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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT AMENDMENTS**  
**TO THE CONSTITUTION**  
**OF THE KYRGYZ REPUBLIC**

**Comparative table  
to the draft Law of the Kyrgyz Republic  
“On introduction of changes and amendments in the Constitution of the Kyrgyz Republic”**

Active version	Proposed version of the draft Law	Final version
	<p align="center"><b>Article 1.</b> The following changes and amendments shall be introduced in the Constitution of the Kyrgyz Republic adopted at the referendum (popular vote) on June 27, 2010:</p>	
<p>1. Article 72. 1. A deputy of the Jogorku Kenesh may not be prosecuted for opinions expressed in the course of their activities as a deputy or for the outcome of voting in the Jogorku Kenesh. The institution of criminal proceedings against a deputy shall be permitted with the consent of the majority of the total number of the deputies of the Jogorku Kenesh except where grave offences have been committed.</p>	<p>1. Article 72: - part 1 shall be read as follows: “1. A deputy of the Jogorku Kenesh may not be subject to persecution for statements made by him in relation to activity of the deputy or for the results of voting in the Jogorku Kenesh. A deputy may be subject to <del>official</del> persecution for criminal offense (<del>criminal persecution</del>) or <del>brought to administrative liability imposed by the court for administrative offense</del> only in the event that such offense is manifestly not related to his political activity. <u>The initiation of criminal persecution in respect of the deputy should be A governmental agency which initiates persecution in relation to the deputy, must immediately notified to</u> the Jogorku Kenesh <del>on that</del>. The Jogorku Kenesh has the right to review <u>the</u> relation of persecution with the political activity of the deputy (political persecution) at the initiative of not less than one third of the number of deputies. The Jogorku Kenesh must consider the issue and <u>make a motivated decision on</u> <del>conclude upon</del> the presence or absence of political persecution within <u>two months since the initiative is initiated by the deputies, thirty days since the request is issued.</u></p>	<p>1. Article 72. <b>1. A deputy of the Jogorku Kenesh may not be subject to persecution for statements made by him in relation to activity of the deputy or for the results of voting in the Jogorku Kenesh.</b> <b>A deputy may be subject to criminal persecution (<u>criminal persecution</u>) only in the event that such offense is not manifestly linked to political activity. <u>The initiation of criminal persecution in respect of the deputy should be immediately notified to the Jogorku Kenesh. In case criminal persecution proceedings are initiated in respect of a deputy of the Jogorku Kenesh, the Jogorku Kenesh shall be immediately notified on that.</u></b>—The Jogorku Kenesh has the right to review relation of persecution with the political activity of the deputy (political persecution) at the initiative of not less than one third of the number of deputies. The Jogorku Kenesh must consider the issue and <del>make</del> a motivated <b>decision statement</b> on the presence or absence of</p>

<p>2. A deputy of the Jogorku Kenesh may not combine the activity of the deputy with another position in the civil and municipal service, may not be engaged in entrepreneurial activity and may not be a member of the governing body or supervisory council of a commercial organization.</p> <p>A deputy of the Jogorku Kenesh shall have the right to engage in scientific, teaching or other creative activity.</p>	<p>The time between sessions shall not be included in the above period. In the event of an absence of initiative or failure by the Jogorku Kenesh to observe the time period referred to in this article, political persecution shall be deemed absent, <u>while criminal prosecution may be conducted in accordance with general procedures.</u></p> <p>In the event that <u>the majority of at least</u> two thirds of the total number of deputies of the Jogorku Kenesh recognize that political persecution has happened, the state agency authorized to conduct such persecution shall immediately terminate or suspend such persecution until the expiration of the term of the Jogorku Kenesh of relevant convocation <u>except for the cases of criminal persecution for gravest crimes.</u></p> <p>- to be amended with part 3 as follows:  "3. A deputy of the Jogorku Kenesh appointed to the position of the Prime Minister in accordance with the present Constitution, shall temporarily suspend the implementation of his competencies as a deputy – until the termination of performing the responsibilities of the Prime Minister.</p>	<p><b>political persecution within two months since the date when the initiative launched by the deputies. The time between sessions shall not be included in the above period. In the event of an absence of initiative or failure by the Jogorku Kenesh to observe the time period referred to in this article, political persecution shall be deemed absent, <u>while criminal prosecution may be conducted in accordance with general procedures.</u></b></p> <p><b>In the event that <u>the majority of at least</u> two thirds of the total number of deputies of the Jogorku Kenesh recognize that political persecution has happened, the state agency authorized to conduct such persecution shall immediately terminate or suspend such persecution until the expiration of the term of the Jogorku Kenesh of relevant convocation <u>except for the cases of criminal persecution for gravest crimes.</u></b></p> <p>2. A deputy of the Jogorku Kenesh may not combine the activity of the deputy with another position in the civil and municipal service, may not be engaged in entrepreneurial activity and may not be a member of the governing body or supervisory council of a commercial organization.</p> <p>A deputy of the Jogorku Kenesh shall have the right to engage in scientific, teaching or other creative activity.</p>
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<p>2. Article 73.                  1. A deputy of the Jogorku Kenesh shall not be bound by the imperative mandate. The deputy may not be recalled.                  2. The powers of a deputy of the Jogorku Kenesh shall cease simultaneously with the termination of activity of the relevant convocation of Jogorku Kenesh.                  3. In addition to the ground envisaged in paragraph 2 of the present article the powers of the deputy of the Jogorku Kenesh shall be subject to early termination in the following cases:                  1) <del>Submission of a written application on resignation of the powers as a deputy or his/her disaffiliation with the faction;</del>                  2) <del>Withdrawal from citizenship or acquisition of another citizenship;</del>                  3) Acceptance of a job or failure to abandon work incompatible with the exercise of their powers as a deputy;                  4) Declaring the elections invalid;                  5) Departure to a permanent place of residence outside the borders of the Kyrgyz Republic; a court decision declaring</p>	<p>2. In article 73:                  - paragraphs 1 and 2 of part 3 shall have the following wording:                  “1. Adoption by a faction of a decision on the exclusion of a deputy from the faction upon proposal of a governing body of the relevant political party;                  2) Submission of a written statement on resignation from the position of a deputy, renunciation of nationality or acquisition of other nationality”;</p>	<p><b>2. Article 73.</b>                  1. A deputy of the Jogorku Kenesh shall not be bound by the imperative mandate. The deputy may not be recalled.                  2. The powers of a deputy of the Jogorku Kenesh shall cease simultaneously with the termination of activity of the relevant convocation of Jogorku Kenesh.                  3. In addition to the grounds envisaged in part 2 of the present article, the powers of a deputy of the Jogorku Kenesh shall be subject to early termination in the following cases:  <b>1) Adoption by a faction of a decision on the exclusion of a deputy from the faction upon proposal of a governing body of the relevant political party;</b>  <b>2) Submission of a written statement on resignation from the position of a deputy, renunciation of nationality or acquisition of other nationality;</b>                  3) Acceptance of a job or failure to abandon work incompatible with the exercise of their powers as a deputy;                  4) Declaring the elections invalid;                  5) Departure to a permanent place of residence outside the borders of the Kyrgyz Republic; a court decision declaring the deputy legally incapable;</p>

<p>the deputy legally incapable;</p> <p>6) Entry into legal force of a court conviction in respect of a deputy;</p> <p>7) Absence from the sittings of the Jogorku Kenesh for no good reason for 30 and more working days during one session;</p> <p>8) Entry into legal force of a court decision declaring the deputy missing or deceased;</p> <p>9) Death of a deputy.</p> <p>Early termination of powers of a deputy of the Jogorku Kenesh on the aforementioned grounds shall be executed by a resolution of the Central Commission on Elections and Referendums, which shall be adopted not later than 30 calendar days since the date of accrual of cause.</p> <p>4. The procedure for replacing a mandate falling vacant as the result of early termination of powers of a deputy shall be defined by the constitutional law.</p>		<p>6) Entry into legal force of a court conviction in respect of a deputy;</p>
<p>3. Article 87. The Prime Minister, the Government or an individual member of the Government shall have the right to submit the resignation, which shall be accepted or rejected by the President.</p>	<p>3. Part 1 of article 87 shall be amended by the following second paragraph: “A member of the Government may be dismissed from his position <u>upon presentation of the Prime Minister</u> in cases and pursuant the provisions envisaged in the constitutional law”.</p>	<p>3. Article 87. “1. The Prime Minister, the Government or an individual member of the Government shall have the right to submit the resignation, which shall be accepted or rejected by the President. <b>A member of the Government may be dismissed from his position <u>upon presentation of the Prime Minister</u> in cases and pursuant the provisions envisaged in the constitutional law.</b></p>

<p>4. Article 89. The Prime minister: 7) shall appoint and dismiss the heads of local public administrations <del>upon proposals of local keneshes in accordance with the procedures of the law.</del></p>	<p>4. In paragraph 7 of article 89 the words “upon proposals of local keneshes in accordance with the procedures of the law” shall be deleted.</p>	<p>4. Article 89. <b>The Prime Minister: 7) shall appoint and dismiss the heads of local public administrations.</b></p>
<p>5. Article 93. 2. Judicial power shall be exercised by means of <del>constitutional</del>, civil, criminal, administrative and other forms of legal proceedings. 3. The judicial system of the Kyrgyz Republic shall be defined in the Constitution and laws and shall consist of the Supreme Court and local courts. <del>The Constitutional Chamber shall act as part of the Supreme Court.</del> 4. The organization and procedures of courts shall be defined by law.</p>	<p>5. In part 2 of article 93: The word “constitutional” shall be deleted;  Paragraph two of part 3 shall be deleted;  Part 4 after words “courts” shall be amended by words “as well as competencies of judicial instances”.</p>	<p>5. Article 93. <b>2. Judicial power shall be exercised by means of civil, criminal, administrative and other forms of legal proceedings.</b> 3. The judicial system of the Kyrgyz Republic shall be defined in the Constitution and laws and shall consist of the Supreme Court and local courts. 4. The organization and procedures of courts as well as <b>competencies of judicial instances</b> shall be defined by law.</p>
<p>6. Article 94. <del>7. The judges of the Supreme Court shall elect from amongst them the Chairperson of the Supreme Court and his/her deputies for the term of three years.  One and the same person may not be elected Chairperson of the Supreme Court or deputy chairperson for two consecutive terms.  The procedure of electing and dismissing of the Chairperson of the Supreme Court and his/her deputies shall be defined by law.</del></p>	<p>6. Part 7 of article 94 shall be reworded as follows: 7. The Chairperson and deputy chairpersons of the Supreme Court shall be elected by the Jogorku Kenesh upon presentation of the President from among the judges of the Supreme Court for the term of five years. One and the same person may not be elected Chairperson or deputy chairperson of the Supreme Court for two consecutive terms. The grounds and procedures of their early dismissal shall be defined in the constitutional law.</p>	<p>6. Article 94. <b>7. The Chairperson and deputy chairpersons of the Supreme Court shall be elected by the Jogorku Kenesh upon presentation of the President from among the judges of the Supreme Court for the term of five years. One and the same person may not be elected Chairperson or deputy chairperson of the Supreme Court for two consecutive terms. The grounds and procedures of their early dismissal shall be defined in the constitutional law.</b></p>
<p>7. Article 96. 1. The Supreme Court shall be the highest body of judicial power in respect of</p>	<p>7. Article 96 shall have the following wording: Article 96. 1. The Supreme Court shall be the highest</p>	<p>7. Article 96. <b>1. The Supreme Court shall be the highest body of judicial power in respect</b></p>

<p>civil, criminal, administrative as well as other cases; it shall revise the court rulings of local courts upon appeals of the participants in the judicial process in accordance with procedures established by the law.</p> <p>2. The Plenum of the Supreme Court composed of the Chairperson and collegium of the Supreme Court shall give explanations on issues of court practice.</p> <p>3. The rulings of the Supreme Court shall be final and not subject to appeal.</p>	<p>body of judicial power in respect of civil, criminal, economic, administrative as well as other cases.</p> <p>2. The Supreme Court shall handle cases within its competence, revise the court rulings upon appeals of the participants in the process as well as perform judicial oversight over the activity of all courts and judges of the Kyrgyz Republic in accordance with procedures established by the law.</p> <p>3. The Plenum of the Supreme Court shall give explanations on the issues of judicial practice, such explanations are mandatory for all courts and judges of the Kyrgyz Republic.</p>	<p><b>of civil, criminal, economic, administrative as well as other cases.</b></p> <p><b>2. The Supreme Court shall handle cases within its competence, revise the court rulings upon appeals of the participants in the process as well as perform judicial oversight over the activity of all courts and judges of the Kyrgyz Republic in accordance with procedures established by the law.</b></p> <p><b>3. The Plenum of the Supreme Court shall give explanations on the issues of judicial practice, such explanations are mandatory for all courts and judges of the Kyrgyz Republic.</b></p>
<p>8. Article 97.</p> <p><del>1. The Constitutional Chamber of the Supreme Court shall be a body which shall perform constitutional oversight.</del></p> <p><del>2. Any citizen of the Kyrgyz Republic who is not younger than 40 years of age and not older than 70 years of age, has higher legal education and not less than 15 years of experience in legal profession may be the judge of the Constitutional Chamber of the Supreme Court.</del></p> <p><del>3. The judges of the Constitutional Chamber of the Supreme Court shall elect the chairperson and deputy chairperson from amongst them for the term of 3 years.</del></p> <p><del>4. One and the same person may not be elected the chairperson or deputy chairperson of the Constitutional Chamber of the Supreme Court for two consecutive</del></p>	<p>8. Article 97 shall be deleted.</p>	<p>8. Article 97. Deleted.</p>

<p>terms:</p> <p>5. The judges of the Constitutional Chamber of the Supreme court may be subject to early dismissal from their posts by the Jogorku Kenesh by the majority of not less than two thirds of votes of the total number of the deputies of the Jogorku Kenesh upon submission of the President on the basis of proposal of the Council of judges.</p> <p>6. The Constitutional Chamber of the Supreme Court:</p> <p>1) shall declare unconstitutional laws and other regulatory legal acts in the event that they contradict the Constitution;</p> <p>2) shall conclude on the constitutionality of international treaties not entered into force and to which the Kyrgyz Republic is a party;</p> <p>3) shall conclude on the draft law on changes to the present Constitution.</p> <p>7. Everyone shall have the right to challenge the constitutionality of a law or another regulatory legal act in case he/she believes that these acts violate rights and freedoms recognized in the Constitution.</p> <p>8. The ruling of the Constitutional Chamber of the Supreme Court shall be final and shall be not subject to appeal.</p> <p>9. In the event that the Constitutional Chamber of the Supreme Court determines unconstitutionality of laws or provisions thereof, such laws shall be repealed on the</p>		
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<p>territory of the Kyrgyz Republic, the same applies to other regulatory legal acts based on such laws and provisions thereof declared unconstitutional with the exception of court rulings.</p> <p>10. Court rulings based on provisions of laws declared unconstitutional, shall be revised by courts in each concrete case upon appeals of citizens whose rights and freedoms were affected.</p> <p>11. The composition and the procedures of formation of the Constitutional Chamber of the Supreme Court, election and dismissal of chairpersons, deputy chairpersons of the Constitutional Chamber as well as the procedure of administering constitutional justice shall be defined in the constitution al law.</p>		
<p>9. Article 101.</p> <p>1. A court shall not have the right to apply a legal and regulatory act which is in contradiction with the present Constitution.</p> <p>2. In the event that during examination of a case in any judicial instance, there arises a question concerning the constitutionality of the law or other legal and regulatory act on which ruling of the case shall be based, the court shall send an inquiry to the Constitutional Chamber of the Supreme Court.</p>	<p>9. Delete the words "Supreme Court" from part 2 of article 101.</p>	<p>9. Article 101.</p> <p>1. A court shall not have the right to apply a legal and regulatory act which is in contradiction with the present Constitution.</p> <p>2. In the event that during examination of a case in any judicial instance, there arises a question concerning the constitutionality of the law or other legal and regulatory act on which ruling of the case shall be based, the court shall send an inquiry <b>to the Constitutional Chamber</b>.</p>
<p>10.</p>	<p>10. Section seven shall be amended with the following article 104-1: «Article 104-1.</p>	<p>10. Article 104-1.</p> <p><b>1. Constitutional Chamber shall maintain constitutional <del>oversight control</del> over the</b></p>

<p> </p>	<p>1. Constitutional Chamber shall maintain constitutional <del>control oversight</del> over the constitutionality of laws and other normative and legal acts.</p> <p>2. Competencies, organization and procedures of the Constitutional Chamber as well as the process of removal lack of correspondence to the Constitution of laws and other normative and legal acts shall be prescribed in the constitutional law.</p>	<p><b>constitutionality of laws and other normative and legal acts.</b></p> <p><b>2. Competencies, organization and procedures of the Constitutional Chamber as well as the process of removal lack of correspondence to the Constitution of laws and other normative and legal acts shall be prescribed in the constitutional law.</b></p>
<p>11. Article 112.</p> <p>2. The heads of executive local self governance bodies shall be <u>elected</u> in accordance with the procedure established by the law.</p> <p>3. Local keneshes shall, in accordance with the law:</p> <p>1) <u>Approve local budgets and oversee their execution;</u></p> <p>2) Approve programs of social and economic development of a local community and social protection of the population;</p> <p>3) Impose local taxes and dues as well as decide on preferences on them;</p> <p>4) Decide upon other issues of local significance.</p>	<p>11. Article 112</p> <p>Part 2 shall be amended with words “and dismissed from their position” after words “<del>elected local self-governance bodies</del>”.</p> <p>Paragraph 1 of part 3 shall be amended with words “and have the right to express no confidence in the head of local public administration” after words “oversee their execution”.</p>	<p>11. Article 112.</p> <p>2. The heads of executive local self governance bodies shall be elected and <b>dismissed from their positions</b> in accordance with the procedure established by the law.</p> <p>3. Local keneshes shall, in accordance with the law:</p> <p>1) Approve local budgets and oversee their execution and <b>have the right to express no confidence in the head of local public administration.</b></p>
<p>12. Article 114.</p> <p>1. The law on introducing changes to the present Constitution may be adopted by referendum called by the Jogorku Kenesh.</p> <p>2. Changes to the provisions of sections three, four, five, six, seven and eight of the present Constitution may be adopted by the</p>	<p>12. In paragraph 2 of part 3, Article 114 the words “two thirds” shall be replaced by “three fourths”.</p>	<p>12. Article 114.</p> <p>1. The law on introducing changes to the present Constitution may be adopted by referendum called by the Jogorku Kenesh.</p> <p>2. Changes to the provisions of sections three, four, five, six, seven and eight of the present Constitution may be adopted by the</p>

<p>Jogorku Kenesh upon proposal of the majority of the total number of deputies or at the initiative of not less than 300 000 voters.</p> <p>3. The Jogorku Kenesh shall adopt the law on introduction of changes to the present Constitution not later than 6 months after it was submitted for consideration of the Jogorku Kenesh.</p> <p>The law on introduction of changes to the present Constitution shall be passed by the majority of not less than <del>two thirds</del> of the total number of deputies of the Jogorku Kenesh after conducting not less than three readings with 2 months' time interval between them.</p> <p>At the initiative of not less than two thirds of the total number of the deputies of the Jogorku Kenesh the law on introduction of changes to the present Constitution may be submitted to the referendum.</p> <p>4. Adoption of the law introducing changes to the present Constitution shall be prohibited during a state of emergency or state of martial law.</p> <p>5. The adopted law on introducing changes to the present Constitution shall be submitted to the President for signature.</p>		<p>Jogorku Kenesh upon proposal of the majority of the total number of deputies or at the initiative of not less than 300 000 voters.</p> <p>3. The Jogorku Kenesh shall adopt the law on introduction of changes to the present Constitution not later than 6 months after it was submitted for consideration of the Jogorku Kenesh.</p> <p>The law on introduction of changes to the present Constitution shall be passed by the majority of not less than <b>three fourths</b> of the total number of deputies of the Jogorku Kenesh after conducting not less than three readings with 2 months' time interval between them.</p> <p>At the initiative of not less than two thirds of the total number of the deputies of the Jogorku Kenesh the law on introduction of changes to the present Constitution may be submitted to the referendum.</p> <p>4. Adoption of the law introducing changes to the present Constitution shall be prohibited during a state of emergency or state of martial law.</p> <p>5. The adopted law on introducing changes to the present Constitution shall be submitted to the President for signature.</p>
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**Article 2.**

1. The present law should be signed by the President of the Kyrgyz Republic and shall enter into force and effect since the day of its official publication.
2. Laws and other normative and legal acts effective on the territory of the Kyrgyz Republic before the present Law becomes effective, shall be applicable to the extent they do not contradict the Constitution of the Kyrgyz Republic in the version of the present Law.

3. Provisions of the Constitution in the version of the present Law which apply to the competencies and status of acting President of the Kyrgyz Republic, deputies and factions of the Jogorku Kenesh of the Kyrgyz Republic as well as the Prime Minister of the Kyrgyz Republic shall be directly operational and shall be applied without preliminary legislative regulation.

4. The President of the Kyrgyz Republic and the Jogorku Kenesh of the Kyrgyz Republic shall retain their powers until the expiration of the term of their mandate; they shall perform their functions in accordance with the provisions of the present Law since its effective date.

5. Chairpersons, their deputies and judges of local courts; the Chairperson, deputy chairperson and judges of the Constitutional Chamber of the Supreme Court as well as judges of the Supreme Court elected or appointed in accordance with the provisions of the legislation adopted for the purpose of implementation of the Constitution of the Kyrgyz Republic as of June 27, 2010, shall retain their powers upon expiration of their term of election or appointment or until the emergence of any other circumstances resulting in their dismissal in accordance with the constitutional law. The chairperson and deputy chairpersons of the Supreme Court of the Kyrgyz Republic shall be subject to re-election in accordance with the provisions of the Constitution of the Kyrgyz Republic in the version of the present law irrespective of their earlier term of election.

Judges of courts of the Kyrgyz Republic who failed to pass the selection by the Council for selection of judges by the day of entry into force of the present law, shall continue performing their function until their re-election (re-appointment) or election (appointment) of other persons to these judicial positions.

Laws that regulate constitutional, civil, criminal and administrative judicial procedures, shall remain in force until they are aligned with the Constitution of the Kyrgyz Republic in the version of the present law.

### **The President of the Kyrgyz Republic**

**MEMORANDUM**  
**On amendments to the Constitution of the Kyrgyz Republic**

*Bishkek, April the \_\_\_\_\_th, 2015*

The adoption of the Constitution of the Kyrgyz Republic by popular vote on June 27, 2010 has become the most important event in the modern history of the Kyrgyz Republic; it has drastically changed the principles of formation and functioning of the state as well as the development of the society in the country. The new Fundamental law practically establishes genuine parliamentarism in the country while successive improvement of this system will create maximum obstacles for the alienation of power from the people. By consolidating the fruits of heroic popular efforts of April 2010, the Constitution not only accumulated its own national experience, but also in many of its sections absorbed high achievements of democratic development and state building of developed countries.

In the process of drafting the new Constitution, the Constitutional Assembly was boldly and decisively removing all distortions in the distribution of functions and the balance between the branches of power, enriched the draft with democratic and progressive provisions as well as harmonized them with traditional norms which had justified their relevance in the past. All these efforts of the Constitutional Assembly resulted in producing a systematic and in general non-contradictory document.

Over four years of practical application of the Constitution demonstrated that some norms, including certain novelties, ceased to be correspondent to changing environment and new challenges, they also suffered from incompleteness or abundance of regulations.

Firstly, the Jogorku Kenesh should serve an example of both collective and personal responsibility and care for the purity of its deputies. Almost five years of parliamentary experience showed that corporate solidarity and unwillingness to betray the colleagues dominate over the collegiate responsibility towards the electorate and the society, therefore it is practically impossible to obtain the consent of the Jogorku Kenesh to bring a deputy to criminal liability. This seriously undermines the confidence in the Jogorku Kenesh as the highest legislative institution, in the Government which is formed by the Parliament as well as its decisions and laws adopted. Therefore the institute of deputies' immunity should be drastically revised. The issue of consent to bringing to criminal liability should be considered by the Jogorku Kenesh only in cases when there is an evident political persecution of a deputy on behalf of law enforcement agencies. In all other cases a deputy should be held liable for any committed crime in accordance with regular procedures.

A person shall become a deputy of the Jogorku Kenesh only by virtue of a party to which he is a member and in the event that this party was selected by voters. The political responsibility of a long living party is based upon its inseparable link with the voters during all five years until the next elections, as well as in the event that the faction of such party has power in the Parliament. A deputy, in turn, should maintain permanent links and accountability towards his party. The existence of such link justifies proportional elections, party – based principle of parliamentary formation as well as ensures progressive development of parliamentary democracy. Therefore there is no doubt that a political party, which is responsible for the list of its candidates to the position of members of the Parliament and being represented by its governing body, should have the right to request the faction about the exclusion from the parliamentary faction in the Jogorku Kenesh a deputy who ceased to relate his activities to the objectives of the party and refrains from implementing its collective commitments towards the electorate.

Secondly, the executive branch of power which is expected to be the most mobile and consolidated in reaching common goals, is significantly weakened by the absence of a clear vertical structure, as well as lack of constitutional leverage allowing the replacement of a minister, an akim or a mayor in the event that they fail to duly perform their functions. It should be noted that selection of quality professional staff, planned rotation and formation of reserve currently are among the key factors for successful implementation of any progressive reforms by the Government.

Thirdly, in the judicial branch of power the inconsistency of decisions and approaches is observed, and such inconsistency is hardly to eradicate at present. This is accompanied by excessive regimentation and unjustified innovations in the constitutional regulations. All these factors combined result in creating obstacles for adequate response of the legislator to the imbalanced judicial system and for the creation of an agency able to ensure uniform and proper application of laws by all judges and courts. It is also highly important to restore and operationalize the mechanisms of political responsibility of the highest body of judicial power in respect of reforming the judicial system and development of the judicial policy by setting up universally recognized procedures of establishing leading state institutions. Only these measures will facilitate curbing corruption in courts as unprecedented increase of corruption is one of the factors resulting in total lack of confidence in justice.

Fourthly, commensurating the accumulated experience of constitutional control and forthcoming active work on replacement a significant number of outdated laws, envisages the revision of provisions on the Constitutional Chamber, including assigning it an additional function of preventive control of legislative and regulative activity of supreme state power bodies.

Fifthly, local self – governance, with its permanently increasing role in the life of local communities, should be given more effective leverage, inciting state power agencies for assistance and close cooperation with the local self – governance authorities in handling the issues of local significance. In this respect the right of local keneshes to express no confidence in the head of local public administration should be raised to the rank of constitutional competence, resulting in dismissal from the position in accordance with the procedures envisaged in the law.

Therefore we, the deputies of the Jogorku Kenesh, propose to introduce selective changes in the Constitution, which in aggregate shall ensure the stability of parliamentarism, significantly strengthen the vertical and responsibility of the executive, facilitate the improvement of the judicial mechanisms as well as expand the opportunities for the legislator to take timely measures adequate to urgent challenges and commensurate to the needs of the society.

*We attach to this Memorandum draft constitutional amendments, which in line with part 1 article 114 of the Constitution of the Kyrgyz Republic is submitted to the Jogorku Kenesh of the Kyrgyz Republic for subsequent adoption of the Law on referendum which we propose to hold simultaneously with the elections to the Jogorku Kenesh scheduled for November 2015.*

**Deputies of the Jogorku Kenesh  
of the Kyrgyz Republic:**

**F. Kulov, Ch. Tursunbekov, O. Tekebaev, J. Joldosheva, M. Sabirov**

**Justification note**  
**To the draft law of the Kyrgyz Republic**  
**“On appointment of referendum (popular vote) in respect of the Law of the Kyrgyz Republic “On introduction of changes and amendments to the Constitution of the Kyrgyz Republic””**

The Constitution of the Kyrgyz Republic, which was adopted by the popular vote on June 27, 2010, established genuine parliamentarism in the country and to the maximum extent removed the alienation of power structures from the people. By consolidating the fruits of heroic popular efforts of April 2010, the Constitution accumulated and maintained all high ideas of humanism, significant achievements of democratic development and state – building, which were thoroughly trampled and diminished by previous authorities.

Regrettably, as time went by, certain provisions of the Constitution in subsequent practice of their implementation failed to demonstrate their relevance and became the cause of regular disorganization of the activity of the state agencies, sluggishness and uncertainty among the authorities and this in turn caused growing grievance of the population.

Therefore there emerged a need to introduce changes in the Constitution to eliminate deficiencies, which create explicit contradictions between certain provisions and general principles and essence of the Constitution without changing the spirit of the parliamentary democracy and preservation of all recent positive achievements.

More specifically, the proposed changes will deal with the procedure of appointment of heads of local state administrations, the issues of immunity as well as exclusion of deputies of the Jogorku Kenesh from political factions; the possibility for a deputy appointed to the position of the Prime minister to resume his functions of a deputy after resignation; election of Chairperson and deputy chairpersons of the Supreme Court by the Jogorku Kenesh etc.

In order to ascertain the will of the people of the Kyrgyz Republic, who is the bearer of sovereignty and the only source of state power, pursuant paragraph 1 of part 1 article 74, and paragraph 3 part 3 of the Constitution of the Kyrgyz Republic, the following draft Law of the Kyrgyz Republic shall be submitted for consideration of the Jogorku Kenesh of the Kyrgyz Republic: “On appointment of the referendum (popular vote) in respect of the Law of the Kyrgyz Republic “On introduction of changes and amendments to the Constitution of the Kyrgyz Republic””.

The bill does not entail additional expenditures of the republican budget, except for expenditures related to the implementation of the law on appointment of referendum.

In order to ensure public discussion and implement article 22 of the Law of the Kyrgyz Republic “On normative and legal acts of the Kyrgyz Republic”, the bill referred to above is posted on the official web site of the Jogorku Kenesh of the Kyrgyz Republic ([www.kenesh.kg](http://www.kenesh.kg)).

**Deputy of the Jogorku Kenesh of the Kyrgyz Republic**