



Kyrgyzstan v. Kamil Ruziev

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TRIALWATCH FAIRNESS REPORT
A CLOONEY FOUNDATION **FOR** JUSTICE INITIATIVE

A. ABOUT THE AUTHORS

University of Southern California Gould School of Law International Human Rights Clinic (IHRC) was established in 2011 to teach U.S. law students how to use international law as a tool for social justice for serious human rights abuses in the U.S. and globally. The IHRC engages students in cases and projects that address: international criminal justice and accountability for atrocities (war crimes, crimes against humanity, genocide); refugee rights; fair trial rights; anti-human trafficking and racial justice. Since 2011, students have assisted international judges and legal officers on a number of international trials involving former heads of State and high-level military leaders allegedly responsible for war crimes, crimes against humanity, genocide and terrorism perpetrated against hundreds of thousands of victims in Cambodia, Democratic Republic of the Congo, Lebanon, and Rwanda. Moreover, the IHRC has focused on fair trial rights and the rule of law in Morocco and Kyrgyzstan, and leveraged international human rights sanctions regimes to hold perpetrators of serious human rights abuses accountable for serious human rights abuses in Africa. In the U.S., the Clinic has represented refugees and trafficked clients from countries including Cameroon, El Salvador, Ethiopia, Mexico, Syria, and Afghanistan with near 100 percent success rate, while addressing systemic racism in U.S. law enforcement anti-human trafficking operations and responses to anti-racism peaceful protests as well as sentencing of juveniles in the California criminal justice system.

Professor Steve Swerdlow, Esq. is an Associate Professor of the Practice of Human Rights in the Department of Political and International Relations at the University of Southern California. A human rights lawyer and expert on the former Soviet region, Swerdlow was Senior Central Asia researcher at Human Rights Watch, heading the organization's work on Uzbekistan and Tajikistan, and founding its Kyrgyzstan field office. Swerdlow has worked as a consultant with the United States Commission on International Religious Freedom (USCIRF), the United Nations Development Programme (UNDP), and the International Labour Organization (ILO). Earlier Swerdlow was a fellow in the U.S. State Department's Young Leaders for Public Service program in Russia and worked as a human rights monitor for the Union of Council for Soviet Jews (UCSJ) as their Caucasus monitor in Armenia, Azerbaijan, and Georgia as well as with the International Organization for Migration (IOM) in Russia. Swerdlow practiced law in San Francisco at Lief Cabraser Heimann & Bernstein, LLP, and served as law clerk to the Honorable Judge Dean Pregerson of the United States District Court for the Central District of California. Swerdlow publishes regularly on human rights issues in Eurasia and US foreign policy. Swerdlow received his J.D. from the University of California, Berkeley School of Law and M.A. in International Affairs from Columbia University's School of International and Public Affairs with a certificate in Post-Soviet Studies from the Harriman Institute.

B. ABOUT THE CLOONEY FOUNDATION FOR JUSTICE'S TRIALWATCH INITIATIVE

TrialWatch is an initiative of the **Clooney Foundation for Justice**. Its mission is to expose injustice, help to free those unjustly detained and promote the rule of law around the world. TrialWatch monitors criminal trials globally against those who are most vulnerable — including journalists, protesters, women, LGBTQ+ persons and minorities — and advocates for the rights of the unfairly convicted. Over time, TrialWatch will use the data it gathers to publish a Global Justice Index evaluating countries' justice systems.

The legal assessment and conclusions expressed in this report are those of the authors and not necessarily those of the Clooney Foundation for Justice.



Professor Steve Swerdlow, member of the TrialWatch Experts Panel, assigned this trial a grade of “C”:

Kamil Ruziev, a human rights defender in Kyrgyzstan who has faced previous harassment by the authorities, was arrested and charged shortly after he filed a lawsuit against Kyrgyzstan’s national security agency, the State Committee for National Security (GKNB).¹ Mr. Ruziev was charged with allegedly using a forged medical certificate issued by a nurse rather than a doctor to request an extension for several court cases in which he accused government authorities, including the GKNB, of failing to properly investigate death threats made by a Karakol police department lead investigator.

Although the trial court made the appropriate decision to acquit him based on a lack of evidence, its decision was overturned by the appeals court, which convicted Mr. Ruziev during a time of increased harassment of human rights defenders in Kyrgyzstan. In January 2023, Kyrgyzstan’s Supreme Court ultimately acquitted Mr. Ruziev of all charges, noting that the court had to consider “the totality of the examined evidence.” Such evidence, or lack thereof, related to the failure of the medical certificate to meet the legal definition of an official document under the Criminal Code and whether Mr. Ruziev had in fact used a forged document, among other things.

While the Supreme Court’s decision to acquit Mr. Ruziev and his co-defendant (the nurse who produced the allegedly forged certificate) is welcome, the case nevertheless presents concerns under international fair trial rights standards. Specifically, Mr. Ruziev’s case was brought despite deficiencies in the evidence against him. Additionally, proceedings dragged on for more than two years and were plagued by various interruptions, including repeated changes in judicial oversight of the case. Moreover, proceedings before and during trial violated international fair trial rights standards, including:

- Mr. Ruziev was arbitrarily detained without being promptly informed of the reasons for his arrest, and while detained, he was denied his right to counsel and subjected to what likely amounted to cruel, inhuman or degrading treatment.
- The GKNB distributed a video that accused Mr. Ruziev of fraud and extortion, violating his right to be presumed innocent.

- As the trial court's own findings show that the evidence in support of the forgery charge was lacking, there is a reasonable basis to infer that the proceedings were brought as retaliation for Mr. Ruziev's critique of government. This constitutes an abuse of process, or at least a decision made in bad faith.

We conclude that, because of these violations and the decision of the Kyrgyz prosecutor to charge both defendants, as well as the court's acceptance of these charges, this trial should be given a letter grade of "C" under the methodology set forth in the Annex to this report.

In October 2020, the International Human Rights Clinic of the University of Southern California's Gould School of Law (the Clinic) began monitoring Mr. Ruziev's trial as part of the Clooney Foundation for Justice's TrialWatch initiative. The proceedings have been marred by fair trial violations and recurring delays, causing the case to drag on for more than two years.

On August 12, 2022, Mr. Ruziev was acquitted by the trial court, a decision which the prosecution appealed on August 29, 2022. Two months later, on October 11, 2022, the court of appeals reversed Mr. Ruziev's acquittal, convicting him and imposing a fine of 80,000 Soms (roughly \$900 USD). Mr. Ruziev then filed an appeal to the Supreme Court of Kyrgyzstan, which, on January 10, 2023, reinstated the trial court's decision and acquitted Mr. Ruziev on all charges. Nevertheless, Mr. Ruziev has informed the Clinic that he is still seeking a full restoration of his rights.

Mr. Ruziev, an ethnic minority Uyghur, has worked as a human rights defender in the Karakol region of Kyrgyzstan defending low-income ethnic minorities and victims of police brutality for twenty years. In the mid-2000s, he founded a human rights organization called Ventus, which advocates for survivors of domestic violence, as well as victims of discrimination and torture at the hands of the authorities. He often files complaints against local officials and law enforcement agents for human rights violations as part of his work.

In the summer of 2018, Mr. Ruziev accused a lead investigator of the Karakol police department, Mr. Bakhtiyar Tokushev, of torture and extortion. Mr. Ruziev said that in June and November 2019, Mr. Tokushev made repeated death threats against him, going as far as pulling out a gun and pointing it at Mr. Ruziev's head.

In June and November of 2019, Mr. Ruziev submitted legal complaints to the Office of the Prosecutor and the GKNB regarding the threats. When the Office of the Prosecutor and the GKNB failed to act on these complaints, Mr. Ruziev appealed to the Karakol City Court and the Issy-Kul Regional Court, requesting that the Office of the Prosecutor and the GKNB take action.

Around this same time, in December 2019, Mr. Tokushev left¹ his position as lead investigator with the Karakol police department. Although Mr. Tokushev was no longer part of the Karakol police department, Mr. Ruziev was never formally identified as a victim of a crime or offered an appropriate remedy.

In early 2020, Mr. Ruziev missed an important court deadline related to his efforts to obtain accountability against Mr. Tokushev. On March 3, 2020, Mr. Ruziev submitted a medical certificate explaining why he had missed this deadline, asking the court to extend the deadline so that the matters could continue. The medical certificate was used to explain that Mr. Ruziev was being treated for acute bronchitis at the time of the missed deadline.

On March 11, 2020, unbeknownst to Mr. Ruziev, the GKNB opened a case of forgery against Mr. Ruziev, subsequently alleging that he used a forged medical certificate to mislead the judiciary when he sought an extension of the deadline. The GKNB also alleged that Mr. Ruziev engaged in fraud, although this charge was later dropped.

On May 28, 2020, the GKNB questioned Mr. Ruziev about the complaints he submitted regarding the threats to which he been subjected. Mr. Ruziev did not feel free to leave while being questioned. The GKNB then detained Mr. Ruziev from May 29 to May 31, 2020, which is when they finally informed him of the charges against him. Mr. Ruziev was charged with using a forged document (in this case, the medical certificate) that a nurse, rather than Mr. Ruziev's doctor herself, issued.

After the first hearing in the case, on May 31, 2020, Mr. Ruziev was placed under house arrest for two months. Over a period of more than two years, numerous hearings were held with many postponements that artificially extended the duration of the trial until the Supreme Court of Kyrgyzstan finally disposed of the case on January 10, 2023.

Due to its constant postponements, the length of the trial had deep and wide-reaching consequences for Mr. Ruziev, his family, and his work. While absences by Mr. Ruziev and his attorney caused some of the hearing postponements, others were caused by what Mr. Ruziev has alleged was meddling by the local authorities, the absence of the co-defendant and her attorney, or structural issues like the judicial reappointment process. Cumulatively, these postponements affected Mr. Ruziev's ability to continue working as a human rights defender, impacting him professionally and financially. Mr. Ruziev also suffered negative health effects because of his initial detention and because of subsequent restrictions on his movement, which lasted until at least September 2020.

¹ Sources differ on whether Mr. Tokushev resigned or was forced out of the position.

Moreover, the pre-trial proceedings were plagued by fair trial violations, including:

1. The authorities provided no legitimate reason for Mr. Ruziev's initial detention and subsequent house arrest, rendering these restrictions on his liberty arbitrary.
2. Mr. Ruziev suffered a violation of his right to be promptly informed of the reasons for his detention, as the authorities detained Mr. Ruziev for nearly three days before telling him about the charges against him.
3. Mr. Ruziev was denied his right to counsel. During Mr. Ruziev's initial detention, the authorities tried to force him to make a recorded confession without a defense attorney present.
4. While in detention, Mr. Ruziev was denied medicine that was important to his health, which likely constituted a violation of both his right to humane treatment and his right to be free from cruel, inhuman or degrading treatment, or punishment.
5. Mr. Ruziev's right to be presumed innocent was violated when the authorities painted Mr. Ruziev as someone who engages in fraud and extortion.
6. Mr. Ruziev's trial constituted an abuse of process, because the case appears to have been brought for the ulterior purposes of punishing Mr. Ruziev for past critiques of the government and in order to deter him from continuing his human rights work. This finding is consistent with comments by the UN Special Rapporteur on the situation of human rights defenders that "[i]t is extremely disturbing that authorities began laying criminal charges against Mr. Ruziev after he exposed police torture and ineffectiveness, when they should actually be investigating the death threats made against him."²

In addition to these violations, other developments outside the courtroom are cause for serious concern. Mr. Ruziev faced death threats and harassment from the authorities. He and his family were deregistered from a local medical center, making them ineligible to receive healthcare there. Moreover, Mr. Ruziev's complaints against the GKNB and other government bodies alleging acts of torture and cruel treatment have been dismissed or otherwise not responded to,³ although the authorities have alleged that they were all appropriately investigated.⁴ As such, Mr. Ruziev has not been appropriately rehabilitated in the aftermath of this trial.

² *Kyrgyzstan: Investigate death threats against human rights defender – UN expert*, UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (Nov. 2, 2021), <https://www.ohchr.org/en/press-releases/2021/11/kyrgyzstan-investigate-death-threats-against-human-rights-defender-un-expert>.

³ Kamil Ruziev Interview (Feb. 10, 2022); Kamil Ruziev Interview (Dec. 18, 2023).

⁴ See Response Letter from the Kyrgyz Government to Mary Lawlor, Special Rapporteur (Jan. 27, 2022), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36781> [hereinafter Summary of Information Regarding Threats Against Human Rights Defender and Lawyer Kamilzhan Ruziev].

The charges against, trial and intimidation of Mr. Ruziev, an internationally-known human rights defender in the Issyk-Kul region of Kyrgyzstan, are likely to have a chilling effect on civil society and may deter others in Kyrgyzstan from pursuing human rights work.

BACKGROUND INFORMATION

A. POLITICAL & LEGAL CONTEXT

Political and Historical Background

In 1990, the legislature of what was then known as the Kirgiz Soviet Socialist Republic elected Askar Akayev to the newly created post of president.⁵ Soon thereafter, the country acquired its present name of Kyrgyzstan and declared independence in 1991 amid the collapse of the Soviet Union.⁶ In the 2000s, the country's democratic transition sputtered. A disputed parliamentary election in 2005 led to massive protests during which demonstrators occupied government buildings and demanded Akayev's removal.⁷ The movement became known as the Tulip Revolution. Akayev fled the country and resigned.⁸ He was succeeded by Kurmanbek Bakiyev, who won the election in 2005.⁹ But when opposition protests erupted in 2010, Bakiyev was also forced to resign and flee the country.¹⁰ The cycle repeated itself in 2020, when allegations of vote-rigging again triggered an uprising that toppled the president.¹¹

Currently, Kyrgyzstan's president is Sadyr Japarov, a nationalist and populist. Sadyr Japarov was serving an 11.5-year prison sentence for kidnapping until his supporters broke him out of jail during the 2020 unrest.¹² Sadyr Japarov served briefly as Kyrgyzstan's interim prime minister following the events of 2020 and is known to favor a strong presidential system.¹³ The new Kyrgyz constitution, drafted in 2020 and implemented in 2021, authorizes a vast expansion of the president's powers.¹⁴ These broad powers allow the president to "alone determine[] the structure and composition of the Cabinet of Ministers," which "can lead to a lack of accountability" and "undermine healthy democratic political processes."¹⁵ The new constitution also reduces the size of parliament, giving the president power to appoint judges and heads of law enforcement agencies, and allows the restriction of activities that "contradict moral and ethical values

⁵ *Kyrgyzstan Profile – Timeline*, BBC (Jan. 11, 2021), <https://www.bbc.com/news/world-asia-16185772>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Agnieszka Pikulicka-Wilczewska, *Kyrgyzstan's Sadyr Japarov: From a prison cell to the presidency*, AL JAZEERA, <https://www.aljazeera.com/features/2021/1/12/sadyr-japarov-from-a-prison-cell-to-the-presidency>.

¹³ George Mamedov, "Japarov is our Trump": *Why Kyrgyzstan is the Future of Global Politics*, OPENDEMOCRACY (Jan. 6, 2021), <https://opendemocracy.net/en/odr/japarov-is-our-trump-kyrgyzstan-is-the-future-of-global-politics>.

¹⁴ See Klara Sooronkulova et. al., *Analysis of the Draft Constitution of the Kyrgyz Republic*, FREEDOM FOR EURASIA (Feb. 9, 2021) (on file with authors).

¹⁵ *Id.* at 57-60.

and public conscience of the people of the Kyrgyz Republic.”¹⁶ According to Bishkek-based political analyst Emil Dzhuraev, these changes focus power in the office of the President to such an extent that “no national-level institution will be able to do anything without the participation or the sign off on it by the president.”¹⁷ Furthermore, the Organization for Security and Cooperation in Europe (OSCE) and the European Commission for Democracy through Law (the Venice Commission) issued a joint opinion in which they criticized what was then the draft constitution as “creat[ing] a real risk of undermining the separation of powers and the rule of law in the Kyrgyz Republic.”¹⁸

Ethnic Tensions and Anti-Uyghur Discrimination

Kyrgyzstan has an ethnically diverse population. While the overwhelming majority (74%) is made up of ethnic Kyrgyz, there are also several ethnic minority groups, including Uzbeks (15%), Russians (5%), Dungans (1.1%), and Uyghurs¹⁹ (0.9%), among other communities of Tajiks, Kazakhs, and Ukrainians.²⁰ Though the various groups have generally enjoyed a peaceful coexistence over the years, there have been periods of ethnic tension, including violence in 2010 between the Kyrgyz and Uzbek communities of southern Kyrgyzstan.²¹ At least 356 people died in those clashes, which were fueled by growing political and economic inequalities between the politically powerful Kyrgyz majority and the economically dominant Uzbek minority.²²

In fact, the UN Committee on the Elimination of Racial Discrimination (CERD) has noted that, since the violent clashes in southern Kyrgyzstan in 2010, “a climate of discriminatory attitudes, racial stereotypes, suspicion between the majority ethnic group and the minorities, widespread nationalistic discourse and exclusion continue to exist.”²³ In

¹⁶ RFE/RL’s Kyrgyz Service, *Kyrgyz Voters Approve Constitutional Changes to Strengthen Presidency*, RADIO FREE EUROPE/ RADIO LIBERTY (Apr. 11, 2021), <https://www.rferl.org/a/kyrgyzstan-constitution-strengthen-japarov-presidency-/31197472.html>; THE CONSTITUTION OF THE KYRGYZ REPUBLIC (May 5, 2021) [hereinafter 2021 Constitution of the Kyrgyz Republic].

¹⁷ *Kyrgyzstan Votes on Constitution Boosting President’s Powers*, AL JAZEERA NEWS (Apr. 11, 2021), <https://www.aljazeera.com/news/2021/4/11/kyrgyzstan-votes-on-constitution-boosting-presidents-powers>.

¹⁸ Maria A. Blackwood, *Kyrgyz Voters Approve Strong Presidential System in Constitutional Referendum*, CONGRESSIONAL RESEARCH SERVICE (Apr. 21, 2021); Paolo Carozzo et. al., *Joint Opinion on the Draft Constitution of the Kyrgyz Republic*, VENICE COMMISSION 5 (Mar. 19, 2021), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)007-e).

¹⁹ Uyghurs are a Muslim ethnic minority. They primarily live in the Xinjiang province in China. Uyghurs speak a Turkic language and practice a form of Sunni Islam. CONG. RESEARCH SERV., IF10281CHINA PRIMER: UYGHURS (2023), <https://crsreports.congress.gov/product/pdf/IF/IF10281>.

²⁰ See *Total Population by Nationality*, NAT’L STATISTICAL COMM. OF THE KYRGYZ REPUBLIC (2015), <https://www.stat.kg/en/.opendata/category/312>.

²¹ See Ole Solvang and Anna Neistat, *Where is the Justice? Interethnic Violence in Southern Kyrgyzstan and its Aftermath*, HUMAN RIGHTS WATCH (Aug. 16, 2010), <https://www.hrw.org/report/2010/08/16/where-justice/interethnic-violence-southern-kyrgyzstan-and-its-aftermath>.

²² *Id.*

²³ Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Fifth to the Seventh Periodic Reports of Kyrgyzstan*, UNITED NATIONS (Apr. 19, 2013),

particular—and in light of the growing number of political, economic, and security partnerships with China—there have been concerns over treatment of Uyghurs by the Kyrgyz authorities.²⁴ Kyrgyzstan, like other Central Asian states, is bound by a border treaty not to help Uyghurs fleeing the Xinjiang region of China.²⁵ This has culminated in the use of deadly force; for example, in 2014 a Kyrgyz border guard unit killed at least 9 Uyghur men who were crossing into the country from China.²⁶ Rights groups have also noted the practice of Kyrgyz authorities targeting members of the Uyghur community with fabricated terrorism charges, allegedly under Chinese pressure.²⁷ A professor at George Washington University explained that there is selective attention on Uyghurs in Kyrgyzstan, with specific focus on those who “are politically active.”²⁸

Human Rights Obligations

Kyrgyzstan has a mixed record on human rights. Although Kyrgyzstan has ratified most major international human rights treaties,²⁹ reports of human rights violations, including arbitrary applications of criminal proceedings, inhumane detention conditions, and restrictions on the right to freedom of expression, remain commonplace.³⁰

Kyrgyzstan ratified the International Covenant on Civil and Political Rights (ICCPR), and has taken steps to implement the covenant, such as creating national bodies to liaise with United Nations (UN) treaty bodies.³¹ Further, in 2010, following opposition protests and

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsgJg2eAqm g1aUu6foRxGwcwRhbbUAgH8wk45i9hIETHvik7%2FQnmNhcBQ5ULpysYb1Vo%2FDFsFjEixRVfHID5aq SYbnBp0m1Ecnixqw2ePLaLE>.

²⁴ See also Cristina Maza, *Kyrgyzstan’s Uyghurs Cautious, Still Fear Chinese Influence*, EURASIANET (Nov. 24, 2014), <https://eurasianet.org/kyrgyzstans-uyghurs-cautious-still-fear-chinese-influence>.

²⁵ Bruce Pannier, *Why are Central Asian Countries Silent About China’s Uyghurs?*, RADIO FREE EUROPE/RADIO LIBERTY (Sept. 22, 2020), <https://www.rferl.org/a/why-are-central-asian-countries-silent-about-china-s-uyghurs-/30852452.html>.

²⁶ *Id.*; Rachel Vandenbrink, *11 Uyghurs Killed at Kyrgyzstan Border, Triggering Call for Probe*, RADIO FREE ASIA (Jan. 24, 2014), <https://www.rfa.org/english/news/uyghur/kyrgyzstan-01242014175848.html>.

²⁷ See World Directory of Minorities and Indigenous Peoples, MINORITY RIGHTS GROUP INT’L (last updated Mar. 2018), <https://minorityrights.org/minorities/uyghurs-3>; Minority Rights Group Int’l, *World Directory of Minorities and Indigenous Peoples - Kyrgyzstan : Uyghurs*, REF WORLD (Mar. 2018), <https://www.refworld.org/reference/countryrep/mrgi/2018/en/38188>.

²⁸ See Immigration and Refugee Board of Canada, *Kyrgyzstan: Treatment of the Uyghur [Uighur] Minority by Society and Authorities, Including State Protection Provided to Victims of Violence and Discrimination; Uyghur Minority Political Groups, Including Activities (2012-2015)*, REF WORLD (Feb. 12, 2015), <https://www.refworld.org/docid/560b96564.html>.

²⁹ For a full list, see United Nations Office of the High Commissioner for Human Rights, *United National Human Rights Treaty Bodies, Reporting Status for Kyrgyzstan*, UNITED NATIONS, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=KGZ&Lang=EN (last visited Feb. 7, 2024).

³⁰ *Amnesty International Report 2022/23: The state of the world’s human rights*, AMNESTY INT’L (Mar. 27, 2023), <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>.

³¹ Association for the Prevention of Torture, *UN Human Rights Committee 108th Session: APT Submission on Kyrgyzstan*, APT (Apr. 25, 2013),

the replacement of the president, Kyrgyzstan adopted a series of social, economic, and political reforms,³² which included a new constitution that guaranteed all citizens the right to appeal their cases to international human rights bodies, and ensured the enforceability of those rulings.³³ In 2014, Kyrgyzstan adopted the “Law on Advokatura and Lawyers’ Activity,” which outlines various protections afforded to lawyers, including a prohibition on arbitrary governmental interference in lawyers’ professional activities.³⁴ Yet, constitutional reforms in 2016 removed the requirement that Kyrgyz authorities have to respect the rulings of international human rights bodies.³⁵ The most recent constitution, ratified in 2021, did not restore this rule.³⁶

Kyrgyzstan continues to grapple with a number of major human rights issues, especially surrounding the safety of human rights defenders, the treatment of ethnic minorities, and allegations of torture at the hands of law enforcement. In March 2020, during the Universal Periodic Review (UPR) of Kyrgyzstan, states recommended that Kyrgyzstan take steps

https://www.ecoi.net/en/file/local/1212746/1930_1385644108_int-ccpr-ngo-kgz-14593-e.pdf; see also United Nations Office of the Commissioner for Human Rights, *Kyrgyzstan Establishes a New System to Prevent Torture*, UNITED NATIONS (Mar. 18, 2014),

<https://www.ohchr.org/EN/NewsEvents/Pages/TortureKyrgyzstan.aspx>.

³² American University of Central Asia, Tian Shan Policy Center, *Respect and Protection of Fundamental Rights in the Kyrgyz Republic*, AM. UNIV. OF CENTRAL ASIA 2 (Aug. 2014),

https://www.auca.kg/en/human_rights_and_rule_of_law [hereinafter AUCA Report]. See generally John Engvall, *The Fall of Kyrgyzstan’s Parliamentary Experiment and the Rise of Sadyr Japarov*, THE CENTRAL ASIA-CAUCASUS ANALYST (Jan. 21, 2021), <https://www.cacianalyst.org/publications/analytical-articles/item/13657.html>.

³³ Article 41.2 provided that “everyone shall have the right to apply in accordance with international treaties to international human rights bodies seeking protection of violated rights and freedoms. In the event that these bodies confirm the violation of human rights and freedoms, the Kyrgyz Republic shall take measures to their restoration and/or compensation of damage.” *Kyrgyzstan 2010*, CONSTITUTE PROJECT, https://www.constituteproject.org/constitution/Kyrgyz_Republic_2010 (last visited Feb. 12, 2024) [hereinafter 2010 Constitution of the Kyrgyz Republic].

³⁴ See International Commission of Jurists, *The Birth of a New Advokatura in the Kyrgyz Republic*, ICJ (2016), <https://www.refworld.org/pdfid/57ee88304.pdf>; *Legal Profession Reform Index for the Kyrgyz Republic – Volume II*, AM. BAR ASS’N 5 (July 2014), <https://www.americanbar.org/content/dam/aba/directories/roli/kyrgyzstan/roli-kyrgyz-republic-legal-profession-reform-index-2014.pdf>.

³⁵ *Kyrgyzstan’s Constitution of 2010 with Amendments Through 2016*, CONSTITUTE PROJECT (Apr. 27, 2022) https://www.constituteproject.org/constitution/Kyrgyz_Republic_2016.pdf [hereinafter Amended 2010 Constitution of the Kyrgyz Republic] (stating that “[h]uman rights and freedoms belong to the superior values of the Kyrgyz Republic” and “[t]he Kyrgyz Republic shall respect and ensure human rights and freedoms to all persons on its territory and under its jurisdiction”).

³⁶ See Klara Sooronkulova et. al., *Analysis of the Draft Constitution of the Kyrgyz Republic*, 32-33, FREEDOM FOR EURASIA (Apr. 2021), <https://freedomeurasia.org/report/analysis-of-the-draft-constitution-of-the-kyrgyz-republic/>.

to “[e]nsure respect for fair trial and due process guarantees to all citizens, irrespective of their ethnicity”³⁷ and investigate allegations of torture.³⁸

Due to “deeply flawed parliamentary elections featur[ing] significant political violence and intimidation that culminated in the irregular seizure of power by a nationalist leader and convicted felon who had been freed from prison by supporters,” Freedom House downgraded Kyrgyzstan from “partly free” to “not free” in 2021, an assessment that continued to be reflected in its 2022 and 2023 world reports.³⁹

Human Rights Defenders in Kyrgyzstan

According to Front Line Defenders, Kyrgyzstan has a history of subjecting human rights workers to “smear campaigns, attacks, intimidation, and harassment.”⁴⁰ For example, in 2013, a group of lawyers defending Makhamat Bizurukov, an ethnically Uzbek man, were reportedly beaten in the courtroom by supporters of the alleged victim.⁴¹ Despite requests for security and safety measures, the police, the prosecutor’s office, and the court took no steps to protect the lawyers.⁴² In 2014, the GKNB opened a criminal case against employees of the Advocacy Center for Human Rights, alleging in a complaint that the Center posed a threat to national security because its research could “ignite interethnic conflict.”⁴³ That same year, police officers reportedly beat a human rights lawyer who was visiting a client at the Department of Internal Affairs and then expelled the lawyer from the premises.⁴⁴ There have been no known prosecutions or disciplinary actions taken against these officers.⁴⁵

³⁷ Rep. of the Working Group on the Universal Periodic Review, Kyrgyzstan, at 14, U.N. Doc. A/HRC/44/4 (Mar. 19, 2020), <https://digitallibrary.un.org/record/3863805?ln=en> (quote from the Republic of Korea).

³⁸ *Id.* (recommendation to investigate allegations of torture made by Germany, Italy, Switzerland, Austria, United States).

³⁹ *Freedom in the World 2021: Kyrgyzstan*, FREEDOM HOUSE, <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2021>; *Freedom in the World 2022: Kyrgyzstan*, FREEDOM HOUSE, <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2022>; *Freedom in the World 2023: Kyrgyzstan*, FREEDOM HOUSE, <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2023>.

⁴⁰ *Kyrgyzstan*, FRONTLINE DEFENDERS, <https://www.frontlinedefenders.org/en/location/kyrgyzstan>.

⁴¹ Tatiana Glushkova & Alexandra Poméon O’Neill, *Kyrgyzstan: At a Crossroads: Shrink or Widen the Scene for Human Rights Defenders*, OBSERVATORY FOR THE PROT. OF HUMAN RIGHTS DEFS. 7, 31–32 (June 2016), https://www.omct.org/files/2016/06/23793/kyrgyzstan_mission_report_2016_english.pdf [hereinafter Observatory Report].

⁴² *Id.*

⁴³ Justin Burke, *Kyrgyzstan: Criminal Probe Has Rights Activists on Alert*, EURASIANET (Nov. 10, 2014), <https://eurasianet.org/kyrgyzstan-criminal-probe-has-rights-activists-on-alert>.

⁴⁴ Observatory Report at 32.

⁴⁵ *Id.*

In July 2020, despite international calls for action,⁴⁶ a notable human rights activist, Azimjan Askarov, died in prison serving a life sentence after what Human Rights Watch characterized as “an unfair trial on politically motivated charges.”⁴⁷ Askarov was charged with inciting ethnic hatred, participating in and organizing disorder, taking hostages, and being complicit in murder.⁴⁸ These charges related to the ethnic violence that occurred in southern Kyrgyzstan in 2010 and an incident during which a policeman was killed by demonstrators.⁴⁹ Askarov, an ethnic Uzbek, was an artist and journalist who documented police abuse.⁵⁰

These trends continued in 2021, when there were a growing number of reported cases of intimidation of human rights defenders.⁵¹ For instance, in 2021 the Kyrgyz Interior Ministry admitted to wiretapping dozens of opposition politicians, civil society activists, human rights defenders, and others who publicly challenged the new constitution.⁵²

In 2022, Kyrgyz authorities arrested numerous journalists.⁵³ In January of 2022, for example, police entered the offices of Temirov Live, an independent media outlet, and arrested its director, Bolot Temirov.⁵⁴ Police withdrew a small bag of marijuana from his pocket, which Temirov and onlookers said was planted, and charged him with drug possession.⁵⁵ The raid on the station came two days after it aired an investigation into an alleged corruption scheme that implicated the family of Kamchybek Tashiev, who serves as Chairman of the GKNB.⁵⁶ One month later, on November 23, 2022, Bolot Temirov was

⁴⁶ *Release Azimjan Askarov and quash his conviction, UN human rights experts urge Kyrgyzstan*, UNITED NATIONS HUMAN RIGHTS COMM. (Mar. 16, 2021),

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19853&LangID=E>.

⁴⁷ *Kyrgyzstan: Events of 2020*, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2021/country-chapters/kyrgyzstan#>.

⁴⁸ *Kyrgyzstan: Free Human Rights Defender, Ensure Fair Retrial*, HUMAN RIGHTS WATCH (Sept. 15, 2010), <https://www.hrw.org/news/2010/09/15/kyrgyzstan-free-human-rights-defender-ensure-fair-retrial>.

⁴⁹ *Id.*

⁵⁰ *Kyrgyzstan Must Answer for the Death of Activist Azimjon Askarov*, HUMAN RIGHTS WATCH (Sept. 15, 2010), <https://www.hrw.org/news/2020/07/30/kyrgyzstan-must-answer-death-activist-azimjon-askarov#>.

⁵¹ *No Space for Criticism: Excessive Restrictions on Fundamental Freedoms Across Central Asia*, INT’L P’SHIP FOR HUMAN RIGHTS 7 (Nov. 11, 2021), <https://www.iphronline.org/wp-content/uploads/2021/11/Joint-no-space-for-criticism-paper-November-2021.pdf>.

⁵² *Id.*; RFE/RL’s Kyrgyz Service, *Kyrgyz Interior Ministry Admits Wiretapping of Activists’ Phones*, RADIO FREE EUROPE/RADIO LIBERTY (Sept. 1, 2021), <https://www.rferl.org/a/kyrgyz-wiretapping-activists-phones/31438476.html>.

⁵³ *Kyrgyzstan: Spate of Criminal Cases Against Journalists*, HUMAN RIGHTS WATCH (Apr. 1, 2022), <https://www.hrw.org/news/2022/04/01/kyrgyzstan-spate-criminal-cases-against-journalists#>. See *infra* p. 14.

⁵⁴ Miranda Patrucic, *Press Freedom in Kyrgyzstan Is Headed in the Wrong Direction*, DIPLOMAT, (Mar. 18, 2022), <https://thediplomat.com/2022/03/press-freedom-in-kyrgyzstan-is-headed-in-the-wrong-direction/>.

⁵⁵ *Id.*

⁵⁶ *Id.* Sources use “Kamchibek” and “Kamchybek” when referring to the Chairman of the GKNB.

reportedly deported from Kyrgyzstan to Russia after a court upheld his conviction on the charge of forging an official document.⁵⁷

Similarly, in 2022, Kyrgyz authorities began to limit the scope of the right to assemble and demonstrate, and activities targeting human rights defenders and journalists accelerated. Starting on March 11, following protests near the Russian embassy over its invasion of Ukraine, Bishkek police implemented a one-month ban on holding protests in front of the Russian embassy, as well as at the central square and near key government buildings.⁵⁸ Human Rights Watch called the ban “incompatible with respect for freedom of assembly, as protected by Kyrgyzstan’s international human rights obligations, and its own constitution.”⁵⁹ Later that year, on October 23 and 24, 2022, Kyrgyz authorities detained 28 human rights activists of the self-proclaimed Kempir-Abad Defense Committee and accused them of “preparing for mass riots” in reaction to an unpopular border deal with Uzbekistan.⁶⁰ The detainees were arrested for protesting a Kyrgyz-Uzbek border demarcation deal that saw Kyrgyzstan cede the territory of the Kempir-Abad water reservoir to Uzbekistan in return for 19,000 hectares of land in another region.⁶¹ Many Kyrgyz politicians and civilians alike have opposed the deal, arguing that Kyrgyzstan should retain control over the land and allow Uzbekistan to use the reservoir.⁶² If convicted, the human rights activists could face upwards of 10 years in prison.⁶³

While the Kempir-Abad detainment presents a myriad of human rights concerns, it is particularly troubling in that it demonstrates a crackdown on women activists. Of the 27 detained activists, 6 are women.⁶⁴ These women all spent a minimum of 3 months in

⁵⁷ *Human Rights Defender and Journalist Bolot Temirov Deported*, FRONT LINE DEFENDERS (last accessed Mar. 7, 2023), <https://www.frontlinedefenders.org/en/case/human-rights-defender-and-journalist-bolot-temirov-deported-russia>.

⁵⁸ *Kyrgyzstan: Repeal Protest Ban*, HUMAN RIGHTS WATCH (Mar. 24, 2022), <https://www.hrw.org/news/2022/03/24/kyrgyzstan-repeal-protest-ban>.

⁵⁹ *Id.*

⁶⁰ *Kyrgyzstan: Civil society and rights defenders under threat*, WORLD ORGANIZATION AGAINST TORTURE (Dec. 21, 2022) <https://www.omct.org/en/resources/statements/kyrgyzstan-civil-society-and-rights-defenders-under-threat>.

⁶¹ RFE/RL’s Kyrgyz Service, *Trial of 27 Kyrgyz Border-Deal Detainees Continues, with 11 Defendants Absent*, RADIO FREE EUROPE/RADIO LIBERTY (Oct. 4, 2023), <https://www.rferl.org/a/kyrgyzstan-border-deal-protesters-trial-resumes-defendants-absent/32622746.html>. The raids that led to the arrests “were the largest [raids] targeting government opponents since the eve of the 2010 revolution that unseated Kyrgyzstan’s second president.” Chris Rickleton, *Kyrgyzstan’s Latest Repressive Trend: Women Political Prisoners*, RADIO FREE EUROPE/RADIO LIBERTY (Oct. 25, 2023), <https://www.rferl.org/a/kyrgyzstan-women-political-prisoners-stamping-out-opposition/32653887.html>.

⁶² RFE/RL’s Kyrgyz Service, *Trial of 27 Kyrgyz Border-Deal Detainees Continues, with 11 Defendants Absent*, RADIO FREE EUROPE/RADIO LIBERTY (Oct. 4, 2023), <https://www.rferl.org/a/kyrgyzstan-border-deal-protesters-trial-resumes-defendants-absent/32622746.html>.

⁶³ *Id.*

⁶⁴ Chris Rickleton, *Kyrgyzstan’s Latest Repressive Trend: Women Political Prisoners*, RADIO FREE EUROPE/RADIO LIBERTY (Oct. 25, 2023), <https://www.rferl.org/a/kyrgyzstan-women-political-prisoners-stamping-out-opposition/32653887.html>.

prison before being released into house arrest and now, more than a year later, await their verdicts.⁶⁵ While activism in Kyrgyzstan “often has a female face,”⁶⁶ there exists “a pattern of opposition to events promoting women’s rights.”⁶⁷ For example, in March 2020, Kyrgyz police officers detained roughly 70 activists, most of them women, after they peacefully participated in an International Women’s Day March in Bishkek.⁶⁸ The police neither told the detainees the grounds for the arrests nor provided access to attorneys.⁶⁹

In June 2023, Kyrgyzstan resurrected an amendment that, if passed, would severely restrict the rights and freedom of NGOs by imposing penalties of up to 10 years imprisonment for supporting a domestic or foreign NGO “if the authorities f[ind] that the organization is committing what is vaguely defined as ‘inciting citizens to refuse to perform civic duties or to commit other unlawful deeds.’”⁷⁰ In February 2024, the law passed through its second of three parliamentary hearings.⁷¹ In a joint statement, several human rights organizations expressed that the law contradicts Kyrgyzstan’s international human rights obligations and the right to freedom of expression and of association and assembly, which are protected under the International Covenant for Civil and Political Rights.⁷² The draft law has several provisions that human rights organizations deem to be particularly troubling. For example, the law would require that organizations register as “foreign representatives” if they receive any foreign financial funding and engage in any political activity.⁷³ Also concerning is the broad definition of “political activity,” which extends to “actions aimed at changing state policy and shaping public opinion for these purposes.”⁷⁴ If passed, the law would require registered organizations to include detailed information on their donors,⁷⁵ and it would grant significant power to the Justice Ministry to oversee the activities of “foreign representatives” and access to their financial and organizational

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Kyrgyzstan: Women’s Activists Detained*, HUMAN RIGHTS WATCH (Mar. 11, 2020), <https://www.hrw.org/news/2020/03/12/kyrgyzstan-womens-activists-detained>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Kyrgyzstan: Drop Amendments to NGO Legislation Shackling Right to Freedom of Association*, AMNESTY INT’L (June 16, 2023), <https://www.amnesty.org/en/latest/news/2023/06/kyrgyzstan-drop-amendments-to-ngo-legislation-shackling-right-to-freedom-of-association/>.

⁷¹ RFE/RL’s Kyrgyz Service, *Kyrgyz Lawmakers Approve Second Reading Of Controversial Bill On ‘Foreign Representatives’*, RADIO FREE EUROPE/ RADIO LIBERTY (Feb. 22, 2024), <https://www.rferl.org/a/kyrgyz-controversial-bill-foreign-representatives/32830758.html>.

⁷² *Kyrgyzstan: Parliament Should Reject Bill That Criminalizes and Obstructs Civic Activism*, HUMAN RIGHTS WATCH (Jan. 25, 2024), <https://www.hrw.org/news/2024/01/25/kyrgyzstan-parliament-should-reject-bill-criminalises-and-obstructs-civic-activism>.

⁷³ *Id.*

⁷⁴ Syinat Sultanalieva, *Kyrgyzstan’s Parliament Considering Draft Law To Curb Civil Society*, HUMAN RIGHTS WATCH (Oct. 16, 2023), <https://www.hrw.org/news/2023/10/16/kyrgyzstans-parliament-considering-draft-law-curb-civil-society>.

⁷⁵ *Kyrgyzstan: Parliament Should Reject Bill That Criminalizes and Obstructs Civic Activism*, HUMAN RIGHTS WATCH (Jan. 25, 2024), <https://www.hrw.org/news/2024/01/25/kyrgyzstan-parliament-should-reject-bill-criminalises-and-obstructs-civic-activism>.

documents.⁷⁶ Human Rights Watch calls out this law as a measure that threatens “to silence the voices of organizations that play a crucial role in promoting human rights, democracy, and social justice in Kyrgyzstan.”⁷⁷

Freedom of the Press in Kyrgyzstan

Over the past two years, press freedoms have sharply deteriorated due to a series of government-led attacks against independent media outlets.⁷⁸ In August 2023, Kyrgyz authorities filed a lawsuit to shut down Kloop Media Public Foundation, a non-profit independent media organization.⁷⁹ The lawsuit, which was filed by the Bishkek city Prosecutor’s office, alleges that Kloop, *inter alia*, failed to register as a mass media outlet.⁸⁰ The lawsuit also references a pretrial investigation that was conducted on suspicion that Kloop Media publications violated the nation’s criminal code for publicly making calls for the violent seizure of power online.⁸¹ Multiple representatives of the independent media community in Kyrgyzstan have criticized the lawsuit, claiming that the government’s actions constitute a violation of both the Kyrgyz Constitution and the country’s international human rights obligations.⁸² On February 9, 2024, a court in Kyrgyzstan ordered Kloop to close, indicating that “Kloop’s reporting was having a negative psychological effect on Kyrgyzstan’s people.”⁸³

Furthermore, on January 15, 2024, security officers raided the offices of 24.kg, an independent media outlet and one of Kyrgyzstan’s first online newspapers.⁸⁴ During the raid, security officers detained Asel Otorbaeva, the director of 24.kg, and chief editors

⁷⁶ *Kyrgyzstan: Draft Law Threatens Civic Space*, HUMAN RIGHTS WATCH (June 9, 2023), <https://www.hrw.org/news/2023/06/09/kyrgyzstan-draft-law-threatens-civic-space>; *Kyrgyzstan: Parliament Should Reject Bill That Criminalizes and Obstructs Civic Activism*, HUMAN RIGHTS WATCH (Jan. 25, 2024), <https://www.hrw.org/news/2024/01/25/kyrgyzstan-parliament-should-reject-bill-criminalises-and-obstructs-civic-activism>.

⁷⁷ *Id.*

⁷⁸ *Kyrgyzstan Authorities Raid News Outlets 24.kg and Temirov Live, Arrest Journalists*, COMM. TO PROTECT JOURNALISTS, (Jan. 16, 2024), <https://cpj.org/2024/01/kyrgyzstan-authorities-raid-news-outlets-24-kg-and-temirov-live-arrest-journalists/>.

⁷⁹ *Kyrgyzstan: Authorities’ Attempt to Shut Down Media Outlet is a Dark Day for Press Freedom*, AMNESTY INT’L (Sept. 15, 2023), <https://www.amnesty.org/en/latest/news/2023/09/kyrgyzstan-authorities-attempt-to-shut-down-media-outlet-is-a-dark-day-for-press-freedom/>.

⁸⁰ *Kyrgyzstan: Efforts to Shut Down Independent News Outlet*, HUMAN RIGHTS WATCH (Aug. 30, 2023), <https://www.hrw.org/news/2023/08/30/kyrgyzstan-effort-shut-down-independent-news-outlet>.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Bruce Pannier, *Kloop’s Closure: A Bad Omen For Independent Kyrgyz Media?*, RADIO FREE EUROPE/RADIO LIBERTY (Feb. 18, 2024), <https://www.rferl.org/a/majlis-podcast-kyrgyzstan-kloop-closure/32824634.html>.

⁸⁴ RFE/RL’s Kyrgyz Service, *Director, Editors of Kyrgyz News Website Detained After Offices Searched*, RADIO FREE EUROPE/RADIO LIBERTY (Jan. 15, 2024), <https://www.rferl.org/a/kyrgyzstan-24kg-detentions-otorbaeva-niyazova/32775137.html>.

Anton Lymar and Makhinur Niyazova.⁸⁵ Before she was taken into custody, Niyazova told reporters that the raid and detentions were linked to 24.kg’s publication of an article about Russia’s invasion of Ukraine.⁸⁶ However, the GKNB has yet to release an official statement on the raid or its investigation of 24.kg.⁸⁷

The following day, the Kyrgyz government took further measures to increase pressure on independent media by carrying out raids, targeting several other media outlets and reporters.⁸⁸ The subjects of these raids included numerous current and former journalists with Temirov Live, Ayt Ayt Dese, Alga Media, Archa Media, and Politklinika.⁸⁹ Security officers raided the homes of these journalists, and much like the 24.kg. raid, the officers confiscated equipment and detained several journalists for interrogation.⁹⁰ The officers justified the raids and detentions as part of an “investigation under Article 278.3 of the Criminal Code, which penalizes ‘calls to disobedience and mass riots’” and on January 17, 2024, a Bishkek court ordered that the detained journalists be held in pre-trial detention for two months.⁹¹

These crackdowns coincide with a recent surge in the GKNB’s funding, which has resulted in the opening and expansion of several new GKNB offices.⁹² During a speech at the opening of a new GKNB office, the head of Kyrgyzstan’s security services revealed that the Kyrgyz government had spent over \$2 billion on bolstering the state security apparatus.⁹³

Kyrgyzstan’s Criminal Justice Framework

Kyrgyzstan’s Prosecutor General’s Office (“PGO”) prosecutes both local and national crimes. The Ministry of Internal Affairs is generally tasked with the investigation of general and local crimes, and the GKNB is tasked with matters of national security like terrorism

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Kyrgyzstan: Immediately Cease Harassment of Independent Media*, HUMAN RIGHTS WATCH (Jan 16, 2024), <https://www.hrw.org/news/2024/01/16/kyrgyzstan-immediately-cease-harassment-independent-media>.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *See generally*, Ayzirek Imanaliyeva, *Kyrgyzstan: Security Services Declare All-Out War on Criminal Underworld*, EURASIANET (Oct. 12, 2023), <https://eurasianet.org/kyrgyzstan-security-services-declare-all-out-war-on-criminal-underworld>, (*stating* “For many months now, new premises of the GKNB have been opening up around the country. Last September, Tashiyev said publicly that 50 new security services buildings had been erected. At least 25 modern offices have been built since 2021.”).

⁹³ Ayzirek Imanaliyeva, *Kyrgyzstan: Billions Spent on Preventing Revolutions, Says Security Services Chief*, EURASIANET (Oct. 19, 2023), <https://eurasianet.org/kyrgyzstan-billions-spent-on-preventing-revolutions-says-security-services-chief>.

and corruption.⁹⁴ The GKNB is the successor agency of the Soviet era's intelligence agency, the KGB.⁹⁵ The Kyrgyz government has implemented various reform measures intended to modernize the legal process.⁹⁶ Yet, rights groups have expressed concern that the government "should show its citizens and the world that it still supports strong human rights standards."⁹⁷

The Kyrgyz Constitution aims to safeguard judicial independence and impartiality. However, this may not always hold true in practice. According to the Venice Commission's comments on the draft 2021 Kyrgyz constitution regarding aspects that were adopted into the final version of the constitution, "the [] Constitution introduces a high degree of politicization in the judicial appointment procedure and raises serious concerns of potential undue influence on judicial independence and impartiality."⁹⁸ This is because the president plays a key role in the judiciary, including a pivotal role in the judicial appointment process.⁹⁹

Commentators have asserted that political pressure can result in "telephone justice," the notion that the authorities have the ability to influence a verdict with a mere phone call to a judge.¹⁰⁰ Further, judges also face the threat of prosecution themselves. For example, in 2019, the GKNB pressed charges against three Supreme Court justices for allegedly favoring crime syndicates.¹⁰¹

Local judges may be particularly vulnerable. They are initially appointed for five-year terms, subject to renewal (until reaching the age limit).¹⁰² The Organization for Security and Cooperation in Europe (OSCE), the OSCE Office for Democratic Institutions and

⁹⁴ *2020 Country Reports on Human Rights Practices: Kyrgyz Republic*, U.S. DEP'T OF STATE at 3 (2020), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/kyrgyzstan/> [hereinafter State Department Report 2020].

⁹⁵ James O'Brien, *Signs of Political Motivation Permeate Case Against Kyrgyz Investigative Journalist*, ORGANIZED CRIME & CORRUPTION REPORTING PROJECT, (Jul. 8, 2022), <https://www.occrp.org/en/investigations/signs-of-political-motivation-permeate-case-against-kyrgyz-investigative-journalist#>.

⁹⁶ Sanzhar Beksultanov & Mirfozil Khasanov, *Legal System and Legal Research in the Kyrgyz Republic*, (Mar./Apr. 2021), <https://www.nyulawglobal.org/globalex/Kyrgyz1.html>.

⁹⁷ *Kyrgyzstan: Proposed Legal Changes Threaten Political Dissent*, HUMAN RIGHTS WATCH, (May 3, 2021), <https://www.hrw.org/news/2021/05/03/kyrgyzstan-proposed-legal-changes-threaten-political-dissent>.

⁹⁸ Paolo Carozzo et. al., *Joint Opinion on the Draft Constitution of the Kyrgyz Republic*, VENICE COMMISSION 20-21 (Mar. 19, 2021), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)007-e).

⁹⁹ *Id.* at 19–21; see generally 2021 Const. of the Kyrgyz Republic, art. 95–96 (demonstrating the President's role in the judicial appointment process).

¹⁰⁰ *Kyrgyzstan: The Challenge of Judicial Reform: Asia Report N°150*, INT'L CRISIS GROUP 6 (Apr. 10, 2008) <https://www.crisisgroup.org/europe-central-asia/central-asia/kyrgyzstan/kyrgyzstan-challenge-judicial-reform>.

¹⁰¹ *Freedom in the World 2021: Kyrgyzstan*, FREEDOM HOUSE, <https://freedomhouse.org/country/kyrgyzstan/nations-transit/2023>.

¹⁰² 2021 Const. of the Kyrgyz Republic, Art. 95(7)-(8).

Human Rights (ODIHR), and the Venice Commission have recommended judges be granted lifetime appointments. Specifically, these organizations indicate that the “probationary appointments of judges may violate judicial independence because judges may feel under pressure” to decide cases in a certain manner during this period.¹⁰³ The UN Human Rights Committee (UNHRC) has also criticized five-year term schemes like this as weakening judicial independence.¹⁰⁴

In April 2022, President Sadyr Japarov signed a decree ordering local judges to rotate across the country as part of an effort to reform the judicial system in Kyrgyzstan.¹⁰⁵ The purported purpose of the decree was to “ensure the impeccable work of judges and the high quality of the judicial system.”¹⁰⁶ The President’s power to order the rotation of judges at the local level is reiterated in Article 96 of the new Kyrgyz Constitution, which states that “[t]he transfer (rotation) of a judge of a local court shall be carried out by the President upon the proposal of the President of the Supreme Court in the manner and cases determined by the constitutional law.”¹⁰⁷

¹⁰³ See e.g., Paolo Carozzo et. al., *Joint Opinion on the Draft Constitution of the Kyrgyz Republic*, Venice Commission 21 (Mar. 19, 2021), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)007-e); *Opinion on the Law on the Selection, Performance Evaluation and Career of Judges of Moldova*, OSCE para. 37 (June 13, 2014), <https://www.osce.org/odihr/120208>; OSCE & ODIHR, *Joint Opinion on the Draft Constitution of the Kyrgyz Republic*, VENICE COMMISSION para. 37 (Mar. 19, 2021) [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)007-e); *Opinion on the Draft Law on the Amendments to the Constitution, Strengthening the Independence of Judges and on the Changes to the Constitution proposed by the Constitutional Assembly of Ukraine*, VENICE COMMISSION paras. 16–18 (June 15, 2013), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)014-e).

¹⁰⁴ HRC Concluding Observations: Democratic People’s Republic of Korea, U.N. Doc CCPR/CO/72/PRK (2001), para 8.

¹⁰⁵ *Freedom in the World 2023: Kyrgyzstan*, FREEDOM HOUSE, <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2023>.

¹⁰⁶ Daria Podolskaya, *The President Explained Why Rotation of Judges Was Needed and Promised to Increase Salaries*, 24.KG (Aug. 5, 2022), <https://24.kg/vlast/241603>.

¹⁰⁷ 2021 Const. of the Kyrgyz Republic, art. 96.

B. CASE HISTORY

Who is Kamil Ruziev?

Kamil Ruziev is a human rights defender and acting head of Ventus, a human rights organization based in Karakol,¹⁰⁸ Kyrgyzstan.¹⁰⁹ He also identifies as an Uyghur, an ethnic minority in Kyrgyzstan, and for the past 20 years has worked to defend victims of torture and survivors of domestic abuse.¹¹⁰ In his work, Mr. Ruziev typically advocates for low-income ethnic minorities.¹¹¹ He rarely advertises his services and, often, detainees call him complaining about torture they suffered during detention.¹¹²

Confrontations with Government Authorities and Others

Over the course of his human rights work, Mr. Ruziev has filed numerous torture-related complaints against government officials, including officers of the GKNB, lawyers at the prosecutor's office in Issyk-Kul, and police officers.¹¹³ In fact, in June 2020, Mr. Ruziev filed a total of "14 complaints against the employees of the GKNB and the [Issyk-Kul] prosecutor's office ... to the Karakol city court and the Issyk-Kul regional court."¹¹⁴ Each of those complaints was ultimately dismissed.¹¹⁵

¹⁰⁸ Karakol is the fourth largest city in Kyrgyzstan. Located in the eastern part of the country, Karakol serves as the administrative center of the Issyk-Kul region. Karakol is approximately 250 miles (403 kilometers) away from Bishkek. Traveling from Karakol to Bishkek by bus or car takes approximately six hours.

¹⁰⁹ *Kyrgyzstan: Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020),

https://www.frontlinedefenders.org/sites/default/files/ua_kyrgyzstan_kamil_ruziyev_050620_en.pdf.

¹¹⁰ *Kamil Ruziev HRD, Lawyer (Ventus)*, FRONT LINE DEFS.,

<https://www.frontlinedefenders.org/en/profile/kamil-ruziev#:~:text=Kamil%20Ruziev%20is%20a%20human,and%20victims%20of%20domestic%20violence> (last visited Feb. 10, 2024).

¹¹¹ Kamil Ruziev Interview (Dec. 18, 2023).

¹¹² *See Kamil Ruziev HRD, Lawyer (Ventus)*, FRONT LINE DEFS.,

<https://www.frontlinedefenders.org/en/profile/kamil-ruziev#:~:text=Kamil%20Ruziev%20is%20a%20human,and%20victims%20of%20domestic%20violence> (last visited Feb. 10, 2024).

¹¹³ Case File (Batch 1, pp. 30-33, 37-46); Case File (Batch 2, pp. 70-72); *see also* Daria Podolskaya, *Investigator Threatening Human Rights Defender at Gunpoint Fired*, 24KG (Dec. 25, 2019), https://24.kg/obschestvo/139089_sledovatelya_ugrojavshogo_pistoletom_pravozaschitniku_kamilyu_ruziyevu_uvolili/.

¹¹⁴ *Kyrgyzstan: Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020),

https://www.frontlinedefenders.org/sites/default/files/ua_kyrgyzstan_kamil_ruziyev_050620_en.pdf

¹¹⁵ *Id.*

In 2015, Mr. Ruziev stated that he was threatened by operatives of the Department of Internal Affairs in retaliation for his work with the National Center Against Torture.¹¹⁶ Mr. Ruziev's work at the time focused on alleged torture by police officers at the Karakol pre-trial detention center.¹¹⁷

Most pertinent to the current case are Mr. Ruziev's encounters with the former lead investigator of the Karakol police department, Mr. Bakhtiyar Tokushev. Below is a timeline of relevant events leading up to the GKNB's case against Mr. Ruziev, as described by Mr. Ruziev.

- 2018: Mr. Ruziev advocated for a Palestinian national accused of drug possession.¹¹⁸ Mr. Ruziev accused Mr. Tokushev of being involved with the torture and extortion of this Palestinian national.¹¹⁹
- June 10, 2019: Mr. Tokushev threatened "to kill [Mr. Ruziev]"¹²⁰ with a gun to his head inside the Karakol Internal Affairs Building.¹²¹

¹¹⁶ *Prosecutor and GKNB of the Issyk Kul Region Are Trying to close a Case re: Torture in the Karakol Pre-Trial Detention Center*, VESTI.KG (Apr. 30, 2019), <https://vesti.kg/proisshestviya/item/60775-prokuratura-i-gknb-po-issyk-kulskoj-oblasti-pytayutsya-prikryt-delo-o-pytakh-v-karakolskom-sizo.html>; Aidai Irgebayeva, *GKNB Announced the Detention of Human Rights Defender Kamil Ruziev*, KLOOP (May 30, 2020), <https://kloop.kg/blog/2020/05/30/gknb-soobshhil-o-zaderzhanii-pravozashhitnika-kamilya-ruzieva/?fbclid=IwAR0Np4paCREiYaY68N6eSV0fojrUdEQTfr1ae2QcshxbeJe-z4zxo56J-yM>.

¹¹⁷ *Id.*

¹¹⁸ Olga Fedorchuk, *Human Rights Activist: In the Building of the Karakol Police Station, the Investigator Pulled Out a Pistol and Pointed it at My Head*, VESTI.KG (Dec. 24, 2019), <https://vesti.kg/proisshestviya/item/67363-pravozashchitnik-v-zdani-ovd-karakola-sledovatel-vytashchil-pistolet-i-napravil-na-moyu-golovu.html>.

¹¹⁹ *Id.*; see also Aidai Irgebayeva, *GKNB Announced the Detention of Human Rights Defender Kamil Ruziev*, KLOOP (May 30, 2020), <https://kloop.kg/blog/2020/05/30/gknb-soobshhil-o-zaderzhanii-pravozashhitnika-kamilya-ruzieva/?fbclid=IwAR0Np4paCREiYaY68N6eSV0fojrUdEQTfr1ae2QcshxbeJe-z4zxo56J-yM>.

¹²⁰ *Kyrgyzstan: Drop charges against human rights defender*, INT'L P'SHIP FOR HUMAN RIGHTS (June 12, 2020), <https://www.iphronline.org/kyrgyzstan-drop-charges-against-human-rights-defender.html>.

¹²¹ *Human Rights Defender Kamil Ruziev's Acquittal Overruled*, FRONT LINE DEFS. (Nov. 18, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15522>; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, United Nations: Special Rapporteur on Human Rights Defs. (Dec. 22, 2021), <https://srdefenders.org/kyrgyzstan-kamilzhan-ruziev-allegedly-detained-ill-treated-and-threatened-with-death-by-police-officers-joint-communication>.

- June 12, 2019: Mr. Ruziev was threatened by Mr. Tokushev for the second time.¹²² That same day, Mr. Ruziev filed a complaint against Mr. Tokushev with the Office of the Prosecutor in Karakol City.¹²³
- June 14, 2019: Mr. Tokushev threatened Mr. Ruziev in the Internal Affairs Building.¹²⁴ Mr. Tokushev ordered police to not allow Mr. Ruziev back into the building and demanded he retract his complaint.¹²⁵ Mr. Ruziev filed a second complaint with the Office of the Prosecutor in Karakol.¹²⁶
- November 4, 2019: Mr. Tokushev verbally threatened Mr. Ruziev's life near the Internal Affairs Building.¹²⁷ Following these threats, Mr. Ruziev filed a complaint about Mr. Tokushev's actions with the GKNB.¹²⁸
- December 2019: Mr. Tokushev left his employment but was not prosecuted.¹²⁹ The investigation neither publicly indicated Mr. Tokushev's actions were inappropriate nor identified Mr. Ruziev as a victim.¹³⁰ Mr. Ruziev subsequently filed a series of lawsuits with the Karakol City Court against government authorities, including the GKNB, for failing to adequately respond to his complaints about Mr. Tokushev's conduct.¹³¹
- Early 2020: The Karakol City Court issued an unfavorable ruling against Mr. Ruziev after he missed a procedural deadline related to his efforts to obtain accountability for

¹²² *Human Rights Defender Kamil Ruziev's Acquittal Overruled*, FRONT LINE DEFS. (Nov. 18, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15522>; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹²³ *Human Rights Defender Kamil Ruziev's Acquittal Overruled*, FRONT LINE DEFS. (Nov. 18, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15522>; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹²⁴ Olga Fedorchuk, *Witness in the Case of Kamil Ruziev: "The State Committee for National Security Tricked Me Into Signing a Statement Against Him"*, VESTI.KG (Aug. 3, 2020), <https://vesti.kg/proisshestviya/item/73854-svidetel-nitsa-po-delu-kamilya-ruzieva-v-gknb-obmanom-zastavili-menya-podpisat-pokazaniya-protiv-nego.html>.

¹²⁵ *Id.*

¹²⁶ *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹²⁷ *Id.*

¹²⁸ *Id.*; Letter from Mary Lawlor, Special Rapporteur (Oct. 4, 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26668> [hereinafter Mandates of the Special Rapporteur on the Situation of Human Rights Defenders].

¹²⁹ Podolskaya, *supra*, note 114.

¹³⁰ *Id.*

¹³¹ *Kyrgyzstan: Drop Charges Against Human Rights Defender*, INT'L P'SHIP FOR HUMAN RIGHTS (June 12, 2020), <https://www.iphronline.org/kyrgyzstan-drop-charges-against-human-rights-defender.html>; See Case File (Batch 1, pp. 30–33). See also Mandates of the Special Rapporteur on the Situation of Human Rights Defenders.

Mr. Tokushev's alleged conduct.¹³² In March 2020, the Issyk-Kul Regional Court, the appellate court, re-considered Mr. Ruziev's complaints after he presented a medical certificate explaining that he missed the procedural deadline because he was being treated for acute bronchitis.¹³³

- March 11, 2020: Unbeknownst to Mr. Ruziev, the GKNB opened a case of forgery and fraud against Mr. Ruziev in the Karakol City Court, alleging that he used a forged medical certificate to mislead the judiciary and obtain an extension of the deadline for his cases.¹³⁴ The fraud charge was later dropped.¹³⁵

Pre-Trial (Investigation & Forgery Charge)

This case turns on Mr. Ruziev's submission of a medical certificate to the Issyk-Kul Regional Appellate Court, which was at the time considering whether to extend (or reopen) the deadline he had missed in his cases. The medical certificate, which was dated March 2, 2020, was used to explain that Mr. Ruziev had received medical treatment from January 24 to February 18, 2020¹³⁶—during the period when he would have had to make the filing(s) in question.¹³⁷ During trial, Dr. Gulin Akhmatova explained that she examined Mr. Ruziev at the medical center on January 23, 2020, and diagnosed him with bronchitis—facts that were uncontested at trial.¹³⁸

When Mr. Ruziev presented the medical certificate to the Issyk-Kul Regional Court on March 3, 2020, the court accepted the medical certificate into evidence and granted Mr. Ruziev's request to extend the deadline for certain complaints,¹³⁹ although it ultimately went on to deny some of the others.

The indictment alleges that a nurse forged the medical certificate, writing in false information and that Mr. Ruziev used the medical certificate knowing it was a forged document.¹⁴⁰ The nurse who issued the medical certificate, Kanykei Toktakhunova, was charged with forgery, and Mr. Ruziev was charged with using the allegedly forged document.¹⁴¹

In particular, Mr. Ruziev was accused of violating Part 2 of Article 359 of the Criminal Code of Kyrgyzstan—use of a knowingly false official document.¹⁴² A violation of Part 2 of Article 359 is punishable by imprisonment of the second category, ranging “from two

¹³² Indictment, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Sept. 18, 2020).

¹³³ Mandates of the Special Rapporteur on the Situation of Human Rights Defenders.

¹³⁴ *Id.*; *Kyrgyzstan: Drop Charges Against Human Rights Defender*, CIVIL RIGHTS DEFS. (June 16, 2020), <https://crd.org/2020/06/16/kyrgyzstan-drop-charges-against-human-rights-defender/>.

¹³⁵ *Ombudsman: Human rights defender Kamil Ruziev did not forge documents*, RADIO AZATYK (Oct. 2, 2021), <https://rus.azattyk.org/a/31489307.html>.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Indictment, *supra*, note 133.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Indictment, *supra*, note 133; Crim. Proc. Code of the Kyrgyz Republic art. 359(2).

years six months to five years,” or a fine of the sixth category: 2,600 to 3,000 Kyrgyz Soms (about \$28.06 to \$32.37).¹⁴³

Meanwhile, Ms. Toktakhunova was charged with forgery constituting a violation of Part 1 of Article 359 of the Criminal Code.¹⁴⁴ In particular, she was accused of “adding in the official document falsely deliberate[d] information or editing, which misrepresents its actual content, with purpose to use it by its writer or other person.”¹⁴⁵ A violation of Part 1 of Article 359 is punishable by imprisonment of the second category, ranging “from two years six months to five years.”¹⁴⁶

Pre-Trial (Initial Detention)

The following account of what happened between May 28 and May 31, 2020 is based primarily on an interview with Mr. Ruziev, in which he detailed his pre-trial detention and interactions with authorities. During this period, Mr. Ruziev was, at various times, denied the right to a lawyer of his choosing.

On May 28, 2020, Mr. Ruziev was summoned to the GKNB’s offices, where he was met by several investigators.¹⁴⁷ One of these investigators threatened Mr. Ruziev, saying he would tear him apart for his complaints.¹⁴⁸ Mr. Ruziev did not feel free to leave,¹⁴⁹ as the building’s doors were closed and a security officer stood guard at the door.¹⁵⁰

The investigators sought to record a video confession from Mr. Ruziev for the crime of forgery.¹⁵¹ Mr. Ruziev was confounded because he had not received an indictment or any paperwork regarding the accusation.¹⁵² Mr. Ruziev refused to speak on record and requested a lawyer.¹⁵³ The investigators gave Mr. Ruziev 40 minutes to leave the GKNB office, find a lawyer and return.¹⁵⁴ However, Mr. Ruziev was unable to find a lawyer in such a short period of time.¹⁵⁵ Mr. Ruziev felt a great deal of stress from the ordeal, including anxiety, increased heart rate, an increase in his blood pressure, and a

¹⁴³ Crim. Proc. Code of the Kyrgyz Republic art. 359(2); *id.* at art. 70; *id.* at art. 68.

¹⁴⁴ Indictment, *supra*, note 133; *id.* at art. 359(1).

¹⁴⁵ Indictment, *supra*, note 133; *id.* at art. 359(1).

¹⁴⁶ Crim. Proc. Code of the Kyrgyz Republic art. 359(1); *id.* at art. 70.

¹⁴⁷ Kamil Ruziev Interview (Feb. 10, 2022); Case File (Batch 2, pp. 43–45); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁴⁸ Kamil Ruziev Interview (Feb. 10, 2022); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁴⁹ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁵³ Kamil Ruziev Interview (Feb. 10, 2022); Case File (Batch 2, pp. 43–45, 49–51).

¹⁵⁴ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁵⁵ *Id.*

headache.¹⁵⁶ Consequently, he went to a doctor to conduct a medical examination to identify signs of torture or mistreatment.¹⁵⁷ During the examination, the doctor consulted the Istanbul Protocol¹⁵⁸ and recommended that Mr. Ruziev seek further care from a psychologist.¹⁵⁹ That same evening at around 8 pm, GKNB officers arrived at Mr. Ruziev's home and saw an ambulance parked outside his house.¹⁶⁰ The officers discouraged the medical workers from giving Mr. Ruziev care and instructed Mr. Ruziev to come to the GKNB offices the next morning.¹⁶¹

On the morning of May 29, 2020, Mr. Ruziev went to a psychiatrist and filed a motion with the GKNB asking to delay his appearance at its offices, citing his health problems; the GKNB denied this motion.¹⁶² He also filed a complaint with a prosecutor and investigative court about the GKNB's actions.¹⁶³ That afternoon, the investigative court summoned Mr. Ruziev to take part in a proceeding regarding this complaint, which conflicted with the GKNB's request for his arrival at their offices at roughly the same time.¹⁶⁴

At the court, the investigative judge denied Mr. Ruziev's motion pertaining to the GKNB's actions and seized his passport.¹⁶⁵ Mr. Ruziev's passport was not immediately returned, and he left the courthouse without it.¹⁶⁶ Upon exiting the courthouse at around 4:30 pm on May 29, 2020, Mr. Ruziev was detained by the GKNB, who called him in for a meeting.¹⁶⁷ Mr. Ruziev was told this meeting was to discuss the cases he had filed against the GKNB for failing to investigate harassment by Mr. Tokushev.¹⁶⁸ Ultimately, the GKNB told him that he was being detained because he lacked identification (*i.e.*, the passport

¹⁵⁶ Kamil Ruziev Interview (Dec. 18, 2023).

¹⁵⁷ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁵⁸ The Istanbul Protocol "seeks to fortify the implementation of international norms and preventive tools to assist survivors of torture worldwide." United Nations Office of the High Commissioner for Human Rights, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition)*, UNITED NATIONS (June 29, 2022), <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>.

¹⁵⁹ Kamil Ruziev Interview (Dec. 18, 2023); Kamil Ruziev Interview (Feb. 10, 2022).

¹⁶⁰ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Kamil Ruziev Interview (Feb. 10, 2022); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122; *Signs of Political Motivation Permeate Case Against Kyrgyz Investigative Reporter*, ORGANIZED CRIME AND CORRUPTION REPORTING PROJECT (July 8, 2022), <https://occrp.org/en/investigations/signs-of-political-motivation-permeate-case-against-kyrgyz-investigative-journalist> [hereinafter Organized Crime and Corruption Reporting Project]; *See Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEF. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

¹⁶⁸ Organized Crime and Corruption Reporting Project, *supra*, note 168.

the court had seized), although the arrest record later showed that the GKNB charged Mr. Ruziev with committing the crime of using a forged document.¹⁶⁹ The GKNB officers continued to detain Mr. Ruziev even though he had a copy of his passport with him.¹⁷⁰

As described in more detail below, over the following two days, Mr. Ruziev was kept in detention and interrogated.¹⁷¹ He was also denied access to counsel, and the authorities never clearly explained to him that he was under investigation for forgery.¹⁷²

First, during the late afternoon and evening of May 29, 2020, the GKNB took Mr. Ruziev to the same video interrogation room as they had the day before.¹⁷³ There, they tried to have Mr. Ruziev agree to representation by an attorney who was a former police officer.¹⁷⁴ Sensing a conflict of interest, Mr. Ruziev declined the offer and attempted to find his own counsel.¹⁷⁵ However, by 8:00 pm, he was unable to find an attorney who could represent him.¹⁷⁶

By 11:00 pm, GKNB officers still hadn't clarified for Mr. Ruziev precisely why he was being detained (other than the claim that it was because of his lack of passport).¹⁷⁷ Officers then took him to get medical examinations, which local law requires when putting suspects into temporary detention.¹⁷⁸

The doctors conducting the medical examinations told GKNB officers that Mr. Ruziev should not be detained because he was sick and had high blood pressure, which put him at risk of complications from the stress of detention.¹⁷⁹ Nonetheless, GKNB officers put Mr. Ruziev into a cell where he remembers being cold and left without a blanket.¹⁸⁰ He also remembers officers walking by and peering into his cell.¹⁸¹ During this time, Mr.

¹⁶⁹ Kamil Ruziev Interview (Feb. 10, 2022); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122; *The Issyk-Kul Oblast Court Found Kamil Ruziev's Detention to be Lawful*, BIR DUINO (June 20, 2020), <http://birduino.kg/en/press/the-issyk-kul-oblast-court-found-kamil-ruziev%E2%80%99s-detention-to-be-lawful>.

¹⁷⁰ *The Issyk-Kul Oblast Court Found Kamil Ruziev's Detention to be Lawful*, *supra*, note 170.

¹⁷¹ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*; Kamil Ruziev Interview (Dec. 18, 2023).

¹⁷⁵ Kamil Ruziev Interview (Feb. 10, 2022); Kamil Ruziev Interview (Dec. 18, 2023).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*; Case File (Batch 2, pp. 43–45, 49–51).

¹⁷⁹ Kamil Ruziev Interview (Feb. 10, 2022); see *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122 (“[t]he ambulance doctor reportedly examined him and concluded that he could not be detained due to his health condition. However, the SCNS officials reportedly disregarded the doctor’s opinion and placed Mr. Ruziev in a temporary detention facility for 48 hours . . .”).

¹⁸⁰ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁸¹ *Id.*

Ruziev was also denied access to his blood pressure medication, which was vital in preventing his blood pressure from dangerously increasing.¹⁸² A cumulation of these elements caused Mr. Ruziev to have suicidal ruminations.¹⁸³

To protest his detention conditions, Mr. Ruziev began a hunger strike late in the evening on May 29, 2020.¹⁸⁴ After this, members of his family reportedly brought medicine to his detention site; however, Mr. Ruziev says he never received it.¹⁸⁵

During this time, Mr. Ruziev also wrote an appeal to the Ombudsman and prosecutor's office, but those detaining him took the written appeals and did not deliver them.¹⁸⁶ On May 30, 2020, two officials from the prosecutor's office visited Mr. Ruziev, and he was able to give a written appeal to them.¹⁸⁷ That same evening, representatives from the National Centre for the Prevention of Torture visited Mr. Ruziev in detention.¹⁸⁸ Government authorities allege that there was no deterioration in Mr. Ruziev's health; however, the ambulance was called three times.¹⁸⁹ Healthcare workers arrived and gave Mr. Ruziev medicine.¹⁹⁰ Mr. Ruziev asked them if they could examine him according to the Istanbul Protocol, but they said they could not conduct such an assessment.¹⁹¹

On the morning of May 31, 2020, Mr. Ruziev was transported to a new location.¹⁹² When he asked for his lawyer of choice, Mr. Asantur Moldogaziev, to be present, he was told that his lawyer was not picking up his phone and could not be present.¹⁹³ Mr. Moldogaziev, however, was reportedly standing outside the building and was refused

¹⁸² *Id.*; See *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁸³ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁸⁴ *Id.*; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁸⁵ *Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEFES. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

¹⁸⁶ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁸⁷ *Id.*; Kamil Ruziev Interview (Dec. 18, 2023); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁸⁸ Kamil Ruziev Interview (Feb. 10, 2022); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁸⁹ Summary of Information Regarding Threats Against Human Rights Defender and Lawyer Kamilzhan Ruziev, *supra*, note 5; Kamil Ruziev Interview (Feb. 10, 2022); see *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122 (stating, “[i]n total, on 30 and 31 May 2020, ambulance reportedly visited Mr. Ruziev four times due to his ill health and lack of medications.”);

¹⁹⁰ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁹¹ *Id.*; *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁹² *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁹³ *Id.*; Kamil Ruziev Interview (Feb. 10, 2022).

entry.¹⁹⁴ Given that Mr. Moldogaziev was not present, the GKNB chose a new lawyer, a former police officer, to represent Mr. Ruziev during interrogations on May 31, 2020.¹⁹⁵

The GKNB's chosen lawyer signed various documents along with Mr. Ruziev but refused to provide copies of the documents to Mr. Ruziev.¹⁹⁶ Mr. Ruziev was held in GKNB offices until about 5:00 pm on May 31, 2020, at which point he was brought to a hearing where a crowd of people had gathered, including activists, journalists, and individuals Mr. Ruziev had previously worked with.¹⁹⁷

At this hearing, Mr. Ruziev was informed, for the first time with any clarity, that he was being held due to suspected use of a forged medical certificate¹⁹⁸—despite the fact that the investigation had begun on March 11, 2020 and that he had been detained for nearly three days, with GKNB officers seeking to elicit a confession related to forgery.¹⁹⁹ During this hearing, the judge determined that Mr. Ruziev's previous detention had been lawful, and placed Mr. Ruziev under house arrest for two months, prohibiting him from leaving his residence in Karakol between the hours of 10 pm and 6 am each day.²⁰⁰ The judge also restricted Mr. Ruziev's movement out of the Issyk-Kul region.²⁰¹ The judge based this decision on Articles 107 and 109 of Kyrgyzstan's Criminal Procedure Code.²⁰² Article 107 states that measures of restraint such as house arrest are applied based on the risk of a suspect hiding from authorities, impeding the proceedings, or continuing to engage in criminal activity.²⁰³ Article 109 states that in considering measures of restraint per Article 107, the investigating judge should consider the following factors: the level of suspicion; the accused's identity, age, family situation, state of health, marital status, gender, employment, and other circumstances.²⁰⁴ Given these factors, the judge in Mr. Ruziev's case decided to place Mr. Ruziev under house arrest because of his alleged "grave acts," permanent domicile, "positive characteristics, and occupation."²⁰⁵ The court refused Mr. Ruziev's request for freedom to move within the jurisdiction because of his

¹⁹⁴ Kamil Ruziev Interview (Feb. 10, 2022); *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122.

¹⁹⁵ Kamil Ruziev Interview (Feb. 10, 2022).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*; *Kyrgyzstan: Rights Defender Under House Arrest*, HUMAN RIGHTS WATCH (June 4, 2020), <https://www.hrw.org/news/2020/06/04/kyrgyzstan-rights-defender-under-house-arrest>.

¹⁹⁹ *Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>.

²⁰⁰ *Id.*; Case File (Batch 4, pp. 107–109); Case File (Batch 2, pp. 43–45, 49–51); *Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEFS. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

²⁰¹ Case File (Batch 4, pp. 107–109).

²⁰² *Id.*

²⁰³ *Id.*; Crim. Proc. Code of the Kyrgyz Republic art. 107.

²⁰⁴ Case File (Batch 4, pp. 107–109); Crim. Proc. Code of the Kyrgyz Republic art. 109.

²⁰⁵ Case File (Batch 4, pp. 107–109).

need for medical treatment and his need to see his doctor.²⁰⁶ During the hearing, Mr. Ruziev's attorney, Mr. Moldogaziev, was neither present nor able to communicate with him.²⁰⁷

After the hearing, the GKNB issued a press release stating that Mr. Ruziev was suspected of fraud and forgery.²⁰⁸

Pre-Trial (House Arrest)

On June 2, 2020, less than three days after he began house arrest, Mr. Ruziev was hospitalized due to deteriorating health conditions from his time in detention.²⁰⁹ Mr. Ruziev remained in the hospital, and on June 8, 2020, three security officials from the GKNB entered the hospital ward where he was being treated and attempted to interrogate Mr. Ruziev without his lawyer present.²¹⁰ The GKNB's visit came just two days after Mr. Ruziev released a video from his hospital bed, appealing to the President to dismiss his case.²¹¹ In the video, Mr. Ruziev stated that he believed the case against him was retaliation for his earlier complaints against Mr. Tokushev.²¹²

After his detention hearing on May 31, 2020 in Karakol City Court, Mr. Ruziev appealed the decision to impose house arrest to the Issyk-Kul Regional Court.²¹³ On June 19, 2020, the court partially granted the motion by removing restrictions on Mr. Ruziev's movement at night, however, restrictions on Mr. Ruziev's movement outside of Karakol and the greater Issyk-Kul region remained.²¹⁴

²⁰⁶ *Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>.

²⁰⁷ Kamil Ruziev Interview (Feb. 10, 2022).

²⁰⁸ *Human Rights Defender Kamil Ruziev Sentenced to House Arrest*, FRONT LINE DEFS. (June 5, 2020), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>; *Human rights defenders are persecuted in Kyrgyzstan*, ACCA Media (Mar. 6, 2020), <https://acca.media/en/4817/human-rights-defenders-are-persecuted-in-kyrgyzstan/>; *Victims of the actions of the fraudster Ruziev told their stories*, KOOM PRESS (Mar. 6, 2020), <https://koom.press/ru/news/5066>.

²⁰⁹ *Human Rights Defender Kamil Ruziev Acquitted*, FRONT LINE DEFS. (June 5, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>.

²¹⁰ *Kyrgyzstan: Drop charges against human rights defender*, INT'L P'SHIP FOR HUMAN RIGHTS (June 12, 2020), <https://www.iphronline.org/kyrgyzstan-drop-charges-against-human-rights-defender.html>.

²¹¹ Aidai Irgebai, *Anti-torture activist Kamil Ruziev appealed to the president*, KLOOP (June 6, 2020), <https://kloop.kg/blog/2020/06/06/borets-protiv-pytok-kamil-ruziev-obratilsya-k-prezidentu>.

²¹² *Id.*

²¹³ *Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEFS. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

²¹⁴ Case File (Batch 2, pp. 43–45); *The Issyk-Kul Oblast Court Found Kamil Ruziev's Detention to be Lawful*, *supra*, note 170.

Additionally, in June 2020 the government took steps to create a narrative against Mr. Ruziev. For example, the GKNB distributed a video in which former recipients of Mr. Ruziev's services accused him of fraud and extortion.²¹⁵

On July 23, 2020, the Karakol City Court considered a motion by the Issyk-Kul prosecutor to prolong the restraint measure against Ruziev (*i.e.*, the ban on leaving the Issyk-Kul region).²¹⁶ The court granted the motion, maintaining travel restrictions until September 29, 2020.²¹⁷

On September 18, 2020, the GKNB formally indicted Mr. Ruziev for knowingly using a forged official document, violating Article 359(2) of the Kyrgyz Criminal Code.²¹⁸ The indictment accused Ms. Toktakhunova (the nurse) of creating a "fake medical certificate dated on March 2, 2020 which states that from January 24 to February 18, 2020 [Mr. Ruziev] was under outpatient treatment."²¹⁹ The indictment concluded that Mr. Ruziev's actions "mis[led] the judiciary of [the] Kyrgyz Republic."²²⁰

Pre-Trial Proceedings

October 22, 2020: The first substantive hearing took place. The presiding judge would go on to oversee hearings for Mr. Ruziev's trial until August 2021.²²¹ At the hearing, Mr. Ruziev's attorney requested a certified copy of Mr. Ruziev's medical card, which is a form of identification used when checking into hospitals on which physicians list visit dates, diagnoses, and treatments prescribed.²²² The medical card would be used to prove that Mr. Ruziev received treatment at the Issyk-Kul Regional Center of Family Medicine from January 24 to February 18, 2020, treatment which was the basis for the medical certificate that was issued on March 2, 2020. The medical card was also necessary to allow Mr. Ruziev to undergo a psychological evaluation, which Mr. Ruziev hoped would serve as evidence that authorities abused him while detained. There were no objections to the

²¹⁵ Munduzbek Kalykov, *Case of Kamil Ruziev: Expert examination confirms that human rights activist did not forge medical certificate*, Kloop (Oct. 1, 2021), <https://kloop.kg/blog/2021/10/01/delo-kamilya-ruzieva-ekspertiza-podtverdila-chto-pravozashhitnik-ne-poddelyval-medspravku/>; Aijamal Dzhamankulov, *The GKNB disseminated a video accusing Kamil Ruziev of fraud. One of the witnesses has already dropped her claims against the human rights defender*, KLOOP (June 3, 2020), <https://kloop.kg/blog/2020/06/03/gknb-rasprostranil-video-gde-kamilya-ruzieva-obvinyayut-v-moshennichestve-odna-iz-svidetelnits-uzhe-otkazalas-ot-pretenzij-k-pravozashhitniku>; *Victims of the actions of the fraudster Ruziev told their stories*, KOOM PRESS (June 3, 2020), <https://koom.press/ru/news/5066>. One of said videos was reposted to YouTube. See Azat Ruziev, *June 4, 2020*, YOUTUBE (June 13, 2020), <https://www.youtube.com/watch?v=tKuldP2S0AQ>.

²¹⁶ Case File (Batch 2, pp. 49–51).

²¹⁷ *Id.*

²¹⁸ Indictment, *supra*, note 133.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ Trial Monitoring (Sept. 7, 2021).

²²² Trial Monitoring (Oct. 22, 2020).

issuance of a copy of the medical card.²²³ The judge granted a request from defense counsel to loosen Mr. Ruziev’s travel restraint, allowing him to travel outside of Karakol city and the Issyk-Kul region.²²⁴ The judge also granted defense counsel’s request for a handwriting expert’s analysis of the allegedly forged medical certificate.²²⁵

November 4, 2020: At this preliminary hearing, handwriting samples were collected from Mr. Ruziev and Ms. Toktakhunova, the nurse.²²⁶ A follow-up hearing was set for February 18, 2021,²²⁷ but the February 18, 2021 hearing was rescheduled to March 9, 2021 because Mr. Ruziev’s counsel was unavailable.²²⁸

Trial I

March 9, 2021: Mr. Ruziev’s trial officially commenced with the reading of the Indictment into the court record.²²⁹ Mr. Ruziev and Ms. Toktakhunova pled not guilty.²³⁰ The proceedings were postponed because individuals the court sought to call as witnesses—such as Dr. Akmatova, Mr. Ruziev’s doctor at the medical center where the medical certificate was issued, and a court secretary who had received the allegedly forged medical certificate for the regional court on March 3, 2020—were not present.²³¹ Moreover, Mr. Ruziev moved for recusal on grounds that the prosecutor had a conflict of interest because he investigated Mr. Ruziev’s complaint regarding the GKNB’s infringements of his rights and inaction.²³² Ultimately, Mr. Ruziev’s motion was denied.²³³ The next hearing was scheduled for March 29, 2021.²³⁴

March 29, 2021: The hearing was postponed to April 12, 2021 because Mr. Ruziev’s counsel was unable to travel from Bishkek to Karakol (a six-hour drive) for the hearing.²³⁵

April 12, 2021: The hearing was postponed to April 28, 2021 because witnesses, including Dr. Akmatova and the court secretary, as well as others, were not present.²³⁶

April 28, 2021: Dr. Akmatova, Mr. Ruziev’s doctor at the clinic, testified that Ms. Toktakhunova called her stating that Mr. Ruziev came in to get a medical certificate.²³⁷ Dr.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ Trial Monitoring (Nov. 4, 2020).

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ Trial Monitoring (Mar. 9, 2021).

²³⁰ *Id.*

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

²³⁴ *Id.*

²³⁵ Trial Monitoring.

²³⁶ *Id.*

²³⁷ Trial Monitoring (Apr. 28, 2021).

Akmatova was in training in a different city and allowed Ms. Toktakhunova to issue the medical certificate.²³⁸ Dr. Akmatova admitted that she erred by not specifying the duration of time to be put on the note.²³⁹ However, she confirmed that she saw Mr. Ruziev on January 23, 2020, and diagnosed him with acute bronchitis, directing him to return in five days for follow-up, but Dr. Akmatova explained that Mr. Ruziev did not return.²⁴⁰ Dr. Akmatova also clarified the medical certificate issuance procedure: certificates are issued after treatment is complete and can be issued by a nurse, but only a doctor can sign.²⁴¹ Ms. Toktakhunova then testified that she directed Mr. Ruziev to follow up and obtain a physician's signature on the certificate.²⁴² The medical certificate at issue bore only the standard stamp issued by the clinic.²⁴³ The next hearing was scheduled for May 18, 2021.²⁴⁴

May 18, 2021: The hearing was postponed to June 3, 2021 because Mr. Ruziev's counsel had a conflicting legal proceeding in a different city.²⁴⁵

June 3, 2021: The judge questioned Zhanybekov Azat Zhanybekovich, who served as court secretary during the March 3, 2020 hearing in which the purportedly fabricated medical certificate was used.²⁴⁶ He testified that during the hearing, Mr. Ruziev handed him the certificate, which he then gave to the judges.²⁴⁷ Yet, later in the hearing, Mr. Zhanybekovich said he could neither remember who gave the judges the note nor what was written on it.²⁴⁸ Two other witnesses, Stamova Mahabat, a former secretary of the court at which Mr. Ruziev used the medical certificate, and Mr. Sagymbaev, a supervisor at the Family Medical Center where Mr. Ruziev got the medical certificate, were absent.²⁴⁹ The court granted a motion by Mr. Ruziev's lawyer to compel the two absent witnesses to be present at the next hearing, which was set for June 15, 2021.²⁵⁰

June 15, 2021: The two witnesses, Ms. Mahabat and Mr. Sagymbaev, were again absent.²⁵¹ The handwriting expert report confirmed that Ms. Toktakhunova, not Mr. Ruziev, wrote the medical certificate and explained that the identity of the author of the

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ Trial Monitoring (May 18, 2021).

²⁴⁶ Trial Monitoring (June 3, 2021).

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ Trial Monitoring (June 15, 2021).

date on the medical certificate (March 2, 2020) could not be discerned due to the small sample size of the writing.²⁵² The next hearing was set for July 2, 2021.²⁵³

July 2, 2021: The hearing was postponed to July 21, 2021 because Mr. Ruziev and his lawyer were absent.²⁵⁴

July 21, 2021: The judge postponed the hearing to July 30, 2021 due to the absence of Mr. Ruziev and his lawyer.²⁵⁵ The judge stated that he was not selected to serve a second term, so his work on the case would conclude in August 2021.²⁵⁶

July 30, 2021: The judge retrieved a sealed packet containing a copy of Mr. Ruziev's medical card from the Center for Psychological Health.²⁵⁷ However, the judge said that he could not read the medical handwriting and that the packet did not contain documents confirming Mr. Ruziev's treatment in Bishkek.²⁵⁸ After Mr. Ruziev stated that he had documents confirming his treatment in Bishkek, the judge postponed proceedings to August 4, 2021.²⁵⁹

August 4, 2021: An incident occurred which Mr. Ruziev suggested was an intentional effort to prevent him from arriving on time to this hearing. Specifically, before his trial, police officers insisted that he join them to "sign something."²⁶⁰ Mr. Ruziev agreed to attend to this matter because the investigator promised to bring Mr. Ruziev back in time for his hearing.²⁶¹ However, at some point during the car ride, it appeared that the investigator was driving off course, at which point, Mr. Ruziev demanded he turn around and return.²⁶² The investigator did not stop driving until they were far into the countryside.²⁶³ At that point, the investigator stopped the car and claimed it had broken down.²⁶⁴ During this time, the court continued to wait for Mr. Ruziev to arrive, but by the time he was able to make it back to the hearing, the electricity in the courtroom had been cut and the hearing concluded.²⁶⁵ The hearing was postponed to August 17, 2021.²⁶⁶

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ Trial Monitoring (July 2, 2021).

²⁵⁵ Trial Monitoring (July 21, 2021).

²⁵⁶ *Id.*

²⁵⁷ Trial Monitoring (July 30, 2021).

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEFS. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

²⁶¹ *Id.*; Trial Monitoring (Aug. 4, 2021).

²⁶² Kamil Ruziev Interview (Feb. 10, 2022).

²⁶³ *Id.*; Trial Monitoring (Aug. 4, 2021).

²⁶⁴ Kamil Ruziev Interview (Feb. 10, 2022); Trial Monitoring (Aug. 4, 2021).

²⁶⁵ Kamil Ruziev Interview (Feb. 10, 2022); Trial Monitoring (Aug. 4, 2021).

²⁶⁶ Trial Monitoring (Aug. 4, 2021).

August 17, 2021: The hearing was postponed to September 7, 2021 as the judge fell sick.²⁶⁷

August 25, 2021: The judge's term expired rendering him unable to rule on Mr. Ruziev's case and requiring a new judge to be reassigned to the matter.²⁶⁸

Trial II

The trial was scheduled to start anew on September 7, 2021, however, the trial was again re-scheduled to October 6, 2021 so that it could be properly assigned to a criminal judge rather than an investigative judge.²⁶⁹ Eventually, Mr. Ruziev's case was assigned to a new judge and the next hearing was set for October 6, 2021.²⁷⁰

October 2, 2021: The Issyk-Kul Region Ombudsman Institute, an independent government body that acts as a human rights watchdog, announced that it had conducted an expert analysis and concluded that Mr. Ruziev did not forge the medical certificate in question.²⁷¹

October 6, 2021: The hearing was postponed to October 27, 2021, as the new (and second) judge was sick.²⁷²

October 27, 2021: Mr. Ruziev's case was reassigned to a third judge.²⁷³ The October 27, 2021 hearing was rescheduled to November 11, 2021 on account of Mr. Ruziev's counsel being absent.²⁷⁴

November 11, 2021: The hearing was rescheduled to November 29, 2021 because the co-defendant, Ms. Toktakhunova, was absent.²⁷⁵

November 29, 2021: A hearing was held in which all parties were present, but none of the witnesses were present.²⁷⁶ Mr. Ruziev made a motion to seek a psychological examination in order to establish evidence that the GKNB's behavior while detaining him amounted to torture or ill-treatment.²⁷⁷ Mr. Ruziev also moved to attach to the case file documents which pertained to written inquiries that Mr. Ruziev had made to various government departments seeking amnesty for his charge and redress for his

²⁶⁷ Trial Monitoring.

²⁶⁸ Notice, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Sept. 7, 2021).

²⁶⁹ Trial Monitoring (Sept. 7, 2021).

²⁷⁰ Trial Monitoring (Sept. 7, 2021).

²⁷¹ *Ombudsman: Human rights defender Kamil Ruziev did not forge documents*, RADIO AZATYK (Oct. 2, 2021), <https://rus.azattyk.org/a/31489307.html>.

²⁷² Trial Monitoring (Oct. 6, 2021).

²⁷³ Trial Monitoring (Oct. 27, 2021).

²⁷⁴ *Id.*

²⁷⁵ Trial Monitoring (Nov. 11, 2021).

²⁷⁶ Trial Monitoring (Nov. 29, 2021).

²⁷⁷ *Id.*

mistreatment.²⁷⁸ The judge granted Mr. Ruziev's motion to attach the documents but denied his motion to seek a psychological examination.²⁷⁹ Mr. Ruziev, his counsel, and the co-defendant Ms. Toktakhunova then urged the court to issue summonses to the witnesses, as witness absences had already caused significant delay to the trial.²⁸⁰ The judge rejected the request for summonses and said the prosecutor was responsible for ensuring the witnesses attend.²⁸¹ The next hearing was scheduled for December 14, 2021.²⁸²

December 14, 2021: The judge granted Mr. Ruziev's motion to reschedule the hearing, as he was undergoing psychological evaluation in Bishkek.²⁸³ The hearing was rescheduled to December 29, 2021.²⁸⁴

December 29, 2021: The hearing was postponed to January 24, 2022 because Mr. Ruziev's lawyer was absent.²⁸⁵ Mr. Ruziev's co-defendant and the co-defendant's lawyer were also absent.²⁸⁶

January 24, 2022: Mr. Ruziev's lawyer and the lawyer of the co-defendant were absent, so the hearing was postponed until February 8, 2022.²⁸⁷

February 8, 2022: The hearing was postponed because the judge was sick.²⁸⁸ The date for the next hearing was set for March 10, 2022.²⁸⁹

March 10, 2022: The testimony from Dr. Akmatova at the April 28, 2021 hearing was admitted into evidence.²⁹⁰ However, the judge did not admit into evidence the testimony of Zhanybekov Azat Zhanybekovich, the court secretary who testified on June 3, 2021.²⁹¹ The judge issued a summons for three witnesses— Ms. Mahabat, Mr. Sagymbaev, and Zhanybekov Azat Zhanybekovich—to attend the next hearing, which was scheduled for March 30, 2022.²⁹²

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ Trial Monitoring (Dec. 14, 2021).

²⁸⁴ *Id.*

²⁸⁵ Trial Monitoring (Dec. 29, 2021).

²⁸⁶ *Id.*

²⁸⁷ Trial Monitoring (Jan. 24, 2022).

²⁸⁸ Trial Monitoring (Feb. 8, 2022).

²⁸⁹ Trial Monitoring (Mar. 10, 2022).

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

March 30, 2022: Mr. Ruziev was in attendance, but his lawyer, co-defendant, and co-defendant's lawyer were all absent.²⁹³ Therefore, the judge postponed the hearing to April 12, 2022.²⁹⁴

April 12, 2022: The hearing did not take place after attorneys on both sides convened and conferred to reschedule.²⁹⁵ The next hearing was set to take place the following day, April 13, 2022.²⁹⁶

April 13, 2022: The hearing did not take place because the judge fell sick.²⁹⁷ The next hearing was scheduled for April 29, 2022.²⁹⁸

April 29, 2022: The hearing was rescheduled to May 18, 2022, because Mr. Ruziev's lawyer, co-defendant, and co-defendant's lawyer were all absent.²⁹⁹

May 18, 2022: The hearing was postponed as all parties were absent.³⁰⁰ The hearing was held in the chamber of a newly appointed judge for criminal cases.³⁰¹ The new judge (the fourth judge assigned to this matter) was appointed in connection with the rotation of judges throughout the republic.³⁰² The new judge read Mr. Ruziev's motion to the court from several days before.³⁰³ Mr. Ruziev moved to postpone the hearing because his counsel could not travel from Bishkek, and he believed the judge should have more time to study the case materials.³⁰⁴ The next hearing date was set for June 7, 2022.³⁰⁵

June 7, 2022: The hearing was rescheduled because the new judge was abroad for one month on a business trip.³⁰⁶ A fifth judge was appointed to replace the fourth judge during this business trip.³⁰⁷ The next hearing was scheduled for June 29, 2022.³⁰⁸

²⁹³ Trial Monitoring (Mar. 30, 2022).

²⁹⁴ *Id.*

²⁹⁵ Trial Monitoring (Apr. 12, 2022).

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ Trial Monitoring.

²⁹⁹ Trial Monitoring (Apr. 29, 2022).

³⁰⁰ Trial Monitoring (May 18, 2022).

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ Trial Monitoring.

³⁰⁶ Trial Monitoring (June 7, 2022).

³⁰⁷ *Id.*

³⁰⁸ *Id.*

June 29, 2022: The hearing was adjourned because two key witnesses, Mr. Sagymbaev and Ms. Mahabat, were absent.³⁰⁹ The next hearing was scheduled for July 28, 2022, by which time the fourth judge would return from the business trip.³¹⁰

July 28, 2022: The hearing was rescheduled for August 2, 2022 because of the absence of Mr. Ruziev's counsel.³¹¹

August 2, 2022: The hearing was postponed until the next day because two witnesses, Ms. Mahabat and Mr. Sagymbayev, were absent.³¹²

August 3, 2022: The hearing was postponed until the next day because a key witness, Mr. Sagymbayev was absent.³¹³ The prosecutor confirmed that Mr. Sagymbayev would be present the next day.³¹⁴

August 4, 2022: Mr. Sagymbayev was in attendance and testified.³¹⁵ After hearing both sides, the judge set a date for closing arguments and the announcement of the judgment.³¹⁶ The next hearing was scheduled for August 12, 2022.³¹⁷

August 12, 2022: The fourth judge acquitted Mr. Ruziev and co-defendant Ms. Toktakhunova of their charges, for lack of *corpus delicti*.³¹⁸ The court explained that the actions of Ms. Toktakhunova did not violate Article 359 of Criminal Procedure Code because the medical note could not be recognized as an official document, as it failed to meet the criteria prescribed by law.³¹⁹ Further, the judgment asserted that the prosecution failed to provide any evidence of forgery and, in turn, failed to prove Mr. Ruziev's use of a forged document.³²⁰ The judgment noted that the charges brought "[were] not proven by anything and [were] based on assumptions, which by law [could not] be the basis for a conviction."³²¹ The court also noted that, under Part 2 of Article 134 of the Criminal Procedure Code, as an acquitted person, Mr. Ruziev had a right of rehabilitation, which Part 1 of Article 134 defines as "the right to compensation for property damage, elimination of the consequences of moral damage and restoration of labor, pension, housing and other rights" and explicitly includes the principle that "[d]amage caused to an

³⁰⁹ Trial Monitoring (June 29, 2022).

³¹⁰ *Id.*

³¹¹ Trial Monitoring (July 28, 2022).

³¹² Trial Monitoring (Aug. 2, 2022).

³¹³ Trial Monitoring (Aug. 3, 2022).

³¹⁴ *Id.*

³¹⁵ Trial Monitoring (Aug. 4, 2022).

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ Judgment, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Aug. 12, 2022); Trial Monitoring (Aug. 12, 2022).

³¹⁹ Judgment, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Aug. 12, 2022).

³²⁰ *Id.*

³²¹ *Id.*

individual as a result of criminal prosecution is compensated in full by the state.”³²² The prosecution appealed the acquittal.³²³

October 11, 2022: A hearing on the prosecution’s appeal against the acquittal was held.³²⁴ The courtroom was not equipped with an audio-visual device, so Mr. Ruziev moved to allow audio-video recording.³²⁵ The court partially agreed, allowing audio recording throughout the hearing and photos only when a verdict was announced.³²⁶ Mr. Ruziev also moved to attach to the case file the written appeals he made to state authorities, in which he explained that the prosecutor’s office fabricated the case against him.³²⁷ The court granted his motion to attach the documents.³²⁸ Ultimately, the acquittal was overturned.³²⁹ Mr. Ruziev and Ms. Toktakhunova were found guilty and sentenced to fines of 80,000 and 70,000 Kyrgyz Soms, respectively, with Mr. Ruziev’s fine corresponding roughly to 900 USD.³³⁰ The court reasoned that the medical certificate contained all the signs of an official document, that it was forged, and that Mr. Ruziev “repeatedly provided [the certificate] to the judicial collegium” under the “guise of a genuine one,” which misled authorities.³³¹ Mr. Ruziev appealed the verdict.³³²

January 10, 2023: A hearing at the Supreme Court of Kyrgyzstan on Mr. Ruziev’s appeal against the Issyk-Kul Regional Court’s guilty verdict was held.³³³ The hearing was attended by representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Ombudsman, representatives of the European Union Embassy, Bir Duino (a local NGO), journalists and civil society activists.³³⁴ After testimonies from all parties, the judicial panel overturned the guilty verdict and reinstated the Karakol City Court’s decision, finding “the judicial act of the trial court legal, founded, and subject to being upheld.”³³⁵ In its rationale, the Court explained that the appeals court erred in its finding that the medical certificate met the legal definition for an official document under paragraph 21 of Appendix No. 1 to the Criminal Code of Kyrgyzstan.³³⁶ Moreover, the Court agreed with the trial court’s conclusion that there was a lack of evidence concerning a forged document and Mr. Ruziev’s use of said forged document, and noted the requirement of “exact compliance of procedural documents with the norms

³²² *Id.*

³²³ Appeal, Kyrgyz Republic Prosecutor’s Office of Issyk-Kul Region (Aug. 25, 2022).

³²⁴ Trial Monitoring (Oct. 11, 2022).

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

³³¹ Verdict, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Oct. 11, 2022).

³³² Cassation Appeal to the Supreme Court of the Kyrgyz Republic, Appellant.

³³³ Monitoring 1 Report (Jan. 10, 2023).

³³⁴ *Id.*

³³⁵ Ruling of the Supreme Court of the Kyrgyz Republic (Jan. 10, 2023).

³³⁶ *Id.*

of the criminal-procedure law.”³³⁷ The Court also noted that it was bound by a strict observance of the “principle of presumption of innocence . . . according to which any doubts about the guilt of the defendant . . . shall be interpreted in his favor.”³³⁸ The Court thus acquitted Mr. Ruziev and his co-defendant of all charges.³³⁹

Mr. Ruziev’s Cases Against the Government

In September 2020, Mr. Ruziev sought to file suit against the GKNB for his mistreatment during the May 2020 detention period.³⁴⁰ However, Mr. Ruziev reported that the case was not registered in the court’s system suggesting that the court did not review it.³⁴¹ He also stated that the GKNB visited him in bed at a hospital where he was receiving treatment and directed him to sign an acknowledgment that the case was closed.³⁴²

Mr. Ruziev appealed the matter to a military prosecutor as well as to the Issyk-Kul Regional Appellate Court.³⁴³ But both appeals were unsuccessful, for the military prosecutor’s office of Balykchy garrison decided to terminate the pretrial proceedings for lack of corpus delicti in March 2021.³⁴⁴ Beyond the complaints related to this specific interaction, Mr. Ruziev has stated that, as of February 10, 2023, he has filed over 100 total complaints against various government officials.³⁴⁵ Today, over one year after his acquittal by the Supreme Court, Mr. Ruziev continues to submit complaints against various government agencies for their treatment before and during his forgery trial.³⁴⁶

Harassment Outside of the Courtroom

In an interview with Radio Azattyk on January 14, 2022, Mr. Ruziev disclosed that doctors at his local regional medical center had deregistered him, his wife, and his teenaged daughter.³⁴⁷ Therefore, they were unable to receive medical care or get medication prescribed at hospitals within their locality.³⁴⁸ In order to seek medical care, Mr. Ruziev

³³⁷ *Id.*

³³⁸ *Id.*

³³⁹ *Id.*

³⁴⁰ Summary of Information Regarding Threats Against Human Rights Defender and Lawyer Kamilzhan Ruziev, *supra*, note 5.

³⁴¹ Kamil Ruziev Interview (Feb. 10, 2022).

³⁴² *Id.*

³⁴³ *Id.*

³⁴⁴ Summary of Information Regarding Threats Against Human Rights Defender and Lawyer Kamilzhan Ruziev, *supra*, note 5.

³⁴⁵ *Id.*; Kamil Ruziev Interview (Dec. 18, 2023).

³⁴⁶ Kamil Ruziev Interview (Dec. 18, 2023).

³⁴⁷ Zamira Kozhobaeva, “Putting pressure on the family.” *Human Rights activist appealed to the president*, RADIO AZATTYK (Jan. 14, 2022), <https://rus.azattyk.org/a/31654260.html>.

³⁴⁸ Kamil Ruziev Interview (Feb. 10, 2022).

and his family were required to travel and find hospitals that had not been notified to reject them.³⁴⁹

Mr. Ruziev has also expressed that proceedings have taken a serious toll on his professional life as a human rights defender. Given the lengthy and frequent nature of these proceedings, Mr. Ruziev has been unable to devote consistent time to his professional work.³⁵⁰ This issue was further compounded by restrictions on his freedom of movement.³⁵¹

³⁴⁹ *Id.*

³⁵⁰ *Id.*

³⁵¹ *Id.*

METHODOLOGY



A. THE MONITORING PHASE

The USC International Human Rights Clinic monitored Mr. Ruziev's trial as part of the Clooney Foundation for Justice's TrialWatch Initiative. The Clinic worked with two monitors on the ground who attended and documented the case's hearings in Kyrgyzstan. The monitors witnessed Mr. Ruziev's proceedings in person and did not experience any impediments in observing these hearings. Professor Steve Swerdlow also examined a number of legal and news-related sources to gain a coherent picture of the facts surrounding the case.

B. THE ASSESSMENT PHASE

Professor Steve Swerdlow evaluated the trial's fairness and arrived at a grade. Professor Steve Swerdlow is a human rights lawyer and expert on the former Soviet Union. He is also a former Senior Central Asia researcher at Human Rights Watch who founded its Kyrgyzstan field office and was based in Bishkek for various time periods between 2010 and 2019. Professor Swerdlow is currently an Associate Professor of the Practice of Human Rights in the Department of Political and International Relations at the University of Southern California. As part of his work on this case, Professor Swerdlow analyzed the case file, trial monitor reports, and notes from interviews with Mr. Ruziev, Mr. Ruziev's son, regional experts, and defense counsel to assess the trial's fairness.

These materials provided Professor Swerdlow with a factual record to review and evaluate the trial's fairness under human rights law. Professor Swerdlow then evaluated the trial against the following components of the right to a fair trial: the right to be presumed innocent; the right to be informed of the charges; the right against double jeopardy; the right to be tried without undue delay; the right to be tried by a competent, independent and impartial tribunal established by law; the right to counsel; the right to prepare a defense; the right to a public trial; the right to be present; the right to examine witnesses; and the right to appeal, including the right to a public, reasoned judgment. He also assessed the facts against the right to be treated with humanity.

Professor Swerdlow found multiple fair trial violations in Mr. Ruziev's case. First, despite the lack of an acceptable reason for such detentions, Mr. Ruziev was detained on May 28, 2020, again from May 29 to May 31, 2020, and subject to house arrest. The lack of adequate reasons made these detentions arbitrary. Second, while in pre-trial detention, Mr. Ruziev was not made aware of the reasons for his arrest, resulting in a violation of his right to be informed promptly of reasons for arrest. Third, Mr. Ruziev was interrogated without an attorney present and denied access to an attorney during his initial detention and at his detention hearing. Fourth, Mr. Ruziev was denied medicine crucial to his health,

likely amounting to inhumane treatment as well as cruel, inhuman, or degrading treatment or punishment. Fifth, Mr. Ruziev's right to be presumed innocent was violated by the government's video accusing him of fraud and extortion. Finally, Mr. Ruziev's trial appears to have been an abuse of the judicial process, as the authorities seem to have used the trial as pretext to punish Mr. Ruziev for complaints against the government and discourage him from pursuing further human rights work.

A grade was then assigned using the methodology in the Annex to this report.

ANALYSIS



A. APPLICABLE LAW

This report draws primarily on the International Covenant on Civil and Political Rights (ICCPR), to which Kyrgyzstan is a party; jurisprudence from the UN Human Rights Committee (UNHRC), which monitors implementation of the ICCPR; and the Kyrgyz Constitution, Criminal Code, and Criminal Procedure Code. In addition, while Kyrgyzstan is not party to the European Convention on Human Rights (ECHR), jurisprudence from the European Court of Human Rights (ECtHR) offers persuasive authority where relevant.³⁵² For sections relating to Mr. Ruziev’s deteriorating health while in custody and denial of access to medical care, the report also references the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which Kyrgyzstan is party, as well as concluding observations by the UN Committee Against Torture, which monitors state implementation of the CAT.

B. INVESTIGATION AND PRE-TRIAL STAGE VIOLATIONS

Kyrgyz authorities violated the ICCPR when they detained Mr. Ruziev without adequate justification. Mr. Ruziev was not made aware of the reasons for his arrest in a timely manner, and he was denied the right to an attorney during pre-trial interrogations. In addition, Mr. Ruziev’s right to humane treatment was likely violated, and he was likely subject to cruel, inhuman, or degrading treatment or punishment when prison guards failed to provide him with vital medicine. Mr. Ruziev’s right to be presumed innocent was also violated when the government took steps to create a narrative against him when GKNB officials distributed a video in which former recipients of Mr. Ruziev’s services accused him of fraud and extortion.

Arbitrary Detention

Article 9(1) of the ICCPR provides that “[n]o one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”³⁵³ Accused persons should be subjected to pre-trial detention for as minimal a time as possible.³⁵⁴ Furthermore, pre-

³⁵² Kyrgyzstan is not a member of the Council of Europe, although it does collaborate with the Council on regional initiatives. See “Central Asia,” COUNCIL OF EUROPE, <https://www.coe.int/en/web/programmes/central-asia>, (last visited Feb. 11, 2024).

³⁵³ ICCPR art. 9(1).

³⁵⁴ Human Rights Committee, *Cedeño v. Bolivarian Republic of Venezuela*, U.N. Doc. CCPR/C/106/D/1940/2010, Dec. 4, 2012, § 7.10.

trial detention's "purpose and extent must be preventative as opposed to punitive."³⁵⁵ Authorities should only detain a suspect before trial when "there are 'specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty.'"³⁵⁶ International human rights bodies have clarified that the prosecution has the burden of proving that such indications of public interest necessitate detaining the suspect before trial.³⁵⁷ Justifications for pre-trial detention include risk that the suspect will flee, risk that the suspect will commit further crimes, and risk that the suspect will tamper with evidence.³⁵⁸

In *Mikhail Marinich v. Belarus*, the UN Human Rights Committee found that a political rival of Belarus's president suffered a violation of his rights under ICCPR Article 9(1) when Belarus's national security agency, the KGB, imprisoned him prior to trial without demonstrating that he posed a risk of flight, committing further crimes, or tampering with evidence.³⁵⁹ Furthermore, *Yklymova v. Turkmenistan* shows that house arrest can constitute an Article 9 violation as well. In this case, the Human Rights Committee found that a political prisoner's Article 9(1) rights were violated when authorities placed the complainant under prolonged house arrest without considering whether it was justified based on flight risk, risk of recurrence of crime, or risk of evidence tampering; in fact, the authorities in Turkmenistan imposed this house arrest without any legal basis at all.³⁶⁰

From May 28, 2020 until he was taken to the courthouse and informed of the charges on May 31, 2020, Mr. Ruziev faced periods of detention.³⁶¹ The prosecution justified Mr. Ruziev's detention on May 29, 2020 by citing his failure to carry his passport; however, as Mr. Ruziev notes, his passport had been seized by the court itself to verify his identity.³⁶²

³⁵⁵ Amal Clooney & Philippa Webb, *THE RIGHT TO A FAIR TRIAL IN INTERNATIONAL LAW*, at 231, Oxford University Press (2021).

³⁵⁶ *Id.* (citation omitted).

³⁵⁷ See, e.g., *Islam v. Bangladesh*, Op. No. 66/2012, U.N. Doc. A/HRC/WGAD/2012/66, Aug. 7, 2013, §§ 50-53; see also *Prosecutor v. Muthaura*, Case No. ICC-01/09-02-11, Decision on Prosecutor's Application for Summonses to Appear, Mar. 8, 2011, § 55; ICC Statute art. 60(3); ICC Rules of Procedure and Evidence 118(2).

³⁵⁸ Human Rights Committee, *Mikhail Marinich v. Belarus*, U.N. Doc. CCPR/C/99/D/1502/2006, Aug. 19, 2010, § 10.4; Human Rights Committee, *Smanster v. Belarus*, U.N. Doc. CCPR/C/94/D/1178/2003, Oct. 23, 2008, § 10.3.

³⁵⁹ Human Rights Committee, *Mikhail Marinich v. Belarus*, U.N. Doc. CCPR/C/99/D/1502/2006, Aug. 19, 2010, § 10.4.

³⁶⁰ Human Rights Committee, *Yklymova v. Turkmenistan*, U.N. Doc. CCPR/C/96/D/1460/2006, July 20, 2009, § 7.2.

³⁶¹ *Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFES. (June 5, 2020), https://www.frontlinedefenders.org/sites/default/files/ua_kyrgyzstan_kamil_ruziyev_050620_en.pdf.

³⁶² Kamil Ruziev Interview (Feb. 10, 2022); *The Issyk-Kul Oblast Court Found Kamil Ruziev's Detention to be Lawful*, *supra*, note 170..

On May 31, 2020, the Karakol City Court of the Issyk-Kul region determined that Mr. Ruziev's detention was lawful and placed him under house arrest.³⁶³ The court stated in its judgement that it had considered Mr. Ruziev's "grave acts,"³⁶⁴ the fact that he had a permanent domicile, and "his positive characteristics, and occupation."³⁶⁵ But similar to *Mikhail Marinich v. Belarus* and *Yklymova v. Turkmenistan*, the court here made its judgment despite the prosecution's failure to provide evidence that the suspect posed a flight risk, would likely commit further crimes, or would likely tamper with evidence.

Therefore, Mr. Ruziev's detention and subsequent house arrest were arbitrary, constituting a violation of ICCPR Article 9(1).

Right to Be Promptly Informed of Reasons for Arrest

Article 9(2) of the ICCPR states that, "[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him."³⁶⁶ The reasons for arrest "must include not only the general legal basis of the arrest, but also enough factual specifics to indicate the substance of the complaint, such as the wrongful act and the identity of an alleged victim. . . . That information must be provided immediately upon arrest."³⁶⁷ In *Kelly v. Jamaica*, the UN Human Rights Committee stated that an Article 9(2) violation occurred when the accused was "not informed about the facts of the crime in connection with which he was detained."³⁶⁸ The right to be promptly informed of the reasons for arrest is also found in Kyrgyzstan's Constitution, which provides that, "[e]very detained person shall be informed without delay of the reasons for the detention."³⁶⁹

In this case, the GKNB initially told Mr. Ruziev that he was being detained because he did not have his passport with him.³⁷⁰ The GKNB detained Mr. Ruziev despite the fact that his passport had been seized by another branch of government, namely the investigative court.³⁷¹ It was not until after Mr. Ruziev's detention from May 29 to 31, 2020,

³⁶³ *Kyrgyzstan: Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020),

https://www.frontlinedefenders.org/sites/default/files/ua_kyrgyzstan_kamil_ruziyev_050620_en.pdf; Case File (Batch 4, pp. 107–109); Case File (Batch 2, pp. 43–45, 49–51); *Human rights defender Kamil Ruziev acquitted*, FRONT LINE DEFS. (Sept. 13, 2022), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-15393>.

³⁶⁴ Case File (Batch 4, pp. 107–109).

³⁶⁵ *Id.*

³⁶⁶ ICCPR art. 9(2).

³⁶⁷ Human Rights Committee, General Comment No. 35, U.N. Doc. CCPR/C/GC/35, Dec. 16, 2014, §§ 25, 27 [hereinafter HRC General Comment No. 35].

³⁶⁸ Human Rights Committee, *Kelly v. Jamaica*, U.N. Doc CCPR/C/41/D/253/1987, Sept. 15, 1987, § 5.8.

³⁶⁹ 2021 Const. of the Republic of Kyrgyzstan, art. 59(5).

³⁷⁰ Kamil Ruziev Interview (Feb. 10, 2022); *The Issyk-Kul Oblast Court Found Kamil Ruziev's Detention to be Lawful*, *supra*, note 170.

³⁷¹ Kamil Ruziev Interview (Feb. 10, 2022).

during which he went on hunger strike, that the GKNB informed Mr. Ruziev of the real issue—allegations that he had used a forged medical certificate.³⁷²

By detaining Mr. Ruziev without informing him of the legal basis of the arrest or factual specifics underlying the complaint, such as the allegedly wrongful act, the authorities violated his rights under ICCPR Article 9(2).

Right to Counsel

According to international human rights law, defendants are entitled to choose their counsel freely, and authorities should only block a defendant's choice of counsel when "relevant and sufficient grounds" exist.³⁷³ Article 14(3)(b) of the ICCPR protects the right "to communicate with counsel of [one's] own choosing."³⁷⁴ The UN Human Rights Committee's General Comment 32 states "[t]he right to communicate with counsel requires that the accused is granted prompt access to counsel."³⁷⁵ In *Gridin v. Russian Federation*, the Committee found "that denying the author access to legal counsel after he had requested such access and interrogating him during that time constitutes a violation of the author's rights under [ICCPR] article 14, paragraph 3(b)."³⁷⁶ In *Luciano Weinberger Weisz v. Uruguay*, the Committee found that a defendant's rights under ICCPR Article 14(3) were violated because he was tried without his lawyer present.³⁷⁷ The right to counsel is echoed by the Kyrgyz Constitution, which provides that a person should "have qualified legal assistance from a lawyer," from "the moment of detention."³⁷⁸

In an interview with the Clinic, Mr. Ruziev said that when the authorities detained him, they subjected him to interrogations and tried to coerce him into making confessions while denying him the right to counsel of his choosing.³⁷⁹ Specifically, Mr. Ruziev said that on May 28, 2020, GKNB officials brought him into their offices, where it was clear he was not free to leave.³⁸⁰ There, according to Mr. Ruziev, they tried to coerce him into giving a confession on camera.³⁸¹ When Mr. Ruziev said he wanted a lawyer, the GKNB officials

³⁷² *Kyrgyzstan: Rights Defender Under House Arrest*, HUMAN RIGHTS WATCH (June 4, 2020), <https://www.hrw.org/news/2020/06/04/kyrgyzstan-rights-defender-under-house-arrest>.

³⁷³ See European Court of Human Rights, *Dvorski v. Croatia*, App. No. 25703/11, Oct. 20, 2015, §§ 78-79, 89, 94-99.

³⁷⁴ ICCPR art. 14(3)(b).

³⁷⁵ Human Rights Committee, General Comment No. 32, U.N. Doc. CCPR/C/GC/32, Aug. 23, 2007, § 34 [hereinafter HRC General Comment No. 32].

³⁷⁶ Human Rights Committee, *Gridin v. Russian Federation*, Comm. No. 770/1997, June 27, 1996, § 8.5.

³⁷⁷ Human Rights Committee, *Luciano Weinberger Weisz v. Uruguay*, U.N. Doc. Supp. No. 40 (A/36/40), May 8, 1978, § 16.

³⁷⁸ 2021 Constitution of the Republic of Kyrgyzstan, art. 59(5).

³⁷⁹ Kamil Ruziev Interview (Feb. 10, 2022); *Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEF. (June 5, 2020), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>.

³⁸⁰ Kamil Ruziev Interview (Feb. 10, 2022).

³⁸¹ *Id.*

gave him only 40 minutes to find one.³⁸² This was not enough time, and Mr. Ruziev was unable to find counsel.³⁸³

Furthermore, Mr. Ruziev told the Clinic that a similar series of events occurred on May 29, 2020, when GKNB officials tried to make Mr. Ruziev video-record a confession without the presence of counsel and then gave him an insufficient amount of time to find counsel when he invoked the right to representation.³⁸⁴ Using *Gridin v. Russian Federation* as guidance, and noting that Mr. Ruziev's account is corroborated by sources such as Front Line Defenders³⁸⁵ these incidents constitute a violation of ICCPR Article 14(3)(b) because the authorities tried to interrogate Mr. Ruziev without his counsel present. In addition, they did not provide him with adequate time to obtain a lawyer of his choosing upon his request for legal counsel.

Indeed, Mr. Ruziev's attorney of choice, Mr. Moldogaziev, was willing to represent him on May 31, 2020, but the GKNB did not allow him into the GKNB building.³⁸⁶ Furthermore, the GKNB lied to Mr. Ruziev about why Mr. Moldogaziev was not present, saying he was not answering his phone.³⁸⁷ The GKNB then provided Mr. Ruziev with a lawyer who was a former police officer.³⁸⁸

Finally, during the court hearing on May 31, 2020, in which the Karakol City Court found Mr. Ruziev's detention from May 29 to May 31, 2020 permissible and placed him under house arrest, Mr. Ruziev was neither represented by nor able to communicate with his attorney.³⁸⁹ Here, once again, Kyrgyz authorities violated Mr. Ruziev's rights under ICCPR Article 14, denying him access to and the ability to communicate with counsel.

Inhumane Treatment; Cruel, Inhuman or Degrading Treatment or Punishment

While in detention, Mr. Ruziev was denied access to critical medication to maintain his health.³⁹⁰ There are several provisions in international law that protect prisoners' rights to access necessary medical treatment or medicine. ICCPR Article 10 provides that "all

³⁸² *Id.*

³⁸³ *Id.*

³⁸⁴ *Id.*

³⁸⁵ *Human rights defender Kamil Ruziev sentenced to house arrest*, FRONT LINE DEFS. (June 5, 2020), <https://www.frontlinedefenders.org/en/case/human-rights-defender-kamil-ruzievs-acquittal-overruled#case-update-id-11675>.

³⁸⁶ Kamil Ruziev Interview (Feb. 10, 2022).

³⁸⁷ *Id.*

³⁸⁸ *Id.*

³⁸⁹ *Id.*

³⁹⁰ Kamil Ruziev Interview (Feb. 10, 2022); See *Kyrgyzstan: Kamilzhan Ruziev allegedly detained, ill-treated and threatened with death by police officers (joint communication)*, *supra*, note 122 (stating "[h]e was also allegedly denied the medication and medical assistance he needed.").

persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”³⁹¹ In addition, Article 16 of the CAT provides that:

Each state party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.³⁹²

The UN Human Rights Committee has explained that the ICCPR Article 10 obligation to treat individuals deprived of their liberty with respect for the inherent dignity of the human person “encompasses the provision of adequate medical care during detention.”³⁹³ For example, in *Raul Sendic Antonaccio v. Uruguay*, the UN Human Rights Committee held that the state violated ICCPR Article 10 when guards denied a prisoner medical attention after the prisoner suffered ill-treatment in prison. The Committee ruled that the denial of medical treatment constituted a failure to treat the prisoner with humanity and respect for his inherent dignity.³⁹⁴

The UN Committee Against Torture has also voiced concern for instances involving insufficient medical services available to prisoners.³⁹⁵ In addition, the UN Special Rapporteur on the Right to Health and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment issued a joint statement in 2008 affirming that the failure to provide access to pain medicine threatens fundamental rights to health and protection against cruel, inhuman and degrading treatment, and that states should ensure essential medicines to detainees.³⁹⁶

In Mr. Ruziev’s case, doctors who performed his pre-detention examination on May 29, 2020, informed GKNB investigators that Mr. Ruziev had high blood pressure and was at

³⁹¹ ICCPR art. 10(1).

³⁹² CAT art. 16(1).

³⁹³ Human Rights Committee, *Pinto v. Trinidad and Tobago*, U.N. Doc. CCPR/C/39/D/232/1987, Aug. 21, 1990, § 12.7.

³⁹⁴ Human Rights Committee, *Raul Sendic Antonaccio v. Uruguay*, U.N. Doc. Supp. No. 40 (A/37/40), Nov. 28, 1979, § 20.

³⁹⁵ See CAT, Concluding Observations on Japan, U.N. Doc. CAT/C/JPN/CO/1, Aug. 3, 2007, § 17; CAT, Concluding Observations on Croatia, U.N. Doc. CAT/C/CR/32/3, June 11, 2004, § 8; CAT, Concluding Observations on Chile, U.N. Doc. CAT/C/CR/32/5, June 14, 2004, § 7; CAT, Concluding Observations on Moldova, U.N. Doc. CAT/C/CR/30/7, 2003, § 5.

³⁹⁶ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, Juan E. Méndez, U.N. Doc. A/HRC/22/53, Feb. 1, 2013, § 56, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf (citing Joint letter to the Chairperson of the fifty-second session of the Commission on Narcotic Drugs, 2008, p. 4).

risk for severe complications from imprisonment.³⁹⁷ Despite this notice, Mr. Ruziev was denied his medication, held in a cold, windowless room with no blankets, and suffered suicidal ideations as a result of this treatment.³⁹⁸ Given these facts, the GKNB's treatment of Mr. Ruziev likely violated CAT Article 16. Further, like the prisoner in *Raul Sendic Antonaccio v. Uruguay*, who was denied medical attention after ill-treatment in prison, the government's withholding of Mr. Ruziev's medicine likely violated Mr. Ruziev's rights under ICCPR Article 10 as the government failed to treat him with humanity and respect for his inherent dignity.³⁹⁹

Right to Presumption of Innocence

After the authorities charged Mr. Ruziev on May 31, 2020 with knowingly using a forged official document, GKNB officials distributed a video in early June 2020 in which three former recipients of Mr. Ruziev's services accused him of fraud and extortion.⁴⁰⁰ In the video, one of Mr. Ruziev's former associates claims that Mr. Ruziev engaged in extortion, demanding exorbitant sums of money for his services so that he could build a new bathhouse.⁴⁰¹ Later, this same woman gave an interview in which she recanted her accusation against Mr. Ruziev and said the GKNB had brow-beaten her into voicing these claims in the video.⁴⁰²

This smear effort by government officials amounts to a violation of ICCPR Article 14(2), which protects the right "to be presumed innocent until proved guilty according to law."⁴⁰³ The UN Human Rights Committee's General Comment 32 states that, "[i]t is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused."⁴⁰⁴ As such, "[t]he media should avoid news coverage undermining the presumption of innocence."⁴⁰⁵ Further, even though states are not generally responsible for the acts of private media, they can be responsible for a violation when "state authorities' own 'wrongful conduct or omission'

³⁹⁷ Kamil Ruziev Interview (Feb. 10, 2022).

³⁹⁸ *Id.*

³⁹⁹ Human Rights Committee, *Raul Sendic Antonaccio v. Uruguay*, U.N. Doc. Supp. No. 40 (A/37/40), Nov. 28, 1979, § 20.

⁴⁰⁰ *See supra*, note 216.

⁴⁰¹ Aijamal Dzhambankulov, *The GKNB disseminated a video accusing Kamil Ruziev of fraud. One of the witnesses has already dropped her claims against the human rights defender*, KLOOP (June 3, 2020), <https://kloop.kg/blog/2020/06/03/gknb-rasprostranil-video-gde-kamilya-ruzieva-obvinyayut-v-moshennichestve-odna-iz-svidetelnits-uzhe-otkazalas-ot-pretenzij-k-pravozashhitniku/>.

⁴⁰² *Id.*; Munduzbek Kalykov, *Case of Kamil Ruziev: Expert examination confirms that human rights activist did not forge medical certificate*, KLOOP (Oct. 1, 2021), <https://kloop.kg/blog/2021/10/01/delo-kamilya-ruzieva-ekspertiza-podtverdila-chto-pravozashhitnik-ne-poddelyval-medspravku/>.

⁴⁰³ ICCPR art. 14(2).

⁴⁰⁴ HRC General Comment No. 32, § 30.

⁴⁰⁵ *Id.*

contributed to a virulent media campaign” that infringed on the rights the accused.⁴⁰⁶ The Committee has found that ICCPR Article 14(2) was violated in similar cases, such as *Gridin v. Russian Federation*, in which a defendant’s right to the presumption of innocence was violated when radio stations and newspapers announced the defendant’s guilt before trial.⁴⁰⁷ Here, Mr. Ruziev’s Article 14(2) right to the presumption of innocence was likewise violated, as the GKNB’s video suggested that Mr. Ruziev engaged in fraud before trial. Similarly, in *Karadag v. Turkey*, a defendant’s right to the presumption of innocence was violated in part when public authorities allowed media outlets to access a crime scene, enabling the media to film a reconstruction of the crime and impersonate the defendant.⁴⁰⁸ Likewise, in Mr. Ruziev’s case, it was the GKNB’s own conduct—the distribution of the video—that launched the smear campaign that violated Mr. Ruziev’s rights under Article 14(2).

C. VIOLATIONS AT TRIAL

Abuse of Process

While the UN Human Rights Committee has yet to establish clear criteria for assessing whether a case constitutes an abuse of process, it has made clear that it considers detention for the exercise of protected rights to be arbitrary.⁴⁰⁹ Further, Article 26 of the ICCPR protects Mr. Ruziev’s right to equal protection under the law without discrimination on the grounds of “political or other opinion.”⁴¹⁰

In this regard, the ECtHR jurisprudence may be instructive. Specifically, Article 18 of the ECHR⁴¹¹ holds the “restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been

⁴⁰⁶ Amal Clooney & Philippa Webb, *THE RIGHT TO A FAIR TRIAL IN INTERNATIONAL LAW*, at 223, Oxford University Press (2021) (citing to ECtHR, *Claes v. Belgium*, App. Nos 46825/ 99 & others, June 2, 2005, § 47 (unofficial translation)).

⁴⁰⁷ Human Rights Committee, *Gridin v. Russian Federation*, U.N. Doc. CCPR/C/69/D/770/1997, July 20, 2000, §§ 3.5, 8.3.

⁴⁰⁸ AMAL CLOONEY, *supra*, note 407.

⁴⁰⁹ Human Rights Committee, *Khadzhiyev v. Turkmenistan*, U.N. Doc. CCPR/C/122/D/2252/2013, May 24, 2018, § 7.7; *see also* Human Rights Committee, *Nasheed v. Maldives*, U.N. Doc. CCPR/C/122/D/2851/2016, Apr. 4, 2018, § 8.7 (“The State party has not refuted the author’s allegations that the judicial proceedings against him, and the measures taken within the proceedings in 2012-2013, cumulatively, were used as a means of preventing him from campaigning for the 2013 presidential elections, such as twice arresting him to interrupt campaign trips and denying his request to be authorized to travel to other islands and abroad in connection with the political campaign.”).

⁴¹⁰ ICCPR art. 26.

⁴¹¹ Article 18 is applied in conjunction with other rights enshrined by the ECtHR. European Court of Human Rights, *Gusinskiy v. Russia*, App. No. 70276/01, May 19, 2004, § 73.

prescribed.”⁴¹² Thus, the Court has recognized situations in which prosecutions were brought for “ulterior motives,” such as to silence political rivals.⁴¹³

To evaluate whether a trial is motivated by ulterior or improper purposes, the ECtHR examines circumstantial evidence such as the case’s broader political context,⁴¹⁴ the existence of “political impetus behind the charges,”⁴¹⁵ whether reasonable suspicion existed for the prosecution to conclude the charges were true,⁴¹⁶ the court’s independence from the executive branch and other authorities,⁴¹⁷ and the manner in which the trial proceeded.⁴¹⁸

For example, in *Kavala v. Turkey*, using the above factors and considering the broader political context of a human rights crackdown in Turkey, the ECtHR found that the Turkish government, in detaining a human rights defender for more than two years, acted with the ulterior purpose of “reduc[ing] him to silence.”⁴¹⁹ Similarly, in *Navalnyy v. Russia*, the ECtHR used the above factors with particular consideration of the conduct of proceedings—as the defendant had been repeatedly arrested for implausible reasons—

⁴¹² European Convention on Human Rights art. 18.

⁴¹³ Amal Clooney & Philippa Webb, *THE RIGHT TO A FAIR TRIAL IN INTERNATIONAL LAW*, at 734, Oxford University Press (2021).

⁴¹⁴ European Court of Human Rights, Guide on Article 18 of the European Convention of Human Rights: Limitations on Use of Restrictions and Rights, Aug. 31, 2018, § 106,

https://www.echr.coe.int/Documents/Guide_Art_18_ENG.pdf (citing European Court of Human Rights, *Merabishvili v. Georgia*, App. No. 72508/13, Nov. 28, 2017, § 322; European Court of Human Rights, *Khodorkovskiy v. Russia*, App. No. 5829/04, May 31, 2011, § 257; European Court of Human Rights, *Khodorkovskiy and Lebedev v. Russia*, App. Nos. 11082/06 and 13772/05, July 25, 2013, § 901; European Court of Human Rights, *Nastase v. Romania*, App. No. 80563/12, Nov. 18, 2014, § 107; European Court of Human Rights, *Rasul Jafarov v. Azerbaijan*, App. No. 69981/14, Mar. 17, 2016, §§ 159-161; European

Court of Human Rights, *Mammadli v. Azerbaijan*, App. No. 47145/14, Apr. 19, 2018, § 103; European Court

of Human Rights, *Rashad Hasanov and Others v. Azerbaijan*, App. No. 148653/13, June 7, 2018, § 124).

⁴¹⁵ European Court of Human Rights, Guide on Article 18 of the European Convention of Human Rights: Limitations on Use of Restrictions and Rights, Aug. 31, 2018, § 85; European Court of Human Rights, *Merabishvili v. Georgia*, App. No. 72508/13, 28 Nov. 28, 2017, § 320.

⁴¹⁶ European Court of Human Rights, Guide on Article 18 of the European Convention of Human Rights, Limitations on Use of Restrictions and Rights, Aug. 31, 2018, § 106, https://www.echr.coe.int/Documents/Guide_Art_18_ENG.pdf; European Court of Human Rights, *Cebotari v Moldova*, App. No. 3561/06, Nov. 13, 2007, § 52; European Court of Human Rights, *Ilgar Mammadov v. Azerbaijan*, App. No. 15172/13, May 22, 2014, § 187.

⁴¹⁷ European Court of Human Rights, Guide on Article 18 of the European Convention of Human Rights, Limitations on Use of Restrictions and Rights, Aug. 31, 2018, § 106,

https://www.echr.coe.int/Documents/Guide_Art_18_ENG.pdf; European Court of Human Rights, *Merabishvili v. Georgia*, App. No. 72508/13, 28 Nov. 28, 2017, § 324.

⁴¹⁸ European Court of Human Rights, Guide on Article 18 of the European Convention of Human Rights, Limitations on Use of Restrictions and Rights, Aug. 31, 2018, § 106,

https://www.echr.coe.int/Documents/Guide_Art_18_ENG.pdf; European Court of Human Rights, *Navalnyy v. Russia*, App. No. 29580/12, Nov. 15, 2018, § 171.

⁴¹⁹ European Court of Human Rights, *Kavala v. Turkey*, App. No. 28749/18, Dec. 10, 2019, § 230.

to find that charges against a political rival and critic of Russian president Vladimir Putin had been brought for the ulterior purpose of “suppress[ing] ... political pluralism.”⁴²⁰

Here, the political context in which Mr. Ruziev’s trial took place is one in which Kyrgyzstan’s democratic safeguards are being chipped away by a populist leader who came to power after a disputed election marked by violent demonstrations. New laws aim to muzzle civil society and curtail freedom of the press, and a new Constitution undermines checks and balances to grant increased power to the executive. While there is no overt connection between Mr. Ruziev’s case and Kyrgyzstan’s leaders, the recent direction of the country’s politics may have given local authorities the impression that human rights defenders can be persecuted with impunity, and as such the local authorities were improperly motivated to prosecute without consequence.

In fact, it is at the local level that we see “political impetus.” The GKNB charged Mr. Ruziev after repeated altercations with Mr. Tokushev, the former lead investigator of the Karakol police department. In these disputes, Mr. Ruziev had accused Mr. Tokushev of being involved in torture and extortion, serious allegations that put into question the legitimacy of the local government.⁴²¹ Mr. Tokushev compounded the situation by reportedly intimidating Mr. Ruziev with a gun, and Mr. Ruziev subsequently filed a legal complaint against him.⁴²² Then, Mr. Ruziev filed a complaint against the GKNB for failing to sufficiently reprimand Mr. Tokushev and failing to provide Mr. Ruziev with a remedy.⁴²³ The GKNB’s indictment of Mr. Ruziev for forgery followed shortly thereafter, suggesting an improper motive.

Regarding the question of whether reasonable suspicion really existed for the prosecution to conclude the charges were true, evidence indicates that Mr. Ruziev followed a standard procedure for procuring a medical certificate. Because Mr. Ruziev followed a standard process in getting the medical certificate that a reasonable member of the public would likely have found adequate, the charge against him is at best incorrect (as confirmed by his acquittal outcome) or, worse, an arbitrary application of the law. Furthermore, the regional Ombudsman Institute, a government human rights watchdog, analyzed the medical certificate in question and declared that Mr. Ruziev did not forge it.⁴²⁴ Finally, a handwriting expert hired by the court likewise found that Mr. Ruziev did not write the text on the certificate.⁴²⁵

Regarding the court’s independence from the executive branch and other authorities, a substantial delay in the proceedings occurred, at least in part, because of Kyrgyzstan’s

⁴²⁰ European Court of Human Rights, *Navalnyy v. Russia*, App. No. 29580/12, Nov. 15, 2018, § 175.

⁴²¹ Fedorchuk, *supra*, note 125.

⁴²² *Id.*

⁴²³ *Id.*

⁴²⁴ *Ombudsman: Human Rights defender Kamil Ruziev did not forge documents*. RADIO AZATYK (Oct. 2, 2021), <https://rus.azattyk.org/a/31489307.html>.

⁴²⁵ Trial Monitoring (June 15, 2021).

system for appointing and governing the tenure of local judges. Kyrgyzstan limits the tenure of local judges to five years, thus subjecting judges to reappointment and depriving the judiciary of sufficient independence.⁴²⁶ The term of the original judge assigned to this case, who seemed like he may have been ready to rule on Mr. Ruziev's case in August 2021, was not extended. Once this judge was removed and another was assigned the case, many aspects of the trial had to restart, causing the trial to drag on for many more months and cycle through several different judges.

The brevity of the term of office for Kyrgyz judges is inconsistent with international standards.⁴²⁷ The office of the UN Special Rapporteur on the Independence of Judges and Lawyers maintains that judges should have lifetime tenure, as this ensures independence from other branches of government.⁴²⁸ The UN Human Rights Committee has criticized countries that limit judges' terms to five or seven years, as this damages "the independence of the judiciary by denying security of tenure."⁴²⁹

While this lack of institutional independence may not have directly affected Mr. Ruziev's case—in that, it is possible that the first judge would have ruled in his favor, before his term expired, and the fourth judge ultimately did acquit him—this lack of institutional independence was one of the reasons why the trial dragged on for more than two years.

As previously explained, the financial resources and time commitment that went into this dragged-out trial made it more difficult for Mr. Ruziev to continue his practice as a human rights defender in Kyrgyzstan. And while it is true that some of the trial's delays were brought about by absences of Mr. Ruziev and his attorney, other delays were the result of what Mr. Ruziev believes to have been official meddling. Perhaps the most egregious example of this was the series of events on August 4, 2021, when a hearing was scheduled and the first judge seemed like he might issue a final ruling on Mr. Ruziev's case. Local authorities reportedly made Mr. Ruziev get into a car and then drove him into the countryside so he could not get to his hearing on time.⁴³⁰ The electricity then shut off

⁴²⁶ Observatory Report at 12; 2021 Const. of the Kyrgyz Republic, art. 95.

⁴²⁷ See generally Human Rights Council, Report of the Special Rapporteur of judges and lawyers, U.N. Doc. A/HRC/38/38, May 2, 2018, § 21 (identifying the security and tenure of judges as represented in Principle 12 of the Basic Principles on the Independence of the Judiciary as a measure that guarantees the independence of the judiciary at the national level.); Basic Principles on the Independence of the Judiciary (1985), Principle 12 ("Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.").

⁴²⁸ Human Rights Council, Report of the Special Rapporteur of judges and lawyers, U.N. Doc. A/HRC/38/38, May 2, 2018, § 21.

⁴²⁹ Human Rights Committee, Concluding Observations on the Democratic People's Republic of Korea, U.N. Doc. CCPR/CO/72/PRK, Aug. 27, 2001, § 8; Human Rights Committee, Preliminary Observations on Peru, U.N. Doc. CCPR/C/79/Add.67, July 25, 1996, § 14.

⁴³⁰ Kamil Ruziev Interview (Feb. 10, 2022).

at the court, causing the trial to be delayed even if Mr. Ruziev arrived thereafter.⁴³¹ Mr. Ruziev claims the authorities shut off the power on purpose.⁴³²

In addition to the August 4, 2021 incident, other hearing postponements were due to the absence of witnesses, the absence of the co-defendant and her attorney, and judge reassignments as discussed above.

Taken together, these factors suggest that the GKNB charged Mr. Ruziev for the ulterior purposes of neutralizing his human rights work and punishing him for bringing cases implicitly critical of the government.

⁴³¹ *Id.*

⁴³² *Id.*

CONCLUSION AND GRADE



While the Supreme Court's acquittal is to be welcomed, the proceedings against Mr. Ruziev have violated his right to a fair trial. Even before the start of trial, Mr. Ruziev was arbitrarily detained, was not promptly informed of the reason for his arrest, was denied access to an attorney, likely suffered inhumane treatment, and had his right to the presumption of innocence violated.

Given the weakness of the evidence and the fact that Mr. Ruziev has faced constant political pressure to cease his human rights work, it is possible that the case against him was in large part politically motivated. The following factors suggest that the case was likely brought for the ulterior purposes of punishing Mr. Ruziev for criticizing the local government and hampering his ability to conduct human rights work: (1) the absence of strong evidence in support of the forgery charge against Mr. Ruziev; (2) the fact that the charge came after Mr. Ruziev filed a complaint against a powerful government agency, the GKNB; (3) Kyrgyzstan's current political context of democratic backsliding; and, (4) to a lesser extent the manner in which the prolonged trial, the length of which was due in part to the judiciary's lack of institutional independence requiring the appointment of a new judge, has led to financial insecurity for Mr. Ruziev, making it increasingly burdensome to fund his defense.

Further, the trial has led to a few incidental but unfortunate results. These include the reputational damage that Mr. Ruziev and his organization, Ventus, continue to suffer as well as significant personal and professional financial difficulties. Mr. Ruziev also suffers from the negative health effects brought on by the government's hampering of his ability to travel abroad to seek needed medical care and their denial of medical attention while he was detained.

Despite Mr. Ruziev's right to rehabilitation under Parts 1 and 2 of Article 134 of the Criminal Procedure Code of Kyrgyzstan and the United Nations Basic Principles and Guidelines, he has not yet been made whole.⁴³³ Indeed, the final verdict issued by the Karakol City Court on August 12, 2022 affirms Mr. Ruziev's right to rehabilitation under Parts 1 and 2 of Article 134 of the Criminal Procedure Code of Kyrgyzstan.⁴³⁴ The Supreme Court's January 2023 judgment further reaffirmed this right.⁴³⁵ In addition, the February 9, 2023 Advisory Letter submitted by the Office of the Ombudsman of Kyrgyzstan to the General Prosecutor's Office affirms Mr. Ruziev's right to rehabilitation by specifically requesting that the General Prosecutor's Office "examine the responsibility of officials in connection with criminal prosecutions of K. Ruziev followed by a legal

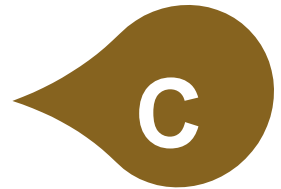
⁴³³ United Nations, 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, U.N. Doc. A/RES/60/147, Dec. 16, 2005, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>.

⁴³⁴ Verdict, Kyrgyz Republic Karakol City Court of the Issyk-Kul Region (Aug. 12, 2022).

⁴³⁵ Ruling of the Supreme Court of the Kyrgyz Republic (Jan. 10, 2023).

assessment of their actions.”⁴³⁶ We urge Kyrgyz authorities to consider all legal and equitable avenues to remediate and repair the myriad damage done to Mr. Ruziev—as was indicated by the reinstated Karakol City Court decision—as well as signal to the Kyrgyz people and international community that the rule of law and rights of victims in Kyrgyzstan is respected.

GRADE:



⁴³⁶ Advisory Letter from A. Kolopov, Deputy Head, Office of the Ombudsman of the Kyrgyz Republic, to K. Y Ruziev, Head, Ventus (Feb. 9, 2023).



A. GRADING METHODOLOGY

Experts should assign a grade of A, B, C, D, or F to the trial reflecting their view of whether and the extent to which the trial complied with relevant international human rights law, taking into account, *inter alia*:

- The severity of the violation(s) that occurred;
- Whether the violation(s) affected the outcome of the trial;
- Whether the charges were brought in whole or in part for improper motives, including political motives, economic motives, discrimination, such as on the basis of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,”⁴³⁷ and retaliation for human rights advocacy (even if the defendant was ultimately acquitted);
- The extent of the harm related to the charges (including but not limited to whether the defendant was unjustly convicted and, if so, the sentence imposed; whether the defendant was kept in unjustified pretrial detention, even if the defendant was ultimately acquitted at trial; whether the defendant was mistreated in connection with the charges or trial; and/or the extent to which the defendant’s reputation was harmed by virtue of the bringing of charges); and
- The compatibility of the law and procedure pursuant to which the defendant was prosecuted with international human rights law.

Grading Levels

- A: A trial that, based on the monitoring, appeared to comply with international standards.
- B: A trial that appeared to generally comply with relevant human rights standards excepting minor violations, and where the violation(s) had no effect on the outcome and did not result in significant harm.
- C: A trial that did not meet international standards, but where the violation(s) had no effect on the outcome and did not result in significant harm.
- D: A trial characterized by one or more violations of international standards that affected the outcome and/or resulted in significant harm.
- F: A trial that entailed a gross violation of international standards that affected the outcome and/or resulted in significant harm.

⁴³⁷ ICCPR, Article 26.