materials they intend to print and distribute (Art. 35, 1), implying that the election commissions that review them can suppress them if the materials violate other law or articles of the code.

In addition, the code prohibits the distribution of printed materials that are not properly identified (Art. 35, 2; Art. 35, 5) or are improperly posted. The code prohibits the posting of campaign materials:

- inside election campaign premises;
- at the entrance (and presumably inside) polling places;
- upon monuments or buildings of historical, cultural or architectural value. (Art. 35, 3)

Unfortunately, the code does not indicate what determines when a building has such value, and moreover it does not state how far materials have to be from a polling station to be beyond its entrance.

Next, the code prohibits the printing or distribution of forged campaign materials (Art. 35, 5), and finally, it rather unrealistically forbids the removal of otherwise authorized and approved materials before the expiration of the election period. (Art. 31, 2)

### *6.3.d.3 Penalties*

For the violation of only some of its numerous restrictions, the code denotes civil, administrative and criminal penalties. In summary, these consist of the confiscation of materials, civil and criminal liability and ultimately the cancellation of a candidate's registration. Each will be discussed in turn.

#### *6.3.d.3.a Confiscation*

First, the code permits forged and improperly identified materials to be confiscated. (Art. 35, 5) Aggrieved parties can seek the aid of law enforcement bodies by filing a petition to have the illegal campaigning activity suppressed. (Art. 36, 9)

#### *6.3.d.3.b Civil Liability*

Second, this application to law enforcement implies that the persons guilty of the violations can be prosecuted, but the code also provides for civil liability. Specifically, media companies that fail to provide criticized candidates the equal opportunity to explain or refute that criticism are liable for damaging the dignity of the candidate. (36,7) (see 6.3.d.2,d.1 above) =

#### *6.3.d.3.c Cancellation of a Candidate's Registration*

The code makes its most severe penalty the cancellation of a candidate's registration and consequent disqualification from an election. An interesting penalty, it holds candidates ultimately responsible for the activities of their supporters. It distinguishes between the types of supporters, however, although only slightly, dividing the leaders of organizations from their members.

If the leaders of political parties, party blocs or public associations, or their authorized persons, use their official or business positions improperly, the candidate's registration can be cancelled as if the candidate misused his position himself. (Art. 56, 1)

Moreover, if the members of a party, party bloc, public association or other interested organization bribe (and presumably attempt to bribe) voters, the candidate's registration can likewise be cancelled. (Art. 56, 1) Of course, if either violation were performed by the candidate, his trusted person or authorized representative, his registration could be cancelled as well.

Finally, the code makes the publication or broadcast of inciting statements another ground for the cancellation of a candidate's registration, without distinguishing between statements made by

candidates from those of the leaders or members of the groups of their followers. (Art. 36, 2)

#### 6.4 OTHER RELEVANT LAW

##### 6.4.a Political Parties Law

The Law on Political Parties supercedes those sections of the Law on Public Associations relating to the establishment and activity of political parties. (Art. 23) Its provisions concerning the establishment of parties were discussed in the previous chapter; its provisions on party activity will be discussed here.

The law very clearly prohibits the formation of political parties for violent purposes and forbids parties from engaging in the following:

- the overthrow or violent change of government;
- undermining the sovereignty or violating the integrity of the republic;
- advocating war;
- advocating violence, brutality, or social, racial, national or religious dissension; or
- other actions violating the constitution or international law. (Art. 3) Furthermore, the symbols of the party are not to represent any of these forbidden goals and activities. (Art. 9)

If the law prohibits these activities, it nevertheless permits to engage in campaign activity, namely the nomination and promotion of candidates to public office. (Art. 11) Also, the law allows parties to engage in the dissemination of information on their goals and activities, the establishment of media agencies and the organization of meetings, demonstrations, assemblies and other popular events. (Art. 11) Interference with these activities by state bodies and public officials is generally prohibited, except in cases where a party has engaged in one of the forbidden activities outlined above. (*Compare* Art. 12 with Art. 3)

In the event that a party commits any of these forbidden activities, or violates its charter, it is to be warned in writing by the Ministry of Justice and given one month to correct its behavior. (Art. 13) If the party persists, apparently the ministry can suspend the party's activities for a period of two months. (Art. 14) Also apparently, the ministry can terminate the party for its violations, without the necessity of a warning or a temporary suspension (Art. 15), the law implying that the punishments are independent options of the ministry.

##### 6.5.b Administrative Code

The Administrative Code prescribes a number of penalties for campaign violations. For simplicity, the liable parties, the violation and the range of the fine that can be imposed are listed below:

- journalists: violating the rules on campaigning: 10-50 minimum salaries (Section 52);
- citizens: publishing false information with the aim of influencing the election: 10 to 20 minimum salaries;
- public officials: publishing false information with the aim of influencing the election: 50 to 100 minimum salaries (Section 53);
- anyone: campaigning before it is allowed: 10 to 20 minimum salaries (Section 54);
- anyone: anonymously publishing printed campaign materials: 10 to 20 minimum salaries (Section 55);
- anyone: deliberately damaging or destroying printed campaign materials: 5 to 20 minimum salaries (Section 56)

#### *6.5.c Criminal Code*

The Criminal Code penalizes activities interfering with the rights of citizens to vote. Specifically, the code describes three actions that warrant punishment:

- hindering a citizen's right to vote: 50 to 100 minimum salaries (Art. 139);
- hindering a citizen's right to vote by bribery, cheating, violence or the threat of violence increase the range of the fine from 200 to 500 minimum salaries and creates an option of prison time from 6 months to 5 years (Art. 139);
- bribery of voters: 500 to 1000 minimum salaries or imprisonment from 2 to 5 years. (Art. 140)

Significantly, the code does not detail the difference between what it may consider two types of bribery. This raises questions of double punishment that are not resolved by these articles of the code.

#### *6.5.d Media Law*

The 1997 media law prohibits statements that damage an individual's moral dignity.

#### *6.5 CASE LAW*

#### *6.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*



## *6.6.a The Askakal versus the Upstart*

### *6.6.a.1 Facts*

In a remote region of the country two first time candidates are running for a vacant office. Neither one of them has ever campaigned before but each has attracted a large and enthusiastic following. One of the candidates is an elderly man with a great deal of personal bearing. He is a traditionalist, is never seen without his kolpak, plays the komuz, and at his campaign functions usually winds up entertaining the crowd with old songs and folk wisdom.

His competitor is a brash young man who filed for office on his birthday when he met the minimum age requirement. He is a progressive, and almost all of his opinions are contradictory of his opponent's. He too plays an instrument, being the leader of a popular dance band, and at his rallies he too frequently winds up performing for his supporters.

The contest between them has become a real battle and has attracted attention from all around the republic and outside its borders as well. For instance, a huge multinational television news crew has recently contacted the campaign managers of each candidate asking to film segments of upcoming rallies. The candidates granted their permission, and the government extended the film crew all the necessary visas and permits.

Because of the attention gathering around the rallies, sympathizers of each candidate come to the region, as do idlers, vagabonds and souvenir sellers. Two separate rallies are held at the same time in public spaces of equivalent size on opposite ends of the town. The askakal holds a concert of traditional music for his supporters, and the upstart holds a dance for his. Supporters and opponents wander freely between the free shows as do members of the film crew.

Having filmed enough of the music, the crew interviews the candidates privately and then records their speeches and comments from the crowd.

### *6.6.a.2 Questions Presented*

- 1) If the film crew asks a bystander her opinion of a candidate while he is speaking, does it incur any liability? Does she?
- 2) If the bystander criticizes her candidate's opponent, must the film crew ask one of the opponent's supporters to make an equally critical statement? If it does not, does it incur any liability?
- 3) If one candidate's concert started at 7:30 and the other started at 8:00, when can the film crew start broadcasting?
- 4) If, when one candidate is on stage, supporters of his opponent enter and shake their heads in disagreement, has their candidate incurred any liability?

- 5) If supporters of one candidate paste printed materials of the other upside down, have they incurred any liability? Would it matter if they posted the signs on an abandoned old building currently undergoing renovation?
- 6) If, during the concert, a comic ridicules the age of one of the candidates, has he or the candidate who sponsored him incurred any liability? Would it matter if the jokes angered someone in the crowd?
- 7) Finally, would any of these activities be permissible if the film crew were from within the Kyrgyz Republic rather than outside it or if they occurred when the cameras were not on?

#### *6.6.b The Opportunistic Printer*

##### *6.6.b.1 Facts*

Bahar manages a small printing company. One day, the authorized representative of a political party comes into his shop and asks him for a price quote for campaign brochures. The next day, the trusted person of a candidate comes into his shop and asks for the same information. Bahar, who has never printed campaign materials before realizes that he may have a new business opportunity. He therefore intentionally underestimates the cost of printing and gets the jobs from both customers.

##### *6.6.b.2 Questions Presented*

- 1) Is Bahar obligated to inform the authorized representative and the trusted person that he is printing materials for both of them?
- 2) If he had agreed to print the materials for the authorized representative before the trusted person came into his shop, would Bahar have been obligated to print the materials of the trusted person at the same rate as he was publishing those of the authorized representative?
- 3) Who is responsible for including identification information on what is published, Bahar or his customers and who is liable if he does not?
- 4) Finally, under the law can Bahar charge less than it costs him to print the materials? Would it be different if he had printed campaign brochures before?

## 7.0 Complaints & Appeals Relating to Campaign Funding

### 7.1 INTERNATIONAL STANDARDS

Neither an international convention ratified by the Kyrgyz Republic nor a general principle of public international law addresses campaign funding, leaving the matter entirely to domestic law.

### 7.2 NATIONAL CONSTITUTION

The Constitution of the Kyrgyz Republic does not mention campaigning, nor does it mention that necessary evil of campaigning, campaign financing. Yet the undeniable right of citizens to participate in their governance (Art. 23) and their freedom to express and disseminate thoughts, ideas and opinions (Art. 16:2) strongly suggest that the constitution protects the evil along with the good. If campaigning is included in the protected freedoms of "expression and dissemination of thoughts, ideas and opinions," as was previously argued (*See 6.2 above*), then it is difficult to imagine that contributions to individual campaigns or to the "war chests" of political parties would not also be protected. The connection between them is direct and immediate since even the simplest form of campaigning requires money, and the contribution that results in a photocopied campaign poster should be equally protected, regardless of whether that contribution was the words on the paper or the money used to buy it. The text of the constitution, however, no more describes the right of an individual to contribute to a campaign than it describes the government's obligation to provide candidates with campaign funding. Neither is prohibited however, as each appears to be left to statute.

### 7.3 ELECTIONS CODE

The elections code distinguishes between funds used to administrate elections and funds used by candidates to campaign. Each is discussed separately, below.

#### 7.3.a Administration Funds

##### 7.3.a.1 Financing the Preparation and Conduct of Elections

The code describes two sources of funding for the preparation and conduct of elections: the national budget and special funds established by electoral commissions. (Art. 50, 1) Within 10 days of the announcement of elections, funds are to be transferred to the electoral commissions. (Art. 50, 2) The code does not explain who transfers these funds or whether they are to be transferred upon request of the Central Elections Commission or in the absence of such request. It also does not explain

which commissions are to receive the funds directly from the national treasury and which are to receive their funds from other commissions.

In the event that funds are not transferred or are not transferred on a timely basis (presumably more than 10 days), the code states that the amount allocated to a commission shall be covered by a bank loan. (Art. 50, 3) Unfortunately, it does not further describe the process of applying for or securing the loan, explaining only that the government of the republic shall be obligated to repay it, with interest, within two years. (Art. 50, 4)

The code also permits the financing of elections from special funds of the commissions. (Art. 50, 5) The code does not define "special" funds, however, nor does it describe the process of setting up such a fund. It merely indicates the several commissions that have the power to set up special funds (*See 7.3.a.2 et seq., below*) and their obligation to account for them.

The code obligates election commissions to submit financial reports of the use of funds expended from the national budget and special funds to the President and both houses of parliament. (Art. 50, 6)

Finally, the code imposes personal liability on commission chairs for the proper disposal of election funds and for the compliance of their documents with the financial decisions of their commissions. (Art. 50, 7)

### *7.3.a.2 Responsibilities of Commissions*

#### *7.3.a.2.a Central Election Commission*

The code gives the Central Elections Commission the responsibility to pay for the elections process. To do so, it may employ funds from the national budget, set up special funds (Art. 10, 1, 10)), and determine accounting procedures. (Art. 10, 1, 11)) These are meant to facilitate its primary function of distributing funds to subordinate election commissions. The funds shall be used for the transportation and communication needs of the commissions, as well as their rent and utilities. (Art. 10, 1, 9))

By establishing accounting procedures (Art. 10, 1, 11)) and financial reporting forms (Art. 10, 1, 12)) and by creating an audit group (Art. 52, 2), the CEC collects data on the amount of money received and spent by election commissions and the amount collected and spent by candidates, parties and blocs.

#### *7.3.a.2.b Oblast / Bishkek City Commissions*

The code also gives oblast and Bishkek commissions the power to establish special funds for the conduct of elections within their territories (Art. 12, 1 8)), although the source of those funds and their accounting is not specified.

#### *7.3.a.2.c Territorial Commissions*

The code likewise gives to territorial commissions the power to establish special funds (Art. 13, 2, 14), but it elaborates by giving the commissions control over the distribution of funds in their territory. Generally, territorial election commissions are to administrate funds, distribute part of them among precinct commissions and monitor their utilization. (Art. 13, 2, 13)) Specifically, territorial commissions are to supply the transportation and communications needs of precinct commissions and consider their other logistical needs. (Art. 13, 2, 15))

#### *7.3.a.2.d Rayon / City Commissions*

The code also gives rayon and city commissions the authority to allocate and distribute funds to precinct commissions. (Art. 14, 2, 6)) It does not, however, empower them to establish special funds.

#### *7.3.a.2.e Precinct Commissions*

Finally, the code does not allow precinct election commissions to establish special funds.

#### *7.3.b Campaign Funds*

The code gives election commissions control over the establishment and expenditure of campaign funds by candidates, political parties and party blocs. (Art. 52, 1) General procedures and requirements for the creation and use of campaign funds are discussed in this section. Requirements of the funds for specific offices are discussed separately, below.

##### *7.3.b.1 Establishment of Funds*

To begin with, election funds are established by an individual on behalf of his own candidacy or a political party or party bloc on behalf of a slate of candidates. An individual must create a campaign fund, and notify the election commission responsible for his registration, as soon as he begins soliciting signatures in support of his candidacy. If, for some reason, he is refused registration as a candidate, he must return the contents of his fund to his contributors. (Art. 51, 1) If registered, however, the candidate must transfer his funds into a special bank account, upon receipt of permission from the responsible commission. (Art. 51, 5)

Unfortunately, the code does not clearly explain the relationship between its notice requirement, candidate registration and permission to open a special account. In the first place, the code does not specify the form or content of the notice an individual collecting signatures must give to the responsible commission, nor does it indicate whether the permission to open a special account is conditioned on that notice, the registration of the candidate or some other event. Furthermore, it does not indicate where the funds must be deposited either before or after the opening of the special account. (See 7.3.b.3 below)

On the other hand, a political party or party bloc must establish its campaign fund when the Central Elections Commission registers its authorized representative. (Art. 51, 1) Only the party or bloc has the right to create an election fund. The individual nominees in a list of candidates may not establish separate, personal funds. (Art. 51, 1) In contrast to individual election funds, the code apparently does not obligate parties or blocs to notify the CEC in writing of the establishment of their funds. (Art. 51, 1) The permission of a commission is required, though, before the party or bloc can transfer those funds into a special account. (Art. 51, 5) Unfortunately, the code does not indicate whether this permission has to be given in response to the registration of a slate of candidates or some other event. As with individual candidacies, however, the code does state that if a list of candidates is refused registration, the party or bloc must return the contents of its election fund to its contributors. (Art. 51, 1)

Despite these differences, the election funds of individual candidates as well as political parties and party blocs must be in the national currency and cannot bear interest. (Art. 51, 5) Once opened, the accounts are to remain open throughout the election period (Art. 51, 1), are to be in national currency and cannot bear interest. (Art. 51, 5) At the end of a campaign, any unused funds are to be returned proportionally to the original contributors

#### *7.3.b.2 Source of Funds*

The code decrees that the only support a candidate can receive is financial (Art. 51, 10), and it distinguishes between authorized and unauthorized sources of campaign funds. Authorized sources consist of personal funds of the candidate, party or bloc and voluntary donations of individuals and legal entities. (Art. 51, 2) Unauthorized sources basically consist of contributions from international, governmental, and charitable or religious sources.

Donations from the following foreign or international sources cannot be accepted:

- Foreign states, companies, organizations, citizens;
- International organizations;
- Legal entities with foreign participation.

Further prohibited sources of campaign contributions include governmental sources:

- State authorities and local government bodies;
- State and municipal institutions and organizations;
- Military units;
- Law enforcement bodies or courts;
- Legal entities with any percentage of state or municipal ownership and benefits of taxes and fees.

Finally, campaign contributions cannot be accepted from persons without citizenship nor from religious organizations, charities or anonymous sources. (Art. 51, 3)

### *7.3.b.3 Depository of Funds*

While obligating candidates, parties and party blocs to establish election funds, the code does not clearly indicate where those funds must be deposited. It does however empower the Central Election Commission to establish the procedure for opening, keeping, accounting and reporting on election fund accounts. The procedure established is to be with the agreement of the National Bank in elections for the presidency and parliament. The code empowers subordinate commissions to establish their own procedures with the agreement of local branches of the Bank in local elections. (Art. 51, 6)

What the code does not make clear is whether the National Bank and its various branches serve as advisors to the commissions in the establishment of procedures or as the depositories of election fund accounts.

### *7.3.b.4 Accounting, Reporting & Taxation Requirements*

As the previous section discusses, the elections code authorizes the Central Elections Commission to establish accounting and reporting procedures for campaign fund accounts opened in presidential and parliamentary elections, and it gives subordinate election commissions the same authority over accounts opened in local elections. (Art. 51, 6) In addition, the code imposes several general accounting and reporting requirements.

The election commission that registers a candidate can request periodic reports of the activity of an election fund account from the bank where the funds are deposited. (Art. 51, 12) The form and content of the request, along with the permissible frequency of the reports, is not addressed by the code.

The commissions themselves must forward periodic reports to the media. The commission's reports, apparently based on bank reports, are to indicate the activity in the campaign fund accounts of candidates, parties, and party blocs, and are to be published within three days of their receipt if the receiving media are state owned or subsidized. (Art. 51; 13; Art. 30, 9) (See also 6.3.c.2.b.1)

Finally, whether contributions to a campaign fund are tax-deductible or the funds themselves subject to taxation is left to other legislation. (Art. 51, 19)

#### *7.3.b.5 Amount Limits*

The elections code limits the total amount collected and spent by candidates, parties and party blocs. The limits are based on a multiple of the minimum monthly salary on the day of the elections (Art. 51, 4) (as opposed to the day elections are announced, which is used to calculate the amount of payment given to commissioners). (Art. 16, 5, 1) (*See also* 3.3.g, *above*) Finally, the limits on campaign contributions, campaign funds and campaign expenditures depend on the office being sought.

##### *7.3.b.5.a Candidate for President*

Candidates for president must establish their election funds in conformity with the general requirements discussed above. (Art. 64, 1) The code also imposes requirements for the collection and expenditure of funds.

A candidate for president may not collect funds in excess of the following limits:

- the candidate's own funds: 15,000 minimum salaries;
- contributions of a political party or party bloc: 50,000 minimum salaries;
- donations of individuals: 50 minimum salaries;
- donations of legal entities: 2,000 minimum salaries. (Art. 64, 2)

Any amount collected in excess of these limits must be returned to the contributor. (Art. 51, 4)

The code does not elaborate on these limits, raising several questions. For instance, it is not clear if an individual contributor is prevented from making a single or a cumulative contribution in excess of 50 minimum salaries, although the limit might be presumed to be cumulative.

Either way, the total amount a candidate for president may spend is not to exceed 400,000 minimum salaries. (Art. 64, 2)

Curiously, presidential candidates enjoy an extra privilege not shared by candidates for other offices. Although all candidates must cease activity in their campaign fund accounts the day before an election (Art. 51, 15), candidates for president can apparently re-open their accounts if they enter a runoff (Art. 66, 1), and if they secure written permission of the CEC. (Art. 51, 16) Candidates in runoffs for other offices are not extended the same privilege by the elections code. (Art. 67) (*Compare* 5.3.g.11)

##### *7.3.b.5.b Candidate for Deputy of the Jogorku Kenesh*



Candidates for both houses of parliament are also obligated to establish campaign fund accounts (Art. 74, 1) according to the general requirements discussed above (Art. 51, 1, 5), and are subject to limits on the amount they can raise and spend.

As mentioned above, the code distinguishes between candidates registered individually and lists of candidates registered by a political party or party bloc. (Art. 51, 1) Candidates registered individually may not collect funds in excess of the following limits:

- the candidate's own funds: 3,000 minimum salaries;
- contributions of a political party or party bloc: 1,500 minimum salaries;
- donations of individuals: 20 minimum salaries;
- donations of legal entities: 200 minimum salaries. (Art. 74, 2)

Any amount collected in excess of these limits must be returned to the contributor. (Art. 51, 4) In addition, an individual candidate cannot spend more than an amount equivalent to 20,000 minimum salaries. (Art. 74, 2)

In distinction, individuals included in a list of candidates registered by a political party or party bloc may not establish personal campaign funds. (Art. 51, 1) Instead, the party or bloc must establish the fund, to which the candidate apparently can contribute. The amounts contributed from various sources, however, cannot exceed the following limits:

- the candidate's own funds: 3,000 minimum salaries;
- contributions from the political party or party bloc: 1,500 minimum salaries;
- donations of individuals: 30 minimum salaries;
- donations of legal entities: 1,000 minimum salaries. (Art. 74, 2)

An amount collected in excess of these limits has to be returned to the contributor (Art. 51, 4), and the total amount that a political party or party bloc can spend in an election is 100,000 minimum salaries. (Art. 74, 2)

#### *7.3.b.5.c Candidate for Deputy to Local Keneshes*

A candidate for deputy to an oblast or Bishkek kenesh must establish an election fund according to the general requirements of the code (Art. 51, 1) and cannot collect funds in excess of the following limits:

- the candidate's own funds: 100 minimum salaries;
- contributions from the political party or party bloc: 200 minimum salaries;
- donations of individuals: 20 minimum salaries;
- donations of legal entities: 150 minimum salaries. (Art. 89, 2) a-

d)

Contributions in excess of these amounts must be returned to their contributors (Art. 51, 4), and the total expenditures of the campaign cannot exceed an amount equivalent to 1,000 minimum salaries. (Art. 89, 2) d)

### *7.3.b.6 Authorized and Unauthorized Use of Campaign Funds*

The code requires that campaign funds be used exclusively for campaigning. (Art. 51, 8) Campaigning, however, is the subject of a separate Chapter 6, where the authorized and unauthorized use of campaign funds was discussed.

### *7.3.c Penalties*

The code states that an electoral commission may refuse to register a candidate who violates its order of establishing of an election fund or requirements on the expenditure of funds. (Art. 27, 6) Interestingly, the code does not additionally empower a commission to cancel a candidate's registration for the same offenses.

If a candidate's registration is cancelled on other grounds, the code provides that the funds collected for the campaign shall be returned to the contributors. This is also true in the case of a candidate's withdrawal or the recall of a list of candidates. (Art. 51, 14) The code does not state whether the amount returned to contributors must be the entire amount contributed or an amount proportionally reduced by the funds already expended. The amount returned, however, shall be reduced by the amount of expenses incurred in returning the funds. (Art. 51, 4)

## *7.4 OTHER RELEVANT LAW*

### *7.4.a The Administrative Code*

The Administrative Code makes the chair of an election commission liable for between 20 and 50 minimum salaries if he fails to publish a report summarizing the expenditure of budget funds in the preparation and conduct of an election. (Section 60)

### *7.4.b Tax Law*

Election funds and contributions to them may raise questions of tax law.

## *7.5 CASE LAW*

## *7.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

#### *7.6.a The Football Political Club*

##### *7.6.a.1 Facts*

The Joint Venture is a privately held company with offices in the Kyrgyz Republic and elsewhere in Central Asia. A number of employees at the Joint Venture formed a football club several years ago when the company just opened and many of them were just out of school. Over the years, the football club became more of a social than a sport club, and during the course of their socializing, the members found that they shared similar political interests. As a result, in the current election cycle, the members of the club decide to support a candidate for election to the Jogorku Kenesh.

##### *7.6.a.2 Questions Presented*

- 1) If there are 10 members of the club, all of whom want to contribute to the candidate's campaign, what is the total amount they can contribute, first if they represent only themselves individually and second if they represent the company?
- 2) If the company is a joint venture between Kyrgyz and Kazakh firms, can the football club members contribute to their candidate's campaign?
- 3) If the company is a wholly-owned subsidiary of a multi-national corporation, can the football club make a contribution?
- 4) If everyone who works for the company, as well as everyone in the football club, was born in Kyrgyzstan, except one recently hired employee, can the company contribute to the candidate's campaign?

#### *7.6.b The Mobster*

##### *7.6.b.1 Facts*

A wealthy mafia boss who is wanted for numerous crimes in many countries retires to the Kyrgyz Republic. A lifetime of gun-running, prostitution rings and contract killings have taken their toll, and he looks forward to spending his retirement in the peaceful Switzerland of Central

Asia. He buys a large house, finds a girlfriend and assumes a new identity as a retired businessman.

His new life is not without its frustrations however. For instance, he has problems with his utilities; and while originally thinking that the fault lay in an inadequate infrastructure, ultimately he decides that the fault lies with the local government. He therefore takes a keen interest in seeing the politicians in his local kenesh removed. Having retired from his life of violence, however, he undertakes to remove them by supporting their opponents in the upcoming elections.

#### *7.6.b.2 Questions Presented*

- 1) Can the mafia boss contribute to any candidate's campaign?
- 2) Can he give money to his girlfriend to contribute?
- 3) Can he start a company and have it contribute to the campaign?

## 8.0 Complaints & Appeals Relating to Voting and the Counting Process

### 8.1. INTERNATIONAL STANDARDS

Neither an international convention ratified by the Kyrgyz Republic nor a general principle of public international law addresses the voting or counting process, leaving the matter entirely to domestic law.

### 8.2 NATIONAL CONSTITUTION

The importance given by the constitution to the rights associated with voting and to equality provides some guidance to the resolution of disputes concerning the voting and counting process.

#### 8.2.a The Voting Process

The constitution requires that voting be "general, secret, direct and equal." (Art. 1:6) It does not define these standards further, though it does provide a clear justification of their necessity. At its foundation, the constitution bases the source of government power on the "sovereignty" of the people. (Art. 1:3) Executive power, for instance, is legitimate if generally elected (Art. 7:1) and laws and "other issues of state life" are to be tested against the will of the people in regular elections. (Art. 1:5) Hence, the constitution establishes voting as government's means of ascertaining the will of the people, and it protects the means by requiring that voting be "general, secret, direct and equal." The emphasis in the constitution requires that deviations from these standards and uneven application of them are not allowed (Art. 15:2,3; Art. 22), and the "state and all its agencies and officials" are obligated to immediately, fully and unconditionally defend them, "to stop actual violations" of them and to redress their violation if they occur. (Art. 38:1) In short, interference with any of those standards is interference with the right to vote.

#### 8.2.b The Counting Process

Nothing in the constitution directly addresses vote counting, although several paragraphs dealing with equality touch its foundation. Beginning with the preamble, the constitution concerns itself with the attributes of a "free and democratic civil society." (Preamble) All people in the republic are equal before the law (Art. 15:3), and that law is to be applied identically. (Art. 22) Considering the place of elections in a democratic society, the importance of elections in the constitution (Art. 1:6), the right of equal access to public service it articulates (Art. 23) and

the standard of "equal voting" it demands (Art. 1:6), any diminution of the vote would violate the constitution's guarantee of equality. Irregularities in the counting process, therefore, being equivalent to the denial of the vote by denying the effect of it, violate the voter's constitutional right to equal treatment before the law.

### 8.3 THE ELECTIONS CODE

In its treatment of the subjects of this and the final chapter, the elections code details the procedures of voting, counting of votes and establishing the outcomes of elections. It treats each of these subjects thoroughly and almost always clearly and follows two guiding principles: the voting process is to be secret while the counting process and establishment of outcomes is to be open and transparent. The present chapter is therefore divided between discussion of voting and the guarantees of a secret ballot and counting of votes and the guarantees of transparency. The chapter begins, however, with a general discussion of the qualifications of voters and the role of electoral commissions in voting and counting.

#### 8.3.a Qualifications of Voters

The elections code qualifies the right to vote, limiting it to citizens who have reached the age of 18 (Art. 3, 1) and whose voting rights have not been rescinded by court order or imprisonment. (Art. 3, 3) While a voter's residence may determine his choice of precinct (*See 4.3.b.2.c et seq., above*), residence alone cannot be grounds for denying an otherwise qualified citizen his right to vote. This is significant when it comes to voters who wish to vote outside of the premises of their appropriate precinct and will be discussed in more detail in a separate section below (*See 8.3.c.2 et seq.*)

#### 8.3.b Role of Commissions

The various levels of election commissions have different responsibilities in the voting and counting process.

##### 8.3.b.1 Central Elections Commission

The Central Elections Commission for example bears overall responsibility for the process. It is obligated by the code to distribute funds from the national budget (Art. 10, 1, 9)) as well as special funds. (Art. 10, 1, 10)) It also bears the responsibility of developing forms for reporting by various commissions, candidates, parties and party blocs (Art. 10, 1, 12)) and protocols for nomination of candidates and lists of candidates and election outcomes. (Art. 10, 1, 14)) Finally, and perhaps most importantly

for the present discussion, the CEC bears the responsibility of developing the ballot form (Art. 10, 1, 13)) and issuing those forms to subordinate commissions. (Art. 10, 1, 15))

#### *8.3.b.2 Oblast & Bishkek City Commissions*

The code makes oblast and Bishkek commissions responsible for the issuance of ballot papers in elections of deputies to local keneshes. (Art. 12, 1, 9)) Whether oblast and Bishkek commissions bear any similar responsibility in parliamentary or presidential elections is not specified.

#### *8.3.b.3 Territorial Commissions*

The code gives territorial election commissions the responsibility of adopting the text of the ballot that will be used in each constituency within their jurisdiction as well as issuing those ballots to the respective electoral commissions in their jurisdiction. (Art. 13, 2, 8))

#### *8.3.b.4 Rayon & City Commissions*

The code gives to rayon and city commissions the explicit responsibility of providing organizational and technical assistance to precinct commissions (Art. 14, 2, 9)) as well as supplying them with ballots and other necessary documents. (Art. 14, 2, 8))

#### *8.3.b.5 Transfer of Ballots*

Despite their differences, superior election commissions hold one responsibility in common. They are to transfer blank ballot forms to inferior commissions as least 10 days prior to the elections and to precinct commissions at least one day before the election. (Art. 39, 8; Art. 39, 9) Precincts are to receive no more than 0.5% more ballots than the number of voters registered in that precinct (Art. 39, 9), and the chairs of the superior commissions must execute an undefined statement attesting to the accuracy of their transfer. (Art. 39, 8)

#### *8.3.b.6 Precinct Commissions*

Finally, the code describes the considerable responsibilities of precinct commissions simply. They are to prepare the premises for voting and arrange voting on election day. (Art. 15, 5), Art. 15, 6))

### *8.3.c Voting*

The elections code differentiates between voting at precinct premises and other locations, and regardless of the place, it recognizes the importance of keeping the process secret.

#### *8.3.c.1 Voting at Precinct Polling Stations*

As previously mentioned, the code makes precinct electoral commissions responsible for preparing the premises of polling stations and arranging voting on election day. (Art. 15, 5; Art. 15, 6) Those premises are to be established for the convenience of voters (Art. 20, 1), are to be provided free of charge by the responsible state authorities (Art. 37, 1) and are to be guarded by representatives of the internal affairs department. (Art. 39, 11) Each polling station is to have the following:

- a stand for posting sample ballots and voting instructions, plus information on all candidates, parties and party blocs entered in the election in that precinct; (Art. 37, 3)
- places for the distribution of ballots;
- cabins or other private places for voting;
- ballot boxes. (Art. 37, 4)

The cabins or other voting places are to be lighted and equipped with writing instruments other than pencils (Art. 37, 2) and the places where the ballots are distributed and the location of the voting cabinets and ballot boxes are to be in plain view. (Art. 37, 4)

Precinct electoral commissions are to inform voters through the mass media or other means of the place and time of voting at least 15 days in advance of the election day, generally, and 10 days in advance of pre-term voting or a runoff. (Art. 40, 1) The polls are to be open between 7 am and 8 pm on a calendar weekend determined by other bodies. (Art. 40, 1) Finally, the commission oversees the issuance of ballots to voters, the conduct of voting and the counting of votes, all of which are discussed below.

#### *8.3.c.1.a Ballot Requirements*

The code states that the text, form and number of ballots must be determined at least 20 days in advance of an election (Art. 39, 2), and that the number of ballots for each precinct cannot exceed the number of voters registered in that precinct by more than 0.5% (Art. 39, 1) The ballots themselves are to meet the following content requirements:

- printed at least 10 days before the election; (Art. 39, 5)
- on one side of the ballot paper; (Art. 39, 2)
- in Russian and in Kyrgyz; (Art. 39, 5)
- include the name of the body for which elections are being conducted;



- the number of the constituency or unified, republican constituency; (Art. 39, 6)

- the full name, date of birth, place of residence and place of work of each individual candidate, listed alphabetically;

- the full names and biographical data of the first three candidates in a party list and the party's emblem, arranged in an order determined by the casting of lots; (Art. 39, 3)

- blank squares to the right of the candidates' names, for the indication of the voter's choice. (Art. 39, 4)

The code also instructs that commissions should strike through the names of candidates who have withdrawn or have been disqualified after the ballots were printed. (Art. 39, 10)

### 8.3.c.1.b Ballot Issuance

The code gives precinct commissions the responsibility for issuing ballots and overseeing the process of voting. Generally, a voter can receive a ballot if his name appears on a voters' list and he establishes his identity in one of several ways. The subject of voters whose names do not appear on the voters' list is addressed below in the section on voting outside of precinct premises (*See 8.3.c.2 et seq.*) Ordinarily, though, to receive a ballot and vote, a voter's name must appear on the list for that precinct.

Discussed in more detail elsewhere (*See 4.3.b.2.a above*) voters' lists include the names of all voters registered to vote in a particular precinct (Art. 21, 2), non-resident military personnel excepted. (Art. 21, 6) In addition to appearing on a voters' list, an individual citizen must be able to prove his identity by one of the following means:

- producing his passport;

- producing another document of similar authenticity; (Art. 40, 3)

- being recognized as a permanent resident of the precinct by at least two commissioners. (Art. 40, 5)

It is unclear from the code whether such other identifying documents might include military, government or student ID cards, birth or marriage certificates or legal title to residential property within the territory of the precinct.

Regardless, assuming that the voter can establish his identity, the number of the passport or other document is to be entered into the voters' list, which the voter himself is to sign before being issued a ballot. In case the voter is not able to sign his name, he may be assisted by another voter, but not a precinct commissioner, candidate, trusted person or observer. (Art. 40, 9) This one minor exception aside, the code strictly insists that the process of voting is individual, personal and secret.

### 8.3.c.1.c Secret Voting

From its preamble throughout its multiple articles, the elections code emphasizes that the right to vote is universal, equal and secret. (Preamble) Though it qualifies that right to citizens over the age of 18 and recognizes residency requirements, it forbids conditions of any other kind and explicitly forbids interference with the right to vote. (Art. 2) Voters are to participate equally (Art. 4) and directly (Art. 5), and are to vote individually and in secret. (Art. 6)

Each individual voter therefore is to be issued only one ballot (Art. 39, 1) which he marks in a private cabin or other voting place (Art. 37, 2; Art. 40, 7) alone. (Art. 40, 2) After making his choice, the voter then places his completed ballot in a sealed ballot box. (Art. 40, 10) The code treats violation of this requirement of secrecy quite severely, authorizing commissions to eject from polling places anyone who interferes with the right of any individual citizen to cast a secret ballot and to institute civil and criminal proceedings against them. (Art. 40, 11)

#### *8.3.c.1.d Mistake*

In case a voter thinks he made a mistake in marking his ballot, he can request a blank one. (Art. 40, 8) Obviously, this request must be made before the voter puts his ballot into a sealed ballot box because in order to issue a new ballot, the responsible commissioner must first cancel the mistaken one. (Art. 40, 8)

#### *8.3.c.1.e Close of Voting*

As mentioned previously, a precinct is to be open for voting between 7 am and 8 pm. (Art. 40, 1) The code however recognizes that voters may still be within the premises of a polling place when the time for voting expires. Therefore, it permits those within the premises to receive ballots and vote, but obligates the precinct chair to announce that only those voters inside the premises shall have that opportunity. (Art. 44, 3)

#### *8.3.c.2 Voting Outside of Precinct Polling Stations*

While the foregoing summarizes the code's general procedure for voting at polling stations, voting outside of the precinct's premises is also permitted. In fact, the code describes three categories of voting in times or places other than the voter's ordinary precinct. Thus voters who cannot come to their appropriate polling station, voters who wish to vote early and voters who wish to vote in a different precinct are each discussed separately below.

##### *8.3.c.2.a Voters Who Cannot Come to the Precinct Polling Station*

The elections code permits voters who cannot come to their appropriate precinct polling station to vote where they are. (Art. 42, 1) This includes, but is not limited to persons who are ill and are residing in places of temporary stay (*See 4.3.b.2.c.2 above*) Regardless of their reason or their location, however, voters who wish to vote outside of their polling station must apply to their precinct election commission at least 6 hours before the close of voting on election day, and that application may be oral or written.

If written, the application must include:

- the number of the voter's passport or other document establishing his identity; (Art. 42, 4)
- information about the voter;
- a statement of the reason why the voter cannot come to the polling station. (Art. 42, 2)

Presumably the code wants biographical information about the voter such as his full name, date of birth, place of residence, work and occupation, but it does not specifically define its requirement of information.

If the voter makes an oral appeal to an election commission, presumably similar information must be recorded by the commissioner who receives the request in a special register for that purpose. (Art. 42, 2)

No matter the form of the request, the code does not explain how or even when a responsible commission must decide on it, though the code does explain what happens after such a request is fulfilled. At least two commissioners, accompanied possibly by at least two trusted persons shall take a ballot and a sealed ballot box to the requesting voter. (Art. 42, 3) Commissioners are not allowed to carry more than three portable ballot boxes. (Art. 42, 3)

Once at the voter's place of stay, the commissioners execute a written application if the voter orally requested to vote outside the precinct premises (Art. 42, 2), presumably including all of the data required in a written request. No matter the form of his original request, the voter then:

- signs a receipt for his ballot (Art. 42, 4)
- and the commissioners:
- certify the issuance of a ballot with their signatures; (Art. 42, 4)
  - enter the number of the voter's passport or other identifying document in the voters' list; and
  - indicate in the list that the voter voted outside of the precinct premises. (Art. 42, 5)

### *8.3.c.2.b Voters Who Vote Early*

The elections code also permits voters who cannot come to the precinct premises on election day to vote at the premises of the territorial election commission responsible for that precinct between 1 and 9 days in advance of the election. (Art. 41, 1) Interestingly, the code does not require citizens voting early to request permission or even give a reason

for their inability to vote in their precinct premises, instead simply describing the procedure the commission must follow once the voter votes.

Though not explicitly mentioned, presumably the voter is required to establish his identity and his presence on the appropriate voters' list, and likewise presumably the voter signs a receipt for his ballot since the code does not mention any extra formalities. Once a ballot cast in early voting has been marked, though, the code requires the territorial commission to safeguard it. The ballot is to be put into an envelope, which is to be sealed and signed by two commissioners and stamped, and signed again by the voter (Art. 41, 2) The sealed envelope is then stored with the commission secretary until the day of the election when it is transferred to the appropriate precinct commission. (Art. 41, 3)

#### *8.3.c.1.c Voters Who Vote in Another Precinct*

The final category of voter who cannot come to a polling station is the one who wishes to vote in another precinct. To do so, the voter must be stricken from the voters' list of the precinct where he would normally vote and added to the list of another.

To be stricken from a voters' list, a voter must obtain a certificate from the precinct where his name currently appears on a list from 1 to 15 days in advance of the election. (Art. 38, 1) The code gives the Central Elections Commission the responsibility for establishing the form of that certificate. (Art. 38, 2) It does not however require the voter to give any reason why he wants to be removed from the voter's list in one precinct or added to that of another.

To be added to the list in another precinct, the voter must submit his certificate when he appears for a ballot. (Art. 40, 3) The precinct worker who issues the ballot must then record some unspecified additional data in the voters' list. (Art. 40, 3) Then, apparently, the voter can cast his ballot like any other.

Finally, citizens living, working or traveling abroad who are unable to obtain a certificate can present themselves at a precinct established on foreign territory on the election day and vote without having been formally removed from the voters' list of the precinct in which they were registered. (Art. 21, 8) (For an elaboration of these categories, see 4.3.b.2.c.7)

#### *8.3.d Vote Counting*

The elections code's treatment of the counting process is just as detailed as its treatment of the procedure for voting. Its guiding principle differs, however, for as secrecy characterizes the code's concern for voting, openness characterizes its concern for counting.

### *8.3.d.1 Transparency*

The elections code declares that counting of votes is to be conducted openly and publicly by election commissions. (Art. 44, 1) Candidates, their trusted persons and authorized representatives, as well as members of the media and superior commissions are entitled to attend commission meetings leading up to an election. (Art. 17, 2) On the day of the election itself, domestic and international observers are also allowed to be present at polling stations. (Art. 17, 4; Art. 17, 8, b, c) Observers are also specifically allowed to be present during the counting process. (Art. 17, 8, b & h) The counting itself, though conducted exclusively by election commissioners, is to take place in full view of those authorized to attend (Art. 44, 6), who also have the opportunity to inspect the ballots counted. (Art. 44, 10); 14)

That the code takes this transparency seriously is indicated by the punishment it prescribes for violations of the process. It emphatically declares that commissioners are to be dismissed immediately for tampering with ballots, and observers or other persons ejected from the premises, and makes both subject to civil and criminal penalties for their actions. (Art. 40, 11)

### *8.3.d.2 Counting Procedure*

The counting procedure described in the code is extensive but simple. It begins from the moment the polls close and continues without interruption until completed. (Art. 44, 2) What happens in between consists of opening ballot boxes, sorting and counting of ballots and executing protocols that summarize the results. Each topic is discussed in turn in the following sections.

#### *8.3.d.2.a Opening Boxes*

Before commissioners can open ballot boxes, they must count and cancel the ballots that were not used by cutting off their right bottom corner. The process is to be undertaken in the presence of all those authorized to be present (*See above* 8.3.d.1), and the number of cancelled ballots is to be announced and entered into the protocol for election results. (Art. 44, 3) Once the unused ballots have been cancelled, the commission chair inspects the integrity of the seals on the portable ballot boxes used by voters exercising their rights outside of the precinct premises (*See* 8.3.c.2 *et seq.*) and permits other commissioners and those authorized to be present to do the same. (Art. 44, 4) The contents of the portable boxes are to be counted before the contents of those left in the precinct are opened, following a presumably identical procedure. (Art. 44, 9) Evidently only the number of ballots cast by voters outside of the premises of the precinct and not a summary of the results of their votes is

to be counted and that amount entered into the protocol because the calculation of results follows the sorting of ballots.

#### *8.3.d.2.b Sorting Ballots*

Once the ballot boxes are opened, their contents can be sorted. The code distinguishes between three types of ballots: those that conform to its requirements (Art. 39) (*See also* 8.3.c.1.a), those that do not and ballots that are declared invalid by the commission because it is impossible to ascertain the voter's intention from them. (Art. 44, 12) All the ballots in a portable ballot box can also be declared invalid upon a decision by the election commission if the number of ballots in the box exceeds the number of applications to vote outside the precinct's premises. (Art. 44, 8) The reason for a ballot's invalidity is to be marked on its reverse. (Art. 44, 12) Regardless of classification, the number of ballots in each category is to be entered into the protocol on results before the actual votes are counted. (Art. 44, 12; Art. 44, 13)

#### *8.3.d.2.c Counting Votes*

After their separation, the votes from the ballots that conform to the code's requirements are counted (Art. 44, 11) and the results entered in the protocol. If the number of ballots counted does not correlate with the number of votes cast in the precinct, the responsible commission can decide to recount some or all of the ballots. (Art. 44, 15) Once the protocol is completed, the ballots are sealed in special packages, which are signed by commissioners and authorized representatives of candidates, political parties and party blocs. (Art. 44, 16) The protocol itself is signed by the election commissioners and marked with the date, hour and minute of its signing, and copies of it are forwarded to superior commissions (Art. 44, 19), given to authorized representatives of candidates (Art. 44, 22), posted for public acquaintance (Art. 44, 21), provided to the media, observers (Art. 44, 18), and other interested persons upon request. (Art. 44, 23) A stamped copy is also retained by the secretary of the commission. (Art. 44, 20) Commissioners who disagree with the contents of the protocol can attach a statement of their objection to it for forwarding to the superior commission. (Art. 44, 17)

#### *8.3.d.2.d Protocol Contents*

The elections code makes the Central Election Commission responsible for drawing up the form of the results protocol (Art. 10, 1, 14)), and it provides a lengthy list of its contents. (Art. 43, 2) The items in that list require no further comment and can be found by referring to the appropriate article of the code.

## *8.4 OTHER RELEVANT LAW*

### *8.4.a Administrative Code*

The Administrative Code prescribes a fine of between 20 and 50 minimum salaries for anyone violating the rights of a polling station official, candidate's trusted person or observer. (Section 50) It also prescribes a fine of between 50 and 100 minimum salaries on election officials who issue ballots to any voter attempting to cast the ballot of someone else. (Section 57)

### *8.4.b Criminal Code*

The Criminal Code imposes a fine of between 50 and 100 minimum salaries for anyone hindering the right of a citizen to vote. (Chapter 19, Section 139) Also, it imposes a fine of between 500 and 700 minimum salaries for the falsification of election documents, deliberate miscounting of votes or violation of the secrecy of voting. (Section 141)

### *8.4.c Administrative Procedures for Early Voting*

An administrative decree describes the procedures for early voting and is included in Appendix A (Russian version).

## *8.5 CASE LAW*

## *8.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

### *8.6.a The Patriarch*

#### *8.6.a.1 Facts*

Murat is a powerful presence of a man. He single-handedly made a small fortune from raising livestock, being so accomplished at animal husbandry that his flock and the number of his children greatly exceeds those of all his neighbors. A confident man if at times a little domineering,

he has always done what he thought was best for his family, even when it comes to voting.

On election day, Murat presents himself at his proper polling station, identifies himself appropriately and wishes to vote.

#### *8.6.a.2 Questions Presented*

- 1) How many ballots can Murat receive?
- 2) If Murat brings with him all of his children who are eligible to vote, can he present all of their documentation to the polling station official issuing ballots and take their ballots to them rather than further crowd the polling place?
- 3) If Murat has one child with a disability that prevents him from signing his name or otherwise writing, can Murat assist his child in receiving and completing a ballot?
- 4) What if any liability does the polling station official incur for giving Murat ballots in any of these circumstances?

#### *8.6.b The Indecisive Voter*

##### *8.6.b.1 Facts*

Jildiz cannot make up her mind about anything. Once she makes a decision about anything, she usually changes it. That is true of her wardrobe, her hair color and her political preferences. As election day approaches, Jildiz cannot make up her mind when, where or whether she will vote.

##### *8.6.b.2 Questions Presented*

- 1) If Jildiz decides to vote before the actual election day, when and where can she do so and what must she present to receive a ballot?
- 2) If Jildiz decides to ignore the elections entirely and checks into a sanitorium, can she nevertheless vote on election day if she later changes her mind? If so, how?
- 3) If she decides to leave the country for a holiday but suddenly wants to exercise her right to vote while she is away, where must she go, what must she produce and when can she vote?



## 9.0 Complaints & Appeals Relating to Election Outcomes

### 9.1 INTERNATIONAL STANDARDS

Neither an international convention ratified by the Kyrgyz Republic nor a general principle of public international law addresses election outcomes, leaving the matter entirely to domestic law.

### 9.2 NATIONAL CONSTITUTION

Despite the emphasis it gives to elections, the Constitution of the Kyrgyz Republic provides few criteria for determining the legitimacy of a particular election or the validity of its outcome. In fact the constitution only concerns itself with these matters in respects to contests for the presidency.

#### 9.2.a Legitimacy of a Presidential Election

The constitution establishes a single criterion for the legitimacy of a presidential election. To be "official," a presidential election must attract the participation of more than 50% of all voters. (Art. 44:4) (*See also* 9.3.f.1 *below*) It is not clear however whether this means all registered or all eligible voters. Also, the constitution charges the Constitutional Court with making "findings concerning the legitimacy of elections for the president." (Art. 82:3(3) These findings can be made independent of any court case apparently, leaving it unclear whether inferior courts can hear disputes over the legitimacy of a presidential election or whether such matters are within the exclusive jurisdiction of the Constitutional Court as "concerning defense of the constitution." (82:1) In either instance, the constitution does not make it clear if there might be criteria for judging the legitimacy of a presidential election other than the percentage of voters participating.

#### 9.2.b Validity of a Presidential Election

In respects to the validity of an outcome of a race for president, the constitution provides a little more guidance. To be elected, a candidate for president must receive a simple majority of the votes cast. (Art. 44:4) Removing the possibility of disputes in the lower courts, the constitution obligates the Constitutional Court to approve the results "no later than seven days after the election is over." (Art. 45:1) While the responsibility of the court to approve an election presumably includes the power to disapprove, the constitution does not give it any additional criteria for resolving disputes over the validity of an outcome. Incidentally, it also does not describe the consequences if the court fails to approve the

outcome of a presidential election within seven days. Assuming the court rules of course, its decision would be final. (Art. 82:4)

### *9.2.c Other Elections*

The constitution also does not supply criteria for determinations of the legitimacy of other elections or the validity of their outcomes. Unlike presidential contests, it remains silent on percentages, on the jurisdiction of the courts to decide disputes and on the time period within which such disputes must be decided. All of this is left to statute, with perhaps no other constitutional basis for challenging a particular race.

## *9.3 THE ELECTIONS CODE*

In setting a procedure for the establishment of election outcomes, the code describes a general process, the role of commissions and who may attend their deliberations, and it describes special procedures for the establishment of results in elections for specific offices. Each of these is summarized in the sections below.

### *9.3.a General Procedure*

In summary, superior commissions determine the outcome of elections from the protocols compiled by subordinate commissions. As described in the last chapter, precinct commissions are obliged to file a protocol on the results of voting in their precinct with their superior election commission. (Art. 44, 9; Art. 45, 1) The superior commission then reviews the accuracy of that protocol and creates a summary protocol of its own (Art. 45, 2) and a table summarizing the results reported by the precincts in its territory. (Art. 45, 3) The summaries are to be signed by all commissioners present and executed in three copies. The first is to be filed with the next level election commission (Art. 45, 4) the second retained by the secretary of the reporting commission (Art. 45, 5) and the third posted for public acquaintance. (Art. 45, 6) Any objections against the results filed by commissioners and any other claims, as well as commission resolutions on them are also to be filed with the next superior commission. (Art. 45, 3) Based on these protocols, the commissions designated by the code to determine the outcomes of particular elections sum up the results (Art. 46, 1) and publish them.

The commissions responsible for registering candidates in a given election (*See 5.3.g.3 above*) are made responsible for announcing the outcome in those elections. They must provide general information on the results in a constituency to the mass media within a day after the establishment of results. (Art. 48, 2) The commission must officially publish the details of the number of votes cast for each candidate within 1 month of the election (Art. 48, 3), and all commissions except precinct

commissions must officially publish the data in the protocols within 2 months from the election. (Art. 48, 4)

### *9.3.b Role of Commissions*

As indicated above, different commissions have different responsibilities. When it comes to establishing election outcomes, however, the commissioners themselves are obligated to perform their tasks personally. (Art. 46, 1) Specific responsibilities are discussed by commission level, below.

#### *9.3.b.1 Central Election Commission*

The elections code gives the Central Elections Commission the responsibility of summing up the results of parliamentary (Art. 10, 1, 27)) and presidential elections (Art. 10, 1, 28)) and publishing them. It also gives the CEC the power to invalidate elections. (Art. 10, 1, 29)) The grounds for invalidation are discussed in a separate section below. (See 9.3.c below)

#### *9.3.b.2 Oblast & Bishkek City Commissions*

The code simply charges oblast and Bishkek commissions with the task of summing up and determining the results for elections within their territory. (Art. 12, 1, 11)) The code also does not specifically authorize oblast and Bishkek commissions to invalidate elections, though a broad grant to "execute other authorities in accordance with this code" might be interpreted to permit it. (Art. 12, 1, 15))

#### *9.3.b.3 Territorial Commissions*

In light of the foregoing, it is curious that the elections code gives territorial commissions the authority to invalidate elections (Art. 13, 2, 16)) for any of the reasons discussed separately below. (See 9.3.c) The code also authorizes the commissions to sum up and determine the results in elections within their territory, publish them in the media and issue certificates to elected deputies. (Art. 13, 2, 9))

#### *9.3.b.4 Rayon & City Commissions*

The code authorizes rayon and city commissions to sum up the results of voting within their territory, file protocols with superior oblast or Bishkek commissions and publish the results in the mass media. (Art. 14,

2, 10)) Interestingly, the code does not give rayon and city commissions the express authority to determine results, nor does it give them the express authority to invalidate elections, although a broad grant to "carry out other authorities" might be interpreted to permit both. (Art. 14, 2, 12))

#### *9.3.b.5 Precinct Commissions*

Finally, the only authority given to precinct commissions over the determination of election outcomes is the authority to count votes cast in the precinct. (Art. 15, 7) Precinct commissions cannot invalidate whole elections, but they are authorized to invalidate the results in their own precinct.

#### *9.3.c Invalidation*

In establishing grounds for the invalidation of elections, the code seems to differentiate between the returns from individual precincts and the overall results of an election. It does not explicitly make this distinction, however, the difference being assumed from the different functions of commissions. For instance, the code provides that voting, presumably in one polling place, can be declared invalid when:

- the number of voters who participated was less than the number required by the code for that office; or
- when none of the lists of candidates received the number of votes necessary to participate in the distribution of mandates. (Art. 46, 3)

The code then separately lists the grounds for invalidating the "results" of an election:

- if violations (of the code presumably) occurred which either:
  - influenced the results of the election, or
  - prevent the reasonable ascertainment of the voters' intentions.
- if voting in at least 1/3 of polling stations was declared invalid, or
- if a court declares the results invalid. (Art. 46, 4)

Curiously, the elections code does not state whether a court must apply the same or similar grounds in making its determination. Furthermore, it does not explicitly define who may file a complaint in either a commission or a court challenging the results of an election, nor describe the form or content of such a complaint. At least in respects to the former problem, though the code provides some general guidance. (See 2.3.a.2) Complicating matters even more is the statement elsewhere in the code that a court must establish the facts when the actions or inaction of candidates, political parties or party blocs is claimed as the basis for invalidating an election. (Art. 47, 3) These questions aside, the code does say something about the consequences of voting in an individual precinct or the overall results of an election being declared invalid.

### *9.3.d Repeat Counts*

Short of declaring the returns of an individual polling station invalid, a superior commission can order a recount in case it doubts the correctness or finds any mistakes or disparities in a submitted protocol or summary table. The revised protocol is to be marked "recount of votes" and filed with the superior commission. (Art. 45, 9)

Subordinate commissions can likewise repeat a vote count after submitting their protocol. In case the commission that originally prepared the protocol subsequently discovers a mistake, it can discuss the issue and take a decision whether to repeat the protocol. First, however, it must notify all members of the commission and the observers, representatives of the mass media and other persons who were present during the original count. If it decides to reissue the protocol, that must be marked "repeated" and filed with the superior commission. (Art. 45, 7)

Oddly, the code makes the recount of votes an option and not an obligation. Also, the code fails to provide criteria for the commission considering a recount and omits any consequences for deciding against recounting.

### *9.3.e Repeat Elections*

The code permits elections to be repeated if in the course of ordinary elections, they are declared invalid, or in the course of the election of deputies to the Legislative Assembly of the Jogorku Kenesh in a unified, republican constituency, none of the registered political parties or party blocs earned enough votes to be included in the distribution of mandates. (Art. 47, 1)

In the event of repeat elections, candidates shall be re-nominated and registered, unless their actions or inaction caused the invalidation of the initial election. (Art. 47, 2) The election period, however, is to be reduced by one third. (Art. 47, 1)

### *9.3.f Specific Offices*

The foregoing sections have generally described the process of establishing election outcomes. This final section adds a few more details required for the establishment of the outcomes in elections for specific offices.

#### *9.3.f.1 Presidential Elections*

The code obligates the Central Elections Commission to sum up the results of protocols executed by subordinate commissions and forwarded to it by the oblast and Bishkek commissions, and from them determine the results of presidential elections. (Art. 65, 2) A candidate receiving more than  $\frac{1}{2}$  of the votes cast shall be considered elected, but if less than  $\frac{1}{2}$  of the voters entered into voters' lists participated, the election will be invalidated (Art. 65, 3) and will have to be repeated. (Art. 67)

If two or more candidates were included in the ballot and neither one earned more than  $\frac{1}{2}$  of the votes casts, a runoff between the two candidates receiving the most number of votes will be held. (Art. 66, 1) That runoff election is to be held within two weeks of the establishment of results in the original election, and its date must be established and published no more than three days after the establishment of the original results. (Art. 66, 7) The candidate receiving the largest number of votes in the runoff shall be considered elected. (Art. 66, 4) Within five days of the establishment of the outcome, the CEC shall forward the results of the election to the Constitutional Court, which issues a resolution authorizing the CEC to certify the candidate as elected. (Art. 65, 2; Art. 65, 5)

Only one element in this process is unclear. The code requires at least a 50% turnout of registered voters for presidential elections to be valid. (Art. 65, 3) It also appears to require the same minimum percentage for runoff elections. (Art. 66, 4) While the requirement could be interpreted to require only a 50% minimum voter turnout in the original election, that would be redundant, and so it should be assumed that the requirement applies to runoff elections as well, even though the code does not specifically state that runoff elections in which less than 50% of registered voters cast their ballots are invalid.

### *9.3.f.2 Parliamentary Elections*

The code mandates three separate protocols for parliamentary elections, based on the constituency of each house. (Art. 75, 1) Regardless of constituency, however, the Central Elections Commission summarizes the results contained in the protocols and determines the outcomes of elections for parliament. (Art. 75, 3) Interestingly, the code does not require a minimum percentage turnout of registered voters in parliamentary elections as it does in presidential ones. (Art. 65, 3) Unfortunately, the code neither describes the percentage of votes a candidate must receive to be considered elected, though it strongly suggests that a candidate must receive at least half of them. For instance, the code requires a runoff between the candidates who earn the largest number of votes in an initial election. (Art. 76, 1) Even then though, the code does not clearly say that the runoff shall be between the two candidates receiving the most number of votes in the first election. Confusing things further, the same paragraph goes on to authorize a runoff between the original candidates if only two of them were entered in the first race. (Art. 76, 1) Finally, in case only one candidate survives to a

runoff election, territorial commissions are authorized to select an opponent, rather than just declare the sole candidate the victor by default. (Art. 76, 3) Although it does not solve these conundrums, the code at least declares that the candidate receiving the majority of the votes in a runoff shall be considered elected. (Art. 76, 3).

Some of this confusion continues into the code's provisions for the distribution of mandates in elections to the Legislative Assembly on a unified, republican constituency. While clearly disqualifying political parties whose list of candidates received less than 5% of the vote (Art. 77, 2), the code appears to require the 15 available seats to be distributed proportionally among the remaining lists. (Art. 80, generally) It describes first and second round distributions and then oddly declares that in case a list receives an equal number of votes, the list of candidates registered first shall receive the mandate. (Art. 80, 3)

Whatever the answers to these questions, the code obliges the Central Election Commission to resolve them and establish the results in at least single mandate constituency elections to the Legislative Assembly and the Peoples' Representatives Assembly within two weeks of the election. (Art. 77, 1) The announcement then obligates elected deputies to inform the CEC in writing of any prohibited conflicts with the status of deputy (Art. 78, 1) (*See also* 5.3.g.5) If the deputy does not so inform the CEC within three days (presumably from the announcement of the outcome), his mandate can be given to the next candidate on the list of candidates. (Art. 78, 1) The code does not say what penalty the CEC can impose on an individual candidate who fails to inform it of his conflicts.

On the other hand, if the candidate informs the commission and he is not engaged in any activity incompatible with the status of deputy, the CEC enters his name in a register and issues him a certificate and badge. (Art. 78, 2) First, however, the code mentions that the elected deputy is required to submit an undefined application. The form and content of this application are not given, and the code is not entirely clear whether the certificates and badges are to be issued within three days of the filing of this application or within three days of the official publication of the election results. In either case, the code does not indicate a time period for the filing of the application.

### *9.3.f.3 Local Kenesh Elections*

Lastly, the elections code makes territorial and oblast and Bishkek commissions responsible for determining the results of elections to local keneshes within their territory. (Art. 90, 1; Art. 90, 3) Each shall make its determination based on protocols executed by and forwarded from subordinate commissions. (Art. 90, 3)) Candidates receiving the largest number of votes are to be considered elected. (Art. 90, 4)) The code does not mention the possibility of runoff elections for the local keneshes and directs only that Bishkek and oblast commissions are to publish the results of elections in the mass media within seven calendar days of the election

(Art. 90, 5)) and that within three calendar days of the establishment of the results, the responsible territorial commission will register the elected deputies and issue them certificates. (Art. 90, 6))

Obviously, by not neatly dividing the responsibilities of territorial and oblast or Bishkek commissions, the code encourages confusion between them. Why, for example, an oblast commission should publish results but a territorial commission issue certificates is not at all clear, and the code makes as little attempt to justify this division as it does to explain it.

#### *9.4 OTHER RELEVANT LAW*

##### *9.4.a Administrative Code*

The Administrative Code prescribes a fine of between 5 and 10 minimum salaries for a polling station chair who refuses to provide information of the results of an election to an international or domestic observer, a fine of 15 to 20 minimum salaries on the chair of a territorial commission and a fine of 20 to 50 minimum salaries on the chair of the Central Elections Commission for the same action. (Section 58)

##### *9.4.b Administrative Procedures on Filling in a Protocol*

An administrative decree describes the procedures for early voting and is included in Appendix A (Russian version).

#### *9.5 CASE LAW*

#### *9.6 DISCUSSION PROBLEM / HYPOTHETICAL / QUESTIONS*

Discussion and hypothetical problems are designed to reinforce the information presented in the summaries. They are also intended to highlight gaps in the law, vagueness and contradictions that require resolution by amendments to the elections code or by administrative regulations or judicial interpretation.

##### *9.6.a The Invalid Ballot*

###### *9.6.a.1 Facts*

A polling station official presents ballots with the following problems to the precinct commission for a determination of their validity.



- three ballots have been marked with a red pen, each of the marks being a small check in the appropriate square on the ballot;
- one ballot with marks on the names of the candidates but no marks in the squares;
- a ballot which is otherwise properly filled out except that the voter marked both of the squares for two competitors for the same office.

#### *9.6.a.2 Question Presented*

- 1) How should the commission rule in each case?

#### *9.6.b The Repeated Election*

##### *9.6.b.1 Facts*

In the course of elections to the Legislative Assembly of the Jogorku Kenesh, no candidate won a sufficient number of votes to be declared elected. The Central Elections Commission therefore orders a second election.

##### *9.6.b.2 Questions Presented*

- 1) How many days do the candidates have to campaign? Would the answer be different if the election was a runoff?
- 2) How many votes must a parliamentary candidate receive in order to be declared elected in a single mandate constituency, in the unified, republican constituency?

# APPENDIX A

# UNIVERSAL DECLARATION OF HUMAN RIGHTS

## UNIVERSAL DECLARATION OF HUMAN RIGHTS

December 10, 1948\ ratified by Kyrgyzstan in 1991

N 589-XII

### Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

### Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

### Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right to equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

# INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

# INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

1996 was binded with Kyrgyzstan in 1994  
by Decree N.1406

## Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
4. No one shall be arbitrarily deprived of the right to enter his own country.

## Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

## Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

## Article 22

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

## Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

# THE COPENHAGEN DOCUMENT OF PARTICIPATING STATES OF OSCE

**DOCUMENT OF THE COPENHAGEN MEETING  
OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE**

The participating States welcome with great satisfaction the fundamental political changes that have occurred in Europe since the first Meeting of the Conference on the Human Dimension of the CSCE in Paris in 1989. They note that the CSCE process has contributed significantly to bringing about these changes and that these developments in turn have greatly advanced the implementation of the provisions of the Final Act and of the other CSCE documents.

They recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a related humanitarian character. They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law.

The participating States express their conviction that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe. They therefore reaffirm their commitment to implement fully all provisions of the Final Act and of the other CSCE documents relating to the human dimension and undertake to build on the progress they have made.

They recognize that co-operation among themselves, as well as the active involvement of persons, groups, organizations and institutions, will be essential to ensure continuing progress towards their shared objectives. In order to strengthen respect for, and enjoyment of, human rights and fundamental freedoms, to develop human contacts and to resolve issues of a related humanitarian character, the participating States agree on the following:

(1) The participating States express their conviction that the protection and promotion of human rights and fundamental freedoms is one of the basic purposes of government, and reaffirm that the recognition of these rights and freedoms constitutes the foundation of freedom, justice and peace.

(2) They are determined to support and advance those principles of justice which form the basis of the rule of law. They consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression.

(3) They reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations.

(4) They confirm that they will respect each other's right freely to choose and develop, in accordance with international human rights standards, their political, social, economic and cultural systems. In exercising this right, they will ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other CSCE commitments.

(5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.1) — free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives;

(5.2) — a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;

(5.3) — the duty of the government and public authorities to comply with the constitution and to act in a manner



consistent with law;

(5.4) — a clear separation between the State and political parties; in particular, political parties will not be merged with the State;

(5.5) — the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law. Respect for that system must be ensured;

(5.6) — military forces and the police will be under the control of, and accountable to, the civil authorities;

(5.7) — human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligations under international law;

(5.8) — legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone;

(5.9) — all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;

(5.10) — everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity;

(5.11) — administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available;

(5.12) — the independence of judges and the impartial operation of the public judicial service will be ensured;

(5.13) — the independence of legal practitioners will be recognized and protected, in particular as regards conditions for recruitment and practice;

(5.14) — the rules relating to criminal procedure will contain a clear definition of powers in relation to prosecution and the measures preceding and accompanying prosecution;

(5.15) — any person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function;

(5.16) — in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;

(5.17) — any person prosecuted will have the right to defend himself in person or through prompt legal assistance of his own choosing or, if he does not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(5.18) — no one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law which defines the elements of the offence with clarity and precision;

(5.19) — everyone will be presumed innocent until proved guilty according to law;

(5.20) — considering the important contribution of international instruments in the field of human rights to the rule of law at a national level, the participating States reaffirm that they will consider acceding to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and

other relevant international instruments, if they have not yet done so;

(5.21) — in order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.1) — hold free elections at reasonable intervals, as established by law;

(7.2) — permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

(7.3) — guarantee universal and equal suffrage to adult citizens;

(7.4) — ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;

(7.5) — respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) — respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

(7.7) — ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

(7.8) — provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

(7.9) — ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

(8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

### III

(26) The participating States recognize that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions. They will therefore encourage, facilitate and, where appropriate, support practical co-operative endeavors and the sharing of information, ideas and expertise among themselves and by direct contacts and co-operation between individuals, groups and organizations in areas including the following:

- constitutional law, reform and development,
- electoral legislation, administration and observation,
- establishment and management of courts and legal systems,
- the development of an impartial and effective public service where recruitment and advancement are based on a merit system,
- law enforcement,
- local government and decentralization,
- access to information and protection of privacy,
- developing political parties and their role in pluralistic societies,
- free and independent trade unions,
- co-operative movements,
- developing other forms of free associations and public interest groups,
- journalism, independent media, and intellectual and cultural life,
- the teaching of democratic values, institutions and practices in educational institutions and the fostering of an atmosphere of free enquiry. Such endeavors may cover the range of co-operation encompassed in the human dimension of the CSCE, including training, exchange of information, books and instructional materials, co-operative programs and projects, academic and professional exchanges and conferences, scholarships, research grants, provision of expertise and advice, business and scientific contacts and programs.

(27) The participating States will also facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law, which may also serve as focal points for co-ordination and collaboration between such institutions in the participating States. They propose that co-operation be encouraged between parliamentarians from participating States, including through existing inter-parliamentary associations and, inter alia, through joint commissions, television debates involving parliamentarians, meetings and round-table discussions. They will also encourage existing institutions, such as organizations within the United Nations system and the Council of Europe, to continue and expand the work they have begun in this area.

(28) The participating States recognize the important expertise of the Council of Europe in the field of human rights and fundamental freedoms and agree to consider further ways and means to enable the Council of Europe to make a contribution to the human dimension of the CSCE. They agree that the nature of this contribution could be examined further in a future CSCE forum.

(29) The participating States will consider the idea of convening a meeting or seminar of experts to review and discuss co-operative measures designed to promote and sustain viable democratic institutions in participating States, including comparative studies of legislation in participating States in the area of human rights and fundamental freedoms, inter alia drawing upon the experience acquired in this area by the Council of Europe and the activities of the Commission "Democracy through Law".

### IV

(30) The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.

They also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the promotion of tolerance, cultural diversity and the resolution

of questions relating to national minorities. They further reaffirm that respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States.

DRAFT GENERAL PRINCIPLES  
ON FREEDOM AND  
NON-DISCRIMINATION IN THE  
MATTER OF POLITICAL RIGHTS

**Draft General Principles on Freedom and Non-Discrimination in the Matter of Political rights**

**VIII. Genuine Character of Elections and Other Public Consultations**

(d) The conduct of elections and other public consultations, including the preparation and periodic revision of the electoral roll, shall be supervised by authorities whose independence and impartiality are ensured and whose decisions are subject to appeal to the judicial authorities or other independent and impartial bodies.

**XIX. Recourse to independent tribunals**

Any denial or violation of these rights and freedoms shall entitle the aggrieved person or persons to recourse to independent and impartial tribunals.

ENHANCING THE  
EFFECTIVENESS OF THE  
PRINCIPLE OF PERIODIC AND  
GENUINE ELECTIONS:  
FRAMEWORK FOR FUTURE  
EFFORTS

## **ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF PERIODIC AND GENUINE ELECTIONS: FRAMEWORK FOR FUTURE EFFORTS**

### **III. Operational aspects: National Institutions.**

National institutions should ensure universal and equal suffrage, as well as impartial administration. There is particular need for independent supervision, appropriate voter registration, reliable balloting procedures and methods for preventing electoral fraud and resolving disputes.



CONVENTION ON THE  
ELIMINATION OF ALL FORMS OF  
DISCRIMINATION AGAINST  
WOMEN

**CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

**Article 9. 1.**

States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

CONVENTION OF THE  
COMMONWEALTH OF  
INDEPENDENT STATES

**CIS convention on human rights**

signed in Minsk, 26 May 1995, never ratified

**Article.29**

According to the national legislation, every person in the country of his citizenship has the right and the opportunity to

- a) participate in governing and state affairs directly as well as by freely elected representatives;
- b) to vote and be elected on the basis of universal suffrage by secret ballot which ensures the free will of the voters;
- c) be admitted to the public service on general conditions of equality.

# CONSTITUTION OF THE KYRGYZ REPUBLIC

## CONSTITUTION OF THE KYRGYZ REPUBLIC

(As amended February 16, 1996 by the Law of the Kyrgyz Republic, N1)

We, the People of the Kyrgyz Republic, . . .

proclaiming our adherence to national ethnic traditions and to moral principles common to all mankind;

desiring to establish ourselves among peoples of the world as a free and democratic civil society;

through our authorized representatives, hereby adopt this Constitution.

### CHAPTER ONE: THE KYRGYZ REPUBLIC

#### Section One: GENERAL PRINCIPLES

##### Article 1

1. The Kyrgyz Republic (Kyrgyzstan) is a sovereign, unitary, democratic Republic, constructed on the basis of a legal secular state.
2. The sovereignty of the Kyrgyz Republic is not limited and shall extend throughout its territory.
3. The people of Kyrgyzstan are the holders of sovereignty and are the single source of state power in the Kyrgyz Republic.
4. The people of the Kyrgyz Republic exercise their power directly and through a system of state bodies on the basis of this Constitution and laws of the Kyrgyz Republic. Only the Jogorku Kenesh and the President of the Kyrgyz Republic elected by the people of the Kyrgyz Republic have the right to act on behalf of the People of the Kyrgyz Republic.
5. Amendments and supplements to the Constitution of the Kyrgyz Republic, the Laws of the Kyrgyz Republic, and other important matters of state life may be referred for a referendum (national vote). The grounds and procedure for holding a referendum shall be established by constitutional law.
6. Citizens of the Kyrgyz Republic elect the President, deputies of the Legislative Assembly of the Jogorku Kenesh and the Assembly of Peoples' Representatives of the Jogorku Kenesh and their representatives to bodies of local self-government. Elections shall be free and shall be held on the basis of universal equal and direct suffrage by secret ballot. Citizens who have attained the age of 18 are allowed to participate in elections.

#### Section two: THE STRUCTURE AND ACTIVITIES OF THE STATE

##### Article 7

1. State power in the Kyrgyz Republic is based on the following principles:
  - the supremacy of the power of the people, represented and ensured by the nationally elected head of the state, the President of the Kyrgyz Republic;
  - division of state power into legislative, executive, and judicial branches, and their coordinated functions and interaction;
  - the responsibility of state bodies to the people and execution by them of their authority on behalf of the people;
  - differentiation between functions of state power and local self-government.
2. Within the bounds of authority created by this Constitution, the following represent and carry out state

power in the Kyrgyz Republic:

the President of the Kyrgyz Republic;

the Jogorku Kenesh of the Kyrgyz Republic, comprised of two chambers: the Legislative Assembly of the Jogorku Kenesh, and the Assembly of People's Representatives of the Jogorku Kenesh;

the Pravitel'stvo of the Kyrgyz Republic and local state Administrations; the Constitutional Court, the Supreme Court, the Supreme Arbitration Court and the courts and judges of the justice system.

#### Article 8

1. In the Kyrgyz Republic, political parties, trade unions and other public associations may be organized on the basis of free will and common interests. The State ensures the observation of rights and legal interests of public associations.
2. Political parties may participate in State affairs only in the following ways:
  - by nominating their candidates for election to the Jogorku Kenesh, for state positions and for bodies of local self-government;
  - by forming fractions in representative bodies.
3. Religion, all faiths, shall be separated from the State.
4. In the Kyrgyz Republic the following are not allowed:
  - the merger of State and party institutions, as well as subordination of State activity to party programs and decisions;
  - the formation and activity of party organizations within state institutions and organizations, civil servants shall have the right to conduct party activities unrelated to their work activity;
  - membership in parties and rendering support to any political party by those serving in the military, and by officials working in bodies of internal affairs, national security, justice, the procuracy and the courts;
  - the creation of political parties on a religious basis. Religious organizations shall not pursue political goals and tasks;
  - interference by members of religious organizations and sects with the activity of state bodies;
  - activities of political parties of other governments.

#### Article 9

4. . . . Activities directed at disturbing the peaceful communal life of the people, propagandizing and igniting international strife are unconstitutional.

#### Article 12

1. The Constitution shall have supreme legal force and direct application in the Kyrgyz Republic.
2. Laws and other normative acts are to be adopted on the basis of the Constitution.
3. Interstate treaties and other normatives of international law ratified by the Kyrgyz Republic are a constituent and directly effective part of the Legislation of the Kyrgyz Republic.

### CHAPTER TWO. CITIZENS

#### Section One: CITIZENSHIP

#### Article 13

1. The affiliation of an individual to the Kyrgyz Republic and his status is determined by citizenship. A citizen of the Kyrgyz Republic must observe the Constitution and the laws of the republic, and must respect the rights, freedom, honor and dignity of other people.
2. Citizens of the Kyrgyz Republic shall not be recognized as citizens of other states.

3. No citizen of the Kyrgyz Republic can be deprived of his/her citizenship or of his right to change his/her citizenship.

4. The Kyrgyz Republic guarantees the defense and protection of its citizens beyond its borders.

#### Article 14

1. Every citizen of the Kyrgyz Republic by virtue of his/her citizenship enjoys rights and bears responsibilities.

2. In the Kyrgyz Republic, foreigners and persons without citizenship enjoy the rights and freedoms of citizens, and also bear responsibilities on the grounds, terms and according to procedures, provided by laws, international treaties and agreements.

### Section Two: THE RIGHTS AND FREEDOMS OF THE PERSON

#### Article 15

1. The dignity of individuals in the Kyrgyz Republic is absolute and inviolable.

2. Every person from birth is entitled to basic human rights and freedoms. These rights shall be recognized as absolute, inalienable, and protected by law and the courts from infringement by any other person.

3. All persons in the Kyrgyz Republic shall be equal before the law and the court. No one shall be subject to any type of discrimination, violation of his rights and freedoms, on the grounds of ethnic origin, sex, race, nationality, language, religious belief, or other conditions or circumstances of a personal or social nature.

4. Human rights and freedoms are valid in the Kyrgyz Republic. As such, they determine, the meaning, content and application of laws, and obligate legislative and executive powers, local self-government and are guaranteed by the judiciary.

5. In the Kyrgyz Republic, folk customs and traditions which do not contradict human rights and freedoms are supported by the state.

#### Article 16

1. In the Kyrgyz Republic, basic human rights and freedoms are recognized and guaranteed in accordance with universally accepted norms and principles of international law, international treaties and agreements concerning human rights which are ratified by the Kyrgyz Republic.

2. Every person in the Kyrgyz Republic has the right:

to life, to physical and moral inviolability;

to personal freedom and safety;

to free development of his individuality;

to freedom of religious belief, spiritual freedom and freedom of worship;

to free expression and dissemination of thoughts, ideas and opinions, freedom of literary, artistic, scientific and technical creativity, freedom of press, transmission and dissemination of information;

to freedom of movement, choice of destination and residence throughout the territory of Kyrgyzstan, and the right to travel freely abroad and to return home without hindrance;

to associate;

to assemble peacefully and without arms, to freely conduct meetings and demonstrations;

.....

The enumeration of rights and freedoms in the Constitution should not be interpreted as negating or diminishing other universally recognized human rights and freedoms.



#### **Article 17**

1. In the Kyrgyz Republic, no laws shall be issued which abolish or infringe upon human rights and freedoms.
2. Restrictions to the exercise of rights and freedoms is allowed by the Constitution and laws of the Kyrgyz Republic only for the purposes of protecting the rights and freedoms of other persons, public safety and the protection of the constitutional structure. But in doing so, the essence of constitutional rights and freedoms shall not be affected.

### **Section Three: RIGHTS AND DUTIES OF A CITIZEN**

#### **Article 21**

1. Citizens of the Kyrgyz Republic and their associations shall be allowed to engage in any act or activity, except those prohibited or restricted by this Constitution and laws of the Kyrgyz Republic.
2. The exercise of rights and freedoms by a citizen of the Kyrgyz Republic shall be inseparable from his/her duties which must be performed for the security of personal and national interests.

#### **Article 22**

Laws of the Kyrgyz Republic concerning the rights and duties of citizens are to be applied equally to all citizens and do not bestow on anyone advantages and privileges, except those provided by the Constitution and by laws for the social protection of citizens.

#### **Article 23**

Citizens of the Kyrgyz Republic participate in state governance directly and through their representatives in the discussion and adoption of laws and decisions of republican and local significance, and they have equal access to governmental services.

#### **Article 38**

1. It is the duty of the state, all its bodies and state officials to provide for full, absolute and immediate protection of the rights and freedoms of citizens, to prevent the infringement upon rights in this area and to restore a violated status.
2. The Kyrgyz Republic guarantees judicial defense of all rights and freedoms of citizens fixed by the Constitution and the laws.

#### **Article 39**

1. A citizen is presumed innocent of committing a criminal offense until determined guilty by an order of court in force.
2. The state guarantees everyone protection from arbitrary and unlawful interference into one's private and family life, infringement upon one's honor and dignity, and violation of secrecy of correspondence and telephone conversations.

### **CHAPTER THREE: THE PRESIDENT**

#### **Article 42**

1. The President of the Kyrgyz Republic is the head of state and the highest official of the Kyrgyz Republic.
2. The President of the Kyrgyz Republic is the symbol of the unity of the people and state power, the guarantor of the Constitution of the Kyrgyz Republic, and of rights and freedoms of the person and citizen.
3. The President of the Kyrgyz Republic defines the fundamental directions of internal and external policy of the state, represents the Kyrgyz Republic within the country and in international relations, adopts

measures to protect the sovereignty and territorial integrity of the Kyrgyz Republic, and ensures the unity and continuity of state power and the coordinated functioning and interaction of state bodies and their responsibility to the people.

## **Section One: ELECTION**

### **Article 43**

1. The President of the Kyrgyz Republic shall be elected for a term of five years.
2. The same person cannot be elected President for more than two consecutive terms.
3. A citizen of the Kyrgyz Republic who has command of the state language and who has been a resident of the republic for not less than 15 years before the nomination of his candidature to the office of the President, may be elected President of the Kyrgyz Republic if he is not less than 35 years of age and not older than 65 years of age.
4. The President of the Kyrgyz Republic cannot be a deputy of the Jogorku Kenesh, hold any other posts or engage in entrepreneurial activity.
5. The President of the Kyrgyz Republic must suspend his activity in political parties and organizations during the term of office until the beginning of a new presidential election in the Kyrgyz Republic.

### **Article 44**

1. A new presidential election in the Kyrgyz Republic is held two months before the date on which the powers of the President of the Kyrgyz Republic expire.
2. The President of the Kyrgyz Republic is elected by citizens of the Kyrgyz Republic by a majority of actual votes cast; elections shall be held on the basis of universal, equal and direct suffrage, and by secret ballot.
3. The number of candidates for the office of the President of the Kyrgyz Republic is not limited. A person, who has registered and who has collected not less than 50,000 voters' signatures may be a candidate for the President of the Kyrgyz Republic.
4. The election of the President of the Kyrgyz Republic is considered valid if more than fifty per cent of all voters in the republic shall have taken part in the elections.

In the first ballot, a candidate is considered elected to the office of the President if he/she obtains more than a half of the votes of voters who have taken part in the elections.

If no candidate receives more than half of the votes cast in the first ballot, only the two candidates who received the most votes shall appear on the second ballot. In the second ballot, a candidate who receives more than half of the votes cast shall be considered elected if not less than fifty per cent of all voters participate.

### **Article 45**

1. The results of the election for the President of the Kyrgyz Republic must be confirmed by the Constitutional Court of the Kyrgyz Republic within 7 days after their completion.
2. After the Chairman of the Constitutional Court of the Kyrgyz Republic announces the results of voting, the President takes the oath of office within 30 days in the presence of the deputies of the Legislative Assembly and the Assembly of People's Representatives.

## **Section Two: POWERS OF THE PRESIDENT**

#### Article 46

##### 2. The President of the Kyrgyz Republic:

- 1) appoints, with the consent of the Assembly of People's Representatives, the Procurator General of the Kyrgyz Republic; appoints the deputy of the Procurator General, procurators of oblasts, the City of Bishkek and the military procurator of the Kyrgyz Republic; and relieves them of office;
- 2) appoints with the approval of the Assembly of the People's Representatives, the Chairman of the board of the National Bank of the Kyrgyz Republic, and relieves him of office;
- 3) presents to the Legislative Assembly and to the Assembly of People's Representatives candidates for election to the offices of Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and judges of the Constitutional Court of the Kyrgyz Republic;
- 4) presents to the Assembly of People's Representatives candidates for election to the offices of Chairman of the Supreme Court of the Kyrgyz Republic and of the Supreme Arbitration Court of the Kyrgyz Republic, their deputies, and judges of the Supreme Court of the Kyrgyz Republic and of the Supreme Arbitration Court of the Kyrgyz Republic;
- 5) appoints the chairmen, their deputies, and judges of the courts of oblasts, the city of Bishkek, rayons, cities, arbitration courts of the oblasts and the city of Bishkek, and also of the military courts of the Kyrgyz Republic, and relieves them of office under circumstances prescribed by the Constitution and laws.

##### 6. The President of the Kyrgyz Republic:

- 1) has the right to call early meetings of the Legislative Assembly and early sessions of the Assembly of People's Representatives and to determine issues subject to consideration;
- 2) designates referenda on his own initiative, or decides to call referenda upon the initiative of no less than 300,000 voters or a majority of the total number of deputies of both Chambers of the Jogorku Kenesh;
- 3) calls elections to the Legislative Assembly and the Assembly of People's Representatives, carries out early dissolution of the Legislative Assembly and Assembly of People's Representatives under the circumstances set forth in this Constitution;
- 4) calls elections to local Keneshes and carries out their early dissolution under the circumstances set forth in the laws of the Kyrgyz Republic;
- 5) appoints the Chairman of the Central Commission on Elections and the Conducting of Referenda and one-third of its members.

### CHAPTER FOUR: THE JOGORKU KENESH

#### Article 54

1. The Jogorku Kenesh, the Parliament of the Kyrgyz Republic, is the representative body which has legislative power.

3. Deputies of the Legislative Assembly and the Assembly of People's Representatives are elected for five years. The procedure for electing deputies of the Legislative Assembly and the Assembly of People's Representatives is defined by constitutional law.

#### Article 56

1. A citizen of the Kyrgyz Republic, who has reached 25 years of age and who has lived in the republic for not less than 5 years before nomination may be a Deputy of the Legislative Assembly of the Jogorku Kenesh or a Deputy of the People's Representatives of the Jogorku Kenesh.

2. Deputies of the Legislative Assembly of the Jogorku Kenesh and deputies of the Assembly of People's Representatives of the Jogorku Kenesh are representatives of the people of Kyrgyzstan, and are subordinate to the Constitution and to their conscience.

5. A deputy of the Legislative Assembly or Assembly of People's Representatives who has not warranted the trust of the voters may be dismissed by decision of a majority of voters in the procedure established by law.

6. A deputy of the Legislative Assembly or the Assembly of People's Representatives is deprived of his mandate by resolution of the Central Commission on Elections and Conduct of Referenda in the event of submission of a resignation, the entry into force of a guilty verdict against him by a court, acknowledgment of his inability to perform, recall by voters, dissolution of his chamber, or change of permanent residence beyond the borders of the Kyrgyz Republic.

7. Preparation of issues connected with the adoption of measures to remove deputies, with observance by them of the requirements of point 4 of this Article, of rules of parliamentary ethics, termination of power of deputies, and deprivation of their powers and parliamentary immunity, is the work of the Central Commission on Elections and Conduct of Referenda.

## **Section One: POWERS OF THE LEGISLATIVE ASSEMBLY AND ASSEMBLY OF PEOPLE'S REPRESENTATIVES**

### **Article 58**

1. The work of the Legislative Assembly of the Jogorku Kenesh includes:

- 1) introduction of amendments and supplements to the Constitution of the Kyrgyz Republic in the procedure established by the Constitution;
- 2) adoption of laws of the Kyrgyz Republic;
- 3) official interpretation of the Constitution and of laws adopted by it;
- 4) alteration of the borders of the Kyrgyz Republic;
- 5) approval of laws adopted by the Assembly of the People's Representatives;
- 6) election, upon nomination by the President of the Kyrgyz Republic, of the Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and judges of the Constitutional Court of the Kyrgyz Republic; determining issues of dismissing them from their positions under the circumstances and according to the procedures set forth in this Constitution;
- 7) election of one-third of the members of the Central Commission on Elections and Conduct of Referenda . . .

3. The work of the Assembly of People's Representatives of the Jogorku Kenesh includes:

- 1) introduction of amendments and supplements to the Constitution of the Kyrgyz Republic; adoption of laws in cases envisaged by the Constitution;
- 2) approval of the laws adopted by the Legislative Assembly in cases set forth by the Constitution;
- 3) official interpretation of the Constitution and of laws adopted by it;
- 4) authorization of the republican budget and of reports on its implementation;
- 5) alteration of the borders of the Kyrgyz Republic;
- 6) deciding matters of the administrative and territorial structure of the Kyrgyz Republic;
- 7) calling elections for President of the Kyrgyz Republic;
- 8) approval of appointments of the Prime Minister of the Kyrgyz Republic;
- 9) approval of appointments of the Procurator General of the Kyrgyz Republic;
- 10) approval of appointments of the Chairman of the Board of the National Bank of the Kyrgyz Republic;
- 11) election, upon nomination by the President of the Kyrgyz Republic, of the Chairman of the Constitutional Court of the Kyrgyz Republic, his deputy, and the judges of the Constitutional Court of the Kyrgyz Republic;
- 12) election, upon nomination by the President of the Kyrgyz Republic, of the Chairmen of the Supreme Court and Supreme Arbitration Court of the Kyrgyz Republic, their deputies, and the judges of the Supreme Court and Supreme Arbitration Court of the Kyrgyz Republic;
- 13) election of one-third of the members of the Central Commission on Elections and Conduct of

- Referenda;  
14) deciding issue about dismissing judges in cases according to the procedure set forth in this Constitution . . .

#### Article 59

1. Laws on the introduction of amendments and supplements to the Constitution, constitutional laws, laws on the alteration of the borders of the Kyrgyz Republic, and on interpretation of the Constitution and constitutional laws, are adopted by both Chambers of the Jogorku Kenesh by majority vote of no less than two-thirds of the total number of deputies of each Chamber.

#### Article 63

1. The Legislative Assembly and the Assembly of People's Representatives may be dissolved early by a decision adopted by a majority vote of no fewer than two-thirds of the total number of deputies of the respective Chamber.

2. The Legislative Assembly or the Assembly of People's Representatives, or both chambers of the Jogorku Kenesh simultaneously, may be dissolved early by the President of the Kyrgyz Republic as the result of a referendum in the event of three refusals to approve the appointment of a Prime Minister or in the event of another crisis caused by insurmountable differences between the chambers of the Jogorku Kenesh or between one or both chambers of the Jogorku Kenesh and other branches of state power.

5. In the event of dissolution of the Legislative Assembly, the Assembly of People's Representatives, or both chambers of the Jogorku Kenesh, the President of the Kyrgyz Republic designates the date for elections of deputies of the given chamber or chambers, so that the newly elected chamber or chambers convene their first session no later than six months after the moment of dissolution.

### Section Two: LEGISLATIVE ACTIVITIES

#### Article 64

The right to initiate legislative belongs to:

- 30.000 voters (a popular initiative);
- the President of the Kyrgyz Republic;
- deputies of the Legislative Assembly;
- deputies of the Assembly of the People's Representatives;
- the Pravitel'stvo of the Kyrgyz Republic;
- the Supreme Court of the Kyrgyz Republic, and the Supreme Arbitration Court of the Kyrgyz Republic, on matters within their jurisdiction.

### CHAPTER SIX: COURTS AND JUSTICE

#### Article 79

1. Justice in the Kyrgyz Republic is administered only by the courts.

2. The Courts of the Kyrgyz Republic are the Constitutional Court of the Kyrgyz Republic, the Supreme Court of the Kyrgyz Republic, the Supreme Arbitration Court of the Kyrgyz Republic, local courts (oblast courts, courts of the City of Bishkek, courts of rayons, cities, arbitration courts of oblasts and the city of Bishkek, military courts).

The creation and founding of extraordinary, special courts and the position of judges is not allowed.

3. The status of courts and judges in the Kyrgyz Republic is specified by Constitutional laws. The organization and procedure for activity of the courts is specified by law.

4. A Judge is subordinated only to the Constitution and to the law. Judges shall enjoy the right of inviolability and immunity; a judge, in accordance with his status, is ensured social, material and other

guarantees of his independence.

#### Article 80

1. A citizen of the Kyrgyz Republic who is not younger than 35 years of age and no older 70 years of age and who has an advanced legal education and no less than 10 years of experience in the legal profession may be a judge of the Constitutional Court, the Supreme Court or the Supreme Arbitration Court of the Kyrgyz Republic.

Judges of the Constitutional court of the Kyrgyz Republic are elected by the Legislative Assembly and the Assembly of People's Representatives upon nomination by the President of the Kyrgyz Republic for a term of 15 years.

Judges of the Supreme Court and the Supreme Arbitration Court of the Kyrgyz Republic are elected by the Assembly of People's Representatives upon nomination by the President of the Kyrgyz Republic for a term of 10 years.

2. A citizen of the Kyrgyz Republic not older than 65 years of age who has a higher legal education and a record of service in his specialty for no less than 5 years may serve as a judge of a local court. Judges of local courts are appointed by the President of the Kyrgyz Republic the first time for a term of 3 years, and the next time for a term of 7 years.

#### Article 81

1. Judges are removed from office on the basis of health, by their own request, for commission of a crime where there is conviction of a court in force and for other reasons specified by law. Judges of local courts also may be relieved from their offices on the basis of results of attestation.

2. Judges of the Constitutional Court of the Kyrgyz Republic may be dismissed from their office upon the petition of the President of the Kyrgyz Republic by a majority vote of no fewer than two-thirds of the total number of deputies of each of the chambers of the Jogorku Kenesh of the Kyrgyz Republic.

3. Judges of the Supreme Court and the Supreme Arbitration Courts may be relieved from their office on the petition of the President of the Kyrgyz Republic by a majority vote of no fewer than two-thirds of the total number of deputies of the Assembly of People's Representatives.

#### Article 82

1. The Constitutional Court is the highest body of judicial power for protection of the Constitution of the Kyrgyz Republic.

2. The Constitutional Court consists of the Chairman, the Deputy Chairman and seven judges of the Constitutional Court.

3. The Constitutional Court:

- 1) declares laws and other normative legal acts unconstitutional if they contradict the Constitution;
- 2) decides disputes concerning the effect, use and interpretation of the Constitution;
- 3) determines the validity of elections of the President of the Kyrgyz Republic;
- 4) issues a determination concerning the removal from office of the President of the Kyrgyz Republic as well as judges of the Constitutional Court, the Supreme Court and the Supreme Arbitration Court of the Kyrgyz Republic;
- 5) gives its consent to the criminal prosecution of judges of local courts;
- 6) issues a determination concerning issues about amendments and alterations to the Constitution of the Kyrgyz Republic;
- 7) annuls the decisions of bodies of local self-government which contradict the Constitution of the Kyrgyz Republic;
- 8) renders a decision concerning the constitutionality of practices concerning the application of laws which affect the constitutional rights of citizens.

4. The decision of the Constitutional Court is final and no appeal is allowed.  
The determination of the unconstitutionality of laws and other acts by the Constitutional Court annuls their application on the territory of the Kyrgyz Republic and also cancels the effect of other normative and other acts based on the act determined to be unconstitutional.

**Article 83**

1. The Supreme Court of the Kyrgyz Republic is the highest body of judicial power in the sphere of civil, criminal and administrative legal proceedings.
2. The Supreme Court of the Kyrgyz Republic oversees the judicial activity of the oblast, City of Bishkek, rayon, municipal and military courts of the Kyrgyz Republic.

**Article 84**

1. The Supreme Arbitration Court of the Kyrgyz Republic and arbitration courts of oblasts and the City of Bishkek form a unified system of arbitration courts of the Kyrgyz Republic.
2. Arbitration courts settle economic disputes arising in the economic sphere and in the process of its management of disputes between business entities based on different forms of ownership.
3. The Supreme Arbitration Court of the Kyrgyz Republic oversees judicial activities of arbitration courts in oblasts and in the City of Bishkek.

**Article 85**

1. Pursuant to a decision of a gathering of citizens, local keneshes, or other representative body of local self-government in villages, settlements and towns, aksakal courts (courts of elders) and third party courts may be organized from elders or other citizens who enjoy respect and authority.
2. Courts of elders and third party courts consider property, family disputes and any other matters allowed by law which are submitted to them for review by agreement of the parties with the aim of reaching reconciliation by the parties and delivery of a just verdict which does not contradict law.
3. Decisions of courts of elders and courts of arbitration may be appealed to the corresponding rayon and municipal courts of the Kyrgyz Republic.

**Article 86**

1. Decisions of the courts of the Kyrgyz Republic which are in effects are binding for all state bodies, entities conducting economic activities, public associations, state officials and citizens and are enforceable throughout of the Kyrgyz Republic.
2. Failure to implement a court decision in legal force and also interference with the activities of courts results in the responsibility established by Law.

**Article 87**

1. The court does not have the right to apply a normative act which contradicts the Constitution of the Kyrgyz Republic.
2. If during consideration of a case in any court matter there arises an issue about the constitutionality of the law or other act, on which determination of the case rests, the court shall send an inquiry to the Constitutional Court of the Kyrgyz Republic.

**Article 88**

1. In the event of a public or other accusation, a citizen has the right to defend his dignity and right in court; under no circumstance shall he be denied such court protection.

2. [The right of] Defense is an inalienable right of a person at any stage of review of a judicial matter. In case of a citizen's lack of a financial means, legal assistance and defense is ensured to him at the expense of the State.

3. In court, every participant in the legal process shall have the right to be heard.

**Article 89**

1. The burden of proving guilt in criminal and administrative cases is on the accuser.

2. Evidence obtained in violation of the law shall be considered non-existent and reference to it in court is not allowed.

**Article 90**

Principles of justice established by this Constitution are general and unified for all courts and judges of the Kyrgyz Republic.

**CHAPTER SEVEN: LOCAL SELF-ADMINISTRATION**

**Article 91**

Local self-government in the Kyrgyz Republic is carried out by local associations which manage affairs of a local character within the bounds of the law and under their own responsibility.

**Article 92**

Local self-government is exercised through the local keneshes and other bodies, which may be formed by the population itself in the procedure established by law. . .



# ELECTION CODE OF THE KYRGYZ REPUBLIC

of 1999

**The Code of the Kyrgyz Republic  
On Elections in the Kyrgyz Republic**

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- Article 83.** Organization of elections of deputies to oblast, Bishkek city keneshes.
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- Article 85.** Organization of elections of deputies to city, villages, ayil keneshes.
- Article 86.** Election constituencies
- Article 87.** Nomination of candidates to deputies of local keneshes.
- Article 88.** Registration of a candidate to deputies of local keneshes
- Article 89.** Election fund of a candidate to deputies of local keneshes
- Article 90.** Determination of the results of elections of deputies to local keneshes.
- Article 91.** Filling in of a vacant mandate of a deputy of a local kenesh

### **CHAPTER XIV**

#### **CONCLUDING AND TRANSITIONAL PROVISIONS**

- Article 92.** Political parties participating in elections of deputies of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic.

## **ON ELECTIONS IN THE KYRGYZ REPUBLIC**

Absolute power in the Kyrgyz Republic is the result of the declaration of intention of people that is conveyed in regular, genuine free and fair elections based on a universal, equal, direct suffrage with secret ballot.

The state provides guarantees of citizens' election rights to elect, be elected to state and self-governing bodies.

### **I. GENERAL PART**

#### **CHAPTER I**

#### **GENERAL PROVISIONS. CITIZEN'S ELECTION RIGHTS.**

##### **Article 1. Relations Regulated by this Code**

According to the Constitution of the Kyrgyz Republic this code of the Kyrgyz Republic shall define the fundamental guarantees of citizen's election rights and shall regulate the relations developing in the process of preparation and conduct of elections of the President, deputies to the Legislative Assembly and the People's Representative Assembly of the Zhogorku Kenesh, deputies to local keneshes of the Kyrgyz Republic.

##### **Article 2. Principles of Citizen's Participation in Elections.**

1. Elections in the Kyrgyz Republic are conducted on a basis of the universal equal and direct suffrage with a secret ballot.

Elections in the Kyrgyz Republic are based on a free and voluntary implementation of election rights of a citizen of the republic. No one has the right to force a citizen to participate or not participate in elections as well as to influence his/her free will.

2. Any Kyrgyz Republic citizen residing or staying outside its territory shall exercise full election rights in conducting elections in the Kyrgyz Republic. Diplomatic and consular institutions of the Kyrgyz Republic shall facilitate Kyrgyz Republic citizen's realization of election rights established by this Code.

##### **Article 3. General Election Right.**

1. Any citizen of the Kyrgyz Republic can elect when he/she reaches the age of 18. and be elected into the state and local self-governing bodies when he/she reaches the age established by the Constitution and the legislation of the Kyrgyz Republic.

2. Any citizen of the Kyrgyz Republic can elect and be elected irrespective of his/her origin, social, official and property position, sex, race, nationality, language, adherence to religion, political beliefs, and other circumstances.

3. Citizens announced as not sui juris by the Court and those imprisoned upon the decision of the Court shall not participate in elections.

4. Citizens whose previous convictions have not been expunged or canceled according to the established by the Law procedure shall not be elected to the state and local self-governing bodies.

##### **Article 4. Equal Election Right.**

Citizens of the Kyrgyz Republic shall participate in elections of the Kyrgyz Republic on equal grounds.

#### **Article 5. Direct Election Right.**

Any citizens of the Kyrgyz Republic shall participate in elections directly

#### **Article 6. Secret Voting**

Voting in the Kyrgyz Republic elections shall be secret i.e. it shall exclude the possibility of control over voter's will

#### **Article 7. Obligatoriness and periodicity of elections**

1. The authority term of state bodies and elected self-governing bodies shall be established correspondingly by the Constitution of the Kyrgyz Republic and laws of the Kyrgyz Republic.
2. Elections of bodies and deputies shall be obligatory and shall be conducted within the terms established by the Constitution of the Kyrgyz Republic, this Code and laws of the Kyrgyz Republic:
3. Elections shall not be conducted in the state of emergency and martial law.

#### **Article 8. Basic Terms Used in this Code**

1. For this Code's purposes the following terms are included:

- campaigning materials - printed, audio-visual and other materials containing campaigning signs, campaigning on referendum issues and aimed for mass distribution of information, familiarization in the course of an election campaign;
- campaigning (pre-election campaigning) - the activity of citizens of the Kyrgyz Republic, candidates, political parties, their blocks, public associations aimed to impel voters' participation in casting their votes "for" or "against" this or that candidate (list of candidates);
- guarantees of citizen's election rights - administrative, legal, informational and other means of realization election rights of citizens of the Kyrgyz Republic;
- document identifying a voter - his/her passport or replacing it document. The following documents can replace a passport: officer's certificate, military certificate of a servicemen, sailor's passport, a receipt issued by internal affairs bodies, pension certificate, driver's license;
- voter - a citizen of the Kyrgyz Republic enjoying an active election right;
- citizens' election rights - a Constitutional right of citizens of the Kyrgyz Republic to elect and to be elected to state and local self-governing bodies that includes participation in candidate's nomination, campaigning, observation over the conduct of elections, work of election commissions that includes establishment of voting results and the results of elections, as well as other election actions;
- active election right for citizens - the right of citizens of the Kyrgyz Republic to elect state bodies and local self-government bodies;
- passive election right for citizens - the right of citizens of the Kyrgyz Republic to be elected to state and local self-governing bodies;
- an election bloc - any voluntary association of two or more political parties for a joint participation in elections;
- election commissions - collegial bodies organizing and providing preparation and conducting of elections;
- one-mandate constituency - a constituency in which one deputy is elected;
- multi-mandate constituency - a constituency on which several deputies are elected and for every of them voters vote personally;
- a single national constituency - a constituency that includes in itself the whole territory of the Kyrgyz Republic in elections of deputies to the Legislative Assembly nominated by political parties and election blocs through the lists of candidates;



- candidate - a person nominated (including any self-nominating person) according to the established by this Law procedure as a candidate to fill in though elections a vacant position in a state or self-governing body;
- list of candidates – registered by the Central Election Commission list of persons nominated by a political party, election bloc in elections to the Legislative Assembly of the Zhogorku Kenesh;
- place of stay-hotel, sanatorium, recreational facility, guest-house, camping, tourist station, hospital and other similar establishments, and also living apartment where the citizen lives temporarily and which is not the place of his/her residence
- place of residence-living house, apartment, office living apartment, specialized houses (dormitory, hotel-asylum, manuever fund house, special house for solitary old people, home for disabled people, veterans and others), and also any other housing accommodation in which a citizen lives permanently or lives in capacity of the owner, tenant or any other capacity, foreseen by the legislation of the Kyrgyz Republic;
- observer - a person in the course of elections appointed by a candidate, political parties, their blocs, voters for conducting an observation over the process of voting, calculation of votes, establishment of the results of voting and determination of the results of elections, according to the established by the Law procedure;
- foreign (international) observer- a person, representing foreign or international organization who obtained the right to carry out observation over the preparation and conducting of in the Kyrgyz Republic according to the established by the Law procedure
- state bodies - bodies that were established and implement their authority in accordance with the Constitution and the legislation of the Kyrgyz Republic;
- law-enforcement agencies-bodies of interior affairs, national security, tax authority, office of public prosecutor, customs inspection, Ministry of Justice
- representative self-government bodies - local state self-administration authorized to resolve local issues and elected by citizens directly in the territories.

## CHAPTER II.

### ELECTION COMMISSIONS

#### Article 9. The System of Election Commissions

1. Election commissions administrate preparation and conducting of elections in the Republic and shall provide realization and protection election rights of citizens of the Kyrgyz Republic.
2. The unified system of election commissions shall be comprised from:
  - 1) Central commission of the Kyrgyz Republic on election and conducting of referenda in the Kyrgyz Republic (hereinafter the Central election commission);
  - 2) Oblast and Bishkek city election commissions;
  - 3) Territorial commissions for elections of deputies to the Zhogorku Kenesh of the Kyrgyz Republic and local keneshes;
  - 4) Rayon, city election commissions
  - 5) Precinct election commissions.
3. The legal status of election commissions shall be established by the Constitution of the Kyrgyz Republic, this Code, the legislation of the Kyrgyz Republic.
4. Within the limits of their authority election commissions shall be independent from the state and local

self-governing bodies in the course of preparation and conducting of elections. Any interference of state bodies, local self-governing bodies, public associations, companies, establishments, organizations, their officials and individuals into the activity of elections in the course of preparation and conducting of elections shall not be permitted.

5. Election commission acts, adopted within the limits of their authority, shall be obligatory for the executive state bodies, local self-governing bodies, public associations, enterprises, establishments, organizations, officials, candidates, voters and also for subordinate election commissions.
6. Election commission decisions that contradict the Constitution of the Kyrgyz Republic, this Code, the Legislation of the Kyrgyz Republic or those adopted as exceeded their authority shall be canceled by the superior election commission or the court.
7. State bodies, local self-governing bodies, establishments, organizations, companies with the state participation and their officials shall assist election commissions in the execution of their powers, in particular, in presenting of the necessary premises, transportation means, means of communication, technical equipment, data and materials providing responds to election commissions appeals during the period of 3 calendar days in the course of preparation of elections and on the day of voting and on the next day after the day of voting it shall be done immediately.
8. Public associations, companies, establishments, organizations, mass media not specified in item 9 Article 30 of this Code as well as their officials shall submit election commissions all the necessary data and materials and respond to the election commissions appeals within the periods specified by this Code and the legislation of the Kyrgyz Republic.

#### **Article 10. Authority of the Central Election Commission**

1. The Kyrgyz Republic Central Election Commission shall:

- 1) carry out control over the guaranteeing of citizens' election rights; execution of the provisions of the Constitution of the Kyrgyz Republic, this Code, legislation of the Kyrgyz Republic, provide their unified application.
- 2) administrate the preparation and conduct of elections of the President of the Kyrgyz Republic, deputies of the Legislative and the People's Representatives Assemblies of the Zhogorku Kenesh of the Kyrgyz Republic;
- 3) within the limits of their authority issue resolutions, instructions, regulations, other acts and controls their execution;
- 4) directs the activity of election commissions, carries out organizational and methodological leadership over subordinate election commissions;
- 5) performs as a constituency election commission for elections of deputies to the Legislative Assembly of the Zhogorku Kenesh for a single national constituency;
- 6) establish one-mandate constituencies for election of deputies to the Legislative Assembly and the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic, approve the lists and the borders of one-mandate constituencies for election of deputies the Legislative Assembly and publish the lists, the borders and location of election commissions in mass media;
- 7) establish oblast and Bishkek city election commissions, territorial election commissions to elect deputies to the Legislative Assembly and the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic and publish their composition in mass media, determine the procedure of making changes into their composition;

8) approve the lists and boundaries of the constituencies on election of deputies of oblast, Bishkek city keneshes and publish them in mass-media within 3 calendar days.

9) distribute the funds from the national budget allocated for the conduct of election campaigns and referenda to election commissions including the payment for their utilization of premises, transportation and communication means, consider other logistical issues of election;

10) set up special funds and utilizes the received funds to conduct elections;

11) determine an accounting procedure for the received and spent budget funds allocated for the preparation and conduct of elections, funds of candidates' election funds, funds of political parties, election blocs, special funds;

12) establish election commission financial report forms on received and spent funds allocated for the preparation and conduct of elections, financial reports of candidates, political parties, election blocs;

13) develops voter ballot form and its wording for election of the President of the Kyrgyz Republic, deputies to the Legislative Assembly to vote in a single national constituency, election ballot paper forms to elect deputies for the Legislative Assembly in one-mandate constituencies, the People's Representative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic, local keneshes;

14) develop protocol forms for meetings on candidates' nominations, election commission meetings, voters signature lists in support of candidates (lists of candidates), other election documents samples of ballot boxes and election commission seals, and terms the procedure for keeping election documents;

15) provide issuing of voter ballot forms for election of the President of the Kyrgyz Republic, deputies to the Legislative Assembly and the People's Representative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic and other election documents;

16) carry out hearings of reports of ministries and administrative agencies of the Kyrgyz Republic, other state and self-government agencies on issues relating to the preparation and conduct of elections;

17) create conditions for participation in elections of observers, foreign (international) observers, representatives of foreign and local mass media, provide them with the relevant documents;

18) issue instructions on the procedure of providing broadcasting time to candidates, to political parties, election blocs through the channels of the State National TV and radio companies;

19) together with state and local self-governing bodies, oblast, Bishkek city election commissions establish state system of registration (accounting) of voters;

20) based on the data provided by relevant ministries and agencies of the Kyrgyz Republic make suggestions on assigning of voters being outside the territory of the Kyrgyz Republic to one-mandate election constituencies;

21) register candidates to the position of the President of the Kyrgyz Republic;

22) register election blocs;

23) register lists of candidates of political parties, election blocs nominated for a single national

election constituency;

24) register trusted persons of political parties, election blocs on elections to the Legislative Assembly in a single nation election constituency;

25) issue certificates of the established form to candidates registered for a single nation election constituency as well as to the trusted persons of political parties and election blocs;

26) inform voters on the course of the election campaign;

27) on the basis of the oblast and Bishkek city election commissions protocols determine the results of election of the President of the Kyrgyz Republic and publish the results in mass media, file the results with the Constitutional Court of the Kyrgyz Republic for it to provide its resolution;

28) on the basis of protocols of oblast and Bishkek city election commissions sum up the results of deputies elections to the Legislative and the People's Representatives Assemblies of Zhogorku Kenesh of the Kyrgyz Republic;

29) can declare elections results invalid according to the procedure established by item 4 Article 46 of this Code;

30) be authorized to charge a territorial election commission to convoke repeat elections in the constituency and it can indicate the necessity to conduct elections by newly-composed territorial and precinct election commissions;

31) consider applications and claims for the decisions and actions of election commissions and make decisions on them;

32) provide implementation of targeted programs dealing with preparation and conduct of elections, development of the election system of the Kyrgyz Republic, civic education voters, professional training of members of election commissions and other organizers of elections;

2. The Central Commission shall execute other authorities in accordance with this Code and with the laws of the Kyrgyz Republic.

#### Article 11. Election Commissions Establishment Procedure

1. Oblast and Bishkek city election commissions shall be established by the Central Election Commission the amount of a Chairperson, a Secretary and 7 members not later than 30 calendar days after this Code comes into force. The composition and address of oblast and Bishkek city election commissions shall be published in mass media by the Central Election Commission not later than 5 calendar days after the day of the establishment. Oblast and Bishkek city election commissions shall be organized on a permanent basis and shall be legal entities. The term of office of oblast and Bishkek city election commissions shall be 5 years. The authority of oblast, Bishkek city election commissions shall terminate from the moment of establishment of a new composition of commissions.

2. Territorial election commissions on elections of deputies to the Zhogorku Kenesh of the Kyrgyz Republic for one-mandate constituencies shall be established by the Central Election Commission in the amount of a Chairperson, secretary and not less than 13 members within 10 days after election appointment. The composition and address of territorial election commissions for the election of deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic shall be published by the Central Election Commission in mass media not later than 5 calendar days after its establishment.

3. Members of oblast, Bishkek city, territorial election commissions for elections of deputies to both assemblies of the Zhogorku Kenesh of the Kyrgyz Republic shall work without leaving their main job

and on a voluntary basis.

4. Territorial election commissions for election of deputies to oblast, Bishkek city keneshes shall be established by oblast and Bishkek city election commissions in the amount of a Chairperson, secretary and not less than 7 members not later than 10 calendar days after appointment of elections. The composition and address of the territorial election commissions on election of deputies to oblast, Bishkek city keneshes shall be published by oblast and Bishkek city election commissions in mass media not later than 3 calendar days after their establishment.
5. Rayon, city election commissions shall be established by oblast, Bishkek city election commissions in the amount of a Chairperson, secretary and 5 persons not later than 10 calendar days after appointment of elections. The composition and address of rayon, city election shall be published in mass media by oblast, Bishkek city election commissions not later than 3 calendar days after its establishment.
6. Precinct election commissions shall be established by superior election commissions in the amount of a Chair person, secretary and up to 7-13 persons 40 calendar days prior the day of elections. The composition and address of precinct election commissions shall be published by relevant election commissions in mass media not later than 3 calendar days after its establishment.
7. The establishment of election commissions shall be carried out upon nomination of local keneshes with regard to suggestions made by political parties, public associations, voters' meetings. And not more than one representative of each political party, public association, voters' meeting shall be elected into an election commission.
8. After registration of a candidate or lists of candidates by a corresponding election commission, any registered candidate or political party, election bloc promoting the list of candidates has the right to appoint one representative as a member of the election commission which conducted registration of a candidate or lists of candidates. This member shall have one consultative vote. Registered candidate or trusted representative of political party, election bloc shall send official documents to corresponding election commission, the chair person of which includes appointed people into the lists of commission members with consultative vote and issues them certificates.
9. Territorial election commissions for elections of deputies to the Legislative Assembly in one-mandate constituencies, the People's Representatives Assembly, to oblast, Bishkek city keneshes, rayon, city election commissions, precinct election commissions for conduct of elections shall terminate their authority after an official publication of the results of elections, including the results of voting on a relevant territory.

## **Article 12. Oblast and Bishkek city Election Commissions and their authority**

1. Oblast and Bishkek city election commission shall:
  - 1) administrate control over the fulfillment of the provisions of this Code, legislation on elections in the Kyrgyz Republic and provide their uniform application;
  - 2) direct the activity of subordinate election commissions, distribute among them state funds allocated for conduct of elections, provide control over their aimed utilization;
  - 3) organize conducting of elections on a relevant territory;
  - 4) establish constituencies for election of deputies to oblast, Bishkek city keneshes and file lists and borders of constituencies with the Central election commission for its approval;
  - 5) establish election commissions foreseen by items 4 and 5 of Article 11 of this Code;

- 6) be authorized to participate in meetings on nomination of candidates to deputies;
- 7) control the creation of the necessary logistical conditions for the activity of the subordinate election commissions;
- 8) establish special funds utilized for conduct of elections on relevant territories;
- 9) provide issuing of ballot paper for election of deputies to the local keneshes in accordance with the established by the Central Commission form and provide with them relevant election commissions;
- 10) conduct hearings of subordinate election commissions, leaders of companies, establishments and organizations and public associations on issues connected with preparation and conduct of elections;
- 11) sum up the results and determine the results of elections as a whole on its territory and publish them in mass media within the established period;
- 12) provide filing of documents connected with preparation and conduct of elections with an archives or a superior election commission;
- 13) consider issues connected with conduct of repeat elections of the deputies of oblast and Bishkek city keneshes;
- 14) consider applications and appeals on decisions and actions of subordinate election commissions, make decisions on them;
- 15) execute other authorities in accordance with this Code, the legislation on in the Kyrgyz Republic.

#### **Article 13. Territorial Election Commissions and their Authority**

1. In order to prepare and to conduct elections the following territorial election commissions are to be formed:
  - 1) Territorial commission on election of deputies to the Legislative Assembly of the Zhogorku Kenesh for a single national constituency;
  - 2) Territorial commissions for election of deputies to the Legislative Assembly and to the People's Representatives Assembly of the Zhogorku Kenesh for one-mandate constituencies;
  - 3) Territorial commissions for election of deputies to oblast and Bishkek city keneshes;
  - 4) Territorial commissions for election of deputies to rayon, city keneshes;
  - 5) Territorial commissions for election of deputies to city, villages, aiyl keneshes.
2. Territorial election commissions shall:
  - 1) carry out control over the execution of this Code, legislation on elections in the Kyrgyz Republic on its territory;
  - 2) direct the activity of precinct election commissions and hear their reports;
  - 3) observe compiling of voters' lists and provide them for public acknowledgement;

- 4) attend the meetings, congresses (conferences) on candidates' (lists of candidates') nomination;
- 5) register candidates (lists of candidates) and their trusted persons and issue them certificates made according to the established sample;
- 6) organize meetings of candidates with voters;
- 7) provide observation of equal legal campaigning conditions for all political parties, election blocs, candidates;
- 8) adopt the text of a voting ballot paper for a constituency, provide issuing of ballot paper and supply of precinct commissions with them;
- 9) sum up and determine the results of elections on its constituency on the basis of precinct election commissions protocols, publish them in mass media and issue a certificate to the elected deputy;
- 10) provide filing of documents connected with preparation and conduct of elections and referenda to archives or superior election commission;
- 11) organize conduct of repeat voting and repeat elections to replace withdrawn deputies;
- 12) review applications and complaints on decisions and actions of precinct election commissions, take decisions on them;
- 13) administrate funds allocated for the preparation and conduct of elections in a constituency, distribute part of the funds among precinct election commissions; provide control over their aimed utilization on the territory of a constituency;
- 14) establish special funds utilized for conducting of elections on their territories;
- 15) control precinct election commissions supply with transportation and communication means and review other logistical issues;
- 16) announce elections in a constituency as invalid in cases foreseen by item 4 of Article 46 of this Code;
- 17) execute other authorities in accordance with this Code, legislation on elections in the Kyrgyz Republic.

#### **Article 14. Rayon, City Election Commissions and their Authority**

1. Rayon, city election commissions act as territorial election commissions for election of deputies of rayon, city, villages, ayl keneshes specified in Article 13.
2. Rayon, city election commissions shall:
  - 1) carry out control over the preparation and conduct of elections on a relevant territory;
  - 2) inform the public about the addresses and telephone numbers of precinct election commissions;
  - 3) coordinate the activity of precinct election commissions on a corresponding territory, consider complaints (applications) on the decisions and actions (failure to act) of precinct election commissions and make decisions on them;

- 4) establish constituencies for conducting of elections of deputies to rayon, city keneshes and submit lists and borders of constituencies for the approval of oblast, Bishkek city election commissions;
- 5) establish constituencies for conducting of elections of deputies to city, settlement, ail keneshes and approve lists and borders of constituencies;
- 6) administrate funds allocated for the preparation and conduct of elections, distribute them among precinct election commissions;
- 7) provide observation of equal legal campaigning conditions for all candidates;
- 8) provide the supply of ballots and other documents to precinct election commissions;
- 9) provide organizational and technical assistance to precinct election commissions in conduct of voting at precincts;
- 10) sum up the results of voting at elections on a corresponding territory and inform mass media about them, file protocols on voting results with oblast or Bishkek city election commission;
- 11) provide filing of documents connected with preparation and conduct of with archives or a superior election commission;
- 12) carry out other authorities foreseen by this Code, legislation on elections in the Kyrgyz Republic.

#### **Article 15. Authority of Precinct Election Commissions**

Precinct election commission shall:

- 1) inform the public about the address and telephone number of a precinct election commission, time schedule and the date and place of voting;
- 2) compose lists of precinct voters;
- 3) provide familiarization of voters with voters' lists, accept and review applications on inaccuracies in the lists and make decisions on making corresponding corrections;
- 4) control the observance of rules on posting campaigning materials on the precinct territory;
- 5) provide the preparation of the premises for voting, election boxes and other equipment;
- 6) arrange voting at a precinct on the election day;
- 7) carry out vote count for the precinct;
- 8) review applications and complaints on violations of this Code and take decisions on them;
- 9) provide filing of documents connected with preparation and conduct of elections with archives or a superior election commissions;
- 10) execute other authorities in accordance with this Code and the legislation of the Kyrgyz Republic on elections.

#### **Article 16 Status of an Election Commission member**



1. Members of election commissions can not be: deputies to the Legislative and the People's Representative Assemblies of the Zhogorku Kenesh of the Kyrgyz Republic, local keneshes, officials of state and self-government bodies, judges, candidates, their trusted persons, authorized representatives, members of other election commissions, candidates' spouses and close relatives, persons who are under candidates' direct command.

In this Code the term under direct command means official relationships between a leader and a subordinate when a leader has administrative authority over a subordinate i.e. can hire and fire a subordinate within his/her official authority, can pass orders, resolutions, instructions obligatory for his/her execution, impose sanctions or encourage him/her.

2. Close relatives shall not be elected into one and the same election commission.
3. Chairperson and an election commission member may be released from the responsibility to be an election commission member prior to the completion of the period of his/her authority upon a decision of the appointed him/her body in the following cases:

- an election commission member written application on resigning;
- moving for permanent residence outside the territory of the Kyrgyz Republic;
- loss of the Kyrgyz Republic citizenship;
- bringing in a verdict of " guilty" with regard to them;
- becoming rea judicata court's decision on them being not suri juris or limited suri juris, absent in place unknown, dead;
- death;
- appearance of other grounds foreseen by item 1 of this Article.

The body that established an election commission shall appoint (elect) a new chairman or election commission member instead of the one withdrawn because of the mentioned above reasons not later than within 10 calendar days from the day of his/her withdrawn.

4. Any chairperson or an election commission member released for the period of preparation and conduct of elections from his/her main work shall be paid an average monthly salary at the place of his/her main work (irrespective of the form of ownership). Additional payment can be paid from the funds allocated for a conduct of elections in the amount and according to the procedure established by an election commission that is by law is authorized to administrate the activity of subordinate election commissions on preparation and conduct of corresponding elections.

Any released election commission member shall be made an additional payment in accordance with the following scheme:

- 1) a member of a rayon, city, oblast, Bishkek city, territorial election commissions on elections of deputies to the Legislative and the People's Representative Assembly, deputies of oblast and Bishkek city keneshes shall have an additional payment in the amount of 10 minimum salaries established on the day of an appointment of elections;
- 2) a member of a precinct election commission depending on the amount of voters in a precinct shall be paid:

up to 500 voters – 5 minimum salaries;  
from 500 up to 1000 voters – 6 minimum salaries;  
from 1000 up to 2000 voters- 7 minimum salaries;  
from 2000 up to 30000 voters – 8 minimum salaries established on the day of  
appointment of elections.

5. According to the legislation of the Kyrgyz Republic members of the election commissions not released from their main work shall be granted with an additional encouraging vacation.
6. In the course of conduct of elections no election commission member shall be implicated, a criminal responsibility or imposed administrative sanctions imposed by a court without the approval of the Prosecutor.
7. In the course of elections the Chairman of the Central Election Commission and its members shall not be sewed, detained or arrested without consent of the President of the Kyrgyz Republic, the Legislative or the People's Representative Assemblies of the Zhogorku Kenesh of the Kyrgyz Republic (in order of formation) except for the cases when they were detained at the place of commitment of a crime. A criminal action against a Chairman of the Central Election Commission might be brought only by the General Prosecutor of the Kyrgyz Republic.
8. In the course of conduct of corresponding elections and within 6 months after the end of elections no election commission member can be fired on the initiative of administration (employer) or without his/her consent transferred to another job
9. Election commission member shall:
  - timely be informed about corresponding election commission meetings;
  - be authorized to speak out at election commission meetings, make suggestions on issues that are in competence of a corresponding election commission, demand voting on the issue;
  - be authorized to ask questions to other participants of the meeting on the agenda issues and receive answers on them;
  - get acquainted with any documents and materials, including documents that are on machine-reading bearers, of corresponding and subordinate election commissions, receive copies of this documents and materials (with the exception for the voters' lists, elections ballots), demand certification of the copies;
  - be authorized file an appeal against actions (failure to act) of an election commission with a corresponding superior election commission or a court.
10. Any election commission member shall enjoy the established by this Article rights connected with preparation and conduct of all elections in conduct of which this election commission participates.
11. Any election commission member with one consultative vote shall not:
  - issue election ballots;
  - participate in sorting of election ballots and counting of votes;
  - make a protocol on the results of voting and results of elections;
  - participate in voting at commission meetings and sign election commission decisions.

## Article 17. Transparency in the Activity of Election Commissions

1. Election commissions' activity shall be carried out openly and transparently.
2. Members of superior election commissions, candidates and their trusted persons, authorized representatives, mass media representatives shall be authorized to be present at gatherings of a corresponding election commission. The corresponding election commission shall provide acknowledgement and a possibility for a free access for the mentioned persons to a gathering.
3. Election commissions' decisions specified in item 7 of Article 18 of this Code shall be published in press and submitted to other mass media organizations within the periods established by this Code and the legislation of the Kyrgyz Republic.
4. At the day of election from the moment of starting of the territorial election commission work until receiving of an information from a superior election commission on the adoption of a protocol on the voting results and at a repeat counting of votes of voters, persons listed in item 2 of this Article as well as the observers, foreign (international) observers are entitled to attend.
5. There shall be provided an access to all election commission members, observers, foreign (international) observers, other persons to precinct premises established at a precinct, military unit, hospital, sanatorium, rest home, solitary confinement cell and temporary isolator and premises for voting at this precinct.
6. Observers, mass media representatives, foreign (international) observers shall be authorized to be present at other election commissions when there is summing and establishment of the results of voting, compiling of corresponding protocols on the results of voting, elections and repeat calculation of voters', electors' votes.
7. Observer's authority shall be certified in a written form by a registered candidate, political party, election block, public association, voters' gathering, which interests the observer represents and there shall be specified his/her full name, place of residence, precinct number, name of an election commission he/she is sent to. This document is valid with providing of a passport or replacing it document. It shall not be necessary to send a notification on sending of an observer.
8. Observers shall be authorized to:
  - a) get familiarized with voters', electors' lists;
  - b) be present in premises for voting on the day of elections any time within the period specified in item 4 of this Article;
  - c) be present at voters voting outside the premises for voting;
  - d) observe the counting of citizens put into voters' lists, ballots for elections, issued to voters, electors, canceled ballots for elections, observe counting voters', electors' votes at a precinct at a distance and under conditions that make it possible to observe ballots' text, get familiarized with any filled in and unfilled ballot for elections in the course of counting of voters' votes, observe the composition of a protocol on the results of voting and other documents made by an elections or referendum commission within the period specified in item 4 of this Article;
  - e) apply to precinct election commission Chairperson and if he/she is absent to a person replacing him/her with suggestions, remarks on the issues of voting organization;
  - f) get familiarized with precinct election commission protocol on the voting results and also with protocols of other election commissions on voting and election results, issue or receive from a corresponding election commission copies of the mentioned protocols and attached to them

documents, and also other documents received by corresponding election commissions or composed by the mentioned commissions within the period specified in item 4 of this Article, including the list of persons present at voting. Upon an observer's requirement an election commission shall issue or certify the mentioned copies;

g) file an appeal against actions (failure to act) of a precinct election commission, other election commission with a superior election commission, the Central Commission and the court;

h) be present at a repeat counting of voters' votes in corresponding commissions;

9. Observers shall not be authorized to:

a) issue voters ballots;

b) sign instead of a voter for the receipt of his/her ballot upon his/her request;

c) fill in a ballot instead of a voter upon his/her request;

d) undertake other actions violating the secrecy of voting;

e) directly participate in counting of ballots conducted by members of an election commission;

f) undertake actions hindering the work of an election commission;

g) conduct campaigning among voters;

h) participate in decision making of a corresponding election commission.

10. Mass media representatives shall be authorized to get familiarized with precinct election commission protocols on the results of voting and also with protocols of other election commissions on the results of voting or elections, issue or receive from a corresponding commission copies of the mentioned protocols and attached to them documents. Upon a requirement of a mass media representative an election commission shall certify a copy of a protocol on the results of voting or elections. Certification of copies of protocols and other election commissions documents shall be made by a Chairperson or a Secretary of an election commission. And the certified copy shall have a statement "the copy is valid", it shall be signed and stamped with a stamp of a corresponding election commission.

11. Foreign (international) observers shall be accredited by the Central Election Commission. Foreign (international) observers' activity shall be regulated by the legislation of the Kyrgyz Republic.

#### **Article 18. Organization of the Election Commissions Activity**

1. The activity of election commissions shall be carried out on the basis of collective decisions.

2. Any election commission shall be authorized to start its activity if the amount of members in its composition is not less than 2/3 of the established amount.

3. The Central Election Commission activity organization issues shall be regulated by the Regulations on the Central Election Commission.

4. Election commission gatherings shall be called by a Chairperson and also upon a requirement of not less than one third of the commission members. In the course of preparation and conduct of elections the Central Commission gatherings shall be held not less than once a month and other commissions - not less than once in two weeks;

5. Any election commission member shall be present at all election commission meetings.
6. Gatherings of election commissions shall be reviewed as valid, if the majority of the established amount of commission members participate in the gathering.
7. Election commission decisions on issues of financing of preparation and conduct of elections, candidates' registration, on the results of voting or elections, on the announcement of elections as invalid or not taken place, on repeat voting or repeat elections, on cancellation of an election commission decision shall be made at an election commission gathering by the majority of votes of the established amount of election commission members.
8. The commission decisions on other issues shall be made by the majority of votes of the number of the commission members present at a gathering.
9. In case there is an equal amount of votes "for" and "against" a decision the vote of an election commission Chairperson shall be deciding.
10. Election commission decisions shall be signed by its Chairperson and secretary.
11. The commission members who are not satisfied with an election commission decision shall have a right to express their special opinion that in a written form that shall be considered by the election commission, specified in its protocol, enclosed to it and its Chairperson shall inform a superior election commission (corresponding to the level of elections) not later than within 3 days and immediately on the voting day and the next after the voting day.
12. Election commissions can attract non-staff workers to undertake activity connected with the preparation and conduct of elections on a contract basis.

### CHAPTER III CONSTITUENCIES AND PRECINCTS FOR ELECTIONS

#### Article 19. Establishment of Constituencies

1. In elections of the President of the Kyrgyz Republic the whole territory of the Kyrgyz Republic shall be a constituency.
2. For conduct of elections of deputies to the Legislative Assembly and deputies to the People's Representatives Assembly for one-mandate constituencies and elections of deputies to local keneshes there shall be established constituencies based on the data received through utilization of state system of registration (accounting) of voters not later than 5 calendar days after an election day appointment.  
In elections of deputies to the Legislative Assembly nominated by political parties, election blocs, list of candidates the whole territory of the Kyrgyz Republic shall form a single national constituency.
3. A corresponding election commission shall specify the scheme of constituencies establishment that shall specify their borders, the list of inhabited localities (streets, houses) that are part of a constituency, number and center of each constituency, the number of voters on each constituency. The corresponding superior election commission shall adopt the scheme of constituencies establishment within 5 calendar days.
4. Constituencies shall be established with regard to the following requirements:
  - approximate equality of constituencies according to the voters' number that shall not exceed 10 percent permissible deviation from an average voters' representation number, and in hard-accessing and distant places - not more than 15 percent;
  - a constituency shall make a unified territory it shall not be permitted to establish a constituency

out of territories that do not have a common border.

5. Administrative-territorial division of the Republic shall be taken into account while observing the requirements specified in item 4 of this Article.
6. The lists of constituencies with specification of their borders and addresses of territorial election commissions including their graphic representation shall be published by an adopted them election commission in mass media within 3 calendar days after the day of constituencies approval.
7. Changes in the list of constituencies, specification of their borders and location of election commissions shall be made by the Central Election Commission or election commissions that adopted the establishment of constituencies.
8. In election of deputies to local keneshes there shall be established constituencies in the amount established by the Special Part of this Code.

#### **Article 20. Establishment of Precincts for Elections**

1. Precincts for elections shall be established for conduct of voting and counting of votes with regard to local and other conditions with the aim to create maximum conveniences for voters.
2. Precincts for elections shall be established by local state executive bodies upon presentation of a corresponding election commission not later than 45 calendar days prior to the election with not more than 3000 voters per precinct. It shall not be permitted for precinct borders to cross constituencies' borders.
3. In hospitals, health resorts, rest homes and other places of temporary stay, hard accessible and remote regions, in investigation solitary confinement cells and confinement cells for temporary detention, precincts for elections shall be established within the same period and in exception cases not later than 5 calendar days prior to the election day. Such precincts for elections shall be a part of a constituency according to the place of their location.
4. Servicemen vote at common precincts for elections. As an exception it shall be permitted to establish precincts in military units located in separate remote from inhabited localities places. In this cases precincts shall be established by commanders of military units upon a decision of a corresponding election commission
5. Precincts for elections for the citizens of the Kyrgyz Republic being on the territory of foreign states shall be established by the leaders of diplomatic representations and consular establishments of the Kyrgyz Republic on the territory of their staying. The requirement on the voters' amount specified in item 2 of this Article can not be applied in the establishment of precincts for elections outside the territory of the Kyrgyz Republic. The procedure for including of such precincts into constituencies or a certain rayon on the territory of the Kyrgyz Republic shall be specified by the Central Commission upon representation of the Ministry of Foreign Affairs.
6. Lists of precincts for elections with the indicated borders and addresses of precinct election commissions shall be published by the corresponding election commission in local print media not later than 40 calendar days prior to the election day.

### **CHAPTER IV**

#### **VOTERS' LISTS**

##### **Article 21. Composing of Voters lists.**

1. In conduct of elections there shall be composed voters' lists in order to exercise rights of voters, acknowledge voters with the information on themselves and also to conduct voting by corresponding precinct commissions.
2. Voters lists at precincts for elections shall include all citizens of the Kyrgyz Republic who can exercise active election right on the voting day, unless otherwise provided by this Code.
3. Any citizen can be included in a voter list of a corresponding polling station for elections on the grounds of his/her permanent or mainly residence and in cases foreseen by this Code, legislation of the Kyrgyz Republic also temporary staying on the territory of this precinct.
4. Compilation and verification of data on registered voters shall be carried out by local state executive bodies and, in case of voters-servicemen, their family members and other voters who live on the territory of a military unit, a military unit commander shall compose and review the data on the registered voters.
5. Precinct election commissions shall compose voters lists on the basis of data on voters submitted by local state executive bodies, military units commanders received according to the procedure established by this Code and legislation of the Kyrgyz Republic through utilization of the state computer network of registration (accounting of voters) from the moment of establishment of precinct commissions.
6. In the course of conduct of elections of deputies to local keneshes servicemen who serve for a fixed period in military units, military organizations and establishments situated on the territory of a corresponding administrative-territorial unit shall not be included into voter lists and shall not be taken into account in establishment of voters amount if those servicemen before they joined the army did not live on this territory permanently or mainly.
7. Voter lists of precincts for elections established in health resorts, rest homes, stationary medical and prophylactic institutions, in living places of distant and hard-accessing regions, investigation solitary confinement cells and confinement cells for temporary detention, and also at representations of the Kyrgyz Republic in foreign countries shall be composed on the basis of the data presented by managers of the indicated above establishments and representations.
8. Any citizen, who can exercise an active election right and on the day for election of the President, deputies for the Legislative Assembly, deputies for the People's Representative Assembly is outside the territory of the Kyrgyz Republic and who did not have a possibility to receive a strike off the register certificate or vote earlier shall be included by a corresponding precinct election commission into the voters' list upon his/her appearance on a voting day in the precinct premises created in the country of residence.
9. Any citizen of the Kyrgyz Republic shall be included into a voters list of only one precinct.
10. The voters' list is composed in two copies. The data on voters, electors included into voters (electors) lists are composed in the alphabetical or any other order. Voter's or elector's last name, first and patronymic names, a year of his birth (at the age of 18 the date and the month of his/her birth shall be specified additionally) and the address of his/her permanent or main residence shall be indicated in a voter list. Voters' list shall be signed by a Chairperson and a Secretary of a precinct election commission. At precincts for elections established on the territory of a military unit voters' lists shall be signed by a Chairperson and a Secretary of a precinct election commission. The voters' list shall be stamped with a stamp of a precinct election commission.
11. Precinct election commission shall review a voter list in accordance with the established procedure for organization of relationship between election commissions and local state bodies and representative self-government bodies.

**Article 22. Familiarizing with Voters Lists.**

1. Lists of voters at precinct stations shall be presented for general familiarizing and additional reviewing not later than 15 calendar days prior to voting. Composed in rest homes, health resorts, stationary medical and prophylactic institutions, other places of temporary residence, living places of distant and hard-accessing regions, investigation solitary confinement cells and confinement cells for temporary detention, in military units and also at representations of the Kyrgyz Republic in foreign country - 5 calendar days prior to voting. Citizens shall be provided a possibility to familiarize themselves with voter lists and to review the correctness of the information on voters in premises of the corresponding election commissions.
2. Each citizen of the Kyrgyz Republic, exercising an active election right shall be authorized to inform a precinct election commission on a failure to include, an error or inaccuracy in the list of voters, electors. Within 24 hours, and on a voting day within 2 hours from the moment of applying and not later than 2 hours before the completion of voting, the precinct election commission shall review an application and submitted documents or the error or provide the complainant with a written resolution with an explanation for the refusal. The election commission decision can be appealed in a superior election commission or in the court (according to the location of a precinct election commission) that shall be obliged to review the complaint within 3 days and on the election day it shall be done immediately.
3. Citizen's exclusion from a voters, electors list after it has been signed with a Chairperson and a Secretary of an election commission shall be made only on the basis of information received from relevant bodies that carry out registration (accounting) of voters, electors. And a voters, electors list shall specify the date and the reason of such exclusion. This record shall be signed by a Chairperson of a precinct election commission can be appealed in a superior election commission or a court (according to the location of a precinct election commission) that shall consider a claim within a three-day period and on a voting day - immediately.
4. It shall be prohibited to make any changes into voters, electors lists after the completion of voting and the beginning of accounting of voters' votes.

#### **Article 23. Registration (Accounting) of Voters**

1. All citizens of the Kyrgyz Republic who exercise an active election right shall be subject to registration (accounting).
2. The grounds for voter's registration (accounting) shall be the fact of a permanent or main residence of a citizen of the Kyrgyz Republic on a relevant territory that shall be established by public registration (accounting) bodies in accordance with the legislation of the Kyrgyz Republic that regulates the procedure on realization of the right of citizens of the Kyrgyz Republic to move freely, freely select the place of their staying and living on the territory of the Kyrgyz Republic.
3. The grounds for registration (accounting) of voters who live outside the territory of the Kyrgyz Republic or are in long-term overseas business trips shall be the fact of their permanent living on the territory of a foreign state or being in long-term business trips in foreign countries that shall be established by diplomatic representations and consular establishment of the Kyrgyz Republic.
4. Registration (accounting) of voters shall be executed by the local state body, a military unit commander, head of a diplomatic representation, consular establishment of the Kyrgyz Republic as of January 1 and July 1 of each year.
5. State executive bodies of the Kyrgyz Republic shall provide necessary assistance to election commissions in reviewing of information on the registered voters.
6. Any voter shall have a free access to documents' information (data base) on himself/herself, including the one in computer, shall be authorized to review the information in order to make it full and correct and



also shall have the right to know who and with what aim uses or used this information.

## **CHAPTER V: THE RIGHT FOR NOMINATION, REGISTRATION OF CANDIDATES AND GUARANTEES OF CANDIDATES' ACTIVITY**

### **Article 24. The Right to Nominate Candidates**

1. The right to nominate candidates shall belong to voters according to the place of work, service, education and residence of the corresponding constituency, as well as to citizens by way of self nomination. The candidates can be also nominated by political parties, election blocs.
2. Political parties, election blocs shall have the right to nominate candidates the persons who are not members of a political party.
3. The number of candidates being nominated in constituencies shall not be limited.
4. The candidates' nomination procedure shall be specified in the Special Part of this Code.

### **Article 25. Election Blocs**

1. Election blocs can be established by not less than two political parties.
2. A political party being a part of an election bloc shall not act independently or enter another election bloc in the course of elections conduct.
3. The decision to enter an election bloc shall be taken at a congress (conference) of a political party.
4. Election blocs shall be registered by the Central Election Commission within five calendar days from the day of submission of protocols of political parties' congresses (conferences) with their decisions to enter an election bloc and a joint decision of political parties on the establishment of an election bloc, signed by leaders of these political parties. The copies of the political parties' registration certificates and registered charters of political parties entering an election bloc, shall also be submitted for registration.

### **Article 26. Authorized Representatives**

1. Candidates, political parties, election blocs, gatherings of voters shall appoint authorized representatives, who represent a corresponding candidate, political party, election bloc on all the issues connected with participation in elections including financial ones.
2. Authorized representatives of candidates, political parties, election blocs shall file a protocol of a political party congress (conference), election bloc with a decision on a candidate's (list of candidates) nomination with a territorial election commission. An independent candidate shall file an application on his/her intention to become a candidate of a constituency and an application on the registration of his/her authorized representatives with a territorial election commission.
3. At the same time a territorial election commission shall be filed with: the list of authorized representatives of a candidate, political party, election bloc, gathering of voters, specifying the full name, date of birth, place of residence of each authorized representative, as well as power of attorney for authorized representatives of a candidate, political party, election bloc, gathering of voters issued in accordance with the statutory procedure.
4. Authorized representatives of candidates, political parties along with the documents specified in items 2 and 3 of this Article shall file a copy of a registration certificate.
5. A territorial election commission shall consider the submitted to it documents and determine their

compliance with the provisions of this Code and within 5 calendar days from the day of their filing shall take a decision on registration of authorized representatives of a candidate, political party, election bloc and issue registration certificates to them.

6. In case of a refusal to register authorized representatives they shall be handed a motivated resolution of a territorial election commission. The refusal to register can be appealed in a rayon (city) court according to the place of location of a corresponding election commission that shall consider a claim within not later than a three day period.

7. Authorized representatives shall:

- certify subscription lists when collecting voters' signatures in support of a candidate, count the number of voters' signatures collected in support of a candidate, compose a protocol on the results of signatures collection;
- file signature lists in support of a candidate, as well as other documents with a territorial election commission for a candidate (lists of candidates) registration;
- receive from an election commission a written confirmation (receipt) on filing of signature lists and other documents;
- conduct pre-election campaigning, distribute campaigning materials;
- have the right to participate in casting of lots being held by election commissions when determining the order of air time provision to candidates, political parties, election blocs;
- have the right to be present at the sessions of election commissions on the issues related to a candidate, political party, election bloc who appointed an authorized representative;
- execute other authorities established by the legislation on elections of the Kyrgyz Republic, authorities on the instruction of a candidate, political party, election bloc.

#### Article 27. Registration of Candidates (Lists of Candidates)

1. For the registration of candidates (lists of candidates) the following documents shall be submitted to election commissions:

- 1) the protocol with a decision of a congress (conference) of a political party, election bloc, gathering of voters on a candidate (list of candidates) nomination;
- 2) candidate's declaration of intent to run as a candidate. The declaration shall contain the candidate's obligation to cancel his/her activity that is incompatible with the status of deputy in case he/she is elected;
- 3) candidate's biographic data, specifying his/her full name, date of birth, place of work, position (occupation) and place of residence;
- 4) documents certifying payment of election deposit
- 5) other documents specified by the Special Part of this Code.

In case of a candidate's self-nomination for the registration he/she shall file the documents foreseen in sub-items 3, 4, item 1 of this Article

2. The corresponding election commission within the period, established by the Special part of this Code, shall review the compliance of the procedure of a candidate's nomination with the requirements of this Code and take a decision on a candidate's registration or refusal to register.
3. The Ministry of Justice shall present the list of political parties holding the right to participate in elections to the Central Election Commission within 10 calendar days after appointment of elections.
4. A candidate can be registered only in one constituency. Registration of one and the same person in more than one list of candidates shall be prohibited. This rule shall not be applied when registering a candidate, nominated by a political party, an election bloc simultaneously at one and the same election campaign in one-mandate constituency and in a list of candidates.
5. When registering a candidate nominated by a political party, an election bloc, the fact of his/her nomination by a corresponding political party, election bloc shall be noted in the appropriate decision of an election commission. A candidate nominated by a local kenesh, gathering of voters, an independent candidate shall have the right to declare his/her independent status or belonging to a political party.
6. In case of a refusal to register a candidate (list of candidates) a corresponding election commission shall within one day issue to the candidate or the authorized representative of a candidate, political party, election bloc a copy of the election commission's resolution with the explanation of the motives for the refusal. The motive for the refusal can be insufficient number of valid voters' signatures in support of a candidate, the discovery of inauthentic signatures among the signatures, violation of the procedure of signatures collection established by this Code, violation of the order of establishment of an election fund and expenditure of its funds, and other grounds envisaged by this Code. The decision on refusal to register a candidate (list of candidates) can be appealed in a superior election commission or court.
7. Any candidate shall have the right to withdraw his candidacy, but not later than 15 calendar days prior to the day of voting. At any time, but not later than 15 calendar days before the day of voting a political party, an election bloc shall have the right to withdraw a list of candidates and refuse to participate in the elections, or exclude some of the candidates from the list, certified by a corresponding election commission. In cases, when the withdrawal of a candidacy or a list of candidates by political parties, election blocs were executed without any enforcing to that circumstances, a corresponding election commission shall have the right to charge the candidate or the corresponding political party, election bloc a part of the republican budget costs allocated for conducting the election campaign.
8. In case the number of registered candidates is less than the established number of mandates, the elections in this constituency, upon the decision of a corresponding election commission, shall be postponed for an additional candidates nomination and carrying out further election actions.
9. Not later than within seven days after the registration of candidates, a corresponding election commission shall publish in press an announcement on the registration indicating surname, first and patronymic names, the year of birth, employment position (occupation), place of work and residence of each candidate, and depending on the candidate's discretion, his/her party membership.
10. Not later than on the seventh day after registration of a list of candidates the central election commission shall publish in press an announcement on registration indicating the names of political parties, election blocs, as well as surname, first and patronymic names, year of birth, employment position (occupation), place of residence of the first three candidates from the list of political parties, election blocs.
11. Within two calendar days after registration the election commission shall issue the appropriate candidate certificates to candidates, specifying the constituency and the date of registration.

#### Article 28. Status of Candidates

1. All candidates shall have equal rights and bear equal responsibilities except for the cases, specified by this Code.
2. The candidates who alternate state positions, as well as positions at representative self-government bodies shall not use the benefits of their official position or rank.

In this Code the term "use of benefits of official position or rank" includes the following:

- involvement of individuals who are subordinates or other officially dependent, attraction of other governmental officials during the working hours for conducting of activities related to nomination or election
- use of accommodations, occupied by state bodies or bodies of local self-government, for the purposes of conduct of activities promoting nomination and (or) election in case other candidates cannot use the same accommodation on the same conditions
- use of telephone, fax and types of communication, information services, technical equipment which facilitate functioning of state bodies or bodies of local self-government for the purposes of conduct of activity promoting nomination and (or) election
- free of charge or beneficial use of transportation means which are in state or municipal property for the purposes of conduct of activity promoting nomination and (or) election. This provision shall not be applicable to individuals who use stated above transportation means in accordance with the legislation on state protection, and shall not apply to deputies of the Legislative assembly of the Zhogorku Kenesh of the Kyrgyz Republic;
- conduct of gathering of signatures, pre-election campaigning by state officials or officials of local self-government bodies during official business trips;
- beneficial access (compared to other candidates) to means of mass media with the purpose of conduct of gathering of signatures or pre-election campaigning.

Observance of the stated above restrictions shall not hinder elected officials' duties implementation with regard to voters.

3. Management of a company, institution, organization, a commander of a military unit, a head of an Internal Affairs department in which a registered candidate works or serves, after the day of the candidate's registration by a corresponding election commission till the day of the official publication of general results, shall, upon an application, report of a candidate, release him/her from work, service, study any day and for any time within this period keeping him/her paid an average labor remuneration by institutions, companies, organizations independently from the type of their ownership
4. During elections a registered candidate can not be dismissed ( given another position) upon the initiative of a the management (employer) or transferred to another work (position) without his/her consent.
5. The time of a registered candidate's participation in elections shall be included into the total labor record term for the specialty he worked prior to his/her registration as a candidate.
6. A registered candidate can not be instituted criminal proceedings against, arrested or imposed administrative sanctions through the court procedure without the permission of the public prosecutor (according to the level of elections). Upon giving the permission to institute criminal proceedings, the public prosecutor shall be obliged to inform the election commission that registered the candidate.
7. A registered candidate shall lose the rights and be released from his/her obligations connected with the candidate status starting the moment of the official announcement of the election results made by an

election commission in mass media. In case an election commission sets up a repeat voting, registered candidates, who do not participate in repeat voting, will lose their candidate status from the day when the repeat voting was appointed by the election commission.

8. Registered candidates who are on public service or on service in representative local government bodies, or working in mass media, for the time of their participation in elections shall be released from the execution of their official duties and shall file a certified copy of a corresponding resolution (order) with an election commission not later than 3 calendar days after their registration.
9. Any registered candidate sharing a highest state position shall have the right to conduct pre-election campaigning only within free from execution of his/her official duties time (vacation, days off, holidays and other days of rest). This rule shall not be applicable to the President and deputies of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic.
10. Candidate's violation of the provisions, established by this Article, shall be the grounds for the cancellation of a decision on candidate's registration by an election commission, that got this candidate registered.

#### **Article 29: Trusted Persons of a Candidate, Political Parties, election blocs**

1. Candidate, political parties and election blocs shall have the right to appoint trusted persons.
2. Registration of trusted persons shall be executed immediately by an election commission that registered the candidate (list of candidates), based on a candidate's written application or a proposal of a political party and an election bloc, and the application of the citizen himself/herself on his/her consent to be a trusted person. Election commission shall issue a certificate to the trusted person.
3. Deputies, members of the Government, officials of the Presidential Administration, Prime-Minister's Apparatus, Legislative Assembly, People's Representatives Assembly, officials of executive state and local government bodies, election commission members, employees of law-enforcement agencies and courts, military servicemen, foreign citizens shall not have the right to be trusted persons.
4. Trusted persons shall act within the limits of the authorities, provided to them by candidates, political parties, election blocs.
5. Trusted persons shall have the right to:
  - carry out campaigning and other activity in any permitted by the law forms and using legal methods promoting candidates' (list of candidates) election, present their pre-election programs;
  - make presentations at pre-election gatherings, meetings with voters, participate in pre-election debates and discussions;
  - receive necessary assistance from state and local government bodies in holding pre-election gatherings and meetings with voters;
  - be present at election commissions' sessions;
  - be present at polling stations including polling stations situated on a military unit territory, at joint sessions of local keneshes, in the course of voting, counting of votes and summing up voting results;
  - get familiarized with election commissions' documents and also protocols on results of voting and election results;

- appeal decisions and actions (failure to act) of election commissions and be present at consideration of claims and applications.
6. Trusted persons of a candidate shall not:
- interfere into the work of election commissions;
  - in a voting place sign instead of a voter on his/her request for receiving ballots and also instead of him/her fill in ballots in a cabin, specially equipped place or a room for secret ballot;
  - conduct information TV and radio programs (commercials), participate in mass media covering of elections in case they are journalists, mass media creative workers or officials of publishers, mass media.
7. The management (employer) shall provide trusted persons, upon their request, with an unpaid vacation for the period specified in item 3 of Article 28 of this Code.
8. Candidates, political parties, election blocs shall have the right to recall their trusted persons any time, having notified the election commission, that shall annul the issued to these trusted persons certificates,
9. Trusted persons authorities shall be terminated along with the forfeiture of the status by the registered candidate, who appointed them, or along with the forfeiture of the status by candidates, incorporated into the list of candidates, nominated by political parties, election blocs.

## CHAPTER VI

### CAMPAIGNING FOR ELECTIONS

#### Article 30. Conduct of Pre-Election Campaigning

1. The State shall provide citizens of the Kyrgyz Republic, candidates, public associations, political parties, election blocs with free conduct of pre-election campaigning in accordance with this Code and the laws of the Kyrgyz Republic.
2. Citizens of the Kyrgyz Republic, candidates, public associations, political parties, election blocs shall have the right to conduct campaigning for participation in elections, freely and comprehensively discuss pre-election programs of candidates, their political, business, personal qualities, as well as pre-election programs of political parties, election blocs, carry out campaigning «for» or «against» any candidate (list of candidates) at meetings, rallies, in mass media. Election commissions jointly with the executive authorities and local government bodies shall provide assistance to such meetings conduct - provide with premises, inform in advance about time and place of the meetings and carry out other actions.
3. Candidates, political parties, election blocs shall be guaranteed to have equal conditions for the access to mass media
4. Campaigning for elections shall be carried out:
  - through mass media;
  - by means of holding mass actions (gatherings, meetings with citizens, public debates and discussions, rallies, demonstrations, marches);
  - publishing and distribution of propaganda printed materials;
  - in other established by the law forms.

5. Any candidate, public association, political party, election bloc shall have the right to independently determine the form and character of its mass media campaigning.
6. Members of election commissions, officials of the state authorities, local government bodies, state and municipal officers, welfare institutions, religious associations, chancellors, as well as employees of law-enforcement bodies and military men when executing their duties and official responsibilities shall not have the right to participate in campaigning for elections.
7. Foreign countries, organizations and citizens, the persons having no citizenship, international organizations and international public movements shall not have the right to participate in campaigning.
8. Journalists, other creative workers, as well as mass media officials shall be prohibited to conduct information TV and radio programs, participate in covering the elections campaign through mass media, if the mentioned persons are candidates or their trusted persons. This rule shall not be regarded to campaigning actions of the mentioned persons when using free air time on the channels of state owned and local TV/radio companies in the order, specified by Article 32 of this Code.
9. Mass media companies the founders (co-founders) of which are state authorities or local government bodies, organizations, institutions, that are being financed fully or partially from the republican or local budget or funds of the local government bodies and also mass media companies that enjoy benefits on payment of taxes and obligatory fees if compared with other mass media companies shall be obliged to provide candidates, political parties, election blocs equal possibilities to conduct pre-election campaigning.
10. Mass media companies that do not come within the provisions of item 9 of this Article shall have the right to on a contract basis to provide air time, printing area to candidates, political parties, election blocs. Candidates, political parties, election blocs shall make payment for air time and printing matter on equal terms and exclusively through corresponding election funds. The amount of payment for TV time, publication in periodical printed publications shall be equal for all the candidates, political parties, election blocs and shall not exceed the tariffs of corresponding mass media means which were active on the day before appointment of the elections day.
11. When publishing the results of a public opinion poll connected with elections, mass media shall specify the name of the organization that conducted the poll, the time of its conduct, the number of respondents (selection), the method of information collection, precise wording of the question, estimator of a possible error.

#### Article 31. The Period of Campaigning

1. Pre-election campaigning shall start from the day of a candidate's (list of candidates) registration and shall terminate 24 hours before the voting day. In the course of conduct of re-voting the campaigning shall start from the day of an official publishing of the decision on repeat voting and shall terminate 24 hours before the day of repeat voting.
2. Campaigning printed materials earlier posted outside the buildings and premises for elections shall be kept at the same places on the voting day.
3. It shall be prohibited to publish in mass media the results of public opinion polls, prognoses of elections, other investigations, in connection with elections from the moment of registration of candidates or list of candidates.

#### Article 32. Campaigning on TV and radio

1. Candidates, political parties, election blocs shall have the right to be provided with free air time on the

channels of TV and radio companies that come within the provisions of item 9 Article 30 -of this Code and broadcasting on the territory on which elections. The mentioned air time shall be at the time when TV and radio programs attract most of the audience - from 8 p.m. to 12 p.m.

2. The total amount of the free of charge air time allocated by each TV and radio company for campaigning at the election of the President of the Kyrgyz Republic, deputies of the Zhogorku Kenesh of the Kyrgyz Republic shall not be less than one hour on working days. The total amount of the free of charge air time allocated by each local TV and radio company for campaigning at the election of the President of the Kyrgyz Republic, deputies of the Zhogorku Kenesh of the Kyrgyz Republic, at the elections for representative local government bodies shall not be less than 30 minutes on working days, in case the total amount of broadcasting time of a TV and radio company is less than two hours, it shall be not less than one fourth of the total amount of broadcasting time. The mentioned free of charge air time shall be distributed among the registered and present at the presentation candidates, political parties, election blocs on equal terms.
3. Not less than one third of the total amount of the allocated free of charge air time shall be provided to candidates, political parties, election blocs for holding mutual discussions, round table talks and other similar campaigning actions. All candidates, political parties, election blocs shall have equal access to utilization of this allocated free of charge air time.
4. TV and radio companies that come within the provisions of item 9 of Article 30 of this Code, according to the level of elections, shall reserve paid air time for campaigning conducted by candidates, political parties, election blocs. The mentioned air time shall be provided on a contract basis to a corresponding candidate, political party, election bloc for the payment upon their request. The amount of payment shall be the same for all candidates, political parties, election blocs and shall be published not later than the day when the nomination of candidates (lists of candidates) commences. And each candidate, political party, election bloc shall have the right to obtain from the total amount of reserved air time some time within the share received by means of dividing this volume by the total number of candidates, political parties, election blocs. The total amount of the reserved air time shall not be less than the total amount of free of charge time.
5. It shall be prohibited to interrupt the speeches of candidates or accompany them with any comments.
6. The regulation of the procedure for providing air time to candidates, political parties, election blocs on the channels of TV and radio companies that come within the provisions of item 10 of Article 30 of this Code shall be executed by the laws of the Kyrgyz Republic.
7. Irrespective to the form of ownership, all TV companies, which offer candidates, political parties, election blocs broadcast time, shall be obliged to conduct the same policies in regard to other candidates, political parties and election blocs in terms of equal prices, broadcast time, broadcast time amount and other conditions in the nearest air time.
8. The order, amount and time of radio and TV broadcasts, allocated to pre-election campaigning shall be established by election commissions on the agreement with the management of TV and radio companies and distributed in accordance with the principle of equality among candidates, political parties and election blocs.

#### **Article 33. Conduct of Campaigning through Print Media**

1. Periodical printed media that come within the provisions of item 9 of Article 30 of this Code and being distributed on the territory, where elections are conducted except for publications established by state authorities and local government bodies exclusively for publication of official information and materials, normative and other acts shall allocate printing area for the materials submitted by candidates, political parties, election blocs. The total minimum amount of such areas and correlation of its parts provided by periodical printed media free of charge out of the budget financing and on a paid basis shall be



established by the legislation of the Kyrgyz Republic. For specialized printed media (children's, technical, scientific and others) it shall be possible to refuse to publish any campaigning materials on condition that they in no form participate in pre-election campaigning.

2. Irrespective to the form of ownership, periodical printed media which offer candidates, political parties, election blocs publication space shall be obliged to conduct the same policies with regard to other candidates, political parties, election blocs (in terms of equal prices, volume and other conditions) in the nearest publications.

#### **Article 34. Campaigning by means of conducting mass actions**

1. State authorities, local government bodies shall be obliged to provide assistance to candidates, political parties, election blocs, gatherings of voters in organization of gatherings and meetings with citizens, public debates and discussions, rallies, demonstrations and marches, provide security when conducting mass actions.
2. Applications on providing premises for conducting of voters' meetings with candidates, their trusted persons, authorized representatives of political parties, election blocs shall be considered by state authorities and local government bodies the same day when an application is received.
3. Upon election commissions applications, the premises, suitable for conducting of mass actions that are in the state or municipal property, in the ownership of state companies, institutions and organizations, shall be provided free of charge to candidates, their trusted persons, political parties, election blocs for them to meet with voters within the established by an election commission time. In case the mentioned premises were provided for conducting of mass actions to one of the candidates, political party, election bloc, the owner of premises shall not have the right to refuse another candidate, political party, election bloc. And election commissions shall provide equal possibilities for candidates, political parties, election blocs in conducting of mass actions.

#### **Article 35. Distribution of Campaigning Printed Materials**

1. Candidates, political parties, election blocs shall have the right to issue campaigning printed materials. Fair drafts of campaigning printed materials or their copies shall be submitted to an election commission that registered a corresponding candidate (list of candidates) with an aim not to distribute the materials, that are in contradiction with the legislation.
2. All campaigning printed materials shall contain the names and addresses of organizations (full names and addresses of persons) that prepared the printed materials, the name and of the organization (full name of the person), that ordered printing of these materials, as well as the information on the volume and the date of their issue. Distribution of campaigning printed materials that do not contain the mentioned information shall be prohibited.
3. Campaigning printed materials can be posted in premises, on buildings, constructions and other objects by approval of their owners. It shall be prohibited to post the mentioned materials on monuments, obelisks and buildings of historic, cultural or architectural value and also inside election commissions' premises, at their entrances and in premises for voting.
4. Local government bodies upon a proposal of an election commission shall be obliged to specify on the territory of each district some place for posting campaigning materials. Candidates, political parties, election blocs shall be provided with equal conditions for posting such materials.
5. Any election commission notified about the distribution of forged campaigning printed materials or campaigning materials not containing the information, specified in item 2 of this Article, shall undertake measures to suppress such activity and shall have the right to apply to the corresponding law-enforcement and other bodies with a petition on suppression of illegal campaigning activity and to

confiscate illegal campaigning printed materials.

6. Candidates, political parties, election blocs have the right to use campaigning materials printed before appointment of elections, in accordance with the requirements of this article and within the frames of candidates, political parties, election blocs expenditures taken out of their election funds.

#### **Article 36. Inadmissibility of the Abuse of the Right to Hold Pre-Election Campaigning**

1. Election commissions shall control the observance of the established procedure of pre-election campaigning.
2. While holding pre-election campaigning it shall be prohibited to abuse the freedom of mass media: campaigning aimed at exciting social, racial, national hatred and antagonism, calling for seizure of power, to a violent change of the constitutional structure and to violation of the integrity of state, propaganda of the war and other forms of abuse of mass media freedom, prohibited by the legislation of the Kyrgyz Republic.
3. Candidates, their trusted persons, political parties, election blocs and their authorized representatives, and also other organizations that directly or indirectly participate in pre-election campaigning shall be prohibited: to bribe voters: pay them money, give them presents and other material valuables other than payment for some organizational work (duty at polling stations, collecting of signatures other technical service activity), undertake preferential sale of goods, distribute free of charge any goods except for printed, including illustrative materials, badges, specially produced for election campaign and also provide services free of charge or on preferential terms.
4. Candidates, political parties, election blocs, their authorized representatives and other persons and organizations shall not have the right to influence voters with promises to transfer them funds, securities (including those on the results of voting) and other goods and also to provide services on other terms than those specified by the law.
5. Candidates, their trusted persons, political parties, election blocs from the moment of their registration till the publication of the voting results shall not be involved in any charitable activity, including the one outside the constituency, in which the candidate was nominated.
6. Mass media, while participating in pre-election campaigns, shall not have the right to admit any publications that can damage dignity and business reputation of candidates if such mass media can not provide a possibility to a candidate to publish a refutation or other explanations to protect his/her reputation before the completion of the term of pre-election campaigning. Refutation or explanation shall be published in a special column or in the same column with the same fonts that were used for the publication in respond to which the refutation or explanation is being given. Refutation or explanation in periodical publications shall be given in the next publication, refutation or explanation for TV or radio presentations—in the next program from the day of receipt of a refutation or an explanation.
7. Any failure to provide before the completion of the term of pre-election campaign of a possibility for a candidate to publish a refutation or other explanations to protect his/her reputation in mass media that published the information that can damage a candidate's reputation can become the grounds for bringing a case against this mass media to the court.
8. In case a candidate, political party, election bloc violates item 2 of this Article an election commission and also other bodies, organizations and citizens shall have the right to appeal to court with a petition to cancel the candidate's (list of candidates) registration.
9. In case a candidate, political party, election bloc violates the specified by Article 30-35 of this Code, other rules on holding pre-election campaigning, an election commission shall have the right to apply to the appropriate law-enforcement and other bodies with a petition to suppress illegal campaigning

activity, while the election commission shall also have the right to cancel the decision on a candidate's (list of candidates) registration.

## **CHAPTER VII.**

### **ORGANIZATION AND THE PROCEDURE FOR VOTING**

#### **Article 37. Premises for Voting**

1. Premises for voting shall be provided by executive state authorities to the disposal of a precinct election commission free of charge.
2. The premises for voting shall have cabins or other specially equipped places for secret ballot, that shall have the system of lightning and writing matter but not pencils.
3. Any precinct election commission shall place a stand for posting information on all candidates, political parties, election blocs. The mentioned materials shall not contain campaigning appeals. On the stand there shall be placed the samples of filled in ballots that shall not contain the names of candidates registered in this constituency, names of political parties, election blocs
4. The premises for voting shall be equipped in such a way that the places for handing out ballots for elections, cabins and ballot-boxes shall be simultaneously within the field of vision of the members of a precinct election commission, observers.

#### **Article 38. Strike Off the Register Certificate for Voting at Elections**

1. In cases and according to the procedure specified by this Code, a voter that will not have a possibility to come to a voting place of a precinct election commission where he is included into the voters list, 15 to 1 day before the voting day, shall have the right to receive in a precinct election commission a strike off the register certificate for voting at elections, and participate in voting at an electoral area, where he/she is on the voting day.
2. The form of a strike off the register certificate shall be established by the Central Election Commission.

#### **Article 39. Ballot for Elections.**

1. In order to conduct elections a voter (elector) shall receive a ballot for elections, that is strict reporting document the level of protection of which shall be specified by the Central Election Commission. The number of ballots for elections shall not exceed the number of registered voters (electors) more than 0.5%
2. The form and text of a vote ballot, as well as ballot issuing procedure, their number and the requirements set up for their printing shall be approved by corresponding election commissions not later than 20 calendar days before the voting day. The ballot's text shall be placed only on one side of a ballot.
3. An election ballot shall contain in the alphabetic order the first, patronymic and last names of each candidate, the year of birth, place of residence, main place of work or service (occupation) of each candidate. In case of voting for lists of candidates, the election ballot shall include names of political parties, election blocs, as well as first, patronymic and last names, year of birth, employment positions (occupation), places of residence of the first three candidates out of the list in the order, determined by a casting of lots.
4. To the right of the information about candidates specified in item 3 of this Article, the name of a political party, an election bloc a blank square shall be placed. At the end of the list of candidates, names of political parties, election blocs the following sentence shall be placed: "Against all candidates" ("Against

the whole list of candidates") with a blank square placed to the right of it.

5. Ballots for elections shall be printed both in Kyrgyz and Russian not later than 10 calendar days before the day of voting. Each ballot for elections shall contain an explanation on the order of its filling.
6. Ballots for elections containing the name of the body to which these elections are being held, the number of a constituency or an indication on the single national constituency.
7. After the waste of ballots, a printing house shall transfer ballots to the members of the election commission, who ordered the production of ballots according to an act drawn up on that. After the ballots have been transferred, in the presence of not less than three election commission members, trusted persons of candidates, political parties, election blocs, the waste and unclaimed ballots shall be destroyed. An act on that shall be drawn up and signed by all present persons.
8. Election commissions shall transfer ballots for elections to subordinate election commissions, down to precinct election commissions inclusive, and an act on that, shall be drawn up. The Chairpersons of election commissions shall bear responsibility for the accuracy of ballot's transfer.
9. The transfer of ballots for elections to corresponding election commissions shall be carried out not later than 10 calendar days before the day of voting, and to precinct election commissions not later than 1 day before voting. The number of ballots for elections being transferred to a precinct election commission shall not exceed the number of voters, included into a voter list in an electoral area on the day of ballots transfer, more than for 0.5%.
10. In case some candidates (lists of candidates) withdraw after the ballots are printed precinct (territorial) election commissions upon an instruction of territorial election commissions shall cross out the information about the relevant candidates (lists of candidates).
11. The premises, in which ballots for elections are stored, shall be sealed and guarded by an internal affairs department.

#### Article 40. Voting Procedure

1. The voting in elections shall be conducted on a calendar week-end day from 7 a.m. till 8 p.m. local time. Precinct election commission shall through mass media or by other way inform the voters about the time and place of voting not later, than 15 days before the election date, in case of a pre-term voting or re-voting - not later than 10 calendar days before the day of voting.
2. Each voter shall vote personally, voting for the others shall not be allowed.
3. Election ballots shall be handed to voters, included in the voter lists upon presentation of a passport or a document identifying the voter's personality, and in case a voter votes using a strike off the register certificate, he/she shall also submit a strike off the register certificate.
4. When a voter receives a ballot for elections the series and number of his/her passport or other document, identifying his/her personality shall be specified in a voter list. A voter shall check the correctness of the record made and place his/her signature in a voter (election) list. In case a voter votes using a strike off the register certificate, some additional remarks shall be made in a voter list.
5. In precincts with less than 500 voters on the list, voters not presenting identification may vote providing they are on the voters' list, reside in the precinct and are approved by at least two members of the commission and permission of the chairperson. The approving members and chairperson should make a notation in the voters' list regarding these voters.

6. Any voter shall put a relevant sign in the square against the candidate (list of candidates), in whose benefit the choice is made, or next to the position "Against all candidates" ("Against all lists of candidates").
7. An election ballot shall be filled in by a voter in a specially equipped cabin or in a specially equipped place to where other persons shall not have an access.
8. In case a voter thinks that he made a mistake while filling in a ballot he shall have the right to address the member of the election commission, who issued a ballot to him/her and ask him to give him/her a new one instead of the wasted one. Election commission member shall issue such a voter a new ballot and make a relevant mark in the voters' list. The wasted ballot shall be canceled on which an act shall be drawn up.
9. Any voter, who does not have a possibility to sign for the receipt of a ballot personally, shall have the right to use the help of another voter, elector, who shall not be an election commission member, candidate, trusted person of a candidate, observer.
10. Filled in election ballots shall be put by voters into the sealed ballot-boxes.
11. Any election commission member shall be immediately dismissed from the participation in the work of a commission and an observer or other persons shall be taken out of the premises for voting if they try to hinder the work of an election commission, or execution by a citizen of the Kyrgyz Republic of his/her election right, or violate the confidentiality of voting. The decision on that shall be taken by a precinct election commission. And the commission shall have the right to apply to the corresponding bodies with a petition on calling such persons to the responsibility envisaged by the legislation of the Kyrgyz Republic.

#### Article 41. Early Voting Procedure

1. Any voter who does not have a possibility to come to the electoral area, where he/she is included on the day of elections, he/she shall have the right to vote earlier by means of filling in a ballot in the premises of a relevant territorial election commission 9 to 1 day before the voting day. The election commission shall provide the confidentiality of voting and exclude a possibility to distort voter's intention, safety of the ballot and taking into account the vote of the voter when the votes are summed up and the results of elections are determined.
2. Voter's ballot for elections shall be filled in by an early voting voter, put into an envelope and sealed. At the place, where the envelope is sealed the signatures of two members of the territorial election commission shall put their signatures, which shall be certified with the stamp of the territorial election commission and signed by the voter, who voted earlier.
3. The sealed envelope with ballots shall be stored with a secretary of the corresponding territorial election commission, in the premises of territorial election commission till the moment of transfer of all ballots to the precinct election commission.
4. On the voting day a Chairperson of a precinct election commission in the presence of other precinct election commission members, observers, other persons before the beginning of voting shall make an announcement on the number of voters who voted earlier and produce for inspection the sealed envelopes with ballots for elections and the list of voters who voted earlier. After that he shall open envelopes one by one and, observing the confidentiality of voter's intention, he/she shall put the ballots into a stationary ballot box. The number of voters who voted earlier shall be entered into the protocol on the results of voting before the voting starts and in the voter list against the names of voters there shall be an entry that he/she "Voted Earlier".

#### Article 42. The Voting Procedure for Voters Who Vote Outside the Premises for Voting

1. The voters, who were entered into voter lists, but can not come for voting because of the state of their health or due to some other reasons shall vote by the place of their stay. Precinct election commissions shall provide a possibility for voters to vote outside the premises.
2. Voting outside the premises for voting shall be held only on the day of elections and only upon a written request or verbal appeal. Application (appeal) can be made any time after the establishment of a precinct election commission but not later than 6 hours before the expiration of the voting time on the day of elections. The precinct election commission shall register all the submitted applications (appeals) with a special register. An application on providing a possibility to vote outside the premises for voting shall specify a reason due to which a voter can not attend the premises for voting and some information about the voter. When a verbal appeal is being registered, of an verbal appeal the time when the appeal was received shall be indicated and a signature of a commission member who received the appeal shall be put. During the visit of the commission members to a voter, his/her appeal shall be certified with a written application.
3. Voting outside the premises for voting shall be made by not less than two members of a precinct election commission who shall receive the necessary amount of ballots for elections against receipt and portable, previously sealed ballot boxes. The precinct election commission shall have available necessary amount of portable ballot boxes, but not more than three. Voting outside the premises for voting shall be made with participation of not less than two trusted persons and authorized representatives.
4. In his/her written application a voter shall specify the series and number of his/her passport or identifying his/her personality document and with his/her signature he/she shall certify that he/she received a ballot for elections. Election commission members shall certify the fact of ballot's issue with their signatures.
5. The series and number of passport or other document identifying the personality of a voter, who voted outside the premises for voting, shall be entered into a voter list and at the same time in voter list a relevant record "voted outside the premises for voting" shall be made.

## CHAPTER VIII

### ESTABLISHMENT OF THE RESULTS OF ELECTIONS

#### Article 43. The Protocol of a Precinct Election Commission on Voting Results

1. Precinct election commission shall compose a protocol on the results of voting at a corresponding constituency.
2. A protocol of a precinct election commission on the results of voting shall contain:
  - a) the number of a copy
  - b) indication of the level of elections;
  - c) the words "Protocol No.";
  - d) name of an election commission and the number of constituency.
  - e) protocol items:
    - 1) the number of voters entered into the list, including the voters, who were entered into the list in addition;
    - 2) the number of the ballots for elections received by an election commission;
    - 3) the number of ballots for elections handed to the voters who voted earlier;
    - 4) the number of canceled ballots for elections;
    - 5) the number of ballots for elections handed to voters at a polling station;
    - 6) the number of ballots for elections handed to voters who voted outside the premises for voting;
    - 7) the number of ballots for elections contained in portable ballot boxes;

- 8) the number of ballots for elections contained in stationary ballot boxes;
- 9) the number of valid ballots for elections;
- 10) the number of invalid ballots for elections;
- 11) the number of votes of voters, cast for each candidate (list of candidates) included into ballots for election;
- 12) the number of votes of voters, cast for the position "Against all candidates" ("Against all lists of candidates").

The protocol on the voting results shall also include the items:

- 13) the amount of strike off the register certificates for voting in elections, received by a precinct election commission;

- a) the amount of voters who voted at a polling station using strike off the register certificates;
- b) the amount of strike off the register certificates for elections, issued to voters by a precinct election commission before the voting day;
- c) the list of applications (appeals), acts and other documents, enclosed to a protocol;
- the family names and initials of a Chairperson; secretary and other election commission members and their signatures;
- d) date and time of the protocol signing;
- e) an election commission seal.

- 3. The numbers specified in item 2 of this Article shall be entered into the protocol on the results of voting in figures and words.

#### **Article 44. Procedure of Establishment of the Results of Elections and Compilation of the Protocol on the Results of Elections by Election Commissions.**

- 1. Counting of votes of voters shall be carried out openly and publicly by the members of a precinct election commission.
- 2. Counting of votes of voters, electors shall start immediately after the voting completion and shall be carried out without an interval till the results of voting are determined.
- 3. When the time of voting is expired the Chairperson of a precinct election commission shall make an announcement that only voters who are inside the premises for voting can receive the ballots for elections and vote. Before the precinct election commission members open ballot boxes they shall count and cancel unused ballots for elections in the presence of observers and other persons. Cancellation of unused ballots for elections shall be executed by way of cutting the right bottom corner of a ballot. The number of such ballots shall be announced and recorded in the Protocol on the voting results.
- 4. Than the Chairperson of a precinct election commission shall check the intact of the seals and stamps on portable ballot boxes, let the election commission members, observers and other persons inspect the boxes to ascertain their intact, and shall open the portable ballot boxes.
- 5. Precinct election commission members shall count ballots for elections and in accordance with the items of a protocol on the results of voting shall fill in the corresponding figures.
- 6. Direct counting of votes of voters, electors shall be carried out in specially allocated places equipped in such a way that all election commission members have an access to it. Election commission members, with an exception of the Chairperson and the Secretary of the election commission, shall be prohibited to use writing accessories in the course of vote counting. And all the present at counting shall be provided with a full field of view to watch the actions of the precinct election commission members.
- 7. Ballots that are not in conformity with the established form shall not be taken into account in the course of vote counting. The ballots shall be considered non conformable if their contents and/or the

form does not correspond to the text and form of the ballot, adopted in order, provided by the Article 39 of this Code.

8. First of all the counting of ballots for elections that are in portable ballot boxes shall be counted. The number of ballots that were taken out of them shall be announced and recorded in a relevant item of the protocol on the results of voting. In case it is discovered that the amount of votes in a portable ballot box exceeds the amount of voters' applications, containing the mark on the amount of the ballots received, upon a decision of a precinct election commission all ballots that are in this ballot box shall be announced invalid and a separate act shall be composed, that shall be enclosed to a protocol on the voting results and it shall contain the family names and initials of the election commission members, who conducted the voting out of the premises for voting.
9. Stationary ballot boxes shall be opened after being inspected to ascertain their stamps' (seals') intact.
10. A precinct election commission members shall sort ballots for elections taken out of portable and stationary ballot boxes according to the votes cast for each candidate (each list of candidates), at the same time separate ballots that do not correspond to the established form and invalid ballots. And election commission members shall announce the contained in ballots for elections voter's marks and submit ballots for a visual control to all persons present at the counting procedure.
11. Then the counting of votes of voters on the ballots of the established form shall be performed.
12. Invalid ballots shall be counted and summed up separately. Invalid shall be considered ballots by which it is impossible to state the intention of a voter, elector. In case of doubts when admitting a ballot invalid a precinct election commission shall solve the issue by voting, and specify the reasons for the ballot's invalidity on its reverse side.
13. A precinct election commission members shall count the number of valid ballots and enter it into in the item of the protocol on the voting results, then they shall count and record in the protocol on the voting results the amount of ballots of the established form which are in stationary ballot boxes.
14. After that observers under the control of election commission members shall have the right to familiarise themselves with the sorted ballots.
15. Then the checkup of control correlation of the data entered into the protocol on the voting results shall be performed. In case the control correlation do not coincide, a precinct election commission shall take a decision on re-counting on all or some items of the protocol on the results of voting.
16. After compilation of the protocol on results of voting, election ballots shall be packed in special packages, sealed by precinct election commission and signed by the members of precinct election commission, authorized representatives of candidates, political parties and election blocs.
17. The protocol on the voting results shall be filled in and signed in three copies by all the present members of a precinct election commission with the indication of the date, time (hour and minute) of its signing. The protocol shall be considered valid if it is signed by the majority of the election commission members. When signing the protocol the members of a precinct election commission, who do not agree with its tenor, shall have the right to express their particular opinion and enclose it to the protocol, on which a relevant record shall be made.
18. Upon signing the protocol by precinct election commission, results of the vote shall be immediately announced for precinct election commission members, observers, representatives of mass media and other individuals.
19. The first master copy of a protocol on the voting results upon its signing, along with the voting documentation, including ballots for elections, the resolutions made on them, the acts, made up by precinct election commissions, shall be immediately sent to the superior election commission.



20. The second copy of the protocol along with the seal of a precinct election commission shall be kept by a secretary of the precinct election commission until the work of the election commission is completed.
21. The third copy of the protocol (its copy) shall be posted for public acquaintance in the place, established by a precinct election commission.
22. Other copies of the protocol shall be given to authorized representatives of candidates.
23. Upon a request of any interested person a precinct election commission after signing of the protocol on the results of voting shall be obliged to hand a certified copy of the protocol on the results of voting to the mentioned persons or provide them with a possibility to make a copy and certify it.

#### **Article 45. The Procedure for Establishment of Elections Results by Superior Election Commissions**

1. The top copies of protocols on the results of voting of precinct election commissions immediately after their signing by election commission members shall directly be filed within a superior election commission, including the election commission, that determines the results of corresponding elections
2. After a preliminary reviewing of the accuracy of composing the protocols on the results of voting, a superior election commission by means of summing up the data shall determine the results of voting on a relevant territory. On the results of voting a superior election commission shall compose a protocol with the filled in data on the number of direct subordinate election commissions, the received protocols, based on which a protocol on the voting results shall be composed and the summed up data on the items of protocols of precinct election commissions.
3. The protocols of all election commissions shall be composed in three copies and signed by all present election commission members. The protocols shall be enclosed with composed in two copies summary table on the voting results on a relevant territory, special opinion of the election commission members; received claims (applications) and the adopted on them resolutions.
4. The top copy of an election commission protocol immediately after signing together with the top copy of a summary table shall be filed straight within the direct superior election commission.
5. The duplicate of the protocol together with all election documentation shall be kept by a secretary of the mentioned commission in a guarded premises prior to be sent to the archive.
6. The third copy of the protocol (its copy) shall be posted for the public familiarisation in the place, allocated by the election commission.
7. In case after signing of a protocol on the voting results and (or) summary table and filing of its first copies with a superior election commission, an election commission that filed the protocol and the summary table discovers an inaccuracy in them it shall have the right to discuss an issue of making adjustments in the protocol and (or) the summary table at its meeting. The commission shall inform its members, observers, other persons present at the composition of the approved earlier protocol and mass media about the resolution made. In this case the election commission shall compose a protocol marked as "Repeated". The mentioned protocol shall be immediately filed with a superior election commission.
8. In case after signing the protocol on the results of elections and (or) summary tables and submission of their top copies to superior election commission, discrepancies are being discovered in protocols and (or) summary tables on the results of voting or doubts occur concerning the correctness of the composition of a protocol and (or) summary tables filed by subordinate election commissions, this election commission shall have the right to consider on its meeting the issue of including clarifications in the protocol and (or) summary table. Election commission shall be obliged to inform its members, observers and other individuals who were present at compilation of the previous approved protocol, and

representatives of mass media. In this case election commission shall compose a protocol marked as "Repeated". The protocol shall be immediately filed with a superior election commission.

9. When mistakes, disparity in protocol and (or) summary tables are revealed or any doubts in correctness of the composition of a protocol appear, superior election commission has the right to take the decision on conducting recount of votes of voters by subordinate election commission. Recount of votes is conducted in the presence of a member (members) of superior election commission. Upon recount a protocol on the results of the recount of votes of voters marked as "Recount of votes" shall be composed by the election commission. The protocol shall be immediately filed with a superior election commission.

#### Article 46. The Procedure for Establishment of Results of Elections

1. The election commission authorised by this Code shall determine the results of elections on the basis of protocols filed directly by subordinate election commissions by way of summing up the included into them data. Members of the mentioned commission shall personally determine the results of elections.
2. Superior election commission shall compose a protocol on the results of elections that shall include the data on filed protocols, based on which the results of elections and a summary table on the summed up data of precinct election commissions protocols shall be determined, data on the amount of direct subordinate election commissions shall also be included.
3. Elections shall be declared by a corresponding election commission as invalid in cases:
  - when the number of voters participated in them was less than that established by the relevant articles of the Special Part of this Code;
  - when none of the lists received the number of votes sufficient for taking part in distribution of mandates.

The number of voters who participated in voting shall be determined by the amount of voters' signatures in voter's lists.

4. The corresponding election commission shall declare the results of voting, elections invalid:
  - a) in case the violations made in the course of voting and establishment of the voting results do not allow to reliably establish the results of voters' or electors' intention;
  - b) if in the course of preparation, conduct of elections or votes counting, resuming and determination of the voting results any violations that influenced the results of elections took place.
  - c) in case they were declared invalid on not less than one third of the amount of polling stations;
  - d) upon a court decision.
5. If in the course of voting at some polling stations some violations of this Code were made, that do not allow to reliably establish the results of voters' intention, in such polling stations a re-voting shall be held within 2 weeks from the day of elections.
6. The terms and procedure for keeping and filing documents related to the preparation and conduct of elections with an archives shall be approved by the Central Election Commission.

#### Article 47. Repeat Elections

1. In case elections are declared as not taken place, invalid or none of the political parties, political blocs is admitted to the distribution of mandates in the single national constituency repeat elections shall be called. Nomination and registration of candidates (lists of candidates) for elected positions, other actions on elections shall be executed according to the procedure specified by this Code. In case of re-elections,

the terms of election actions, established by this Code, shall be reduced by one third. The information on re-elections to be held shall be published in mass media.

2. In case of conducting candidates' (lists of candidates) repeat elections for elected positions, the candidates whose actions (failure to act) became the basis for declaration of elections invalid shall not again be nominated.
3. Establishing of facts, when actions or failure to act of candidates, political parties, election blocs have become the basis for declaration of elections invalid, is performed in court order.

#### **Article 48. Publication of the Results of Voting and the Results of Elections**

1. The voting results on each polling station, territory that is covered with the activity of an election commission; the results of elections for constituency in the volume of items contained in a protocol of a corresponding election commission and direct subordinate election commissions shall be submitted for familiarising to voters, candidates, political parties, election blocs, their trusted persons, observers, foreign (international) observers, mass media representatives upon their requests.
2. Election commissions that carried out registration of candidates (lists of candidates), shall send general information on the results of elections in a constituency to mass media within a day after establishment of the results of the elections.
3. Official publication of the results of elections and the information on the amount of votes of voters cast for each candidate (list of candidates), votes cast against all candidates (lists of candidates) shall be executed by a corresponding election commission but not later than one month from the voting day.
4. Election commissions of all levels, with the exception of precinct election commissions, shall publish the information that is contained in protocols of an election commission of a corresponding level on the results of voting and the results of elections, and the data, contained in protocols of direct subordinate election commission on voting results, on the basis of which election results were determined in corresponding election commissions. Official publication of the complete data on the results of elections shall be carried out within two months from the voting day.

#### **Article 49. The Use of Automated Informational System "Shailoo"**

1. In case an information computer system is utilized in the course of elections and election commission shall establish a group out of election commission members to control utilization of an information computer network. All election commission members shall have a right to get familiarized with any information entered into and taken out of an information computer network.
2. From the moment of starting of the voting till the moment of signing of a protocol by the Central Election Commission an information computer network shall be utilized exclusively for the observation of the course and the results of voting by means of filing of information of subordinate election commissions with superior election commissions.
3. In the course of the time it shall be prohibited to transfer any information from information centers of superior election commissions to information centers of subordinate election commissions except for the signals confirming the acceptance of the information.
4. The data on the course and results received through an information computer network shall be a preliminary information that does not have legal importance.
5. The text of printed by computer information that contains information on the entered into an information computer network shall be enclosed to a protocol of an election commission kept by an election commission secretary. The authenticity of the printed by a computer information shall be certified with

signatures of members of the group to control the utilization of an information computer network and a person responsible for entering of an information.

## **CHAPTER IX**

### **FINANCING OF ELECTIONS**

#### **Article 50. Financing of Preparation and Conduct of Elections**

1. The expenditures of election commissions on the preparation and conduct of elections shall be covered from the funds of the republican budget and special funds of election commissions.
2. Election commissions expenditures shall be specified as a separate item in a state budget. The funds for conducting elections shall be transferred to the disposal of election commissions within a ten calendar days period from the day of announcement of elections and shall be distributed by them among subordinate election commissions.
3. In case if financing of elections is not performed for account of the state budget and in case of untimely transfer of funds to an election commission that was authorized to administrate the activity of subordinate election commissions in preparation and conducting of corresponding elections, the said expenses shall be covered by bank loans that are provided to the election commission on a tender basis. And the allowed volume of funds shall not exceed the amount specified in a report of an election commission of a corresponding level on expenditure of funds in the course of preparation and conducting of similar previous elections taking into account a change of the established by the law minimum salary amount.
4. Depending on the level of elections, the received loans, including the interest, shall be refunded from the state budget by the Government of the Kyrgyz Republic, for which the loans are liabilities to be paid back within the period not exceeding two years. When adopting the budget for a year following the year of conducting the mentioned elections the Zhogorku Kenesh of the Kyrgyz Republic shall foresee the payment of such loans as a separate item in the budget, being adopted by them. The return of loans shall be guaranteed by the budget in accordance with this Code without the adoption of a decision on providing a guarantee.
5. Assets incoming to the special fund of an election commission shall be disposed for preparation and conduct of elections.
6. Financial reports of the Central Election Commission, subordinate election commissions on the use of funds of the republican budget and special funds for elections shall be submitted accordingly to the President of the Kyrgyz Republic, the houses of the Zhogorku Kenesh of the Kyrgyz Republic.
7. Chairpersons of election commissions shall dispose the funds and bear responsibility for the compliance of financial documents with decisions of election commissions on financial issues.

#### **Article 51. Election Funds**

1. The citizens nominated as candidates shall create their own election funds for the financing of pre-election campaigning upon a written notification of a district election commission on the beginning of collecting of voters' signatures in support of these candidates. Political parties, election blocs, who nominated lists of candidates, shall be obliged to establish election funds after their authorized representatives are registered with the Central Election Commission. In case candidates (lists of candidates) are not registered, the funds received by election funds shall be returned to organizations and persons who made donations and transfers. The registered candidates (lists of candidates) shall continue keeping open accounts of their own election funds for financing of pre-election campaigning. Candidates, registered only within the list of candidates, nominated by political parties, election blocs shall not have the right to create personal election funds.

2. The election funds of candidates, political parties, election blocs can be established from the following sources:

- personal funds of a candidate, a political party, an election bloc;
- funds allocated to a candidate by the nominating him political party, election bloc;
- voluntary donations of legal entities and individuals.

3. Voluntary donations to election funds shall not be made by:

- foreign states, companies, organizations, citizens;
- persons without citizenship;
- international organizations;
- legal entities with foreign participation;
- state authorities and local government bodies;
- state and municipal institutions and organizations;
- legal entities having state and municipal share in their authorized capital and also enjoying benefits in payment of taxes and fees;
- military units;
- law-enforcement bodies, courts;
- charitable organizations;
- religious associations;
- anonymous donations.

4. The Special Part of this Code shall establish the extreme amounts of directed to election funds candidate's own funds, funds allocated to a candidate by a nominated him/her political party, election bloc, voluntary donations of citizens and legal entities as well as the extreme amount of election funds expenditures. The funds directed to candidates', political parties', election blocs' election funds shall be calculated based on the minimum monthly salary amount established by the Law of the Kyrgyz Republic as on the election day. Monetary funds received in excess of the established amount, shall not be included into the election funds and shall be returned to citizens and organizations. And the expenses connected with the return of the mentioned contributions shall be covered at the expense of the citizens and organizations, who contributed the funds.

5. All the funds that make up an election fund shall be transferred to a special bank account. This account shall be opened by a candidate, political party, election bloc upon a permission of a corresponding election commission. The monetary funds directed to election funds shall only be excepted in the national currency. Income on these accounts shall not be accrued and paid.

6. For elections of the President of the Kyrgyz Republic, the deputies of the Zhogorku Kenesh of the Kyrgyz Republic the procedure for establishment, keeping of the mentioned accounts, accounting and reporting on the election funds shall be established by the Central Election Commission on an agreement with the National Bank of the Kyrgyz Republic. For elections to local government bodies the procedure for establishment and keeping the mentioned accounts, accounting and reporting on the election funds shall be established by a corresponding election commission on an agreement with the regional branches of the National Bank.

7. The right to dispose funds of election funds shall belong to the candidates, political parties, election blocs, who established them.

8. The funds of election funds shall be goal-oriented. They can only be used to cover expenses connected with conducting a pre-election campaign.

9. Election funds can be used for:

- financing organizational-technical measures aimed at collecting of signatures in support of a candidate's (list of candidates) nomination;

- pre-election campaigning;
  - payment for accomplished (provided) by citizens work (services) directly connected with conducting of pre-election campaign;
  - payment for renting premises, equipment, business-trip expenses, communication services, purchase of stationary and payment for other expenses directly connected with conduct of pre-election campaign.
10. Citizens and legal entities shall have the right to provide financial (material) support to the activity, promoting a candidate's (list of candidates) election only through election funds. Legal entities, their subsidiaries, representation offices shall be prohibited to provide works, services, sale of goods, directly or indirectly related to elections either free of charge or unreasonably low prices.
  11. Candidates, political parties, election blocs shall be prohibited to use other than the directed to their own election funds resources for the payment of works connected with collecting of voters' signatures, conduct of pre-election campaigning, carrying out other pre-election actions. If a candidate, political party, election bloc in the course of collecting signatures or pre-election campaigning, other pre-election actions beside the funds out of his/her own election fund also used other resources, a corresponding election commission shall be authorized to cancel its decision on a candidate's (list of candidates) registration. In case the mentioned violations were discovered after publication of the results of elections, an election commission shall be authorized to apply to court with a petition to announce candidate's (list of candidates) election as invalid.
  12. Upon a requirement of an election commission, banking institutions shall periodically file an information on the directed and spent resources of this candidate's, political party's, election bloc's account with an election commission that registered this candidate (list of candidates).
  13. From the moment of election funds' establishment and till the day of voting a corresponding election commission shall periodically send to mass media for publication the information on transferred to and spent funds of election funds. Mass media specified in paragraph 9 of Article 30 of this Code shall be obliged to publish the mentioned information within three days from the moment of receiving them using the funds of current financing.
  14. In case a candidate's withdrawal, recall of a list of candidates by a political party, election bloc or cancellation of a candidate's (list of candidates) registration, the transferred to an election fund resources shall be immediately returned to the contributed them citizens and organizations. And the expenses related to the return of the contributed funds shall be covered at the expense of the contributed the funds citizens and organizations.
  15. Any contracts or agreements on payment from special accounts of candidates, political parties, election blocs shall not be concluded later than on the day before the election day.
  16. In case of repeat elections of the President of the Kyrgyz Republic, transactions on candidates' bank accounts can be prolonged upon a written permission of the Central Election Commission.
  17. Any candidate, political party, election bloc shall file with a corresponding election commission a report on the amount and all resources of the established by him/her/its fund and the expenditures made not later than 30 calendar days after publication of the results of elections. Copies of the mentioned reports shall be transferred by election commissions to mass media for publication not later than three calendar days after they were filed.
  18. Any candidate, political party, election bloc shall transfer a balance, remaining on a special account, to the accounts of citizens and organizations, that made donations or transfers, in proportion to the amount of the directed by them funds. The balance of the funds on the special account of a candidate, political party, election bloc shall be wire transferred by the bank under the order of the election commission to the relevant budget after expiration of 60 calendar days from the day of voting.

19. The procedure for taxation of election funds' resources, voluntary donations and transfers to the mentioned funds shall be established by the Laws of the Kyrgyz Republic.

#### **Article 52. Control over the Spending of Funds Allocated for Conducting of Elections**

1. Control over the procedure of establishment and spending of resources of candidates', political parties', election blocs' election funds shall be carried out by election commissions.
2. Control over the targeted disposal of funds allocated to election commissions for the preparation and conducting of elections and also control over the sources of funding, correct accounting and spending of resources of election funds in order to audit financial reports of candidates, political parties, election blocs shall be carried out by an Audit group established under the Central Election Commission. The procedure for organization and activity of the Audit group shall be specified by the Central Election Commission.

### **CHAPTER X.**

#### **THE GUARANTEES OF FREEDOM OF ELECTIONS**

##### **Article 53. The Activity of State Bodies on Ensuring Freedom of Elections**

1. During preparation and holding of elections, public prosecutor and internal affairs bodies shall ensure strict observance of requirements of the Constitution, this Code, Laws of the Kyrgyz Republic.
2. The day of voting and the previous day - shall be a working day for courts, public prosecutor office and internal affairs, as well as for organizations on the exploitation of housing stock.
3. The internal affairs bodies and organizations on the exploitation of housing stock shall be obliged to offer assistance that may be requested by election commissions for:
  - 1) ensuring public order at voting;
  - 2) on specification of voters lists;
  - 3) on other questions arising on the day of voting in the activity of election commissions.

##### **Article 54. The Appeal of Decisions and Actions (Failure to act) of Election Commissions Violating Election Rights of Citizens of the Kyrgyz Republic**

1. Decisions and actions (failure to act) of election commissions and their officials violating citizens' election rights can be appealed to a superior election commission.
2. Decisions and actions (failure to act) of election commissions can be appealed to:
  - precinct election commissions—to territorial election commissions
  - territorial election commissions—to oblast, Bishkek city election commissions
  - oblast, Bishkek city election commissions—to the Central Election Commission
3. Decisions and actions (failure to act) of election commissions for elections of deputies to the Legislative and the People's Representatives Assemblies of the Zhogorku Kenesh of the Kyrgyz Republic can be appealed to:
  - precinct election commissions—to territorial election commissions
  - territorial election commissions—to the Central Election Commission
4. Decisions and actions (failure to act) of election commissions for elections of the President of the Kyrgyz Republic can be appealed to:

-precinct election commissions—to rayon, city election commissions  
-rayon, city election commissions—to oblast, Bishkek city election commissions  
-oblast, Bishkek city election commissions—to the Central Election Commission

5. Decisions and actions (failure to act) of election commissions and their officials violating citizens' election rights can be appealed to a superior election commission within the period stipulated by this Code and within 3 months after the publication of election results. Failure to meet this time requirements shall result in non-consideration of the appeal.
6. Superior election commission, the Central Election Commission have the right to take decision on the essence/content of appeal.
7. Preliminary appeal to a superior election commission, the Central Election commission shall not be considered as an obligatory requirement for appeal to a court.

**Article 55. Judicial Procedure of the Appeal of Decisions and Actions (Failure to act) Violating Election Rights of Citizens of the Kyrgyz Republic**

1. Decisions and actions (failure to act) of state-bodies, bodies of local self-government, public associations and officials, and also decisions and actions (failure to act) of election commissions and their officials violating election rights of citizens, can be appealed to a court.
2. Decisions and actions (failure to act) of election commissions shall be appealed to rayon (city) court located in the place of functioning of given election commission.
3. In case of simultaneous appeal to a court and election commission and the appeal is accepted for consideration by a court, election commission shall suspend consideration of the appeal until the court decision comes into legal force. A court shall notify election commission on received appeal.
4. The court decision shall come into legal force from the moment of its announcement and shall be obligatory for implementation by state-bodies, bodies of local self-government, public associations, election commissions and officials.
5. Any voters, electors, candidates, their trusted persons, authorized representatives, political parties, election blocs, public associations, gatherings of voters, observers and election commissions can appeal the decisions and actions (failure to act) violating citizens' election rights.
6. In cases provided by this Code, by the Laws of the Kyrgyz Republic the court can cancel a decision of a corresponding election commission on the results of voting or elections, or other decision of the election commission.
7. The decisions on complaints of the filed in the course of preparation of elections shall be accepted within a three-day period but not later than a day prior to the voting day; and on the voting day or on the day following the voting day - immediately. The decisions on complaints on the registration refusal shall be excepted within a five-day period. In case the facts of a complaint require some additional reviewing, the decisions on them shall be taken not later than 5 days. When a complaint is filed on a decision taken by an election commission on the results of voting, elections the court shall take a decision not later than 10 days period from the day of filing of a complaint.
8. Court shall have the right to take decision in the absence of one of the interested parties (non-appearance) after two notifications.
9. Courts and bodies of the office of prosecutor shall arrange their work (including vacation days) in the way that provides timely consideration of the appeals.



10. The decision of rayon (city) court that became *rea judicata* can be considered by the Supreme Court of the Kyrgyz Republic as judicial directorate within 5 calendar days from the moment of appeal.
11. Directorate appeal on the decision of court shall be brought through corresponding court which took the decision. Submission of the appeal directly to the Supreme Court of the Kyrgyz Republic shall not hinder consideration of the appeal.
12. A decree issued by the Supreme Court of the Kyrgyz Republic shall become *rea judicata* from the moment it was passed, and shall be final and unappealable.
13. Decisions and actions (failure to act) of state-bodies, bodies of local self-government, public associations, election commissions and their officials can be appealed to a court in the period stipulated in this Code, and within 3-month period after publication of election results. After expiration of this period the appeal shall not be considered.

**Article 56. The Grounds for the Cancellation of Candidate's ( List of Candidates) Registration, Cancellation of an Election Commission Decision on the Results of Voting, Elections..**

1. Registration of a candidate (list of candidates) can be cancelled (annulled) in case:

- violation of the procedure for nomination, registration of candidates (list of candidates);
- violation of the procedure for holding of pre-election campaigning and financing of elections;
- candidates, their authorized persons, leaders of political parties, their blocs, public associations make use of their official or business position with the aim to be elected;
- discovery of the facts of voters', electors' bribing by candidates, their trusted persons, members of political parties, public associations, other interested persons and organizations acting with the aim of elections of certain candidates;

2. In case after a corresponding election commission determines the results of voting or determines the results of elections the court discovers that the violations mentioned in item 1 of this Article took place and that prevents to be assured in establishment of voters' intention, it may cancel the decision of an election commission on the results of voting, the results of elections.
3. The court of a corresponding level can cancel a decision of an election commission on the results of voting, the results of elections at a polling station, territory and an constituency, the Kyrgyz Republic as a whole and in case of violations of the procedure for composing voters' lists, procedure of establishment of election commissions, the procedure of voting and vote accounting (including hindrance of observation of its conducting), establishment of the election results and other violations of the election legislation if such actions (failure to act) prevent from being assured in establishment of voters' intention.
4. Cancellation by the court of decisions of precinct election commissions on the results of voting by more than one third of polling stations shall lead to announcement of elections as invalid in an constituency, in the Kyrgyz Republic as a whole.

**Article 57. Consequences for the Violation of the Election Rights of Citizens**

Persons:

- 1) who by means of violence, fraud, threats, forgery or by another manner interfering with free implementation by the citizen of the Kyrgyz Republic of the right to elect and to be elected, or violating the confidence of voting, the right of citizens to get familiarized with a voter (elector) list, or force citizens or prevent them from putting their signatures in support of a candidate (list of candidates), as well as persons involved in forgery of signatures or bribing of voters;

2) making use of their official or business position with the aim of election, or having failed to timely obtain or clarify information on the registered voters (voter lists) before filing of the mentioned information within corresponding election commissions, or violating the procedure of financing of elections, including persons delaying transfer of funds to an election commission, to candidates, political parties, election blocs, or those who have handled ballots for elections to citizens in order to provide them with a possibility to vote for the others; or those who have committed forgery of election documents, have composed and issued deliberately false documents, have performed deliberately wrong calculation of votes or establishment of the results of elections, have failed to submit or failed to publish the results of voting thus failing to fulfil their responsibilities;

3) spreading deliberately false information on candidates or committing other actions, damaging the dignity of candidates; or violating the rights of election commission members, observers, foreign (international) observers, trusted persons of candidates, political parties, election blocs, mass media, including the right to obtain timely information and copies of election documents, or violating the rules for conducting of a pre-election campaigning, including those who conduct campaigning on the day previous to the voting day and on the voting day; or preventing or illegally interfering into the work of election commissions in the course of execution of their responsibilities; or fail to submit or fail to publish the reports on spending of funds on preparation and conducting of elections, financial reports on spending of candidates', political parties', election blocs' funds and financial reports on spending of budget funds allocated for conducting of elections, and also employers who refused to provide the foreseen by the Law vocation for participation in elections shall bear criminal, administrative or other responsibility in accordance with the Laws of the Kyrgyz Republic.

## II. SPECIAL PART

### CHAPTER XI.

#### THE ELECTION OF THE PRESIDENT OF KYRGHYZ REPUBLIC

##### Article 58. The Appointment of the Elections of the President of the Kyrgyz Republic.

1. The President of the Kyrgyz Republic is elected for the term of five years.
2. The same person can not be nominated for position of the President of the Kyrgyz Republic more than two terms of office consecutively.
3. Any citizen of the Kyrgyz Republic not younger than 35 and not older than 65 year old, speaking the state language, and having lived in the Republic not less than 15 years before being nominated as a candidate can become the President of the Kyrgyz Republic.
4. Two months prior to the day of completion of the President's terms of office, new elections of the President of the Kyrgyz Republic shall be held.
5. Elections of the President of the Kyrgyz Republic shall be nominated by the People's Representatives Assembly of Zhogorku Kenesh of the Kyrgyz Republic not later than four months prior to the day of elections.
6. On the President's termination of the execution of his powers prior to the end of the Constitutional term in cases and according to the procedure stated in the Constitution of the Kyrgyz Republic, the Assembly of the People's Representatives of Zhogorku Kenesh shall appoint extraordinary elections of the President of the Kyrgyz Republic. In this case the day of elections shall be the last Sunday prior to the expiration of three months from the moment of the pre-term completion of the execution of the authorities by the President of the Kyrgyz Republic. In this case, the terms of election actions, established by this Code, shall be reduced by one fourth.

7. The resolutions of the Assembly of the People's Representatives on appointment of the day of elections of the President of the Kyrgyz Republic shall be officially published in mass media within two days.
8. In case the People's Representatives Assembly does not call presidential elections in the period stipulated in items 5,6 of this Article, presidential elections shall be considered as not called. Within 2 calendar days the Central Election Commission shall officially publish the date of presidential elections in the mass media and conduct elections in the period stipulated by this code.

#### **Article 59. Organization of Elections of the President of the Kyrgyz Republic**

The preparation and conducting of elections of the President of the Kyrgyz Republic shall be performed by:

the Central Election Commission;  
oblast and Bishkek city election commissions;  
rayon, city election commissions;  
precinct election commissions.

#### **Article 60. Nomination of a candidate for the President of Kyrgyz Republic.**

1. Candidates shall be nominated for President at the Republican congress (conference) of a political party, election bloc that can be attended by a member of the Central Election Commission.
2. Meeting of voters shall nominate a candidate for the President. The meeting shall be deemed authorized to make a decision if not less than 100 voters are present. The procedural issues of conducting such meeting shall be determined by the meeting itself.
3. Political parties, election blocs, meetings of voters shall be authorized to nominate only one candidate for a position of the President of the Kyrgyz Republic.
4. Decisions of political parties, election blocs on the nomination of a candidate for a position of the President of the Kyrgyz Republic shall be taken by a secret ballot.
5. Self-nomination of a candidate for the President shall be made by means of filing of an application on his/her intention to run as a candidate for the position of the President of the Kyrgyz Republic with the Central Election Commission.
6. Nomination of candidates for the President of the Kyrgyz Republic shall end 60 days prior to

#### **Article 61. Knowledge of the State Language of the Kyrgyz Republic by a Candidate who runs for the position of the President**

1. Citizen of Kyrgyz Republic who speaks the state language can be elected as the President of Kyrgyz Republic.
2. Knowledge of the state language means the ability to read, write, express thoughts/ideas and make public speeches in the state language.

#### **Article 62. Gathering of Signatures in Support of a Candidate for the President**

1. Any candidate for the President must be supported by not less than 50 thousands of voters' signatures. And one oblast or the city of Bishkek should contribute not less than 3% of the required number of signatures.

2. The collection of signatures shall be carried out from the moment of receiving of registration certificates by candidates' authorized representatives.
3. The number of authorized representatives of a candidate for the position of the President of the Kyrgyz Republic should not exceed 50 persons.
4. Signatures may be collected only among the eligible voters. Signature collection is conducted at places of work, study, residence, rally events and other sites where campaigning and signature collection is not forbidden by this Code. Participation of the management of companies and organizations in signatures' collection as well as putting pressure during the signature collection process and providing any bonuses for signatures shall not be allowed. Collection of signatures during the process and at the place of salary delivery is forbidden. Serious or repeated violation of these prohibitions may become the basis for election commissions or the court to annul the results and/or registration of the candidate.
5. Signature collector shall be an adult person and shall be an eligible citizen of Kyrgyzstan.
6. Each of the candidate's supporting signature list must have columns with full name, date of birth, place of work and position of the candidate.
7. Voters by their own hands shall fill in their full name, address, age and date of putting a signature (at the age of 18 voters shall additionally specify the date and month of birth). Voters can put their signatures in support of different candidates, but only one signature in support of one and the same candidate.
8. Each signature list must be verified by the collector him/herself saying that the information is true and correct, shall have full name, number and series of his/her passport or other replacing it document, and the name of the place where signatures were collected.
9. Signature lists are produced in the format approved by the Central Election Commission.
10. Filled-in, collected and numbered signature lists in support of a candidate for president shall be filed with an oblast, Bishkek city election commission not later than 50 days. The commissions check authenticity of signatures with assistance of registration services within five days. During the reception of signature lists the election commissions shall stamp each list and give a certificate specifying the number of signatures and date and time of reception. Verification of signatures may be carried out randomly (selected through casting lots) or totally.
11. During each verification of signatures each signer must be notified. All candidates who presented the established number of signatures or their representatives can be present during verification including selection done through casting lots. Those signatures that are in signature lists but had been crossed out by candidates or their representatives before they were filed with an election commission shall not be checked or accounted if they specially mentioned that. After verification of signatures, lists must be returned to candidates or their representatives to submit to the Central Election Commission.
12. After verification the election commission makes a corresponding protocol and files it with the Central Election Commission.
13. Signature lists are not effective if the above mentioned requirements are not followed.

**Article 63. Registration of candidates for the position of the President of the Kyrgyz Republic.**

1. In order to be registered a candidate for the President or his authorized representative not later than 45 days prior to the elections day shall submit to the Central Election Commission documents specified in item 4, Article 26 and items 1, Article 27 of this Code, as well as a document verifying the fact that the candidate has made an election deposit.

2. The Central Election Commission shall review the compliance of a candidate's nomination procedure with the requirements of the Constitution and this Code and register a candidate for the President of the Kyrgyz Republic or issue a motivated decision on the refusal to register within 10 calendar days from the moment of receiving of the documents.
3. A candidate for the president shall deposit personal funds in the amount of 1000 minimum salaries to the special account of the Central Election Commission in the form of election deposit prior to registration and after the review of submitted documents. Election deposit shall be returned to the candidate after the elections if he receives not less than 10 % of the votes of voters who participated in voting.
4. Registration of candidates for the President shall end 35 days prior to the day of elections.
5. The Central Election Commission shall inform the person who is refused to register as a candidate for the President. The mentioned decision can be appealed in a court of the Kyrgyz Republic within 5 days.

**Article 64. Election Fund of a Candidate for the President of the Kyrgyz Republic**

1. Any candidate for the President of the Kyrgyz Republic shall establish his/her own election fund for financing his/her pre-election campaign according to the procedure established by the General Part of this Code.
2. Election funds may be formed by the following assets:
  - candidate's own funds, that shall not exceed 15000 minimum salaries;
  - funds allocated to a candidate by a nominated him/her political party, election bloc, which shall not exceed the amount of 50 000 minimum salaries;
  - charitable donation of individuals, which shall not exceed the amount of 50 minimum salaries;
  - charitable donation of legal entities, which shall not exceed the amount of 2000 minimum salaries.

The maximum limited amount of candidate's expenses out of his/her election fund shall not exceed the amount of 400 000 minimum salaries.

**Article 65. Summing up and Establishment of the Results of Elections of the President of the Kyrgyz Republic**

1. On the basis of protocols of precinct election commissions, superior election commissions at their meetings shall sum up the results of elections of the President of the Kyrgyz Republic on their territories and immediately file them directly with a superior election commission.
2. Based on the protocols of oblast, Bishkek city election commissions the Central Election Commission shall determine the results of elections of the President of the Kyrgyz Republic not later than within a five-day period after the day of elections and shall transmit them to the Constitutional Court of the Kyrgyz Republic.
3. If less than half of the voters entered into the voter lists have participated in the elections, such elections shall be considered to have not taken place.
4. Any candidate for the president who won more than a half of votes of voters participated in the elections shall be considered as elected.
5. The Central Commission shall register an elected President of the Kyrgyz Republic and issue a certificate on the election of the President after a resolution of the Constitutional court of the Kyrgyz Republic.

**Article 66. Repeat Voting**

1. If two or more candidates for the President of the Kyrgyz Republic are included into a ballot and none of them is elected, the Central Election Commission shall designate a repeat voting for the President of the Kyrgyz Republic for two candidates who won the largest number of votes.
2. The repeat voting shall be conducted no later than two weeks following the establishment of the results of elections, observing the requirements of this Code. The information on the repeat elections shall be published in mass media by the Central Election Commission not later than three calendar days after the day of establishment of the results of elections.
3. If before the conduct of repeat voting one of the presidential candidates withdrew, upon a decision of the Central Election Commission, the second candidate for repeat elections shall be considered a candidate who at general elections received the largest number of votes that follows the number of votes received by the candidates for whom repeated voting was initially appointed. In case there are no other candidates left, voting shall be conducted for one candidate.
4. A candidate who receives the majority of votes in the course of repeated voting shall be considered elected, if not less than 50 % of voters included into voters' lists participated in voting.

**Article 67. Repeated Elections**

In case elections are recognized invalid, not taken place, and in case none of two candidates included into a ballot was elected, or in repeat voting none of the candidates in repeat voting was elected, the Central Election Commission shall call repeat elections of the President of the Kyrgyz Republic.

**Article 68. Entry into the Position of the President of Kyrgyz Republic**

1. The results of presidential elections are to be approved by the Constitutional Court of Kyrgyz Republic not later than 7 days after the completion of elections.
2. After the announcement of the results of the vote by the Chairperson of the Constitutional Court, the President shall take an oath on a joint meeting (congress) of deputies of the Legislative and People's Representatives Assemblies.

3. In case of failure to take an oath in stipulated time by the elected President of Kyrgyz Republic, the Central Election Commission starts the procedure of entry into the position of the President of Kyrgyz Republic.

## **CHAPTER XII**

### **ELECTIONS OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY AND TO THE ASSEMBLY OF PEOPLE'S REPRESENTATIVES OF THE ZHOGORKU KENESH OF THE KYRGYZ REPUBLIC**

#### **Article 69. Elections of Deputies to the Legislative Assembly and to the Assembly of People's Representatives of the Zhogorku Kenesh of the Kyrgyz Republic:**

1. Any citizen of the Kyrgyz Republic who on the day of elections has reached 25 years, having the right to be elected and who has been permanently residing in the Republic for not less than 5 years before his/her nomination can be elected a deputy of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic.
2. Any citizen of the Kyrgyz Republic who on the day of elections has reached 25 years, having the right to be elected and who has been permanently residing in the Republic for not less than 5 years before his/her nomination, 3 years of which he/she has been residing on the correspondent oblast or Bishkek city can be elected a deputy of the Assembly of People's Representatives of the Zhogorku Kenesh of the Kyrgyz Republic.
3. Elections of deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic shall be appointed by the President of the Kyrgyz Republic no later than three months prior to the day of elections. The day of elections shall be the first Sunday prior to the expiration of the Constitutional term for which the previous Legislative Assembly and the Assembly of People's Representatives to the Zhogorku Kenesh of the Kyrgyz Republic were elected.
4. If the Legislative Assembly, or the Assembly of People's Representatives, or both chambers of the Zhogorku Kenesh are dissolved, in cases and according to the procedure foreseen by the Constitution of the Kyrgyz Republic, the President of the Kyrgyz Republic shall at the same time appoint the date of elections of deputies to the Legislative Assembly, or the Assembly of People's Representatives, or both chambers of the Zhogorku Kenesh, so that the new elected Assembly or both Assemblies could gather on their sessions not later than 6 month since their dissolving.
5. Elections of candidates for deputies of the Legislative Assembly for a single-mandate constituency and for deputies of the Assembly of People's Representatives instead of deputies withdrawn in relevant constituencies shall be conducted by the Central Election Commission within two month after a deputy mandate has become vacant within the terms and according to the procedure foreseen by this Code. In case of withdrawal of deputies of the Legislative Assembly or deputies to the Assembly of People's Representatives one year or less before the expiration of the term for which the Assembly was elected, no election shall be held to replace withdrawn deputies.

#### **Article 70. Constituencies**

1. For conducting of elections of deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic 45 single-mandate constituencies shall be established. 15 deputies of the Legislative Assembly shall be elected in a single national constituency in proportion to the number of votes presented in support of the lists of candidates for deputies nominated by political parties, election blocs. The single national constituency shall include the whole territory of the Kyrgyz Republic.

For conducting of elections of the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic 45 multi-mandate constituencies shall be established.

The borders of single-mandate constituencies for election of deputies to the Legislative Assembly and the People's Representatives Assembly of the Zhogorku Kenesh shall coincide.

2. The procedure for the establishment of single-mandate constituency for the election of deputies to Legislative Assembly and the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic shall be identified by the General Part of this Code.

#### **Article 71. Election Commissions**

The preparation and conducting of elections of deputies to the Legislative Assembly and the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic shall be carried out by:

the Central Election Commission;  
oblast and Bishkek city election commissions;  
territorial commissions for Legislative and People's Representatives Assemblies elections;  
precinct election commissions.

#### **Article 72. Procedures for Nomination of Candidates (Lists of Candidates)**

1. Nomination of candidates for deputies of the Legislative Assembly for single-mandate constituencies and candidates for deputies for the People's Representatives Assembly shall start from the day of an official publication of the list of constituencies.

Nomination of the list of candidates for deputies for the Legislative Assembly shall start from the day of elections to the Legislative Assembly of the Zhogorku Kenesh is appointed.

2. Nomination of candidates (lists of candidates) shall end 30 days prior to the day of elections.

3. Nomination of candidates for single-mandate constituencies from political parties, election blocs shall be carried out at their congresses (conferences) with identification of the constituency where each candidate shall run for. A member of the territorial election commission shall be authorized to attend the congress (conference) of a political party, election bloc on nomination of candidates. Political parties, election blocs shall have the right to nominate one candidate for each election constituency. Decision on nomination of candidates shall be taken by a secret ballot.

The list of candidates to the Legislative Assembly running in the single national constituency shall be nominated by political parties, election blocs at the congress (conference) of the political parties, election blocs.

The format for the list of candidates and the procedure for enumeration of candidates in it shall be determined by political parties, election blocs. Neither the format nor the enumeration can be altered after the list is presented to the Central election Commission, except for alterations caused by withdrawal of candidates. The total number of candidates to be nominated on the list by political parties, election blocs can not exceed 30 persons.

The list of candidates nominated by political parties, election blocs shall be submitted to the Central election Commission by an authorized representative of the political parties, election blocs. These lists should contain surname, name, patronymic name, date of birth, place of work, position and place of residence of each candidate. At the same time with the list, a protocol with the decision of congress (conference) of the political party, election bloc, during which the candidates are nominated, shall be submitted.

The Central election Commission within three days shall review submitted documents and present to the political party's, election bloc's authorized person verified copies of the lists of candidates, or a motivated decision on denial.

Refusal to present copies of lists of candidates within three days can be appealed in the Supreme Court of the Kyrgyz Republic.

Central election Commission shall publish submitted lists in mass media.



4. Nomination of candidates to the Legislative Assembly for single-mandate constituency shall be performed by a meeting of voters residing on the territory of a corresponding constituency. Member of a territorial election commission shall be authorized to attend the meeting of voters. The procedural issues on meeting conduct shall be identified by the meeting itself. The meeting can nominate only one candidate for a constituency. Candidate shall be deemed nominated if more than half of the participants voted for him/her.
5. Self-nomination of a candidate for a deputy of the Legislative Assembly for a single-mandate constituency and of a candidate for deputy to the People's Representatives Assembly shall be performed by filling of an application on the intent to run as a candidate for a given constituency with the corresponding territorial election commission.

#### Article 73. Registration of a Candidate (List of Candidates)

1. A candidate for deputy or his/her authorized representative, authorized representatives of political parties, election blocs shall file with a territorial election commission the documents, specified in paragraph 4 of Article 26, and in paragraphs 1 Article 27, of this Code, as well as a document verifying the election deposit no later than 45 days prior to the elections in order to be registered.

2. Before the registration and after review of the submitted documents a candidate for deputy out of his/her own funds shall make an election deposit into a special fund of the Central Election Commission that shall be equal to the amount of 300 minimum salaries, established by the legislation.

Before the registration and after review of the submitted documents political parties, election blocs nominated lists of candidates out of their own funds shall make an election deposit for each candidate entered into the list into a special fund of the Central Election Commission that shall be equal to the amount of 50 minimum salaries, established by the legislation of the Kyrgyz Republic, except for those candidates who paid election deposit for one-mandate constituency.

After the elections the election deposit shall be returned to:

- a candidate for deputy who withdrew 15 days prior to elections and also if not less than 10% of voters of the corresponding constituency voted for him/her;
- political parties, election blocs, lists of which received 5% and more of the votes of the voters participated in voting. The rest of the funds shall not be added to the budget and shall be used by the Central Election Commission for preparation and conduct of elections, improvement of election system

3. Candidates for deputy to the People's Representatives Assembly shall also provide documents proving their permanent residence on the territory of the correspondent oblast, Bishkek city for the period of not less than 3 years prior to the nomination.

4. The Central election Commission within 10 days from the day of receipt of the documents shall review the compliance of candidates lists nomination procedure with the requirements of this Code and shall register the list of candidates or issue a motivated decision on a refusal to register.

Territorial election Commission on election of deputies to the Legislative Assembly for single-mandate constituencies and candidates for deputy to the People's Representatives Assembly within 5 calendar days from the day of receipt of the documents shall review the compliance of candidate nomination procedure with the requirements of this Code and shall register the candidate or issue a motivated decision on refusal to register.

5. Registration of candidates (lists of candidates) shall end 25 days prior to the day of elections.

6. Territorial election commission shall transmit information regarding registered candidates for deputies to the Central election Commission on the day of registration.

7. If within the period established by this Article, no candidates for a single-mandate constituency was registered, and if no lists of candidates or only one list was registered for the single national

constituency, upon a decision of the corresponding election commission, elections for such a constituency shall be postponed for 50 days for additional nomination of candidates or lists of candidates, and for further election actions.

**Article 74. Election Fund of a Candidate for Deputy and election fund of apolitical party, election bloc**

1. Any candidate, political party, election bloc can establish their own election funds for financing pre-election campaign according to the procedure established by the General Part of this Code.
2. Election funds can be formed out of the following and campaigning informational materials that are accounted by a territorial election commission:
  - a) candidate's own funds that shall not exceed the amount of 3000 minimum salaries;
  - b) funds allocated to the candidate by nominated him/her political party, election bloc that shall not exceed the amount of 1500 minimum salaries;
  - c) political parties', election blocs' own funds that shall not exceed the amount of 50 000 minimum salaries;
  - d) donations made by individuals to the election fund of a candidate that shall not exceed the amount of 20 minimum salaries, to election fund of political party, election bloc - 30 minimum salaries;
  - e) donations made by legal entities to the election fund of a candidate shall not exceed the amount of 200 minimum salaries, to election fund of a political party, election bloc - 1000 minimum salaries.

The maximum amount of candidate's expenses out of the election fund shall not exceed the amount of 20 000 minimum salaries.

The maximum amount of political parties', election blocs' expenses out of the election fund shall not exceed the amount of 100 000 minimum salaries.

**Article 75. Summing up of the Election Results**

1. Protocol No.1 is made up for a single-mandate constituency upon the results of election of deputies of the Legislation Assembly.

Protocol No.2 is made up for a precinct election constituency upon the results of election to the deputies of the People's Representatives Assembly.

Protocol No.3 is made up for a single national constituency upon the results of election to the deputies of the Legislation Assembly.

2. On the basis of protocols of precinct election commissions a territorial election commission shall at its meeting sum up the results of elections of deputies to the Legislative Assembly for a single-mandate election constituencies and deputies to the People's Representatives Assembly, and shall sum up the results of voting for a single national constituency on the corresponding territory and immediately transmit information to the Central Election Commission.
3. On the basis of protocols of precinct election commissions the Central Election Commission shall sum up the results of elections of deputies to the Legislative Assembly and of deputies of the People's Representatives Assembly.
4. A candidate, who has received more than a half of number of votes of those included into the voters' lists but not those included into an additional list, shall be deemed elected in the first round for a single-mandate constituency.

**Article 76. Repeat Voting**

1. In case in a constituency there are more than two candidates are included into a ballot and none of them is elected, a territorial election commission shall designate repeated voting for the Legislative Assembly, People's Representatives Assembly for candidates who won the largest number of votes.

In case two candidates are included into a ballot and none of them is elected, a territorial election commission shall designate repeat voting for these candidates.

2. The repeat voting shall be conducted no later than two weeks from the day of establishment of the results of the general elections, observing the requirements of this Code. The information on the repeat elections shall be published in mass media not later than two calendar days after the day when the decision was taken by a territorial election commission.

3. If prior to repeat voting there is one candidate left (in case of death, withdraw or termination of citizenship of one or two candidates for whom a repeat voting was appointed), upon a decision of a territorial election commission, the second candidate for repeat elections shall be identified a candidate who at the general elections received the largest-number of votes that followed the number of votes received by the candidates for whom a territorial election commission initially appointed repeat voting.

In case there is one candidate left, voting shall not be conducted and a candidate is recognized to be elected.

4. At repeat voting a candidate who receives the majority of the votes of voters participating in repeated voting shall be considered elected

#### **Article 77. Establishment and Publication of the Election Results**

1. On the basis of the protocols No.1 and No.2 of territorial election commissions the Central Election Commission shall establish the results of elections for single-mandate constituencies on the whole territory of the republic and shall publish them in mass media within two weeks.

On the basis of protocol No.3 of oblast election commissions the Central election Commission shall count votes for the single national constituency by summing up protocols' data.

2. Political parties, election blocs lists of candidates of which received less than 5% of the votes of voters participated in voting shall not participate in distribution of deputies mandates for the single national constituency.

Political parties, election blocs lists of candidates of which received 5% and more of the votes of voters participated in voting shall receive deputies mandates, the number of which shall be determined according to the method specified in Article 80 of this Code.

3. Distribution of deputies' mandates among candidates entered into the lists of political parties, election blocs shall be performed in accordance with the procedure for enumeration of candidates on the list, established during registration of the list at the Central election Commission.

Deputies elected to the Legislative Assembly in a single-mandate constituency shall be excluded from every list. In such a case deputies mandates shall be transferred to the candidates entered into the same list, in accordance with the order of priority on the list.

4. The Central election Commission shall develop a protocol on distribution of deputies mandates for the single national constituency among political parties, election blocs in accordance with items of protocol specified by Article 43 of this Code. The Protocol shall contain the following additional information:

name of political parties, election blocs, admitted to distribution of deputies mandates;  
surnames, names and patronymic names of the elected deputies entered into each list.

5. The Central election Commission shall deem all the deputies mandates for the single national constituency not distributed if all political parties, election blocs are not admitted to distribution of

constituency, upon a decision of the corresponding election commission, elections for such a constituency shall be postponed for 50 days for additional nomination of candidates or lists of candidates, and for further election actions.

#### **Article 74. Election Fund of a Candidate for Deputy, and election fund of a political party, election bloc**

1. Any candidate, political party, election bloc can establish their own election funds for financing pre-election campaign according to the procedure established by the General Part of this Code.
2. Election funds can be formed out of the following and campaigning informational materials that are accounted by a territorial election commission:
  - a) candidate's own funds that shall not exceed the amount of 3000 minimum salaries;
  - b) funds allocated to the candidate by nominated him/her political party, election bloc that shall not exceed the amount of 1500 minimum salaries;
  - c) political parties', election blocs' own funds that shall not exceed the amount of 50 000 minimum salaries;
  - d) donations made by individuals to the election fund of a candidate that shall not exceed the amount of 20 minimum salaries, to election fund of political party, election bloc - 30 minimum salaries;
  - e) donations made by legal entities to the election fund of a candidate shall not exceed the amount of 200 minimum salaries, to election fund of a political party, election bloc - 1000 minimum salaries.

The maximum amount of candidate's expenses out of the election fund shall not exceed the amount of 20 000 minimum salaries.

The maximum amount of political parties', election blocs' expenses out of the election fund shall not exceed the amount of 100 000 minimum salaries.

#### **Article 75. Summing up of the Election Results**

1. Protocol No.1 is made up for a single-mandate constituency upon the results of election of deputies of the Legislation Assembly.

Protocol No.2 is made up for a precinct election constituency upon the results of election to the deputies of the People's Representatives Assembly.

Protocol No.3 is made up for a single national constituency upon the results of election to the deputies of the Legislation Assembly.

2. On the basis of protocols of precinct election commissions a territorial election commission shall at its meeting sum up the results of elections of deputies to the Legislative Assembly for a single-mandate election constituencies and deputies to the People's Representatives Assembly, and shall sum up the results of voting for a single national constituency on the corresponding territory and immediately transmit information to the Central Election Commission.
3. On the basis of protocols of precinct election commissions the Central Election Commission shall sum up the results of elections of deputies to the Legislative Assembly and of deputies of the People's Representatives Assembly.
4. A candidate, who has received more than a half of number of votes of those included into the voters' lists but not those included into an additional list, shall be deemed elected in the first round for a single-mandate constituency.

#### **Article 76. Repeat Voting**

1. In case in a constituency there are more than two candidates are included into a ballot and none of them is elected, a territorial election commission shall designate repeated voting for the Legislative Assembly, People's Representatives Assembly for candidates who won the largest number of votes.

In case two candidates are included into a ballot and none of them is elected, a territorial election commission shall designate repeat voting for these candidates.

2. The repeat voting shall be conducted no later than two weeks from the day of establishment of the results of the general elections, observing the requirements of this Code. The information on the repeat elections shall be published in mass media not later than two calendar days after the day when the decision was taken by a territorial election commission.
3. If prior to repeat voting there is one candidate left (in case of death, withdraw or termination of citizenship of one or two candidates for whom a repeat voting was appointed), upon a decision of a territorial election commission, the second candidate for repeat elections shall be identified a candidate who at the general elections received the largest number of votes that followed the number of votes received by the candidates for whom a territorial election commission initially appointed repeat voting.

In case there is one candidate left, voting shall not be conducted and a candidate is recognized to be elected.

4. At repeat voting a candidate who receives the majority of the votes of voters participating in repeated voting shall be considered elected

#### **Article 77. Establishment and Publication of the Election Results**

1. On the basis of the protocols No.1 and No.2 of territorial election commissions the Central Election Commission shall establish the results of elections for single-mandate constituencies on the whole territory of the republic and shall publish them in mass media within two weeks.

On the basis of protocol No.3 of oblast election commissions the Central election Commission shall count votes for the single national constituency by summing up protocols' data.

2. Political parties, election blocs lists of candidates of which received less than 5% of the votes of voters participated in voting shall not participate in distribution of deputies mandates for the single national constituency.

Political parties, election blocs lists of candidates of which received 5% and more of the votes of voters participated in voting shall receive deputies mandates, the number of which shall be determined according to the method specified in Article 80 of this Code.

3. Distribution of deputies' mandates among candidates entered into the lists of political parties, election blocs shall be performed in accordance with the procedure for enumeration of candidates on the list, established during registration of the list at the Central election Commission.

Deputies elected to the Legislative Assembly in a single-mandate constituency shall be excluded from every list. In such a case deputies mandates shall be transferred to the candidates entered into the same list, in accordance with the order of priority on the list.

4. The Central election Commission shall develop a protocol on distribution of deputies mandates for the single national constituency among political parties, election blocs in accordance with items of protocol specified by Article 43 of this Code. The Protocol shall contain the following additional information:

name of political parties, election blocs, admitted to distribution of deputies mandates;  
surnames, names and patronymic names of the elected deputies entered into each list.

5. The Central election Commission shall deem all the deputies mandates for the single national constituency not distributed if all political parties, election blocs are not admitted to distribution of

deputies mandates in accordance with item 2 of this Article. In such case the Central election Commission shall appoint repeat elections for the single national constituency.

#### **Article 78. Registration of Deputies of the Zhogorku Kenesh**

1. After signing of a protocol on the results of elections a territorial election commission shall inform on that the elected candidate for deputy. Elected for deputy candidate shall inform in a written form the Central Election Commission about the lay down of his/her authorities that are incompatible with the status of a deputy of the Legislative Assembly within a three-day period.

In case a deputy, elected as the result of distribution of mandates through the candidates' lists fails to meet the requirement to lay down his/her authorities that are incompatible with the status of a deputy within the three day period, his/her mandate shall be transferred to a candidate from the same list in accordance with the order of priority in this list by the Central election Commission.

2. After official publication of the election results in the republic and receipt of applications of candidates elected deputies, the Central election Commission shall register them and issue them certificates and distinguishing badges of the established design within a three-day period.

#### **Article 79. Replacement of a Vacant Mandate of a Deputy Elected through the List of a Political Party, Election Bloc**

1. In case of an early withdrawal of a deputy elected as a result of distribution of deputies' mandates among political parties, election blocs on the basis of candidates lists his/her mandate shall be transferred to the candidate following the elected candidates entered into the same list upon a resolution of the Central Election Commission.

Deputy's early withdrawal means the following in the light of this article:

- 1) written application on withdrawal
- 2) recognition by court of his/her incapability to fulfil his/her duties
- 3) recognition by court of his/her death
- 4) death
- 5) bringing in a verdict of "guilty" with regard to him/her
- 6) transfer to a job or failure to leave a job which is incompatible with fulfillment of her/his deputy duties
- 7) moving for permanent residence outside the territory of the Kyrgyz Republic
- 8) termination or loss of citizenship of the Kyrgyz Republic.

2. If there are no more candidates left on the list, a mandate shall remain vacant until the next elections of deputies to the Legislative Assembly.

#### **Article 80. Method of Proportional Distribution of Deputies' Mandates**

The Central election Commission shall count votes in support of lists of candidates of political parties, election blocs for the single national constituency, which received 5% and more of votes of voters who participated in voting. This sum of a number of votes shall be divided by 15 - number of deputies' mandates to be distributed for the single national constituency. Thus calculated number shall be the first election result.

Then, the number of votes received by each list of candidates, participating in distribution of candidates mandates, shall be divided by the first election result. The integer of the calculated number shall be the number of deputies mandates to be received by the corresponding list of candidates.

In case after calculations made in accordance with item 2 of this Article there are mandates remaining, the second distribution shall be carried out. The remaining mandates shall be transmitted to lists of candidates (one for each), that hold the largest remainder of the number calculated by dividing according to the item 2 of this Article. In case of equal numbers of voters' votes, the list of

candidates received more votes shall benefit. In case of equal numbers of voters' votes the list of candidates earlier registered shall benefit.

## **CHAPTER XIII**

### **ELECTIONS OF DEPUTIES TO LOCAL KENESHES**

#### **Article 81. Elections of Deputies to Local Keneshes**

A citizen of the Kyrgyz Republic who has reached age of 20 years and has been residing not less than for two years prior to nomination on the corresponding territory can be elected a deputy to local kenesh.

#### **Article 82. Appointment of Elections of Deputies for Local Keneshes**

1. Elections of deputies to local keneshes shall be appointed by the President of the Kyrgyz Republic not later than two months prior to the elections. The day of the elections shall be the first Sunday prior expiration of the constitutional terms for local keneshes.
2. In case of a dissolution of local keneshes the President of the Kyrgyz Republic shall at the same time appoint elections of deputies to local keneshes. Thus the day of elections shall be the last Sunday prior to expiration of 45 days from the day of dissolution of local keneshes. In such a case the terms of election actions, established by this Code, shall be reduced by one fourth.

#### **Article 83. Organization of Elections of Deputies for Oblast and Bishkek City Keneshes**

Preparation and conducting of elections of deputies to oblast and Bishkek city keneshes shall be carried out by:

The Central Election Commission;

Oblast and Bishkek city election commissions;

Territorial election commissions for elections of deputies to oblast and Bishkek city keneshes;

Precinct election commissions.

#### **Article 84. Organization of Elections of Deputies for Rayon, City Keneshes**

Preparation and conducting of elections of deputies to region, city keneshes shall be carried out by:

Oblast city election commissions;

Territorial election commissions for elections of deputies to rayon, city keneshes and city election commissions);

precinct election commissions.

#### **Article 85. Organization of Elections of Deputies for City, Town, Village Keneshes**

Preparation and conducting of elections of deputies to city, town, village keneshes shall be carried out by:

Oblast and Bishkek city election commissions;

Territorial election commissions for elections of deputies to city, town, village keneshes;

Precinct election commissions.

## **Article 86. Constituencies**

In order to conduct elections of deputies to oblast and Bishkek city keneshes up to twenty multi-mandate constituencies shall be established in each oblast and in Bishkek city.

In order to conduct elections of deputies to region, city keneshes up to ten multi-mandate constituencies shall be established in each region and city.

In order to conduct elections of deputies to cities, town, village (ayil) keneshes one to seven multi-mandate constituencies shall be established in each city, town, village.

## **Article 87. Nomination of Candidates for Deputies to Local Keneshes**

1. Nomination of candidates for deputy shall start 45 days prior to the elections and end 30 days prior to the day of the elections.
2. Nomination of candidates shall be conducted by a meeting of voters residing on the territory of the corresponding settlement. Member of territorial election commission has the right to be present at the meeting of voters.

Voters' meeting is authorized to nominate candidates for each multi-mandate constituency. The number of candidates shall not exceed the number of mandates given for corresponding constituency.

3. Nomination of candidates for deputy of a local kenesh shall be conducted at a congress (conference) of a political party, its regional branch, election bloc.
4. Political party, its regional branch, election blocs shall have the right to nominate candidates for each multi-mandate constituency, the number of nominated candidates shall not exceed the amount of mandates established for the corresponding constituency. The decision on nomination of candidates for deputy of local keneshes shall be taken by a secret ballot.
5. Nomination of a candidate for deputy of local kenesh by citizens through self-nomination shall be conducted through the filing of an application on an intent to run for office as a candidate for deputy of local kenesh with a territorial election commission.
6. No one can be nominated a candidate in more than one constituency.
7. Candidate, political party, its regional branch, election bloc, voter's meeting shall be authorized to appoint up to three authorized representative for a constituency.
8. If no candidate was nominated, or the number of nominated candidates is less than the number of mandates, or all the nominated candidates left or withdrew prior to their registration, than a corresponding election commission shall prolong the nomination period for no more than 20 calendar days.
9. If all the candidates left after the expiration of the term of registration, the Central Election Commission shall issue a resolution on prolongation of the election period for no more than 40 days upon a request of the corresponding election commission.

## **Article 88. Registration of Candidates for Deputies of Local Keneshes**

1. A candidate for deputy or his/her authorized representative shall file with a territorial election commission the documents, specified in item 4 of Article 27 and item 1 of Article 27 of this Code no later than 25 days prior to the elections in order to get registered.
2. Within five calendar days after filing of documentation, territorial election commissions shall verify correspondence of a candidate's nomination procedure with the requirements of this Code and shall take a decision on candidate's registration or a motivated decision on registration rejection.



3. Registration of candidates for deputies to local keneshes shall end 20 days prior to the day of elections.
4. Information about registered candidates for deputy shall be published in mass media by a territorial election commission within three calendar days.

#### **Article 89. Election Fund of a Candidate for Deputy of a Local Kenesh**

1. candidate for deputy of oblast and Bishkek city kenesh shall establish his/her own election fund for financing of pre-election campaigning according to the procedure established by the General part of this Code.
2. Election funds can be formed out of the following funds: candidate's own funds, which shall not exceed the amount of 100 minimum salaries;
  - a) funds allocated to a candidate by a nominated him/her political party, election bloc, which shall not exceed the amount of 200 minimum salaries;
  - b) donations of individuals made to a candidate's election fund, which shall not exceed the amount of 20 minimum salaries;
  - c) donations made by legal entities to a candidate's election fund, which shall not exceed the amount of 150 minimum salaries.

The maximum expenditure that a candidate can undertake using his/her election fund shall not exceed the amount of 1 000 minimum salaries.

#### **Article 90. Summing up and Establishment of the Results of Elections of Deputies to Local Keneshes**

1. Territorial commissions shall determine the results of the elections of deputies to local keneshes on the basis of protocols of precinct election commissions for deputies to region, town, city and village keneshes during its session. Constituency election commissions shall immediately present the results to oblast, Bishkek city election commission.
2. Territorial commissions shall determine the results of the corresponding constituency elections of deputies to local keneshes on the basis of protocols of precinct election commissions for deputies to oblast, Bishkek city keneshes during its session. Territorial election commissions shall immediately file the results with oblast, Bishkek city election commission. Bishkek city election commission shall determine the results of elections in the constituency and in the oblast as a whole, Bishkek city on the basis of protocols filed by territorial election commissions.
3. Candidates (in accordance with the number of mandates) who won the largest number of votes of the voters participated in the election of the corresponding constituency shall be deemed elected.
4. The results of the elections of deputies to local keneshes shall be published by oblast and Bishkek election commissions in mass media within seven day after the elections.
5. Within three days from the day of establishment of the election results a territorial election commission shall register the elected deputies and issue them certificates on being elected.

#### **Article 91. Vacant Mandate of the Deputy to Local kenesh**

1. In case of an early withdrawal of a local kenesh deputy, upon a decision of an oblast, Bishkek city election commission, his/her mandate shall be transmitted to the candidate who won the largest number of votes after the elected candidate who won the largest number of votes of voters who participated in voting in the corresponding multi mandate constituency.
2. If there are no candidates left, the mandate remains vacant until the next elections.

## **CHAPTER XIV.**

### **CONCLUDING PROVISIONS**

#### **Article 92. Political Parties, Participating in Elections of Deputies of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic**

In accordance with this Code, political parties, that were created according to the procedures specified in the Law "On public associations", charters of which foresee participation in elections of state bodies, and registered by the Ministry of Justice of the Kyrgyz Republic not later than 1 year prior to the day of appointment of elections, shall be authorized to participate in elections of deputies to the Legislative Assembly.

# POLLING STATION MANUAL

**MANUAL**  
*for*  
**Polling Station Commissions**

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**INTRODUCTION.**

This manual is designed to assist polling station election officials conduct their duties. It is based on the Code of the Kyrgyz Republic on Elections in the Kyrgyz Republic, resolutions, regulations, and instructions of the Central Election Commission of Kyrgyzstan, and common election procedures practiced in democracies throughout the world.

This Election Code passed by the Kyrgyz Parliament and signed by the President in 1999 introduced many new provisions into the practice of elections. The independence and neutrality of election commissions is established by the Code. A new concept of "an election commission member with a consultative vote" is introduced. This member represents a registered candidate, political party, or election bloc. (II, 11, 8)

The roles of domestic and international observers, trusted persons and authorized representatives, mass media are established. Election commissions shall provide for their free access to meetings. (II, 17, 6-11)

Introduction of a candidate's authorized representatives is also new. Authorized representatives will be mainly involved in resolution of organizational, logistical and financial issues. (V, 29; 7)

The most important stage of elections is voting, its organization and procedure. In accordance with a principle of universal suffrage "affirmative voting" is introduced. A voter marks the square by the candidate or list of candidates of his/her choice. (VII, 40, 6)

Legal citations in this manual are designated with an abbreviation referring to the Chapter, Article and paragraph of the law. For example, a passage based on Chapter I, Article 1, paragraph 1 appears as (I,1,1).

**I. CIVIC RESPONSIBILITY OF ELECTION OFFICIALS**

As a polling station commission member, you have been charged with a very important responsibility in the election. Of all officials involved in the conduct of elections, you will have the most personal, direct contact with voters. They will look to you as they exercise their right to vote on Election Day. The manner in which you carry out your duties will have a great deal to do with the degree to which voters will have confidence in the process.

Remember, from the time you are appointed and on Election Day your primary duty is to faithfully serve all voters equally. Your personal views and political opinions must be put aside except as you secretly mark your own ballot and cast your own vote.

It is a sacred trust. Every action you take must be characterized by these important standards.

- Integrity
- Neutrality
- Transparency
- Accuracy

Do not waver from these standards as you conduct the election at your polling station.

Article 141 of the Criminal Code of the Kyrgyz Republic reads as follows: "Falsification of election documents, documents of a referendum and intentionally incorrect counting of votes or intentionally incorrect determination of elections, referendum results, violation of secrecy of voting in case this action is made by a member of an election commission, initiative group or a commission on conducting of a referendum shall be fined in the amount from 500 up to 700 minimum salaries or imprisonment up to four years."

## II. AUTHORITY OF THE POLLING STATION COMMISSION

Polling station commissions are formed by the superior election commission at least 40 days before elections and consist of a chairperson, secretary and from seven up to thirteen persons. Establishment of a precinct election commission shall be carried out upon nomination of corresponding local keneshs with regard to suggestion of political parties, public associations and voter meetings. No more than one representative of each political party, public association, or voter meeting shall be appointed. (II, 11, 6 and 7)

Chapter II, Article 15 of the Law on Elections in the Kyrgyz Republic states the Polling Station Commission shall:

1. inform the public about the address and telephone number of a polling station commission, time schedule, and date and place of voting;
2. compose lists of the precinct voters;
3. conduct acquaintance of voters with the voter lists, accept and review applications on inaccuracies in the lists and make decisions on making corresponding corrections;
4. control the observance of rules on posting campaign material on the precinct territory;
5. provide preparation of the premises for voting, election boxes and other equipment;
6. arrange voting at a precinct on election day;
7. carry out vote count for the precinct;

8. review application and complaints on violations of this Law and take decisions on them;
9. file documents connected with preparation and conduct of elections with archives or a superior election commissions;
10. execute other authorities in accordance with the Law on Kyrgyz Republic Elections.

After registration, a candidate, political party, or bloc has the right to appoint one representative as a member of the election commission which conducted registration of a candidate or lists of candidates who will have one consultative vote (II, 11, 8).

Any election commission member with a consultative vote shall not:

1. issue ballots;
2. participate in sorting of ballots and accounting of votes;
3. make a protocol on the results of voting and results of elections;
4. participate in voting at election commission meetings and sign election commission decisions. (II, 16, 11)

### III. VOTER LISTS

#### 1. COMPILING AND VERIFYING VOTER LISTS

Polling station commissions shall compose voter lists on the basis of data provided by local state executive bodies. The lists include all citizens who are eighteen (18) years of age on or before election day, eligible to vote. The grounds for a Kyrgyz Republic citizen entering into a voter's list of a corresponding polling station is his/her permanent or main residence and in some cases also a temporary residence within the territory of a precinct (IV, 21, 3).

A permanent or main residence is a place of living – house, apartment, office living apartment, specialized houses (dormitory, hotel-asylum, maneuver fund house, special house for solitary old people, home for disabled people, home for disabled people, veterans and other housing accommodation in which a citizen lives permanently or lives in capacity of the owner, tenant or any other capacity, foreseen by the Law.

A temporary residence is a place of stay – hotel, sanatorium, recreational facility, guest house, camping, tourist station, hospital or other similar establishments, and also apartment where the citizen lives temporarily and which is not the place of his/her residence (I, 8, 15 and 16).

The list shall be composed in two copies. It is recommended the voter list be composed in alphabetical order. The voter record shall include last, first, and patronymic names, the year of birth (day and month of those 18 years of age), and address of main residence of the voter. The chairperson and secretary of the polling station commission shall sign and stamp the list with the seal of the polling station commission. (IV, 21, 10)

Precinct election commissions will review the voter lists in accordance with established procedures for organization of the relationship between election commissions and local state and self-governing bodies. (IV, 21, 11)

#### 2. PRESENTATION AND CORRECTION OF THE VOTER LIST

No later than fifteen (15) days before the election the list shall be presented for public view. In hospitals, sanatoriums, rest homes and other places of temporary voters' stay, in living places of distant and hard to access regions, investigation solitary confinement cells and cells for temporary detention, in military units and also at facilities of the Kyrgyz Republic in foreign countries it shall be done 5 calendar days before

voting. Citizens will receive the opportunity to review the list and verify the accuracy of information at the premises of the polling station commission. (IV, 22, 1)

Each citizen has the right to inform the polling station commission of his exclusion from or other error in the list. Within 24 hours or not later than two hours before completion of voting on election day, the commission shall review the application and supporting documentation and provide the complainant with a decision and explanation for the decision. The decision can be appealed to a superior commission or to the court. Such appeal must be reviewed within three days or on voting day, immediately. (IV, 22, 2)

After signing the voter list by the polling station commission chairman and secretary, removal of a voter shall be done only on the basis of information provided by relevant bodies that carry out registration. Such exclusion must be noted on the voter list with the date and reason for removal and shall be signed by the chairperson. This removal may be appealed in a manner and within time constraints described in the previous paragraph. (IV, 22, 3)

It is prohibited to make changes in the voter list after voting on election day. (IV, 22, 4)

Voter registration records are public records and citizens have free access to such records. (IV, 23, 6)

#### **Additional Voter List**

Voters shall be entered into an additional voter list in case:

- There is a grounded application of a citizen enjoying an active suffrage that he/she was not entered into a voter list;
- Arrival of a voter with a strike off certificate to a polling station.

#### **Strike off Certificate (VII, 38, 1)**

Voters that cannot come to their polling station on election day have the right to obtain a strike off certificate from the polling station where they are included on the list from 1 to 15 days before the election. This certificate, when shown at the polling station commission where the voter is present on election day will provide for the voter's right to vote.

Processing strike off voters:

- Find the voter's name on the voter list and make a notation that a strike off certificate has been issued to this voter.
- Issue the voter the strike off certificate

### **IV. BEFORE ELECTION DAY**

As an election official, there are a number of tasks you should do before election day in addition to those legally mandated of voter notification and list verification.

#### **1. GETTING READY**

- Familiarize yourself with the Election Code of the Kyrgyz Republic.
- Read resolutions and instructions issued by the Central and other superior election commissions.
- Attend all meetings and training sessions.
- With your fellow election officials, study and discuss the instructions provided in this manual.
- Discuss which polling station officials will be assigned which tasks. Discuss how duties will be reassigned during brief periods when one official must be away. Your schedule should be designed to ensure that voting continues openly and accessibly throughout election day hours.
- Make sure you have the name, phone number, and location of your Superior Election Commission for guidance or advice on election day. Write down the phone number and take it with you on election day.

## 2. CHECKING YOUR POLLING STATION

At least one week before election day the commission should visit the polling station for the purpose of checking that it is prepared for election day. Meet with officials in charge of the polling station building. Be respectful and courteous of those in charge and thank them for their cooperation. Remember that they will be inconvenienced.

- The premises for voting shall be equipped in such a way that the places for handing out ballots, booths and ballot boxes shall be within the field of vision of election commission members and observers.
- For each voting area make sure that there is sufficient space to handle the placement of tables and chairs for officials, observers. Remember that booths for secret voting shall have a system of lightning and pens but no pencils.
- Decide on location of the stand for postings. Required postings include a fictitious ballot demonstrating the marking procedure and information on all candidates, political parties, and election blocs but shall not contain campaign propaganda. (VII, 37, 2-4)
- Make arrangements with building officials to unlock the door at 6:00 a.m. on election day to give you sufficient time to organize the polling station.
- Determine the room with secure areas that will be used for keeping forms, protocols on the results of voting, ballots, and additional ballot boxes to be kept during the day. Ensure the area can be kept secure during the whole day of elections.
- Determine which room will be used for counting ballots at the end of the day. The room, ideally a conference hall with tables should be large enough to provide adequate workspace to accommodate you and your colleagues, election commission members with a consultative vote, representatives of parties, public associations, meetings of voters, and observers, authorized representatives of each candidate/ list of candidates.
- Check to see if there is a phone that you will be able to use on election day for guidance or advice. Arrange to have access to the room where the phone is, if it is usually locked. Make sure your superior election commission has the number in case they need to reach you on election day.

## 3. BALLOTS AND SUPPLIES

Before election day you will be provided with the necessary documents, materials and supplies to conduct the election at your polling station.

- The oblast election commission shall provide for printing ballots for election of deputies of local keneshs and shall provide the ballots to corresponding election commissions. (II, 12,9)
- Transfer of ballots to corresponding election commissions take place not later than 10 calendar days before the day of voting and to precinct election commissions not later than a day before the day of voting (VII, 39,9).

The Polling Station Commission Chairperson should review the ballots, documents and materials in detail to determine if they are correct for your polling station and that there is an adequate supply. The number of ballots transferred to a precinct election commission shall not exceed the number of voters, included into a voter list in the precinct by more than 0.5%. (VII, 39,9).

The Polling Station Commission Chairman should:

- Notify colleagues on the polling station commission, trusted persons, and authorized representatives regarding the time and place of pickup of ballots and election materials.
- Carefully compare the amount of ballots present with the amount specified at reception.
- Election commissions shall draw up and sign an act verifying the number of ballots transferred from superior commissions and the Chairpersons of commissions shall bear responsibility for the accuracy of the number of ballots transferred. (VII, 39, 8).



- Inform the superior commission if an error occurred or something omitted from the items listed below.

### **Ballots**

The ballot is a document of strict reporting and the level of protection of which shall be regulated by the CEC.

- Ballots for elections where there are multiple races differ in color of the paper according to race.

Official ballots will contain:

- 1) the name of the body which is being elected;
  - 2) the number of the election constituency or designation of the national constituency;
  - 3) in alphabetical order, the surnames, name, patronymic; place of work and residence and occupation of each candidate;
  - 4) in voting for lists of candidates according to the place determined by casting of lots names of political parties, electoral blocs, and the first three full names, year of birth, position/occupation of candidates from the list of candidates, election blocs;
  - 5) at the end of the lists of candidates or parties there shall be an option, "Do not support any candidate," or "Against all lists of candidates;"
  - 6) to the right from the information on voting options there shall be an empty square for the voter's mark;
- In case candidates or lists of candidates withdraw after the ballots are printed, precinct or district election commissions, upon an instruction of district election commissions shall cross out the information about the relevant candidates or lists of candidates (VII, 39, 3, 4, 6, 10).

### **Ballot Boxes**

Ballot boxes will be made in accordance with samples established by the Central Election Commission. In addition to the stationary ballot box a precinct election commission shall have the necessary number of portable ballot boxes but not more than three (VII, 42, 3).

### **Sealing Material**

Sealing material will be provided to seal ballot boxes, envelopes and packets.

### **Election Supplies**

As soon as possible, confirm that you have an adequate supply of all the materials you will need to conduct the election. Use the following inventory checklist to determine if have received needed materials.

## **4. INVENTORY CHECKLIST**

- Voter Lists
- Ballots -- in sufficient quantity to allow each voter on the list to vote
- Ballot Boxes and booths
- Writing Instruments -- to be used by voters to mark ballots
- Sealing Material -- for sealing ballot boxes
- Bag - for packing up polling station documents, ballots, and other materials
- Polling Station Manual and other instructions, if any
- Posters, signs, official notices, and instructions
- Packets for various ballots such as marked, unmarked, void

- Envelopes for special correspondence
- Any rules or instructions provided by the electoral commission
- Emergency lights for the premises (lamps or candles)

**STORE ALL ELECTION MATERIALS IN A SECURE AND LOCKED LOCATION UNTIL ELECTION DAY!**

The premises, in which ballots are stored shall be sealed and guarded by the internal affairs department.

**V. TRUSTED PERSONS AND OFFICIAL OBSERVERS**

"Election commissions' activity shall be carried out openly and transparently." (II, 17, 1)

In order to ensure transparency in the conduct of elections, the law contains provisions that allow candidates, partisan representatives, members of superior election commissions, official observers, and the mass media to be present during the various pre-election and election day activities. (II, 17, 2)

- Trusted Persons are registered to represent parties, blocs, and candidates.
- Official Observers represent foreign states, international organizations, and candidates, political parties, public associations, and groups of voters of Kyrgyzstan.

**Credentials**

Constituency election commissions shall issue a certificate to the trusted person (V, 29, 2).

Domestic observers shall carry their passports and written certification issued by their sponsoring organization, which shall include full name, place of residence, precinct number, and name of the election commission being observed. It is not necessary to send notification prior to the appearance of an observer. (II, 17, 4 and 7)

International observers shall carry certification issued by the Central Election Commission. (II, 17, 11)

Through their presence and observations, trusted persons and official observers can:

- Provide openness and transparency of the electoral process for the public, candidates, political parties, and blocs to raise confidence in the process;
- Reassure a skeptical public about the importance of the electoral process and the relevance of each elector's participation;
- Deter those who would engage in intimidation tactics, improper activities, bribery or fraud;
- Reduce opportunities for frivolous or misguided allegations of impropriety;
- Through their observations, reports, and objections, provide information on which election officials can assess the process and plan for future improvements.

**I. ROLE OF TRUSTED PERSONS**

Every candidate, political party, and bloc of parties is entitled to appoint persons to represent their interests in relations with election commissions.

Trusted persons have the right to:

- Be present at polling station commission sessions.
- Be present at polling stations including those at military units, during the course of voting, counting and summing up results.
- Familiarize themselves with election document and protocols of on results of voting.
- Appeal decisions and actions (or failure to act) of election commissions and be present at consideration of claims and applications. (V, 29, 5)

Trusted persons shall not:

- Interfere with the work of election commissions.
- Sign for or mark ballots in place of voters within a polling station or in a voting area. (V, 29, 6)

Candidates, parties and blocs have the right to recall trusted persons at any time by notifying the election commission. Under these circumstances the commission will annul the certification of the trusted person. (V, 29, 8)

If a candidate, party or bloc forfeits its status as a contestant in an election the certification of a trusted person is also forfeited. (V, 29, 9)

### **Authorized Representatives**

Authorized representatives, who are appointed by parties, blocs and candidates and carry credentials issued by superior election commissions shall be authorized to be present at polling station commission meetings including election day. (V, 26, 7)

## **2. ROLE OF OFFICIAL OBSERVERS**

Official observers are authorized to be present at a polling station from the moment of starting their work through the counting of votes and reporting results. (II, 17, 6 and 7)

Official observers have the right to:

- Familiarize themselves with the list of voters.
- Be present at polling stations as specified above.
- Be present at voting outside the polling station.
- Observe the addition of citizens added to the voter list, ballots issued to voters, cancelled ballots, observe counting ballots at a distance but close enough to observe ballot text, get familiar with any filled in and unfilled ballot in the course of counting votes, observe the composition of the protocol on the results and other documents made by election commissions. In order to see ballots observers may sit or stand directly behind counting officials or be placed at the other side of the table at which an election commission counts votes.
- Apply to the polling station Chairperson or replacement suggestions, remarks on issues of polling station organization.
- Upon request, be entitled to receive a certified copy of protocols.
- File an appeal on actions (failure to act) of polling station commissions with a superior election commission or the court.
- Be present at repeat counting of votes. (II, 17, 8)

Observers shall not be authorized to:

- Issue ballots.
- Sign a voter's request for a ballot.
- Mark ballots for voters.
- Compromise the secrecy of voting.
- Directly participate in counting ballots.
- Interfere with the work of a commission.
- Conduct campaigning among voters.
- Participate in making decisions by election commissions. (II, 17, 8).

### **MASS MEDIA**

Mass media shall have the right to familiarize themselves with protocols on the results of voting and receive certified copies of protocols. Certified copies shall be made by the Commission Chairperson or Secretary and shall include a statement "the copy is valid" and signed and stamped by the election commission. (II, 17, 10)

## **VI. BEFORE VOTING BEGINS ON ELECTION DAY**

All polling station commission members who will be serving at the polling station on election day should be assembled at least 1 hour before voting begins to review assignments, conduct pre-voting procedures and process ballots of early voters.

### **1. ARRANGING YOUR POLLING STATION**

Your first task is to organize the polling station and arrange the furnishings or, if your polling station is already organized, to review organization to make certain the set up promotes:

- the efficient flow of voters through the required steps of the process;
- adequate transparency for voters, officials, and observers;
- security of ballots and election documents;

#### **Postings**

Before the polling station opens make certain that a place for posting sample ballots and information on candidates, blocs and parties is properly placed. The information on candidates, parties and blocs should not include campaign propaganda. (VII, 37, 3)

#### **Arranging the Voting Area**

The polling station should be arranged in such a way that will allow members of the polling station commission and observers to view distribution of ballots to voters, voting (at a distance that ensures the voter's privacy), and ballot boxes. (VII, 37, 4)

- Make certain polling booths are arranged in a way that ensures privacy for the voter while voting. Create screened areas or place booths in which voters mark their ballots in secret.
- If you have a very large voter list it may be advisable to divide the list into manageable increments. If so, arrange the number of tables required and place signs on each to help voters know which table to go to for getting ballots.
- Provide sufficient workspace to accommodate the work that will be done by each official responsible for the different steps required in processing voters.

### **2. ASSIGNMENT OF TASKS**

Processing voters involves 4 basic steps, which can be assigned to separate officials and one and the same one. The main thing is to avoid people crowding at the table and to make the process of ballots issuing effective. The steps are as follows:

- Identification of the voter.
- Location of the voter's name on the list and a polling station official enters the voter's passport or identification number by his/her name. The voter checks the accuracy of this entry and signs the list.
- The ballot is issued to the voter.
- The voter marks and casts his vote. One commission member should be assigned to see that secrecy and flow of traffic are maintained at all times in the voting area.

The chair should:

- decide which commission members will be involved with each task;
- make a schedule of work and breaks to make certain that the polling station is fully functional and secure at all times.

### **3. ACTIONS BEFORE THE FIRST VOTE**

These actions are to be completed in the presence of commission members, trusted persons, official observers, and voters. Therefore, it is important to perform these requirements as the final step of pre-voting responsibilities so that observers and early voters will have arrived.

The Chair must:

- ensure that all ballot boxes are empty and show the empty ballot box to everyone present;
- close and seal the ballot box in the presence of voters, the commission, and observers;

#### **Transparency before Officials, Trusted Persons and Official Observers**

The commission chair or a designated commission member should:

- introduce the commission to official observers;
- announce the number of voters included on the voter list for your polling station;
- briefly explain the steps which will be used in processing each routine voter;
- explain the steps used to process votes cast outside the polling station;
- review the rights of trusted persons and observers.

If the Central Election Commission or other superior election commission has issued any special instruction, it should be shared with observers and announced before voting begins.

#### **Processing the Ballots of Early Voters (VII, 40,1)**

One to nine days prior to election day voters who cannot come to the polling station to cast their votes have the right to vote at territorial election commissions. The ballots cast by early voters are sealed in envelopes at the time of voting and signed by two territorial election commission members at the place where the envelope is sealed. The envelope is then stamped with the seal of the territorial commission and signed by the voter. These early voter ballots will be transferred with ballots and other election materials to polling station commissions prior to election day. (VII, 41, 1 - 3)

- The chairperson will announce the number of early voter ballots in the presence of commission members, observers, and others present. (VII, 41, 4)
- The envelopes with ballots and the list of those who voted early will be made available to those present for inspection. (VII, 41, 4)
- After inspection the chairperson will open the envelopes one by one taking care not to reveal ballot markings and place the ballots in the ballot box. (VII, 41, 4)
- The number of early voters shall be entered in the protocol prior to commencement of voting. (VII, 41, 4)
- The notation "early voter" will be entered into the voter list by the names of such voters. (VII, 41, 4)

#### **VII. VOTING BEGINS**

Your polling station should be prepared at least 1/2 hour before voting is to begin. Shortly before 7:00 a.m. the polling station chairperson should execute pre-voting procedures as described in the preceding chapter. At 7:00 a.m. the commission chair will announce the official opening of the polling station. Each voter should be processed in the same manner. All requirements must be applied uniformly.

- Each voter will vote personally. Proxy voting is prohibited in all cases. (VII, 40, 2)
- Periodically check the secrecy areas to make sure that no voters have left ballots behind.
- Take necessary steps to ensure a smooth flow of traffic.
- Regulate the number of persons allowed inside check-in and voting areas at a time.
- Create single-file lines to maintain order.

Any election commission member shall be immediately dismissed from the participation in the work of a commission and an observer or other person shall be taken out of the premises for voting if they try to

hinder the work of an election commission, as well as violate the secrecy of voting. The decision on that shall be made by the election commission. (VII, 40, 11)

## **1. STEPS IN PROCESSING VOTERS**

### **1: Identification of the Voter**

- The voter will first present a passport or other document establishing his/her identity. (VII, 40, 3)
- The following documents can replace a passport: officer's certificate; military certificate of a serviceman, sailor's passport, certificate of the established order issued by an internal affairs agency, pension certificate, driver's license. (I, 8, 5)
- In precincts with less than 500 voters on the list, voters not presenting identification may vote providing they are on the voter list, reside in the precinct and are approved by at least two members of the commission and permission of the chairperson. The approving members and chairperson should make a notation in the voter list regarding these voters. (VII, 40, 5)

### **2: Marking the Voter List**

- Locate the voter's name on the voter list.
- Enter the voter's identification number by his/her name and ask the voter to confirm the number has been recorded accurately (VII, 40, 4)
- In the case where the voter is voting according to strike-off procedures, enter the voter's name and identification number in the voter list noting he/she is a strike off voter. (VII, 40, 4)
- The voter signs the voter list by his/her name immediately before receiving the ballot. (VII, 40, 4)

### **3: Issuing the Ballot(s)**

- Examine each ballot before issuing to verify that it is properly printed.
- No marks or signatures are to be made on the ballot by the commission.
- Explain the marking and ballot box deposit procedure to the voter.
- When a voting area or booth is free, issue the ballot and instruct the voter to proceed to mark and cast the ballots.

### **4: Voting**

- The voter should vote without delay in the secrecy area or booth by clearly marking the square on the ballot to the right of the candidate, party, or "against all candidates," according to his/her choice. (VII, 40, 6)
- Allow only one person at a time in each booth, unless the voter requires a companion for assistance.
- After voting, the voter will drop the ballot(s) in the ballot box and leave the polling station.
- The commission must make sure that every voter deposits one and only one of each ballot, in the ballot box.

### **Ballots Marked in Error**

In the event a voter marks a ballot in error he/she has the right request a new ballot. A member of the precinct election commission will issue a new ballot and enter a notation in the voter list, cancel the previous ballot on which the error was made and an act shall be made. (VII, 40, 8)

## **2. VOTERS IN NEED OF ASSISTANCE (VII, 40, 9)**

Any voter, who is unable sign for the receipt of a ballot personally and fill in an election ballot, shall have the right to use the help of another voter who shall not be an election commission member, candidate, trusted person of a candidate, or observer. (VII, 40, 9).

- A voter who needs assistance in signing and marking the ballot is entitled to the help of a companion of his/her choice.
- Advise the companion of the responsibilities and obligations of assisting a voter. The companion must:
  - 1) mark the ballot only according to the voter's wishes.
  - 2) not seek to influence the voter's choice of candidate.
  - 3) not reveal to anyone how the voter voted preserving the voter's right to a secret ballot.

### 3. VOTES CAST OUTSIDE THE POLLING STATION OR MOBILE VOTING (VII, 42)

Voters entered in the voter lists but who are unable to appear at the polling station due to disabilities or other reasons shall vote at the place they are staying. Polling station commissions shall provide for voting outside the polling station. (VII, 42, 1)

- Mobile voting is conducted only on election day. (VII, 42, 2)
- Not more than three mobile ballot boxes will be in use at any polling station. (VII, 42, 3)
- At least 2 polling board members accompanied by 2 trusted persons and observers will conduct mobile voting. (VII, 42, 3)
- Prior to commencement of mobile voting the commission chair should announce the right of trusted persons and official observers to accompany and observe mobile voting.

#### Applications for Mobile Voting

- Requests for mobile voting must be by application or if verbal, documented by a polling station commission member. The request can be made from the time the polling station commission is established until 6 hours before voting closes on election day. (VII, 42, 2)
- Application for mobile voting must include the reason the voter is unable to vote at the polling station, the voter's name and passport or identification series and number (VII, 42, 2 and 4)
- The polling station commission member's documentation of verbal request must include the time received, the voter's name and must be signed by the commission member. At the time of voting the voter will complete the application for mobile voting and a commission member and the voter will sign the application certifying the issuing of the ballot. (VII, 42, 2 and 4)

#### Steps in Processing Mobile Voters

- For conduct of mobile voting the following materials should be given to mobile voting teams by the chairman:
  - 1- A sealed ballot box
  - 2- The applications completed by voters requesting mobile voting
  - 3- The documents verifying verbal requests for applications received by polling station board members and an equal number of blank applications to be completed by these voters
  - 4- The number of ballots equaling the number of advance applications and documented verbal requests
- At the time of mobile voting a commission member and voter will sign the application certifying the issuing of the ballot.
- In cases where a documented verbal request was made the voter will complete the application for mobile voting at the time of voting. It includes the reason the voter is unable to vote at the polling station, the voter's name and passport or identification series and number and signatures of a commission member and voter indicating the ballot is issued. (VII, 42, 2 and 4)
- Upon return to the polling station the passport or identification series and number of mobile voters will be entered into the voter list and a notation shall be made that this voter "voted outside the polling station."

## **VIII. CLOSING THE POLLING STATION AND PRE-COUNT ACTIVITY**

### **1. CLOSING THE POLLING STATION**

The polls close at 8:00 p.m. (VII, 40, 1)

- The polling station chairperson will announce to all present that voting is closed.
- All voters who arrived at the polling station by 8:00 p.m. will be permitted to vote.
- The chairperson will inform official observers and trusted persons who are present the room where counting will take place.
- Supplies and documents that will not be used in counting ballots should be picked up and put away.
- Carry all ballot boxes, unused ballots and other necessary materials to the designated counting area.
- Allow official observers and authorized persons to accompany the ballot boxes.
- Make sure critical items such as ballot boxes and unused ballots are not left unattended.
- Make sure all necessary materials remain organized so that as they are needed you will be able to retrieve them easily.

### **2. ORGANIZING THE COUNT**

Arrange the tables and chairs in the counting area to create an efficient workspace. Allow sufficient room for the members to perform their duties. Two or more tables or desks pushed together can create an adequate work area.

Before the counting starts a chairperson of a precinct election commission applying to all present in the premises shall announce the procedure of vote counting. [At the same time] He/she will also show the place where observers and mass media representatives will be placed. The chairperson will also stress to commission members the importance of compliance with the law in counting procedures.

- Allow official observers and trusted persons to stand or sit directly behind the commission members or sit at the other side of the table in order to see the text of ballots and to observe all activities at the work area
- Do not allow observers to handle the ballots.
- Remember to make sure that all unused ballots are secured so that there is no chance for misuse.
- Prepare labels with the party names, candidate names, and "against all" as well as a label that says, "Void ballots." During the counting these labels will assist officials in identifying the proper stacks as they sort the ballots. The "Void Ballot" label will be used for separating ballots marked in such a way that it is impossible to determine voter intent.

## **IX. COUNTING THE VOTES AND REPORTING RESULTS**

### **1. THE PROTOCOL OF THE POLLING STATION COMMISSION ON VOTING RESULTS (VIII, 43)**

The polling station commission shall compose a protocol on the results of voting and shall contain the following information.

- a) the number of the copy
- b) the level of the election
- c) the words Protocol No.
- d) the name of the election commission and number of constituency
- e) protocol items:



- 1) the number of voters on the list including those voters who were added to the list
- 2) the number of ballots received by the election commission
- 3) the number of ballots handed to early voters
- 4) the number of cancelled ballots
- 5) the number of ballots issued at the polling station
- 6) the number of ballots issued voters outside the polling station
- 7) the number of ballots in portable ballot boxes
- 8) the number of ballots in stationary ballot boxes
- 9) the number of valid ballots
- 10) the number of void ballots
- 11) the number of ballots cast for each candidate or list of candidates
- 12) the number of ballots cast for "Against all Candidates" or "Against all lists of candidates".

The protocol shall also include the following items:

- a) the number of strike off the register certificates for voting in elections received by the polling station commission
- b) the number of voters voting at the polling station using strike off the register certificates
- c) the number of strike off register certificates for elections issued to voters by the polling station commission prior to election day
- d) the list of applications, appeals, acts and other documents enclosed with the protocol
- e) the names and initials of a chairperson, secretary and other members
- f) date and time of protocol signing
- g) the election commission seal

## 2. COUNTING THE BALLOTS AND RECORDING THE RESULTS

Counting ballots shall be done openly and publicly by members of the polling station commission. All those present shall be afforded with a full field of view to observe the actions of the commission. (VIII, 44, 1 and 6)

Ballot counting must take place immediately and must be completed at the polling station without interval. (VIII, 44, 2)

In all tasks the polling station officials should work in pairs to promote accuracy and transparency.

Assign the protocol to the secretary to efficiently record entries, as they are determined.

### 1. Before Ballot Boxes are Opened

- Determine the total number of voters entered into the list including voters added to the list. Announce and enter this number into item #1 of the protocol.
- Announce the number of ballots issued to the polling station by the superior election commission according to the act drawn up on transfer and enter into item #2 of the protocol.
- Count unused ballots and cancel by cutting off the lower right hand corner of each. The amount of unused ballots will be announced and entered into item #4 of the protocol. (VIII, 44, 3)
- Determine the number of ballots handed to voters in the polling station by counting the number of signatures entered into the voter list and enter into item #5 of the protocol. (VIII, 46, 3)
- Determine the number of voters outside the polling station by counting the notations, "voted outside the premises for voting," and enter into item #6 of the protocol.
- Before each ballot box is opened the chairperson will verify and allow commission members, trusted persons, and observers to verify that ballot box seals and stamps are intact. (VIII, 44, 4)
- No marking instruments of any kind will be in the hands of those polling board members who are handling or counting ballots. (VIII, 44, 6)

### Sorting and Voiding Ballots

- Open the portable ballot boxes first and count the total number of ballots, announce it and enter the number into item #7 of the protocol. (VIII, 44, 8)
- Open the stationary ballot box and count the total number of ballots and enter the number into item #8 of the protocol. (VIII, 43, 2/8)
- When the total number of ballots taken from all boxes is complete, the number shall be announced and ballots shall be submitted to all present for visual control. (VIII, 44, 10)
- Ballots are to be separated according to candidate or list voted for and invalid ballots. The valid ballots are counted and the number is entered into item #9 of the protocol. (VIII, 44, 10)
- Ballots are determined invalid or void if it is impossible to determine the intent of the voter. In case there are doubts in determining a ballot voiding the commissions decision shall be done by vote of the polling station commission and an explanation for such action will be written on the back of the void ballot. (VIII, 44, 12)
- Count and enter the number of void ballots into item #10 of the protocol. (VIII, 43, 2 / 10)

### Counting Ballots

- Count the number of ballots cast for each candidate, list of candidates, and "Against all Candidates or Lists of Candidates," one by one. (VIII, 44, 11).
- Under control of precinct election commission members allow all those present to review the ballots in each stack. (VIII, 44, 14).
- After review, enter the number for each candidate and "Against all candidates" into items #11 and #12 of the protocol. If the numbers do not balance the commission will determine whether a recount is necessary. (VIII, 44, 15)

### 3. COMPLETION AND DISTRIBUTION OF THE PROTOCOL (VIII, 44)

- The protocol, which shall be made in three copies, shall be signed by all members of the polling station commission with the date, hour, and minute of signing. (VIII, 44, 17)
- The protocol shall be valid if signed by a majority of the commission. Members in disagreement with the protocol shall have a right to attach a statement expressing the nature of their disagreement and a corresponding note shall be made in the protocol. (VIII, 44, 17 and 18)

### Distribution of Protocol Copies

- The first copy of the protocol will immediately be sent to the superior election commission along with voting documentation including the ballots, claims / applications, resolutions and acts of the polling station commission. (VIII, 44, 19)
- The secretary will retain the second copy and the seal of the polling station commission until the work of the commission is complete. (VIII, 44, 20)
- The third copy is posted for public review in a place determined by the polling station commission. (VIII, 44, 21)
- Additional certified copies will be distributed to any persons making a request. (I, 44, 22-23)

# LAW ON POLITICAL PARTIES

# **The Law of the Kyrgyz Republic On Political Parties**

June 12, 1999 N 50

## **CHAPTER I. GENERAL PROVISIONS**

### **Article 1. The concept of political parties**

In this Law the term Apolitical party means association based on free will and composed of citizens of the Kyrgyz Republic who share common political goals and tasks promoting implementation of political will of a certain part/layer of the population, and participate through their representatives in the government of the state, decision making on economic and social, cultural issues

### **Article 2. Legislative basis of organization and activity of political parties**

The Constitution of the Kyrgyz Republic, this Law and other legislative acts of the Kyrgyz Republic shall constitute the legislative basis for establishment and activity of political parties.

## **CHAPTER II. GOALS AND PRINCIPLES OF ESTABLISHMENT AND ACTIVITY OF POLITICAL PARTIES**

### **Article 3. Goals of establishment and activity of political parties**

Political parties shall be established with the purpose of implementation of political will of a certain part/layer of the population, and their main task shall be participation in the management of state affairs in the following forms:

Nomination of their candidates for election to Zhogorku Kenesh, public positions and bodies of local self-government;

Formation of fractions in representative bodies.

Establishment and activity of political parties the goal and the methods of action of which are directed at overthrow, violent change of constitutional regime, undermining the sovereignty and violation of integrity of the territory of the Kyrgyz Republic, propaganda of war, violence and brutality, kindling social, racial, national and religious dissension, conduct of other actions contradicting with the constitutional regime of the Kyrgyz Republic and incompatible with the commonly accepted norms of international law shall be inadmissible.

Establishment and activity of political parties of foreign states and their divisions on the territory of the Kyrgyz Republic shall be inadmissible.

### **Article 4. Principles of establishment and activity of political parties**

The basic principles of establishment and activity of political party shall be the following:

- freedom of actions;
- voluntary participation
- equality in the rights of members;
- self-government;
- legality and publicity/transparency;

-humanism

#### **Article 5. Conditions of establishment of political parties**

Political parties shall be established on the initiative of not less than 500 citizens of the Kyrgyz Republic. The initiators of establishment of political party shall call the constituent assembly (conference) or general assembly during which the Charter shall be approved and the governing bodies shall be formed.

#### **Article 6. Membership of political party**

Political parties shall have permanent and/or non-permanent membership.

Citizens of the Kyrgyz Republic who reached the age of 18 and who entered party voluntarily and who accept the Charter and the platform of political party shall be considered as members of political parties

A Citizen of the Kyrgyz Republic can be a member of only one political party.

Public officers shall not be allowed to conduct party activity in connection with their official activities

#### **Article 7. The rights of members of political party**

The rights of members of political party shall be defined by its Charter and cannot contradict the Constitution and the laws of the Kyrgyz Republic, international normative acts on the rights and freedoms of individual ratified by the Kyrgyz Republic.

Participation or non-participation of a citizen in the activity of political party cannot constitute the basis for restrictions on his/her rights and freedoms or the right for implementation of his/her official duties set up by the Law, except for the cases foreseen in Article 6 of this Law.

Each member of political party or group of party members shall have the right for free declaration of will.

#### **Article 8. The Charter of political party**

Political party shall be required to have the Charter available to the public.  
The Charter shall reflect:

Title and location of political parties;

Structure of political party, procedure of establishment, responsibilities and terms of authority of its governing bodies;

Periods of conferences, assemblies;

Terms and procedure of admission to political party and departure from it;

The rights and obligations of political parties;

Procedure of decision making, decision implementation and the forms of monitoring;  
Sources of financial means and other property of political party;

Procedure of adoption of amendments and additions to the Charter of political party;

Procedure of termination of the activity of political party and the fate of its property;

The Charter may foresee also other provisions related to the activity of political parties and non-contradicting to the Constitution and corresponding laws of the Kyrgyz Republic.

#### **Article 9. The title and symbols of political party**

The title of party, its abbreviated title and symbols shall be different from the title and symbols of other parties registered in the Kyrgyz Republic.

Upon the change of the title party shall be re-registered according to procedures set up by the Law.

Parties can have emblems, flags, anthem, pennants and badges as their symbols. Symbols shall not serve the purposes of propaganda of the goals listed in the second paragraph of Article 3 of this Law.

#### **Article 10. State registration of political party**

Political party shall be registered according to the legislation of the Kyrgyz Republic.

### **CHAPTER III. POLITICAL PARTY AND THE STATE**

#### **Article 11. The rights and duties of political parties**

In order to implement the goals and tasks identified in platform documents and other acts political parties shall have the right:

Freely disseminate the information on their goals and activity, establish mass media agencies according to procedures set up by the Law, organize meetings, demonstrations, assemblies and other popular events;

Form political blocs, unions, associations based on free will;

Participate in elections of the President, Zhogorku Kenesh and other elected state bodies of the Kyrgyz Republic;

Influence decision making by the state bodies in democratic way

Nominate their candidates for the President of the Kyrgyz Republic;

Nominate their candidates for the elections to Zhogorku Kenesh and bodies of local self-government in one party list, conduct pre-election campaigning and form supporting groups;

Fulfill other functions foreseen by the this Law and other legislative acts of the Kyrgyz Republic.

It is obligatory that governing bodies of party shall be located on the territory of the Kyrgyz Republic.

#### **Article 12. The rights and duties of the state in relations with political parties**

The state shall guarantee observance of the rights and legal interests of political parties, creation of equal legal conditions for implementation of the basic tasks of political parties according to the Constitution and laws of the Kyrgyz Republic

Interference into the activity of political parties by state bodies and public officers shall be inadmissible, except for the cases foreseen in this Law.

Ministry of Justice of the Kyrgyz Republic shall have the right to request from the governing bodies of political party the explanations on the issues related to violation of the Charter of political party.

#### **Article 13. Responsibility for violation of the Law on political parties**

Responsibility for violation of this Law shall be determined according to the legislation of the Kyrgyz Republic.

In case party undertakes actions exceeding the goals and tasks defined in its Charter or actions inappropriate to the acting legislation, governing body of this party can be warned in written form by the Ministry of Justice of the Kyrgyz Republic.

Governing body of party informs about the measures undertaken for elimination of violations of the legislation on political parties stated in warning notification of the Ministry of Justice of the Kyrgyz Republic within one-month period.

#### **Article 14. Suspension of the activity of political party**

The state body which registered political party can impose suspension upon activity of political party for two-month period if party undertakes actions exceeding the goals and tasks defined in its Charter or violating the Law. In this case political parties are prohibited from the use of all kinds of mass media, conduct of propaganda and campaigning, participation in elections. Its right to use bank deposits, except for payments on labor agreements, reimbursement of losses caused by its activities and payment of fines, shall be also suspended.

Upon expiration of the mentioned above term after elimination of violations, the activity of political party shall be renewed.

#### **Article 15. Termination of the activity of political party and its dismissal**

Suspension of the activity of political party can be conducted in the form of reorganization (merger, incorporation and fragmentation) or termination.

Reorganization of political party shall be carried out on the decision of its assembly (conference). Registration of newly established political party after the reorganization shall be conducted in accordance with the legislation of the Kyrgyz Republic.

Termination of political party shall be carried out on the decision of its assembly (conference).

Political party shall be dismissed on the decision of Court of the Kyrgyz Republic in case party conducts actions foreseen in the second paragraph of Article 3 of this Law.

The decision on dismissal of political party shall be announced by the Ministry of Justice of the Kyrgyz Republic.

### **CHAPTER IV. FINANCIAL AND MATERIAL SECURITY OF THE ACTIVITY OF POLITICAL PARTIES**

#### **Article 16. Financing the activity of political party**

The activity of political parties shall be financed from its own sources. No assignments from the state budget shall be made, except for the cases of financing election campaigns in accordance with the Law on elections of deputies.

Foreign states, foreign parties and also legal and physical entities of foreign states shall be prohibited from financing the activities of political parties.

#### **Article 17. Sources of formation of financial means of political parties**

Financial means of political parties shall be formed of membership fees, voluntary donations, loans, income from property, income received as result of events conducted by parties, dissemination of published materials, and other kinds of income not prohibited by the Law.

#### **Article 18. Property of political parties**

Political parties and their organizations shall have the right to have movable and immovable property, technical facilities, implements, publishing houses, printing houses and other kinds of property necessary for implementation of the tasks foreseen by the Charter.

Parties shall have the right to use buildings and other property in accordance with the loan- or lease-agreement concluded with legal and physical entities.

Parties are prohibited from having, storing or having in custody weapons, explosive substances and other materials undermining security of the society and environment, and also lives and health of citizens.

#### **Article 19. The use of income**

Only for the purposes of implementation of their tasks defined in the Charter political parties shall establish according to procedures stipulated by the legislation enterprises and organizations which have the rights of legal entity

Income from the activity of these enterprises and organizations cannot be distributed among the members of party and shall be used only for achievement of the tasks defined in the Charter.

Members of party shall not have the right for income and property of these enterprises and organizations, except for the cases stated in the second paragraph of this article, and also shall not bare responsibility for the debts of these enterprises and organizations.

The use of income for charity purposes shall be admissible irrespective to the requirements of the Charter.

#### **Article 20. Financial Accountability**



Financial accountability of political party shall be carried out in accordance with the legislation of the Kyrgyz Republic.

**Article 21. The use of financial and material means of political party in case of its dismissal.**

Material and financial means of political party the assembly (conference) of which took the decision on self-dismissal shall be used only for the goals defined in its Charter.

Property of political party dismissed according to the decision of Court shall be taken by the state and used for the purposes stated in article 14 of this Law.

**CHAPTER V. CONCLUDING PROVISIONS**

**Article 22. Control over the activity of political party**

Control over the sources of income of political party, the amount of income and tax payments shall be carried out by territorial bodies of State Tax Service of the Kyrgyz Republic.

**Article 23. Effectiveness of the Law**

1. The Law shall come into effect from the moment of its publication.
2. Provisions related to establishment and activity of political parties in the Law of the Kyrgyz Republic «On Public Associations» shall be considered as ineffective.

Akaev  
President of the Kyrgyz Republic

Adopted by the Legislative Assembly  
of Zhogorku Kenesh on May 25, 1999

THE ADMINISTRATIVE CODE  
OF THE KYRGYZ REPUBLIC

**Part II.**

**Chapter 7. Administrative violations infringing on citizens' rights and freedoms**

**Section 49. Failure to fulfil lawful election commission requests**

Any official's failure to provide an election commission with necessary for its activity information or materials as well as a failure to fulfil an election commission decision, taken within the limits of its authority, shall lead to imposing of an administrative fine in the amount of from 10 up to 50 minimum salaries.

**Section 50. Violation of rights of a polling station member, candidate trusted person, observer**

Violation of rights of a polling station official, candidate's trusted person, observer shall lead to imposing of an administrative fine on citizens in the amount of from 5 up to 10 and on officials from 20 up to 50 minimum salaries.

**Section 51. Rejection to provide a vocation to participate in elections**

Employer's rejection to provide a registered candidate, candidate's trusted person or an election commission member foreseen by the law vocation for participation in preparation and conducting of elections to state or local state government bodies shall lead to imposing of an administrative fine on officials in the amount from 20 up to 100 minimum salaries.

**Section 52. Violation of the conditions of conducting of pre-election campaigning through mass media**

Violation made by a mass media editor in chief, a journalist of the conditions of conducting of pre-election campaigning foreseen by the legislation on elections shall lead to imposing of an administrative fine in the amount from 10 up to 50 minimum salaries.

**Section 53. Distribution of a deliberately falseful information on a candidate**

Distribution of a deliberately falseful information on a candidate by publication or some other way falseful information with an aim to influence the result of elections shall lead to imposing of an administrative fine on citizens – in the amount from 10 up to 20 minimum salaries and on officials – from 50 up to 100 minimum salaries.

**Section 54. Conducting of pre-election campaigning within the period when it is banned**

Conducting of pre-election campaigning ... period is banned by the legislation of the Kyrgyz Republic shall lead to imposing of an administrative fine in the amount from 10 up to 20 minimum salaries.

**Section 55. Publication and distribution of anonymous campaigning materials**

Within the period of preparation and conducting of elections to state and self-government bodies publication and distribution of campaigning printed materials not specifying the organization and persons responsible for publication shall lead to imposing of an administrative fine in the amount from 10 up to 20 minimum salaries.

**Section 56. Deliberate elimination or damaging of campaigning printed materials**

Deliberate elimination or damaging of a candidate's portrait, posting with candidate's biography or other campaigning printed materials posted on buildings and other objects with the approval of an owner within the campaigning period shall lead to imposing of an administrative fine in the amount from 5 up to 20 minimum salaries.

**Section 57. Unlawful issue to citizens of ballots for voting.**

Election official's issue of a ballot to a citizen with an aim to provide a possibility to vote for another person shall lead to imposing of an administrative fine in the amount from 50 up to 100 minimum salaries.

**Section 58. Failure to provide or publish information on the results of voting or results of elections**

Polling station chairperson's failure to provide information on the results of voting to a Kyrgyz Republic citizen or a foreign (international) observer shall lead to imposing of an administrative fine in the amount from 5 up to 10 minimum salaries.

The same actions if made by a chairperson of a territorial election commission shall lead to imposing of an administrative fine in the amount from 15 up to 20 minimum salaries.

The same actions if made by the CEC chairperson as well as his/her failure to publish the results of elections or a referendum within the publication terms shall lead to imposing of an administrative fine in the amount from 20 up to 50 minimum salaries.

**Section 59. Limitation of citizens' right for campaigning and familiarization with voters' lists**

Making hindrance in conducting of campaigning (with an exception for the day of elections or a referendum) as well as a violation of a citizens' right to familiarize with the list of voters or a failure to consider an application to make correction in a voters' list within the established by the law period or a rejection to give a motivated answer on a reason of rejection of an application to make changes in a voters' list or failure to fulfil a court decision to make changes in a voters' list within the established period as well as a violation of a secrecy of voting shall lead to imposing of an administrative fine in the amount from 20 up to 50 minimum salaries.

**Section 60. Election commission chairperson's failure to publish a report on budget funds expenditures**

Election commission chairperson's failure to publish a report on expenditure of budget funds allocated for a preparation and conducting of elections (referendum) shall lead to imposing of an administrative fine in the amount from 20 up to 50 minimum salaries

# THE CRIMINAL CODE OF THE KYRGYZ REPUBLIC

# THE CRIMINAL CODE OF THE KYRGYZ REPUBLIC

September 18, 1997

## Chapter 19. Crimes infringing on constitutional rights and freedoms of a person and a citizen

### Section 139 Making hindrance on the way of implementation of election rights or activity of polling stations

Making hindrance on the way of implementation of a citizens' election right or his/her right to participate in a referendum as well as making hindrance on the activity of election commissions shall lead to imposing of a fine in the amount from 50 up to 100 minimum salaries.

The same actions when

- bribery, cheating, violence or its threat is involved
- made by a person who used his/her position
- committed by a group of people who preliminary planned the actions
- committed by an organized group

shall lead to imposing of a fine in the amount from 200 up to 500 minimum salaries or arrest from a period up to 6 months or imprisonment for a period up to 5 years.

### Section 140 Bribery of voters

Bribery of voters in the course of elections of the President, Parliament, local and other state bodies by distribution of material valuables or promoting obtaining some position or other goods that influence the results of elections shall lead to a fine in the amount from 500 up to 1000 minimum salaries or imprisonment from 2 up to 5 years.

### Section 141 Falsification of election documents, referendum document or incorrect calculating of votes

Falsification of election documents, referendum documents, deliberately incorrect counting of votes or summing up the results of elections, referendum, violation of the secrecy of voting if such actions are committed by an election commission member, a member of an initiative group or a commission for conducting of a referendum shall lead to imposing of a fine in the amount from 500 up to 700 minimum salaries or imprisonment for a term up to 4 years.

THE DECISION OF THE  
CONSTITUTIONAL COURT OF  
THE KYRGYZ REPUBLIC

**The Decision of the Constitutional Court of the Kyrgyz Republic  
Made Upon Applications of the People's Representatives Assembly Deputies  
Valeri Dill, Esen Ismailov and**

**Deputies of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic  
Boris Gagaev, Adakhm Madumarov**

**On the Resolution of a Dispute related to the Application of item 2 of Article 43 of the Constitution of  
the Kyrgyz Republic on a Possibility of Participation of President Akaev in the forthcoming  
presidential elections of 2000**

**July 13, 1998  
Bishkek city**

The Constitutional Court of the Kyrgyz Republic consisting of: Chairperson Baekova, Deputy Chairperson Sutalinov, Judges – Dryzhak, Kensariyev, Osmonov, Satybekov, Togoibaev, Esenalieva, Esenkanova with participation of Secretary of the Court Meeting Alymkulov, parties: the People's Representatives Assembly Deputies Valeri Dill, Esen Ismailov and Deputy of the Legislative Assembly Gogaev, guided by Article 82 of the Constitution of the Kyrgyz Republic, Article 13 of the Law On the Constitutional Court of the Kyrgyz Republic, Articles 13 and 14 of the Law On the Legal Proceedings in the Constitutional Court of the Kyrgyz Republic in its open meeting considered the applications made by the People's Representatives Assembly deputies Dill, Ismailov and the Legislative Assembly deputies Gogaev and Madumarov on a resolution of a dispute related with implementation of item 2 of Article 43 of the Constitution of the Kyrgyz Republic on a possibility of participation of President Akaev in the forthcoming presidential elections of 2000.

Having heard presentations made by Deputy Chairperson of the Constitutional Court Sutalinov, presentations made by deputies of the Zhogorku Kenesh Gogaev, Dill and Ismailov, deputy chairperson of the national commission on the state language at the Presidential office Akmatov and having studied the case materials, the Constitutional Court of the Kyrgyz Republic

**DECREES:**

On March 6, 1998 the Constitutional Court of the Kyrgyz Republic accepted an application made by the People's Representatives Assembly deputies Dill, Ismailov and the Legislative Assembly deputy Gogaev on a resolution of a dispute related with implementation of item 2 of Article 43 of the Constitution of the Kyrgyz Republic on a possibility of participation of President Akaev in the forthcoming presidential elections of 2000.

In their presentations they point out that currently in mass media there is a discussion whether President Akaev can run as a candidate in presidential elections in 2000. Deputies of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic Kadyrbekov, Sadyrbaev, Cholponbaev have already told in mass media that in the forthcoming presidential elections in 2000 President Akaev can not participate because he was elected by all people twice in 1991 and 1995 and is serving his second term now. Deputies Dill, Ismailov and Gagaev believe that this position is wrong saying that in accordance with item 2 Article 43 of the Constitution of the Kyrgyz Republic President Akaev was elected for his first term in 1995. Elections in 1991 were conducted on the basis of the Constitution of the Kyrgyz SSR adopted on April 20, 1978 and a referendum of 1994 on the authority of the President of the Kyrgyz Republic Askar Akaev does not deal with his election as the President of the Kyrgyz Republic for the term foreseen by item 2 Article 43 of the Constitution of the Kyrgyz Republic.

On March 19 and June 17 1978 the Constitution Court received an application of a deputy of the Legislative Assembly Madumarov in which he points out that the first presidential term of Askar Akaev starts in 1990 and ends in 1995. And after elections in 1995 there is the second term. With regard to the existing dispute in application of item 2 Article 43 of the Constitution of the Kyrgyz Republic it is prohibited for one and the same person to be elected the President of the Kyrgyz Republic for more than two terms running and he asks to resolve a dispute on President Akaev's possibility to participate in presidential elections in 2000.



Having heard deputies' arguments and considered the submitted materials, the Constitutional Court of the Kyrgyz Republic decided that the post of the President of the Kyrgyz Soviet Socialist Republic was adopted by the Supreme Soviet of the Kyrgyz Soviet Socialist Republic on October 24, 1990 by the Law of the Kyrgyz Republic On the establishment of the post of the President of the Kyrgyz SSR and Making Changes and Amendments to the Constitution (the Main Law) of the Kyrgyz SSR. In section 3 of this Law it is stated that the first President of the Kyrgyz SSR is elected by the Supreme Soviet of the Kyrgyz SSR by a secret ballot for a period of 5 years but section 1 of Article 114-1 of the Constitution of the Kyrgyz SSR foresee that one and the same person can not be the President of the Kyrgyz SSR for more than two terms running.

The Supreme Soviet of the Kyrgyz SSR by its resolution N 230-XII of October 27, 1990 elected Askar Akaev the President of the Kyrgyz Soviet Socialist Republic.

Further on, the Supreme Soviet of the Republic of Kyrgyzstan by its Resolution N 577-XII of August 31, 1991, having adopted the Declaration on Independence of the Republic of Kyrgyzstan, the same day with its resolution N 568-XII appointed elections of the President of an independent Republic of Kyrgyzstan for October 12, 1991 and by its resolution N 569-XII nominated Askar Akaev to run as a candidate for the President of the Republic of Kyrgyzstan.

According to the CEC resolution N 108 of October 15, 1991 On the Results of Voting in elections of the President of the Republic of Kyrgyzstan, Askar Akaev, born in 1944, living in the city of Bishkek, was elected the President of the Republic of Kyrgyzstan.

Conducted upon an initiative of the Supreme Soviet of the Republic of Kyrgyzstan national elections that were conducted not an alternative basis on October 12, 1991 after adoption of the Declaration On Independence of the Republic of Kyrgyzstan and election of Askar Akaev as the President of the Kyrgyz Republic is considered by the Constitutional court of the Kyrgyz Republic as an objective forced procedure directed at providing legitimacy of the President of an independent state – the republic of Kyrgyzstan and his authorities determined by the Constitution of the Kyrgyz SSR adopted on April 20, 1978 with the changes and amendments made by the Law of the Kyrgyz SSR On establishment of the post of the President of the Kyrgyz SSR on Making Changes and Amendments to the Constitution (the Main law) of the Kyrgyz SSR adopted on October 24, 1990.

On May 5, 1993 the 12<sup>th</sup> session of the 12<sup>th</sup> call of the Supreme Soviet of the Republic of Kyrgyzstan adopted the first Constitution of an independent Kyrgyz Republic. With regard to this and taking into account that the authority of the first president of the Republic of Kyrgyzstan were defined by the Constitution of the Kyrgyz SSR of 1978, on January 30, 1994 on the whole territory of the Kyrgyz Republic there was conducted a referendum on the item whether the people of Kyrgyzstan confirm that the President of the Republic of Kyrgyzstan elected by whole people on October 12, 1991 for a period of 5 years, is the President of the Kyrgyz Republic and is authorized to implement his authorities identified by the Constitution of the Kyrgyz Republic for the period he was elected.

Out of the CEC resolution N 175 of February 1994 On the results of a referendum of the Kyrgyz Republic adopted on January 30, 1994 it is clear that the people of Kyrgyzstan confirmed that President Akaev who was elected by all people on October 12, 1991 for a period of five years is the President of the Kyrgyz Republic and will implement his authorities for the whole period he was elected that were specified by the Constitution of the Kyrgyz Republic.

The adopted on May 5, 1993 Constitution of the Kyrgyz Republic introduced new principles of organization of state and state power and accordingly changed the volume and structure of authorities of the President of the Kyrgyz Republic causing the necessity of further legitimization of new authorities of the President of the Kyrgyz Republic within the limits of the period for which he was elected on the basis of the Constitution of the Kyrgyz SSR of 1978 that is practically implemented through the referendum conducted on the whole territory of the Kyrgyz Republic on January 30, 1994.

With regard to the specified circumstances, the Constitutional Court of the Kyrgyz Republic came to the conclusion that the time Askar Akaev was the president of the Republic of Kyrgyzstan, being a part of a federal state – the Union of Soviet Socialist republics in accordance with the Constitution of the Kyrgyz SSR of 1978, and further period of obtaining of independence by the Republic of Kyrgyzstan, can not be accounted into the period for which the President of the Kyrgyz Republic can be elected that is specified by Article 43 of the Constitution of the Kyrgyz Republic of May 5, 1993.

The Constitutional Court decided that on an alternative basis and in accordance with the procedure specified by the Constitution of the Kyrgyz Republic of May 5, 1993 President Akaev was elected for the first time only in elections conducted on December 24, 1995. This is verified by a resolution of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic N 200/1 of September 22, 1995 and a resolution of the People's Representatives Assembly N 156/1 of September 26, 1995 in which guided by item 9 Article 58 of the Constitution of the Kyrgyz Republic legislative body appoints elections of the President of the Kyrgyz Republic for December 24, 1995.

The resolution N 253/3 of October 23, 1995 of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic nominates Askar Akaev to run as a candidate for the President of the Kyrgyz Republic.

The next day after nomination, on October 24, 1999 the CEC received an application of Askar Akaev on his consent to run as a presidential candidate in the forthcoming national elections on December 24, 1995.

From a resolution N 35 of December 27, 1995 of the CEC it is clear that out of three candidates, running for the post of the president of the Kyrgyz Republic at the national elections held on October 24, 1995, Askar Akaev was elected the President of the Kyrgyz Republic having received 1391114 votes out of 2254348 total votes.

Further on, in accordance with the procedure foreseen by Article 45 of the Constitution of the Kyrgyz Republic of May 5, 1993, on December 28, 1995 the Constitutional Court of the Kyrgyz Republic with its decision considered as legal election of Askar Akaev as a President of the Kyrgyz Republic on December 24, 1995; on December 30, 1995 President Akaev was inaugurated and take an oath for the people of Kyrgyzstan.

Under the circumstances, the Constitutional Court of the Kyrgyz Republic considers that in accordance with the requirements of Articles 43 and 45 of the Constitution of the Kyrgyz Republic of May 5, 1993, the first term of the presidential mandate for an implementation authorities foreseen by the Constitution of the Kyrgyz Republic of May 4, 1993 is calculated from this moment and upon its expiration President Akaev is authorized to be elected the President of the Kyrgyz Republic at regular elections in 2000.

Based on he mentioned above and guided by subitem 2 item 3 of Article 82 of the Constitution of the Kyrgyz Republic and Articles 13 and 14 of the Law On the Constitutional court of the Kyrgyz Republic, Articles 10, 11, 13, 14, 15, 24, 25, 29 and 30 of the Law On the Constitutional Proceedings in the Kyrgyz Republic and the Constitutional court of the Kyrgyz Republic

#### DECIDED:

Upon expiration of the first term of the presidential mandate, President of the Kyrgyz Republic Askar Akaev in accordance with item 2 of Article 43 of the Constitution of the Kyrgyz Republic can be elected the President of the Kyrgyz Republic in the next elections of 2000.

The decision is final and can not be appealed. It is obligatory for the execution by all state bodies, officials and citizens.

The decision shall be published in Vedomosty of the Zhogorku Kenesh of the Kyrgyz Republic, newspapers: Kyrgyz Tuusu, Slovo Kyrgyzstana, Erkin Too, Nasha Gazetta and in all mass media.

Baekova, Chairperson

Kenensariyev, Secretary

# Appendix B

# Forms Related to Chapter 1: Election Appeals Process

# Forms Related to Chapter 2: Jurisdiction

# Forms Related to Chapter 3: The Formation of Election Commissions

Adopted by the CEC Resolution  
On August 20, 1999 N 138

### **Explanations**

## **On the Procedure of Activity of Election Commission Members with a Consultative Vote, Trusted Persons of Candidates, Political Parties, Election Blocs, Authorized Representatives of Candidates, Political Parties, Election Blocs, Observers, Mass Media Representatives in Conducting of Elections in the Kyrgyz Republic**

This explanations regulate in accordance with the requirement of the Election Code the procedure of activity of election commission members with a consultative vote, trusted persons of candidates, political parties, election blocs, authorized representatives of candidates, political parties, election blocs, observers, mass media representatives in conducting of elections. Making hindrance on the way of legal activity of the mentioned above category of election process participants shall lead to administrative or criminal responsibility in accordance to the procedure established by the legislation of the Kyrgyz Republic.

### **1. Election commission member with a consultative vote**

In accordance with item 8 Section 11 of the Election Code of the Kyrgyz Republic after registration of a candidate or a list of candidates by a corresponding election commission a registered candidate, political party, election bloc that nominated a list of candidates can appoint to an election commission that registered a candidate or a list of candidates and also to subordinate election commissions one member each with a consultative vote. Registered candidate or an authorized representative of a political party, election bloc shall send official documents to a corresponding election commission the chairperson of which puts the appointed persons into the lists of commission members with a consultative vote and issues them certificates.

Election commission member with a consultative vote shall have the same rights as polling station commission officials except for those foreseen by the legislation.

Candidate, his/her trusted persons (trusted persons of political parties, election blocs), his/her spouse or candidate's close relatives, as well as persons being his/her direct subordinates shall not be election commission members with a consultative vote.

The activity of election commission members with a consultative vote starts from the moment of receiving by a corresponding election commission of an application of a candidate, political party, election bloc on appointment of a commission member that shall specify a full name, year (at the age of 18 – additionally a date and month) of birth, place of residence of such member.

Election commission member with a consultative vote shall not:

- Participate in election commission meeting;
- Make presentations at election commission meetings, make suggestions on the issues being in competence of a corresponding election commission, demand voting on them, ask questions on the agenda to other participants of an election commission meeting and receive answers on them;
- Get familiarized with any documents and materials of a corresponding subordinate election commission and receive certified copies of such documents.

Election commission member with a consultative vote shall not:

- conduct pre-election campaigning, distribute any campaigning materials

- issue ballots;
- participate in sorting of ballots and counting of votes;
- make a protocol on the results of voting and results of elections;
- participate in voting at election commission meeting and sign its decisions.

## 2. The status of trusted persons of candidates, political parties, election blocs

In accordance with Section 29 of the Election Code a candidate, political party and an election bloc can appoint trusted persons. The number of trusted persons of candidates, political parties, election blocs shall not be limited.

Citizens of the Kyrgyz Republic enjoying an active election right can be trusted persons. Trusted persons are appointed on the basis of a written application of a candidate, political party, election bloc and an application of a citizen with his/her content to be a trusted person that shall specify full name, year of birth, place of work, position and place of residence of a trusted person. Trusted persons registration shall take place immediately by an election commission that registered a candidate (list of candidates) in the basis of a written application of a candidate or a political party representative or an election bloc and an application of a citizen him/herself with his/her content to be a trusted person. Election commission shall issue a trusted person a certificate issued in accordance with the established sample.

Trusted persons can not be deputies of the Legislative and People's Representatives Assemblies, officials from the Government and Presidential Administration, Prime Minister, officials of the state executive bodies and local self-administration bodies, members of election commissions, employees of law-enforcement bodies and courts, military men, foreign citizens.

From the date of registration of a trusted person till the day of official announcement of total election results the management of a company, establishment or an organization irrespective of the form of ownership shall provide trusted persons vocations without payment upon their requests.

Trusted persons act within the limits of their authority given to them by candidates, political parties, election blocs.

Trusted persons of candidates, political parties, election blocs can:

- make presentations at pre-election campaigning meetings, meetings with voters, participate in pre-election campaigning debates and discussions;
- be present at election commissions meetings;
- be present at polling stations including the ones in military units, in conducting of voting, counting of votes and summing up the results of voting;
- get familiarized with election commission documents, as well as protocols on the results of voting, results of elections;
- appeal decisions and actions (failure to act) of election commissions and be present at consideration of claims and applications.

Trusted candidates of candidates, political parties, election blocs shall not:

- interfere into the work of election commissions;
- sign instead of a voter upon voter's request for receiving of a ballot inside the premises for voting and also fill in a voter's ballot upon his/her request in a booth for voting or a special place or room for secret voting;
- conduct informational TV and radio programs, participate in covering elections through mass media in case they are journalists, creative workers or officials of editing departments of mass media.



Candidates, political parties, election blocs can any time withdraw trusted persons and a candidate or upon candidate's request an authorized representative of a candidate, political party, election bloc shall notify an election commission on a withdraw to terminates the issued to trusted persons certificates. Election commission shall terminate the issued to trusted persons certificates. Candidates, political parties, election blocs can appoint new trusted persons instead the withdrawn ones in accordance with the established order.

### **3. Authorized representatives of candidates, political parties, election blocs**

In accordance with Article 26 of the Election Code candidates, political parties, election blocs appoint authorized representatives who represent a candidate, political party, election bloc on all the issues connected with participation in elections including financial issues.

Appointment of authorized representatives of political parties, election blocs can be made at a congress (conference) of a political party, election bloc or its management body. Candidate, political party, election bloc shall issue one certificate to all or certificates to each authorized representative in accordance with the law procedure.

Authorized representatives of candidates, political parties, election blocs shall file with a territorial election commission a protocol with a decision of a congress (conference) of a political party, election bloc on nomination of a candidate (list of candidates). Self-nominated candidates shall file with a territorial election commission an application on his/her intention to run as a candidate in this constituency and a request to register his/her authorized representatives.

At the same time a territorial election commission shall receive a list of authorized representatives of a candidate, political party, election bloc that shall specify full name, date of birth, place of residence of each authorized representative and issued according to the established legal procedure power of attorney for authorized representatives of a candidate, political party, election bloc.

Territorial election commission shall consider the filed documents whether they are in compliance with the existing legislation within 5 calendar days from the day of their filing and take a decision on registration of authorized representatives of candidates, political parties, election blocs and issue them registration certificates.

Authorized representatives:

- Sign signature lists when signatures in support of a candidate are collected, count the number of voters' signatures collected in support of a candidate, make a protocol on the results of collection of signatures.
- File with a territorial election commission signature lists in support of a candidate as well as other documents to register a candidate (list of candidates).
- From an election commission receive a confirmation in a written form (a receipt) on filing of signature lists and other documents;
- Conduct campaigning, distribute campaigning materials;
- Implement other powers established by the legislation on elections of the Kyrgyz Republic, powers delegated by a candidate, political party, election bloc.

Authorized representatives of candidates, political parties, election blocs shall not influence voters with promises to transfer money, securities and other material objects, give them money, presents and other material objects except for those given for the campaigning organizational work done (for being on duty at polling stations, collecting signatures and so on), carry out any sale of goods on preferential terms, distribute free of charge any goods except for the printed ones including illustrative materials, badges specially made for an election campaigning.

#### 4. Observers

Candidate, political party, election bloc, public association, voters have the right to appoint observers to conduct observation over conducting of voting, calculation of votes, establishment of the results of voting and determination of the results of elections. Any foreign or international organization obtaining this right according to the procedure foreseen by the law of the Kyrgyz Republic to carry out observation over the preparation and conducting of elections in the Kyrgyz Republic is represented by foreign (international) observers.

Observer's authority shall be certified in a written form by a registered candidate, political party, election bloc, public association meeting of voters whose interests this candidate represents. There shall also be specified observer's full name, place of residence as well as the number of a polling station and the name of the election commission he/she is sent to. This document is valid only with a passport or replacing it document. It is not necessary to make a preliminary notification on an observer coming.

At the day of election from the moment of starting of the territorial election commission work until receiving of an information from a superior election commission on the adoption of a protocol on the voting results and at a repeat counting of votes of voters observers, foreign (international) observers are entitled to attend.

There shall be provided an access to all observers, foreign (international) observers to precinct premises established at a precinct, military unit, hospital, sanatorium, rest home, solitary confinement cell and temporary isolator and premises for voting at this precinct.

Observers, foreign (international) observers shall be authorized to be present at election commissions meetings when there is summing and establishment of the results of voting, compiling of corresponding protocols on the results of voting, elections and repeat calculation of votes of voters.

Observer can:

- a) get familiarized with the voters lists;
- b) be present at the premises for voting on the day of voting including the ones at military units any time from the moment a polling station starts its work until receiving of an information on filing of a protocol with the results of voting by a superior election commission as well as in a repeat counting of votes;
- c) be present when a chairman of a polling station election commission shows ballot boxes before their sealing and opening after completion of voting;
- d) be present at polling station election commission members counting of votes and cancellation of unused votes with the right of a decisive vote;
- e) be present at voting outside the premises for voting;
- f) observe the counting of voters put into the list of voters, ballots issued to voters, cancelled ballots, observer counting of votes at a distance and under conditions providing a possibility to observe the content of ballots, get familiarized with any fill in and not fill in ballot at counting of votes, observe election commission compiling of a protocol on the results of voting and other documents;
- g) apply to a polling station commission chairperson and in case he/she is absent, to any person replacing him/her with suggestions and remarks on voting organization procedures issues;
- h) be present at election commission meetings in their determination of the results of voting, determination of the results of elections, compiling of corresponding protocols on the results of voting, elections as well as a repeat counting of votes;
- i) get familiarized with a protocol of a polling station commission on the results of voting and protocols of other election commissions on the results of voting and results of elections, make or receive from a corresponding election commission copies of the mentioned above protocols and enclosed to them documents received by relevant election commissions or composed by the mentioned commissions including the list of persons present at voting. Upon an observer's requirement, an election commission shall issue or certify the mentioned copies;

- j) appeal actions (failure to act) of a polling station election commission, other election commission to a superior election commission, the CEC or court;
- k) be present at a repeat counting of votes in corresponding commissions.

Observer shall not:

- a) issue ballots to voters;
- b) sign instead of a voter upon his/her request for receiving ballots;
- c) upon a voter's request to fill in his/her ballot;
- d) take actions violating the secrecy of voting;
- e) directly participate in conducted by polling station counting of votes
- f) undertake other actions hindering the work of a polling station;
- g) conduct campaigning among voters;
- h) participate in taking decision by a corresponding election commission.

Any observer shall be immediately taken out of the premises for voting if he/she tries to make hindrance in the work of an election commission or carrying out Kyrgyz Republic citizens' election rights, his/her actions violate secrecy of voting or he/she tries to influence voter's intent. The decision on that shall be made by a polling station election commission. And the commission shall be authorized to apply to corresponding bodies to punish such a person in accordance with the foreseen legislation of the Kyrgyz Republic.

#### 5. Mass media representatives

In accordance with the Election Code mass media representatives' aim is to convey the public complete, objective and fair information on the elections through all election campaign stages.

Mass media representatives shall be authorized:

- to be present at election commission meetings providing transparency and openness of their activity;
- to get familiarized with decisions of a corresponding election commission and transfer copies of decisions to be published mass media;
- to be present at public pre-election actions and to cover in mass media the course of their conducting;
- to be present at polling stations on the voting day from the moment a polling station starts its activity till receiving of an information on a superior election commission receiving of a protocol on the results of voting as well as repeat counting of votes;
- to get familiarized with protocols of election-commissions on the results of voting.

Accredited by the CEC mass media representatives shall be authorized to be present at the CEC meetings.

Mass media representatives: journalists, mass media editing officials and creative workers of state TV and radio companies shall be prohibited to participate in covering elections through mass media if these persons are candidates, their trusted persons or election commission members.

*Certificate of Territorial Election Commission Members*

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

**Photo**

Chairperson of a territorial election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic  
for \_\_\_\_\_

\_\_\_\_\_  
(name of constituency)  
constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" "of \_\_\_\_\_ 1999 year  
(date of issue)

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

**Photo**

The secretary of a territorial election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic  
for \_\_\_\_\_

\_\_\_\_\_  
(name of constituency)  
constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" "of \_\_\_\_\_ 1999 year  
(date of issue)

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

**Photo**

Member of a territorial election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic  
for \_\_\_\_\_

\_\_\_\_\_  
(name of constituency)  
constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" "of \_\_\_\_\_ 1999 year  
(date of issue)

*Certificate of Precinct Election Commission Members*

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)  
Chairperson of a precinct election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic

**Photo**

for \_\_\_\_\_  
(name of constituency)

constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" " of \_\_\_\_\_ 1999 year  
(date of issue)

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)  
Secretary of a precinct election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic

**Photo**

for \_\_\_\_\_  
(name of constituency)

constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" " of \_\_\_\_\_ 1999 year  
(date of issue)

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)  
Member of a precinct election commission for election  
of deputies to the Zhogorku Kenesh of the Kyrgyz Republic

**Photo**

for \_\_\_\_\_  
(name of constituency)

constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

The Chairperson  
of Central Election Commission

Imanbaev S. I.

" " (date of issue)

Forms Related to Chapter 4:  
Registration of Voters  
Explanation of the order of  
formation of lists of voters

**Explanations on the Procedure of a Polling Station Election Commission Compiling of Voter List  
For Conducting of Elections and its Providing for  
Public Familiarization**

In order to exercise election rights of citizens of the Kyrgyz Republic and requirements of Articles 21, 22 of the Election Code of the Kyrgyz Republic the CEC decrees:

1. To adopt the Explanations on the Procedure of a Polling Station Election Commission Compiling of Voter List for Conducting of Elections and its Providing for Public Familiarization (enclosed).
2. State executive and local self-governing bodies, election commissions (polling station election commissions within the period of preparation and conducting of elections) shall undertake corresponding measures for an implementation of this Explanations.
3. To publish this Regulations in the CEC bulletin and in mass media.

S. Imanbaev  
Chairman

Bishkek, August 20, 1999  
N 144

**Explanations on the Procedure of a Polling Station Election Commission Compiling of Voter List for  
Conducting of Elections and its Providing for Public Familiarization**

**I. The Procedure of Compiling of Voter List**

1. The Voter List shall be compiled by a polling station election commission on the basis of data on voters provided by:
  - Local state executive bodies;
  - Commanders of military units;
  - Heads of diplomatic representations, consular establishments of the Kyrgyz Republic;
  - Heads of rest homes, health resorts, hospitals, other stationary medical and prophylactic institutions;
  - Heads of investigation solitary confinement cells and confinement sells for temporary detention.

In establishment of polling stations for conducting of elections the data on voters shall be transferred to a polling station election commission within not later than 2 calendar days after the day of its establishment.

The data on voters shall be composed in accordance with the form specified in Appendix N 1 enclosed to these Explanations.

2. The heads of rest homes, health resorts, hospitals, other stationary medical and prophylactic institutions and other establishments for temporary stay of voters shall provide polling station election commissions information on voters who will stay in them on the day of elections.

If in establishments for a temporary stay a polling station is not established the information on voters shall be sent to an election commission of a polling station according to the place of location of a corresponding establishment. Such voters shall be included into a voter list additionally.

3. The voter list shall consist of a title list and inserted lists the form of which is approved by the Resolution N 136 adopted by the CEC on August 20, 1996.

The title list shall specify the date of conducting of elections, polling station number, its address (name and number of a constituency in elections of deputies of the Zhogorku Kenesh and local keneshes), as well as a number of a voter list copy.

The inserted list shall specify a polling station number, page number and number of a book of voter list.

Information on voters shall be put into relevant columns of a voter list with the use of a printing equipment. In compiling of a voter list with the use of the state computer system Sailoo, upon a request of a polling station election commission, a system manager of an election commission shall provide printing of a voter list for a corresponding polling station.

4. The voter list shall be compiled in the alphabetical or some other order (according to inhabited settlements, streets, houses, based on voters' addresses) in two copies. In a polling station established in accordance with item 3 of Article 20 of the Election Code voter list shall be compiled within a two days period after filing with a polling station election commission of an information on voters.
5. The last filed in inserted list of a voter list shall be signed by a chairman and a secretary of a polling station election commission. The first sample of a voter list shall be kept with a polling station election commission, the second sample shall be transferred to a corresponding superior election commission. The second sample of a voter list of a polling station established in accordance with item 3 Article 20 of the Election Code shall be transferred to a superior election commission not later than 24 hours after its compiling.

The second copy of a voter list of a polling station established in remote and hard to access areas is not sent to a superior election commission. In exceptional cases a voter list for such polling station can be compiled by hand.

## **II. The Procedure of Entry into a Voter List of Kyrgyz Republic citizens who can exercise an active election right**

6. The procedure of entry into a voter list of citizens of the Kyrgyz Republic who can exercise an active election right is regulated by Article 21 of the Election Code.
7. The fact of a citizen's permanent or mainly residence and in cases foreseen by the Election Code also temporary staying on the territory of a corresponding polling station is the grounds for his/her entry into a voter list of this polling station.
8. The fact of a citizens' residence on the territory of a corresponding polling station situated within the territory of the Kyrgyz Republic shall be certified by his/her registration at the registration body of his/her place of residence, staying on this territory.
9. Any citizen of the Kyrgyz Republic shall get registered at the place of his/her staying or the place of his/her residence on the territory of the Kyrgyz Republic at registration bodies.

Place of residence-living house, apartment, office living apartment, specialised houses (dormitory, hotel-others), and also any other housing accommodation in which a citizen lives permanently or lives in capacity of the owner, tenant or any other capacity foreseen by the legislation of the Kyrgyz Republic;

Place of stay-hotel, sanatorium, recreational facility, guest-house, camping, tourist station, hospital and other similar establishments, and also living apartment where the citizen lives temporarily and which is not the place of his/her residence;

Registration bodies are bodies of internal affairs and local self-government bodies (local keneshes, ail okmoty, councils and committees of micro districts, dwelling complexes, house, street, block of flats committees). When a person is registered according to the place of his/her residence by a registration body, a corresponding mark is made in his/her passport.



10. Students, post-graduate students studying every day and living in dormitories, are included into a voter list according to the place of location of a dormitory on the general grounds and in accordance with this Explanations.
11. The list of voters of a polling station established outside the territory of the Kyrgyz Republic includes citizens of the Kyrgyz Republic living outside the territory of the Kyrgyz Republic or being on long-term business trips.

### III. Voters' Familiarization with Voter List

12. The procedure of voters' familiarisation with voter list is regulated by Article 22 of the Election Code.
13. Lists of voters at polling stations shall be presented for general familiarising and additional reviewing not later than 15 calendar days prior to voting. At polling stations established in accordance with item 3 Article 20 of the Election Code voter list shall be presented for general familiarising immediately after composing but not later than 5 calendar days prior to voting.
14. Polling station election commission shall provide a voter with a possibility to familiarise him/herself with voter list and to review the correctness of the information on him/herself and living with him/her members of his/her family of age. It shall be prohibited to give a voter the whole voter list or its parts in his/her hands. Voter's familiarisation with voter list shall be made only by polling station election commission members who must observe the requirements of voter list safety.
15. Each citizen of the Kyrgyz Republic, exercising an active election right shall be authorised to inform a precinct election commission on a failure to include, an error or inaccuracy in the list of voters, electors. Within 24 hours, and on a voting day within 2 hours from the moment of applying and not later than 2 hours before the completion of voting, the precinct election commission shall review an application and submitted documents or the error or provide the complainer with a written resolution with an explanation for the refusal. In case of a positive respond, the correction in a voter list shall be made by a polling station election commission (a chairperson or The election commission decision can be appealed in a superior election commission or in the court that shall be obliged to review the complaint within 3 days and on the election day it shall be done immediately.
16. After voter list presenting for a general familiarisation, a polling station election commission from time to time (but not less than two times a week) shall check:
  - in registration bodies, establishments where voters stay temporarily, consular institutions and diplomatic representation (outside the territory of the Kyrgyz Republic) the information on arrival and departure of citizens;
  - in military commissariats the information on citizens left for a place of military service, including those who are on contract service;
  - in civic status registration bodies the information on registration of acts of civic status acts;
  - in judicial bodies and trustee bodies (self government bodies) the information on enacted court decisions on citizens who by a court decision were announced as not sui juris;
  - in administration of detention places the information on arrival and departure of citizens suspected in committing crimes.

The activity of polling station election commissions on checking a voter list on a corresponding territory shall be co-ordinated by a superior election commission.
17. Voters who moved to the territory of a polling station after voter lists were presented for general familiarisation as well as voters who for some reason were not included into a voter list shall be included into a voter list additionally on the basis of the documents identifying their personality and verifying registration according to the place of residence or staying on the territory of this polling station. Citizens' additional entry into a voter list means prolongation of the compiled earlier by a polling station election commission voter list.

Document identifying a voter is his/her passport or replacing it document. The following documents can replace a passport: officer's certificate, military certificate of a servicemen, sailor's passport, a receipt issued by internal affairs bodies, pension certificate, driver's license;

18. Voter's staying in a sanatorium, rest home, camping, tourist base, hospital and other similar institution as well as in a place of detention shall be certified by the administration of such establishments.
19. Citizens of the Kyrgyz Republic who came to a territory of a foreign state upon private invitations, on business and tourist trips upon a written application filed with a polling station election commission and presenting a passport of a citizen of the Kyrgyz Republic shall be additionally entered into a voter list of a corresponding polling station.
20. Changes into a voter list shall be made by a polling station election commission in accordance with the following order:
  - upon voter's arrival to the place of his/her permanent residence, opposite voter's name and based on the relevant documents in free columns of an inserted list there shall be made a mark "left" and a reason of voter's departure, the date of making an entry and a signature of an election commission member shall be put;
  - in changing of information on a voter he/she will keep the same number in a voter list. The correct information on a voter shall be made additionally into a voter list with the same number, opposite the previous information on a voter in free columns of an inserted list there shall be made a mark "information on a voter was changed" and the date of making an entry and a signature of an election commission member shall be put.
21. All marks in a voter list shall be made accurately. It shall be prohibited to make an entry by a pencil.
22. Before counting of votes on the last filed in inserted page of a voter list there shall be made a verifying sentence and a stamp of a polling station election commission shall be put there. And the number of voters put into a voter list shall not include voters who left (paragraph 1 item 20 of this Explanations) and voters excluded from the list on the grounds of invitations (item 25 of this Explanations).

The requisite of the verifying sentence shall be the following:

This voter list contains \_\_\_\_\_ pages collected into \_\_\_\_\_ books.

\_\_\_\_\_ voters are entered into a voter list.

Ivanov  
Chairperson of a polling station election commission

Petrov  
Secretary of a polling station election commission

23. It shall be prohibited to make changes into a voter list after starting of counting of votes.
- IV. Procedure for Exclusion of citizens from a voter list according to the place of their permanent or mainly residence in case of their staying in a temporary place as well as in detention places**
24. In accordance with item 9 Article 21 of the Election Code a voter can be entered into a voter list of only one polling station.
25. Not later than 24 hours after receiving of the second copy of a voter list or information on voters who on the day of elections will be staying in places of temporary stay as well as in detention places, superior election commissions will send notifications to a corresponding election commission on the

territory of which a voter is registered in registration bodies (is living). If a voter is registered (living) in another region of the Kyrgyz Republic, notification is sent to an election commission of this region of the Kyrgyz Republic.

Upon receiving of this notifications election commissions shall immediately send to the to corresponding election commissions according to the place of voter' s permanent or mainly residence.

Notification shall be made according to the form enclosed in Appendix 2.

26. If a polling station election commission additionally includes into a list of voters citizens who have come to the place of temporary staying it shall immediately inform on that a corresponding superior election commission that sends a notification on the entering of those voters into a voter list according to the place of their temporary staying according to the mentioned above procedure.
27. Upon receiving of a notification or an information on a voter, who on a day of elections will be staying in a place of a temporary stay or in detention place, a chairperson or a secretary of a polling station shall make a mark "to exclude" against his/her name in a free column of the second copy of a voter list and shall specify the grounds for such exclusion, put the date of entry and his/her signature.
28. Superior election commission shall return to a corresponding polling station election commission the second copy of a voter list. On the basis of marks in the second copy of a voter list specified in item 29 of this Explanations and received notifications, a polling station election commission shall make changes into the first copy of a voter list
29. Notifications on inclusion of voters into a voter list according to the place of their temporary stay are sent by telegraph communication.
30. Persons who received a use information on voters shall bear a responsibility for a violation of the procedure of utilisation of a confidential information (information on voters) in accordance with the legislation.

#### Appendix N 1

To the Explanations on the Procedure of a Polling Station Election Commission Compiling of Voter List for Conducting of Elections and its Providing for Public Familiarization

#### INFORMATION ON VOTERS

(living (staying) on the territory of a polling station N, military unit, establishment of a temporary stay and so on)

N	Full name	Year of birth (at the age of 18 – date and month)	Address of the place of living

Signature (of the head of local administration, commander of a military unit, head of the establishment of a temporary voter' staying, head of a diplomatic representation, consular institution)

Seal

Appendix N 2

**To the Explanations on the Procedure of a Polling Station Election Commission Compiling of Voter List for Conducting of Elections and its Providing for Public Familiarization**

**NOTIFICATION**

\_\_\_\_\_ election commission  
(name of the commission)

informs that the mentioned below voters are entered into a voter list according to the place of their temporary staying:

N	Full name	Year of birth	Address of the place of living

Signature of a chairperson or a secretary of an election commission

### *Lists of Voters*

*Legislative Assembly:*

*Single Mandate Constituency (Res 3)*

*National Constituency (Res 1)*

**VOTER LIST FOR ELECTION OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU KENESH  
OF THE KYRGYZ REPUBLIC FOR A SINGLE NATIONAL MANDATE CONSTITUENCY**

“ ” 2000 year

Precinct # \_\_\_\_\_  
(location of the precinct)

Election Constituency # \_\_\_\_\_ for election of deputies to the People's Representative Assembly of the Zhogorku Kenesh  
(name of election constituency)

[illegible]

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth

Single Mandate Constituency

VOTER LIST FOR ELECTION OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU KENESH  
OF THE KYRGYZ REPUBLIC FOR AN ONE-MANDATE CONSTITUENCY

“ ” 2000 year

Precinct #

(location of the precinct)

Election Constituency # for election of deputies to the People's Representative Assembly of the Zhogorku Kenesh

(name of election constituency)

#	Last name, first name, patronymic	Year of birth	Place of residence	The Series number of passport or other document identifying the personality of a voter	Signature of the voter on receiving of a ballot

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth

ADDITIONAL VOTER LIST FOR ELECTION OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU KENESH OF THE  
KYRGYZ REPUBLIC FOR A SINGLE NATIONAL CONSTITUENCY  
“ ” 2000 year

Election Constituency # \_\_\_\_\_ for election of deputies to the People's Representative Assembly of the Zhogorku Kenesh  
(name of election constituency)

[illegible]

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth

Additional list for one-mandate constituency

ADDITIONAL VOTER LIST FOR ELECTION OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU KENESH OF THE  
KYRGYZ REPUBLIC FOR A ONE -MANDATE CONSTITUENCY

“ ” 2000 year

Precinct # \_\_\_\_\_  
(location of the precinct)

Election Constituency # \_\_\_\_\_ for election of deputies to the People's Representative Assembly of the Zhogorku Kenesh  
(name of election constituency)

#	Last name, first name, patronymic	Year of birth	Place of residence	The Series number of passport or other document identifying the personality of a voter	Signature of the voter on receiving of a ballot

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth



### Single Mandate Constituency

“ ” 2000 year

Election Constituency # \_\_\_\_\_ for election of deputies to the People's Representatives Assembly of the Zhogorku Kenesh  
(name of election constituency)

[illegible]

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth

*Additional List for single Mandate Constituency*

**ADDITIONAL VOTER LIST FOR ELECTION OF DEPUTIES TO THE PEOPLE'S REPRESENTATIVES ASSEMBLY  
OF THE ZHOGORKU KENESH OF THE KYRGYZ REPUBLIC FOR AN ONE-MANDATE CONSTITUENCY**

“ ” 2000 year

Precinct # \_\_\_\_\_  
(location of the precinct)

Election Constituency # \_\_\_\_\_ for election of deputies to the People's Representatives Assembly of the Zhogorku Kenesh  
(name of election constituency)

	Last name, first name, patronymic	Year of birth	Place of residence	The Series number of passport or other document identifying the personality of a voter	Signature of the voter on receiving of a ballot

\*) Citizens who are at the age of 18 by the day of voting should indicate the date the month of birth

Forms Related to Chapter 5:  
Registration of Political  
Parties and the Nomination of  
Candidates

**Explanatory notes to the procedure of formation of election blocks, their registration by the Central Election Committee and proposing the candidates by the election bloc**

**General provisions**

According to article 25 of the Kyrgyz Code on Elections in the Kyrgyz Republic (further on the Election Code) the election blocks can be formed by not less than two political parties. The right to form election blocks belongs to political parties that were established following the Kyrgyz Law on Public Associations and the Kyrgyz Law on Political Parties. Their charters should contain a provision to participate in elections to the government bodies and they should be registered by the Ministry of Justice of the Kyrgyz Republic.

**I. Procedure of formation of election blocks**

The procedure of forming an election block starts with an agreement of the party leadership to create an election block. Point 3 of article 25 of the Election Code states that any political party having an intention to join an election block is obliged to discuss this issue at a congress (conference). Only a congress (conference) of the political party has the right to make this decision. The decision of the congress (conference) can be made through a process of open or secret voting depending on the requirements of the charter of the political party.

At the same congress (conference) the political party nominates its representatives who will be authorized to represent the party according to the Election Code, also when a mutual decision is made to create an election block. The decision of the congress (conference) about nominating authorized representatives can also be made through open or secret voting.

The mutual decision of the political parties to form an election block is made following mutually agreed procedures, norms and regulations, established by the political parties, is signed by the party leaders and certified by stamps of the political parties.

It should be noted that in case a political party joined an election block, it cannot act as an independent party during elections or join another election block.

**II. Procedure of registration of election blocks**

According to point 4 article 25 of the Election Code, the election blocks are registered by the Central Election Committee of the Kyrgyz Republic.

Considering the fact that election blocks are formed for the period of specific elections, they can be registered only after publication of the Resolution of the Assembly of People's Representatives of the Kyrgyz Parliament and the President's decree on these elections.

In order to register the election block the following documents should be submitted to the Central Election Committee.

- 1) minutes of congresses (conferences) of each political party with the resolutions to join an election block and nominate authorized representatives with indication of their data (the political parties also have the right to nominate a few more representatives for various issues related to participation of the political party and the election block in the elections.
- 2) A mutual resolution of the political parties to form an election block, signed by the party leaders.

It is recommended that when the authorized representatives of the political parties submit the above documents they also have copies of registration certificates from the Kyrgyz Ministry of Justice for each political party which is a part of an election block and copies of their charters. The copies of these documents can be notarized at a notary office or by the leaders' signatures and stamps of the parties (in the latter case the charter original should be submitted to the Central Election Committee).

Within five calendar days the Central Election Committee shall make a decision about registration of the election block and provide the authorized representatives of the political parties intending to form an election block with either a statement on registration of the election block or a justified refusal to register.

### III. Procedure of proposing candidates and lists of candidates

In respect of presidential elections, after the election block has been registered by the Central Election Committee, it can convene a joint congress (conference) of political parties forming the election block and discuss the issue of proposing a candidate for presidency.

In respect of elections to the Legislature and the Assembly of People's Representatives of the Kyrgyz Parliament, after the election block has been registered by the Central Election Committee and after the Committee has published a list of one mandate electoral district, the election block can convene a joint congress (conference) of political parties forming the election block and discuss the issue of proposing lists of candidates for the single republican electoral district and candidates in the one mandate electoral districts.

In respect to elections to the local keneshes, after the election block has been registered by the Central Election Committee, the election block, according to the timeframe in point 1 article 87, can convene a joint congress (conference) of political parties forming the election block and discuss the issue of proposing candidates in one mandate electoral districts.

The decision of the congress (conference) of the election block about proposing the candidates and lists of candidates shall be made only through voting by ballot.

The terms specifying adoption of the decision shall be established by the congress (conference) prior to voting by ballot.

The decision of the congress (conference) of the election block should contain the family name, first name, patronymic, birth date (day, month and year), place of work, position (occupation) and the place where the candidate lives. Besides, the decision to put forward candidates in one or many mandate electoral district should specify the one mandate or many mandate electoral district.

The overall number of candidates who can be proposed by the election block with a list of candidates for the single electoral district should not exceed 30.

Along with the lists of candidates the Central Election Committee should receive documents mentioned in point 3 article 72 of the Election Code.

### IV. Procedure of simultaneous decision making about election blocks and proposing the candidates and lists of candidates.

In order to save the time and financial resources the election blocks can submit the documents on proposing the candidates and lists of candidates to the Central Election Committee along with papers needed for registration.

In view of this the agenda of a congress (conference) of a political party convened with the aim of forming an election block can include the issue of convening a joint congress (conference) of the election block. Both decisions can be made either through open or secret voting.

At the same time the political party can identify the candidatures to include into the lists of candidates with the intention to propose them for discussion at the joint congress (conference) of the election block. The decision is made following a procedure established by the political party itself.

First the congress (conference) settles the issue of forming an election block. This decision can be made through open or secret voting.

Next it's issues of proposing candidates and (or) lists of candidates. These decisions can only be made through voting by ballot.

A procedure of open or secret voting is used when making a decision to nominate authorized representatives who have the right, on behalf of the political parties of the election block, to sign a mutual resolution about creation of the block and who will afterwards represent the election block in all issues connected with participation in the elections, including financial issues.

Thus, the election block has an opportunity to provide the Central Election Committee of the Kyrgyz Republic with the papers needed for registration of the block and also the documents on proposing candidates and lists of candidates.

The documents are presented and submitted to the Central Election Committee following the procedure determined by sections II-III of the Explanatory Notes.

**SAMPLES OF DOCUMENTS to be submitted by political parties and election blocks to the Central Election Committee of the Kyrgyz Republic**

**I. To register an election block**

1. Minutes of the congress (conference) of each political party with the decision to join an election block (not less than two political parties) and nominate representatives, authorized to represent the political party in all issues related to participation in elections, signed by the congress (conference) chairman, secretary and stamped with the party stamp.
2. The mutual resolution of the political parties to form an election block and nominate representatives; authorized to represent the block in all issues related to its participation in elections, signed by the leaders of the political parties and stamped with the stamps of the parties constituting the election block.
3. It is advised that the authorized representative of the election block, when submitting the above papers, has copies of registration certificates from the Kyrgyz Ministry of Justice for the political parties, constituting the election block and their registered charters, notarized at the notary office or signed by the party leaders and stamped with the party stamps (in the latter case the original of the charter is also submitted along with its copy).

**II. To register the candidates and lists of candidates proposed by political parties and election blocks.**

Political parties, election blocks submit the documents, enumerated in section I of the present list unless they had been submitted before.

Political parties, election blocks submit the following documents:

1. Copy of the certificate of registration of the political party from the Kyrgyz Ministry of Justice.
2. The resolution of the political party and the election block about nominating representatives, authorized to represent the political party and the election block in all issues related to participation in elections.

The political parties, election blocks also submit

3. A letter of attorney of the authorized representative, presented in the form set by the law.
4. Minutes of the congress (conference) of the political party, the election block with the resolution to propose candidates and lists of candidates.
5. Biodata about the candidate for the presidency, list of candidates, proposed by the political party, the election block for one mandate and many mandate electoral districts with indication of the name and number of the electoral districts and full name of each candidate as well as the day, month and year of his birth, place of work, position (occupation), place of living (two copies with consideration of the format recommended by the Central Election Committee).
- The list of candidates to the Parliament's Legislature for elections for the single republican electoral district, proposed by the political party, election block with indication of full name of the candidate, the day, month and year of his birth, place of work, position (occupation) and place of living (two copies with consideration of the format recommended by the Central Election Committee).
6. The candidates' applications with their agreement to stand as candidates, proposed by the political party, election block (with two photos 3x4 cm).
7. Documents confirming provision of the electoral collateral.

**III. To register proxies of political parties, election blocks**

The decision of the political party, election block to nominate proxies (following receipt of the resolution of the Central Election Committee on registration of the list of candidates).

In case the proxy is recalled, the authorized representative of the political party, election block provides the Central Election Committee with a notice in order to cancel the certificate, issued to the proxy.

**IV. When somebody is nominated as a member of the Central Election Committee with the right of consultative vote.**

The resolution of the political party (election block) to this respect (with two photos of the nominated member of the Committee 3x4 cm).



Minutes of the congress (conference) of the political party (with indication of the full name of the political party)

Date  
Place

Total number of members (elected delegates).

Present: (number of members of the political party participating in the congress (conference)).

Agenda

1. About the political party (name) joining the election block (name) to take part in the elections
2. About nomination of authorized representatives of the political party (name) to represent the party in issues related to participation in elections.

The following issues were discussed:

1. About the political party (name) joining the election block (name) to take part in the elections.

This topic was presented by (full name and position (post) within the political party).

The following delegates (full names) took part in the discussion.

The congress (conference) of the political party (name) resolved:

In accordance with article 25 of the Election Code join the election block (name) together with the political parties (names) to take part in the elections.

\_\_\_\_\_ delegates voted for the above resolution.

2. About nomination of authorized representatives of the political party (name) to represent the party in issues related to participation in elections.

This topic was presented by (full name (s) and position (s) in the political party).

The congress (conference) of the political party (name) resolved:

In accordance with requirements of article 26 of the Election Code nominate authorized representatives of the political party (name) to represent it in the issues related to participation in the elections of deputies (indicate in detail position (post) within the political party, authority of each authorized representative, office telephone number).

Signatures

Chairman of the congress  
(conference)

name and initials

Secretary of the congress (conference)

name and initials

Stamp of the political party

**Mutual resolution of the political parties**  
(name of each political party)

**About formation of an election block to participate in the elections  
and nomination of authorized representatives of the election block**

The political parties (full names) resolved

1. To form an election block to participate in the elections as part of the following political parties (full names of the parties).
2. Name of the election block (name):
3. In accordance with article 26 of the Election Code nominate authorized representatives of the election block (name) to represent it in the issues related to participation in the elections (indicate in detail position (post) within the political party, authority of each representative and office telephone number).

Signatures of the authorized representatives  
of the political parties,

names and initials

Stamps of the political parties

**Resolution of the**  
**congress (conference) of the political party**  
(full name of the party)

**About nomination of authorized representatives of the political party (name) to represent the  
political party (name)**

The congress (conference) of the political party (name) resolved:

In accordance with article 26 of the Election Code nominate the following authorized representatives of the political party (name) to represent the political party (name) in the issues related to participation in the elections (provide the data according to article 26 of the Election Code along with the details of position (post) within the political party, authority of each representative and office telephone number).

Signatures

Chairman of the congress (conference)

name and initials

Secretary of the congress (conference)

name and initials

Stamp of the political party

Letter of Attorney N

From the political party, election block (full name of the political party, election block)

Issued to \_\_\_\_\_  
(Full name and position (post) within the political party, election block, passport data,  
passport issued by)

It's hereby certified that the political party, election block (name) for the elections entitles him to represent the political party, election block (name) in all issues related to participation of the political party, election block (name) in the elections, including financial issues (alternatively describe the specific authorities of the representative).

Signature of the authorized representative (name and initials)  
I hereby certify the sample of the signature.

Signature of the leader of the political party, election block (name and initials)

Date

Sample (II.5)

Minutes

Of the congress (conference) of the political party, election block (full name)

Date  
Place

Total number of members  
(elected delegates):  
Present:

Agenda

About proposing the candidate(s) (specify the elections)

The following issues were discussed: About proposing the candidate (s) (specify the elections)

This topic was presented by (full name and the political party he belongs to).

In accordance with article 24 of the Election Code and based on the minutes of the counting commission of the congress (conference) on results of the voting by ballot the congress (conference) of the political party (full name) resolved:

Propose the following candidate (s) (specify the elections).

(The list should contain numbers and names of the relevant one mandate (many mandate) electoral districts.

Signatures:

Chairman

Secretary (name and initials)

Stamp

Appendix to the minutes of the congress (conference) of the political party, election block (full name)  
of " " 1999.

List of Candidates

to the deputies of the Legislature, Assembly of People's Representatives, local keneshes for the elections  
for one mandate (many mandate) electoral districts, proposed by the political party

(name)

name and number of one mandate electoral district	Full name of the person proposed as a candidate	Day, month, year of birth, place of work, position (occupation), place of living
---	--	---

Signatures:

Chairman of the congress (conference)

Secretary

(name and initials)

Stamp (s) of the political party (s)

Sample (II.7)

Minutes of the congress (conference) of the political party, election block (full name)

Date

Place

Total number of members  
(elected delegates)

Present:

Agenda

About proposing the list of candidates to deputies of the Kyrgyz Parliament's  
Legislature to stand for elections for the single  
republican electoral district

The following issues were discussed: About proposing the list of candidates to deputies of the Kyrgyz  
Parliament's Legislature to stand for elections for the single republican electoral district.

The issue was presented by (full name and the political party he belongs to).

In accordance with article 72 of the Election Code and based on the minutes of the counting commission of  
the congress (conference) about the results of voting by ballot the congress (conference) of the political  
party, election block (full name) resolved:

To propose the list of candidates to the deputies of the Kyrgyz Parliament's Legislature to stand for  
elections for the single republican electoral district in the number of ..... persons and placing the  
candidates in the list in the established order according to the appendix.

Signatures:

Chairman

Secretary

(names and initials)

Stamp(s) of the political party(s)

Appendix to the minutes of the congress (conference) of the political party, election block (full name)

of " " 1999

LIST

Of candidates to the deputies of the Kyrgyz Parliament's Legislature to stand for elections for the single republican electoral district, proposed by the political party, election block

(Name)

Full name

Day, month, year of birth, place of work, position (occupation), place of living

Signatures:

Chairman of the congress (conference)

Secretary

(names and initials)

Stamp(s)

of the political party(s)

To the Central Election Committee of the Russian Federation

From (full name)

Application

I express my agreement to stand as a candidate to the deputies of the Kyrgyz Parliament's Legislature according to the list proposed by the political party (election block) – full name.

In case I am elected a deputy to the Parliament's Legislature I take an obligation within a month's time to release myself of the duties which do not agree with the status of the deputy to the Legislature.

Appendix: two photos 3x4 cm.

Signature

Date

Note: The application should be hand-written by the candidate himself.

### Decision

### About nomination of the proxies of the political party, election block

name and initials

## Resolution

(names and initials)

## Certificate

Of acceptance of the documents from the political party, election block (name) for the elections (specify)

This certificate is issued to \_\_\_\_\_ (name),

an authorized representative of the political party, block

\_\_\_\_\_  
(name)

to certify that \_\_\_\_\_ 1999 at \_\_\_\_\_ o'clock \_\_\_\_\_ minutes

the following documents were accepted from him:

I, \_\_\_\_\_ on \_\_\_\_\_ pages (and so on)

Submitted by: \_\_\_\_\_ name

(signature)

Accepted by: \_\_\_\_\_ name

(signature)

*Protocol for nomination of Candidates to the Zhogorku Kenesh*

**ELECTIONS OF DEPUTIES OF THE ZHOGORKU KENESH OF THE KYRGYZ REPUBLIC**

" " year  
(date of elections)

Shall be submitted to a territorial election  
commission after conducting of meeting, congress  
(conference)

**PROTOCOL**

meeting, congress (conference) of voters on nomination of candidates

**Were present at the meeting, congress (conference).**

Having discussed the issue on nomination of candidates the meeting congress (conference) on the basis of  
articles 24 and 72 of the Code "On Elections in the Kyrgyz Republic"

**DECIDED:**

Nominate as a candidate to deputies of the Zhogorku Kenesh of the Kyrgyz Republic  
for \_\_\_\_\_

(name of election constituency)

election constituency # \_\_\_\_\_

(full name, date of birth education, place of work,

position, place of residence

The result of voting

for \_\_\_\_\_

against \_\_\_\_\_

Chief of the meeting, congress (conference) \_\_\_\_\_

(full name)

(signature)

Secretary of the meeting, congress (conference) \_\_\_\_\_

Protocol was composed " \_\_\_\_\_ "

year

Date and the time of signing of the protocols



*Protocols of Territorial Election Commissions on the Registration of Candidates*  
Legislative Assembly (single mandate)

**ELECTIONS OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU  
KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE-MANDATE ELECTION  
CONCITUENCY**

“ ” year  
(date of elections)

**PROTOCOL**

**OF TERRITORIAL ELECTION COMMISSION ON THE REGISTRATION OF CANDIDATES TO  
THE DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKU KENESH OF THE  
KYRGYZ REPUBLIC**

for \_\_\_\_\_ election constituency # \_\_\_\_\_

Having considered received by the territorial election protocols with a decision of congresses (conference) of political parties, election blocs meeting of voters on candidate's nomination in present constituency candidate's declaration of intent to run as a candidate, an application on his/her intention to become a candidate (self nomination), documents certifying payment of election deposit, territorial election commission established that candidate's nomination to the deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic was carried out in once according with the Code of the Kyrgyz Republic "On Elections in the Kyrgyz Republic".

Being directed by article 73 of the Code of the Kyrgyz Republic "On Elections in the Kyrgyz Republic" territorial election commission

Resolved:

1. To register candidates to the deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic  
in \_\_\_\_\_ constituency # \_\_\_\_\_  
(name of election constituency)

Full name	Occupation, place of work and residence

2. Include registered candidates to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic into the election ballot.

Chairman of the territorial Election Commission \_\_\_\_\_  
(full name) (signature)

Secretary of the commission \_\_\_\_\_

Members of the commission \_\_\_\_\_

“ ” year  
Date and the time of signing of the protocols

People's Representative Assembly (single mandate)

**ELECTIONS OF DEPUTIES TO THE PEOPLE'S REPRESENTATIVE ASSEMBLY OF THE  
ZHOGORKU KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE-MANDATE ELECTION  
CONSTITUENCY**

" " year  
(date of elections)

**PROTOCOL**

**OF TERRITORIAL ELECTION COMMISSION ON THE REGISTRATION OF CANDIDATES TO  
THE DEPUTIES TO THE PEOPLE'S REPRESENTATIVE ASSEMBLY OF THE ZHOGORKU  
KENESH OF THE KYRGYZ REPUBLIC**

for \_\_\_\_\_ election constituency # \_\_\_\_\_

Having considered received by the territorial election protocols with a decision of congresses (conference) of political parties, election blocs meeting of voters on candidate's nomination in present constituency candidate's declaration of intent to run as a candidate, an application on his/her intention to become a candidate (self nomination), documents certifying payment of election deposit, territorial election commission established that candidate's nomination to the deputies to the People's Representative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic was carried out in once according with the Code of the Kyrgyz Republic "On Elections in the Kyrgyz Republic".

Being directed by article 73 of the Code of the Kyrgyz Republic "On Elections in the Kyrgyz Republic" territorial election commission

Resolved:

1. To register candidates to the deputies to the People's Representative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic  
in \_\_\_\_\_ constituency # \_\_\_\_\_  
(name of election constituency)

Full name	Occupation, place of work and residence

2. Include registered candidates to the People's Representative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic into the election ballot.

Chairman of the territorial Election Commission \_\_\_\_\_  
(full name) (signature)

Secretary of the commission \_\_\_\_\_

Members of the commission \_\_\_\_\_

" " year  
Date and the time of signing of the protocols

*Candidate's Certificate*

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as a candidate to the deputies of the Legislative Assembly  
of the Zhogorku Kenesh of the Kyrgyz Republic

For \_\_\_\_\_  
(name of election constituency)

Constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

Chairperson of a territorial  
Election Commission

secretary of a territorial  
Election commission

"\_\_\_\_\_" 2000 year  
(date of a issue)

**Photo**

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as a candidate to deputy to the People's Representatives Assembly  
of the Zhogorku Kenesh of the Kyrgyz Republic

For \_\_\_\_\_  
(name of election constituency)

Constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

"\_\_\_\_\_" 2000 year  
(date of issue)

**Photo**

*Candidate's Authorized Representative Certificate*

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as an authorized plenipotentiary representative of a candidate to the deputies to the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic

\_\_\_\_\_  
(first name, last name, patronymic of candidate)

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

" " \_\_\_\_\_ 2000 year  
(date of issue)

**Photo**

\_\_\_\_\_  
This document is valid providing of a passport or of an ID.

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as an authorized representative of a candidate to the deputies to the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic

\_\_\_\_\_  
(first name, last name, patronymic of candidate)

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

" " \_\_\_\_\_ 2000 year  
(date of issue)

**Photo**

\_\_\_\_\_  
This document is valid providing of a passport or of an ID.

*Candidate's agent Certificate*

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as a trusted person of a candidate to the deputies to the Legislative Assembly  
of the Zhogorku Kenesh of the Kyrgyz Republic

\_\_\_\_\_  
(first name, last name, patronymic of candidate)

**Photo**

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

" " \_\_\_\_\_ 2000 year  
(date of issue)

\_\_\_\_\_  
This document is valid providing of a passport or of an ID.

**Certificate**

\_\_\_\_\_  
(first name, last name, patronymic)

Was registered as a trusted person of a candidate to the deputies to the People's  
Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic

\_\_\_\_\_  
(first name, last name, patronymic of candidate)

**Photo**

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

" " \_\_\_\_\_ 2000 year  
(date of issue)

\_\_\_\_\_  
This document is valid providing of a passport or of an ID.

# Forms Related to Chapter 6: Electoral Campaigns

*Decree on Pre-election agitation (see Russian version)*

# Forms Related to Chapter 7: Campaign Funding



# Forms Related to Chapter 8: Voting and the Counting Process

# Forms Related to Chapter 9: Election Outcomes

Precinct

Legislative Assembly (single mandate)

**ELECTIONS OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKY  
KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE - MANDATE CONSTITUENCY**

" " year  
(date of elections)

**PROTOCOL # 1**

**OF POLLING STATION ELECTION COMMISSION ON VOTING RESULTS FOR ELECTIONS OF  
DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKY KENESH OF THE KYRGYZ  
REPUBLIC**

For election constituency #  
(name of election constituency)

**POLLING STATION #** address of polling station election commission

**Polling station election commission determined:**

1. The number of voters entered into the list

(write out in figures) (write out in words)

The number of voters entered into the list in addition

(write out in figures) (write out in words)

2. The number of the ballots for elections received by an election commission

(write out in figures) (write out in words)

3. The number of ballots for elections handed to voters who voted earlier

(write out in figures) (write out in words)

4. The number of canceled ballots for elections

(write out in figures) (write out in words)

5. The number of ballots for elections handed to voters at a polling station

(write out in figures) (write out in words)

6. The number of ballots for elections handed to voters who voted outside the premises for voting

(write out in figures) (write out in words)

7. The number of ballots for elections contained in portable ballot boxes

(write out in figures) (write out in words)

8. The number of ballots for elections contained in stationary ballot boxes

(write out in figures) (write out in words)

9. The number of valid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

10. The number of invalid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

Full name of candidates to the deputies (in the alphabetic order)	11. The number of votes of voters, cast for each candidate	
	(write out in figures)	(write out in words)
12. The number of votes of voters, cast for the position "Against all candidates"		

13. The amount of strike off the register certificates for voting in elections received by a precinct election commission.

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13a. The amount of voters who voted at a polling station using strike off the register certificates

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13b. The amount of strike off the register certificates for elections, issued to voters by a precinct election commission.

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

The list of applications (appeals), acts and other documents, enclosed to a protocol

Chairperson of polling station election commission \_\_\_\_\_

\_\_\_\_\_ (last name, initials)

(signature)

Secretary of commission \_\_\_\_\_

Members  
of commission \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The protocol was compiled " \_\_\_\_\_ " \_\_\_\_\_ year  
Date and the time of signing of the protocols

**Note:** The protocol on the voting results shall be filled in and signed in three copies by all the present members of a polling station election commission. The members of a polling station election commission, who do not agree with its content, shall have the right to express their particular opinion and enclose it to the protocol, on which a relevant record shall be made.

The first master copy of a protocol on the voting results upon its signing, along with the voting documentation, including ballots for elections, the resolutions made on them, the acts, made up by polling station election commissions, shall be immediately sent to the superior election commission.

**The second copy of the protocol along with the seal of a polling election commission shall be kept by a secretary of the polling station election commission until the work of the election commission is completed.**

The third copy of the protocol (its copy) shall be posted for public acquaintance in the place established by the polling station election commission.

Other copies of the protocol shall be given to authorized representatives of candidates.

People's Representative Assembly (single mandate)

**ELECTIONS OF DEPUTIES TO THE PEOPLE'S REPRESENTATIVE ASSEMBLY OF THE  
ZHOGORKY KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE - MANDATE  
CONSTITUENCY**

“ ” year  
(date of elections)

**PROTOCOL # 1**

**OF POLLING STATION ELECTION COMMISSION ON VOTING RESULTS FOR ELECTIONS OF  
DEPUTIES TO THE PEOPLE'S REPRESENTATIVE ASSEMBLY OF THE ZHOGORKY KENESH OF  
THE KYRGYZ REPUBLIC**

For \_\_\_\_\_ election constituency # \_\_\_\_\_  
(name of election constituency)

**POLLING STATION # \_\_\_\_\_**  
\_\_\_\_\_ address of polling station election commission

**Polling station election commission determined:**

**1. The number of voters entered into the list**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**The number of voters entered into the list in addition**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**2. The number of the ballots for elections received by an election commission**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**3. The number of ballots for elections handed to voters who voted earlier**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**4. The number of canceled ballots for elections**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**5. The number of ballots for elections handed to voters at a polling station**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**6. The number of ballots for elections handed to voters who voted outside the premises for voting**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**7. The number of ballots for elections contained in portable ballot boxes**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

**8. The number of ballots for elections contained in stationary ballot boxes**

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

9. The number of valid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

10. The number of invalid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

Full name of candidates to the deputies (in the alphabetic order)	11. The number of votes of voters, cast for each candidate	
	(write out in figures)	(write out in words)
12. The number of votes of voters, cast for the position "Against all candidates"		

13. The amount of strike off the register certificates for voting in elections received by a precinct election commission.

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13a. The amount of voters who voted at a polling station using strike off the register certificates

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13b. The amount of strike off the register certificates for elections, issued to voters by a precinct election commission.

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

The list of applications (appeals), acts and other documents, enclosed to a protocol

Chairperson of polling station election commission

\_\_\_\_\_ (last name, initials)

(signature)

Secretary of commission \_\_\_\_\_

Members  
of commission \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The protocol was compiled " \_\_\_\_\_ " \_\_\_\_\_ year  
Date and the time of signing of the protocols

**Note:** The protocol on the voting results shall be filled in and signed in three copies by all the present members of a polling station election commission. The members of a polling station election commission, who do not agree with its content, shall have the right to express their particular opinion and enclose it to the protocol, on which a relevant record shall be made.

The first master copy of a protocol on the voting results upon its signing, along with the voting documentation, including ballots for elections, the resolutions made on them, the acts, made up by polling station election commissions, shall be immediately sent to the superior election commission.

**The second copy of the protocol along with the seal of a polling election commission shall be kept by a secretary of the polling station election commission until the work of the election commission is completed.**

The third copy of the protocol (its copy) shall be posted for public acquaintance in the place established by the polling station election commission.

Other copies of the protocol shall be given to authorized representatives of candidates.



*Territorial*

*Legislative Assembly (single mandate) (Res 10)*

**ELECTIONS OF DEPUTIES TO THE LEGISLATIVE ASSEMBLY OF THE ZHOGORKY  
KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE - MANDATE CONSTITUENCY**

“ ” year  
(date of elections)

**PROTOCOL # 1**

**OF TERRITORIAL ELECTION COMMISSION ON ELECTIONS RESULTS OF DEPUTIES TO THE  
LEGISLATIVE ASSEMBLY OF THE ZHOGORKY KENESH OF THE KYRGYZ REPUBLIC**

For \_\_\_\_\_ election constituency # \_\_\_\_\_  
(name of election constituency)

The number of polling station election commissions

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

The number of protocols of polling station election commissions, on the basis of which the protocol of territorial election commission was compiled:

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

As a result of summing up the data of protocols of polling station election commission the territorial election commission established:

1. The number of voters entered into the list

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

The number of voters entered into the list in addition.

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

2. The number of the ballots for elections received by election commissions

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

3. The number of ballots for elections handed to voters who voted earlier

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

4. The number of canceled ballots for elections

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

5. The number of ballots for elections handed to voters at a polling stations

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

6. The number of ballots for elections handed to voters who voted outside the premises for voting

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

7. The number of ballots for elections contained in portable ballot boxes

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

8. The number of ballots for elections contained in stationary ballot boxes

\_\_\_\_\_  
(write out in figures)

\_\_\_\_\_  
(write out in words)

9. The number of valid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

10. The number of invalid ballots for elections

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

Full name of candidates to the deputies (in the alphabetic order)	11. The number of votes of voters, cast for each candidate	
	(write out in figures)	(write out in words)
12. The number of votes of voters, cast for the position "Against all candidates"		

13. The amount of strike off the register certificates for voting in elections, received by a precinct election commissions.

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13a. The amount of voters who voted at a polling stations using strike off the register certificates

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

13b. The amount of strike off the register certificates for elections, issued to voters by a precinct election commissions before the voting day

\_\_\_\_\_ (write out in figures)

\_\_\_\_\_ (write out in words)

The list of applications (appeals), acts and other documents, enclosed to a protocol

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

On the basis of the article 75 of the Code "On elections in the Kyrgyz Republic" the territorial election commission decided: to consider

\_\_\_\_\_ (Full name)

to be the deputy of the Legislative Assembly of the Zhogorku Kenesh of the Kyrgyz Republic for  
election constituency # \_\_\_\_\_

\_\_\_\_\_ (name of election constituency)

According to the articles 76 of the Code "On elections in the Kyrgyz Republic" territorial election commission decided: to appoint repeat voting for two candidates who received the largest number of votes

\_\_\_\_\_  
(Full name)  
\_\_\_\_\_

According to the articles 46,47 of the Code "On elections in the Kyrgyz Republic" the territorial election commission decided: \_\_\_\_\_  
\_\_\_\_\_

Chairperson of polling station election commission \_\_\_\_\_  
(last name, initials) (signature)

Secretary of commission \_\_\_\_\_

Members  
of commission \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The protocol was compiled " \_\_\_\_\_ " \_\_\_\_\_ year  
Date and the time of signing of the protocols

**Note:** The protocol on the voting results shall be filled in and signed in three copies by all the present members of a polling station election commission. The members of a polling station election commission, who do not agree with its tenor, shall have the right to express their particular opinion and enclose it to the protocol, on which a relevant record shall be made.

The first master copy of a protocol on the voting results upon its signing, along with the voting documentation, including ballots for elections, the resolutions made on them, the acts, made up by polling station election commissions, shall be immediately sent to the superior election commission.

The second copy of the protocol along with the seal of a polling election commission shall be kept by a secretary of the polling station election commission until the work of the election commission is completed.

The third copy of the protocol (it's copy) shall be posted for public acquaintance in the place, established by the polling station election commission.

Other copies of the protocol shall be given to authorized representatives of candidates.

*People's Representative Assembly (single mandate)*

(Res 11) ELECTIONS OF DEPUTIES TO THE PEOPLE'S REPRESENTATIVES ASSEMBLY OF THE  
ZHOGORKY KENESH OF THE KYRGYZ REPUBLIC FOR A SINGLE MANDATE  
CONSTITUENCY

“ \_\_\_\_\_ ” \_\_\_\_\_ year  
(date of elections)

**PROTOCOL # 2**  
**OF A TERRITORIAL ELECTION COMMISSION ON ELECTIONS RESULTS OF ELECTIONS**  
**OF DEPUTIES TO THE PEOPLE'S REPRESENTATIVES ASSEMBLY OF THE ZHOGORKU**  
**KENESH OF THE KYRGYZ REPUBLIC**

For \_\_\_\_\_ election constituency # \_\_\_\_\_  
(name of election constituency)

The number of polling station election commissions

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

The number of protocols of polling station election commissions, on the basis of which the protocol of territorial election commission was compiled:

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

As a result of summing up the data of protocols of polling station election commission the territorial election commission established:

1. The number of voters entered into the list

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

The number of voters entered into the list in addition

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

2. The number of the ballots for elections received by election commissions

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

3. The number of ballots for elections handed to voters who voted earlier

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

4. The number of canceled ballots for elections

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

5. The number of ballots for elections handed to voters at a polling stations

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

6. The number of ballots for elections handed to voters who voted outside the premises for voting

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

7. The number of ballots for elections contained in portable ballot boxes

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

8. The number of ballots for elections contained in stationary ballot boxes

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

9. The number of valid ballots for elections

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

10. The number of invalid ballots for elections

\_\_\_\_\_   
(write out in figures)

\_\_\_\_\_   
(write out in words)

Full name of candidates to the deputies (in the alphabetic order)	11. The number of votes of voters, cast for each candidate	
	(write out in figures)	(write out in words)
12. The number of votes of voters, cast for the position "Against all candidates"		

13. The amount of strike off the register certificates for voting in elections received by a polling station election commission.

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

13a. The amount of voters who voted at a polling stations using strike off the register certificates

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

13b. The amount of strike off the register certificates for elections, issued to voters by a polling station election commission before the voting day

\_\_\_\_\_ (write out in figures) \_\_\_\_\_ (write out in words)

The list of applications (appeals), acts and other documents, enclosed to a protocol

\_\_\_\_\_  
\_\_\_\_\_

On the basis of article 75 of the Code "On elections in the Kyrgyz Republic" the territorial election commission decided: to consider

\_\_\_\_\_ (Full name)

to be a deputy of the People's Representatives Assembly of the Zhogorku Kenesh of the Kyrgyz Republic for

\_\_\_\_\_ election constituency # \_\_\_\_\_  
(name of election constituency)

According to articles 76 of the Code "On elections in the Kyrgyz Republic" the territorial election commission decided: to appoint repeat voting for two candidates who received the largest number of votes

\_\_\_\_\_ (Full name)

According to articles 46,47 of the Code "On elections in the Kyrgyz Republic" the territorial election commission decided: \_\_\_\_\_

Chairperson of polling station election commission \_\_\_\_\_ (last name, initials)(sign)

Secretary of commission \_\_\_\_\_

Members  
of commission \_\_\_\_\_

The protocol was compiled " \_\_\_\_\_ " \_\_\_\_\_ year  
Date and the time of signing of the protocols

Note: The protocol on the voting results shall be filled in and signed in three copies by all the present members of a polling station election commission. The members of a polling station election commission, who do not agree with its content, shall have the right to express their particular opinion and enclose it to the protocol, on which a relevant record shall be made.

The first copy of a protocol on the voting results upon its signing, along with the voting documentation, including ballots for elections, the resolutions made on them, the acts, made up by a polling station election commission, shall be immediately sent to the superior election commission.

The second copy of the protocol along with the seal of a polling election commission shall be kept by a secretary of the polling station election commission until the work of the election commission is completed.

The third copy of the protocol (its copy) shall be posted for public familiarization in the place established by the polling station election commission.

Other copies of the protocol shall be given to authorized representatives of candidates.

*Summary Table on the Results of Voting (Res 14)*  
*Deputies' Election Certificates*  
*Legislative Assembly (Res 15)*

## Certificate

\_\_\_\_\_  
(first name, last name, patronymic)

Elected "\_\_\_\_\_" 2000 year

As a deputy to the Legislative Assembly  
of the Zhogorku Kenesh of the Kyrgyz Republic

Photo

For \_\_\_\_\_  
(name of election constituency)

Constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

"\_\_\_\_\_" 2000 year  
(date of a issue)

Certificate

\_\_\_\_\_  
(first name, last name, patronymic)

Elected "\_\_\_\_\_" 2000 year

As a deputy to the People's Representatives' Assembly  
of the Zhogorku Kenesh of the Kyrgyz Republic

Photo

For \_\_\_\_\_  
(name of election constituency)

Constituency # \_\_\_\_\_

\_\_\_\_\_  
(oblast)

Chairperson of a territorial  
Election Commission

Secretary of a territorial  
Election commission

"\_\_\_\_\_" 2000 year  
(date of issue)



# IFES

As one of the world's premier democracy and governance assistance organizations, IFES provides needs-based, targeted, technical assistance designed and implemented through effective partnerships with donors and beneficiaries. Founded in 1987 as a nonpartisan, nonprofit organization, IFES has provided integrated, collaborative solutions in the areas of democratic institution building and participatory governance in more than 120 countries worldwide. IFES' Washington headquarters houses eighty-five employees specializing regionally in Africa, the Americas, Asia, the Middle East, and Europe, as well as functionally in rule of law, civil society, good governance, election administration, applied research, gender issues, public information technology solutions, and more. IFES' staff offers vast country-specific experience and facility in more than 30 languages. IFES employs an additional 120 people in twenty-five field locations.



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