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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON BODIES OF JUDICIAL SELF-GOVERNMENT
OF KYRGYZSTAN

Bishkek, 20 March 2008, no. 35

LAW OF THE KYRGYZ REPUBLIC

On bodies of judicial self-regulation/self-government

The present law determines the basic principles for the organisation and activity of bodies of judicial self-regulation and establishes their legal status.

Article 1. Judicial self-regulation

1. Judicial self-regulation is the means of organising the judicial community, making it possible to resolve questions concerning the internal activities of judges through its own bodies.
2. Judicial self-regulation shall be founded on the principles of collegiality, transparency, independence of the judiciary, elected representatives, interchangeability and subordination of individuals elected to judicial self-regulation bodies.

Article 2. Judicial community

1. The judicial community shall consist of all the judges of the Kyrgyz Republic.
2. Retired judges shall retain their membership of the judicial community and, with its consent and until such time as their retirement status is terminated, may be involved in the work of the bodies of the judicial community.

Article 3. Legislation on judicial self-regulation

The organisation, prerogatives and procedure governing the activity of judicial self-regulation shall be determined by the Constitution of the Kyrgyz Republic, the present Law and other legal and regulatory acts, international conventions and agreements having entered into force under legally established procedure to which the Kyrgyz Republic is party, and also the universally recognised principles and standards of international law forming an integral part of the legislation of the Kyrgyz Republic.

Article 4. Bodies of judicial self-regulation

1. Bodies of judicial self-regulation shall fulfil the functions, within the scope of the powers established by the present Law, of expressing and defending the interests of both judges and other persons vested with judicial power.
2. Bodies of judicial self-regulation shall be:
 - 1) the Congress of judges of the Kyrgyz Republic;
 - 2) the Council of judges.
3. The procedure for the formation and activity of bodies of judicial self-regulation and relations between them shall be determined by the Congress of judges of the Kyrgyz Republic.
4. The persons elected to bodies of judicial self-regulation shall exercise their activities on a communal basis. The status of individuals exercising the activities of judicial self-regulation shall be governed by the Law of the Kyrgyz Republic "On civil service".
5. The activities of bodies of judicial self-regulation shall be governed by Rules of procedure.

6. Bodies of judicial self-regulation shall adopt decisions on the matters discussed by them, as well as communications to state bodies, public associations and officials requiring examination within one month.

7. Upon expiry of their allotted term, the powers of elected bodies of judicial self-regulation shall be maintained until the next Congress of judges is held.

Article 5. Fundamental aims of bodies of judicial self-regulation

1. The fundamental aims of bodies of judicial self-regulation shall be:

- to protect the rights and lawful interests of judges;
- to assist in improving the judicial system and judicial proceedings;
- to represent the interests of judges in dealings with state bodies, public associations and international organisations.

Article 6. The Congress of judges

1. The Congress of judges of the Kyrgyz Republic (hereinafter - the Congress of judges) shall be the supreme body of judicial self-regulation.

2. The Congress of judges shall be convened once every three years by decision of the Council of judges of the Kyrgyz Republic, which shall establish the date, time and place of the congress. An extraordinary congress shall be convened by decision of the Council of judges or at the initiative of no less than one third of all the judges of the Kyrgyz Republic.

The Congress of judges may also be convened by the President of the Kyrgyz Republic.

3. The Congress of judges shall be considered as having quorum if no less than half the total number of judges of the Kyrgyz Republic participate in its proceedings.

4. The Congress of judges shall be chaired by the President of the Council of judges of the Kyrgyz Republic or, in their absence, by the Vice-President of the Council of judges.

5. A decision of the Congress of judges shall be adopted by a majority of votes of those present, unless another procedure for adopting decisions is established by the Congress.

Article 7. Powers of the Congress of judges

1. The Congress of judges shall:

- establish the Rules of procedure of the Congress of judges of the Kyrgyz Republic, the Rules of procedure of the Council of judges and other acts governing the activities of bodies of judicial self-regulation;
- determine the main thrusts of policy of the judicial branch of authority and assign tasks to the Council of judges of the Kyrgyz Republic aimed at guaranteeing the independence of courts and also protecting the rights and lawful interests of judges;
- establish the Blueprint for judicial reform;
- establish the Judges' Code of honour;
- discuss problems of judicial practice and improvements to legislation;
- adopt communications to state bodies, public associations, officials and citizens of the Kyrgyz Republic on behalf of the judicial community;
- elect the members of the Council of judges of the Kyrgyz Republic;
- hear the report of the Council of judges;

- resolve other questions concerning the judicial community.
- 2. The Congress of judges may not intervene in matters of dispensing justice.
- 3. Decisions of the Congress of judges shall be binding for the members of the judicial community.

Article 8. Organisation of the Council of judges

1. The Council of judges of the Kyrgyz Republic (hereinafter - the Council of judges) shall be an elected body of judicial self-regulation functioning in the period between Congresses of judges of the Kyrgyz Republic and implementing the policy of the supreme body of judicial self-regulation. The Council of judges shall be subordinate to the Congress of judges.
2. The Council of judges shall be elected by the majority of votes of the number of judges attending the Congress.
3. The Council of judges shall comprise fifteen members elected from among the members of the judicial community for a three-year term.
4. The organisational, technical, material, financial and methodological resources for the activity of the Council of judges shall be provided by the Judicial department of the Kyrgyz Republic.
5. The Council of judges shall be headed by its President or, in their absence, the Vice-President.
6. The President of the Constitutional Court, the President of the Supreme Court and their deputies shall not be eligible for membership of the Council of judges.
7. The President of the Council of judges shall vote last on all matters.
8. Members of the Council of judges may not be elected for a second consecutive term.
9. The Council of judges shall be convened when necessary, but no fewer than four times a year.

Article 9. Powers of the Council of judges

1. The Council of judges shall carry out its activity on the basis of the Constitution, the laws of the Kyrgyz Republic and the Rules of procedure of the Council of judges.
2. The Council of judges shall:
 - implement measures aimed at protecting the rights and lawful interests of judges of the Kyrgyz Republic;
 - exercise supervision over the drawing up and implementation of the budget of the courts;
 - examine questions of instituting disciplinary proceedings against judges;
 - convene the Congress of judges of the Kyrgyz Republic;
 - coordinate work on the practical implementation of judicial reform;
 - study, generalise and disseminate the experience of bodies of judicial self-regulation and devise recommendations on improving their activity;
 - carry out judicial community expert appraisals of draft laws and other regulatory and non-regulatory acts concerning the activity of courts and judges;
 - represent the interests of judges in dealings with other state bodies and public associations;
 - engage in cooperation with bodies of the judicial communities of other States, international organisations and also the media;

- request information and documents necessary to its work from state bodies, public associations and officials;
- organise the training and further training of judges and court apparatus staff;
- examine other questions relating to the development of the judicial community;
- hear the report of the Judicial department of the Kyrgyz Republic on the implementation of the judicial system budget;
- hear annual reports of the heads of the Judicial department of the Kyrgyz Republic and the Judges' training centre of the Kyrgyz Republic on their respective activities.

The Council of judges shall have other powers provided for in the legislation of the Kyrgyz Republic.

3. The Council of judges shall have quorum for adopting collegial decisions with no less than two thirds of the members of the Council of judges present and by a majority of the votes of the total number of members of the Council of judges.

Article 10. President of the Council of judges and their deputy

1. The Council of judges shall elect from among its members a President and Vice-President of the Council of judges for a term of one year.

2. The President of the Council of judges shall:

- 1) convene the Council of judges and head its work in accordance with the Rules of procedure of the Council of judges;
- 2) determine the powers of the vice-president of the Council of judges;
- 3) sign the decisions adopted by the Council of judges;
- 4) represent the Council of judges vis-à-vis state authorities and local authorities, public associations, the media and also in international cooperation;
- 5) organise examination of complaints and other material sent to the Council of judges, divide them between members of the Council of judges and instruct the latter to prepare material for the sitting of the Council of judges.

3. The powers of the President and Vice-President of the Council of judges shall cease upon expiry of the term for which they were elected.

The powers of the President and Vice-President of the Council of judges shall also cease in the event of their early discharge from office or termination of their powers in the capacity of judge of the Kyrgyz Republic.

4. In the absence of the President of the Council of judges their powers shall be exercised by the Vice-President, and in the absence of both the President and Vice-President one of the members of the Council of judges may be vested by decision of the Council of Judges with the power to temporarily exercise their duties.

Article 11. Funding

1. The activity of bodies of judicial self-regulation shall be funded from the republic budget.

2. The President of the Council of judges shall represent bodies of judicial self-regulation on budgetary matters in discussion with the *Jogorku Kenesh* of the Kyrgyz Republic and the Government of the Kyrgyz Republic.

Article 12. Procedure for entry into force of the present Law

1. The present Law shall enter into force on the date of its official publication.

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2. The Government of the Kyrgyz Republic shall bring its legal and regulatory acts into line with the present Law.

President of the Kyrgyz Republic, K. Bakiyev

Adopted by the *Jogorku Kenesh* of the Kyrgyz Republic on 15 February 2008