



**Kyrgyz Republic v.
Temirov LIVE Journalists et al.**

February 2025

TRIALWATCH FAIRNESS REPORT

A CLOONEY FOUNDATION FOR JUSTICE INITIATIVE

A. ABOUT THE AUTHORS

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EXECUTIVE SUMMARY



Saparbek Akunbekov, Tynystan Asypbekov, Aike Beishekeeva, Zhoodarbek Buzumov, Azamat Ishenbekov, Maadanbek Kaparov, Akylbek Orozbekov, Saipidin Sultanaliev, Makhabat Tazhibek kyzy, Maksat Tazhibek uulu, and Zhumabek Turdaliev (collectively the “Defendants” and each individually a “Defendant”) are journalists currently or formerly affiliated with YouTube-based media outlets *Temirov LIVE* and *Ait Ait Dese*, or with New Media, an organization that financed both YouTube channels. *Temirov LIVE* is an outlet that investigates and reports on the corruption of state and non-state actors in the Kyrgyz Republic (“Kyrgyzstan”), and *Ait Ait Dese* is a project that aims to popularize human rights issues by performing and publishing folk songs.

On January 16, 2024, Kyrgyz authorities arrested Defendants and charged them with calling for mass unrest under Article 278(3) of the Kyrgyzstan Criminal Code. The charges were based on a series of videos, posted on the *Temirov LIVE* and *Ait Ait Dese* YouTube pages, that investigated government corruption and criticized Kyrgyzstan’s President. All Defendants were deprived of their liberty prior to the issuance of the judgment in their case, in violation of their right to liberty and security of person under the International Covenant on Civil and Political Rights (“ICCPR”). While two Defendants were eventually released on travel restrictions, the rest were held in detention or ordered to house arrest for ten months.

On October 10, 2024, after three months of trial, the Leninsky District Court of Bishkek convicted Ms. Tazhibek kyzy under Articles 278(3) and 41(2) of the Kyrgyzstan Criminal Code and sentenced her to six years in prison. The court convicted Mr. Ishenbekov under Articles 278(3) and 41(4) and sentenced him to five years in prison. The court similarly convicted Mr. Kaparov and Ms. Beishekeeva under Articles 278(3) and 41(4) and sentenced them each to three years of probation. The court acquitted the remaining seven defendants.

Ms. Beishekeeva, Mr. Ishenbekov, Mr. Kaparov, and Ms. Tazhibek kyzy each appealed the convictions, but the Bishkek City Court denied their appeals on December 18, 2024. The Supreme Court is scheduled to hear the cassation appeals of Ms. Beishekeeva, Mr. Ishenbekov, and Ms. Tazhibek kyzy on February 25, 2025.

The Authors give this trial a D grade for the following reasons:

1. The court’s judgment finding Ms. Tazhibek kyzy and Mr. Ishenbekov guilty of inciting mass unrest suggests improperly that negative statements about the government can serve as a basis for inciting mass unrest under Article 278(3). The court failed to explain how those negative statements amount to calling for mass unrest.

2. In the Judgment, the court found Mr. Kaparov and Ms. Beishekeeva guilty of inciting mass unrest and assisting with the incitement of mass unrest; however, there appears to be little evidence in the trial record to link them to videos identified by prosecution experts as calling for mass unrest. The court appeared to have found Ms. Beishekeeva guilty merely because there is a “possibility” that she was involved in the translation into Russian of videos deemed to be calling for mass unrest.
3. In the Judgment, the court relied on the opinions of three experts for the prosecution without adequately addressing the gaps and inconsistencies in their testimony. For example, prosecution experts struggled to identify the specific videos that “called for mass riots”; one expert contradicted himself when asked by defense counsel to list the exact videos that “called for mass riots”; and neither of the two key experts were able to identify specific words that “called for mass riots,” except for two phrases: “[f]reedom is not given, you need to fight for freedom” and “[w]ith revolution comes crime; there is no evolution.”
4. Defendants’ right to equality of arms was violated, as the court apparently relied almost exclusively on prosecution experts’ conclusions.
5. Defendants’ right to a public trial was violated, as the authorities did not consistently provide adequate facilities for access by the public.

This grade also reflects the disproportionate and unnecessary detention of Defendants for various periods of time prior to and during trial. Defendants petitioned the court multiple times to be released from detention. Except for Mr. Sultanaliev and Mr. Turdaliev, who were eventually released with a travel restriction on account of personal circumstances, the court generally rejected such petitions. And when it did transfer some of the Defendants from custodial detention to house arrest, the court regarded house arrest as a benefit to be received, rather than recognizing that house arrest constitutes a continued deprivation of Defendants’ liberty that also requires individualized analysis and justification.

Finally, this grade reflects the violation of Defendants’ substantive rights, including their rights to freedom of opinion and expression and to freedom from political discrimination. As the Judgment noted, the convicted Defendants were found guilty of making “negative” statements about the government. The Defendants’ prosecution and treatment reflect the Kyrgyz government’s broader targeting of journalists in Kyrgyzstan for their government-critical speech and political opinion.

BACKGROUND INFORMATION



A. THE DEFENDANTS

The eleven Defendants are journalists currently or formerly associated with YouTube-based media outlets *Temirov LIVE* and *Ait Ait Dese*, or *New Media*, a non-profit founded by Bolot Temirov that financed *Temirov LIVE*, *Ait Ait Dese*, and other initiatives.

The following five Defendants were, at the time of their arrest, employees of *Temirov LIVE* and/or *Ait Ait Dese*:

- **Saparbek Akunbekov** was a trainee journalist at *Ait Ait Dese* who began working two months prior to being arrested.
- **Aike Beishekeeva** was a journalist at *Temirov LIVE*.
- **Azamat Ishenbekov** was a poet at *Ait Ait Dese*.
- **Akylbek (“Akyl”) Orozbekov** was a camera operator at *Temirov LIVE*.
- **Makhabat Tazhibek kyzy** was the director of *Temirov LIVE* and *Ait Ait Dese*.

The following six Defendants were previously employed by *Temirov LIVE* or *New Media*, but were not affiliated with *Temirov LIVE* or *New Media* at the time of their arrest:

- **Tynystan Asypbekov** worked at *Temirov LIVE* until 2022.
- **Zhoodarbek Buzumov** (also Joodar Buzumov) worked at *Temirov LIVE* until August 2023.
- **Aktilék (“Maadanbek”) Kaparov** worked as a journalist at *Temirov LIVE* until August 2023.
- **Saipidin Sultanaliev** worked at *Temirov LIVE* until June 2022.
- **Maksat Tazhibek uulu** was a founding member of *Temirov LIVE* and worked there as a camera operator until 2022.
- **Zhumabek Turdaliev** (also Jumabek Turdaliev or Dzhumubek Turdaliev) worked as an administrator with *New Media* from 2020 to February 2022.

B. POLITICAL & LEGAL CONTEXT

Once regarded as among the most democratic countries in Central Asia, Kyrgyzstan is, according to observers, currently experiencing a democratic backslide under President Sadyr Japarov.¹

This backslide has reportedly been facilitated, in part, by constitutional changes adopted in 2021. First, the new constitution allowed the President to concentrate political power by eliminating the office of Prime Minister and reducing the size and powers of the legislature.² In the years that followed, according to Amnesty International, “increasing numbers of government critics, including opposition politicians, human rights activists and journalists, who have legitimately exercised their right to hold the authorities of Kyrgyzstan to account, have been harassed, detained and prosecuted.”³ Freedom House has likewise reported that “journalists and bloggers covering major events, including ongoing corruption cases, the COVID-19 response, and elections have regularly faced intimidation, detention, physical attack, and interference as they conducted their work.”⁴

Second, the constitutional changes also granted the President the power to appoint judges and heads of law enforcement agencies.⁵ In its 2022 periodic review of Kyrgyzstan’s implementation of its obligations under the ICCPR, the United Nations Human Rights Committee (“HRC” or “UN Human Rights Committee”) expressed concern about “the lack of independence and impartiality in the judiciary . . . in particular due to the President’s involvement in selecting and appointing judges.”⁶

¹ See Just Security, “From ‘Island of Democracy’ to Consolidated Authoritarian Regime’: The Need to Reverse Kyrgyzstan’s Slide” (25 July 2023), <https://www.justsecurity.org/87368/from-island-of-democracy-to-consolidated-authoritarian-regime-the-need-to-reversekyrgyzstans-slide/>.

² See Freedom House, “Freedom in the World 2023: Kyrgyzstan” (2023), <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2023>.

³ Amnesty International, “Kyrgyzstan: Authorities’ attempt to shut down media outlet is a dark day for press freedom” (15 Sept. 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/>.

⁴ See Freedom House, *supra* at note 2.

⁵ See Radio Free Europe: Radio Liberty, “Kyrgyz Voters Approve Constitutional Changes to Strengthen Presidency” (11 Apr. 2021), <https://www.rferl.org/a/kyrgyzstan-constitution-strengthen-japarov-presidency-/31197472.html>.

⁶ UN Human Rights Committee, *Concluding observations on the third periodic report of Kyrgyzstan*, ¶ 37, UN Doc. CCPR/C/KGZ/CO/3 (9 Dec. 2022).

Noting “reports of undue government pressure on human rights defenders, lawyers, politicians, journalists and other individuals for expressing their opinion[s] . . . that are critical of the Government’s initiatives,” the HRC specifically expressed concern at the “initiation of criminal proceedings against bloggers and journalists.”⁷ Despite such calls for the protection of freedom of expression, however, criminal prosecutions for free speech and independent reporting have persisted. Kyrgyzstan ranked 122 out of 180 on Reporters Without Borders’ 2023 World Press Freedom Index—plunging 50 spots in one year.⁸ An analysis of cases brought between 2022 and 2023 conducted by the International Partnership for Human Rights and the Legal Prosperity Foundation found that the Kyrgyz state security services had “summoned, warned and initiated criminal cases against a number of bloggers . . . under broadly worded provisions of the Criminal Code, including article 330, which penalizes ‘incitement’ to ethnic, national and other hatred without clearly defining this offence, and article 278[(3)], which prohibits calls for disobedience against authorities and for riots.”⁹

Since 2022, multiple people have been prosecuted under Article 278(3) for posting critically about the government on Facebook.¹⁰ For example, in 2022, Facebook blogger Yrys Zhekshenaliev was prosecuted under Article 278(3) for posting an old video in which a political rival of President Japarov spoke critically about the President’s plans regarding an iron ore field.¹¹ After spending two months in detention and nearly a year under house arrest, Mr. Zhekshenaliev was acquitted by the Pervomaisky District Court of Bishkek—a decision the Prosecutor’s Office is appealing.¹² Similarly, in 2022, blogger Adilet Ali Myktybek was detained and charged under Article 278(3) for a series of Facebook posts

⁷ *Id.* ¶ 45.

⁸ See Reporters Without Borders, “2023 World Press Freedom Index: Kyrgyzstan” (2023), <https://rsf.org/en/country/kyrgyzstan>.

⁹ The report was prepared by International Partnership for Human Rights and the Legal Prosperity Foundation as part of their cooperation with the CIVICUS Monitor. See CIVICUS, MONITOR Tracking Civic Space, “Tightening the screws on free speech and civic engagement” (17 May 2023), <https://monitor.civicus.org/explore/tightening-the-screws-on-free-speech-and-civic-engagement/>.

¹⁰ See Kloop, “The Prosecutor’s Office appealed the acquittal of blogger Yrys Zhekshenaliev” (9 Jan. 2024), <https://kloop.kg/blog/2024/01/09/prokuratura-reshila-obzhalovat-opravdatelnyj-prigovor-blogera-yrysa-zhekshenalieva/>.

¹¹ See *id.*

¹² See *id.*

in which he criticized the government.¹³ He was subsequently sentenced to five years in prison.¹⁴

In addition to criminally prosecuting journalists and critics, Kyrgyz authorities have also blocked access to and shuttered independent media outlets. In October 2022, the Kyrgyz Ministry of Culture blocked access to the website of *Azattyk Media*, *Radio Free Europe/Radio Liberty's* Kyrgyz service, and froze its bank account following the outlet's video coverage of a border conflict between Kyrgyzstan and Tajikistan.¹⁵ The authorities claimed that a news segment featuring correspondents from both countries presenting the official positions of their governments used hate speech and false information to imply that Kyrgyzstan had attacked Tajikistan.¹⁶ After the platform defied an October 2022 court order to take down the video from its website, the Ministry sued to shut down *Azattyk Media*.¹⁷ The case was dropped nine months later, after *Azattyk* and the Ministry of Culture reached a settlement.¹⁸

In August 2023, the Bishkek City Prosecutor's Office sued to shut down *Kloop Media*, a respected independent media outlet reporting on human rights in Kyrgyzstan.¹⁹ The lawsuit alleged that *Kloop* had failed to register as a mass media outlet and had conducted media activity not listed in its charter as a human rights organization, thus triggering liquidation under Kyrgyzstan's civil law code.²⁰ Notably, the lawsuit cited the critical stance

¹³ See CIVICUS, *supra* at note 9.

¹⁴ See Radio Free Europe: Radio Liberty, "Kyrgyz Activist's Parole-Like Probation Sentence Again Changed To Imprisonment" (22 Dec. 2023), <https://www.rferl.org/a/kyrgyzstan-activist-prison-sentence/32743386.html>. Myktybek was initially not required to serve out his sentence and was made subject to a three-year parole-like probation period; subsequently, this probationary sentence was revoked and changed "back to 'actual imprisonment.'" *Id.*

¹⁵ See 24.kg, "Blocking of Azattyk accounts: Media outlet applies to Demir Bank" (1 Nov. 2022), https://24.kg/english/249683_Blocking_of_Azattyk_accounts_Media_outlet_applies_to_Demir_Bank/.

¹⁶ See Human Rights Watch, "Kyrgyzstan: Lawsuit Seeks to Shut Independent Media Outlet" (26 Jan. 2023), <https://www.hrw.org/news/2023/01/26/kyrgyzstan-lawsuit-seeks-shut-independent-media-outlet>.

¹⁷ See *id.*

¹⁸ See The Diplomat, "Kyrgyz Court Cancels Case Against RFE/RL's Radio Azattyk," (12 July 2023), <https://thediplomat.com/2023/07/kyrgyz-court-cancels-case-against-rfe-rls-radio-azattyk/>.

¹⁹ See Human Rights Watch, "Kyrgyzstan: Effort to Shut Down Independent News Outlet" (30 Aug. 2023), <https://www.hrw.org/news/2023/08/30/kyrgyzstan-effort-shut-down-independent-news-outlet>.

²⁰ The lawsuit also references a pretrial investigation into the outlet's activities by the Kyrgyz State Committee for National Security, on suspicion that *Kloop Media* publications had violated article 327 of Kyrgyzstan's criminal code, which penalizes "making public calls for the violent seizure of power online." *Id.*

taken by *Kloop*'s reporting.²¹ On February 9, 2024, the Oktyabrsky District Court ordered the closure of *Kloop*.²² *Kloop* appealed, but the appeal was rejected as untimely,²³ and on July 16, 2024, the Supreme Court issued a final decision upholding the lower court's decision to shut down *Kloop*.²⁴ However, *Kloop*'s leadership has announced its intention to continue operating.²⁵

Further, on January 15, 2024, officers of the State Committee for National Security ("GKNB"),²⁶ the national agency responsible for intelligence on counter-terrorism and organized crime, conducted a search of *24.kg* news agency in Bishkek, confiscating equipment and sealing the office as part of an investigation into "war propaganda" in connection with an unspecified article about Ukraine.²⁷ The news outlet's top management were detained for questioning, released, and summoned again for interrogation by authorities.²⁸ The office was sealed from the search until April 2, 2024, when the case was suspended.²⁹

These attacks on independent media took place against the backdrop of the passage of speech-restrictive laws. According to the Public Foundation Institute of Media Policy, the

²¹ *See id.*

²² *See* Frontline Defenders, "Supreme Court of Kyrgyzstan Upholds Decision to Shut Down *Kloop* Media" (13 Feb. 2024), <https://www.frontlinedefenders.org/en/case/oktyabr-district-court-ruled-shut-down-kloop-media>.

²³ *See* Hetq, "Kyrgyzstan Court Refused to Consider *Kloop*'s Appeal on Shutdown Verdict" (17 May 2024), <https://hetq.am/en/article/166637>.

²⁴ *See* Human Rights Watch, "Kyrgyzstan: Overturn Decision to Liquidate *Kloop* Media" (5 Sept. 2024), <https://www.hrw.org/news/2024/09/05/kyrgyzstan-overturn-decision-liquidate-kloop-media>.

²⁵ *See* *Kloop*, "Kloop Media is definitely being liquidated - the Supreme Court has been silent about this for over a month. But we continue to work!" (29 Aug. 2024), <https://kloop.kg/blog/2024/08/29/kloop-media-uzhe-tochno-likvidiruyut-verhovnyj-sud-molchal-ob-etom-bolshe-mesyatsa-no-my-prodolzhaem-rabotat/>.

²⁶ This acronym is a transliteration of the agency's Russian-language acronym ("ГКНБ").

²⁷ *See* Meduza, "Security agents search newsroom of media outlet 24.kg, take top editors in for questioning" (15 Jan. 2024), <https://meduza.io/en/news/2024/01/15/security-agents-search-newsroom-of-media-outlet-24-kg-take-top-editors-in-for-questioning>.

²⁸ *See* Reporters Without Borders, "Kyrgyzstan arrests 11 journalists who exposed corruption: RSF denounces a purge of investigative journalism" (16 Jan. 2024), <https://rsf.org/en/kyrgyzstan-arrests-11-journalists-who-exposed-corruption-rsf-denounces-purge-investigative>.

²⁹ *See* 24.kg, "War Propaganda. The 24.kg Case Suspended, Office Unsealed, Equipment returned." (3 Apr. 2024), https://24.kg/obschestvo/290586_propaganda_voynyi_delo24kg_priostanovleno_ofis_raspechatan_tehnika_vozvrashchena/.

Law on Protection from False Information, adopted in 2021, has been used to restrict free speech.³⁰ This law “grants individuals the right to request the removal of online content about themselves that they consider false (unreliable), and places all responsibility on the owner of the website or web page to prove that the content on their platforms is true. If the owner of the website or webpage does not do so within 24 hours, their website or webpage may be suspended for up to two months. During this period, the owner of the website or page has no right to create a new website or website page on the Internet.”³¹ The HRC has expressed “concerns about the provisions of [this law] which allow executive bodies to block any Internet resource without due process and without any preceding judicial oversight.”³²

On April 2, 2024, President Japarov signed into law a bill requiring non-governmental organizations (“NGOs”) receiving funding abroad to register as “foreign representatives.”³³ International observers had widely called for the law to be amended.³⁴ For example, in a joint letter sent to Kyrgyzstan’s government in October 2023, three UN Special Rapporteurs expressed concern about the law’s impact on civil society.³⁵ Specifically, the Rapporteurs noted that “the draft law grants the authorities extensive oversight powers over NGOs, which may amount to almost unrestricted administrative control over these associations,” and “underline[d] that such wide powers granted to public authorities to control, monitor and interfere with the activities of NGOs would not be justified under international human rights standards.”³⁶

³⁰ See Public Foundation Media Policy Institute, “Freedom of Speech in Kyrgyzstan” (3 Oct. 2022), https://meetings.odihr.pl/resources/download-file-dds/205/221003104850_0142.pdf.

³¹ See *id.*

³² UN Human Rights Committee, *Concluding observations on the third periodic report of Kyrgyzstan*, ¶ 45, UN Doc CCPR/C/KGZ/CO/3 (9 Dec. 2022).

³³ See The Diplomat, “Kyrgyzstan Adopts Law Targeting Foreign-Funded NGOs” (15 Apr. 2024), <https://thediplomat.com/2024/04/kyrgyzstan-adopts-law-targeting-foreign-funded-ngos/>.

³⁴ See Eurasianet, “Kyrgyzstan: Parliament adopts contentious foreign agents law without debate” (14 Mar. 2024), <https://www.msn.com/en-us/news/world/kyrgyzstan-parliament-adopts-contentious-foreign-agents-law-without-debate/ar-BB1jRWrL>.

³⁵ The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the UN Special Rapporteur on the situation of human rights defenders, Letter to President Japarov (2 Oct. 2023), 5–6, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28447>.

³⁶ See *id.*

C. CASE HISTORY

Bolot Temirov's Exile

In January 2022, Bolot Temirov, the founder of *Temirov LIVE*, posted a video on the platform alleging that family members of Kamchybek Tashiev were involved in corruption; Chairman Tashiev is the head of the GKNB.³⁷ A few days later, Mr. Temirov was arrested on drug charges in a violent raid after reportedly undergoing months of surveillance and harassment.³⁸ After *Temirov LIVE* released another video investigating the alleged corruption of Chairman Tashiev's family, the government issued additional charges against Mr. Temirov, this time for alleged "illegal border crossing" and falsification of the documents used to obtain his Kyrgyz passport.³⁹ Specifically, "the prosecution argued that Mr. Temirov used [a] forged military ID to unlawfully obtain a Kyrgyz passport, which he then allegedly used to illegally cross the border on several occasions between 2010 and 2021."⁴⁰

Though the court ultimately threw out the drug charges, reportedly finding that "police investigation had been prejudiced,"⁴¹ Mr. Temirov was convicted of using forged documents. He was subsequently stripped of his Kyrgyz citizenship and forcibly deported to Russia,⁴² living in exile since.

Arrest and Incitement

Since Mr. Temirov's exile, his wife Makhabat Tazhibek kyzy, one of the Defendants in this case, has led *Temirov LIVE* and *Ait Ait Dese*. Under Ms. Tazhibek kyzy's leadership, *Temirov LIVE* continued to investigate and publish stories on corruption. In November

³⁷ Freedom House, *supra* note 2.

³⁸ See Radio Free Europe: Radio Liberty, OCCRP and Kloop, "Inside Kyrgyzstan's Campaign to Silence Journalist Bolot Temirov" (31 Jan. 2022), <https://www.rferl.org/a/kyrgyzstan-temirov-journalist-special-investigation/31677591.html>.

³⁹ See Northwestern Pritzker School of Law Center for International Human Rights, Letter to the UN Special Rapporteur on the Situation of Human Rights Defenders, the UN Special Rapporteur on the Rights to Freedom of Expression and Opinion, and the UN Special Rapporteur on Peaceful Assembly and Association, *Re: Allegation Letter Concerning Urgent Circumstances of Kyrgyz Journalist and Human Rights Defender Bolot Temirov* (14 Dec. 2023), 5, <https://cpj.org/wp-content/uploads/2023/12/CPJ-Temirov-Letter-of-Allegation-1.pdf>.

⁴⁰ See *id.*

⁴¹ See *id.*

⁴² See Freedom House, *supra* note 2.

and December 2023, *Temirov LIVE* and *Ait Ait Dese* published videos of their investigations into the alleged corruption of Kyrgyz authorities and associated elites, including President Japarov and others in his inner circle.

In one of the videos, dated December 13, 2023 and entitled, in Kyrgyz, “I Have No Respect for Officials Who Have Clung to Their Seats for 30 Years,” Ms. Tazhibek kyzy criticized state officials for failing to take action to address government corruption.⁴³ This video later formed the basis for the charges against the Defendants in this case; however, none of the other ten Defendants appeared in the video nor is there concrete evidence of their involvement in the making of the video.⁴⁴

As reviewed by the Authors, the December 13, 2023 *Ait Ait Dese* video did not contain violent language or a call for violence. Rather, in it, Ms. Tazhibek kyzy denounces Kyrgyz political leaders, stating: “You can’t use the power given to you properly. You promise, but you don’t deliver. Why do you take innocent ordinary people into custody, but not the leaders? . . . Those who tell the truth you detain one by one; the people have no choice but to exist. Conscientious people are being forced to flee all over the world. To detain everyone who speaks their mind and think that this will solve all problems is uneducated.”⁴⁵ Ms. Tazhibek kyzy further states: “Our team strives for transparency, honesty and knowledge. . . . We don't have time to fight people like you.”⁴⁶

On December 30, 2023, the Ministry of Internal Affairs began investigating *Temirov LIVE* and *Ait Ait Dese*.⁴⁷ According to the Resolution on Initiating a Criminal Case filed by the Ministry’s Investigation Service on January 13, 2024, officials engaged the Forensic Expert Service under the Ministry of Justice to analyze materials published by *Temirov LIVE* and *Ait Ait Dese*.⁴⁸ Based on the “conclusion of the forensic linguistic [report],” the

⁴³ See Makhabat Tazhibek kyzy, YouTube, “I Have No Respect for Officials Who Have Clung to Their Seats for 30 Years” *Ait Ait Dese* (13 Dec. 2024), <https://youtu.be/MRIhMxCHyyQ?si=rn9KVLdTlnJVd9TQ>.

⁴⁴ During the trial, Ms. Beishekeeva stated that she does not remember whether she was involved in this video, see Trial Monitoring Notes 9 July, 2023, and Ms. Tazhibek kyzy stated that Mr. Akunbekov was not involved with this video, see Trial Monitoring Notes 5 July, 2023. Based on the Monitoring Notes, there was no evidence that Mr. Orozbekov and Mr. Ishenbekov, the remaining two *Temirov LIVE* employees at the time of their arrest, were involved in the December 13, 2023 video at issue.

⁴⁵ See Makhabat Tazhibek kyzy, *supra* at note 43.

⁴⁶ *Id.*

⁴⁷ See Investigation Service of the Ministry of Internal Affairs of the Kyrgyz Republic, Resolution on Initiating a Criminal Case No. 03-050-2034-000029 (13 Jan. 2024) (“Resolution on Initiating a Criminal Case”).

⁴⁸ See *id.*

Ministry alleged that *Temirov LIVE* and *Ait Ait Dese* published materials that called for “violent protests and mass unrest through discrediting the government bodies” and that “in the materials related to ‘Ait Ait Dese’ and ‘Temirov Live’ accounts (user Makhabat Tazhibek kyzy) submitted for investigation, many actions are attempts to appeal to society, since . . . they were posted on social networks.”⁴⁹ The Ministry discussed only the December 13, 2023 video featuring Ms. Tazhibek kyzy discussed above.⁵⁰

Subsequently, on January 13, 2024, the authorities initiated a criminal case under Article 278(3) of the Kyrgyz Criminal Code, which states that “calls for active disobedience to the lawful demands of representatives of the authorities and for mass riots, as well as calls for violence against citizens, shall be punishable by imprisonment for a term of five to eight years.”⁵¹ Beyond generally referencing the video entitled “I Have No Respect for Officials Who Have Clung to Their Seats for 30 Years,” the Resolution on Initiating a Criminal Case does not identify any statements it deems to be calls for mass disorder or riots.⁵²

On January 16, 2024, starting at approximately 6:00 am, officers from the Ministry of Internal Affairs began searching the office of *Temirov LIVE* and *Ait Ait Dese* as well as the personal residences of the Defendants.⁵³

After the searches, the Defendants were taken to the Ministry of Internal Affairs for questioning.⁵⁴ Reportedly, they were not informed at the time of the reasons for the searches, why they were being taken into custody, or that they were entitled to legal counsel.⁵⁵ Once at the Ministry of Internal Affairs, they were each questioned as a witness and, as such, could not invoke the right to not self-incriminate or to refuse to respond to

⁴⁹ *Id.*

⁵⁰ *Id.* Note that the Resolution on Initiating a Criminal Case and the Indictments dated this video as December 10, 2023, rather than December 13, 2023.

⁵¹ Criminal Code of the Kyrgyz Republic, Art. 278(3) (28 Oct. 2021), <https://mvd.gov.kg/rus/ministry/normative-bases/22>.

⁵² See Resolution on Initiating a Criminal Case.

⁵³ See Committee to Protect Journalists (“CPJ”), “Kyrgyzstan authorities raid news outlets 24.kg and Temirov Live, arrest journalists” (16 Jan. 2024), <https://cpj.org/2024/01/kyrgyzstan-authorities-raid-news-outlets-24-kg-and-temirov-live-arrest-journalists/>.

⁵⁴ See *id.*

⁵⁵ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion et al., Communication to the Government of Kyrgyzstan, Ref.: AL KGZ 1/2024 (15 Mar. 2024) (“Special Procedures’ 15 Mar. 2024 Communication to the Government of Kyrgyzstan”), 4.

questions.⁵⁶ In fact, several of the Defendants' lawyers were reportedly unable to meet with their clients for the first few hours of their detention, as they were unable to reach relevant investigators who were supposed to grant the lawyers access to the building.⁵⁷ Counsel were ultimately present during the official interrogations.⁵⁸

One day after the raid, on January 17, 2024, Ms. Tazhibek kyzy and Mr. Kaparov were charged with violating Article 278(3) and as "organizers" under Article 41(2) of the Kyrgyzstan Criminal Code.⁵⁹ The indictments did not specify any videos other than the December 13, 2023 video discussed above.⁶⁰

The nine other employees and ex-employees of *Temirov LIVE*, *Ait Ait Dese*, and *New Media* were charged with violating Article 278(3) and under Article 41(4) for aiding and abetting a crime.⁶¹ Neither of the indictments of those charged with aiding and abetting that the Authors reviewed specifies any videos other than the December 13, 2023 video discussed above.⁶² Moreover, as with Ms. Tazhibek kyzy's and Mr. Kaparov's indictments, neither Mr. Orozbekov's nor Mr. Ishenbekov's indictments explain how the accused called for, or aided and abetted in calling for, mass riots or violence in violation of Article 278.⁶³

⁵⁶ Information provided to TrialWatch by defense counsel.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ See Indictment of Makhabat Tazhibek kyzy (17 Jan. 2024); Indictment of Maadanbek Kaparov (17 Jan. 2024); see also Criminal Code of the Kyrgyz Republic, Art. 41(2) (28 Oct. 2021), <https://mvd.gov.kg/rus/ministry/normativebases/> ("an organizer is a person who organized the commission of a crime or directed its execution, as well as a person who created an organized group, criminal association or led them"); Frontline Defenders, "Makhabat Tazhibek kyzy and Azamat Ishembekov Sentenced to Prison Time," <https://www.frontlinedefenders.org/en/case/state-prosecutor-demands-six-year-prison-sentences-11-human-rights-defenders-and-journalists-0>.

⁶⁰ See, e.g., Indictments of Makhabat Tazhibek kyzy and Maadanbek Kaparov.

⁶¹ See Indictments of Akylbek Orozbekov and Azamat Ishenbekov. The Authors did not have access to the indictments for the seven remaining Defendants indicted under Articles 278(3) and 41(4).

⁶² See Indictments of Akylbek Orozbekov and Azamat Ishenbekov.

⁶³ See Indictments of Azamat Ishenbekov, Maadanbek Kaparov, Akylbek Orozbekov, and Makhabat Tazhibek kyzy.

Pretrial Detention and Appeal of Pretrial Detention

On the day the indictments were issued, the Pervomaisky District Court of Bishkek held a hearing to consider the legality and validity of the Defendants' detention.⁶⁴ Access to the courtroom was limited—only relatives were allowed to attend, and journalists from various media outlets were prohibited from entering the courtroom.⁶⁵

Defendants' counsel also faced challenges in preparing for the hearing. Even though (as noted above) the legality of the charges, and, in turn, the Defendants' arrest and detention, hinged on the content of the forensic linguistic expert report, the Defendants' lawyers were reportedly not allowed to access the linguistic report until immediately before the detention hearing.⁶⁶ Specifically, according to defense counsel, they were only allowed to review a copy of the document in the short period after the charges were announced and before the hearing began.⁶⁷

The court held that the pretrial detention of all eleven Defendants was lawful and justified as a preventative measure, and ordered them to be detained for two months, until March 13, 2024, in remand center No. 21 of the Penal Enforcement Service of the Ministry of Justice.⁶⁸ In issuing the detention orders, the court did not address the individual circumstances of the Defendants,⁶⁹ focusing instead primarily on “the degree [of risk to public order associated with the alleged crime], as well as the fact that [the Defendants were] accused of committing a serious crime.”⁷⁰

⁶⁴ Azattyk, “The Court remanded in custody all detained former and current employees of the Temirov LIVE project” (17 Jan. 2024), <https://rus.azattyk.org/a/32779945.html>.

⁶⁵ See Special Procedures' 15 Mar. 2024 Communication to the Government of Kyrgyzstan at 3.

⁶⁶ Information provided to TrialWatch by defense counsel.

⁶⁷ *Id.*

⁶⁸ See Pervomaisky District Court, Pretrial Detention Resolution of Akylbek Orozbekov (17 Jan. 2024); Pervomaisky District Court, Pretrial Detention Resolution of Azamat Ishenbekov (17 Jan. 2024); Pervomaisky District Court, Pretrial Detention Resolution of Maadanbek Kaparov (17 Jan. 2024) (“Considering that no violation of articles 97 and 98 of the Code have been revealed . . . M.T. Kaparov's detention can be considered legitimate and justified.”); Azattyk, *supra* note 64.

⁶⁹ See Pervomaisky District Court, Pretrial Detention Resolution of Akylbek Orozbekov; *see also* Pervomaisky District Court, Pretrial Detention Resolution of Azamat Ishenbekov; Pervomaisky District Court, Pretrial Detention Resolution of Maadanbek Kaparov.

⁷⁰ See Pervomaisky District Court, Pretrial Detention Resolution of Akylbek Orozbekov (17 Jan. 2024).

From February 2 to February 6, 2024, the Bishkek City Court heard the Defendants' appeals of the detention rulings of the Pervomaisky District Court of Bishkek.⁷¹ During the appeal hearings, all of the Defendants were reportedly kept in metal cages.⁷² The Defendants brought different challenges to the imposition of pretrial detention. For example, Mr. Kaparov challenged (i) the court's failure to assess the appropriateness of detention, (ii) the investigator's failure to specify the grounds for the detention, (iii) the lack of reasonable suspicion that he had committed a crime, and (iv) the failure to examine his personal information.⁷³ Ms. Beishekeeva and Mr. Tazhibek uulu challenged the legality of the detention and measure of restraint under Articles 6–7 and 212 of the Kyrgyz Criminal Procedure Code, Article 55 of the Kyrgyz Constitution, and Article 19 of the ICCPR on the ground that everyone has the freedom of expression (further discussed below).⁷⁴ Finally, Mr. Ishenbekov reportedly raised a challenge based on the judge's involvement in another case against Mr. Ishenbekov.⁷⁵

In response, the prosecutor primarily invoked the gravity of the alleged offense as justifying pretrial detention, according to observers present at the time.⁷⁶ The court left all Defendants in pretrial detention.⁷⁷

Between February and May 2024, the District Court transferred six Defendants to house arrest, placed one under travel restraint, and continued to detain four Defendants in state

⁷¹ Azattyk, "City Court Remands Former and Current Temirov LIVE Employees in Custody" (5 Feb. 2024), <https://rus.azattyk.org/a/32805866.html>; Azattyk, "Tynystan Asypbekov called on deputies to create a commission on the case of detention of 11 journalists" (6 Feb. 2024), <https://rus.azattyk.org/a/32807627.html>.

⁷² Information provided to TrialWatch by defense counsel.

⁷³ See Appeal of M.T. Kaparov (22 Jan. 2024).

⁷⁴ See Appeal of Aike Beishekeeva (19 Jan. 2024); Appeal of Maksat Tazhibek uulu (19 Jan. 2024). Ms. Beishekeeva's and Mr. Maksat's appeals state that (i) Article 6 of the Kyrgyz Criminal Procedure Code requires that "criminal proceedings bodies are obliged to protect a person from illegal and unfounded accusations, convictions, and restrictions on his rights and freedoms"; (ii) under Article 7, those involved in criminal proceedings are obliged to strictly abide by the Kyrgyz Constitution, the Criminal Code, and other laws; and (iii) Article 55 of the Constitution states that fundamental human and civil rights and freedom are protected.

⁷⁵ Information provided to TrialWatch by defense counsel.

⁷⁶ Trial Observer (unaffiliated with TrialWatch) (5 Feb. 2024).

⁷⁷ See *id.*

custody.⁷⁸ In June, during the trial, the court released one of the six Defendants then on house arrest, Mr. Sultanaliev, on a travel restriction due to family health issues.⁷⁹

Trial

The trial took place in the Leninsky District Court of Bishkek from June 7, 2024 to September 12, 2024. During the trial, based on TrialWatch’s monitoring, the prosecution relied principally on expert testimony from prosecution experts Taalaibek Abdykozhoev and Azamat Zhanyshbek uulu.⁸⁰ The Judgment also discussed the testimony of a third expert, who may have testified on a day when TrialWatch’s monitor was not allowed into the courtroom.⁸¹

⁷⁸ On March 12, 2024, the District court transferred Mr. Akunbekov and Mr. Orozbekov to house arrest and released Mr. Turdaliev on a travel restriction. See Pervomaisky District Court, Decision Ordering House Arrest for Akylbek Orozbekov (12 Mar. 2024); 24.kg, “Detention of 11 journalists: CPJ urges to immediately drop charges” (14 Mar. 2024), https://24.kg/english/288959_Detention_of_11_journalists_CPJ_urges_to_immediately_drop_charges_/. After the April 9, 2024, pretrial detention hearing, a further four Defendants—Mr. Asypbekov, Mr. Buzumov, Mr. Sultanaliev, and Mr. Tazhibek uulu—were transferred from detention to house arrest. See Pervomaisky District Court, Order (10 May 2024); CPJ, “Kyrgyzstan releases 4 Temirov Live journalists; CPJ calls for dropping of charges against all 11” (9 Apr. 2024), <https://cpj.org/2024/04/kyrgyzstan-releases-4-temirov-live-journalists-cpj-calls-for-dropping-of-charges-against-all-11/>. In none of the orders imposing house arrest (instead of pretrial detention) did the court address whether less restrictive alternatives could have sufficed. See Pervomaisky District Court of Bishkek, Order to change the preventive measure in the form of arrest to a preventive measure in the form of house arrest in respect of Buzumov Zhodarbek Bakytalievich. The Authors do not have access to the court orders for the others released on house arrest since March 12, 2024, but the Authors understand these other court orders have the same defect.

⁷⁹ Information on file with the Authors.

⁸⁰ The Judgment refers to Taalaibek Abdykozhoev as T.T. Abdykozhoev and Azamat Zhanyshbek uulu as A. Zhanyshbek uulu. For consistency, we referred to the two experts as Mr. Abdykozhoev and Mr. Zhanyshbek uulu.

⁸¹ The Judgment identifies the third expert as T. Sakbayev, who testified that he received an order from Investigator Baiypov on December 31, 2023 to examine a video. See Judgment at 11. TrialWatch’s monitor was not allowed into the courtroom on June 7, 2024 and June 14, 2024, so it is possible that Mr. Sakbayev was questioned on one of those two days. Based on the description of Mr. Sakbayev’s testimony in the Judgment, it is also possible that he is the expert whose opinion was quoted in the Indictments.

While the indictments that the Authors reviewed only discussed the December 13, 2023 video, the trial covered multiple videos.⁸² The experts struggled to identify the specific videos that called for mass riots. Mr. Abdykozhoev, for example, contradicted himself when asked by defense counsel to list the exact videos that called for mass disturbance.⁸³ When first asked about the video “Kyrgyz, Open Your Eyes!”, Mr. Abdykozhoev said that the video contained no call to mass unrest. Mr. Abdykozhoev then switched responses, later claiming the video did contain such a call and that the “title also contains a call.” When pushed further, he said he “did not specify what kind of call,” and that “[f]ighting for freedom peacefully is a systemic approach. In context.”⁸⁴

In addition, Mr. Abdykozhoev and Mr. Zhanyshbek uulu were able to identify only two phrases that “called for mass riots”: “[f]reedom is not given, you need to fight for freedom”⁸⁵ and “[w]ith revolution comes crime; there is no evolution.”⁸⁶ Mr. Abdykozhoev repeatedly relied on this latter phrase or “slogan” during his testimony.⁸⁷ Yet, even for this slogan, Mr. Abdykozhoev clarified that the words themselves did not alone indicate a call for mass disturbances.⁸⁸ Rather, the alleged calls for mass disturbances allegedly arose from “the context of the video[s]” because the Defendants “convey[ed] negative information in all the videos, and at the end, they either display[ed] a screenshot of the statement or sa[id] it.”⁸⁹ Mr. Abdykozhoev also suggested that it is not permissible to criticize the authorities unless the accuser first proved the allegations in court.⁹⁰

Further, trial testimony confirmed that most of the Defendants were not connected to the videos the prosecution experts identified as calling for mass unrest. Mr. Abdykozhoev identified only Ms. Tazhibek kyzy and Mr. Ishenbekov as having appeared in the videos

⁸² The witnesses and experts, during trial, addressed at least 30 videos. Mr. Abdykozhoev and Mr. Zhanyshbek uulu noted that they reviewed additional videos for their opinions.

⁸³ See Trial Monitoring Notes, 5 September 2024.

⁸⁴ See *id.*

⁸⁵ See *id.*

⁸⁶ See Trial Monitoring Notes, 12 September 2024.

⁸⁷ See Trial Monitoring Notes, 5 September 2024.

⁸⁸ See *id.*

⁸⁹ See *id.*

⁹⁰ In response to the question, “In your opinion, is it not permissible to criticize the authorities at all?”, Mr. Abdykozhoev stated: “You need to prove it, go to court, and the court will decide.” Trial Monitoring Notes, 5 September 2024.

he deemed to have included calls for mass unrest, and no one else.⁹¹ In fact, Mr. Abdykozhoev specifically confirmed that the rest of the Defendants were not tied to any of what were in his view the unlawful videos.⁹² And Mr. Zhanyshbek uulu identified only Ms. Tazhibek kyzy as having appeared in the video he identified as calling for mass unrest.⁹³ During the prosecution's examination of the Defendants, Ms. Beishekeeva testified that she translated videos into Russian and did not recall whether she was involved in the video identified in the indictment.⁹⁴ Mr. Kaparov testified that he was involved in one video, but it is unclear which video he was referring to in this section of his testimony.⁹⁵ The trial testimony showed that many of the Defendants were not even working for *Temirov LIVE* during the period when the videos in question were made or published.⁹⁶

Judgment and Appeals

The Leninsky District Court of Bishkek issued its judgment on October 10, 2024. The court found Ms. Tazhibek kyzy guilty under Articles 278(3) and 41(2) and sentenced her to six years in prison.⁹⁷ The court cited testimony from the three experts who found Ms.

⁹¹ See Trial Monitoring Notes, 29 August 2024; Trial Monitoring Notes, 5 September 2024. Mr. Ishenbekov testified that he only made one video, "The flag fell." See Trial Monitoring Notes, 9 July 2024. However, Mr. Abdykozhoev testified that the video "Here's to two years of death, persecution . . ." has a call to unrest and the person speaking is "probably" Mr. Ishenbekov. Mr. Abdykozhoev further testified that many of Mr. Ishenbekov's videos included a call to unrest. See Trial Monitoring Notes, 5 September 2024.

⁹² When asked about Mr. Akunbekov, Mr. Asykbekov, Mr. Kaparov, Mr. Orozbekov, and Mr. Sultanaliev, the prosecution's expert, Mr. Abdykozhoev, explicitly said that they appeared in at least one video but there were "no calls" for mass unrest in the videos in which they appeared. See Trial Monitoring Notes, 5 September 2024. In addition, for several of the Defendants, Mr. Abdykozhoev did not identify any videos in which they appeared, including Ms. Beishekeeva, Mr. Buzumov, and Mr. Tazhibek uulu. See *id.*

⁹³ See Trial Monitoring Notes, 12 September 2024.

⁹⁴ See Trial Monitoring Notes, 7 July 2024.

⁹⁵ See *id.*

⁹⁶ The videos at issue were published between November and December 2023. Resolution on Initiating a Criminal Case. However, at trial, testimony confirmed that Mr. Kaparov had not worked at *Temirov LIVE* since August 2023; Mr. Asypbekov stopped receiving a salary from the company in August 2022; Mr. Sultanaliev was only employed at *Temirov LIVE* from December 2021 to June 2022; Mr. Tazhibek uulu was employed at *Temirov LIVE* only from 2021 until May 2022; and Mr. Buzumov only worked there for three months in 2022 and five months in 2023, leaving in August of 2023. See Trial Monitoring Notes, July 9, 2024.

⁹⁷ See Judgment at 22.

Tazhibek kyzy’s videos called for mass unrest.⁹⁸ In addition, the court found Mr. Ishenbekov guilty under Articles 278(3) and 41(4) and sentenced him to five years in prison.⁹⁹ The court cited testimony from one of the experts for the prosecution, Mr. Abdykozhoev, who identified Mr. Ishenbekov’s videos as containing calls for violence because the videos had an image with the text “Freedom is not granted – it must be achieved. We must fight for freedom together.”¹⁰⁰ Finally, the court found Mr. Kaparov and Ms. Beishekeeva guilty under Articles 278(3) and 41(4) and sentenced them to three years of probation.¹⁰¹ The remaining seven Defendants were acquitted and, where applicable, released from custody.¹⁰²

In its Judgment, the court concluded that Ms. Tazhibek kyzy, in collaboration with Mr. Temirov, systematically “engaged in deliberate and baseless defamation of government institutions of the Kyrgyz Republic.”¹⁰³ The court further concluded that Ms. Tazhibek kyzy, Mr. Temirov, and their associates, Mr. Kaparov, Ms. Beishekeeva, and Mr. Ishenbekov, held meetings and created chat groups to prepare and discuss content aimed at organizing mass unrest and promoting negative narratives.¹⁰⁴

In terms of its specific factual determinations, the court first discussed two videos published on December 10, 2023 (“Will Niyazbekov Take Revenge for Kolbayev?”) and December 13, 2023 (“I Have No Respect for Officials Who Have Clung to Their Seats for 30 Years.”).¹⁰⁵ In relation to these two videos, the court stated:

“The video addresses under investigation exhibit clear intentional direction. The author, by criticizing the current government, attempts to tarnish its reputation and manipulates public opinion from the outset of the videos. Specifically, the author defames public figures . . . using various negative

⁹⁸ *See id.* at 14.

⁹⁹ *See id.* at 22.

¹⁰⁰ *See id.* at 14

¹⁰¹ *See id.* at 22.

¹⁰² *See id.*

¹⁰³ *See id.* at 3.

¹⁰⁴ *See id.*

¹⁰⁵ The December 13, 2023 video is the one described in the Resolution on Initiating Criminal Investigation and the indictments.

remarks, thereby indirectly calling for mass unrest by criticizing the government through these individuals.”¹⁰⁶

Based on the Trial Monitoring Notes and the Authors’ review of the relevant videos, Ms. Tazhibek kyzy is the only Defendant who appeared in the December 10 and December 13, 2023 videos.¹⁰⁷

The court also found that Ms. Tazhibek kyzy, with Mr. Temirov, “systematically release[d] negative information about government authorities through videos and photographs during 2022-2023.”¹⁰⁸ Although the indictments only referred to the December 13, 2023 video, the Judgment listed a total of twenty videos dating from October 2, 2021 and through December 24, 2023.¹⁰⁹

- **October 2, 2021:** “The Return of Maksim Bakiyev”
- **February 2, 2022:** “Surveillance and Blackmail: How Journalist Bolot Temirov Was Harassed”
- **May 12, 2022:** “Servitude Is in Our Blood”
- **August 30, 2022:** “We Found the 19 Tons of Gold”
- **March 13, 2023:** “The Poverty Syndrome: How Much Does Sadyr Japarov and Akylbek Japarov Spend on Themselves?”
- **June 22, 2023:** “Two Years of Death, Blood, Repression, and Persecution”
- **July 25, 2023:** “Let’s Fight for Freedom Together!”
- **August 7, 2023:** “How a Family Business Is Built on State Tenders”
- **September 1, 2023:** “The People Are Not the President’s Slaves”
- **September 19, 2023:** “The Two Friends That Infuriate the People”

¹⁰⁶ See Judgment at 4.

¹⁰⁷ Makhabat Tazhibek kyzy, YouTube, “Will Niyazbekov Take Revenge for Kolbayev?” *Temirov Live KG* (10 Dec. 2023), <https://www.youtube.com/watch?v=ry1f7V6d9L0>.

¹⁰⁸ See Judgment at 5.

¹⁰⁹ See *id.* at 5–6.

- **September 28, 2023:** “People Can’t Even Afford Bread, Let Alone Meat”
- **October 18, 2023:** “Was the Journalist’s Hit-and-Run an Accident?”
- **October 20, 2023:** “What’s Next for Kyrgyzstan’s Future?”
- **October 29, 2023:** “The Revival of the Bakiyev Regime”
- **October 30, 2023:** “Chinese Loans and Government Sycophants”
- **October 31, 2023:** “Kyrgyzstan Ruled by Sycophants”
- **December 1, 2023:** “The Flag Has Fallen, Kyrgyzstan. Open Your Eyes!”
- **December 9, 2023:** “State Security Committee Silent or Complicit? The Web of Niyazbekov’s Dirty Deeds”
- **December 14, 2023:** “Who’s Planning to Frame Tashiev? The Arrest of Aftandil Zhorobekov”
- **December 24, 2023:** “Will There Be a Coup in Kyrgyzstan? (Victim and Devil in One)”

With respect to these additional videos, the court noted that “the texts of the aforementioned video materials contain negative information about representatives of the governing authorities and linguistic markers of calls for mass unrest and resistance actions,” and that “[t]hese materials are characterized by provocative and negative propaganda.”¹¹⁰ The court concluded that the “words have material power, urging listeners to abandon old traditions and adopt new concepts,” and “explicitly call[] for action and societal change.”¹¹¹ The court also stated that “these unsubstantiated videos have been publicly disseminated,” seemingly invoking the legal standard of defamation.

Further, the court recited and credited the experts’ testimony but failed to address any of the inconsistencies and weaknesses identified by the defense counsel during trial, as identified above.¹¹²

¹¹⁰ See Judgment at 6–7.

¹¹¹ See *id.*

¹¹² See *id.* at 14–15.

Finally, the court dismissed the testimony of Ms. Beishekeeva, Mr. Ishenbekov, Mr. Kaparov, and Ms. Tazhibek kyzy as an attempt to evade responsibility, because “their guilt is fully substantiated by the testimony of the experts, the findings presented in their reports, and other materials in the case file.”¹¹³ The court explained that it “finds no grounds to doubt the evidence presented, as it was collected in compliance with the law and is sufficient to render a decision in this case.”¹¹⁴

Ms. Beishekeeva, Mr. Ishenbekov, Mr. Kaparov, and Ms. Tazhibek kyzy appealed the Judgment. On December 18, 2024, the Bishkek City Court upheld their sentences.¹¹⁵ The prosecution did not appeal the acquittal of the other Defendants.¹¹⁶ Ms. Beishekeeva, Mr. Ishenbekov, and Ms. Tazhibek kyzy have filed cassation appeals that will be considered by the Supreme Court on February 25, 2025.

¹¹³ *See id.* at 16.

¹¹⁴ *Id.*

¹¹⁵ CPJ, “Kyrgyzstan court upholds convictions of 4 anti-corruption journalists” (18 Dec. 2024), <https://cpj.org/2024/12/kyrgyzstan-court-upholds-convictions-of-4-anti-corruption-journalists/>.

¹¹⁶ *See id.*

METHODOLOGY



A. MONITORING

TrialWatch deployed a Kyrgyz- and Russian-speaking monitor to the Defendants' trial before the Leninsky District Court of Bishkek. The monitor's access to the court and ability to observe the trial was restricted on June 7, 2024 and June 14, 2024. The monitor was otherwise able to enter the court and observe the trial and did so on the following dates: June 21, 2024; June 28, 2024; July 5, 2024; July 9, 2024; July 25, 2024; August 1, 2024; August 29, 2024; September 5, 2024; and September 12, 2024. The monitor also attended the October 10, 2024 hearing in which the judgment was issued.

B. ASSESSMENT

To evaluate the trial's fairness and arrive at a grade, the Authors reviewed translations of various case documents, including the indictment, pretrial documents relating to the defendants' detentions, a copy of an expert report, and the Judgment. The Authors also reviewed notes taken during the proceedings by TrialWatch's monitor, considered factual details provided by defense counsel, and conducted factual research in the public domain.

The Authors found that these proceedings involved clear violations of the Defendants' substantive and procedural rights under international law. These included violations of the rights to counsel, to a public trial, to be presumed innocent, to equality of arms, to a reasoned judgment, to freedom of expression, and to freedom from political discrimination. Additionally, the Defendants were arbitrarily detained, with most held in detention facilities and under house arrest, for up to 10 months prior to the issuance of the judgment, in violation of their right to liberty and security of person.

In light of these violations, the trial has been assigned a D grade.

ANALYSIS



A. APPLICABLE LAW

This report draws upon the ICCPR, to which Kyrgyzstan acceded in 1994;¹¹⁷ jurisprudence from the UN Human Rights Committee, the body tasked with interpreting and monitoring implementation of the ICCPR; jurisprudence from the UN Working Group on Arbitrary Detention (“WGAD”); customary international law; and relevant provisions of Kyrgyz legislation. The report also considers the European Convention on Human Rights (“ECHR”) and jurisprudence thereunder from the European Court of Human Rights (“ECtHR”), which the HRC has treated as relevant for interpreting the provisions of the ICCPR.¹¹⁸

B. PRETRIAL DETENTION

Pretrial Detention Was Disproportionate and Unnecessary

The Defendants in this case were arbitrarily detained prior to and, in some cases, throughout the trial (or beyond). Defendants Ms. Beishekeeva, Mr. Ishenbekov, Mr. Kaparov, and Ms. Tazhibek kyzy were held in a pretrial detention facility from January 17, 2024, until the judgment was issued on October 10, 2024. Mr. Turdaliev was held in pretrial detention from January 2024 until March 2024, when he was released with a travel restraint. Six other Defendants, Mr. Akunbekov, Mr. Asypbekov, Mr. Buzumov, Mr. Orozbekov, Mr. Sultanaliev, and Mr. Tazhibek uulu spent months in a pretrial detention facility before they were released on house arrest in March and April 2024. Mr. Sultanaliev’s measure of restraint was reduced to a travel restriction on June 7, 2024, during the trial, due to family health issues.

Under Article 9(3) of the ICCPR, pretrial detention is the exception, not the norm. Specifically, Article 9(3) mandates that “[i]t shall not be the general rule that persons

¹¹⁷ See UN, *UN Human Rights Treaty Bodies: Treaty Body Database*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=93&Lang=EN.

¹¹⁸ See, e.g., UN Human Rights Committee, *General Comment No. 37 (2020) on the right of peaceful assembly (article 21)*, ns. 15, 18, 28, 52, 61, 65, 73–75, 99, 118, 122, 132, UN Doc. CCPR/C/GC/37 (17 Sept. 2020); UN Human Rights Committee, *General Comment No. 36: Article 6: rights to life*, ns. 5, 6, 32, 64, 86, 88, 92, 104, 126–129, 136, 164, 215, 217, UN Doc. CCPR/C/GC/36 (3 Sept. 2019).

awaiting trial shall be detained in custody.”¹¹⁹ The HRC has stated that “[d]etention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or recurrence of crime.”¹²⁰ Accordingly, “pretrial detention should not be mandatory for [all persons accused of] a particular crime . . . without regard to individual circumstances,” and courts must “examine whether alternatives to [pretrial] detention such as bail, electronic bracelets . . . or other conditions[] would render detention unnecessary in a particular case.”¹²¹

Applying such standards, the HRC has elaborated that any justification for pretrial detention must be substantiated with evidence and cannot be based on a “mere assumption.”¹²² Vague and expansive standards, such as “public security,”¹²³ are insufficient to justify pretrial detention; the court must find a “present, direct and imperative threat.”¹²⁴ Accordingly, the WGAD has found detention arbitrary where the state failed to conduct an individualized assessment to determine whether it was “reasonable and necessary” to keep an individual in pretrial detention.¹²⁵ Additionally, it has found that breach of the obligation to provide an individualized determination is “aggravated” where the detained person has a serious health condition.¹²⁶

¹¹⁹ ICCPR, art. 9(3). Interpreting this provision in General Comment No. 35, the HRC has noted that this “applies to persons awaiting trial on criminal charges, that is, after the defendant has been charged, but a similar requirement prior to charging results from the prohibition of arbitrary detention in paragraph 1.” See UN Human Rights Committee, *Article 9: Liberty and security of person, General Comment No. 35*, ¶ 38, UN Doc. CCPR/C/GC/35 (16 Dec. 2014).

¹²⁰ UN Human Rights Committee, *Article 9: Liberty and security of person, General Comment No. 35*, ¶ 38, UN Doc. CCPR/C/GC/35 (16 Dec. 2014).

¹²¹ *Id.*

¹²² UN Human Rights Committee, *Cedeno v. Bolivarian Republic of Venezuela*, ¶ 7.10, UN Doc. CCPR/C/106/D/1940/2010 (4 Dec. 2012).

¹²³ UN Working Group on Arbitrary Detention, *Suthijitseranee v. Thailand*, Opinion No. 56/2017, ¶ 9, UN Doc. A/HRC/WGAD/2017/56 (13 Oct. 2017); UN Working Group on Arbitrary Detention, *Can Thi Theu v. Viet Nam*, Opinion No. 79/2017, ¶ 27, UN Doc. A/HRC/WGAD/2017/79 (12 Dec. 2017).

¹²⁴ UN Working Group on Arbitrary Detention, *Jaradat v. Israel*, Opinion No. 44/2017, ¶¶ 29–30 (2 Oct. 2017).

¹²⁵ See, e.g., UN Working Group on Arbitrary Detention, *Akhmedov v. Kazakhstan*, Opinion No. 62/2017, ¶¶ 45–46 (5 Aug. 2017); UN Working Group on Arbitrary Detention, *Suthijitseranee v. Thailand*, Opinion No. 56/2017, ¶¶ 67–68 (24 Aug. 2017); UN Working Group on Arbitrary Detention, *Ros Sokhet v. Cambodia*, ¶¶ 49–50, UN Doc. A/HRC/WGAD/2021/75 (27 Jan. 2022).

¹²⁶ UN Working Group on Arbitrary Detention, *Akhmedov v. Kazakhstan*, Opinion No. 62/2017, ¶¶ 45–46, UN Doc. A/HRC/WGAD/2017/62 (25 Aug. 2017). Human rights bodies have specifically criticized

Here, in imposing pretrial detention following the Defendants' arrests, the Pervomaisky District Court did not set forth individualized, concrete risks necessitating their detention, *e.g.*, that any individual defendant would have attempted to flee, commit additional crimes, interfere with the process of evidence collection, or intimidate witnesses while awaiting trial. Instead, the court relied, at most, on vague pronouncements about "public danger associated with crimes against order" to conclude that pretrial detention was necessary.¹²⁷ These are precisely "the vague and expansive standards such as 'public security'" that the WGAD has deemed impermissible to justify pretrial detention.¹²⁸

Likewise, the January 17 detention orders did not evaluate the personal circumstances of the Defendants, like those of Mr. Orozbekov, who is the sole breadwinner for his wife and two-year-old daughter, and who cares for his elderly parents;¹²⁹ or those of Mr. Tazhibek uulu, who had suffered from health problems for the prior two years and, following the death of his father, now supports his mother.¹³⁰ Moreover, one Defendant, Mr. Sultanaliyev, reportedly suffered a heart attack while in custody; despite his health condition, he remained in pretrial detention for several months until he was released on house arrest on April 8, 2024 and then eventually released with a travel restriction during the trial.¹³¹

Kyrgyzstan's use of detention measures in cases where there are non-custodial means of restraint available. In fact, in 2022, the UN Human Rights Committee recommended that Kyrgyzstan "prioritize the use of non-custodial alternatives to pretrial detention and imprisonment." UN Human Rights Committee, *Concluding observations on the third periodic report of Kyrgyzstan* (9 Dec. 2022). Similarly, in December 2021, after reviewing Kyrgyzstan's implementation of its legal obligations under the UN Convention against Torture, the UN Committee Against Torture issued a recommendation that Kyrgyzstan should "ensure, in law and in practice, that pretrial detention is used as a measure of the last resort," and "consider replacing pretrial detention with non-custodial measures." UN Committee Against Torture, *Committee against Torture: Concluding observations on the third periodic report of Kyrgyzstan*, ¶ 17 (21 Dec. 2021).

¹²⁷ *See e.g.*, Pervomaisky District Court, Pretrial Detention Resolution of Akylbek Orozbekov (17 Jan. 2024) (The accused has been alleged to have created "public danger associated with crimes against order, taking into account the degree, as well as the fact that the accused of committing a serious crime, the court considers it appropriate to use preventative measures.").

¹²⁸ *See id.*

¹²⁹ *See* 24.kg, "Relatives of 11 detained journalists appeal to President of Kyrgyzstan" (24 Jan. 2024), https://24.kg/english/284974_Relatives_of_11_detained_journalists_appeal_to_President_of_Kyrgyzstan/

¹³⁰ *Id.*

¹³¹ Azattyk, "Without a Doctor and Hot Food. 11 Journalists Still Remain in the Temporary Detention Facility" (25 Jan. 2024), <https://rus.azattyk.org/a/32791272.html>.

As with pretrial detention, courts should make an individualized assessment of an accused person’s circumstances when deciding to impose pretrial house arrest. The Working Group has found house arrest arbitrary where the government failed to provide a “substantive explanation” justifying house arrest as necessary and proportionate.¹³²

As noted, prior to the trial, the appeals court released six Defendants (Mr. Akunbekov, Mr. Asypbekov, Mr. Buzumov, Mr. Orozbekov, Mr. Sultanaliyev, and Mr. Tazhibek uulu) from a pretrial detention facility and placed them under house arrest. However, the appeals court did not provide a “substantive explanation” justifying house arrest as a necessary and proportionate restraint for these Defendants—*e.g.*, that any individual defendant would have attempted to flee, committed additional crimes, interfered with the process of evidence collection, or intimidated witnesses while awaiting trial.¹³³ Similarly, rather than explaining in the house arrest orders why the restrictive measure was necessary, the investigative judge issuing the orders appeared to treat house arrest as a benefit to be received by certain Defendants. For example, in moving Mr. Orozbekov from the detention facility to house arrest on March 12, 2024, the court provided no justification for the house arrest measure. Rather, the decision cited favorable individual criteria demonstrating why detention in custody was no longer necessary—including that Mr. Orozbekov “is a citizen of the Kyrgyz Republic, has a permanent place of residence, has not previously been prosecuted, [and] has a minor child in [his] care”—but identified no particularized risks requiring the imposition of house arrest rather than pretrial release.¹³⁴

Kyrgyzstan’s repeated failure to adequately evaluate, on an individualized basis, the need to keep Defendants in pretrial detention and under house arrest renders their deprivation of liberty disproportionate and unnecessary under Article 9 of the ICCPR.

Right to Access to Counsel Before Trial Was Violated

Based on information reported by defense counsel, there are grounds to believe that the right to access counsel was also violated for certain Defendants during the pretrial

¹³² UN Working Group on Arbitrary Detention, *Ahmed Abdallah Mohamed Sambi v. Comoros*, Opinion No. 65/2018, ¶¶ 22–23, UN Doc. A/HRC/WGAD/2018/65 (12 Feb. 2019) (examining an “administrative” house arrest imposed prior to any trial allegedly to maintain “public order and security”).

¹³³ *See supra* note 78; Pervomaisky District Court, Decision Ordering House Arrest for Akylbek Orozbekov (12 Mar. 2024); *see also* Pervomaisky District Court, Decision Ordering House Arrest for Zhoodarbek Buzumov (9 Apr. 2024).

¹³⁴ *See* Pervomaisky District Court, Decision Ordering House Arrest for Akylbek Orozbekov, (12 Mar. 2024); *see also* Pervomaisky District Court, Decision Ordering House Arrest for Zhoodarbek Buzumov (9 Apr. 2024).

proceedings, as not all Defendants were able to meet with their attorneys when they were first detained.

Under Article 14(3)(b) of the ICCPR, everyone charged with a criminal offense has the right to the assistance of counsel of his or her choosing, including the right to communicate with counsel. The right to counsel applies at all stages of criminal proceedings and is particularly vital during periods of detention.¹³⁵ In this regard, the HRC has stated that “all persons who are arrested must immediately have access to counsel.”¹³⁶ In *Zhuk v. Belarus*, for example, the HRC found a violation of Article 14(3)(b) where a detainee had “only been allowed to see a lawyer for five minutes,” “ha[d] effectively been deprived of legal assistance during the initial phases of the investigative proceedings,” and “was forced to participate in investigative actions [including police interrogation] without legal advice, despite his requests for a lawyer.”¹³⁷

As elaborated by the ECtHR, access to counsel should be provided “as soon as [the accused is] placed in [police custody] or [pretrial] detention”¹³⁸ and, as a baseline whether or not the individual is in detention, “from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right.”¹³⁹

¹³⁵ See UN Basic Principles on the Role of Lawyers (7 Sept. 1990), Principle 1; UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, Principles 1, 17(1), 18, UN Doc. A/RES/43/173 (Annex) (9 Dec. 1988).

¹³⁶ UN Human Rights Committee, *Concluding Observations of the Human Rights Committee: Georgia*, UN Doc. CCPR/C/79/Add.75 (5 May 1997). See also UN Human Rights Committee, *Article 9: Liberty and security of person*, General Comment No. 35, ¶ 35, UN Doc. CCPR/C/GC/35 (16 Dec. 2014); European Court of Human Rights, *Dayanan v. Turkey*, ¶¶ 30–32, App. No. 7377/03 (13 Oct. 2009); European Court of Human Rights, *Brusco v. France*, ¶ 45, App. No. 1466/07 (14 Oct. 2010).

¹³⁷ UN Human Rights Committee, *Zhuk v. Belarus*, ¶¶ 2.1, 8.5, UN Doc. CCPR/C/109/D/1910/2009 (30 Oct. 2013). See also UN Human Rights Committee, *Lyashkevich v. Uzbekistan*, ¶ 9.4, UN Doc. CCPR/C/98/D/1552/2007 (11 May 2010); UN Human Rights Committee, *Gridin v. Russian Federation*, ¶ 8.5, UN Doc. CCPR/C/69/D/770/1997 (18 July 2000); UN Human Rights Committee, *Saidov v. Tajikistan*, ¶ 9.5, UN Doc. CCPR/C/122/D/2680/2015 (4 Apr. 2018); UN Human Rights Committee, *Carranza Alegre v. Peru*, ¶ 7.5, UN Doc. CCPR/C/85/D/1126/2002 (28 Oct. 2005); UN Human Rights Committee, *Krasnova v. Kyrgyzstan*, ¶ 8.6, UN Doc., CCPR/C/101/D/1402/2005 (29 Mar. 2011).

¹³⁸ European Court of Human Rights, *Dayanan v. Turkey*, ¶¶ 30–32, App. No. 7377/03 (13 Oct. 2009).

¹³⁹ European Court of Human Rights (Grand Chamber), *Salduz v. Turkey*, ¶¶ 54–55, App. No. 36391/02 (27 Nov. 2008); European Court of Human Rights, *Pishchalnikov v. Russia*, ¶ 70, App. No. 7025/04 (24 Sept. 2009). See also European Court of Human Rights, *Panovits v. Cyprus*, ¶ 66, App. No. 4268/04 (11 Dec. 2008); European Court of Human Rights, *Murray v. United Kingdom*, ¶¶ 65–66, App. No. 18731/91 (18 Feb. 1996); European Court of Human Rights, *Mader v. Croatia*, ¶¶ 150–158, App. No. 56185/07 (21 June 2011).

Under Article 14(3)(d) of the ICCPR, individuals facing criminal charges are further entitled to be informed of the right to legal assistance, and such notification should occur immediately upon arrest.¹⁴⁰ In *Saidova v. Tajikistan*, for instance, although the defendant was eventually assigned a lawyer towards the end of the investigation, the HRC found a violation of Article 14(3)(d) since he “was not informed of his right to legal representation upon arrest.”¹⁴¹

In this case, it appears that some of the Defendants were neither notified of their right to counsel upon arrest nor allowed counsel during informal questioning by the Ministry of Internal Affairs. This raises concern even if the Defendants were initially formally classified as “witnesses” rather than as “suspect[s],” so long as the government in fact suspected or had reasons for suspecting their involvement in an offense.¹⁴²

For instance, according to her defense counsel, Ms. Tazhibek kyzy was neither apprised of her legal rights for the first six hours of her detention, nor allowed to receive legal assistance despite requesting counsel.¹⁴³ In fact, the investigative agency denied Ms. Tazhibek kyzy’s lawyer access to his client during the search at the *Temirov LIVE* office on January 16, 2024, claiming that Ms. Tazhibek kyzy had declined legal representation—a claim she later refuted.¹⁴⁴ After she was taken to the Ministry of Internal Affairs for questioning, Ms. Tazhibek kyzy’s lawyer was also initially barred from entering the premises and was only granted access to his client after an hour and a half had elapsed.¹⁴⁵

¹⁴⁰ See UN Human Rights Committee, *Concluding Observations of the Human Rights Committee: Netherlands*, ¶ 11, UN Doc. CCPR/C/NLD/CO/4 (25 Aug. 2009).

¹⁴¹ UN Human Rights Committee, *Saidova v. Tajikistan*, ¶ 6.8, UN Doc. CCPR/C/81/D/964/2001 (20 Aug. 2004). See also European Court of Human Rights, *Talat Tunç v. Turkey*, ¶¶ 53–54, 59–62, App. No. 32432/96 (27 Mar. 2007) (finding a violation of the right to legal aid even though the accused had not requested it since the authorities failed to actively ensure “that the applicant knew that he could request the assignment of a free lawyer”).

¹⁴² The ECtHR has also found that “a person acquires the status of a suspect calling for the application of [fair trial] safeguards not when it is formally assigned to him or her, but when the domestic authorities have plausible reasons for suspecting that person’s involvement in a criminal offence.” European Court of Human Rights, *Truten v. Ukraine*, ¶ 66, App. No. 18041/08 (23 June 2016).

¹⁴³ Pervomaisky District Court of the City of Bishkek, Decision on the Appeal of the Complaint, 7 February 2024.

¹⁴⁴ Information provided to TrialWatch by defense counsel.

¹⁴⁵ *Id.*

Another Defendant—Ms. Beishekeeva—was reportedly arrested at around 6:00 am, but, despite her request for counsel, her lawyer was only allowed to see her at about 12:00 pm.¹⁴⁶ Although, in the government’s view, there was no “official” interrogation during this time, the Ministry of Internal Affairs officers asked her to give them information about the people she worked with, according to her counsel. Ms. Beishekeeva’s Article 14 right to counsel was thus likely violated during this initial questioning stage (since it is reasonable, in light of the arrest and subsequent charge, to infer that the authorities at this stage in fact considered her a suspect). The same was true for Mr. Ishenbekov. Despite his request for counsel,¹⁴⁷ during the first six hours he was detained and before he was able to meet with his lawyer, he was reportedly informally questioned without access to counsel, likely in violation of his Article 14 right to counsel.¹⁴⁸

C. VIOLATIONS AT TRIAL

Right to a Public Trial Was Violated

While most of the trial was open to the public, certain sessions were not, undermining the guarantee of a public trial enshrined in the ICCPR.

Article 14(1) of the ICCPR entitles those facing criminal charges to a fair and public hearing: “The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large.”¹⁴⁹ As the HRC has stated, “courts must make information regarding the time and venue of the oral hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits.”¹⁵⁰ Where a trial is likely to garner publicity, including as a result of the notoriety of the Defendants, the court should “accommodate the interested public.”¹⁵¹

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ UN Human Rights Committee, General Comment No. 32, ¶ 28, UN Doc. CCPR/C/CG/32, (23 Aug. 2007).

¹⁵⁰ *Id.* See also UN Human Rights Committee, *Van Meurs v. The Netherlands*, UN Doc. CCPR/C/39/D/215/1986 (13 July 1990).

¹⁵¹ UN Human Rights Committee, *Marinch v. Belarus*, ¶¶ 3.3, 10.5, UN Doc. CCPR/C/99/D/1502/2006 (16 July 2010) (“[T]he court must provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, e.g. potential public interest in the case [T]he State party did not provide any arguments as to the measures taken to accommodate the interested

In this case, the courts did not consistently provide for adequate facilities and access for the public, taking into account the public interest in the case. For example, at the hearing on June 7, 2024, a trial monitor was unable to enter the courtroom to monitor the proceedings and was told by guards at the courthouse that “there were a lot of people and all of them would not enter the courtroom.”¹⁵² The monitor noted that there were about twenty people in the corridor to witness the hearing, including journalists and relatives of the Defendants.¹⁵³ The inability to admit journalists and relatives of the Defendants at a trial already known to be the subject of public interest¹⁵⁴ is suggestive of a failure to accommodate reasonably the attendance of interested members of the public, and thus a failure of compliance with Article 14(1).

Other hearings also raised concerns under Article 14(1). On July 25, 2024, for instance, two people were forcibly removed from the courtroom by bailiffs on the grounds that there were no seats available inside the courtroom.¹⁵⁵ At the June 14, 2024 hearing, the bailiffs only permitted relatives who were “[o]lder women” to attend the hearing due to the “small room,” indicating an arbitrary exclusion of certain categories of persons from observation of the hearings.¹⁵⁶ Such an arbitrary exclusion is inconsistent with the standard established by the HRC that “a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons.”¹⁵⁷ The ECtHR has similarly held that Article 14(1) requires access by “the general public” unless certain “exceptional circumstances” apply.¹⁵⁸

public taking into account the role of the author as a public figure.”); *compare Van Meurs v. The Netherlands*, ¶ 6.2 (noting that “[f]ailure of the court to make large courtrooms available does not constitute a violation of the right to a public hearing, if in fact *no interested member of the public is barred from attending an oral hearing*” (emphasis added)).

¹⁵² Trial Monitoring Notes, 7 June 2024.

¹⁵³ *Id.*

¹⁵⁴ See, e.g., 24.kg “Relatives of 11 detained journalists appeal to President of Kyrgyzstan” (24 Jan. 2024), https://24.kg/english/284974_Relatives_of_11_detained_journalists_appeal_to_President_of_Kyrgyzstan/.

¹⁵⁵ See Trial Monitoring Notes, 25 July 2024.

¹⁵⁶ Trial Monitoring Notes, 14 June 2024.

¹⁵⁷ UN Human Rights Committee, General Comment 32, ¶ 29, UN Doc. CCPR/C/GC/32 (23 Aug. 23 2007).

¹⁵⁸ UN Working Group on Arbitrary Detention, *Yagmyrov v. Turkmenistan*, Opinion No. 70/2017, ¶ 66 (21 Dec. 2017).

Although many of the hearings were open, and accommodations were made for observers (including TrialWatch’s monitor, who was able to attend most hearings), the defects described in this section strained the ability of interested members of the public to observe the trial throughout the course of the proceedings. Because the authorities did not consistently provide adequate facilities for the attendance of interested members of the public, the right to a public trial in this case was violated.

Right to be Presumed Innocent Was Violated

Throughout pretrial proceedings and at trial, government officials made many public statements presuming the guilt of the Defendants. Such statements may have impacted public sentiment or judicial consideration of their cases, violating Defendants’ right to be presumed innocent.

Article 14(2) of the ICCPR guarantees the right of anyone charged with a criminal offense to be presumed innocent until proven guilty according to the law. This right is also guaranteed by Article 6(2) of the ECHR.

The HRC has stated that the right “imposes on the prosecution the burden of proving the charges, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle.”¹⁵⁹ The HRC has further made clear 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.”¹⁶⁰ Likewise, the ECtHR has stated that the presumption of innocence “may be infringed not only by a judge or court but also by other public authorities.”¹⁶¹

While Article 14(2) of the ICCPR does not prevent authorities from informing the public about ongoing criminal cases, the HRC has observed that the government may only do so while “exercis[ing] the restraint that [ICCPR 14(2)] requires of them.”¹⁶² For example, in the case of *Gridin v. Russian Federation*, the HRC found a violation of the right to the

¹⁵⁹ UN Human Rights Committee, General Comment 32, ¶ 30, UN Doc. CCPR/C/GC/32 (23 Aug. 23 2007).

¹⁶⁰ *Id.*

¹⁶¹ European Court of Human Rights, *Alenet de Ribemont v. France*, ¶ 36, App. No. 15175/89 (7 Aug. 1996).

¹⁶² UN Human Rights Committee, *Gridin v. Russian Federation*, ¶ 8.3, UN Doc. CCPR/C/69/D/770/1997 (8 July 2000).

presumption of innocence where the head of police announced that the defendant was “the murderer” on television before the trial had commenced.¹⁶³ The ECtHR has also interpreted Article 6(2) of the ECHR in a similar vein, stating that governmental authorities must act “with all the discretion and circumspection necessary if the presumption of innocence is to be respected.”¹⁶⁴

Here, Kyrgyz officials have at times made public statements implying the Defendants’ guilt. For example, on the same day the Defendants were arrested, the official website of the Ministry of Internal Affairs, which controls the entity that arrested and initially detained the Defendants, published a report stating that “on the pages *Ait Ait Dese* and *Temirov LIVE*, information calling for mass disorder was found,” a prejudicial public statement given that Defendants were charged with the offense of inciting mass riots.¹⁶⁵ Furthermore, in September 2024, President Japarov publicly indicated that certain of the Defendants were guilty of the charges against them, asking: “[H]ow can one deny the fact that they were paid some money to sit on social networks and spread false messages calling for unrest?”¹⁶⁶

Defendants’ right to be presumed innocent was further compromised when they were kept in metal cages for their respective pretrial detention hearings in February 2024. Under the ICCPR, the presumption of innocence can be breached through conduct suggesting that the accused is guilty. The HRC, for example, has stated that “defendants should normally not be shackled or kept in cages during trial, or otherwise presented to the court in a manner indicating that they may be dangerous criminals.”¹⁶⁷ If a defendant is caged, the state must offer some justification for this measure.¹⁶⁸ In *Pustovoit v. Ukraine*, the HRC found a violation of Article 14(2) where the state “failed to demonstrate that placing the author in a metal cage during the public trial at the Supreme Court, with

¹⁶³ *Id.* ¶ 3.5.

¹⁶⁴ *Allenet de Ribemont*, ¶ 38.

¹⁶⁵ 24.kg, “The Ministry of Internal Affairs named the reason for the searches at the journalists’ homes” (16 Jan. 2024), https://24.kg/obschestvo/284259_vmvd_nazvali_prichinu_provedeniya_obyiskov_ujournalistov/.

¹⁶⁶ *See* Kabar, “There has always been, there is, and there always will be freedom of speech in Kyrgyzstan. Another interview with the head of state” (28 Sept. 2024), <https://kg.kabar.kg/news/sadyr-zhaparov-lk-d-g-s-z-erkindigi-zhana-adam-ukuktarynyyn-saktalyshy-boiuncha-pikirin-bildirdi/>

¹⁶⁷ *See* UN Human Rights Committee, *Selyun v. Belarus*, ¶ 7.5, UN Doc. CCPR/C/115/D/2289/2013 (9 Dec. 2015); UN Human Rights Committee, *Mikhail Pustovoit v. Ukraine*, ¶ 9.3, UN Doc. CCPR/C/110/D/1405/2005 (12 May 2014).

¹⁶⁸ *See id.*

his hands handcuffed behind his back, was necessary for the purpose of security or the administration of justice, and that no alternative arrangements could have been made consistent with the human dignity of the author and with the need to avoid presenting him to the court in a manner indicating that he was a dangerous criminal.”¹⁶⁹

Here, the court provided no explanation as to why it was necessary to keep the Defendants in a metal cage during the February hearings. The Defendants were not accused of engaging in violence, had exhibited no violent tendencies, and were not, as explained above, demonstrated flight risks. Accordingly, the confinement of the Defendants to a cage during the judicial proceedings was prejudicial to their right to be presumed innocent.

Finally, as discussed below, the convicted Defendants’ right to be presumed innocent was violated because the court dismissed their testimony without providing sufficient reasoning and, in the case of Mr. Kaparov and Ms. Beishekeeva, without explaining the means through which they aided and abetted the offense.¹⁷⁰

In light of the foregoing, the Defendants’ right to be presumed innocent was violated.

D. RIGHT TO A REASONED JUDGMENT FOR THE CONVICTED DEFENDANTS

The Judgment failed to adequately address inconsistencies or sufficiently analyze the facts as put forth by the prosecution, accepting them without adequate explanation. In so doing, the court violated the convicted Defendants’ right to a reasoned judgment.¹⁷¹

Article 14(5) of the ICCPR establishes the right to appeal. As stated by the HRC, exercise of the right to appeal necessitates a “duly reasoned” written judgment by the lower court: if a court does not provide sufficient rationale for conviction, a defendant cannot effectively challenge the decision before a higher tribunal.¹⁷² In *Van Hulst v. The Netherlands*, the

¹⁶⁹ UN Human Rights Committee, *Mikhail Pustovoit v. Ukraine*, ¶ 9.3, UN Doc., CCPR/C/110/D/1405/2005 (12 May 2014).

¹⁷⁰ UN Human Rights Committee, *Vazgen Arutyuniantz v. Uzbekistan*, ¶ 6.4, UN Doc., CCPR/C/83/D/971/2001 (13 Apr. 2005) (Defendant’s “guilt cannot be presumed until the charge has been proved beyond reasonable doubt” and “it transpires that the charges and the evidence against the author left room for considerable doubt.”).

¹⁷¹ As noted, seven of the eleven Defendants were acquitted. See Judgment at 22.

¹⁷² See UN Human Rights Committee, *General Comment No. 32*, ¶ 49, UN Doc., CCPR/C/GC/32 (23 Aug. 2007); UN Human Rights Committee, *Van Hulst v. Netherlands*, ¶¶ 6.4–6.5, UN Doc., CCPR/C/82/D/903/1999 (1 Nov. 2004). The violation of the right to appeal due to the absence of a duly

HRC noted that courts must give “reasons” for dismissing defense arguments to comply with Article 14(5).¹⁷³

First, the court found Mr. Kaparov and Ms. Beishekeeva guilty of assisting with calling for mass unrest but failed to articulate clear reasoning or factual findings to support that conclusion in the Judgment. Among other things, the Judgment fails to establish a plausible nexus between the alleged calls for unrest and these two convicted Defendants. With respect to Mr. Kaparov, the Judgment acknowledges that he had not worked at *Temirov LIVE* since August 2023, three months prior to the December 2023 video cited as calling for mass unrest in the indictment.¹⁷⁴ Mr. Kaparov testified that he was not involved in those videos published on *Temirov LIVE* and *Ait Ait Dese* in 2022 and 2023.¹⁷⁵ While he later testified that he was involved in one video, it is unclear which video he was referring to in this section of his testimony.¹⁷⁶ Moreover, Mr. Abdykozhoev, an expert witness for the prosecution, testified that, while Mr. Kaparov appeared in at least one of the broader set of videos discussed during the trial, there were “no calls” for mass unrest in any of the videos in which he appeared.¹⁷⁷ In light of scant evidence of Mr. Kaparov’s involvement in any video that allegedly called for mass unrest, the Judgment does not clarify the basis on which the court finds him to have assisted with the calling for mass unrest.

With respect to Ms. Beishekeeva, there is little evidence that she was involved in any of the videos calling for mass unrest. During trial, Mr. Abdykozhoev could not identify any videos in which she appeared.¹⁷⁸ Based on the Judgment, it appears that Ms.

reasoned judgment can also be characterized as a violation of the right to a reasoned judgment protected by Article 14(1).

¹⁷³ See *Van Hulst v. Netherlands*, ¶¶ 6.4–6.5, UN Doc. CCPR/C/82/D/903/1999 (1 Nov. 2004). See also UN Human Rights Committee, *Mennen v. Netherlands*, ¶ 8.3, UN Doc. CCPR/C/99/D/1797/2008, (24 Aug. 2010); UN Human Rights Committee, *Hamilton v. Jamaica*, ¶ 9.1, UN Doc. CCPR/C/50/D/333/1988 (25 March 1994).

¹⁷⁴ See Judgment at 9 (stating that Mr. Kaparov worked as an investigative journalist under Makhabat Tazhibek Kyzy from Spring of 2021 until August 2023).

¹⁷⁵ Trial Monitoring Notes, 9 July 2024.

¹⁷⁶ See *id.*

¹⁷⁷ See *supra* note 92.

¹⁷⁸ Mr. Abdykozhoev identified only Ms. Tazhibek kyzy and Mr. Ishenbekov as having appeared in the videos he deemed to have included calls for mass unrest, and no one else. See Trial Monitoring Notes, 29 August 2024 and Trial Monitoring Notes 5 September 2024. And Mr. Zhanyshbek uulu found only Ms. Tazhibek kyzy to have appeared in a video calling for mass unrest. See Trial Monitoring Notes, 12 September 2024. In the Judgment, the court noted that Mr. Ishenbekov published the video “Kyrgyzstan,

Beishekeeva's guilt was determined on the basis that she *may* have translated some of the videos with alleged indirect calls for unrest into Russian.¹⁷⁹ Moreover, the Judgment did not identify or explain how Ms. Beishekeeva's conduct amounted to "aiding" calls for mass unrest.

Second, as it relates to all of the convicted Defendants, the Judgment recited the expert testimonies but failed to grapple with any of the inconsistencies identified by the defense counsel during trial. For example, the two prosecution experts could not consistently identify the specific videos that "called for mass riots."¹⁸⁰ When originally asked about the video "Kyrgyz, Open Your Eyes!", Mr. Abdykozhoev said that the video contained no call to mass unrest. Mr. Abdykozhoev then switched responses, claiming the video did contain such a call and that the "title also contains a call." When pushed further, Mr. Abdykozhoev said he "did not specify what kind of call," and that "[f]ighting for freedom peacefully is a systemic approach. In context."¹⁸¹ Nonetheless, the court cited "Kyrgyz, Open Your Eyes!" as an example of a video that contained "indirect calls for resistance and unrest."¹⁸²

In addition, neither expert was able to identify specific words that "called for mass riots," except for two phrases, "[f]reedom is not given, you need to fight for freedom"¹⁸³ and "[w]ith revolution comes crime; there is no evolution."¹⁸⁴ Mr. Abdykozhoev repeatedly relied on this latter phrase or "slogan" during his testimony.¹⁸⁵ Yet, even for this slogan, Mr. Abdykozhoev clarified that the words themselves did not alone indicate a call for mass disturbances.¹⁸⁶ Rather, the alleged calls for mass disturbances purportedly arose from "the context of the video[s]" because the Defendants "convey negative information in all

Open Your Eyes," which is identified by Mr. Abdykozhoev as having a call for mass unrest. *See* Judgment at 14.

¹⁷⁹ Judgment at 9. Specifically, the court stated that Ms. Beishekeeva "denied any involvement in two specific videos mentioned in the indictment but acknowledged *the possibility* of having been involved in the translation of other videos into Russian." (emphasis added).

¹⁸⁰ *See* Trial Monitoring Notes, 5 September 2024.

¹⁸¹ *See id.*

¹⁸² *See* Judgment at 11.

¹⁸³ *See* Trial Monitoring Notes, 5 September 2024.

¹⁸⁴ *See* Trial Monitoring Notes, 12 September 2024.

¹⁸⁵ *See* Trial Monitoring Notes, 5 September 2024.

¹⁸⁶ *See id.*

the videos, and at the end, they either display a screenshot of the statement or say it.”¹⁸⁷ In the Judgment, the court cited this statement in explaining the three experts’ opinions, but did not conduct further analysis of these statements or the experts’ conclusions.¹⁸⁸

The court also did not address the prosecution experts’ failure to adequately explain their methodology in rendering their expertise. For example, Mr. Zhanyshbek uulu stated that he used content analysis and event analysis to examine the videos. While Mr. Zhanyshbek uulu admitted that event analysis requires analysis of how the public perceived the video, when pressed by defense counsel, he could not provide an account of public opinion regarding the video.¹⁸⁹ But the court did not require him to further explain his application of this methodology—nor did it address his failure to do so in ultimately accepting his conclusions.

Third, the court dismissed the testimony of Ms. Beishekeeva, Mr. Ishenbekov, Mr. Kaparov, and Ms. Tazhibek kyzy as an attempt to evade responsibility, because “their guilt is fully substantiated by the testimony of the experts, the findings presented in their reports, and other materials in the case file.”¹⁹⁰ While the court was of course entitled to credit or discredit witness testimony, its brisk, blanket dismissal of the Defendants’ testimony in light of inconsistent expert testimony raises concerns regarding Defendants’ right to a reasoned judgment.

Fourth, the court’s judgment suggested that making negative statements about the government, without more, can serve as a basis for inciting mass unrest. As discussed below, making negative statements about the government, without more, does not amount to calling for mass unrest or riots under prevailing international jurisprudence.

The court also failed to specifically explain how the negative statements at issue called for or incited mass unrest. In regards to both the December 10 and December 13 videos, the court concluded that “[t]he author, by criticizing the current government, attempts to tarnish its reputation and manipulates public opinion from the outset of the videos.”¹⁹¹ The Judgment further stated that “the author defames public figures . . . using various negative remarks, thereby indirectly calling for mass unrest by criticizing the government through

¹⁸⁷ *See id.*

¹⁸⁸ *See* Judgment at 14-15.

¹⁸⁹ *See* Trial Monitoring Notes, 12 September 2024.

¹⁹⁰ *See id.* at 16.

¹⁹¹ *See* Judgment at 4.

these individuals.”¹⁹² Furthermore, the court stated that “the author implicitly calls for resistance actions and mass unrest by discrediting the government.”¹⁹³ And finally, the court noted that there was discussion of “dissatisfaction with the government, aiming to subtly persuade the audience to consider changing the regime.”¹⁹⁴ The court did not adequately explain how such statements—“implicitly,” “indirectly,” or “subtly”—called for mass unrest.

The court similarly failed to adequately identify and assess the requisite intent, even for those who had appeared in the videos at issue. Rather, seemingly contradicting its characterization of the alleged calls as “subtext[ual],”¹⁹⁵ the court concluded—without establishing the required level of intent or providing evidence of intent beyond insufficiently specified “linguistic markers”¹⁹⁶—that “[t]he video addresses under investigation exhibit clear intentional direction.”¹⁹⁷

E. RIGHT TO EQUALITY OF ARMS

Besides violating Defendants’ right to a reasoned judgment, the court’s apparent overreliance on testimony from prosecution expert witnesses also violated Defendants’ right to equality of arms. Article 14(1) of the ICCPR requires “that each side be given the opportunity to contest all the arguments and evidence adduced by the other party.”¹⁹⁸ As one UN Special Rapporteur has noted, in some contexts, “overreliance on ‘judicial experts’” raises concerns.¹⁹⁹ This is particularly so where charges are brought “solely on the basis of the opinion of experts whose requisite qualifications, independence and neutrality [have] not been established.”²⁰⁰ Where such charges are brought, “the weight

¹⁹² *See id.*

¹⁹³ *Id.* at 5.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* at 4.

¹⁹⁸ UN Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial*, ¶ 13, UN Doc., CCPR/C/GC/32 (23 Aug. 2007).

¹⁹⁹ *See* UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, ¶ 39, A/HRC/43/46/Add.1 (22 Jan. 2020) (emphasis added).

²⁰⁰ *Id.*

given to evidence analysis *per se* violates the principle of equality of arms and has profound implications on fair trials.”²⁰¹

While the UN Special Rapporteur was discussing charges concerning extremism and terrorism in Kazakhstan, the same observation applies here: the Defendants were indicted on the basis of an expert report, the prosecution relied extensively on expert opinion in trying the case, and the court based the conviction almost exclusively on the testimony of government experts. And, as explained above, the court failed to adequately address the inconsistencies and factual gaps in the experts’ testimony.

Further, the record reflects the court’s reliance on government experts for the key legal finding of whether the videos in question contained calls for mass unrest.²⁰² This is especially concerning because the definitions of mass unrest given by the prosecution experts appear problematic, as the experts appeared to equate disseminating negative information and discrediting the government with calling for mass unrest.²⁰³

The ECtHR case of *Dmitriyevskiy v. Russia* is instructive here. In that case, a Russian newspaper published articles written by Chechen leaders calling for peace in one article and criticizing the Kremlin as the “center of international terrorism” in another.²⁰⁴ The chief editor of the newspaper, Mr. Stanislav Mikhaylovich Dmitriyevskiy, was prosecuted and convicted for “inciting hatred or enmity” under Article 282 of the Russian Criminal Code.²⁰⁵ The court convicted Mr. Dmitriyevskiy based largely on reports by a linguistic expert.²⁰⁶ The ECtHR criticized the Russian courts for “basing their guilty verdict on the above-mentioned expert reports,” while “fail[ing] to assess them and merely endors[ing] the linguistic expert’s conclusions.”²⁰⁷ Similarly, in this case, the court apparently relied heavily on the prosecution experts and effectively delegated to those experts the determination of whether the convicted Defendants called for mass unrest. Accordingly, Defendants’ right to equality of arms was violated.

²⁰¹ *Id.*

²⁰² *See supra.*

²⁰³ *See infra.*

²⁰⁴ European Court of Human Rights, *Dmitriyevski v. Russia*, ¶¶ 7–9, App. No. 42168/06 (3 Oct. 2017).

²⁰⁵ *Id.* at ¶ 47.

²⁰⁶ *Id.* at ¶¶ 20–27

²⁰⁷ *Id.* at ¶¶ 113–115.

It should be noted that Defendants offered the expert report of N. Narynbayeva and the court agreed to include her report in the case materials.²⁰⁸ Nevertheless, in the Judgment, the court did not consider Ms. Narynbayeva’s expert opinion because N. Narynbayeva did not appear for testimony during the trial, despite being summoned.²⁰⁹

F. VIOLATIONS OF SUBSTANTIVE RIGHTS

Right to Freedom of Expression Was Violated

The prosecution of Defendants under Article 278(3) also violated their right to freedom of opinion and of expression as guaranteed by Article 19 of the ICCPR.

Article 19(2) of the ICCPR states that “[e]veryone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds.” Notably, the right to freedom of expression protects criticism of government officials and their actions²¹⁰ as well as political discourse more broadly; indeed, such speech is “essential.”²¹¹ This protection extends to expression and distribution of opinions critical of the government on social media or the internet.²¹² The HRC has correspondingly established that heads of state and government are “legitimately subject to criticism and political opposition,” emphasizing that “in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high.”²¹³ As such, “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”²¹⁴

More broadly, the HRC has explained that any restriction on the right to freedom of expression must be (i) provided by law, *i.e.*, comply with the principle of legality; (ii) pursue

²⁰⁸ See Trial Monitoring Notes, 29 August 2024.

²⁰⁹ See Judgment at 15–16.

²¹⁰ UN Human Rights Committee, *Article 19: Freedom of opinion and expression., General Comment No. 34*, ¶ 20, UN Doc. CCPR/C/GC/34 (12 Sept. 2011) (emphasizing that “the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential.”).

²¹¹ *Id.*

²¹² *Id.* at ¶¶ 11, 38, 42.

²¹³ *Id.* at ¶ 38.

²¹⁴ *Id.*

a legitimate aim; and (iii) be necessary and proportional to that aim.²¹⁵ In this case, the prosecution failed to meet any of the three requirements for restriction of the journalists' speech.

Principle of Legality

In order to comply with the principle of legality,²¹⁶ legislation must be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly . . . [and] may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.”²¹⁷ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted: “[the] restriction must be provided by laws that are precise, public and transparent; it must avoid providing authorities with unbounded discretion.”²¹⁸ Further, the WGAD has explained that it “has consistently found that vague and overly broad provisions that could result in penalties being imposed on individuals who had merely exercised their rights to freedom of opinion and expression cannot be regarded as being consistent with the [UDHR] or the [ICCPR].”²¹⁹

The Defendants here were detained and prosecuted pursuant to Article 278(3) of the Kyrgyz Criminal Code, which prohibits “calls for active disobedience . . . and for mass riots, as well as calls for violence against citizens.” This law is impermissibly vague and violates the principle of legality for three reasons.

First, absent an explanation of what would constitute “disobedience,” the provision sweeps in a wide swath of conduct protected under international law. Indeed, an apt example of how susceptible the law is to misuse is found in the Indictment of Mr. Ishenbekov, which, citing the analysis of a linguistic expert, identified the offense as:

²¹⁵ *Id.*

²¹⁶ The principle of legality is set forth in Article 15 of the ICCPR.

²¹⁷ UN Human Rights Committee, *General Comment No. 34*, ¶ 25, UN Doc. CCPR/C/GC/34 (12 Sept. 2011); *see also* UN Working Group on Arbitrary Detention, *Waleed Abulkhair v. Saudi Arabia*, Opinion No. 10/2018, ¶ 52, UN Doc. A/HRC/WGAD/2018/10 (4 July 2018) (explaining “an act can be punished only if, at the time of its commission, the act was the object of a valid, sufficiently precise, written criminal law to which a sufficiently certain sanction was attached.”).

²¹⁸ UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of freedom of opinion and expression*, ¶ 6(a), UN Doc. A/74/486 (9 Oct. 2019).

²¹⁹ UN Working Group on Arbitrary Detention, *Kem Sokha v. Cambodia*, Opinion No. 9/2018, ¶ 55, UN Doc. A/HRC/WGAD/2018/9 (5 June 2018) (considering Article 443 of the CCC, which prohibits “fomenting hostilities or acts of aggression”).

“actively discredit[ing] the state power of the Kyrgyz Republic, thereby committing such actions as would foster a negative opinion among the citizens of the Kyrgyz republic and in the current political climate, in regards to the policies carried out by the Head of state, encouraging the citizens of the Kyrgyz Republic to secretly overthrow the current government.”²²⁰

As discussed above, this indictment equates a form of protected speech, criticism of the government, with incitement to violence and fails to identify any specific statements inciting such violence. The imprecision of Article 278 allows for this type of interpretation.

Second, Article 278(3) references “mass disorder” without defining the term. And the linguistic expert report, which served as the basis for the indictments, appears to have failed to cite a specific definition of the term on which it based its analysis. The linguistic expert, as cited by the indictments, found that the *Temirov LIVE* and *Ait Ait Dese* materials “exhibit[] linguistic signs of calls for *resistance actions* and *mass disorder* by discrediting the authorities in the respective materials.”²²¹ The indictments and Resolution on Initiating a Criminal Case repeatedly and seemingly interchangeably reference “resistance,” “active disobedience,” and “mass disorder” without further defining the terms.²²² All of these terms could encompass protected activity under the principle of freedom of expression.

Third, Article 278(3) fails to specify the requisite nexus or causal relationship between the speech at issue and any acts of “disobedience” or “mass riots” in order for one to violate Article 278. This deficiency prevents speakers from understanding the extent of their potential liability and further permits broad interpretations that sweep in speech with any probability of inspiring such acts. Indeed, as explained below, according to the Resolution on Initiating a Criminal Case, the investigators found that *Temirov LIVE* and *Ait Ait Dese* materials “discrediting” government authorities “*could lead to mass riots*” in the Kyrgyz Republic.²²³ In other words, the Defendants were arrested and detained simply because the government feared, without examining or establishing any actual likelihood, that *Temirov LIVE*’s criticism of the government and its policies *might* inspire unrest.²²⁴

²²⁰ See Indictment of Azamat Ishenbekov (17 Jan. 2024).

²²¹ See *id.* (emphasis added); see also Resolution on Initiating a Criminal Case.

²²² See *e.g.*, Indictment of Azamat Ishenbekov (17 Jan. 2024); Resolution on Initiating a Criminal Case.

²²³ Resolution on Initiating a Criminal Case.

²²⁴ See *id.*

Necessity

The prosecutions of the Defendants are also not necessary to pursue a legitimate aim in the restriction of the journalists' speech. Article 19(3) of the ICCPR enumerates the "legitimate aims" permitted for restricting freedom of expression—such as for the protection of national security, public order, or public health. Even when a legitimate aim is at issue, restrictions must be necessary for the pursuit of that aim. A restriction "violates the test of necessity if the protection could be achieved in other ways that do not restrict freedom of expression."²²⁵ When a State invokes a legitimate ground for the restriction of expression, "it must demonstrate in a specific and individualized fashion the precise nature of the threat . . . in particular by establishing a direct and immediate connection between the expression and the threat."²²⁶

In this case, while public order may be a legitimate reason for restricting speech, the State did not identify the nature of any threat to public order posed by the videos at issue. The court and prosecution documents reviewed by the Authors, such as the Resolution on Initiating a Criminal Case, various detention and house arrest decisions, and various indictments, all fail to identify any specific statements that entail an "appeal to violence" that the Defendants are alleged to either have assisted in the production of or organized. The indictments, for example, refer to political commentary in the videos, such as statements that Kyrgyz political leaders "only think about [their] own pocket[s]," should "create a glorious era in the history of Kyrgyzstan and be remembered as a hero in the future or be cursed by the youth of the future," and should "enjoy the respect of the youth and the people [rather] than to dismiss justice, lose people's respect, and flee elsewhere like the previous rulers."²²⁷ And while the indictments reference a call to "fight for freedom,"²²⁸ in context this was not a call to violence but an invocation well within the

²²⁵ UN Human Rights Committee, *General Comment No. 34*, ¶ 33, UN Doc. CCPR/C/GC/34 (12 Sept. 2011).

²²⁶ UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, ¶ 40, UN Doc. A/66/290 (10 Aug. 2011).

²²⁷ *See, e.g.*, Indictments of Azamat Ishenbekov, Maadanbek Kaparov, and Akylbek Orozbekov (17 Jan. 2024).

²²⁸ *See* Indictment of Azamat Ishenbekov (17 Jan. 2024). Even if such language did, as alleged, give rise to some risk of violence, it does not meet the six-part threshold test in the Rabat Plan of Action. Absent evidence that the defendants intended to incite violence, or that there was a reasonable probability that the speech would cause imminent harm, such speech should not have resulted in criminal penalties. *See* UN Human Rights Council, *UN High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred (Appendix: "Rabat Plan of Action")*, ¶ 29, UN Doc. A/HRC/22/17/Add.4 (11 Jan. 2013).

bounds of “political discourse” and criticism of government that the HRC has stated is “essential.”²²⁹

In addition, there is no evidence the authorities sought to establish the “direct and immediate” nature of any threat. The Resolution Initiating a Criminal Case, for example, states only that the materials at issue “*could* lead to various [mass disturbances] in the territory of the Kyrgyz Republic.”²³⁰ These sorts of assertions do not “establish[] a direct and immediate connection between the expression and [a] threat” and are insufficient to meet Article 19 requirements for restricting freedom of expression.²³¹

During the trial, as discussed above, the prosecution still could not consistently identify specific appeals to violence. The prosecution relied principally on expert testimony from Mr. Abdykozhoev and Mr. Zhanyshbek uulu, and the experts struggled to identify the specific videos that “called for mass riots.”²³² Moreover, as explained above, the court’s ultimate Judgment also failed to explain how the supposedly negative statements in the videos amount to calling for mass unrest. The Judgment states that “[t]he author, by criticizing the current government, attempts to tarnish its reputation and manipulates public opinion from the outset of the videos” and that “the author defames public figures . . . using various negative remarks, thereby indirectly calling for mass unrest by criticizing the government through these individuals.”²³³ But notably missing from the Judgment is a specific and individualized analysis of how the statements at issue amount to a call for— or present a threat of—mass unrest.

²²⁹ See e.g., UN Working Group on Arbitrary Detention, *Kem Sokha v. Cambodia*, Opinion No. 9/2018, ¶ 41, UN Doc. A/HRC/WGAD/2018/9 (5 June 2018); UN Working Group on Arbitrary Detention, *Mohammed Abbou v. Tunisia*, Opinion No. 41/2005, UN Doc. A/HRC/4/40/Add.1 (2 Feb. 2007); UN Human Rights Committee, *Article 19: Freedom of opinion and expression, General Comment No. 34*, ¶ 20, UN Doc. CCPR/C/GC/34 (12 Sept. 2011).

²³⁰ Resolution on Initiating a Criminal Case (emphasis added).

²³¹ UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, ¶ 40, UN Doc. A/66/290 (10 Aug. 2011); see also UN Working Group on Arbitrary Detention, *Taysir Hasan Mahmoud Salman v. United Arab Emirates*, Opinion No. 58/2017, ¶ 48, UN Doc., A/HRC/WGAD/2017/58 (20 Oct. 2017); UN Working Group on Arbitrary Detention, *10 individuals associated with the newspaper Cumhuriyet v. Turkey*, Opinion No. 41/2017, ¶ 86, UN Doc. A/HRC/WGAD/2017/41 (26 July 2017).

²³² See above (explaining that the Government experts failed to use rigorous methodology in rendering their expertise further undermined the weight of their evidence).

²³³ See Judgment at 4.

Given the tenuous (at best) connection between the Defendants’ speech and any alleged disruption to public order, the restriction on their speech did not meet the necessity requirement.

Proportionality

Finally, the Defendants’ prosecutions, detentions, and (for some) ultimate convictions also failed to meet the requirement of proportionality. The proportionality requirement overlaps with the consideration of necessity: to satisfy proportionality a restriction must be the “least intrusive instrument amongst those which might achieve their protective function.”²³⁴ In line with proportionality standards, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has concluded that criminal penalties for speech are warranted in only the most serious and exceptional cases, such as child pornography, incitement to terrorism, public incitement to genocide, and advocacy for national, racial, or religious hatred.²³⁵ According to the Special Rapporteur, it is never permissible to levy criminal penalties in response to expression that does not fall into these categories given the “significant chilling effect” on legitimate speech that such penalties create.²³⁶

As explained above, none of the speech identified by the prosecution has come close to meeting the threshold for any call to violence. Rather, at trial, prosecution experts focused on the “negative” information in the videos that “discredited” the government and therefore created a “context” for the videos that allegedly called for mass riots.²³⁷ Mr. Abdykozhoev went so far as to suggest that it is not permissible to criticize the authorities unless the

²³⁴ UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of freedom of expression*, ¶ 6(a), UN Doc. A/74/486 (9 Oct. 2019).

²³⁵ UN General Assembly, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, ¶ 40, UN Doc. A/66/290 (10 Aug. 2011).

²³⁶ *Id.*

²³⁷ See Trial Monitoring Notes, 5 September 2024. Moreover, the court does not analyze whether the Defendants intended to incite violence—rather, the court only summarily references the Defendants’ “intentional direction” in the videos as well as the videos “intentional[] design[] to negatively impact public perception and provoke unrest.” See Judgment at 7. As the OHCHR has explained in the context of balancing freedom of expression with the prohibition on incitement to hatred, the public intent of incitement to discrimination or violence must be present before speech can be penalized. See OHCHR, “Freedom of Expression vs. Incitement to Hatred: OHCHR and the Rabat Plan of Action,” ¶ 29(c), <https://www.ohchr.org/EN/Issues/FreedomOpinion/Articles19-20/Pages/Index.aspx>; see also OHCHR, *Expert Workshops On the Prohibition of Incitement to National, Racial or Religious Hatred*, 13–14 (12 Oct. 2011), https://www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/JointSRSsubmissionSantiago.pdf.

accuser proves the allegations in court first,²³⁸ which, if accepted, would silence virtually all government-critical speech.

By imprisoning two of the convicted Defendants (Ms. Tazhibek kyzy and Mr. Ishenbekov) on the basis of what appears to have been a conflation of government criticism with incitement to violence (evidenced by repeated references to the “defamation” of government officials),²³⁹ the authorities further violated these Defendants’ rights. Indeed, the Resolution Initiating a Criminal Case, reviewed indictments, and ultimate trial of the Defendants stand in tension with international jurisprudence that precludes detention as a response to controversial or even defamatory speech. The HRC has, for instance, held that “imprisonment is never an appropriate penalty”²⁴⁰ for defamation, and therefore “*a fortiori* no detention based on charges of defamation may ever be considered either necessary or proportionate.”²⁴¹ Similarly, the WGAD has held that the proper remedy for defamation “lie[s] in a civil libel claim rather than in criminal sanctions” because it is the least intrusive measure “sufficient to achieve respect of the rights and reputations of others.”²⁴² But here, the Defendants were subjected to criminal indictments, pretrial detention, and (for some) imprisonment simply for their alleged roles in the production of videos containing information about and allegedly discrediting the Kyrgyz government.²⁴³

²³⁸ In response to the question, “In your opinion, is it not permissible to criticize the authorities at all?”, Expert Abdykozhoev stated: “You need to prove it, go to court, and the court will decide.” Trial Monitoring Notes, 5 September 2024.

²³⁹ See, e.g., Indictments of Azamat Ishenbekov, Maadanbek Kaparov, Akylbek Orozbekov (17 Jan. 2024). The Judgment also repeatedly referenced the Defendants’ alleged use of “negative information,” “verbal disparagement,” and “defamation” of government officials. See Judgment at 3-5, 11, 14. In fact, the court explicitly found that Ms. Tazhibek kyzy and other Defendants “engaged in deliberate and baseless defamation of governmental institutions of the Kyrgyz Republic,” promoting “negative narratives.” *Id.* at 3. In discussing the videos, the court found that “the author[, Ms. Tazhibek Kyzy,] defames public figures such as Minister of Internal Affairs Ulan Niyzhekov and Member of Parliament Nadira Normatova, using various negative remarks, thereby indirectly calling for mass unrest by criticizing the government through these individuals.” *Id.* at 4. See also *supra*.

²⁴⁰ UN Human Rights Committee, *Article 19: Freedom of opinion and expression*, General Comment No. 47, ¶ 20, UN Doc. CCPR/C/GC/34 (12 Sept. 2011).

²⁴¹ UN Human Rights Committee, *Lydia Cacho Ribeiro v. Mexico*, Comm. No. 2767/2016, ¶¶ 10.8, 10.11, UN Doc. CCPR/C/123/D/2767/2016 (29 Aug. 2018).

²⁴² UN Working Group on Arbitrary Detention, *Sasiphimon Patomwongfangam v. Thailand*, Opinion No. 51/2017, ¶ 35, UN Doc. A/HRC/WGAD/2017/51 (13 Oct. 2017). See also UN Human Rights Committee, *Lydia Cacho Ribeiro v. Mexico*, Comm. No. 2767/2016, ¶¶ 10.8, 10.11 UN Doc. CCPR/C/123/D/2767/2016 (29 Aug. 2018) (“[T]he author’s detention was neither necessary nor proportionate . . . in violation of article 9 of the Covenant”).

²⁴³ See Indictment of Azamat Ishenbekov (17 Jan. 2024); see also Resolution on Initiating a Criminal Case.

The court’s judgment ultimately imposed criminal sentences for four of the Defendants based on their alleged preparation of “negative materials” that were “intentionally designed to negatively impact public perception and provoke unrest.”²⁴⁴

For these reasons, the restriction on the Defendants’ speech—their prosecution, pretrial detention, and, in some cases, conviction—is inconsistent with the requirements of proportionality.

Right to Freedom from Political Discrimination Was Violated

The Defendants also appear to have been investigated, arrested, detained, and (for some) ultimately convicted based on their perceived political opinions—specifically, on the basis of videos that alleged corruption and criticized senior officials and government policy. Indeed, not all of the Defendants appear in these videos; some did not work for either *Temirov LIVE* or *Ait Ait Dese* at the time the videos were made; and not all who did had clear roles in the production of the videos.²⁴⁵ Rather, what unites the Defendants is their perceived political opinion—inferred from their current or former affiliation with the outlets—which seemingly served as the basis for their prosecution and detention.²⁴⁶

Article 26 of the ICCPR offers specific protections against discrimination for political affiliation and opinion, which constitute protected characteristics.²⁴⁷ The WGAD has stated that where a deprivation of liberty results from political expression, there is a strong presumption that the deprivation of liberty also constitutes a violation of international law on the grounds of discrimination based on political views.²⁴⁸

Kyrgyzstan has, according to public reporting, launched a campaign of harassment against other independent journalists and bloggers who, like the Defendants, report critically on its political leadership. For example, as recently as February 2024,

²⁴⁴ See Judgment at 7, 13, 22–23.

²⁴⁵ *Id.* at 8, 11, 21.

²⁴⁶ Indeed, the court found “many of the accused had limited or no involvement in the alleged criminal activities. Their roles, if any, were either minimal or unrelated to the videos containing incitements to mass unrest.” See *id.* at 21.

²⁴⁷ ICCPR Art. 26 (“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as . . . political or other opinion.”).

²⁴⁸ UN Working Group on Arbitrary Detention, *Thirumurugan Gandhi v. India*, Opinion No. 88/2017, ¶ 43, UN Doc. A/HRC/WGAD/2017/88 (23 Jan. 2018).

independent media outlet *Kloop* was targeted by authorities and subjected to a judicial order to cease operations.²⁴⁹ Other independent journalists also have been prosecuted under Article 278(3).²⁵⁰ The Defendants' deprivation of liberty is situated within a wider crackdown on dissent by President Japarov through the new supra-presidential apparatus instituted via constitutional changes in 2021. Indeed, the UN Human Rights Office Spokesperson has stated, in reference to this case in particular, that "[t]hese latest actions by the authorities appear to be part of a larger pattern of pressure against civil society activists, journalists, and other critics of the authorities."²⁵¹

The Kyrgyz authorities have, moreover, previously used the apparatus of the state to specifically target *Temirov LIVE*. The Defendants' deprivation of liberty follows years of persecution of the founder of *Temirov LIVE*, Mr. Temirov, who was expelled from Kyrgyzstan to Russia on charges that are widely believed to be a result of his outspoken criticism of and investigations into government corruption.²⁵² The facts of the case at hand indicate that the Defendants, some of whom have continued to produce videos for *Temirov LIVE* since Mr. Temirov's exile, were targeted as part of the government's continuing campaign of harassment of and intimidation against *Temirov LIVE* and other outlets on the basis of their perceived political opinion.²⁵³ This constitutes a violation of the Defendants' right to non-discrimination.

²⁴⁹ Frontline Defenders, *supra* note 22.

²⁵⁰ *See supra* note 10–14.

²⁵¹ *See* Office of the High Commissioner for Human Rights, "Comment by UN Human rights Office spokesperson Liz Throssell on freedom of expression in Kyrgyzstan" (16 Jan. 2024), <https://www.ohchr.org/en/statements/2024/01/comment-un-human-rights-office-spokesperson-liz-throssell-freedom-expression>.

²⁵² Human Rights Watch, "Kyrgyzstan: Expelled Journalist Should Be Allowed to Return from Russia" (25 Nov. 2022), <https://www.hrw.org/news/2022/11/25/kyrgyzstan-expelled-journalist-should-be-allowed-return-russia>.

²⁵³ Defendants' Article 22 right to freedom of association was similarly violated. The HRC has stated that "the existence and operation of associations, including those that peacefully promote ideas not necessarily favorably viewed by the Government or the majority of the population, is a cornerstone of any democratic society." *See* UN Human Rights Committee, *Pinchuk v. Belarus*, ¶ 8.4, UN Doc. CCPR/C/112/D/2165/2012 (17 Nov. 2014). Many of the Defendants were indicted because of their prior affiliation with *Temirov LIVE*, even though they were not working at *Temirov LIVE* at the time. *See supra*; *see also* Trial Monitoring Notes, 5 September 2024; Trial Monitoring Notes, 9 July 2024.

G. OTHER FAIRNESS CONCERNS

In addition to the violations of procedural and substantive rights above, Kyrgyz authorities have infringed on the familial rights of Ms. Tazhibek kyzy and Mr. Temirov as well as the rights of their 12-year-old son, who was reportedly committed to the custody of the State following Ms. Tazhibek kyzy's conviction.²⁵⁴

The ICCPR and the Convention on the Rights of the Child ("CRC") both provide protections for the family unit. Article 17(1) of the ICCPR provides that "[n]o one shall be subjected to arbitrary or unlawful interference with his . . . family," and Article 23(1) of the ICCPR further emphasizes that the "family is the natural and fundamental group unit of society and is entitled to protection by society and the State." These rights are further reflected in the CRC, to which Kyrgyzstan acceded in 1994. The CRC specifies that "[n]o child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence."²⁵⁵

In addition, both the ICCPR and CRC extend additional protections to children as individuals. Article 24(1) of the ICCPR provides that "[e]very child shall have, without any discrimination as to race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State." Moreover, under the CRC, States "shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."²⁵⁶

Finally, "the best interests of the child shall be a primary consideration" in all actions concerning children, including those taken by courts, welfare institutions, or administrative authorities.²⁵⁷ The Committee on the Rights of the Child has emphasized that

²⁵⁴ Current Time TV, "In Kyrgyzstan, Social Protection Began to Collect Documents on the Son of Investigative Journalist Bolot Temirov. He Can be Sent to an Orphanage" (3 Feb. 2025), <https://www.currenttime.tv/a/kyrgyzstan-temirov/33301424.html>; See Judgment at 17.

²⁵⁵ CRC Article 16.

²⁵⁶ CRC Article 2(2).

²⁵⁷ CRC Article 3(1).

“[p]reventing family separation and preserving family unity are important components of the child protection system.”²⁵⁸

In this case, the Kyrgyz government appears to have unlawfully and arbitrarily interfered with the family life of Mr. Temirov and Ms. Tazhibek kyzy and discriminated against their son on the basis of his parents’ beliefs. According to Mr. Temirov, upon arresting Ms. Tazhibek kyzy, the Kyrgyz authorities confiscated their son’s birth certificate so that he could not obtain a passport, thereby preventing him from leaving Kyrgyzstan to be with his exiled father.²⁵⁹ Following Ms. Tazhibek kyzy’s arrest, the Kyrgyz government also reportedly threatened to turn their child over to an orphanage, but the son ultimately remained in the custody of his grandmother during the proceedings against Ms. Tazhibek kyzy.²⁶⁰

Following the conviction of Ms. Tazhibek kyzy, the Kyrgyz government also may have acted against the best interests of Mr. Temirov and Ms. Tazhibek kyzy’s minor child by placing him in the custody of the State, ordering child protection authorities to exercise “control over the sufficient physical and psychological education of the child.”²⁶¹ In its decision convicting Ms. Tazhibek kyzy, the court stated that “her sentence of imprisonment and her divorced marital status necessitate arrangements for the child’s care,” and directed the “Department of Social Development . . . to resolve the issue of transferring custody . . . to relatives, other individuals, or organizations for guardianship or supervision.”²⁶² According to Ulan Seyitbekov, the lawyer for Mr. Temirov and Ms.

²⁵⁸ Committee on the Rights of the Child, *General Comment No. 14*, Section V.A.1.c, UN Doc. CRC/C/GC/14 (29 May 2013).

²⁵⁹ See Just Security, “Journalist in Exile Laments Kyrgyzstan Crackdown, Now Extending to His 12-Year-Old Son” (6 Nov. 2024), <https://www.justsecurity.org/104622/journalist-in-exile-laments-kyrgyzstan-crackdown-now-extending-to-his-12-year-old-son/>; 24.kg, “They threaten to hand over the child to an orphanage. Bolot Temirov announced pressure on his wife” (29 Jan. 2024), https://24.kg/obschestvo/285311_ugrojayut_sdat_rebenka_vdetdom_bolot_temirov_zayavil_odavlenii_na_ego_suprugu/.

²⁶⁰ Just Security, “Journalist in Exile Laments Kyrgyzstan Crackdown, Now Extending to His 12-Year-Old Son” (6 Nov. 2024), <https://www.justsecurity.org/104622/journalist-in-exile-laments-kyrgyzstan-crackdown-now-extending-to-his-12-year-old-son/>.

²⁶¹ Current Time TV, “In Kyrgyzstan, Social Protection Began to Collect Documents on the Son of Investigative Journalist Bolot Temirov. He Can be Sent to an Orphanage” (3 Feb. 2025), <https://www.currenttime.tv/a/kyrshyzstan-temirov/33301424.html>.

²⁶² See Judgment at 17.

Tazhibek kyzy, the court exceeded its powers, arguing that the authorities must “determine the place of residence with the legal guardian – the father.”²⁶³

Press reports indicate that the child’s long term custody arrangements remain in limbo. Child protection authorities are now conducting an investigation, including by calling relatives and conducting a house visit to the grandmother’s house.²⁶⁴ Reportedly, the investigators have returned the child’s documents to relatives; however, it is possible the child will still be assigned to an orphanage rather than remaining in the custody of his grandmother.²⁶⁵

²⁶³ Current Time TV, “In Kyrgyzstan, Social Protection Began to Collect documents on the Son of Investigative Journalist Bolot Temirov. He Can be Sent to an Orphanage” (3 Feb. 2025), <https://www.currenttime.tv/a/kyrshyzstan-temirov/33301424.html>.

²⁶⁴ *See id.*

²⁶⁵ *See id.*

CONCLUSION AND GRADE



The trial received a D grade because it was a trial characterized by multiple violations of international standards that affected the outcome and resulted in significant harm.

An assessment of the records, monitoring notes, and public sources highlighted the following key violations. First, the court found Ms. Tazhibek kyzy and Mr. Ishenbekov guilty of inciting mass unrest without explaining how negative statements about the government amounted to a call for mass under Article 278(3). Second, Mr. Kaparov and Ms. Beishekeeva were found guilty of inciting mass unrest and assisting with the incitement of mass unrest even though there is little evidence in the trial record to link them to the videos the prosecution experts cited as calling for mass unrest. Third, the court's Judgment relied on the opinions of three experts for the prosecution, without adequately addressing the gaps and inconsistencies in their testimony, violating the convicted Defendants' rights to both a reasoned judgment and to be presumed innocent. Fourth, the convicted Defendants' right to equality of arms was violated, as the court relied almost exclusively on prosecution's experts in convicting them. Fifth, the Defendants' right to a public trial was violated, as the authorities did not consistently provide adequate facilities for access by the public.

This grade also reflects the disproportionate and unnecessary detention of Defendants for various periods of time prior to and during trial. Defendants petitioned the court multiple times to be released from pretrial detention. And when some of the Defendants were transferred from pretrial detention to house arrest, the court did not conduct an individualized analysis of why house arrest was necessary (as opposed to conditional or unconditional pretrial release).

Finally, this grade reflects the violation of Defendants' substantive rights, including their rights to freedom of opinion and expression and to freedom from political discrimination. In this regard, the Defendants' prosecution and treatment reflect the Kyrgyz government's broader targeting of journalists in Kyrgyzstan for their government-critical speech and political opinion.

GRADE:

