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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KYRGYZ REPUBLIC

DRAFT CONSTITUTIONAL LAW
ON AKYIKATCHY (OMBUDSMAN) OF THE KYRGYZ REPUBLIC

Draft
CONSTITUTIONAL LAW OF THE KYRGYZ REPUBLIC
On Akyikatchy (Ombudsman) of the Kyrgyz Republic

This Constitutional Law shall regulate the activities of the Akyikatchy (Ombudsman) of the Kyrgyz Republic, ensure guarantees of independence, legal status and powers, measures for legal and social protection of the Akyikatchy (Ombudsman) and the Akyikatchy (Ombudsman) Office in the Kyrgyz Republic.

Chapter 1. General Provisions

Article 1. Parliamentary Oversight Over Human and Civil Rights and Freedoms

1. The Akyikatchy (Ombudsman) of the Kyrgyz Republic (hereinafter referred to as the Akyikatchy) shall exercise parliamentary oversight over human and civil rights and freedoms in the Kyrgyz Republic and within its jurisdiction, will be guided by the Constitution, this constitutional law, other regulatory legal acts of the Kyrgyz Republic, general principles and norms of international law, as well as international treaties that are in force in accordance with the legislation of the Kyrgyz Republic, **as well as international human rights standards.**

2. Parliamentary oversight of the Akyikatchy shall be aimed at:

1) protecting human and civil rights and freedoms as proclaimed by the Constitution, laws and other regulatory legal acts of the Kyrgyz Republic and universally recognized international legal principles and norms, as well as international treaties entered into force in accordance with the Kyrgyz Republic law;

2) ensuring compliance and respect for human and civil rights and freedoms by entities referred to in this Law, Article 3;

3) preventing violations of human and civil rights and freedoms or assisting in their recovery;

4) providing support to harmonize the Kyrgyz Republic laws in the field of human and civil rights and freedoms with the Constitution of the Kyrgyz Republic, international standards, and universally recognized international legal principles and norms in this field;

5) further developing and improving international cooperation in the field of human and civil rights and freedoms protection;

6) preventing any form of discriminatory practices in exercising human rights and freedoms;

7) encouraging and promoting human rights and freedoms; and contributing to legal awareness and protecting confidential personal information.

Article 2. Key concepts used in this constitutional law

The following key concepts are used in this Constitutional Law:

1) The Akyikatchy Institute of the Kyrgyz Republic (hereinafter referred to as the Akyikatchy Institute) is a national human rights institutute with a special status. The Akyikatchy Institute shall ensure parliamentary oversight over human and civil rights and freedoms as provided for in the Constitution, regulatory legal acts of the Kyrgyz Republic, universally recognized international legal principles and norms, as well as international treaties that have entered into force in accordance with the law of the Kyrgyz Republic;

2) Detention facility shall mean a facility designed to hold a person subjected to administrative detention or arrest, detained on suspicion of committing a crime, imprisoned in connection with a criminal charge, or serving a sentence of imprisonment under a court order, including:

- Facilities at the duty units of territorial subdivisions and special reception centers run by internal affairs authorities, remand centers, and pre-trial detention centers;
- Temporary detention cells in guardrooms in judicial authorities;
- Penal colonies, correctional colonies, educational colonies, and prisons;
- Reception centers in internal affairs authorities;

- Guardhouses;
- Premises in border agencies to accommodate individuals subjected to administrative detention;
- Reception and temporary accommodation centers for internally displaced persons and asylum seekers.

3) Restriction of liberty facility means any facility that does not have the attributes of a place of deprivation of liberty, where a person is or may be confined by order of or with the knowledge of a public authority (an official) and which he/she is unable to leave voluntarily, including:

- Law enforcement agencies' locations and facilities;
- Juvenile rehabilitation centres;
- Units of interior forces, defense, national security, penal system, and authorized emergency bodies;
- Psychoneurological institutions;
- Specialized compulsory treatment institutions for patients with mental disorders, alcohol and drug addiction, and substance abuse;
- State and non-state medical and social institutions for the elderly, adolescents, and persons with disabilities (such as nursing homes, orphanages, etc.);
- Special facilities for children and adolescents with special educational needs.

4) The Akyikatchy Office staff are persons holding special government positions and civil servants who support the Ombudsman in exercising his/her mandate. The Akyikatchy shall have the right to delegate particular powers and responsibilities in protecting human and civil rights and freedoms to the Akyikatchy Office staff by his/her decision;

5) Parliamentary oversight over the observance of human and civil rights and freedoms in the Kyrgyz Republic shall mean the Akyikatchy actions to monitor entities specified in Article 3 of this Constitutional Law regarding human and civil rights and freedoms observance through investigations, monitoring, analyses, relevant decisions and recommendations in accordance with this Constitutional Law;

6) Monitoring means actions of the Akyikatchy and his/her Office staff, including the right to involve experts, civil society representatives, and other stakeholders for the purpose of systematic collection, observation, recording and analysis of information on human and civil rights and freedoms observance;

7) Inspection shall mean actions of the Akyikatchy and his/her Office staff to monitor the compliance of regulatory legal acts, regulations, and international standards in the sphere of human and civil rights and freedoms observance, **carried out by the entities referred to in the Article 3 of this Constitutional Law;**

8) Investigations of the Akyikatchy and his/her Office staff shall mean their actions in accordance with this Constitutional Law to elucidate circumstances that reveal violations of human and civil rights and freedoms. The investigation aims at identifying perpetrators involved and subsequently taking measures to restore the violated rights. Additionally, the investigation seeks to identify the causes and conditions that contributed to the violation of human and civil rights and freedoms.

Article 3. Scope of this Constitutional Law

The scope of this constitutional law shall include relations arising in the exercise of human and civil rights and freedoms between a Kyrgyz citizen, regardless of his/her location, a foreign national or a stateless person in the Kyrgyz Republic, and public authorities, including those with special status, local self-government and their officials, and legal entities, including their management regardless of their ownership.

Article 4. Legal Status of the Akyikatchy of the Kyrgyz Republic

1. The Akyikatchy is an official to be guided by the Constitution, this constitutional law, other regulatory legal acts of the Kyrgyz Republic, general international legal principles and norms, as well as international treaties in force in accordance with the law of the Kyrgyz Republic.

2. The Akyikatchy shall exercise his/her powers independently and shall not be accountable to any government authority or their officials, or shall not be subject to their control.

3. The Akyikatchy activities shall contribute to the current legal means and mechanisms in the sphere of human and civil rights and freedoms protection; shall not replace them or lead to revision of the competences of the Kyrgyz Republic public authorities responsible for protection and restoration of violated rights and freedoms.

4. The Akyikatchy shall comply with the Constitution, this Constitutional Law, other laws of the Kyrgyz Republic, and other regulatory legal acts, human and civil rights and interests protected by law, ensure performance of his/her functions, and fully exercise the mandated rights.

5. The Akyikatchy shall keep all information confidential. This obligation shall apply after his/her powers termination. In the event of disclosure of such information, the Akyikatchy shall be held liable in accordance with the law. The Akyikatchy shall not have the right to disclose personal information of applicants or individuals without their consent.

6. The Akyikatchy and his/her Office shall operate based on the following principles:

- 1) The rule of human and civil rights;
- 2) Recognition of the value of the human being, his rights and freedoms;
- 3) Impartiality;
- 4) Transparency and openness;
- 5) Justice;
- 6) The independence of the Akyikatchy and his/her staff, and non-interference in their activities.

Chapter 2. Procedures for the Akyikatchy Election and Termination of Powers

Article 5. Eligibility Criteria for the Akyikatchy

1. Any citizen of the Kyrgyz Republic who is proficient in the state language, aged at least 30 years and not older than 65 years, having a higher education degree and experience working in human rights, shall be eligible to be elected as the Akyikatchy.

2. A person shall not be eligible to be elected as the Akyikatchy if:

- 1) a person has a criminal record for serious or particularly serious crimes, regardless of whether it has been canceled or expunged, or there is an investigative body or court decision to terminate criminal prosecution for the above crimes on non-rehabilitation grounds;
- 2) a person declared legally incapable or incapacitated by a court decision;
- 3) a person who is a foreign national.

3. The Akyikatchy shall be elected for five year term. The same person shall not hold the office of the Akyikatchy for more than two consecutive terms.

4. The requirements for a candidate for the post of Deputy Akyikatchy shall be established in accordance with this Article.

Article 6. The Procedure for Nominating Candidates to the Akyikatchy Vacancy

1. The Jogorku Kenesh Office in 60 calendar days prior to the expiration of the term of the incumbent Akyikatchy shall publish an announcement regarding the organization and conduct of elections for the position of Akyikatchy, the requirements for candidates and the documents to be submitted shall be placed on the Jogorku Kenesh official webpage and published in mass media.

2. In the event of the early Akyikatchy powers termination, the announcement shall be published within 10 working days after the early termination of the Akyikatchy powers.

3. The procedure for organizing and conducting elections shall be held proceeding from the following principles:

- a) Open access – by ensuring free access for any person who meets the qualification requirements for the Akyikatchy position;
- b) Transparency – by providing interested parties with information about the election process;
- c) Equality – excluding any forms of discrimination in determining selection criteria and election conditions.

The announcement for the vacant Akyikatchy position shall specify a list of documents required to participate in the competition, as well as the time, period, and the reception addresses. Candidates who have expressed the desire to participate in the elections of Akyikatchy shall submit documents to the Office of the Jogorku Kenesh.

Parliamentary hearings with the participation of the civil society shall be held for all candidates for the Akyikatchy position who have been submitted to the Office of the Jogorku Kenesh.

4. Parliamentary factions, deputy groups, deputies elected in single-mandate districts and those who are not included in factions shall have the right to submit to the Jogorku Kenesh no more than three candidates for the Akyikatchy position (from the number of candidates received by the Office of the Jogorku Kenesh).

5. The Jogorku Kenesh shall establish the procedure for nominating candidates for the position of the Akyikatchy.

6. The right to submit to the Jogorku Kenesh candidates for the position of Akyikatchy Deputies shall be vested in Akyikatchy.

Article 7. Procedure for the Akyikatchy Election

1. The Jogorku Kenesh of the Kyrgyz Republic shall elect the Akyikatchy through a secret ballot using ballot papers.

2. The Akyikatchy and his/her deputy shall be considered elected by the majority of votes of the total number of deputies, and their election shall be formalized by the resolution.

3. If none of the candidates receives the required number of the Jogorku Kenesh votes, a second round of voting shall be conducted between the two candidates who receive the highest number of votes. The candidate who receives the highest number of votes of the total number of deputies in the second round shall be deemed elected.

If both candidates receive an equal number of votes of the total number of deputies in the second round of voting, a re-vote shall be conducted for these two candidates.

If both candidates receive an equal number of votes in the re-vote, the election shall be considered invalid. In this case, a new election shall be conducted, and new candidates shall be nominated.

4. If no candidate receives the required number of votes of the Jogorku Kenesh deputies in the second round, a third round of voting shall be conducted for the candidate who received the highest number of the Jogorku Kenesh votes.

The candidate with the highest number of votes of the total number of deputies, but not less than 45 Jogorku Kenesh deputies shall be considered elected in the third round.

If this candidate does not receive the required number of votes in the third round, new elections shall be held with the nomination of new candidates.

5. The voting procedure for electing the Akyikatchy shall not be postponed until the next Jogorku Kenesh session.

6. If none of the candidates receives the required number of votes of the Jogorku Kenesh deputies, re-election with the nomination of new candidates shall be conducted. This re-election shall be conducted not earlier than 14 and no later than 30 calendar days from the day of voting.

7. The Akyikatchy shall be elected at least thirty calendar days prior to the expiration of the term of his/her predecessor.

8. The Akyikatchy shall be deemed to have entered the office after being sworn in and conclusion of his/her predecessor's term.

9. In case of early termination of the Akyikatchy powers as provided for in Article 18 and 19 of this Constitutional Law, a new Akyikatchy shall be elected within 30 calendar days following the termination of his/her term of office.

One of the Akyikatchy deputies shall perform as the acting Akyikatchy, as specified in the Office Regulations approved by the Akyikatchy.

10. The term of office of the Akyikatchy shall terminate on the day the newly elected Akyikatchy takes office.

11. When the term of office expires, the Akyikatchy shall remain in office until a newly elected Akyikatchy takes office.

12. If expiration or early termination of the Akyikatchy term of office occurs at the end of the Jogorku Kenesh session or in force majeure circumstances, the terms specified in this Article (paras. 18-19) shall be suspended until the new session or the end of force majeure.

13. The Akyikatchy shall have no more than two deputies to be elected for a five-year term. The deputies shall be appointed and dismissed by the Jogorku Kenesh based on the Akyikatchy recommendation. Gender balance shall be taken into account when electing the Akyikatchy deputies.

Article 8. The Akyikatchy Oath

1. Upon taking office, the Akyikatchy or his/her deputy, takes the following oath at the Jogorku Kenesh session:

"I, [first name and last name], taking office of the Akyikatchy of the Kyrgyz Republic, Deputy Akyikatchy of the Kyrgyz Republic, solemnly swear:

- to perform my duties honourably and in good faith, and not to perform any acts that may undermine credibility of the Akyikatchy (Ombudsman) Institute;
- to observe the Constitution and laws of the Kyrgyz Republic;
- to be guided by justice and my own conscience;
- to combat irreconcilably and actively any violations of human and civil rights and liberties;
- to uphold my professional honor.

I pledge to act independently, responsibly, and impartially in the interests of human and civil rights and freedoms."

2. The Akyikatchy and his/her deputies taking the oath shall sign below its text and indicate the date of the oath. The oath shall be kept in the oath-taker's personal file.

Article 9. Activities Incompatible with the Status of the Akyikatchy

1. The Akyikatchy and his/her deputies shall have no right to:

- 1) be the Jogorku Kenesh or local kenesh deputy;
- 2) hold other positions in the government authorities or local self-government;
- 3) be a member of a political party or any other public association pursuing political goals;
- 4) engage in any paid activities, except for educational, expert, scientific, and other creative activities.

2. The Akyikatchy and his/her deputies shall be obliged, no later than 14 calendar days from the date of taking office, to cease the activities incompatible with their status as specified in this Article (1).

3. If they fail to comply with this Article (2), their mandate shall terminate prematurely in accordance with the procedure set in Article 9 of this Constitutional Law.

Article 10. Early Termination of Powers of the Akyikatchy

1. The powers of the Akyikatchy and his/her deputies shall be terminated prematurely on the following grounds:

- 1) submission of a written application for early release at his/her own request;
- 2) entry into force of the court judgment of conviction;
- 3) enforceable guilty verdict imposing coercive measures of a medical nature;
- 4) enforceable judicial ruling declaring absence or death;
- 5) enforceable judicial ruling declaring limited capacity or incapacity;
- 6) inability to exercise powers on medical grounds, by medical decision;
- 7) in case of failure to comply with the provisions set forth in Article 9 (2) of this

Constitutional Law;

- 8) termination of citizenship of the Kyrgyz Republic or foreign citizenship establishment;
- 9) fact of death.

2. The early release submission on the grounds stipulated in this Article (1, clauses 2-9) shall be made by:

- Parliamentary factions, deputy groups, and deputies elected in single-mandate districts and not affiliated with factions or deputy groups, with regards to the Akyikatchy;

- the Akyikatchy with regards to his/her deputies may submit to the Jogorku Kenesh a proposal regarding early dismissal of Deputy Akyikatchy (due to repeated improper performance of his/her duties) according to the procedure established by Akyikatchy.

3. The decision to release the Akyikatchy and his/her deputies shall be made by a majority vote of the total number of the Jogorku Kenesh deputies, or by minimum 45 Jogorku Kenesh deputies.

The powers of the Akyikatchy and his/her deputies shall be terminated upon the relevant Jogorku Kenesh decision.

Chapter 3. The Powers/Mandate of the Akyikatchy

Article 11. The Powers/Mandate of the Akyikatchy

1. In the exercise of his/her powers, the Akyikatchy shall have the right to:

1) be received without delay by the President of the Kyrgyz Republic, the Speaker of the Jogorku Kenesh of the Kyrgyz Republic, the Chairman of the Cabinet of Ministers of the Kyrgyz Republic, Senior Officers of the Armed Forces of the Kyrgyz Republic, the Administration in places of detention and other custodial facilities, heads of other state bodies, local self-government, their officials and employees, as well as associations of citizens, enterprises, institutions, organizations regardless of ownership, and their leaders;

2) attend meetings of the Jogorku Kenesh, the Cabinet of Ministers, the Supreme Court, the Constitutional Court, the Board of the General Prosecutor's Office and other collegiate bodies;

3) make a special report during sessions of the Jogorku Kenesh;

4) approach the Jogorku Kenesh with a proposal to establish a parliamentary commission to investigate identified violations of human and civil rights and freedoms and participate in the work of the above commission and any parliamentary hearings related to the matter;

5) submit proposals in the Jogorku Kenesh Committees agendas regarding parliamentary oversight over human and civil rights and freedoms observance, including individual and collective communications;

6) obtain legal drafts from the President, the Jogorku Kenesh, the Cabinet of Ministers, and the Supreme Court on matters within its jurisdiction, People's Kurultai and the Prosecutor General on matters within their respective jurisdictions, and drafts of regulatory legal acts submitted to the Jogorku Kenesh;

7) participate in working groups involved in drafting regulatory legal acts;

8) submit conclusions or approvals on draft laws and other regulatory legal acts, ensuring their conformity with the Constitution, universally recognized international legal principles and norms regarding the human and civil rights and freedoms, as well as international treaties;

9) make proposals on adoption (publication), amendment, interpretation, suspension, repeal, or invalidation of regulatory legal acts to the entities with the right of legislative initiative and law-making bodies;

10) make proposals to conclude, ratify, or accede to international treaties in the field of human rights and freedoms, as well as proposals to denounce or suspend such treaties;

11) submit proposals to the Constitutional Court to declare laws and other regulatory legal acts unconstitutional, requests to interpret norms of the Constitution of the Kyrgyz Republic affecting the rights, freedoms and obligations of a person and a citizen;

12) make submissions to the Supreme Court to study and consolidate judicial practices and provide guiding clarifications on the application of laws and universally recognized international legal principles and norms; ensuring human and civil rights, freedoms, and obligations and participate in these matters' discussions;

13) participate in the Council of Judges Disciplinary Commission sessions in an advisory capacity, including when considering cases in closed session;

14) control any authority in connection with cases when final decision was issued;

15) have unrestricted access to any document, facility, or premises under direct investigation, monitoring, or inspection;

16) have unrestricted access to the facilities of the Armed Forces of the Kyrgyz Republic and the State Security Service;

17) monitor observance of human and civil rights and freedoms during pre-trial and court proceedings;

18) approach the entities specified in this Constitutional Law, Article 3 with proposals enhancing collaboration forms and methods to supervise and monitor human and civil rights and freedoms observance. He/she may also submit verbal and written communications on human rights violations and participate in their consideration;

19) submit claims on human and civil rights and freedoms protection to the court on behalf of individuals who, due to health problems or other valid reasons, are unable to do so. He/she may also participate in court proceedings either in-person or through a representative as stipulated by law. The Akyikatchy claims to the court shall be exempt from fees on communications filed in the interests of individuals;

20) participate in court hearings at all levels, including closed court hearings, upon prior consent of the person requesting closed proceedings;

21) freely access and review the materials of criminal, civil, and administrative cases during court proceedings, without any restrictions with regard to case category. He/she can also make copies of the materials if necessary;

22) request entities specified in this Constitutional Law, Article 3 to assist relevant audits, including scheduled and unannounced audits, of subordinate units, enterprises, institutions, and organizations, including assigning specialists or staff to participate in audits, inspections, and providing results and appropriate conclusions;

23) interview official responsible for the case investigation or any other investigating body officer. He/she can also request the head of the body under investigation, the head of its supervisory body, or any other authorized body to conduct investigation according to the law;

24) verify the accuracy of submitted documents and interview officials of the entities referred to in Article 3 of this Constitutional Law who are involved in the case to obtain additional information;

25) access classified official, commercial, government or other information in accordance with the law of the Kyrgyz Republic on protection of state secrets;

26) summon and obtain written or oral clarifications from officials of public authorities, local self-government, managers, representatives of legal entities irrespective of ownership (excluding judges), as well as from citizens of the Kyrgyz Republic, foreign nationals, and stateless persons concerning the circumstances of the communication/complaint under consideration;

27) submit proposals to improve administrative procedures to public and local authorities;

28) at any time, carry out preventive visits to places of detention, remand centers, **as well as other entities specified in Article 3 of this Constitutional Law** and interview detainees in private; obtain information on detention conditions; and verify documentation regarding the legality of their detention in these facilities. Additionally, the Akyikatchy shall have the right to receive written communications directly from individuals in detention or remand facilities;

29) request and receive notarized materials, protocols, reports, statistical data, and other relevant information, documents, and procedural decisions of investigative bodies, investigators, prosecutors, and courts at all stages of criminal, administrative, and civil proceedings;

30) request and receive information, materials, and documents subject to consideration of the communication/complaint from the state bodies, local self-government, enterprises, organizations, institutions, public associations, and political parties; obtain copies of judicial acts in force;

31) inspect and assess human and civil rights and freedoms observance by the relevant government agencies, including those responsible for operational and investigative activities;

32) at any time have unrestricted access to all materials related to offenses;

33) make copies or take photographs of criminal, administrative, and civil case materials, offense files, and any other materials or documents considered by the entities specified in this Constitutional Law, Article 3;

34) freely visit public authorities, local self-government, and legal entities, irrespective of their form of ownership, and attend their meetings;

35) freely bring and use audio and video recording equipment, including the embedded in cell phones, to interview, record videos, and take photographs, without any special permission from the detention or remand administration. including:

- interviews and video and photo recordings of persons detained in these institutions and conditions of their detention (under detainees' consent);

- interviews and video and photo recordings of the security officers of the detention and remand facilities (under these facilities' administration permission)..

36) monitor and inspect human and civil rights and freedoms observance in the Kyrgyz Republic, as stipulated in Article 3 of this Constitutional Law, including Kyrgyz nationals outside the Kyrgyz Republic;

37) submit response acts, opinions, recommendations, and proposals to entities specified in Article 3 of this Constitutional Law regarding the state programs development and measures aimed at protecting human rights and freedoms, as well as monitor these programs and measures implementation;

38) assign authorized government bodies and academic institutions to provide expertise and make analytical studies;

39) enforce disciplinary and promotional measures to his/her deputies and the Akyikatchy Office staff;

40) establish expert, public, and advisory councils, working groups, commissions, and other public (collegial) bodies;

41) delegate the relevant powers to his/her deputies and the Akyikatchy office staff according to this Constitutional Law;

42) initiate investigations to clarify the circumstances of human and civil rights and freedoms violation the Akyikatchy became aware of;

43) collaborate with civil society on human and civil rights and freedoms issues;

44) involve individuals to work on a voluntary basis, following the procedures approved by the Akyikatchy;

45) Akyikatchy shall have the right to hold consultations and cooperate with other bodies established for the promotion of human rights;

46) legal education and human rights education and training;

47) promotion of Akyikatchy's recommendations in cooperation with the mass media;

48) exercise other powers stipulated by the law.

Article 12. The Akyikatchy Powers in the Field of International Cooperation

The activities of the Akyikatchy to promote international cooperation in the field of human and civil rights and freedoms shall be an integral part of the government foreign policy efforts aimed at safeguarding the rights of its nationals abroad and enhancing relations with compatriots residing overseas.

To facilitate international cooperation in the field of human and civil rights and freedoms, the Akyikatchy shall have the right to:

1) establish direct communication channels with international organizations and intergovernmental bodies focused on human rights, as well as national human rights institutions in foreign countries, and to enter into agreements, treaties, and memoranda of understanding with them to promote mutual assistance in protecting human rights;

2) represent the state as an international human rights expert;

3) contribute to the development and review of the national reports on human rights protection submitted to intergovernmental bodies;

4) serve as a foreign (international) observer to monitor human rights and freedoms observance; invite foreign (international) observers according to the procedures specified by law;

5) receive technical, financial, and other assistance from international organizations to implement strategies and projects in the field of human and civil rights and freedoms protection.

6) Receive technical, financial and other assistance from international organizations for the implementation of plans and projects for the protection of human and civil rights and freedoms.

Article 13. The Akyikatchy Acts of Response and Human Rights Report

1. Within his/her mandate, the Akyikatchy shall develop acts of response. The Akyikatchy acts of response shall be implemented by the entities specified in this Constitutional Law, Article 3.

The Akyikatchy acts of response shall include:

1) recommendations to take necessary measures to address identified human and civil rights and freedoms violations to the government authorities, including those with special status, local self-government, and their officials within one month;

2) requests of Akyikatchy to state bodies, including those with special status, local self-government bodies, their officials, on initiation of disciplinary proceedings or proceedings in case of offences, or criminal proceedings against officials and employees who have violated human and civil rights and freedoms;

3) notices of Akyikatchy to take necessary measures to prevent human and civil rights and freedoms violation;

4) requests to the Prosecutor's Office to submit acts of prosecutorial response.

Entities specified in Article 3 of this Constitutional Law shall take measures to address human and civil rights and freedoms violations within 30 calendar days, and shall provide a written notification of the results.

If implementation period of the Akyikatchy Act of Response takes more than 30 calendar days, the entities specified in Article 3 of this Constitutional Law shall notify the Akyikatchy of the extension and provide justifications.

2. Following the investigation of human and civil rights violations, the Akyikatchy shall prepare a human rights report whether or not there are violations, including potential for the redress of human rights and freedoms violations as specified in Article 3 of this Constitutional Law.

3. The Akyikatchy human rights report may allow a person to apply to the competent authorities based on new or newly discovered circumstances, as well as to file an individual complaint with international human rights bodies.

Article 14. Investigation Timeframe and Procedure

1. The Akyikatchy shall consider communications from Kyrgyz citizens, regardless of their location, and from foreign nationals and stateless persons residing in the Kyrgyz Republic or their representatives, including issues related to the protection of Kyrgyz citizens abroad against decisions or actions (or inactions thereof) of the entities specified in Article 3 of this Constitutional Law.

Citizenship, race, nationality, religious and political beliefs, place of residence, sex, minority status, legal capacity of the subject, internment or isolation, as well as place of work, or any subordination or dependence on administration or state power should not serve as obstacles to seek the Akyikatchy assistance.

2. The Akyikatchy shall have the right to initiate investigation based on information, oral or written communications from the Jogorku Kenesh members, citizens media reports, and other sources. He/she may also initiate investigations on his/her own accord, either independently or in collaboration with relevant government agencies, including those with special status, local governments, and other public authorities, on grounds of human rights and freedoms violation.

The Akyikatchy shall also accept verbal requests from the persons mentioned in part 1 of this Article when receiving them in person, following the procedures specified in the Akyikatchy internal regulations, as well as through other forms of communication.

3. Upon a communication receipt, the Akyikatchy shall initiate an investigation. Citizens' communications and complaints shall be reviewed and investigated within 30 calendar days. When deemed necessary, the Akyikatchy may extend the investigation period in accordance with the procedures specified in his/her internal regulations or other relevant internal acts.

4. If communications are subject to a different procedure established by the law of the Kyrgyz Republic, the Akyikatchy shall have the right to refer the communications to appropriate authorities or provide guidance to the complainants for the appropriate avenues for resolution. The Akyikatchy shall not impede further consideration and investigation of such communications if a different procedure is required by law.

5. Communications to the Akyikatchy by persons in detention, pre-trial detention, prison or other places of deprivation of liberty shall be treated as confidential, shall not be disclosed or censored, and shall be forwarded promptly by mail, e-mail or delivered by hand to the Akyikatchy by responsible staff within three working days after submission. Persons responsible for untimely dispatch of correspondence shall be held disciplinarily liable.

6. Communications and complaints addressed to the Akyikatchy shall not be subject to state duties and fees.

7. The communication author shall indicate the Akyikatchy name or his/her Office as well as his last name, first name, and, if available patronymic name, postal address or location where the response should be sent, describe communication matter, statement, arguments or complaints, sign and date it (for written communications). Written or electronic communications from citizens without attached supporting documents or lacking the applicant's name and mailing address or location to send the response shall be deemed anonymous and shall not be considered.

8. The Akyikatchy shall have the right to reject anonymous communications or may reject communications that are deemed unfair, unmotivated, lack supporting or relevant documents, as well as any other communications that may violate the legal rights of the third party. The Akyikatchy decisions shall be final and shall not be appealed.

9. Processed communications, including the collected and attached materials, shall be filed and then send to the archive for storage; storage period shall be determined in accordance with the relevant law of the Kyrgyz Republic.

10. Repeated communications (verbal, written, or electronic) that do not contain new arguments or newly discovered facts shall not be considered if exhaustive inspection materials are provided, and written response is sent to the applicants in accordance with this Constitutional Law. However, new arguments or newly discovered circumstances shall be considered by the Akyikatchy, his/her deputies, and/or the Office Head.

11. Citizens shall have the right to communicate with the Akyikatchy in either state or official language. Written responses to citizens' communications shall be provided in the language of the original communication.

12. Citizens' communications shall be comprehensive and relevant, supporting documents shall be attached.

13. Information obtained from entities' employees specified in Article 3 of this Constitutional Law in their personal testimony during the investigation, shall be treated as confidential in case this information may negatively affect this employee.

14. A written response upon the thorough consideration of the communication shall be sent to citizens.

15. Officials, employees, and heads of the entities specified in Article 3 of this Constitutional Law shall not submit communications on matters within their jurisdiction to the Akyikatchy.

16. The Akyikatchy shall have the right not to consider cases subject to legal proceedings, and will discontinue his/her involvement if a person files a complaint or appeal to court or the Constitutional Court. Nonetheless, the Akyikatchy shall ensure that the competent authority reviews complaints and appeals received within a specified timeframe and according to requirements.

17. Citizens shall have the right to personally submit communications to the Akyikatchy or to do so through authorized representatives. Personal involvement of a citizen in communication submission shall not deprive him/her of the right to have a representative.

A representative may be any legally capable natural person who has been duly authorised.

The right to represent the interests of incapacitated citizens, persons without full legal capacity, or those declared as limited capable shall be assigned to their parents, regardless of the age of the latter, adoptive parents, guardians, or custodians.

The powers of this person representative shall be clearly stated in a power of attorney duly notarised.

Parents, adoptive parents, guardians, and custodians shall provide documents certifying their rights as representatives to the Akyikatchy.

In cases where Akyikatchy has reasons to believe that the legal representatives are acting against the interests and rights of the ward, Akyikatchy has the right to apply to the competent authorities to replace the representative.

Article 15. Annual and Special Reports of the Akyikatchy

1. Every year before April 1, the Akyikatchy shall submit his/her annual report to the Jogorku Kenesh, covering the period from January 1 to December 31 of the previous year. This report focuses on human and civil rights and freedoms the Kyrgyz Republic in the entities specified in Article 3 of this Constitutional Law, which violated these rights and freedoms through their actions or inactions. This report also highlights any identified drawbacks and achievements in the law on human and civil rights and freedoms.

The Akyikatchy annual report shall contain information on the number and type of received communications, and general assessments, conclusions, and recommendations regarding enforcing human and civil rights and freedoms.

The Akyikatchy annual report shall include entities specified in Article 3 of this Constitutional Law which violated human and civil rights and freedoms, neglected the Akyikatchy directives and recommendations on measures to safeguard these rights and freedoms, or impeded his/her activities.

The budget implementation report for the reporting period shall be annexed to this report.

2. If deems necessary, the Akyikatchy may submit special report(s) to the Jogorku Kenesh regarding specific issues of human rights and freedoms observance or facts when his/her activities was impeded.

3. Following the review of the Akyikatchy annual or special reports, the Jogorku Kenesh shall accept it by the majority vote, and issue a resolution including recommendations to the entities specified in Article 3 of this Constitutional Law.

The entities specified in Article 3 of this Constitutional Law shall study the Jogorku Kenesh resolution within 30 calendar days and take appropriate measures to implement and address the identified violations and the Akyikatchy recommendations.

The Akyikatchy shall control and follow up on the Jogorku Kenesh resolutions.

4. The Akyikatchy annual and special reports shall be published on the official Akyikatchy website, the Gazette of the Zhogorku Kenesh and other official media.

The Jogorku Kenesh resolution based on the review of annual or special Akyikatchy reports shall be published in print media in accordance with the law.

The special report shall be published in the print media at the Akyikatchy decision.

Article 16. Regional Human Rights Institute

1. The Akyikatchy shall have the right to establish a Regional Human Rights Institute (hereinafter referred to as the Regional Institute) aiming at enhancing the quality and effectiveness of knowledge-based approaches in legislative activities, promoting public legal culture and human rights education. The Regional Institute is subordinate to Akyikatchy, which determines its organizational and legal form, structure and staff.

2. The Regional Institution objectives shall include:

1) analyse and formulate proposals aiming at enhancing human rights law and standard-setting activities;

2) analyse and develop recommendations to optimize legal regulations, legal acts implementation mechanisms, and legal monitoring in the field of human rights;

3) analyse human rights legal practices in the Kyrgyz Republic;

4) develop recommendations to improve law, and proposals to conceptual and strategic regulatory legal drafts in the field of human rights;

5) enhance human rights standard-setting and legislative work in the state executive authorities;

6) develop guidelines and methodological tools, and best practices related to the National Human Rights Institutions;

7) assist in developing the Akyikatchy annual and special reports;

- 8) develop methodology for legal advocacy manuals and a media plan to enhance legal awareness and legal culture of the population;
- 9) analyse legal awareness status in the country.
2. The Regional Institution Charter shall be approved by the Akyikatchy.
3. The Regional Institution and its activities shall have financing from the following sources:
 - 1) funding from legal entities, individuals, and international organisations based on bilateral or multilateral treaties or agreements;
 - 2) funding from the national budget;
 - 3) funding through grants and donations;
 - 4) other sources of funding not contradicting the law of the Kyrgyz Republic.
4. Reorganization and liquidation of the Regional Institution shall be carried out in accordance with the procedures established by the civil law of the Kyrgyz Republic.

Chapter 4. Guarantees for the Akyikatchy and the Akyikatchy Office Activities Implementation

Article 17. The Akyikatchy Immunity

1. During his/her term of office and thereafter, the Akyikatchy shall not be prosecuted or subjected to any judicial liability in connection with his/her activities in his/her status, including any opinions he/she publicly expressed, actions or inactions during his/her term of office.

2. The Akyikatchy and their family members shall be guaranteed security. Following the Akyikatchy communication, authorized government bodies shall take necessary measures to ensure his/her safety and the safety of his/her family members.

3. Throughout his/her term of office, the Akyikatchy shall enjoy immunity and shall not be subject to personal or body search, detention, arrest, or any other procedural actions, except in case of committing a particularly grave crime.

The Akyikatchy immunity shall cover his/her residential and official premises, luggage, personal and official vehicles, correspondence, means of communication, and his/her documents.

4. The decision to prosecute the Akyikatchy and his/her deputy shall be made by the Prosecutor General approved by the majority of the total number of the Jogorku Kenesh deputies, except in cases of committing a particularly grave crime.

The Prosecutor General shall submit a relevant note to the Jogorku Kenesh to approve the prosecution of the Akyikatchy of the Kyrgyz Republic and his/her deputy. The Jogorku Kenesh shall notify the Prosecutor General on their decision to approve or reject the criminal prosecution within 3 days.

The Jogorku Kenesh rejection shall be the grounds to suspend the Akyikatchy and his/her deputy case until their term of office expiration.

The Prosecutor General shall inform the Jogorku Kenesh about the investigation results within 3 days after the completion of the proceedings.

5. The Akyikatchy and his/her deputies shall not be detained on suspicion of committing a crime or subjected to body searches, except when found at the scene of the commission of a particularly serious crime.

If detained on suspicion of committing a crime and forcibly brought to any law enforcement agency, the Akyikatchy and his/her deputies shall be released immediately after identification, except when found at the scene of the commission of a particularly serious crime.

6. During his/her term of office and thereafter, the Akyikatchy shall not provide explanations or be questioned about the content of communications submitted to him/her, facts or documents received during communication review or the applicant's private information he/she received during interviews, as well as on the decisions made.

7. The Akyikatchy deputies shall have the right to immunity as stipulated by this Article, except in cases of disciplinary liability imposed by the Akyikatchy for their publicly expressed opinions, actions, or inactions when implementing their mandate.

Article 18. Continuity of the Akyikatchy and the Akyikatchy Office Activities

1. The powers of the Akyikatchy and the Akyikatchy Office shall not be terminated or limited in the event of the Kyrgyz Republic Jogorku Kenesh power termination or its self-dissolution (dissolution).

2. The Akyikatchy and his/her authorized representatives activities shall not be terminated, restricted, or suspended in the event of emergency or martial law declaration in the entire Kyrgyz Republic or in its any part thereof.

3. The Akyikatchy and his/her authorized Office members shall have the right to freely move in areas where emergency and/or martial law is enforced or during a curfew without any special pass (permit).

Article 19. Visibility of the Akyikatchy and his/her Office Activities

1. The Akyikatchy and his/her Office parliamentary oversight over human and civil rights and freedoms observance shall be made public and covered in the media and online publications, to the extent that it does not contradict the law on classified information and confidentiality of personal data.

2. The Akyikatchy shall have the right to establish an official periodical publication in both printed and electronic formats to disseminate information in the sphere of human rights, forms and methods to protect them, as well as on action to perform parliamentary oversight over human and civil rights and freedoms observance.

Article 20. Guarantees for the Akyikatchy Office Staff Activities

1. The Akyikatchy Office staff (hereinafter referred to as the Office staff) shall not be summoned or questioned regarding classified information with a restricted access in accordance with the law during or after their mandate termination, including information received during performance of their duties, such as the content of communications, documents to be reviewed or considered, and personal applicants' details disclosed during conversations with them.

2. The Office staff shall not be detained, delivered, taken into custody, arrested, searched, or subjected to any other procedural actions while performing their official duties, unless found at the scene of the commission of a crime.

In case the Office staff is found at the scene of the commission of a crime and arrested, the officer at the scene shall immediately notify the Akyikatchy about that.

After receiving the notification, Akyikatchy establishes a commission on the detention of an employee of the Office of the Akyikatchy, and the commission considers the issue of connection between the accusation and the activity of an employee for the protection of human and civil rights and freedoms. Following the review, the Commission submits to Akyikatchy a draft opinion, if it is confirmed that the detention is related to professional activity, Akyikatchy considers such actions as interference with Akyikatchy's activity and makes appropriate response act.

Article 21. Social Quarantees to the Akyikatchy and his/her Office

1. The remuneration and expenditures of the Akyikatchy shall be equivalent to the heads of government bodies with special status.

Healthcare and domestic services coverage for the Akyikatchy and his/her Office shall be equal to the coverage of the heads of government agencies with special status.

2. The Office staff and their family members shall have benefits to receive healthcare services in resorts belonging to the Jogorku Kenesh or the Cabinet of Ministers. The employee shall have a 50 percent discount on sanatorium-resort vouchers, while family members shall have a 30 percent discount, within the annual budget allocated for healthcare in resorts belonging to the Jogorku Kenesh or the Cabinet of Ministers.

Article 22. Obligation to Support the Akyikatchy Institute

1. Government agencies, including those with special status, local self-government, and their officials, as well as civil servants, shall be legally bind to provide urgent and prioritized

assistance to the Akyikatchy and his/her Office in investigating human rights and freedoms violations, as well as support monitoring, and inspections.

2. Materials, documents, information, and clarifications requested by the Akyikatchy and his/her Office shall be promptly provided, ensuring their delivery no later than 10 business days from the date of receipt of the request, unless a different deadline is specified in the request.

If the requested materials, documents, information, and clarifications cannot be submitted within the specified time limit, the entities mentioned in Article 3 of this Constitutional Law shall notify the Akyikatchy or his/her Office of the reasons for extension. The extension to provide the requested materials, documents, information, and clarifications shall not exceed 30 calendar days.

The response to the Akyikatchy or his/her Office staff request shall be comprehensive and address all the requested materials, documents, information, and clarifications, without any repeated requests.

Failure to submit the requested materials, documents, information, and clarifications within the deadline specified in this Article, or lack of notification about an extension of this deadline shall be considered as an obstruction of the Akyikatchy activities.

3. Entities specified in Article 3 of this Constitutional Law shall not deny the Akyikatchy and his/her Office access to any document, facility, or premises that are directly related to the activities subject to investigation, monitoring, and inspection.

4. The recommendations of Akyikatchy set out in the appeal to the entities referred to in Article 3 of this Constitutional Law shall be subject to mandatory consideration and providing of a reasoned reply within 30 days.

5. The Akyikatchy, within his/her mandate shall have the right to request immediate meetings with the government authorities, including those with special status, local self-government, their officials, and legal entities regardless of their form of ownership. The authorities, officials, and leaders mentioned in this Article shall provide immediate assistance to the Akyikatchy and his/her Office.

6. The entities specified in Article 3 of this Constitutional Law shall ensure that the Akyikatchy and his/her Office can conduct unrestricted and confidential interviews with individuals in detention facilities and prisons.

Article 23. Liability for Interfering with or Obstructing the Akyikatchy and the Akyikatchy Office Activities

1. Any interference in the activities of the Akyikatchy and his/her Office shall be prohibited.

2. Any interference or hindrance in any form with the Akyikatchy of his/her Office mandate in exercising parliamentary oversight over human and civil rights and freedoms observance shall lead to disciplinary or other liability as established by the law of the Kyrgyz Republic.

3. Denial of access to any material, document, facility, or premises specified in this Constitutional Law, or failure to provide, or providing materials, documents, information, and clarifications requested by the Akyikatchy and his/her Office in violation of the form, procedure, and timeframe set forth in this Constitutional Law, shall entail disciplinary or other liability as provided for by law.

4. In case of interference or hindrance of the Akyikatchy and his/her Office performance by the entities specified in Article 3 of this Constitutional Law, the Akyikatchy shall submit his/her communication to the Prosecutor General for appropriate actions to be taken.

5. In case of violations of the guarantees of the Akyikatchy performance as provided by this Constitutional Law, he/she shall have the right to submit a communication to the relevant authority for immediate remedy of violations and bringing the guilty parties to disciplinary responsibility.

Article 24. Guarantees to Human and Civil Rights Protection in Communicating with the Akyikatchy

1. Any person shall have the right to submit a communication to the Akyikatchy in accordance with the procedures established in this Constitutional Law, without any limitations or obstacles.

The right to communicate with the Akyikatchy shall be equally accessible to all individuals, without any privileges or restrictions based on race, color, religious or other beliefs, gender, ethnic or social origin, property status, place of residence, language, or any other grounds.

2. An individual in detention or remand facility shall have the right to submit a written communication to the Akyikatchy. In this case, any restrictions on correspondence shall not apply to this person. The facility or institution administration where the person is detained or deprived of liberty shall promptly forward the individual's appeal to the Akyikatchy within twenty-four hours.

Communications received from the Kyrgyz nationals, irrespective of their location, and from foreign nationals or stateless persons in confinement in the Kyrgyz Republic, shall be exempt from any form of censorship or scrutiny.

Individuals who commit acts prohibited by this article shall be subject to prosecution in accordance with the applicable law.

Chapter 5. Organising the Akyikatchy Activities

Article 25. The Akyikatchy Office

1. In order to implement the Akyikatchy mandate, the Akyikatchy Office shall be established. The structure, staffing, procedures, and activities of the Office, as well as the Office Rules of Procedure and Regulations shall be approved by the Akyikatchy.

2. Office of the Akyikatchy is provided with appropriate office and communication facilities, taking into account accessibility for persons with disabilities.

3. The Akyikatchy Office shall be the national human rights institution mandated with a special status to exercise parliamentary oversight over constitutional human and civil rights and freedoms observance. It shall have a status of a legal entity with its account, seal and letterheads bearing its name in the state and official languages and the image of the State Emblem of the Kyrgyz Republic, symbols - flag and emblem and their description.

The procedure for their official use shall be established by the Akyikatchy.

4. The Akyikatchy office shall organize and support the Akyikatchy mandate implementation.

5. The head of the Akyikatchy Office shall manage the Akyikatchy Office operation.

6. The Akyikatchy Office shall provide legal, informational, analytical, organizational, logistical, and other support to the Akyikatchy.

7. The employment procedure in civil service, and appointment to a vacant position, dismissal from the position, rights, duties and responsibilities, restrictions and prohibitions associated with civil service, as well as social protection guarantees for the Akyikatchy Office staff shall be additionally established by the regulatory legal acts of the Kyrgyz Republic in the field of civil and municipal service, and by the labor law of the Kyrgyz Republic. The criteria for selection employees of the Office of the Akyikatchy are determined by Akyikatchy in accordance with the legislation of state civil service and municipal service.

8. For the purpose of facilitating interaction between the Akyikatchy Office and citizens, as well as foreign nationals and stateless persons, the Akyikatchy shall have the right to establish:

- 1) Hotline 115 Service (hereinafter referred to as the Service);
- 2) The Akyikatchy Representative offices abroad.

The organisation and operation procedures of the Service and Representative Offices shall be approved by the Akyikatchy.

9. The maximum number of the Akyikatchy Office staff in the Kyrgyz Republic shall be determined by the Akyikatchy in consultation with the Jogorku Kenesh.

10. Remuneration terms for employees holding special government positions and civil servants in the Akyikatchy Office shall be established by the President of the Kyrgyz Republic based on the Akyikatchy recommendations.

11. The Akyikatchy Office staff shall not provide testimony as witnesses on communications related to private matters of detainees that they become aware of during interviews and investigations.

12. During investigation of citizens' communications or by the Akyikatchy order, the Akyikatchy Office staff shall have the right to represent the interests and exercise the powers of the Akyikatchy in accordance with this Constitutional Law; they shall have the right to visit any government body, local government, or legal entity, irrespective of its form of ownership, and

obtain all necessary documents and materials; and conduct interviews with relevant individuals and study any necessary documents or materials, including taking copies or photographs.

Article 26. Funding the Akyikatchy and his/her Office

1. Adequate and uninterrupted funding from the national budget shall be provided to the Akyikatchy and his/her Office to ensure full and independent exercise of parliamentary oversight over human and civil rights and freedoms observance. No delays or changes in the amount of funding shall be allowed.

2. The Akyikatchy shall independently develop and implement his/her budget. The allocated funds intended for the Akyikatchy and his/her Office performance shall not be withdrawn to the national budget.

3. The national budget shall include a dedicated line for funding to support the Akyikatchy and his/her Office activities; the scope of funding shall be determined in accordance with the procedure prescribed by law, following a request submitted by the Akyikatchy.

4. The Akyikatchy and his/her Office shall have also the right to receive funding from international and other organizations, as well as from other sources that do not contradict the law of the Kyrgyz Republic.

5. The Akyikatchy shall submit financial reports in compliance with the procedures and timelines specified in the law of the Kyrgyz Republic.

Chapter 6. Transitional Provisions

Article 27. Entry into Force of this Constitutional Law

1. This Constitutional Law shall enter into force on the date of its official publication.

2. Declare null and void:

1) The Kyrgyz Republic Law No. 136 on Ombudsman (Akyikatchy) of the Kyrgyz Republic of July 31, 2002;

2) The Kyrgyz Republic Law No. 97 on Amendments and Additions to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of July 6, 2007;

3) The Kyrgyz Republic Law No. 114 on Amendments and Additions to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of June 11, 2008;

4) The Kyrgyz Republic Law No. 155 on Amendments to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of July 18, 2008;

5) The Kyrgyz Republic Law No. 62 on Amendments to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of February 24, 2009;

6) The Kyrgyz Republic Law No. 69 on Amendments and Additions to Some Legislative Acts of the Kyrgyz Republic" of February 25, 2009;

7) The Kyrgyz Republic Law No.41 on Amendments and Additions to Certain Kyrgyz Republic Legislative Acts (the Kyrgyz Republic Laws on Ombudsman (Akyikatchy) of the Kyrgyz Republic and On the Jogorku Kenesh Regulation), dated 2010;

8) The Kyrgyz Republic Law No. 55 on Amendments to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of June 23, 2011;

9) The Kyrgyz Republic Law No. 114 on Amendments to the Kyrgyz Republic Law on Ombudsman (Akyikatchy) of the Kyrgyz Republic of July 7, 2014.

3. The Cabinet of Ministers of the Kyrgyz Republic within six months from the date of this Constitutional Law enactment shall:

1) Submit draft laws on bringing regulatory legal acts in accordance with this Constitutional Law to the Jogorku Kenesh of the Kyrgyz Republic;

2) Bring their regulatory legal acts in compliance with this Constitutional Law.

3) Pending the harmonisation of the legislation of the Kyrgyz Republic with this Constitutional Law, regulatory legal acts of the Kyrgyz Republic shall apply to the extent that they do not contradict it.

President of the Kyrgyz Republic

Sadyr Japarov