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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW

**ON THE INTRODUCTION OF CHANGES
TO THE CONSTITUTIONAL LAW ON
THE STATUS OF JUDGES**

OF KYRGYZSTAN



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Chapter 1 – General provisions

Article 1. Judges as the bearers of the judicial power

1. The judicial power in the Kyrgyz Republic shall be administered only by courts represented by judges:

- of the Supreme Court of the Kyrgyz Republic (hereinafter referred to as the Supreme Court)

- of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic (hereinafter referred to as the Constitutional Chamber);

- of local courts of the Kyrgyz Republic (hereinafter referred to as the local courts);

- of specialized courts established by law.

2. The judges shall be persons who are entrusted with powers to administer justice pursuant the procedures envisaged in the Constitution and the present constitutional law and who perform their duties on a professional basis.

3. Demonstration of disrespect to court or to judges shall result in liability envisaged by law.

Article 2. Legislation on the status of judges

1. The legislation on the status of judges shall be comprised of the Constitution of the Kyrgyz Republic, the present Constitutional Law, other laws and normative and legal acts of the Kyrgyz Republic.

2. The legislation of the Kyrgyz Republic on the civil service, labor, social, material, technical and other benefits and on the state insurance shall apply to judges to the extent which is not regulated by the present constitutional Law.

Article 3. Principles of administration of justice

1. In administration of justice the judges shall be guided by the following basic principles:

- administration of justice only by courts;

- administration of justice free of charge in cases envisaged in the law;

- autonomy of courts and the independence of judges;

- equality of all before the law and courts;

- responsibility of judges;

- openness and public examination of cases by all courts;

- binding nature of judicial acts;

- participation of citizens in the administration of justice pursuant the procedures envisaged in the law.

2. Citizens of the Kyrgyz Republic shall be entitled to judicial protection free of charge in the circumstances provided for in the law as well as in any case where they submit proof to the court that they do not have sufficient means to conduct their case in court.

3. Courts shall autonomously exercise the judicial authority and shall do so independently of the will of whatsoever person and shall be subordinate only to the Constitution of the Kyrgyz Republic and the law.

Judges and jurors participating in the administration of justice shall be independent and subject only to the Constitution of the Kyrgyz Republic and the law.

The Kyrgyz Republic shall not adopt laws as well as other normative and legal acts which belittle the autonomy of courts and the independence of judges.

4. Everyone shall be equal before the law and the court.

Judges shall administer justice in an impartial manner, without giving preference to any entities, individuals, parties in the process on the grounds of their state, social, gender, racial, ethnic, language or political affiliation, and despite their origin, proprietary situation or official position, place of residence, place of birth, attitude to religion, convictions or membership in public associations, as well as on the other grounds not provided for in law.

5. Judicial acts of courts of the Kyrgyz Republic having entered into legal force and requests and instructions issued by judges in the course of administration of justice shall be binding for all and any state authorities, local self-governance bodies, private persons and legal entities without exception and shall be subject to mandatory execution.

Then courts shall oversee the execution of judicial acts which come into legal force.

The submission of information and documentation as well as copies thereof necessary for the administration of justice shall be mandatory upon request of the judges.

Failure to execute judicial acts, requests and instructions of judges shall result in liability provided for in the law.

6. The examination of cases in all courts shall be conducted in an open manner, except for cases which are subject for examination in a closed session in circumstances provided for in the law.

7. The citizens of the Kyrgyz Republic shall be entitled to the right of participation in the administration of justice in cases provided for in the law.

8. The requirements towards citizens, who participate in the administration of justice in the capacity of jurors, shall be established by the law.

When participating in the administration of justice, citizens in the capacity of the jurors shall be entitled for the remuneration from the state budget in accordance with the procedure envisaged in the law.

Article 4. Status of a judge

1. The status of a judge shall be defined by enhanced requirements towards its acquisition and termination, establishment of high standards in respect of the personality of the holder, qualification and conduct, increased responsibility for improper exercise of the judicial powers, material and social benefits as well as other guarantees corresponding to the high status.

2. A person shall acquire the status of a judge since the day of accession to office of a judge in a corresponding court; such status shall be terminated since the day of publication of an act of dismissal of a judge and termination of powers of a judge in accordance with the present constitutional law. A judge shall be deemed in office since the moment of swearing an oath.

3. The judges of all courts of the Kyrgyz Republic shall have the uniform status, the difference between them shall be manifested only by powers envisaged in the legislation on organization and procedural activity of relevant courts.

4. Judges shall be assigned classification grades depending on the position they hold, their work record as a judge as well as other circumstances provided for in the law.

5. The differences in salaries depending on the position held, the amounts of benefits paid upon retirement or termination of the status of a judge as well as other differences established in the present constitutional law depending on the position held, work record and other circumstances, shall not mean a change in the status.

Article 5. Oath of a judge

1. Judges of the Kyrgyz Republic, elected or appointed, shall commence exercising their powers since the day of their swearing an oath.

The own shall be sworn in a solemn environment and shall have the following wording:

"I,, assuming the position of a judge of the Kyrgyz Republic, hereby swear before my mother country and my people:

that I will honestly, in good faith, impartially and fairly administer justice in accordance with the Constitution and laws of the Kyrgyz Republic;

that I will strictly observe the provisions of the Code of honor of a judge".

2. The judges of the Supreme Court and the Constitutional Chamber shall pronounce their oath at the sitting of the Jogorku Kenesh of the Kyrgyz Republic (hereinafter referred to as the Jogorku Kenesh) on the day of their election.

3. The local court judges shall pronounce their oath at the assembly of the judges of the Supreme Court no later than five days since their appointment.

A judge of a local court transferred from one local court to another, shall not swear an oath.

Article 5-1. Requirements towards a judge in accordance with his / her status

1. A judge should:

1) strictly comply with the Constitution and the laws of the Kyrgyz Republic as well as observe the oath of a judge;

2) observe the requirements of the Code of honor of judges of the Kyrgyz Republic;

3) confront any attempts of unlawful intervention in activities related to the administration of justice;

4) observe secrecy of deliberations of judges;

5) declare his / her assets and incomes in accordance with the legislation of the Kyrgyz Republic;

6) observe the working procedures established in the relevant court.

2. A judge shall not have the right:

1) to be an attorney or representative (except for cases of lawful representation) for cases of private persons or legal entities in courts as well as in other state agencies;

2) to allow public statements on a matter which is subject to consideration in court until an act of court on such matter comes into legal force;

3) to disclose or use for purposes not related to the exercise of the powers of a judge the information which is referred to the information with restricted access in accordance with the law or privileged information, which might become available to him / her in the course of exercise of the powers of a judge;

4) to use gifts received in the course of protocol and other official events. Such gifts are deemed to be the property of the state and shall be transferred under a handover act to the court where a judge holds a position of a judge except for cases envisaged in the law. A judge who handed over a gift received in the course of a protocol or other official event, shall have the right to buy it back in accordance with the procedures envisaged in the normative and legal acts of the Kyrgyz Republic;

5) to accept without permission of the Council of Judges of the Kyrgyz Republic (hereinafter referred to as the Council of Judges) honorary and special (except for scientific and sports) degrees, awards and other decorations of foreign countries, political parties, other public associations and other organizations;

6) to leave to business trips outside the Kyrgyz Republic at the expense of private persons and legal entities except for business trips undertaken in accordance with the legislation of the Kyrgyz Republic, international agreements of the Kyrgyz Republic or bilateral arrangements between the Constitutional Chamber, the Supreme Court and the Council of Judges with the relevant courts of foreign countries, international and foreign organizations;

7) to be member of managing bodies, council of trustees or supervisory boards as well as other bodies of foreign non-commercial non-governmental organizations operating on the territory of the Kyrgyz Republic as well as structural subdivisions thereof, unless otherwise provided in the legislation of the Kyrgyz Republic, international agreements of the Kyrgyz Republic or bilateral arrangements between the Constitutional Chamber, the Supreme Court

and the Council of Judges with the relevant courts of foreign countries, international and foreign organizations;

8) to participate in strikes and rallies;

9) to be engaged in entrepreneurial activity as well as to combine the position of a judge with the activity as a deputy or office in state agencies or local self-governance bodies as well as other paid work except:

- teaching, scientific and creative activity to the extent that it does not impede the execution of duties of a judge;

- participation in the activity of bodies of judicial self-regulation, the Council on selection of judges of the Kyrgyz Republic (hereinafter referred to as the Council on selection of judges).

3. Judges can not be members of political parties and speak in support or against any political party.

Article 5-2. Fundamental rights of a judge

1. A judge shall have the following rights pursuant the procedures and on the basis of terms envisaged in the present constitutional law and other laws adopted on the basis thereof:

- to transfer (rotation) to other court;

- to be elected president or deputy president of a court as well as in the bodies of judicial self-regulation and the Council on selection of judges;

- to improve his / her qualification;

- to resignation;

- to claim disclaimer or recognition of being groundless in respect of any accusations against him / her of violation of provisions of article 6 of the present constitutional law;

- to assistance from the state and the bodies of judicial self-regulation in implementation of his / her lawful interests;

- to assurance of guarantees envisaged in the present constitutional law.

2. The list of rights in part 1 of the present article shall not limit other rights of a citizen in the position of a judge as envisaged in the Constitution of the Kyrgyz Republic to its citizens provided the implementation of such rights does not contradict the high status of a judge.

Article 6. Irreproachability of conduct of judges

1. A judge shall hold his / her position and retain the powers for as long as his / her conduct is irreproachable.

2. Irreproachable conduct of a judge shall mean the absence of facts of violation by such judge of duties envisaged in article 5-1 of the present law, confirmed or recognized by the Council of judges.

Article 7. Symbols of judicial power

1. In administering justice judges shall wear gowns and shall pronounce their decisions in the name of the Kyrgyz Republic.

2. The emblem and the flag of the Kyrgyz Republic shall be displayed in court rooms.

3. Elected and appointed judges of the Kyrgyz Republic shall be issued identity certifications.

Identity certifications for the judges of the Supreme Court and the Constitutional Chamber shall be issued by the Toraga (Speaker) of the Jogorku Kenesh.

Identity certifications of the president and deputy president of the Supreme Court and the Constitutional Chamber shall be issued by the Toraga (Speaker) of the Jogorku Kenesh on the basis of a decision of the meeting of judges of the Supreme Court and the Constitutional Chamber.

Identity certifications of the president and deputy president of the local court shall be issued by the President of the Kyrgyz Republic on the basis of a decision of the meeting of local court judges.

Identity certification of a local court judge shall be issued by the President of the Kyrgyz

Republic.

Article 8. Judicial qualification grades

1. Judges shall be assigned qualification grades depending on the position held, years of service as a judge, quality of the administration of justice and irreproachable conduct.

2. Qualification grades shall have the following breakdown:

- the fifth qualification grade;
- the fourth qualification grade;
- the third qualification grade;
- the second qualification grade;
- the first qualification grade;
- the highest qualification grade.

3. Qualification grades shall be awarded by the President of the Kyrgyz Republic upon presentment of the Council of judges of the Kyrgyz Republic (hereinafter referred to as the Council of judges).

Article 9. Procedure of awarding the qualification grade to a judge of the Kyrgyz Republic

1. Qualification grades shall be awarded in the following manner:

- 1) grades from the fifth to the second are awarded to judges of local courts;
- 2) grades from the first to the highest are awarded to the judges of the Supreme Court and the Constitutional Chamber.

Judges of the local courts may be awarded the first qualification grade in view of their years of service, quality of administration of justice and irreproachable conduct.

2. A judge of a local court assigned to their position for the first time and having no qualification grade, shall be awarded the fifth qualification grade no earlier than six months since the date of appointment.

The next qualification grade may be awarded to a judge no earlier than three years since the previous one. This three year period shall not include any period when the powers of the judge were not executed. In the event a disciplinary sanction was imposed on a judge, then the three year period shall be suspended until the day when such disciplinary action is deemed to have been cancelled.

Judges, to whom qualification grades are awarded, shall be entitled for them for life. Upon awarding the next qualification grade, the previous one shall be deemed lost.

3. A judge may be deprived of the qualification grade only under a judicial procedure as an additional sanction imposed by court sentence in a criminal case.

Article 10. Supplemental payment for qualification grades

Judges having qualification grades shall be entitled to supplemental payment to their official salary in accordance with the procedures envisaged in the legislation of the Kyrgyz Republic.

Chapter 2 - Guarantees of judicial independence

Article 11. Independence of judges

1. The independence of judges shall be guaranteed by:

- 1) the administration of justice in accordance with procedures envisaged solely in the law;
- 2) the prohibition, under the threat of liability, to interfere in the activity of judges by whatsoever party;
- 3) the irremovability of a judge;
- 4) the immunity of a judge;

- 5) the obligation to provide to a judge material and social benefits corresponding to his/her high status at the expense of the state;
- 6) the functioning of bodies of judicial self-regulation;
- 7) the right to retirement.

Article 12. Inadmissibility of interference in the activity of judges

1. Any interference in the activity of judges related to the administration of justice shall be prohibited. Persons guilty of influencing a judge, shall be liable in accordance with the law.

2. No one shall have the right to solicit a report from a judge on a concrete case, except for cases when a matter of liability of a judge is being reviewed pursuant the present constitutional law.

3. A judge shall not be obliged to give whatsoever explanations on the merits of cases considered or assigned to them, as well as present cases to whatsoever person for the insight, other than in circumstances and in accordance with the procedures envisaged in the procedural law.

Article 13. Irremovability of judges

1. Judges of all courts of the Kyrgyz Republic shall be irremovable. They shall retain their posts and preserve their powers within the term envisaged in the Constitution.

2. A judge shall not be subject to early discharge or removal from office or his powers shall not be subject to termination or suspension except for circumstances and pursuant the procedures envisaged in the Constitution and the present constitutional law.

3. A judge exercising his/her powers in a local court located in one region of the republic, may be by transfer (rotation) be assigned to other local court to equivalent or higher position for performing the powers of the judge of such local court only in cases and on the grounds envisaged in the present constitutional law.

Article 14. Immunity of judges

1. A judge shall be entitled to the right of immunity and can not be detained and arrested, be subject to search of premises or person unless when caught at the scene of the crime. A judge detained on suspicion of having committed a crime or by any other reason or forcibly delivered to any law enforcement agency, should his/her identity as a judge was not known at the moment of detention, shall be subject to immediate release after identification.

2. A judge, including after the expiration of his/her powers or dismissal from office, may not incur criminal and administrative liability at law for unlawful actions committed in performing his/her judicial powers except in accordance with procedures envisaged in the present constitutional law.

3. A personal search of a judge shall not be permitted except in circumstances provided for by law for the purposes of ensuring the security of other people.

Chapter 3 - Procedure of electing judges of the Supreme Court and Constitutional Chamber, electing and dismissal of the president and deputy president of the Supreme Court

Article 15. Requirements towards the judges of the Supreme Court and the Constitutional Chamber and their election procedure

1. Any citizen of the Kyrgyz Republic who is no younger than 40 years of age and no older than 70 years of age, has a higher legal education and at least ten years of work record in a legal profession, including five years as a judge may be elected judge of the Supreme Court.

Any citizen of the Kyrgyz Republic who is no younger than 40 years of age and no older than 70 years of age, has a higher legal education and at least fifteen years of work record in a legal profession, may be elected judge of the Constitutional Chamber.

2. Judges of the Supreme Court, including judges of the Constitutional Chamber, shall be elected by the Jogorku Kenesh upon presentment of the President based on the proposal of the Council on selection of judges and shall stay in their position until they reach the age limit prescribed in the Constitution.

3. The selection of candidates for a vacant position of a judge of the Supreme Court and the Constitutional Chamber shall be effected by the Council on selection of judges on the competitive basis.

The competition for a vacant position of a judge of the Supreme Court and the Constitutional Chamber shall be conducted by means of interview.

4. The Council on selection of judges shall no later than sixty days prior to reaching the age limit by a judge of the Supreme Court and the Constitutional Chamber or no later than twenty days since the date of early termination of powers of a judge of the Supreme Court and the Constitutional Chamber or his/her early dismissal shall announce a competition for a vacant position of a judge of the Supreme Court and the Constitutional Chamber.

5. The applicant shall submit an application for participation in the competition to the Council on selection of judges within ten days since the publication date of the announcement.

The following documents shall be attached to the application:

- 1) a copy of the passport;
- 2) a certified copy of the diploma of higher legal education;
- 3) certified copies of service record and other documents confirming applicant's work record in legal profession;
- 4) medical health certificate issued within one year period before the participation in the competition.

The application may be accompanied by other documents (references and recommendations) concerning the personality of the applicant.

Acting judges of the Kyrgyz Republic shall have the right to participate in the competitive selection of judges of the Supreme Court and the Constitutional Chamber by submitting applications.

Personal files of judges of the Kyrgyz Republic, who submit their applications for participation in the competition, shall be forwarded to the Council on selection of judges by the administrations of the Supreme Court and the Constitutional Chamber and the authorized state agency on ensuring the activity of local courts (hereinafter referred to as the authorized agency).

6. After completing the receipt of applications, the Council on selection of judges shall, within ten days and on the basis of the review of personal files of the applicants and outcomes of interviews with them, submit to the President the candidates for election to the position of a judge of the Supreme Court and the Constitutional Chamber.

7. The President shall make a presentment to the Jogorku Kenesh of the candidate for election to the position of a judge of the Supreme Court and the Constitutional Chamber.

The Jogorku Kenesh shall decide upon the candidate no later than two weeks since the receipt of the presentment.

8. Should the Jogorku Kenesh fail to elect the candidate for the position of a judge of the Supreme Court and the Constitutional Chamber, then the President upon proposal of the Council on selection of judges shall present a new candidate on the basis of a new competitive selection.

The Jogorku Kenesh shall consider the presentment of the President in respect of a new candidate to be elected a judge of the Supreme Court and the Constitutional Chamber no later than two weeks after the receipt of such presentment.

9. The following persons may not be judges of the Supreme Court and the Constitutional Chamber:

- 1) those having convictions, including expunged or removed from the records;
- 2) those earlier dismissed from the position of a judge of the Kyrgyz Republic due to exceptionable conduct;
- 3) those dismissed from the law enforcement agencies due to the discreditation of the rank of law enforcement officer or whose license to act as a defense lawyer was cancelled due

to circumstances envisaged in paragraphs 8 and 9 of article 10 of the Law of the Kyrgyz Republic "On advocacy";

4) those having the citizenship of a foreign country.

Article 16. Procedure of election and dismissal of the president and deputy presidents of the Supreme Court

1. The judges of the Supreme Court shall elect from among themselves the president and the deputy presidents of the Supreme Court.

One and the same judge may not be elected president or deputy president of the Supreme Court for more than two consecutive terms.

2. Election and dismissal of the president and deputy presidents of the Supreme Court shall be subject to procedures envisaged in the legislation of the Kyrgyz Republic.

3. Election and dismissal of judges of the Constitutional Chamber shall be subject to procedures envisaged in the constitutional law on the Constitutional Chamber.

Chapter 4 - Procedure of electing the judges of local courts, their transfer and election of the president and the deputy president of a local court

Article 17. Requirements towards judges of local courts

1. Any citizen of the Kyrgyz Republic who is no younger than 30 years of age and no older than 65 years of age and has a higher legal education and no less than five years of experience in the legal profession may be a judge of a local court.

2. The following additional requirements shall be applied in respect of persons seeking the position of a local court judge but not having the work record as a judge or persons having work record as a judge but who have an over ten years' break period between the date of submission of the application to participate in the competition and the date of dismissal from the position of a judge or termination of judicial powers:

- a certificate attesting the passage of a qualification exam (hereinafter referred to as the exam). Such an exam is passed after the completion of full-time or extramural tuition of applicants. The certificate is valid for a period of three years. The training program, the membership of the examination commission as well as the procedure of passing the exam are to be approved by the Council of judges.

3. The following persons may not be local court judges:

1) those having convictions, including expunged or removed from the records;

2) those earlier dismissed from the position of a judge of the Kyrgyz Republic due to exceptional conduct;

3) those dismissed from law enforcement agencies due to the discreditation of the rank of law enforcement officer or whose license to act as a defense lawyer was cancelled due to circumstances envisaged in paragraphs 8 and 9 of article 10 of the Law of the Kyrgyz Republic "On advocacy";

4) those having the citizenship of a foreign country.

4. The following positions shall be taken into account for the work record in the legal profession required for the position of a judge:

- employees of the legal department of the Administration of the President of the Kyrgyz Republic, plenipotentiary representatives of the President of the Kyrgyz Republic in the Jogorku Kenesh of the Kyrgyz Republic;

- employees of the legal department, department on defense and law enforcement bodies of the Office of the Prime Minister of the Kyrgyz Republic, plenipotentiary representatives of the Government of the Kyrgyz Republic in the Jogorku Kenesh of the Kyrgyz Republic;

- deputies of the Jogorku Kenesh of the Kyrgyz Republic with a legal background;

- employees of the legal unit of the Administration of the Jogorku Kenesh of the Kyrgyz Republic as well as consultants to the deputies of the Jogorku Kenesh of the Kyrgyz Republic (since the moment they obtain a diploma of higher legal education);
- employees of the administration of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic;
- employees of the administration of the Supreme Court of the Kyrgyz Republic;
- employees of administrations of local courts of the Kyrgyz Republic (provinces, cities, districts, courts on economic matters of provinces and Bishkek and Osh);
- employees of the Judicial Department of the Kyrgyz Republic;
- employees of the prosecution bodies of the Kyrgyz Republic;
- employees of the system of justice of the Kyrgyz Republic;
- employees of legal and investigation units of internal affairs agencies of the Kyrgyz Republic;
- employees of legal and investigation units of the National Security Service of the Kyrgyz Republic;
- employees of legal and investigation units of the State Customs Service and the Financial Police;
- employees of legal units of ministries, state committees and administrative agencies of the Kyrgyz Republic as well as subordinate divisions thereof;
- employees of legal units of the administrations of state commissions and funds of the Kyrgyz Republic;
- employees of legal units of the apparatuses of local public administrations and local self-governance bodies;
- employees of the administration of the Ombudsman (Akyikatchy) of the Kyrgyz Republic who have higher legal education.

Article 18. Competition to fill a vacant position of a local court judge

1. Selection of candidates for a vacant position of a local court judge shall be carried out by the Council on selection of judges on a competitive basis.

2. The competitive selection of candidates for a vacant position of a local court judge shall be carried out by means of an interview.

3. Vacant positions of local court judges shall emerge as a result of:

- 1) expiration of term of office of a local court judge;
- 2) reaching the age limit envisaged in the Constitution;
- 3) early termination of powers of a local court judge or dismissal of a judge from office;
- 4) creation of new positions of local court judges;
- 5) creation of specialized courts.

4. The Council on selection of judges shall no later than sixty days prior to the date of reaching the age limit of a local court judge or no later than twenty days since the early termination of powers of a local court judge or his/her early dismissal from position announce a competition to fill the freed or vacant position of a local court judge. The announcement on the competition shall be posted in an official state publication as well as on the website of the Council on selection of judges.

A local court judge shall have the right no earlier than eighty and no later than sixty days prior to the expiration of his/her powers to apply to the Council on selection of judges for appointment as a local court judge. In such case the Council on selection of judges shall within two weeks period since the receipt of the application review such application in accordance with the procedure envisaged in article 21 of the present constitutional law. In the event a candidate fails to get a necessary number of votes of the members of the Council on selection of judges, then no later than five days since the rejection of the candidacy of the acting judge a competition shall be announced for a forthcoming vacant position of a local court judge.

5. In the event a vacancy becomes available pursuant paragraphs 4 and 5 of part 3 article 18 of the present law, then an announcement on a competition for a vacant position of a local court judge shall be posted in the official state publication as well as on the website of the

Council on selection of judges no later than twenty days since the vacant position is available.

6. (Cancelled in accordance with the Law of the Kyrgyz Republic No 6 dated January 19, 2010).

Article 19. Procedure of presentation of documents for the competition to fill a vacant position of a local court judge

1. The application and documents of an applicant for a vacant position of a local court judge shall be delivered by the applicant personally or by mail.

The application for a vacant position of a local court judge shall be submitted by the applicant to the authorized agency addressed to the Council on selection of judges.

The following documents shall be attached to the application:

- 1) a copy of the applicant's passport, confirming his/her citizenship and age;
- 2) a certified copy of the diploma of higher legal education;
- 3) certified copies of service record and other documents confirming applicant's work record in legal profession;
- 4) medical health certificate issued within one year period before the participation in the competition;
- 5) a document confirming the additional requirement towards the applicant as envisaged in part 2 article 17 of the present constitutional law.

The application may be accompanied by other documents (references and recommendations) concerning the personality of the applicant.

2. Acting judges of the Kyrgyz Republic shall have the right to participate in the competitive selection of local court judges by submitting applications.

4. The deadline for the submission of applications and documents of candidates for a vacant position of a local court judge shall be determined by the Council on selection of judges and shall not be less than fourteen days since the publication date of the announcement.

Documents submitted upon expiration of the deadline as established in the present article, shall not be reviewed.

5. The persons, whose documents were accepted for participation in the competition for a vacant position of a local court judge, shall be included in the list of candidates. The list of candidates shall be posted in the official state publication and on the website of the Council on selection of judges not later than forty days since the publication of announcement for receiving comments on professional and moral qualities of the candidates.

The deadline for the receipt of comments shall be determined by the Council on selection of judges.

Article 20. Qualification exam (cancelled in accordance with the Law of the Kyrgyz Republic No 6 dated January 19, 2010)

Article 21. Interview

1. The following persons shall be allowed for an interview:

- 1) serving judges, whose powers are expiring;
- 2) persons, who have a service record as a judge, in the event a time gap between the submission of the application to participate in the competition and the dismissal from position of such person or his/her termination of judicial powers does not exceed ten years;
- 3) persons who received the certificate on the basis of passing the exam.

2. The interview is held pursuant the procedure defined by the Council on selection of judges. During the interview the members of the Council on selection of judges shall ask the candidates questions defined in the Regulations on conducting interviews and allowing to determine:

- 1) intellectual capacities;
- 2) personal qualities;
- 3) ability to correctly understand and impartially consider the case;
- 4) communicative skills and their efficient application.

In addition, the members of the Council shall have the right to request the following in respect of a candidate applying to a vacant position of a judge:

- an income statement;
- other information which confirms irreproachability of the candidate's conduct.

3. Based on the outcomes of the interview the Council on selection of judges shall vote on each candidate and shall make a decision to recommend the candidate for a position of a local court judge.

The procedure of decision making in recommending the candidates for a position of a local court judge shall be defined by law.

4. The decision of the Council on selection of judges shall be attached to the personal file of the candidate. The personal files of candidates participating in the competition, shall not be returned and are kept by the authorized agency pursuant the relevant provisions of law.

Article 22. The procedure of appointing the candidates for positions of local court judges and assigning them to local courts for the execution of powers of local court judges

1. The judges of local courts shall be appointed by the President from among persons who have passed the competitive selection and were proposed by the Council on selection of judges.

2. On the basis of the outcomes of the interview a presentment for appointing a candidate to a position of a local court judge shall be submitted to the President.

The President shall have the right to return the documents of a candidate to the Council with a motivated decision. In the event the Council fails to find facts which prevent the appointment of a candidate to the position of a local judge, then the Council shall again submit to the President the proposal on the same candidate who shall be subject to mandatory appointment within ten days.

In the event the Council agrees to the objections of the President, then the Council shall announce another competition.

3. The local court judges are appointed by the Decree of the President for the term of office envisaged in the Constitution.

In accordance with the Presidential Decree, the appointed judge of a local court shall be assigned to a concrete local court for the exercise of powers of a local court judge.

Article 23. Grounds and procedure of transfer (rotation) of a local court judge

1. A local court judge may be transferred from one local court to another local court on the following grounds:

- 1) at his / her own will;
- 2) in the event of reorganization of the court or changes to the structure or staffing number of judges;
- 3) for the purpose of state protection of judges on circumstances beyond the control of the judge and the state;
- 4) in the event of participation of a local court judge in the competitive selection of candidates to a vacant position of a judge of another local court and presentment of his candidacy to the President by the Council on selection of judges.

2. The rotation of judges on the grounds envisaged in paragraph 1 part 1 of the present article shall be effected by the Council on selection of judges as far as applications of judges are being received. Such applications are submitted by the authorized agency addressed to the Council on selection of judges.

The Council on selection of judges, after having reviewed an application of judges requesting transfer (rotation), shall honor them and shall submit a proposal to the President on transfer (rotation) of judges only in the event that there is a mutual consent of judges in respect of transfer (rotation).

A judge who was transferred from one local court to another, shall have the right to again apply for transfer (rotation) no early than five years after the last transfer (rotation).

3. In the event of reorganization of a local court, changing the structure of a local court with the transfer of staff positions to other local courts, the Council of judges shall hear the opinions of judges concerning their transfer (rotation) to courts to where staff positions of judges of the reorganized court or the court with a changed structure are transferred. The Council makes a decision on transfer (rotation) of judges taking into account all circumstances and the possibility for judges to work in their new jobs.

4. The Council on selection of judges shall without delay consider the matter of transfer (rotation) for the purpose of state protection of a judge due to the circumstances beyond the control of the judge and the state. The reason for consideration of the matter shall be the appeal of the president of a relevant local court or appeal of a judge confirmed by appropriate evidence from the law enforcement agencies. The Council shall make a decision on transfer (rotation) for the purpose of state protection after having reviewed all circumstances and defined the relevancy of the threat existing in respect of a judge.

5. The transfer (rotation) of a local court judge shall be effected for the remaining period of his / her tenure.

6. The decision on transfer (rotation) of a judge shall be made by the Council on selection of judges and shall be forwarded to the President for issuance of an appropriate decree. Such Decree should be signed by the President no later than ten days after the receipt of the decision by the President.

Article 24. Procedure of electing presidents and deputy presidents of local courts

1. Presidents and deputy presidents of local courts shall be elected at the meeting of judges of the relevant local court for the period of three years.

2. One and the same judge may not be elected president or deputy president of a local court for two consecutive terms in one and the same court.

3. Election and dismissal of presidents and deputy presidents of local courts shall be subject to procedures envisaged in the legislation of the Kyrgyz Republic.

Chapter 5 - Grounds and procedures for suspension of powers, dismissal from office and termination of powers of a judge

Article 25. Dismissal of a judge from office

1. A judge of the Kyrgyz Republic shall be dismissed from office (from exercising the duties of a judge) in the event that the Council of judges gives its consent to institution of criminal proceedings as an accused person or administrative proceedings at law.

2. The Jogorku Kenesh upon proposal of the Council of judges may dismiss a judge of the Supreme Court or the Constitutional Chamber from office in the event that it gives to the Prosecutor General its consent to institution of proceedings against a judge as an accused person.

The President upon proposal of the Council of judges may dismiss a local court judge in the event that consent is given to the Prosecutor General to institution of proceedings against a judge as an accused person.

3. The dismissal of a judge from office shall entail suspension of payment of salary to the judge and other types of material and social benefits to which he/she is entitled.

4. A judge dismissed from office, shall be restored in his/her position (shall be deemed as taking the office of a judge) by a body which elected or appointed him/her in case circumstances constituting the grounds for a decision of dismissal from office, cease to exist.

5. In the event of the judge being restored to office, the judge's salary and other types of material and social benefits to which he/she is entitled shall be paid in full.

Article 26. Grounds and procedures for dismissal of a judge from office

1. (Cancelled in accordance with the Law of the Kyrgyz Republic No 6 dated January 19, 2010).

2. A judge shall be subject to early dismissal from office in the following cases:
- 1) submission of a written application by a judge on voluntary dismissal from office;
 - 2) inability to exercise the powers of a judge due to state of health confirmed by the conclusion of a medical commission;
 - 3) appointment of a judge of the Supreme Court or the Constitutional Chamber to the position of a local court judge; election of a local court judge to the position of the judge of the Supreme Court or the Constitutional Chamber;
 - 4) transfer to another job not related to the administration of justice;
 - 5) refusal of a local court judge to be transferred to another local court on the grounds envisaged in paragraph 2, part 1 of article 23 of the present constitutional law;
 - 6) entry into legal force of a guilty verdict by a court in respect of a judge;
 - 7) entry into legal force of a court verdict on application of compulsory measures of medical character in respect of a judge;
 - 8) committing of a disciplinary misdeed incompatible with the irreproachable conduct and the high position of a judge, confirmed by the decision of the Council of judges;
 - 9) engaging in activity incompatible with the position of a judge;
 - 10) membership of judges in political parties and their statements in support of whatsoever political party;
 - 11) in the event that a judge:
 - is registered as a candidate for the office of President of the Kyrgyz Republic;
 - is included in the registered list of a political party taking part in elections to the Jogorku Kenesh of the Kyrgyz Republic;
 - is registered as a candidate to the office of a deputy in a local kenesh.
3. Judges of the Supreme Court and the Constitutional Chamber shall be subject to early dismissal from office by the majority of no less than two thirds of the total number of the deputies of the Jogorku Kenesh upon presentment of the President made in accordance with the decision of the Council of judges.
4. A local court judge shall be subject to early dismissal from office by the President upon proposal of the Council of judges.
5. A written application on voluntary dismissal from office, submitted by a judge, may be withdrawn within three working days since the date of its submission.
6. The decision on early dismissal of a judge of the Kyrgyz Republic from office shall not be subject to appeal.

Article 27. Grounds and procedure of termination of powers of a judge

1. The powers of a judge shall be terminated upon reaching the age limit as well as expiration of powers. The powers of a judge shall be subject to early termination in the following cases:
- 1) loss of or withdrawal from citizenship of the Kyrgyz Republic or acquisition of citizenship of another country;
 - 2) entry into force of a court verdict declaring such person legally incapable or partially capable;
 - 3) death of a judge;
 - 4) entry into force of a court verdict declaring him / her dead;
 - 5) entry into force of a court verdict declaring him / her missing.
2. The powers of the judge shall be terminated by the President or the Jogorku Kenesh correspondingly. In case the court verdicts envisaged in paragraph 4 and 5, part 1 of the present article are cancelled, then the powers of the local court judge shall be restored by the President and the powers of the judge of the Supreme Court shall be restored by the Jogorku Kenesh.
- The powers of the judge of the Constitutional Chamber shall be restored by the Jogorku Kenesh.

Article 27-1. Resignation of a judge

1. A resignation of a judge shall mean a honorary retirement or honorary removal from office. The resigned person shall retain the rank of a judge, the guarantees of personal immunity and affiliation to the judicial community.

2. Each judge shall be entitled to the right of voluntary resignation irrespective of his/her age. A judge shall be deemed retired or removed to retirement in the event that he/she was dismissed on the grounds envisaged in paragraphs 1, 2, 4, 5, 11 of part 2 of article 26 of the present constitutional law or in the event his/her powers were terminated on the grounds envisaged in paragraph 1, part 1, article 27 of the present constitutional law.

3. Retired judges shall be entitled to identity certifications issued by the President of the Kyrgyz Republic.

Chapter 6 – Liability of judges

Article 28. Disciplinary liability of judges

1. A judge shall have disciplinary proceedings instituted against him/her for a disciplinary misdeed.

A disciplinary misdeed of a judge shall be a deed or omission of a judge, which does not correspond to the requirements towards irreproachable conduct as envisaged in part 2 article 6 of the present constitutional law as well as which entails engaging in activity incompatible with the position of a judge.

A judge may be subject to a disciplinary penalty no later than one year since a misdeed was detected, excluding the period of office check or absence of a judge at his/her place of work due to good reason, but no later three years after the date of perpetration.

2. The institution of disciplinary liability procedures against a judge for a disciplinary misdeed shall entail the following disciplinary sanctions:

- 1) imposition of a disciplinary punishment in the form of a admonition or censure;
- 2) early dismissal of a judge from his / her position.

In the event that a disciplinary misdeed is insignificant, the Council of judges may limit itself to a warning.

3. An admonition or a censure may be subject to early cancellation by a Council of judges no earlier than six months after they were applied. The procedure of cancellation of an admonition or a censure shall be defined in the Regulation on the disciplinary commission under the Council of judges (hereinafter referred to as the Regulation on the disciplinary commission) which is approved by the Council of judges.

4. (Cancelled in accordance with the Law of the Kyrgyz Republic No 6 dated January 19, 2010).

5. Admonition and censure shall be applied by the Council of judges in accordance with the Regulation on the disciplinary commission.

Early dismissal from office for a disciplinary misdeed shall be applied as an extreme disciplinary sanction for a gross violation of requirements of irreproachable conduct.

The decision on early dismissal of judges of the Supreme Court and the Constitutional chamber shall be made by the Jogorku Kenesh upon presentment of the President, such presentment shall be based on the decision of the Council of judges on early dismissal of a judge from his / her position.

The decision on early dismissal of a local court judge shall be made by the President on the basis of the decision of the Council of judges on early dismissal of such judge from his / her position.

Article 29. Procedure of instituting disciplinary proceedings against judges

1. Disciplinary proceedings may be instituted against a judge based the findings of the examination of a disciplinary case which was initiated:

- in respect of complaints of private persons and legal entities;

- in respect of presentments of state agencies, local self-governance bodies, officials thereof, presidents of relevant courts of the Kyrgyz Republic, accusing a judge of committing a disciplinary misdeed;

- in respect of special rulings pronounced by courts of higher instances in respect of judges of courts of lower instances.

2. The disciplinary commission of the Council of judges shall be entitled to a right to initiate disciplinary proceedings in respect of a judge based on complaints, presentments and special rulings received. In accordance with the Regulation on the disciplinary commission internal investigation is conducted in respect of disciplinary proceedings within two months' period. A refusal to initiate disciplinary proceedings may be appealed against in the Council of judges. The procedure and timeframe for such appeal shall be defined in the Regulation on the disciplinary commission.

Internal investigation shall include the following:

- questioning and solicitation of explanations and other evidence from a judge in respect of whom a complaint is being reviewed; questioning and solicitation of additional explanations and evidence from the complainant; questioning of witnesses; examination of the case considered by a judge in the event that a complaint was filed in respect of actions of a judge committed in the process of consideration of a concrete case;

- any other actions to collect all information on the reasons and circumstances which caused the filing of a complaint.

In accordance with the requirements of the Regulation of the disciplinary commission a memorandum is drawn up on the basis of the internal investigation.

3. A judge in respect of whom disciplinary proceedings were initiated, should be familiarized with the materials of the proceedings in advance.

A refusal to familiarize with the materials shall not serve an obstacle for further disciplinary proceedings.

4. On the basis of consideration of the memorandum drawn up within the frame of disciplinary proceedings, the Council of judges shall make one of the decisions envisaged in article 28 of the present constitutional law, or a decision to terminate disciplinary proceedings due to absence of a disciplinary misdeed in the actions of a judge.

In the event of a constituent element of a crime in the actions of a judge was uncovered, the Council of judges shall hand over the materials of the disciplinary proceedings to the Prosecutor General.

5. In the event that the actions of the judge referred to in the complaint, being incompatible with the irreproachable conduct and high position of a judge, were committed in the examination of a court case and no judicial act has been adopted in respect of such case, the case shall be transferred to another judge and the disciplinary proceedings initiated shall be subject to examination in accordance with the procedures envisaged in the present article.

(version of the Law of the Kyrgyz Republic No 6 dated January 19, 2010)

Article 30. Initiation of a criminal case against a judge and procedure of instituting criminal or administrative proceedings at law

1. A decision to initiate a criminal case against a judge shall be made by the Prosecutor General of the Kyrgyz Republic (hereinafter referred to as the Prosecutor General).

2. A decision of bringing a judge to criminal liability (as a person accused of a crime) shall be made by the Prosecutor General upon consent of the Council of judges.

In order to obtain consent for the initiation of criminal proceedings against a judge, the Prosecutor General shall submit a presentment to the Council of judges, indicating the circumstances of the criminal case and the article of criminal law under which the judge is accused and requesting consent for the initiation of criminal proceedings (as a person accused of a crime).

3. A consent to initiate administrative proceedings at law against judges of the Supreme Court, the Constitutional Chamber and local courts shall be given by the Council of judges upon presentment of the Prosecutor General.

4. In the event that during investigation of a criminal case or case on administrative offense the changes appear in the determination of the constituent element of the crime or offense and such change may entail worsening of the judge's situation, the institution of criminal or administrative proceedings against a judge shall be allowed under the procedure established in the present article.

5. The presentment for consent to institute criminal or administrative proceedings against a judge shall be considered by the Council of judges and a decision shall be made no later than ten days from the date of submitting the presentment.

6. If the Council of judges establishes that the institution of criminal or administrative proceedings against a judge is prompted by the position taken by the judge in the exercise of his / her judicial powers, it shall refuse to give consent to the institution of criminal or administrative proceedings against the judge.

7. In the event that the Council of judges decides to refuse the consent for the institution of criminal or administrative proceedings at law against a judge, no repeated presentments for such consent shall be permitted.

Article 31. Carrying out operational search and investigative actions in respect of a judge

1. The carrying out of operational search measures in respect of a judge related to limitation of his/her civil rights or violation of immunity, envisaged in the Constitution, the present constitutional law and other laws of the Kyrgyz Republic shall be permitted only after criminal proceedings have been instituted against the judge.

2. After criminal proceedings have been instituted against a judge, operational search measures and investigative actions in respect of the judge shall be performed in accordance with the procedures envisaged in the legislation of the Kyrgyz Republic.

Chapter 7 - Social guarantees of the status of judges

Article 32. Material benefits for judges

1. Judges shall be guaranteed a salary from the funds of the republican budget envisaged for financing of the judicial power.

The conditions of remuneration of judges shall be defined by the President upon proposal of the Council of judges. The amount of remuneration may not be reduced during the term of office.

2. A judge requiring housing or improvement thereof shall be provided with official housing or compensation for costs on rented accommodation or shall be allocated sufficient financing from the judicial system budget to improve his/her housing conditions.

Official housing shall be allocated at the site of the court where the judge exercises his / her powers. The surface area of the official housing shall be no less than 20 square meters of living space per each member of the judge's family.

Official housing shall not be subject to privatization.

A judge dismissed from office upon reaching the age limit, who has no less than 20 years experience in the judicial profession and was occupying official housing, shall be provided with housing in the form of a separate flat or a house funded by the state budget or with assistance in individual housing construction.

The procedure for providing judges with housing or assistance to them in individual housing construction shall be determined by the Government of the Kyrgyz Republic upon consent of the Council of Judges.

3. A judge shall be entitled to an annual paid leave lasting thirty calendar days with the payment of health improvement benefit as envisaged in the legislation of the Kyrgyz Republic.

Judges shall be entitled to an additional annual paid leave in relation to their work record in the legal profession:

- from 5 to 10 years - 2 working days;
- from 10 to 15 years - 4 working days;

- from 15 to 20 years - 6 working days;
- over 20 years - 8 working days.

Woman judges shall be entitled to a maternity and childbirth leave as well as to a child care leave in accordance with the labor legislation.

Upon written application of a judge he / she may be entitled to an unpaid leave in accordance with the labor legislation.

4. Judges shall be provided with a free uniform (a gown).

The description of the uniform (gown), period of its wear and writing-off as well as procedures of distribution of uniform to judges shall be determined by the authorized agency upon consent of the Council of judges.

(version of the Law of the Kyrgyz Republic No 6 dated January 19, 2010)

Article 33. Social protection measures for judges and members of their family

1. The judges shall be subject to mandatory medical insurance at the expense of state funds. Expenses related to treatment during the period of illness shall be compensated from state funds. During a period of illness, attested to by a medical certificate, judges shall continue to receive their average monthly salary.

The procedure of mandatory medical insurance financed from the state funds as well as compensation of costs related to treatment during the period of judge's illness, shall be approved by the Government of the Kyrgyz Republic.

In the event of injury or other damage to health caused to a judge in connection with the fulfillment of their official duties which rules out any further possibility of engaging in professional activity, they shall be entitled to a monthly compensation amounting to the difference between their monthly wage and the pension assigned to them, excluding payments received under compulsory state insurance.

2. The life of a judge shall be subject to mandatory state insurance financed from the funds of the republican budget.

In the event of death of a judge as well as in the event of termination of powers of a judge on the grounds envisaged in paragraph 4 part 1 of article 27 of the present constitutional law, then the family of such judge shall be entitled to the payment of a one off benefit based on the amount of his/her average monthly salary for each full year of work as a judge, but no less than his/her annual salary.

3. Persons who were subject to early dismissal from office in accordance with paragraph 1 part 2 article 26 of the present constitutional law in case they have the work record as a judge of 20 years and more in accordance with paragraph 2 part 2 article 26 of the present constitutional law; persons, whose powers were terminated due to reaching of the age limit in accordance with paragraph 2 part 1 article 27 of the present constitutional law, as well as persons whose powers were terminated due to the expiration of the term of office with the work record as a judge of 15 years and more shall be entitled to a one-off benefit based on the average monthly salary at his/her last position for each full year of working as a judge but not less than his/her annual salary.

Persons listed in paragraph 1 of the present part as well as newly elected / appointed judges of the Kyrgyz Republic, in case they are entitled to a one-off benefit with previous dismissal from office or termination of powers of a judge, shall receive it based on the calculation of only the period of working as a judge since the time of their last election / appointment.

4. Judges reaching the pension age shall be entitled to a pension in accordance with procedures and in cases envisaged in the law.

5. The calculation of the work record and the amount of pensions for pay supplements shall be conducted by the moment of termination of powers of a judge or his/her dismissal from office.

Article 34. State protection of judges

1. State protection shall be provided for judges in the event of a threat of encroachment on the judge's life, health or property in connection with their official activity and shall be implemented through the following security measures:

- 1) personal protection, protection of their home and property;
- 2) issue of firearms, special facilities of individual protection and danger alert;
- 3) temporary placement to a safe facility;
- 4) ensuring the confidentiality of information on protected judge;
- 5) recommendation of transfer (rotation) to another court or change of place of work (department);
- 6) resettlement to another place of residence.

2. Where necessary the aforementioned security measures may also be applied to close relatives of the judge. The application of security measures must not prejudice the housing, labour, pension or other rights of the person protected.

3. Conditions and procedure of security measures shall be determined by the Government.

Chapter 8 – Final provisions

Article 35. Procedures of entry into force of the present constitutional law

1. The present constitutional law shall enter into force since the day of its official publication.

2. Within three years since the entry into force of the present constitutional law the provisions of part 2 article 17 of the present constitutional law shall not apply to persons who passed the qualification exam for the position of a judge in the form of a computer test before the entry into force of the present constitutional law.

2-2. The article 27-1 of the present constitutional law shall apply to judges of the Kyrgyz Republic who were dismissed or whose powers were terminated on the grounds envisaged in part 2 article 27-1 of the present constitutional law before entry into force of the present constitutional law.

The President of the Kyrgyz Republic