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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON ASSEMBLIES
OF THE KYRGYZ REPUBLIC

**Law of the Kyrgyz Republic
'On Assemblies'¹**

Section 1. GENERAL PROVISIONS

Article 1. Subject Regulated by this Law

1. This Law defines mechanisms directed at securing the right to freedom of peaceful assembly by public authorities and local self-government.
2. This law does not apply to public events (assemblies):
 - 1) conducted at the initiative by public authorities, bodies of local self-government;
 - 2) of organizations that public authorities or local self-government are members of or the establishment of which was agreed with public authorities or local self-government;
 - 3) subject to regulation by other laws;
 - 4) of commercial, cultural/spectacular character and sporting events.

Article 2. Assembly-Regulating Legislation

1. When securing the right to freedom of peaceful assembly, public authorities and local self-government shall be guided by the Constitution of the Kyrgyz Republic, this Law, international treaties and agreements in the area of human rights that the Kyrgyz Republic is a party to, also by generally recognized principles and norms of international law.
2. Specifics pertaining to assemblies conducted as part of election campaigns, preparation and conduct of a referendum, that do not contradict this Law, may be provided for in respective laws.
3. The right to freedom of peaceful assembly shall not be subject to any limitations except for those imposed under laws and those necessary in a democratic society in the interests of the state or public security, public order, health and morals of the population or protection of the rights and freedoms of others. Limitation of the freedom of peaceful assembly under the state of emergency or martial law shall also meet the requirements of necessity and protection of the specified interests.
4. Rules that do not contradict this Law and provide additional guarantees of the right to freedom of peaceful assembly may be revised also in the subordinate legislation. The subordinate legislation may not envisage limitations of enjoyment of the freedom of peaceful assembly.

Article 3. Definitions

1. For the purposes of this Law, terms used hereinafter shall have the following meanings:
 - 1) Peaceful assemblies are public arrangements with participation of citizens, conducted on the initiative of citizens or organizations, directed at attracting public attention and/or

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expressing opinion on some issues, that are of peaceful character (non-violent and unarmed), and do not pursue unlawful purposes.

- 2) Counter-assemblies are peaceful assemblies with the main purpose of expressing an opinion different from that of people participating in another peaceful public arrangement conducted simultaneously in this area;
- 3) Spontaneous assemblies are peaceful assemblies that were not preplanned, conducted solely on the initiative of citizens;
- 4) Planned peaceful assemblies are peaceful assemblies conducted on the initiative of organizations. Citizens have the right to plan peaceful assemblies;
- 5) Citizens are citizens of the Kyrgyz Republic, foreign citizens or stateless persons;
- 6) Receipt of information is the fact of receiving by public authorities or local self-government oral or written information about a planned or conducted assembly;
- 7) Peaceful assembly notification is a preliminary notification by organizers about the planned peaceful assembly, made orally or in writing, at their option, either to local self-government, or to local state administration.
- 8) Local self-government are representative and executive/regulatory authorities of local self-government;
- 9) Local state administration is district and oblast (province) local state administration;
- 10) Provision of the freedom of peaceful assembly is a body of measures to arrange for the conduct of peaceful assemblies, provide for security and safety of their participants, taken by local self-government, local state administration, internal affairs bodies;
- 11) Organizers of a planned peaceful assembly are representatives of organizations and peaceful assembly participants who have notified about the planned peaceful assembly. In case of a planned peaceful assembly conducted on the initiative of citizens, representation of citizens is supposed and does not require any proof;
- 12) Participants of peaceful assemblies are citizens organizing a peaceful assembly and/or participating in it. A peaceful assembly participant may be a single citizen.

Section 2. SECURING THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Article 4. Responsibilities to Secure the Right to Freedom of Peaceful Assembly

1. Public authorities and local self-government shall secure the right to freedom of peaceful assembly. The authority of local self-government to secure freedom of peaceful assembly is a power delegated to it by the State.
2. Measures to arrange for the conduct of peaceful assemblies, provide for security and safety of their participants, including procedures necessary for cordoning, escorting peaceful assembly participants, blocking or changing routes of traffic, installing road signs and other measures to secure road safety, also the work of communal and other services (emergency, fire fighting, rescue and other services) as part of the provision of the right to freedom of peaceful assembly shall be carried out by public authorities and local self-government free of charge.
3. Upon receipt of information about a planned or conducted assembly, bodies of local state administration and local self-government shall immediately notify executive/regulatory authorities of the local self-government on the territory where the assembly is conducted.
4. Heads and other officials from public authorities and local self-government to whom the requirements of the assembly participants and organizers are addressed shall immediately meet the citizens, consider their requirements in essence, make necessary decisions in compliance with the legislation, also notify about the decisions made.
5. When implementing measures to secure the right to freedom of peaceful assembly, public authorities and local self-government shall not have the right to:

- 1) assess the appropriateness of the peaceful assemblies;
- 2) support any party in case of counter-assemblies;
- 3) prohibit or limit the freedom of choice of the place for a peaceful assembly, except for places specified by this Law.

Article 5. Responsibilities of Executive-Regulatory Authorities of Local Self-Government

Executive-regulatory authorities of local self-government shall:

- 1) interact with public authorities and local self-government, internal affairs bodies in issues related to the conduct of assemblies;
- 2) if necessary, adopt rules on provision of additional guarantees of the right of peaceful assemblies in compliance with this Law;
- 3) provide for receipt of peaceful assembly notifications and notify other authorities about the assemblies;
- 4) generate and adopt a plan of actions to secure a planned peaceful assembly, notify the plan to internal affairs bodies and organizers of the planned peaceful assembly;
- 5) take measures to secure the conduct of spontaneous assemblies;
- 6) organize the work of communal and other services (emergency, fire fighting, rescue and other services) if necessary;
- 7) ensure provision of paid-for services and equipment requested by the assembly organizers in cases when these services are not provided free of charge pursuant to this Law;
- 8) ensure return of the money paid for the services and equipment to the assembly organizers and participants in case the assembly has not taken place because of a failure to secure the freedom of peaceful assembly;
- 9) prohibit selling of alcoholic drinks in places where assemblies are conducted or in their close vicinity, and if necessary, on the territory of the entire settlement, for the period of the assembly;
- 10) notify issues that caused the assembly to public authorities and local self-government to which the issues are addressed;
- 11) collect and analyze information about identified problems in providing for peaceful assemblies, including consideration of complaints from assembly participants and organizers about failures to appropriately secure the freedom of peaceful assembly.

Article 6. Responsibilities of Internal Affairs Bodies

On territories within their jurisdiction, internal affairs bodies shall be responsible to:

1. when receiving information on a planned or spontaneous assembly:
 - 1) immediately notify executive/regulatory authorities of local self-government on the territory where the assembly is conducted;
 - 2) envisage measures to implement the action plan in case of planned peaceful assemblies and measures to secure the assembly conduct in case of spontaneous peaceful assemblies.
2. when implementing measures directed at securing the conduct of a peaceful assembly:
 - 1) ensure that officers from internal affairs bodies have certificates and specified distinctive marks;
 - 2) follow the action plan to secure the conduct of the planned peaceful assembly;
 - 3) assist executive-regulatory authorities of local self-government in implementing measures to secure spontaneous peaceful assemblies;
 - 4) provide other assistance to the executive-regulatory authorities of local self-government in securing peaceful assemblies;
 - 5) be polite and show respect to peaceful assembly participants;

- 6) ensure unimpeded work of mass media and their free contact with peaceful assembly participants;
- 7) if requested by peaceful assembly organizers, remove from the planned peaceful assembly place persons who commit or instigate commitment of, unlawful actions that prevent achievement of the peaceful assembly purposes;
- 8) provide information requested by the organizers and participants;
- 9) take measures for safekeeping property of peaceful assembly participants and organizers and other persons on the peaceful assembly area;
- 10) ensure protection from unlawful encroachment of peaceful assembly participants and other persons who occur in the peaceful assembly area;
- 11) assist in provision of medical care and safe evacuation from the peaceful assembly place;
- 12) provide access for communal and other services to the peaceful assembly area;
- 13) if necessary, together with state road inspection units fulfill the procedures of cordoning, escorting peaceful assembly participants, blocking or changing routes of traffic, installing road signs;
- 14) in case of counter-assemblies, ensure a safe distance between the parties, yet not limiting any of the sides in their right for simultaneous conduct of the peaceful assembly in this area;
- 15) assist in provision of any other kind of lawful support to peaceful assembly participants as well as to other persons who occur in the peaceful assembly area.

Article 7. Restriction of Actions of Internal Affairs Bodies

When implementing measures directed to secure a peaceful assembly, officers of an internal affairs unit shall be prohibited to:

- 1) specify the time and place for conducting the assembly;
- 2) change the routes of movement during the peaceful assembly, except for emerging safety threats for the peaceful assembly participants;
- 3) take part in the peaceful assembly as its participants;
- 4) prevent peaceful assembly participants in performing lawful actions;
- 5) prevent the work of mass media;
- 6) assess the appropriateness of the peaceful assembly, support any side in case of counter-assemblies;
- 7) cause clashes between participants of peaceful assemblies and counter-assemblies, also provoke or artificially cause conflicts during peaceful assemblies;
- 8) take off or hide distinctive signs of an internal affairs body officer, except for cases established by the legislation;
- 9) refuse to produce the certificate of the internal affairs unit officer;
- 10) make a decision to prohibit or restrict the conduct of assemblies, except for cases envisaged by this Law.

Article 8. Action Plan to Secure A Planned Peaceful Assembly

1. A plan of actions to secure a planned peaceful assembly shall be developed and adopted by an executive-regulatory authority of local self-government.

2. The plan of actions to secure a planned peaceful assembly (Action Plan) shall envisage a list of measures to arrange for a peaceful assembly, provide for security and safety of peaceful assembly participants as well as other persons who occur in the peaceful assembly area, also a procedure for interaction of the executive-regulatory authority of local self-government with internal affairs bodies and with peaceful assembly organizers during the assembly.

3. Solely for the purposes of securing the planned peaceful assembly, when developing the action plan, its developers shall :

- 1) collect preliminary information about the planned peaceful assembly (the peaceful assembly purpose, peaceful assembly form or combination of different forms, peaceful assembly place and date, routes of movement of participants, peaceful assembly start and end time, anticipated number of participants, procedure and methods of interaction between the organizers and the peaceful assembly participants for the purpose of ensuring public order and providing medical and other assistance, use of loud-speaker equipment or other items for the conduct of the public event);
- 2) examine the peaceful assembly place for the purposes of providing for security and safety of peaceful assembly participants as well as other persons who occur in the peaceful assembly area, for possibilities of access for communal and other services that secure peaceful assemblies, also possibilities for safe evacuation if necessary;
- 3) identify required organizational measures to be taken together with units of the state road inspection, in order to identify the need for cordoning, escorting the peaceful assembly participants, blocking or changing routes of traffic, installing road signs;
- 4) identify and assess risk factors, the need for additional measures to ensure safety of peaceful assembly participants and other persons, including but not limited to, installation of metal detectors, fences, the need for changing the time, place and/or route of movement of the peaceful assembly participants;
- 5) identify forces and means necessary to secure a peaceful assembly;
- 6) analyze information about other assemblies conducted at the same time, in the same area, compare the obtained information, identify necessary measures (changing the time, place of conduct and/or route of movement of participants and other) to prevent conflicts that might interfere with the conduct of peaceful assemblies, in particular, with participants of counter-assemblies and assemblies that have no, or no longer have any, peaceful character or lawful goals;
- 7) analyze problems in securing peaceful assemblies identified in similar situations in the past and reflected in the information of the executive-regulatory authority of local self-government about identified problems in securing a peaceful assembly;
- 8) other results of required safety measures analysis.

4. Executive-regulatory authorities of local self-government shall notify internal affairs bodies and peaceful assembly organizers about the adopted Action Plan.

5. The adopted Action Plan may be changed by the executive-regulatory authority resultant from changed situation during the peaceful assembly that poses a real danger of its disruption, also a risk to the appropriate provision of security and safety of the peaceful assembly participants as well as other persons who occur in the peaceful assembly area. For the period of such circumstances, executive-regulatory authorities of local self-government shall have the right to make changes in the time, place of conduct or route of movement of the peaceful assembly agreed with the organizers.

6. Changes in the Action Plan shall be directed at removing threats, taking additional measures to secure a peaceful assembly, appropriately provide for security and safety of peaceful assembly participants as well as other persons who occur in the peaceful assembly area. Changes in the action plan and reasons for the changes shall be notified to internal affairs bodies and the peaceful assembly organizers.

Article 9. Measures to Secure Spontaneous Peaceful Assemblies

1. Executive-regulatory authorities of local self-government in the peaceful assembly area shall send their employees to the place and route of the spontaneous peaceful assembly with the purpose of assessing the situation on-site and identifying measures to secure the spontaneous peaceful assembly.
2. Provisions of this Law pertaining to the Action Plan to secure a planned peaceful assembly shall equally apply to and be valid in cases of, spontaneous peaceful assemblies.
3. In case a real threat is posed to the conduct of a spontaneous peaceful assembly, to appropriate provision of security and safety of the peaceful assembly participants as well as other persons who occur in the spontaneous peaceful assembly area, the executive-regulatory authorities of local self-government shall have the right to change the time, place and route of the peaceful assembly upon preliminary notification of the spontaneous peaceful assembly participants.

Article 10. Rights of Planned Peaceful Assembly Participants and Organizers

1. When conducting peaceful assemblies, the assembly participants shall have the right to:
 - 1) change the place, time and route of movement;
 - 2) obtain information about measures taken by executive-regulatory authorities of local self-government and internal affairs bodies to secure a peaceful assembly;
 - 3) obtain information about officials of executive-regulatory authorities of local self-government and internal affairs bodies who participate in securing the peaceful assembly, including their location at the moment the information is requested, their names, family names and patronymics, position, rank, place of employment, office and contact telephone numbers;
 - 4) have unimpeded contacts with representatives of mass media;
 - 5) use loud-speaker equipment during the peaceful assembly, not exceeding the acceptable levels of acoustic pressure and noise levels;
 - 6) use different means for attracting public attention and/or expressing opinions on some issues, being peaceful (unarmed) by their character and not pursuing unlawful goals;
 - 7) demand protection by units of internal affairs in case of unlawful encroachments by other persons;
 - 8) demand provision of medical aid and assistance in evacuating safely from the peaceful assembly place;
 - 9) request officers of internal affairs units to provide other kinds of assistance for the conduct of a peaceful assembly;
 - 10) use means of propaganda, collect signatures and carry out other actions to attract public attention;
 - 11) accept and direct to public authorities and local self-government proposals, applications, claim and other forms of address;
 - 12) conduct assemblies in any forms, including the form of meetings, marches, picketing, demonstrations and different combinations thereof;
 - 13) carry out other actions not prohibited or restricted by laws.
2. Organizers of planned peaceful assemblies, inter alia, have the right to:
 - 1) demand that an internal affairs unit would remove from the planned peaceful assembly place persons who commit or instigate commitment of, unlawful actions that prevent achievement of the peaceful assembly purposes;

2) envisage additional measures to protect security and safety of peaceful assembly participants, safety of property of peaceful assembly participants and organizers.

Article 11. Peaceful Assembly Notification

1. Peaceful assembly notification shall be made by organizers orally or in writing, at their option, either to local self-government or local state administration no earlier than two weeks before the assembly date.

2. Public authorities and local self-government shall not have the right to prohibit or restrict the conduct of peaceful assemblies for lack of notification.

3. Persons notifying local self-government or local state administration about a peaceful assembly shall have the right to demand provision of a written confirmation that the notification has been received.

Article 12. Place of Peaceful Assembly

1. Peaceful assemblies may be conducted on roads, in streets, squares, on pavements, in parks, boulevards, public gardens and other lands of general use, also indoors as agreed with the rightholder. In relation to provision of space by the rightholder, public agreement rules shall apply as envisaged by the civil law.

2. Assemblies shall not be allowed:

- 1) On railway lines;
- 2) In spaces occupied by public authorities or local self-government with violation of the work schedule of these agencies;
- 3) In places with special regime of occupational safety or special safety rules, also in those posing a threat to life and health.

3. Public authorities and local self-government shall be obliged to supply assembly organizers and participants with information about spaces where assemblies are prohibited for the specified reasons.

Section 3. PROCEDURE OF ACTION IN CASE OF ASSEMBLIES THAT HAVE NO, OR NO LONGER HAVE ANY, PEACEFUL CHARACTER OR LAWFUL PURPOSES

Article 13. Measures Taken by Internal Affairs Bodies Against Individual Offenders

In case of identifying persons who purposely violate public order, commit or instigate commitment of, unlawful actions that prevent achievement of the peaceful assembly purposes, internal affairs bodies shall take necessary action against these persons in compliance with the legislation, without termination of the assembly.

Article 14. Prohibition of an Individual Assembly

1. A decision on prohibition of a certain assembly may be made solely by court.

2. A decision imposing restrictions on a certain assembly may be made in cases when the assembly purposes are unlawful, including war propaganda, rousing of ethnic, racial or religious hatred, instigation to discrimination, hostility or violence, violation of territorial integrity, violation of public order, organization of mass riots. The burden of proof for the grounds to prohibit a certain assembly shall be with the applicant.

3. A court decision prohibiting a certain assembly shall be made within 24 hours after the application is made and shall enter into force on the date of its adoption.

4. A court decision prohibiting a certain assembly may be appealed against in a court of superior jurisdiction.

Article 15. Assembly Termination Procedure

1. In case a court makes a decision to prohibit a certain assembly, executive/regulatory authorities of local self-government together with internal affairs bodies shall:

1) In case a planned assembly is prohibited, notify assembly organizers in writing about the court decision;

2) In case a spontaneous assembly is prohibited, notify assembly organizers and participants about the court decision and specify time for its voluntary fulfillment;

2. In case of failure to fulfill the court decision, an internal affairs unit shall take necessary measures to terminate the assembly, acting in compliance with the legislation. The procedure of action of the internal affairs bodies shall not envisage use of physical force, including special methods of hand-to-hand fighting, means at hand, special means and arms, to ensure fulfillment of the court decision.

3. The assembly termination procedure envisaged by parts 1 and 2 of this Article shall not apply to cases of mass riots that require emergency action. In such cases the assembly shall be terminated in compliance with the Law on Internal Affairs Bodies.

Section 4 FINAL PROVISIONS

Article 16. Enactment of this Law

1. This Law shall come into force from the date of its publication.

2. From the date this Law comes into force, the following laws shall be deemed invalid:

1) Law of the Kyrgyz Republic 'On the Right of Citizens to Assemble Peacefully, without Weapons, Freely Conduct Meetings and Demonstrations' (the *Erkin Too* newspaper, issue 56, July 26 2002);

2) 'Law of the Kyrgyz Republic "On Introducing Changes and Amendments to the Law of the Kyrgyz Republic 'On the Right of Citizens to Assemble Peacefully, without Weapons, Freely Conduct Meetings and Demonstrations'" (the *Erkin Too* newspaper, issue 59-60, August 12 2008).

3. The Government of the Kyrgyz Republic shall within a period of three months: bring its normative legal acts in compliance with this Law;

1) introduce to the Zhogorku Kenesh proposals for bringing legislation in compliance with this Law.