

HUMAN RIGHTS MONITORING



Organization for Security and
Co-operation in Europe
Centre in Bishkek



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OBSERVANCE OF THE RIGHT TO FREEDOM FROM TORTURE IN CLOSED FACILITIES OF THE KYRGYZ REPUBLIC

MONITORING. RESPONSE. REHABILITATION



BISHKEK 2012



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УДК 347.1

ББК 67.99(2Кн)3

С 54

С 54 Observance of the right to freedom from torture in closed facilities of the Kyrgyz Republic. Monitoring. Response. Rehabilitation: Report. - Б. 2012. – 92 с.

ISBN 978-9967-26-926-2

This report has been produced following the implementation of projects on “Addressing human rights in closed facilities in Kyrgyzstan through nationally-owned human rights mechanisms” and “Increasing police accountability with the introduction of civil society monitoring mechanisms” supported by the OSCE Centre in Bishkek as well as the Freedom House Project on Strengthening Human Rights in Kyrgyzstan financed by the United States Agency for International Development (USAID).

The report is meant for public institutions, nongovernmental organizations, human rights defenders and other individuals who are interested in the respect for human rights and fundamental freedoms and conditions in temporary detention facilities and reception centres under the Ministry of Interior (MoI) and pre-trial and remand places of detention under the jurisdiction of the State Service for the Execution of Punishments (SSEP) under the Government of the Kyrgyz Republic.

All opinions expressed herein belong to the authors of this report and should not be perceived as those reflecting the official position of the OSCE, USAID and Freedom House.

С 1203020400-12

ISBN 978-9967-26-926-2

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ABBREVIATIONS

Body of Principles – UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment¹

CAL KR – Code on Administrative Liability of the Kyrgyz Republic

CC KR – Criminal Code of the Kyrgyz Republic²

CCIU MI – Chief Criminal Investigation Unit under the Ministry of Interior

CDI – City Department of the Interior

CIU – Criminal Investigation Unit

CPC KR – Criminal Procedure Code of the Kyrgyz Republic³

DDI – District Department of the Interior

IAU – Internal Affairs Unit

ICCPR – International Covenant on Civil and Political Rights⁴

Internal Regulations – Internal Regulations for Temporary Detention Facilities under Internal Affairs Bodies of the Kyrgyz Republic⁵

Law on Custody Procedure – Law of the Kyrgyz Republic “On the procedure and conditions of custody for arrested persons suspected of and charged with committing offences”⁶

¹ Adopted by General Assembly resolution 43/173 of 9 December 1988.

² CC KR. Entered into force following the adoption of the Kyrgyz Law of 1 October 1997 (Ref. No. 69). As amended by Laws of the Kyrgyz Republic of 21 September 1998 (Ref. No. 124), 9 December 1999 (Ref. No. 141), 23 July 2001 (Ref. No. 77), 19 November 2001 (Ref. No. 92), 12 March 2002 (Ref. No. 36), 22 June 2002 (Ref. No. 109), 8 July 2002 (Ref. No. 115), 16 October 2002 (Ref. No. 141), 17 February 2003 (Ref. No. 36), 11 June 2003 (Ref. No. 98), 11 June 2003 (Ref. No. 99), 11 June 2003 (Ref. No. 100), 5 August 2003 (Ref. No. 192), 9 August 2003 (Ref. No. 193), 24 August 2003 (Ref. No. 199), 14 November 2003 (Ref. No. 221), 15 November 2003 (Ref. No. 223), 15 February 2004 (Ref. No. 13), 7 March 2004 (Ref. No. 17), 23 March 2004 (Ref. No. 46), 26 July 2004 (Ref. No. 99), 27 July 2004 (Ref. No. 101), 15 December 2004 (Ref. No. 191), 5 August 2005 (Ref. No. 122), 5 January 2006 (Ref. No. 1), 6 February 2006 (Ref. No. 35), 13 February 2006 (Ref. No. 56), 13 February 2006 (Ref. No. 57), 8 August 2006 (Ref. No. 156), 8 August 2006 (Ref. No. 158), 8 August 2006 (Ref. No. 159), 22 November 2006 (Ref. No. 182), 22 November 2006 (Ref. No. 183), 28 December 2006 (Ref. No. 211), 28 December 2006 (Ref. No. 216), 29 December 2006 (Ref. No. 230), 12 February 2007 (Ref. No. 16), 25 June 2007 (Ref. No. 91), 31 July 2007 (Ref. No. 129), 6 August 2007 (Ref. No. 131), 10 August 2007 (Ref. No. 150), 15 August 2007 (Ref. No. 152), 23 June 2008 (Ref. No. 131), 7 July 2008 (Ref. No. 138), 18 July 2008 (Ref. No. 151), 5 August 2008 (Ref. No. 199), 17 October 2008 (Ref. No. 223), 17 October 2008 (Ref. No. 231), 29 December 2008 (Ref. No. 274), 29 December 2008 (Ref. No. 275), 19 January 2009 (Ref. No. 8), 20 February 2009 (Ref. No. 58), 20 February 2009 (Ref. No. 60), 17 March 2009 (Ref. No. 83), 8 May 2009 (Ref. No. 150), 17 July 2009 (Ref. No. 230), 17 July 2009 (Ref. No. 234), 24 July 2009 (Ref. No. 246), 13 October 2009 (Ref. No. 271), 20 November 2009 (Ref. No. 301), 17 December 2009 (Ref. No. 309), 10 February 2010 (Ref. No. 27), 11 July 2011 (Ref. No. 89), 26 July 2011 (Ref. No. 141), 26 July 2011 (Ref. No. 143), 18 October 2011 (Ref. No. 177), 27 October 2011 (Ref. No. 185), 1 November 2011 (Ref. No. 195) and 10 November 2011 (Ref. No. 204).

³ CPC KR. Entered into force following the adoption of the Kyrgyz Law of 30 June 1999 (Ref. No. 63). As amended by Laws of the Kyrgyz Republic of 22 June 2001 (Ref. No. 55), 28 June 2001 (Ref. No. 62), 4 August 2001 (Ref. No. 81), 20 March 2002 (Ref. No. 41), 16 October 2002 (Ref. No. 141), 13 March 2003 (Ref. No. 61), 11 June 2003 (Ref. No. 98), 5 August 2003 (Ref. No. 192), 14 November 2003 (Ref. No. 221), 24 March 2004 (Ref. No. 47), 28 March 2004 (Ref. No. 52), 24 May 2004 (Ref. No. 68), 8 August 2004 (Ref. No. 111), 22 July 2005 (Ref. No. 112), 6 February 2006 (Ref. No. 35), 19 July 2006 (Ref. No. 123), 8 August 2006 (Ref. No. 157), 24 November 2006 (Ref. No. 188), 29 December 2006 (Ref. No. 232), 9 February 2007 (Ref. No. 13), 13 June 2007 (Ref. No. 87), 25 June 2007 (Ref. No. 91), 25 June 2007 (Ref. No. 93), 14 July 2008 (Ref. No. 142), 14 July 2008 (Ref. No. 143), 18 July 2008 (Ref. No. 144), 5 August 2008 (Ref. No. 193), 17 October 2008 (Ref. No. 220), 17 July 2009 (Ref. No. 225), 17 July 2009 (Ref. No. 231), 17 July 2009 (Ref. No. 234), 24 July 2009 (Ref. No. 246), 12 October 2009 (Ref. No. 267), 12 October 2009 (Ref. No. 268), 26 October 2009 (Ref. No. 288), 26 October 2009 (Ref. No. 289), 10 February 2010 (Ref. No. 27), 25 February 2010 (Ref. No. 35), 11 July 2011 (Ref. No. 89), 26 July 2011 (Ref. No. 141), 9 August 2011 (Ref. No. 152), 27 October 2011 (Ref. No. 186), 16 November 2011 (Ref. No. 214).

⁴ Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966.

⁵ Approved by the Resolution of the Government of the Kyrgyz Republic of 2 February 2006 (Ref. No. 57).

⁶ As amended by Laws of the Kyrgyz Republic of 11 June 2003 (Ref. No. 100), 13 August 2004 (Ref. No. 124), 19 August 2004 (Ref. No. 158), 25 June 2007 (Ref. No. 91); Decree of Interim Government of the Kyrgyz Republic of 17

MoI – Ministry of Interior

NGO – Non-governmental organization

OSCE – Organization for Security and Co-operation in Europe

PDF – Pre-trial detention facility

PSB – Public Supervisory Board

Reception centres – Reception centres under internal affairs bodies for persons of no fixed abode and documents and special reception institutions under internal affairs bodies for persons subject to administrative detention

SCNS – State Committee of National Security

Standard Minimum Rules – UN Standard Minimum Rules for the Treatment of Prisoners⁷

SSEP – State Service for the Execution of Punishments under the Government of the Kyrgyz Republic

TDF – Temporary detention facility

TID – Transportation Interior Department

UN – United Nations

UN Basic Principles – UN Basic Principles on the Role of Lawyers⁸

Universal Declaration – UN Universal Declaration of Human Rights

September 2010 (Ref. No. 128) and Laws of the Kyrgyz Republic of 14 July 2011 (Ref. No. 99) and 19 October 2011 (Ref. No. 180).

⁷ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders on 30 August 1955.

⁸ Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

1. INTRODUCTION

The Kyrgyz Republic ratified many human rights treaties establishing a prohibition on torture and ill treatment. All these international treaties form integral part of Kyrgyzstan's legal system and are directly applicable at the national level. Furthermore, norms spelled out in international human rights treaties take precedence over other international agreements⁹.

The prohibition on torture and cruel, inhuman and degrading treatment and punishment is enshrined in the Constitution, laws and other regulatory and legal acts of the Kyrgyz Republic, including those establishing the procedure and conditions of custody for arrested persons suspected of, and charged with, committing offences, subject to administrative arrest, and procedure and conditions of staying in specialized educational, health care and social care institutions.

However, despite a fairly strong legal base, it is not always possible to ensure compliance with anti-torture norms and apply preventive mechanisms successfully. Torture is still an open issue in Kyrgyzstan. As stated by Prof. Juan Méndez, UN Special Rapporteur on Torture and Cruel, Inhuman and Degrading Treatment and Punishment, upon completion of his visit to the Kyrgyz Republic in December 2011, torture and cruel treatment are widespread phenomena in Kyrgyzstan.

The UN Special Rapporteur confirmed the conclusions drawn as a result of the full-scale research conducted in 2011 under the aegis of the Memorandum of Understanding (MoU) between the Ombudsman of the Kyrgyz Republic, the OSCE Centre in Bishkek, and eight non-governmental organizations that shared their wealth of experience in the field of torture prevention.

Activities within the MoU included country-wide monitoring of all Temporary Detention Facilities (TDFs) under the jurisdiction of the Ministry of Interior (MoI) of the Kyrgyz Republic. TDFs under MoI were selected for monitoring purposes because these places of detention are by definition closed to the outside world. Individuals placed in these institutions are particularly vulnerable and susceptible to the threat of torture and other types of ill treatment. Secondly, the monitoring results reveal that those in detention are subject to illegal inquiry methods by police officers with the aim of extracting confessions, after which they are placed in TDFs. There have been quite a few cases when torture was used in TDFs. Therefore, opening TDFs to external control mechanisms by means of regular monitoring was considered as one of the most effective mechanisms for preventing violations and improving detention conditions.

This unique format of co-operation between the country's chief human rights defender and international and local human rights organizations, as well as the methods of their work which allow to achieve objective results and develop conclusions as well as practical and useful recommendations on their basis, sparked a high degree of interest among government institutions whose activities are also aimed at ensuring the respect for the right to freedom from torture.

In June 2012, an expanded new version of the Memorandum of Understanding was signed including new parties such as the Prosecutor General's Office (PG), the Ministry of Interior (MoI), the Ministry of Health (MoH), the Ministry of Justice (MoJ), the State Service for the Execution of Punishments (SSEP), and four additional non-governmental organizations.

The MoU brought together all those who are convinced that it is possible to improve the protection of persons deprived of their liberty from torture based on non-judicial preventive measures such as regular and unannounced monitoring visits to places of detention. This confidence is due to the following:

⁹ Para. 3 Article 6 of the Constitution of the Kyrgyz Republic.

- the very existence of such external control is an important deterrent for administration and staff members in places of deprivation and limitation of liberty, who will not want to become subject to criticism from outside and who, in case such external control is not there, may believe that they will never be punished for their actions;
- the monitoring visits allow independent experts to see with their own eyes how inmates are treated in places of detention, and in what conditions they have to live. Following their observation of each specific situation, monitoring experts can provide realistic and practical recommendations, and also enter into a dialogue with the competent authorities for resolving any problems that were identified;
- visits to places of deprivation and limitation of freedom by persons not related to these institutions may be an important source of moral support to inmates.

Independent monitoring of closed institutions has become the main theme of the new MoU: the Signatory Parties decided to expand the number of institutions to be visited by including reception centres under the MoI and pre-trial detention facility (PDF) under SSEP. The need to include PDFs under SSEP in the list of monitoring targets stems from the fact that monitoring of TDFs can provide only a partial picture with regard to torture and the degree to which torture is used against inmates. Suspects and accused that are detained in TDFs are less likely to admit instances of torture for fear of retaliation from the detaining authorities. Cases when police officers were beating arrested individuals for communicating cases of torture to monitoring groups were described in the 2011 monitoring report¹⁰. It is only after they are transferred to PDFs under SSEP that victims of torture feel more or less secure and have enough courage to tell independent monitors about ill treatment.

In the past, there has been no single full-fledged monitoring of reception centres under internal affairs bodies.

Government institutions that acceded to the MoU committed themselves to facilitate monitoring visits and to respond immediately to allegations of torture, including a commitment to actively carry out monitoring visits of places of detention together with partner civil society organizations; to facilitate, in case there is a need, access to places of deprivation of liberty by partner civil society organizations, defence attorneys and international organizations, including monitoring groups created by them; to carry out effective, thorough, strict and quick internal investigation following allegations of human rights violations in compliance with national legislation and international norms, and to report the results to the administrations of relevant government institutions, partner civil society organizations and international organizations; and to ensure immediate response to reports of human rights violations identifying a responsible representative of public bodies to take part in a joint inspection and to document any reports of violations in closed institutions¹¹.

This report contains generalized monitoring findings as regards the respect for the right to freedom from torture in TDFs and reception centres of internal affairs bodies, and PDFs under SSEP in all provinces of the Kyrgyz Republic which was carried out from 1 April to 30 November 2012 within the projects on “Addressing human rights in closed facilities in Kyrgyzstan through nationally-owned human rights mechanisms” and “Increasing police accountability with the introduction of civil society monitoring mechanisms” financed by the OSCE Centre in Bishkek, and the Freedom

¹⁰ Monitoring report on “Prevention of torture in temporary detention facilities of internal affairs bodies in the Kyrgyz Republic. Monitoring, response, rehabilitation,” 106 pages, Bishkek, 2011 (available at <http://www.osce.org/bishkek/93782>).

¹¹ Memorandum of Understanding on Human Rights and Fundamental Freedoms, p. 1.

House Project on Strengthening Human Rights in Kyrgyzstan, supported by the United States Agency for International Development (USAID).

The report is meant for public institutions, non-governmental organizations, human rights defenders and other individuals who are interested in the respect for human rights and fundamental freedoms and conditions in temporary detention facilities and reception centres under the Ministry of Interior (MoI) and pre-trial and remand places of detention under the jurisdiction of the State Service for the Execution of Punishments (SSEP) under the Government of the Kyrgyz Republic.

The report contains recommendations aimed at ensuring the respect for human rights and fundamental freedoms of those held in closed institutions as set out in international law and national legislation of the Kyrgyz Republic, including the right to freedom from torture and ill treatment.

The Kyrgyz Republic acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1994, having thereby expressed its agreement and readiness to be bound by ICCPR provisions. After joining the Optional Protocol to the ICCPR in 1994, the Kyrgyz Republic recognized the competence of the UN Human Rights Committee to consider individual complaints from persons under its jurisdiction. As of today, the UN Human Rights Committee has passed 14 decisions with respect to the Kyrgyz Republic in which it recognized violations of various rights enshrined in the ICCPR, including on six cases related to nine individuals regarding violations of Article 7 of the ICCPR establishing a prohibition on torture and cruel treatment¹².

According to Article 41(2) of the Constitution of the Kyrgyz Republic, in case international human rights bodies recognize human rights violations, the Kyrgyz Republic should take measures to redress them and/or to provide compensation for the damage caused. Although the first decision was passed more than five years ago, no measures to enforce the UN Human Rights Committee's judgment, namely to provide effective remedies and compensation, have been taken by the Kyrgyz Republic. This is explained by a lack of any effective mechanisms for implementing decisions passed by international bodies. A recommendation to create such a mechanism was voiced following the 2011 monitoring, and it remains relevant today.

The first part of the report presents a brief overview of how recommendations submitted to the Parliament, Government and relevant state authorities have been implemented following the publication of the 2011 monitoring report. At the same time, on the basis of generalized data received in the course of project implementation some new recommendations have been included.

The second part of the report contains a description of project methodology, including general information about project goals and objectives, as well as its major components and activities carried out in the course of the project. Also, this section elaborates upon issues related to access to closed institutions by monitoring groups, and conditions of monitoring visits.

The third section of the report contains a description of monitoring results as regards the right to freedom from torture and ill treatment in TDFs and reception centres of internal affairs bodies and PDFs under the SSEP, including statistical data, also in the form of tables and diagrams, and the status of implementation of existing legislation. This section also includes cases extracted from monitoring reports from specific visits.

Activities by the project team concerning documentation of individual cases of torture and ill treatment disclosed during the monitoring visits and provision of free legal aid to victims of torture

¹² Article 7 of the ICCPR: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

are described in the final section of the report. The final part of the report includes information about activities related to rehabilitation of victims of torture and ill treatment provided within the project.

The project goals could not have been possibly reached without the outstanding work and cooperation of non-governmental organizations and their committed personnel, as well as monitors and doctors that were included in the project team. These include:

PO AmanPlus (Bishkek) – Berg Ruslan;
PO Ventus (Karakol) – Ruziev Kamil;
PF Golos Svobody (Bishkek) – Bagishbekov Sardar, Koilubaeva Asel, Sydykov Aidar, Esenamanova Elmira;
PO Za Druzhbu Narodov (Kyzyl-Kiya) – Mirkadyrov Mukhtar;
PF Kylym Shamy (Bishkek) – Abdirasulova Aziza, Adamaliev Rysbek;
PF Luch Solomona (Osh) – Makhmudov Sadykzhan, Asanov Tair, Abdulazimov Ulugbek, Batyrkulov Jusubali;
PO Youth Human Rights Group (Bishkek) – Khalitova Elena;
PF Independent Human Rights Group (Bishkek) – Sayakova Dinara, Azimov Ulugbek, Votslava Yulia;
PF Open Position (Bishkek) – Abdirasulova Gulshayir;
PF Golos Svobody Rehabilitation Centre – Bektemirova Aisalkyn, Maksutova Begayim, Kolbina Nadezhda, Novikova Svetlana;
PO Free Generation Liberal Youth Alliance (Bishkek) – Shaihutdinov Timur;
PO Soyuz Edineniya (Talas) – Bozhkova Svetlana, Bayaliev Kemel, Torobekov Chynybek;
PO Spectrum Social and Legal Centre (Karakol) – Matveeva Ella;
Jalal-Abad regional human rights organization “Spravedlivost”– Gritsenko Valentina, Sharipov Abdumalik, Japarova Baktykan, Jabbarov Utkir, Shasalimov Farhod, Ismailov Bahodir;
PF ElSite (Kyzyl-Kiya) – Akhmedov Halimjan.

Observers: Ismailova Jibek (Bishkek), Kalykov Murzakmat (Batken), Ivanova Elena (Ala-Buka), Shadybekov Kadyrbek, Toktobaeva Asylkan (Kerben), Popsuy Sergei (Mailuu-Suu), Galich Valentina, Sukhorukova Elena (Tash-Kumyr), Asakeev Tulanbek, Jamankulova Gulnara (Toktogul);

Doctors: Kayumova Zadikan, Subanbaev Aibek, Sulaimanova Minojotkhon, Sultanmuratov Ismail, Mamaraziev Alokulbek, Satybaldiev Shukhrat, Toltoev Myktybek.

The project team extends its gratitude to:

- The OSCE Centre in Bishkek and its Osh Field Office for financial support and assistance in conducting the research and publishing this report.
- Freedom House Project on Strengthening Human Rights in Kyrgyzstan for financial support and assistance in conducting monitoring of the respect for human rights in pre-trial detention facilities.
- The Regional Office of the UN High Commissioner for Human Rights in Central Asia within the framework of the EU-funded project “Civil Monitoring for Human Rights’ Protection and Conflict Prevention” and Soros Foundation Kyrgyzstan for providing financial assistance in conducting training events on human rights for heads of temporary detention facilities and reception centres under internal affairs bodies of the Kyrgyz Republic.
- The Ombudsman of the Kyrgyz Republic Mr. Tursunbek Akun and his staff members for providing assistance in ensuring access to monitoring group members to TDFs and reception

centres of internal affairs bodies and PDFs under the SSEP, and for their active involvement in conducting research and monitoring in closed institutions.

- All organizations that took part in carrying out this research and monitoring observers.

We extend special gratitude to the leadership of the Kyrgyz Ministry of Interior and the State Service for the Execution of Punishments under the Government of the Kyrgyz Republic, the administration and staff members of TDFs, reception centres and PDFs where monitoring visits took place, as well as those held in the above-mentioned institutions who participated in interviews for providing assistance with the research.

2. CONCLUSIONS AND RECOMMENDATIONS

The 2011 monitoring report identified some important conclusions on which basis specific recommendations were submitted to the attention of the Parliament, the Government, the Prosecutor General’s Office, the Supreme Court, the Ministry of Interior, and the administration of TDFs under internal affairs bodies in the Kyrgyz Republic.

In a logical fashion, before presenting new recommendations based on the monitoring throughout 2012 it makes sense to analyse trends related to the implementation of recommendations submitted in 2011.

Regrettably, no significant changes have been observed in this area, although the key government agencies to which the recommendations were addressed had become active participants of the 2012 Memorandum and for about eight months they were intensely collaborating with the project team.

The majority of issues highlighted in the 2011 monitoring report conclusions remain relevant today.

	Conclusions (2011 monitoring report findings)	Relevance today
1.	National legislation of the Kyrgyz Republic providing for criminal liability for torture is not fully in line with international standards on effective torture criminalization.	less relevant
2.	Torture against those suspected of and charged with committing offences is most often practiced in order to obtain confessionary statements. Amendments are required in procedural legislation establishing additional guarantees to prevent torture and maltreatment.	relevant
3.	According to the CPC KR, special investigation activities by inquiry agencies aimed at crime prevention and identification of perpetrators (crime detection) are part, albeit a special part, of criminal justice, and as stipulated by Article 1 of the CPC KR, they should be regulated by the CPC KR. No single norm of the CPC KR regulates the procedure for carrying out special investigation activities, nor does it determine the status of persons involved in carrying out such activities, and most importantly, nor does it provide for their rights and duties. Assumedly, these issues are regulated in the Law “On Special Investigation Activities” which is not true, however. The cases are not rare when CIU officers do not allow defence lawyers to meet with a client whose involvement in the offence is under question, validating their decision by stating that a person is not arrested, but rather is invited for a conversation, and that the Law “On Special Investigation Activities” does not provide for a lawyer to be present during a special investigation activity called “interview”. Since there is no clear norm in this Law, it should be spelled out in the CPC KR, as required by Article 1 of the Code.	relevant
4.	According to the Constitution, international agreements that came into force as prescribed by law and that were signed by the Kyrgyz Republic, as well as commonly accepted principles and norms of international law, are an integral part of Kyrgyzstan’s legal system, while international human rights treaties are to be applied directly and take precedence over other international agreements. These constitutional provisions are not followed.	relevant

It should be admitted that the impact of some recommendations, if implemented, can only become visible after a certain, sometimes a rather lengthy, period of time. As regards such recommendations, sometimes they are the efforts undertaken by a public body or public official to whom these recommendations were directed that matter.

In this regard, it is worth mentioning the Prosecutor General’s Office of the Kyrgyz Republic. All recommendations directed to the highest-level supervisory body were, as regards the underlying ideas, included in the Development Strategy of Prosecution Agencies in the Kyrgyz Republic by

2015 which “[...] serves as a road map identifying the process of modernizing prosecutorial bodies. The strategy is hinged upon the need to adopt measures aimed at reforming prosecution agencies in order to protect human rights and freedoms and the state’s interests, to increase the effectiveness of activities carried out by prosecutorial offices, to improve supervisory activities and to develop resource service provision in prosecution bodies.”¹³ A specific action plan has been devised to implement the Development Strategy. These efforts on the part of the Prosecutor General’s Office validate the belief that certain tangible changes in administering prosecutorial supervision regarding the respect for human rights and freedoms among those in detention, including the right to freedom from torture, can be expected with much likelihood in the near future, while some other changes can be expected at a certain point in the future.

Certain actions aimed at enforcing recommendations that do not require high budget expenses have been undertaken by the leadership of the MoI and administration authorities of several TDFs under internal affairs bodies.

The report contains cases when staff members of territorial internal affairs bodies, using their own resources, organized repair works in the premises of TDFs and carried out, with the support of local organizations, a number of activities to improve detention conditions. During the 2012 monitoring, observers noticed posters with information about rights and regulations in Kyrgyz and Russian in the cells of some TDFs, as well as video-surveillance devices and equipment installed in small libraries. It is important that the leadership of the MoI and regional internal affairs bodies be interested and provide assistance in implementing recommendations on training their personnel in the area of human rights.

The project team’s position on whether or not recommendations can be regarded as implemented is presented in the table below. The selection of one position or the other depended on whether or not any improvement occurred throughout the year in a particular area in which the specific recommendation was made. No position has been produced as regards those issues which were not the subject of the 2012 monitoring study.

№	Recommendations (2011 monitoring study findings)	Implementation of recommendations
Jogorku Kenesh (Parliament) of the Kyrgyz Republic		
1.	To introduce amendments in Article 305-1 (Torture) of the CC KR in order to criminalize torture in full compliance with the requirements of the UN Convention Against Torture and to ensure fullness and accuracy in implementing the notion of torture as it is spelled out in the Convention. At the same time, to extend the list of optional features related to the subjective side of elements of torture as required by the Convention (purpose and intent) and to strengthen punishment for torture which will allow to classify this offence as “serious” or “very serious”.	implemented

¹³ Development Strategy of Prosecution Agencies in the Kyrgyz Republic by 2015. Approved by the Prosecutor General’s Order of 18 January 2012, Ref. No. 4.

2.	To introduce amendments in quasi-torture articles (Article 304 “Abuse of power,” Article 305 “Exceeding official powers,” Article 316 “Negligence,” Article 325 “Compulsion of evidence,” Article 332 “Bribery or compulsion of evidence or evasion of testimony or compulsion of wrong translation”) for purposes of excluding duplication of articles providing for liability for torture.	partially implemented
3.	To introduce amendments in Article 4 of the Law “On General Principles of Amnesty and Clemency” stating that amnesty may not be applied to convicts who committed offences envisaged by Article 305-1 of the CC KR. In the same vein, implement a recommendation by the UN Committee against Torture of 18 November 1999 whereby the state should ensure non-applicability of the Amnesty Law regarding offences related to torture.	not implemented
4.	To introduce amendments in the CPC KR whereby priority should be given to testimony at trial hearings with a view to prevent cases of confessions extracted under duress by law enforcement officials in the course of investigation activities. A norm should be introduced in Article 81 of the CPC KR (Evidence) stating that testimony given by a suspect charged with a criminal offence during pre-trial criminal proceedings, but not confirmed by him/her in a courtroom, should be regarded as inadmissible evidence. This norm would exclude the need to use torture and to obtain confessional statements, since they will not be of paramount importance in court when a person’s guilt is established.	not implemented
5.	To introduce amendments in Article 17 of the Law on Custody Procedure and remove a provision stating that “a lawyer shall be granted an appointment if they have a written confirmation of lawyer’s participation in the criminal case issued by an investigator, prosecutor and a court of law considering the criminal case” which violates the principle of adversarial trial and the right to defence.	implemented
6.	To remove a provision from Article 325 of the CPC KR (Releasing a defendant from custody) stating that in case a defendant is acquitted, or a guilty verdict without punishment or with exemption from punishment is passed, or in case of a conditional sentence or non-custodial punishment, or in case criminal proceedings are terminated, a defendant who is under arrest must be released immediately only when the sentence comes into effect.	not implemented
7.	To introduce amendments in the Law on Custody Procedure establishing absolute prohibition on the following: a) censorship on correspondence of persons placed in detention institutions with their lawyer, parliamentarians, Ombudsman of the Kyrgyz Republic and international human rights bodies; b) placement of juveniles in one cell with adults with “positive references” in temporary detention facilities.	not implemented
8.	To introduce additional norms in the CPC KR regulating the procedure for carrying out special investigation activities aimed at crime prevention and identification of perpetrators, the status of persons involved in such activities and their rights and duties.	not implemented
9.	To ensure permanent parliamentary control over Kyrgyzstan’s compliance with commitments within international human rights treaties and timely submission of periodic reports on implementing these commitments.	not implemented
10.	To facilitate the establishment and effective functioning of the National Preventive Mechanism – a new approach in torture prevention within the framework of the Optional Protocol to the UN Convention against Torture.	partially implemented
11.	To make an official statement recognizing the competence of the UN Committee against Torture to deal with individual reports related to the violation of the right to freedom from torture as per Article 22 of the UN Convention against Torture.	not implemented

12.	To facilitate the development of an effective mechanism for the Kyrgyz Republic to enforce the decisions of international human rights bodies establishing human rights violations.	not implemented
Government of the Kyrgyz Republic		
1.	To carry out regular monitoring regarding the respect for human rights and fundamental freedoms, including in places of detention.	not implemented
2.	To ensure timely and high-quality submission of periodic reports on compliance with commitments within international treaties to international human rights bodies and carrying out activities to implement their recommendations.	partially implemented
3.	To develop a strategy for preventing torture and cruel treatment in places of detention and for improving detention conditions, to ensure coordination and to monitor its implementation, and to participate directly in its implementation.	partially implemented
4.	To develop and to carry out educational activities aimed at eliminating the causes of, and conditions conducive to, torture and ill treatment, and increasing public awareness about legislation in the area of human rights and about mechanisms of their protection.	partially implemented
5.	To help spread the idea of intolerance toward torture and cruel treatment in society and heighten awareness regarding the importance of combating torture, and to develop international co-operation in the area of fighting torture and ill treatment.	partially implemented
6.	To ensure wide public awareness about human rights and fundamental freedoms and to take measures toward organizing regular training for public officials on human rights and freedoms, inviting experts in this area.	not implemented
7.	To produce and to adopt Regulations on TDFs of internal affairs bodies and other bodies which should clearly delineate the function of TDFs on ensuring decent, humane and safe detention conditions in full compliance with international standards and national laws.	not implemented
8.	To ensure, without delay, a sufficient amount of finances for TDFs to ensure decent detention conditions in these institutions.	not implemented
9.	To conduct an inventory and revision of the entire regulatory base of the Government, ministries and agencies in order to remove restrictive secrecy labels from all documents related to the human rights and fundamental freedoms of persons placed in TDFs, detention conditions, internal rules in TDFs, punishment methods for disciplinary violations and the procedure for reviewing complaints.	not implemented
10.	To initiate the introduction of independent medical examination with a view to shift from the current state's monopoly on forensic and medical examination.	implemented
Prosecutor General's Office of the Kyrgyz Republic		
1.	To ensure rigorous observance of the Prosecutor General's Resolution of 12 April 2011, Ref. No. 40, "On strengthening prosecutorial oversight to ensure the constitutional guarantee on prohibition of torture and other cruel, inhuman and degrading treatment and punishment."	partially implemented
2.	To introduce specialization of prosecutors in investigating accusations of torture used by public officials.	not implemented
3.	In the internal division of labour, to exclude conflict of interests when fulfilling the major functions on criminal prosecution (investigation), legal supervision and state accusation in court.	partially implemented
4.	To ensure an effective mechanism of receiving and considering complaints from places of detention, observing fully the principle of confidentiality.	not implemented

5.	To carry out thorough investigation regarding every case of cruel treatment or torture, considering such cases in the form of separate proceedings.	partially implemented
Supreme Court of the Kyrgyz Republic		
1.	To study and summarise court rulings on cases of torture and ill-treatment. To initiate a resolution by the Plenum of the Supreme Court to ensure that every communication about torture is subject to comprehensive, full, and impartial judicial scrutiny which is then followed by a lawful and substantiated judgement to ensure that punishment for torture, in any form and any manifestation, is unavoidable..	not implemented
Ministry of Interior of the Kyrgyz Republic		
1.	To ensure strict observance of laws and other regulatory acts by officers of internal affairs bodies establishing guarantees of human rights protection among those placed in TDFs of internal affairs bodies, a thorough investigation of all violations and irreversible punishment regardless of positions and merits.	not implemented
2.	Within the framework of the ongoing police reform to identify new criteria for evaluating the work of internal affairs bodies and to remove crime detection rate as a performance indicator for police officers.	partially implemented
3.	To arrange regular training for police officers on human rights and fundamental freedoms with experts in this area.	partially implemented
4.	To find financial means to set up investigation rooms, premises for visits, rooms for warming up food and storing bed sheets and personal belongings of detainees, medical examination rooms, rooms for staff members and sanitary inspection rooms with disinfection chambers in TDFs under internal affairs bodies.	not implemented
5.	To provide officers of TDFs under internal affairs bodies with a possibility to work in conditions that would be conducive to fulfilling their duties effectively, taking into account exceptionally challenging working conditions, and to resolve issues related to payment of relevant benefits on a timely basis.	not implemented
6.	To create necessary conditions for medical workers (doctors, nurses) in TDFs under internal affairs bodies and those reporting to the Ministry of Health.	not implemented
7.	To make sure that detainees have access to medical services at any time of the day or night. To find financial means to replenish necessary medications on a constant basis.	not implemented
8.	To develop and to introduce, together with the Ministry of Health, a universal medical examination form for registering health condition and bodily injuries of detainees at the moment of their arrival in TDFs for the first time and when they are taken back after being transferred from TDFs for purposes of investigative activities.	not implemented
9.	To supply each TDF under internal affairs bodies with video surveillance equipment to prevent cases of torture and ill treatment with respect to detainees and for personnel safety.	partially implemented
10.	To review and to improve, on a constant basis, the legal education system among police officers, in particular special investigation officers and those working in investigation units and services and responsible for custodial conditions. A special attention should be paid to their moral and professional faculties.	not implemented
11.	To make sure that the psychological service of the MOI, including its regional subdivisions, functions effectively.	not implemented

Administration of TDFs under internal affairs bodies of the Kyrgyz Republic		
1.	Upon admission in TDFs under internal affairs bodies, information should be provided to detainees, in a written form, about their rights, internal regulations in TDFs, actions that are regarded as disciplinary violations, disciplinary sanctions, the procedure for complaining in case such measures are applied, and the procedure for submitting complaints with regard to all other issues.	not implemented
2.	To install information stands/posters with information about the rights and regulations in every cell both in Kyrgyz and Russian (possibly in other languages too).	partially implemented
3.	To develop a system of measures to overcome overcrowding in cells in order to comply with the standards spelled out in national legislation (3.25 sq. m. per person).	not implemented
4.	To fill in all documents in TDFs thoroughly, especially registration logs for complaints coming from detainees as regards deteriorating health and bodily injuries, and those used for examination of newcomers and those taken back to TDFs after being transferred for purposes of investigative activities.	partially implemented
5.	To provide every detainee with a possibility to contact the outside world and to provide them with necessary conditions for visits.	partially implemented

All recommendations following the conclusions of the 2011 monitoring report were, in general, approved when discussing the final report during a roundtable meeting on 13 December 2011.



UN Special Rapporteur on Torture at a roundtable meeting on discussing the results of the 2011 monitoring study

Most of these recommendations were subsequently reflected in the final report of the UN Special Rapporteur on Torture and Cruel, Inhuman, and Degrading Treatment and Punishment, Mr. Juan Méndez¹⁴, upon completion of his visit to the Kyrgyz Republic in December 2011.

Since the project team has reckoned the majority of recommendations following the 2011 monitoring report as “not implemented” or “partially implemented,” the authors do not want their position to be perceived as a sweeping criticism of government institutions and their leaders. It is imperative to become even more active in light of what has been achieved and of what has not become possible yet.

All recommendations that have not been implemented or have been implemented partially have been put forward again by the project team in the list of recommendations following the 2012 monitoring study. Alongside, some new recommendations have been brought to light as well.

All recommendations are based on international standards establishing the absolute prohibition on torture, including the requirement that each torture allegation should be investigated effectively and that punishment for torture should be inevitable, specific recommendations of international human

¹⁴ Report by Prof. Juan Méndez, UN Special Rapporteur on torture and other cruel, inhuman, and degrading treatment or punishment, Mission to Kyrgyzstan, A/HRC/19/61/Add.2, of 21 February 2012 (hereafter the Report of the UN Special Rapporteur on Torture).

rights bodies, in particular the UN Committee against Torture, the most recent recommendations addressed to the Kyrgyz Republic as regards the combating of torture within the Universal Periodic Review in June 2010, and recommendations of the UN Special Rapporteur on Torture.

All recommendations are intended to help improve the procedure and conditions of custody in TDFs and reception centres of internal affairs bodies and pre-trial detention facilities and bring them in compliance with standard minimum rules for the treatment of prisoners, and are aimed at improving the human rights record in these institutions.

RECOMMENDATIONS:¹⁵

COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS OBLIGATIONS UNDER INTERNATIONAL TREATIES RATIFIED BY THE KYRGYZ REPUBLIC

1. To ensure permanent parliamentary control over Kyrgyzstan's compliance with obligations within international human rights treaties and timely submission of periodic reports on implementing these obligations.
2. For the Government of the Kyrgyz Republic, to develop and to adopt a plan for implementing recommendations, final comments and decisions of the Universal Periodic Review (UPR) and special procedures of the UN Human Rights Council and treaty bodies.
3. To initiate a statement on recognizing the competence of the UN Committee against Torture to deal with individual reports related to the violation of the right to freedom from torture as per Article 22 of the UN Convention against Torture.

RECOGNITION AND OBSERVANCE OF DECISIONS MADE BY INTERNATIONAL HUMAN RIGHTS BODIES BY THE KYRGYZ REPUBLIC

1. To develop an effective mechanism for the Kyrgyz Republic to enforce the decisions of international human rights bodies establishing human rights violations, including those decisions that have already been passed by the UN Human Rights Committee with respect to the Kyrgyz Republic.
2. To design and to discuss a draft law on introducing amendments in the CPC KR establishing that decisions of international human rights bodies, particularly those by the UN Committee against Torture, should be the grounds for resuming criminal proceedings based on new circumstances.



Roundtable meeting on discussing the results of the 2011 monitoring study

CREATING AN EFFECTIVE MECHANISM FOR THE INVESTIGATION OF TORTURE ALLEGATIONS

1) Ensuring prompt consideration of torture allegations

1. To introduce in legislation a special procedure for considering claims and complaints about torture. To determine three days as the longest time for considering torture allegations and passing decisions. To provide for an exhaustive list of exceptional cases when claims of torture can be considered and a decision can be passed thereon, within not more than ten days.

¹⁵ The majority of these recommendations developed by independent experts and experts from organizations that have taken part in implementing the 2012 project and organizations that acceded to the Memorandum of Understanding in the area of human rights and freedoms have already been submitted to Working Groups on improving human rights protection mechanisms for consideration.

2. To ensure that prosecutors abide by the provisions of criminal procedure law whereby they are obliged to review and consider crime allegations, especially in cases when the accused reveals torture allegations during court proceedings (including those deciding on judicial authorization of arrest and those where restrictive measures are selected, including pre-trial detention).
3. To develop an effective mechanism for receiving and considering complaints about torture from places of detention while fully observing the principle of confidentiality.

2) Increasing the effectiveness of considering torture reports made while considering the main criminal case on the merits

1. To make sure that prosecutors comply with Article 155 of the CPC KR whereby they are obliged to accept and to consider claims and reports of the offence in case the defendant claims that torture was used when the main criminal case was considered on the merits.

CREATING AN EFFECTIVE MECHANISM FOR INVESTIGATING TORTURE

1. To introduce specialization of prosecutors in investigating accusations of torture used by public officials.

STRENGTHENING GUARANTEES FOR RESPECTING THE RIGHT TO FREEDOM FROM TORTURE AT THE MOMENT OF ARREST

1. To introduce amendments in the CPC KR regulating the procedure for carrying out all activities from the moment of receiving torture allegations until criminal proceedings are launched, defining the status of a person that was apprehended until they receive the status of a suspect and their rights and duties are established.
2. To introduce amendments in Article 40 of the CPC KR (Rights and duties of suspects) developed by the Working Group within the Millennium Challenge Account and to define the status of a suspect:
 - 1) to protect oneself and to use legal assistance of lawyers from the moment of actual apprehension;
 - 2) right to one free telephone conversation with one family member, and in case they do not have family members, with one relative or any other person at their disposal, in order to inform them about detention and a place of detention;
 - 3) not to testify against oneself and not to admit oneself guilty;
 - 4) to be taken to court to determine whether or not their detention was legal within 48 hours after their actual apprehension and to be released based on an investigator's or prosecutor's resolution with further judicial verification of whether their detention was legal; and
 - 5) to communicate with their defence lawyer without interference and with no restrictions as regards the number and duration of such meetings.
3. To introduce amendments in Article 95 of the CPC KR (Procedure for detaining a person suspected of committing an offence) developed by the Working Group within the Millennium Challenge Account whereby a report on detaining a person suspected of committing an offence should be compiled at the moment of their actual apprehension. If due to objective reasons it is not possible to compile a report at the moment of actual detention, a report should be produced immediately upon taking a person to an inquiry/investigation body. At any rate, at the moment of actual apprehension a suspect should be told of what they are suspected and also the right not to testify against themselves and the right to use the legal assistance of a defence lawyer should be explained to them. A copy of the report with the list of rights and duties should be immediately handed to the detainee and within twelve hours it should be submitted to a prosecutor. The rights should be presented taking into account the suspect's ethnic belongingness and in terms of readability.

4. To introduce amendments in Article 99 of the CPC KR (Notification of a suspect's relatives about detention) developed by the Working Group within the Millennium Challenge Account whereby at the moment of actual detention an investigator is obliged to inform one of the suspect's family members about his/her detention, and in case he/she does not have family members, one of the relatives or a close person should be informed, or provide a suspect with an opportunity to inform them for free himself/herself. If, for objective reasons, notification is not possible at the moment of apprehension, such a possibility should be provided forthwith upon a suspect is taken to an inquiry agency. A note is made about such notification in the detention report.
5. To introduce amendments in the CPC KR developed by the Working Group within the Millennium Challenge Account regulating the judicial procedure for verifying whether or not the detention of a suspect who was released following an investigator's or prosecutor's resolution was legal.

SAFEGUARDS OF PROTECTION FROM TORTURE IN PLACES OF DETENTION

1. To introduce the practice of a centralized register (database) of all those who were detained and remain in custody, providing information as to who carried out the detention, what time a person was apprehended, taken to a police station, placed in a temporary detention facility and taken into custody, and about their movement inside and outside the facility.
2. To introduce amendments in the Law "On the procedure and conditions of custody for arrested persons suspected of and charged with committing offences" establishing absolute prohibition of:
 - a) censorship on correspondence of persons placed in detention institutions with their lawyer, parliamentarians, Ombudsman of the Kyrgyz Republic, director of the Kyrgyz National Centre for Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment and international human rights bodies;
 - b) placement of juveniles in the same cell with adults with "positive references" in temporary detention facilities.

IMPROVEMENT OF DETENTION CONDITIONS

1. To ensure transparency regarding the allocation and the use of budget funds to improve detention conditions.
2. To appoint a commission that should consist of experts from across multiple disciplines for carrying out urgent inspection visits to all places of detention for purposes of closing those places that would be regarded as unacceptable for holding people immediately.
3. To comply strictly with the Strategy for the Development of Penitentiary System in the Kyrgyz Republic for 2012-2016 (Umut-2) approved by the Government of the Kyrgyz Republic on 15 May 2012.
4. To improve coordination of joint actions with the Ministry of Health on issues related to providing medical services to convicts and persons placed in detention institutions under the SSEP.

EFFECTIVE LEGAL ASSISTANCE TO VICTIMS OF TORTURE

1. To establish solid legal basis for defence lawyers to carry out their activities to the full extent.
2. To support the establishment of a professional bar association in the framework of ongoing and planned judicial reforms.
3. To develop a comprehensive free legal assistance programme guaranteeing access to a defence attorney for all those in detention.
4. To increase the effectiveness of the Law "On guaranteed state legal assistance" by adopting further information awareness measures.

5. To make amendments in the CPC KR stating that in case a defence attorney provided to citizens is not on the Guaranteed State Legal Assistance list this will be considered a significant violation of the law and result in cancellation of a sentence.
6. To review the rates for defence attorney services within the guaranteed state legal assistance framework and to increase those in order to hire experienced defence lawyers providing qualified services to their clients.
7. To establish a mechanism allowing monitoring the quality of legal assistance provided.
8. To make a revision of the defence lawyers register so that it could include sufficient information allowing suspects, alleged offenders and defendants to invite a lawyer of their own choosing.

EFFECTIVE DOCUMENTATION OF TORTURE, INDEPENDENT EXPERT EXAMINATION

1. To integrate the Istanbul Protocol in all graduate and post-graduate training programmes for medical workers (doctors, nurses, medical assistants).
2. To integrate the Istanbul Protocol in the practice of all institutions providing treatment and diagnostic assistance regardless of which agency they belong to.
3. To introduce the Istanbul Protocol as a mandatory diagnostic standard based on evidence-based medicine.
4. To introduce torture documentation, on the basis of the Istanbul Protocol, in the existing statistical reporting system in the area of health care and monitoring and evaluation of medical and diagnostic facilities.
5. To make sure that the entire staff of the State Forensic Medical Service takes special training on the basis of the Istanbul Protocol.
6. To develop and to introduce, together with the Ministry of Health, a universal medical examination form for registering health condition and bodily injuries of detainees at the moment of their arrival in TDFs for the first time and when they are taken back after being transferred from TDFs for purposes of investigative activities.
7. To design a plan on transferring medical personnel in close institutions to the Kyrgyz Ministry of Health on a step by step basis.
8. To introduce, for purposes of registering signs of torture effectively, a primary examination sheet when detainees are placed in TDFs, reception centres and PDFs, developed in conjunction with doctors of these institutions and independent experts from nongovernmental human rights organizations.

CIVIL CONTROL

1. To adopt a draft law "On civil control bodies on the respect for human rights in the activities of internal affairs bodies."
2. To provide public supervisory boards with a possibility to carry out public control, on an unimpeded and effective basis, in places of detention and to publicize public control results and recommendations.

NATIONAL PREVENTIVE MECHANISM

1. To ensure the adequate allocation of budget funds and providing the Kyrgyz National Centre for Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment with sufficient human and financial resources to carry out an effective work.

REHABILITATION AND REINTEGRATION OF TORTURE VICTIMS

1. To develop a mechanism for psychological and psychiatric and/or medical rehabilitation of victims of torture.

2. To develop a social and psychological service and educational activities within SSEP, with appropriate state support, particularly in the area of financing, including with respect to the National Strategy for Penitentiary System Development in Kyrgyzstan.
3. To develop standard social, psychological, restorative and rehabilitation services for these target groups and appropriate documents, and to introduce a system for evaluating the effectiveness of these services.

POLICE REFORM

1. To shift the criteria for evaluating the performance of police officers from crime detention rate to a system based on public trust and safety. Within the framework of the police reform, it is imperative that police performance indicators be reformed. The importance of quantitative indicators should, without further delay, be lowered significantly. The performance evaluation system should include a public opinion poll on police work that should be carried out by independent institutions. Within the framework of this reform, more modern comprehensive indicators for evaluating police performance must be considered, such as the feeling of safety among the public, appraisal of police work (general evaluation, satisfaction with their work, and satisfaction with communication), evaluation of latent crimes and evaluation of the scale of human rights violations.
2. Not only should the leadership of the MoI declare zero tolerance toward torture, but they should also denounce the use of torture and provide real-life cases when this crime was committed by police officers along with punishment that ensued afterwards.
3. The MoI should inform the public on a regular basis about cases of torture (publish such information in criminal news sections) and reports of the offence called “torture” and cruel treatment by police officers.

PERSONNEL TRAINING AND RE-TRAINING

1. To review and to improve, on a constant basis, the legal education system targeting police officers, in particular special investigation officers, investigation units and services that are responsible for detention conditions. A special attention should be paid to their moral and professional faculties.
2. On a mandatory basis, to include international standards in academic curricula and to discuss issues related to inconsistency between national legislation and practices and international standards in the course of educational activities. Such academic curricula should also include all decisions of the UN Human Rights Committee regarding the Kyrgyz Republic and other decisions of UN treaty bodies and the European Court of Human Rights related to torture, and obligations to investigate torture and cruel treatment.

3. PROJECT METHODOLOGY

The project on “Addressing human rights in closed facilities in Kyrgyzstan through nationally-owned human rights mechanisms” was implemented from 1 April through 30 November 2012.

Compared to the 2011 project, the methodology did not undergo major changes, as project goals and objectives have remained the same.

Main project goal:

To support torture prevention efforts in closed institutions, including in TDFs and reception centres of internal affairs bodies and PDFs under the SSEP through national human rights protection mechanisms.

Project objectives:

- training for defence attorneys, NGO lawyers and human rights activists in the area of international standards, monitoring techniques in closed institutions and reporting;
- objective monitoring of TDFs and reception centres of internal affairs bodies and PDFs under the SSEP by civil society representatives with detailed registration of the respect for national legislation and international standards on the treatment of prisoners by staff members of these institutions, as well as effective documentation of human rights infractions, if any;
- collection of reliable information on compliance with international standards on treatment of prisoners in TDFs and reception centres of internal affairs bodies and PDFs under the SSEP;
- response to cases of torture and cruel treatment revealed in the course of monitoring visits;
- providing legal, medical and psychological assistance to victims of torture and cruel treatment;
- awareness raising among the wider public and international human rights bodies and organizations about the situation related to the right to freedom from torture in places of detention;
- identification of norms in the applicable law of the Kyrgyz Republic that are conducive to violating the right to freedom from torture and cruel treatment and hampering effective verification and investigation of such violations and punishment of those guilty, as well as development of relevant recommendations;
- analysis and processing of monitoring findings for formulating recommendations with further facilitation to their practical implementation; and
- providing monitoring findings to interested government bodies and their further discussion for purposes of improving the detention system, including in TDFs and reception centres of internal affairs bodies and PDFs under the SSEP.



Questionnaire survey of a detainee in the Moskva District TDF

In the course of the monitoring study in closed institutions, special attention was paid to the respect for the right to freedom from torture among detainees and compliance with international standards on treatment of prisoners and detention conditions in reception centres under internal affairs bodies.

Monitoring coverage

Monitoring coverage included TDFs and reception centres of internal affairs bodies and PDFs of the SSEP.

The following places of detention were covered throughout monitoring visits:

- 47 TDFs of internal affairs bodies;
- 2 reception centres of internal affairs bodies;
- 3 PDFs under the SSEP.

Observers

The project team included representatives of the Ombudsman's Office and non-governmental organizations of the country. Forty-four persons with background in law, medicine, psychology and human rights had been selected.

All observers have passed special training on human rights and conducting monitoring visits to closed institutions.

Memorandum of Understanding on human rights and fundamental freedoms

In June 2011, the first MoU was signed by the Ombudsman of the Kyrgyz Republic, the OSCE Centre in Bishkek and the NGO "Kylym Shamy" until the end of 2011. Afterwards, seven non-governmental organizations acceded to the Memorandum:

- PF Ventus (Karakol),
- PF Golos Svobody (Bishkek),
- PF Luch Solomona (Osh),
- PF Independent Human Rights Group (Bishkek),
- PO Soyuz Edineniya (Talas),
- PHRO Spravedlivost (Jalal-Abad),
- PF Voice of Freedom (Bishkek).

In June 2012, a new MoU was signed, while the number of participants has increased including state authorities and human rights organizations, that is:

- Ombudsman of the Kyrgyz Republic;
- Prosecutor General's Office of the Kyrgyz Republic;
- Ministry of Interior of the Kyrgyz Republic;
- Ministry of Health of the Kyrgyz Republic;
- Ministry of Justice of the Kyrgyz Republic;
- State Service for the Execution of Punishment under the Government of the Kyrgyz Republic;
- OSCE Centre in Bishkek;
- Freedom House Project on "Strengthening Human Rights in Kyrgyzstan";
- Soros Foundation Kyrgyzstan (Bishkek);
- PF Egl (Bishkek);
- PO Citizens Against Corruption (Bishkek);
- PF For the Friendship of Nations (Kyzyl-Kiya);
- PO Youth Human Rights Group (Bishkek),

and the eight human rights organizations mentioned above that continued their active work within the framework of the new MoU.

The 2012 MoU, similar to the 2011 Memorandum, is aimed at increasing the protection of persons who are deprived of or limited in their freedom from torture and other cruel, inhuman or degrading treatment and punishment through joint monitoring visits to places of detention all over the country without prior notification.



Video-conference with Memorandum participants from the south of the country

The Memorandum clearly defines the framework of co-operation within the mandates of all parties, in particular, obligations of government bodies, partner civil society organizations, OSCE Centre in Bishkek, Freedom House Project on “Strengthening Human Rights in the Kyrgyz Republic” and Soros Foundation Kyrgyzstan¹⁶.

In the reporting period, four working meetings were held attended by special representatives of the parties to the MoU who discussed a number of issues related to the fulfilment of obligations by the parties within the Memorandum and specific cases of torture. MoU partners expressed great concern over consideration and resolution of the cases that were presented. All discussions of issues on the agenda and decisions passed thereon were written down in the minutes of the above-mentioned working meetings.

Project components and procedure for their implementation

For achieving project goals and objectives, a methodology and an action plan were developed in the following main areas of activities:

1. Informing law enforcement officers, in particular those working in TDFs and reception centres of internal affairs bodies and PDFs under the SSEP about the minimum human rights standards.
2. Carrying out monitoring visits to TDFs and reception centres of internal affairs bodies and PDFs under the SSEP.
3. Documentation of torture cases. Response to reports of torture and cruel treatment.
4. Rehabilitation of victims of torture and cruel treatment.



One of regular meetings within the Memorandum of Understanding



Workshop for heads of TDFs under internal affairs bodies. A great interest in the lecture

Awareness raising on minimum human rights standards



Workshop for heads of TDFs under internal affairs bodies. Group work

One important component in project implementation was awareness raising and training events for law enforcement officers, including those working in closed institutions, in the area of minimum human rights standards.

Thus, in the course of two workshops on “Strengthening police and civil society co-operation on the respect for the right to freedom from torture in Kyrgyzstan” that were held on 5-6 March and 15-16 July 2012, heads of all 47 temporary detention facilities under

¹⁶ Memorandum of Understanding on human rights and freedoms, pages 1-3.



SSEP medical workers developing a standard medical examination form



Training event at SSEP Training Centre

internal affairs bodies were trained.

As supported by the OSCE Centre in Bishkek and Freedom House, two training events took place in the SSEP Training Centre for doctors working in the SSEP, including heads of medical and sanitary units, doctors and medical assistants of pre-trial detention facilities and correctional colonies.

The first training course was held on 23 February 2012 and was entitled “Effective medical documentation of torture and ill treatment in Kyrgyzstan” and the second training course was held on 12-13 April 2012 and was called “Human rights and effective medical documentation of torture.”

On 18 October 2012, a training course was held in the SSEP Centre for officer personnel of the SSEP. In the course of the event, participants learned about the definition of ‘torture’ and the difference between torture and other types of cruel treatment, and the provisions of the new Law of the Kyrgyz Republic “On National Centre for Preventing Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment.” In accordance with this law, in the near future the National Centre for Torture Prevention will begin its activities whose staff

members will have the right to access, on an unimpeded basis, all closed institutions of the country at any time during the day or night and without prior notification.

Monitoring visits to TDFs and reception centres of internal affairs bodies and PDFs under the SSEP

Activities in this area including the following:

- training for monitoring group members on the theoretical background and practice of carrying out a monitoring study regarding the respect for human rights in closed institutions and the behaviour of observers. For purposes of adhering to such principles as objectivity, impartiality and confidentiality in the course of monitoring visits, project experts produced a document called “Memo for monitoring observers in closed institutions.”
- developing uniform tools for collecting information. To systematize the tools that are used for conducting monitoring studies in places of deprivation and limitation of freedom by a number of human rights organizations in the country and to reduce them to a common denominator, common tools were designed at the previous stage of the research study to be used across the field both in the work of government institutions and for public control. These tools were improved taking into account the experience from the previous monitoring study carried out in 2011.
- collecting, analyzing and generalizing monitoring findings. To work up recommendations for improving the human rights record in TDFs and reception centres of internal affairs bodies and PDFs. As the main method for collecting information in the course of the monitoring study, semi-structured interviews with law enforcement officers, administration and personnel of TDFs and reception centres of internal affairs bodies and PDFs, and those held in custody at the moment of visits were used. At the same time, a random sampling method was used, when people had to agree to participate in the research on a voluntary basis.

The research study has been carried out with full compliance of generally accepted international standards and principles on monitoring studies.

Documentation of torture cases. Reacting to reports of torture and ill treatment.

Activities in this area including the following:

- identification and effective documentation of cases of torture and ill treatment.
- providing legal assistance to victims of torture and ill treatment, including the provision of defence lawyers and representation in national courts.

Rehabilitation of victims of torture and maltreatment presupposes the provision of medical and psychological assistance to persons who were affected by torture and cruel treatment by experts of Golos Svobody's Rehabilitation Centre for victims of torture.

An impressive volume of reliable information sources used throughout the research study, as well as the extensive experience, expertise and analytical abilities of the project team ensure fairly high accuracy of the results and conclusions.

4. ACCESS TO CLOSED INSTITUTIONS. MONITORING CONDITIONS

As active participants of the MoU the state authorities undertook the obligation to facilitate as needed access to places of detention for partner civil society organizations, defence attorneys and international organizations, including monitoring groups that are established by them.¹⁷

It should be mentioned that, by and large, the leadership of internal affairs bodies and administration of TDFs and reception centres under internal affairs bodies demonstrated a rather serious approach to the above-mentioned commitment, and access to TDFs was indeed by and large unimpeded, while staff members were treating observers amiably.

From a monitoring group report. Temporary detention facility, At-Bashy region:

“From the moment of our first visit, the attitude toward monitoring group members has changed much for the better. At the present time, staff members of TDFs and other units of internal affairs bodies are much more affable toward us, and they engage in conversations and co-operation much more willingly. Common staff members of TDFs are always asking us to conduct training on human rights and international law.”

To a large extent, this can be explained by the fact that all heads of TDFs participated in two training courses where they learned, in great detail, about the obligations of the Ministry of Interior within the MoU and exchanged their views as to how to increase the effectiveness of monitoring visits. Their subsequent reports to higher-level authorities about the goals and objectives of the monitoring study changed the perception of the latter of this issue.



A monitoring group talking with the head of the TDF under the Chief Interior Department in Bishkek

For instance, deputy head of the Naryn province Police Department, M. Jupaev, provided great assistance in conducting monitoring visits by allowing unimpeded access to all TDFs of internal affairs bodies in Naryn province.

The majority of monitoring visits were carried out without prior notification. Rare cases of untimely access could be explained by the fact that not all heads and staff members of regional internal affairs bodies had been informed about the participation by the Ministry of Interior in the MoU and the obligations undertaken in that multilateral framework.

In 25% of cases, monitoring groups had to wait until a duty officer of the CDI/DDI confirmed with higher-level authorities whether the group had the right to visit the institution.

From a monitoring group report. Temporary detention facility, Tyup region:

“We could not start a monitoring visit because the Chief of the TDF was not there. The Head of the District Department of the Interior did not allow us to go in without him.”

From a monitoring group report. Temporary detention facility, Jeti-Oguz region:

“Despite numerous visits, every time we had to explain to the officer on duty in the District Department of the Interior the obligations within the Memorandum.”

However, after a certain period of time, these issues were resolved positively and observers would receive permission to enter the facilities. In this case, great assistance was provided by police

¹⁷ Memorandum of Understanding on human rights and fundamental freedoms, page 1, para. 4, 11.

Colonel Sh. Mamyrov, the special representative of the MoI under the MoU, who serves as a link between the leadership of the MoI and Memorandum partners.

Surprisingly, monitoring groups found it harder to access pre-trial detention facilities under the SSEP.

In total, within the framework of this project as many as 17 monitoring visits to pre-trial detention facilities were carried out. All these visits, except for one visit, were conducted with prior notification to the relevant authorities.



An observer communicating with an officer of the Panfilov DDI

In two cases, the leadership of the SSEP officially prohibited conducting monitoring visits due to operational and security circumstances in the penal system during the time periods mentioned in letters of request.¹⁸



A monitoring group with staff members of the Toguz-Toro DDI

Before every monitoring visit, the monitoring group explained the purpose of the visit to officers on duty in PDFs. As it turned out, in seven cases they were informed about the participation of the SSEP in the MoU and the obligation to facilitate the conduct of monitoring visits, whereas in ten cases they were not informed.

During eight visits, observers faced obstacles in gaining access to pre-trial detention facilities. There was one case when access was denied because of a lunch break. It was only after the duty officer provided the chief of the facility with written approval from the SSEP that observers were allowed to carry out a monitoring visit, but only after the lunch break.

In five cases, relevant heads of PDFs were not at their workplace at the time of arrival of the monitors (in three cases – head of PDF No. 23,¹⁹ in one case – head of the pre-trial detention facility under educational colony No. 14²⁰ and in one case – head of PDF No. 24²¹) which meant that the “required” permission, as stated by the duty officer, could not be given with the result of hindering the timely beginning of the monitoring visits.

Monitoring teams failed to carry out monitoring visits to PDF No. 14, 21 and 50, all located in Chuy province. Heads of these facilities denied access to the observers, despite written permissions from the leadership of the SSEP, asserting that there were only arrested individuals under investigation in the institutions at the moment, and official permission to communicate with them was required from investigation and judicial bodies under the applicable legislation.

In another case the chief of PDF No. 23 flatly refused to let the monitoring group in until he officially receives a copy of the MoU from the SSEP. However, when the official permission from the SSEP was finally provided, the head of PDF No. 23 did not let the monitoring group in anyway and refused to meet with the observers.

¹⁸ Letters from the SSEP of 23 August 2012 (Ref. No. 100/02-2748) and of 31 October 2012 (Ref. No. 100/02-3440)

¹⁹ Monitoring group report, Ref. No. S/D-11, S/D-12, S/D-15.

²⁰ Monitoring group report, Ref. No. S/D-1.

²¹ Monitoring group report, Ref. No. S/D-17.

Until as late as October 2012 the administrative authorities of PDF No. 23 denied access to the monitoring group that included an Ombudsman’s representative in Issyk-Kul province. In October, the observers had a chance to carry out a monitoring visit in this institution, but the administrative authorities prohibited them from talking with the arrested individuals who were under investigation and placed in cells, referring to an order “from above.” As instructed by the chief, only convicts were taken out for interviews which were taking place in the training room of the facility.

The issue of the SSEP not complying fully with its voluntary commitments under the MoU to ensure access to places of detention was discussed at each of the four meetings of special representatives from government bodies and other parties to the Memorandum. MoU partners continued to emphasize that monitoring of pre-trial detention facilities was of paramount importance, as it is crucial to further monitor those charged with committing crimes who were transferred from MoI isolators to PDFs. The fact that the accused who were allegedly subjected to torture are quickly transferred to pre-trial detention facilities to which observers have no access has been quite problematic. In the opinion of human rights activists, pre-trial detention facilities turned “into some kind of a place for concealing cases of torture.” As regards denied access, in some cases the management of PDFs were referring to certain operational and security circumstances, and in other cases they were asking for written approval from the leadership of the SSEP or permission of an investigator or a judge to communicate with those charged with committing offences or defendants. Regrettably, when partners stated that all observers had passed special training and that each of them had a manual prohibiting interference with the course of criminal proceedings, and that no complaints had been raised until that day, this did not prove convincing. Thus, the SSEP neglected its obligations under the MoU by not allowing observers to achieve monitoring goals to the maximum extent possible.

On the other hand, the observers did not experience a single case when monitoring visits to reception centres under internal affairs bodies were hampered.

It was not possible to adhere to the underlying principles of carrying out monitoring visits strictly in all cases, in particular as regards confidentiality and conversing with detainees in private. As can be gathered from monitoring group reports, in 35% of cases staff members of temporary detention facilities were present during interviews with detainees.



A TDF guard in Tokmok insisted on being present during the interview

From a monitoring group report. Temporary detention facility, Toktogul region:

“During interviews with prisoners in the TDF of internal affairs bodies in the Toktogul region deputy head of the DDI and the chief of the TDF were standing close to the observers, and were listening to the entire conversation attentively.”

From a monitoring group report. Temporary detention facility, Kochkor region:

“During interviews with inmates in the TDF in the Kochkor region, the chief of the DDI was present.”

From a monitoring group report. Temporary detention facility, Karakol:

“The observers were talking in the yard of the TDF in Karakol where they took all the inmates. The conversation took place in the presence of the city prosecutor, a prosecutor from one of the units of the provincial prosecution office, and the chief and duty officer of the temporary detention facility.”

In 54.2% of cases, observers were conducting interviews in the presence of other inmates.

From a monitoring group report. Temporary detention facility, Aksy region:

The chief of the Interior Department in the Aksy region told us that taking detainees out of their cells during visits of people from outside was strictly prohibited unless there was an urgent need to do so. For this very reason, interviews with inmates were conducted in the presence of the management of the institution through a small window in the door of the cell, or so-called “feeder.”

There is no doubt that this experience had a significant impact on the objectivity of answers provided by respondents and on the quality of the monitoring findings generally. Only in 10.8% of cases observers had a chance to communicate with detainees face-to-face in private.



A monitoring group and management of the temporary detention facility

The administrative authority of the Interior Department and management of temporary detention facilities in Sokuluk, Jayil, Moskva, Kemin, Kara-Bura, Jungal and Panfilov regions, and management of the temporary detention facility under the Talas province Department of the Interior did not hinder monitoring visits, even more so, they were assisting observers in conducting interviews with inmates in private.

Regrettably, some monitoring teams faced negative attitude as sometimes representatives of administrative authorities in temporary detention facilities became rude.

From a monitoring group report. Temporary detention facility, Tokmok:

“Deputy head of the temporary detention facility in Tokmok was, in the course of the monitoring visit, very close to the observers, listening attentively to the conversations with inmates and reading all the notes taken by the observers; he was hindering the interview process in any way possible, saying rude things and even threatening one of the members of the monitoring group.”

Monitoring group members also observed hostile attitude in the course of their monitoring visit to temporary detention facilities in the Tyup and Moskva regions.

From a monitoring group report. Temporary detention facility, Moskva region:

“The chief of this institution was irritated by the fact that the observers stayed in the TDF for too long and showed up during lunch break.”

Monitoring groups experienced harsher conditions while conducting interviews with persons placed in pre-trial detention facilities under the SSEP. It was possible to communicate with inmates in private and with no staff members present only in one case.

In the course of seven visits, during interviews with inmates, the door leading into the hallway was open, and staff members of PDFs were standing very close and listening to all conversations. In nine cases observers communicated with inmates in a common cell in the presence of other inmates.

Administrative authorities of reception centres under internal affairs bodies did not hinder monitoring visits and were providing the observers with an opportunity to communicate with detainees in private.

5. GENERAL INFORMATION AND MAJOR STATISTICAL DATA

As many as 47 TDFs and 2 reception centres under internal affairs bodies, as well as 3 PDFs under the SSEP were covered by monitoring visits.

The number and regularity of monitoring visits to each closed institutions were determined by monitoring groups depending on the torture situation and taking into account the presence or absence of complaints about torture among those in places of detention.

The total number of monitoring visits was 297, of which:

- 229 visits to TDFs under internal affairs bodies,
- 51 visits to reception centres under internal affairs bodies,
- 17 visits to PDFs under the SSEP.

Table 1.

Number of visits to TDFs, reception centres and PDFs

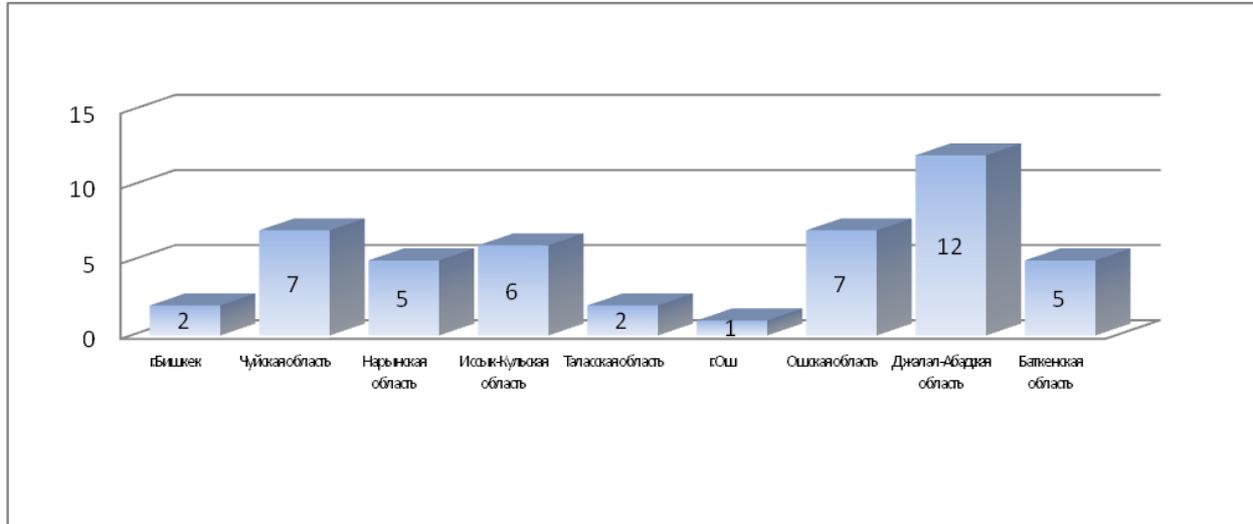
№	City/Province	TDFs under internal affairs bodies	Reception centres under internal affairs bodies	PDFs under the SSEP
1	Bishkek	5	36	1
2	Chuy province	24	-	3
3	Naryn province	13	-	2
4	Talas province	8	-	-
5	Issyk-Kul province	16	-	5
6	Osh	8	15	6
7	Osh province	45	-	-
8	Jalal-Abad province	74	-	-
9	Batken province	36	-	-
		229	51	17
TOTAL:		253		

Temporary detention facilities

TDFs under internal affairs bodies are police subdivisions that are designed for holding those arrested on suspicion of committing offences in custody. Individuals charged with committing crimes who are placed in pre-trial detention facilities and transferred to TDFs when it is required for

conducting investigative activities and court proceedings outside of settlements where pre-trial detention facilities are located, from which they cannot be transferred on a daily basis, are also held in TDFs while the above-mentioned activities and court proceedings take place, but no longer than ten days in one month.

Diagram 1. Number of TDFs broken down by provinces of the Kyrgyz Republic



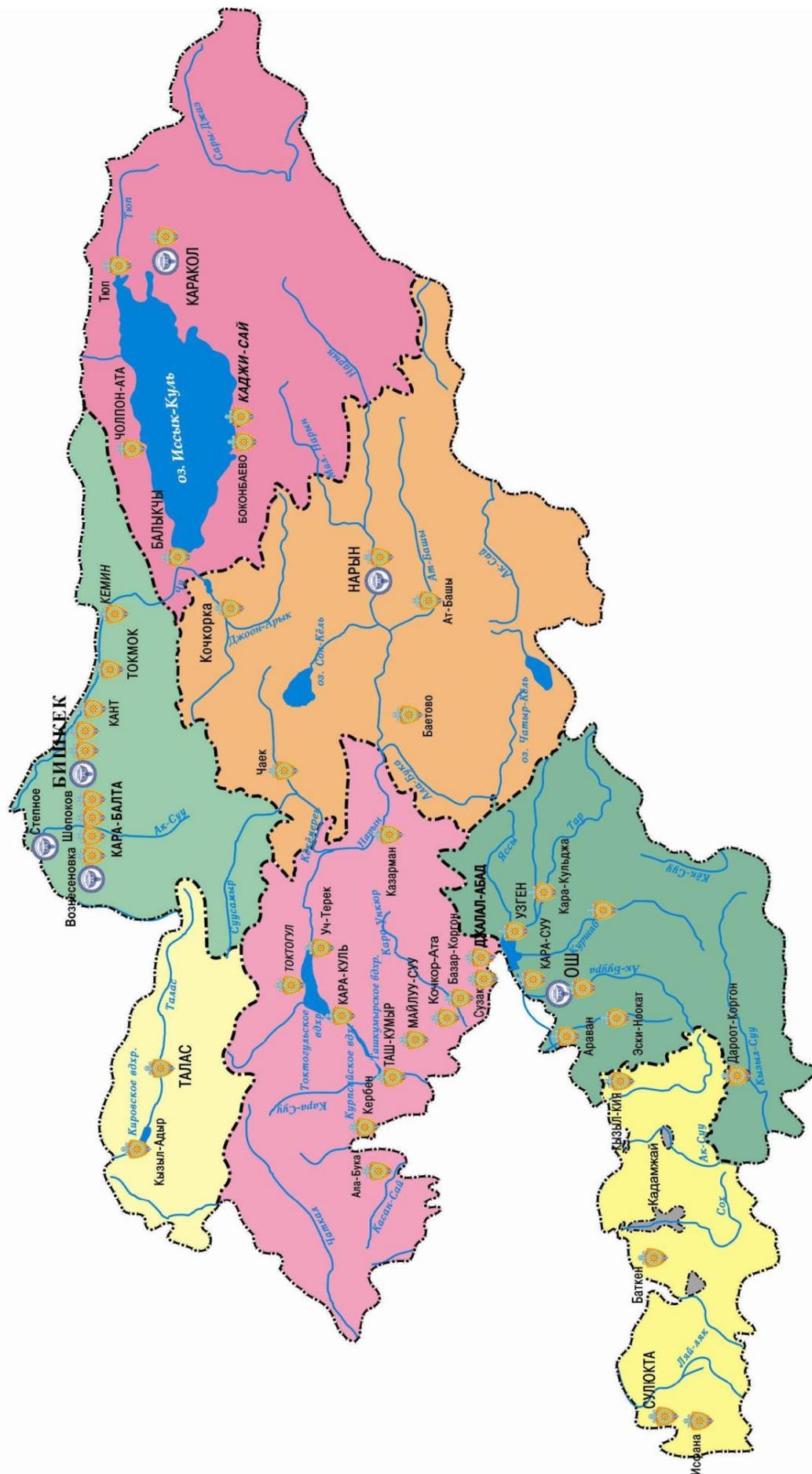


Table 2.
List of TDFs under internal affairs bodies covered by monitoring

Bishkek:

TDF under Chief Interior Department, Bishkek
TDF under Transportation Interior Department

Chuy province:

TDF under internal affairs bodies, Tokmok
TDF under internal affairs bodies, Sokuluk region
TDF under internal affairs bodies, Jayil region
TDF under internal affairs bodies, Moskva region
TDF under internal affairs bodies, Panfilov region
TDF under internal affairs bodies, Issyk-Ata region
TDF under internal affairs bodies, Kemin region

Issyk-Kul province:

TDF under internal affairs bodies, Balykchy
TDF under internal affairs bodies, Karakol
TDF under internal affairs bodies, Jeti-Oguz region
TDF under internal affairs bodies, Tyup region
TDF under internal affairs bodies, Issyk-Kul region
TDF under internal affairs bodies, Ton region

Talas province:

TDF under Interior Department, Talas province
TDF under internal affairs bodies, Kara-Bura region

Naryn province:

TDF under internal affairs bodies, Naryn
TDF under internal affairs bodies, At-Bashy region
TDF under internal affairs bodies, Kochkor region
TDF under internal affairs bodies, Ak-Tal region
TDF under internal affairs bodies, Jungal region

Jalal-Abad province:

TDF under internal affairs bodies, Jalalabd
TDF under internal affairs bodies, Suzak region
TDF under internal affairs bodies, Bazar-Korgon region
TDF under internal affairs bodies, Ala-Buka region
TDF under internal affairs bodies, Tash-Kumyr
TDF under internal affairs bodies, Mailuu-Suu
TDF under internal affairs bodies, Kara-Kul
TDF under internal affairs bodies, Nooken region
TDF under internal affairs bodies, Toktogul region
TDF under internal affairs bodies, Toguz-Toro region
TDF under internal affairs bodies, Aksy region
TDF under internal affairs bodies, Chatkal region

Osh:

TDF under Chief Interior Department, Osh

Osh province:

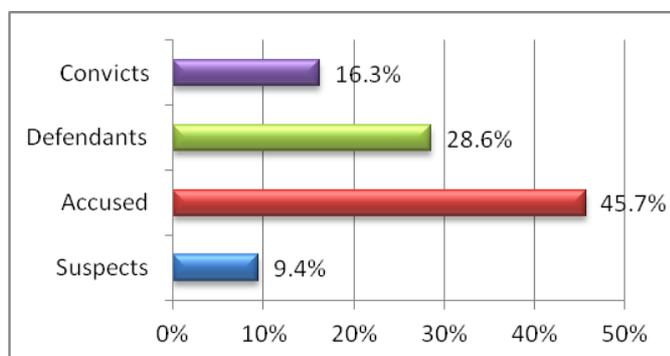
TDF under internal affairs bodies, Kara-Kulja region
TDF under internal affairs bodies, Uzgen region
TDF under internal affairs bodies, Alay region
TDF under internal affairs bodies, Aravan region
TDF under internal affairs bodies, Karasuu region
TDF under internal affairs bodies, Nookat region
TDF under internal affairs bodies, Chong-Alay region

Batken province:

TDF under internal affairs bodies, Kyzyl-Kia
TDF under internal affairs bodies, Kadamjay region
TDF under internal affairs bodies, Batken region
TDF under internal affairs bodies, Leilek region
TDF under internal affairs bodies, Sulukta

Interviews were conducted with as many as 756 persons held in TDFs under internal affairs bodies during monitoring visits. This number includes suspects, persons charged with committing offences, defendants, convicts and those subjected to administrative detention, all of who had been selected based on random sampling, and following the principle of willingness to be interviewed.

Diagram 2.
TDFs. Percentage of respondents by procedural status



Overall, interviews were conducted with 58 women and 698 men, while 19 interviews were conducted with underage suspects and persons charged with committing offences.

Diagram 3.
TDFs. Percentage of respondents by gender

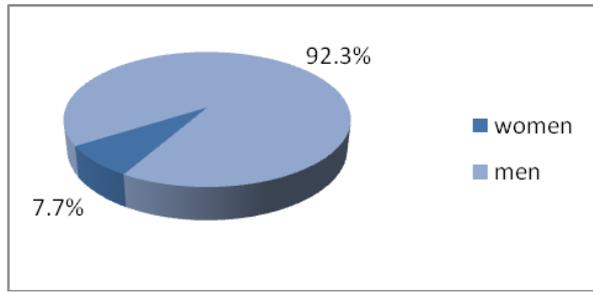
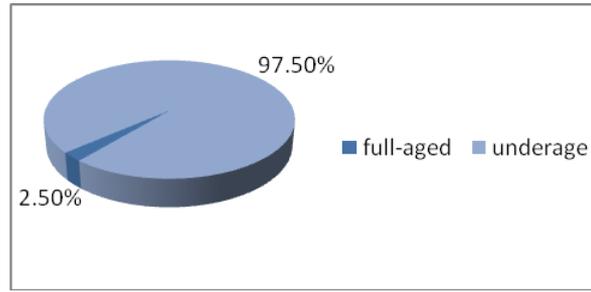


Diagram 4.
TDFs. Percentage of full-aged and underage respondents



The diagrams and tables below show the percentage of respondents by age, ethnicity and nationality, as well as prior conviction for earlier committed crimes.

Diagram 5.
TDFs. Percentage of respondents by age

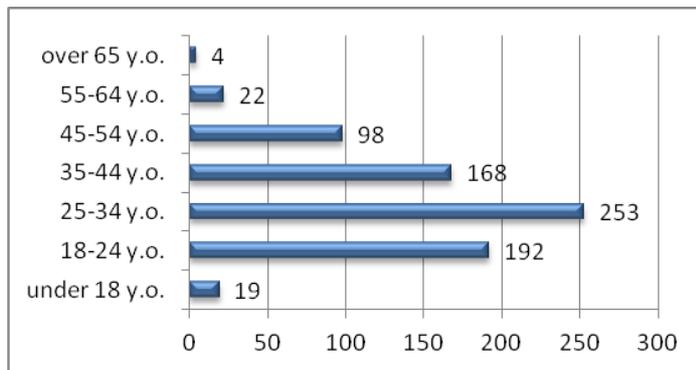


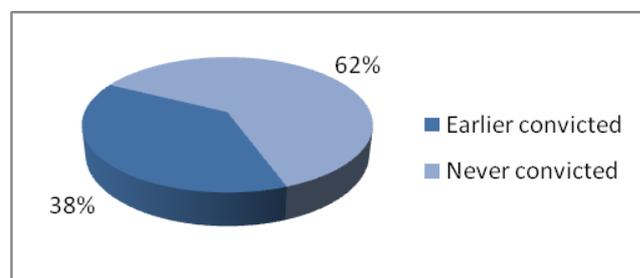
Table 2.
TDFs. Respondents broken down by ethnicity

Ethnicity	Number of people	Ethnicity	Number of people
Kyrgyz	519	Bashkir	1
Russian	105	Belarusian	1
Uzbek	88	Bulgarian	1
Tajik	5	Iranian	1
Tatar	5	Karachay	1
Kazakh	4	Kalmuck	1
Turks	4	Lithuanian	1
Dungan	3	German	1
Korean	3	Ossetian	1
Kurds	2	Polish	1
Ukrainian	2	Uyghur	1
Roma	2	Chechen	2
Azeri	1		

Table 3.
TDFs. Nationality of respondents

Nationality	Number of people
Kyrgyz Republic	718
Republic of Uzbekistan	19
Republic of Tajikistan	7
Republic of Kazakhstan	4
Russian Federation	4
I.R. of Iran	1
Republic of Turkey	1
Stateless persons	2

Diagram 6.
TDFs. Percentage of persons with and without prior conviction



Three out of the total number of respondents were serving administrative punishment in TDFs under internal affairs bodies in the form of administrative detention.

Pre-trial detention facilities

Pre-trial detention facilities are part of regional penal service units and serve as places of detention for persons charged with committing offences who face detention as a pre-trial restriction, and places for serving prison terms for convicts who are left in PDFs to carry out maintenance works.

In total, there are six active pre-trial detention facilities in the Kyrgyz Republic.

As many as three PDFs under the SSEP were covered by the monitoring study:

- 1) Pre-trial detention facility No. 23 in Karakol;
- 2) Pre-trial detention facility No. 24 in Naryn;
- 3) Pre-trial detention facility No. 25 in Osh.

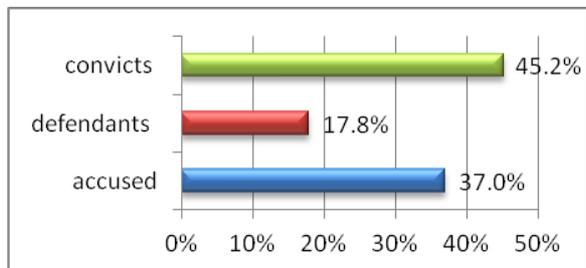
As regards the other three PDFs:

- 1) Pre-trial detention facility No. 50 in Alga;
- 2) Pre-trial detention facility No. 21 in Bishkek;
- 3) Pre-trial detention facility No. 14 under the educational colony in Voznesenovka,

it was not possible to carry out a monitoring study there, because the SSEP denied access to monitoring groups. This decision ran counter to the obligations of the SSEP before other partners within the Memorandum of Understanding.

Interviews were conducted with as many as 157 persons held in the pre-trial detention facilities at the moment of monitoring visits. The same methods were used for selecting respondents and conducting interviews as the ones for conducting interviews with inmates in TDFs. Among the respondents, there were persons charged with committing crimes, defendants and convicts.

Diagram 7.
PDFs. Percentage of respondents by procedural status



The diagrams and tables below show the percentage of respondents in PDFs by gender, age, ethnicity and nationality, as well as prior conviction for earlier committed crimes.

Diagram 8.
PDFs. Percentage of respondents by gender

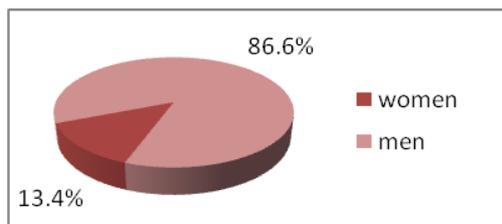


Diagram 9.
PDFs. Percentage of respondent by age

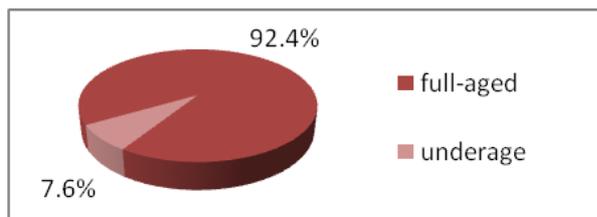


Diagram 10.
PDFs. Percentage of full-aged and underage respondents

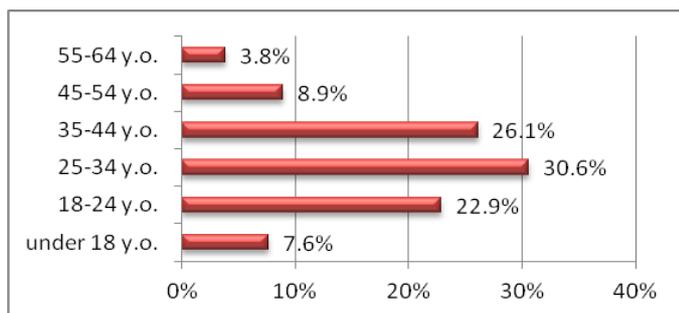


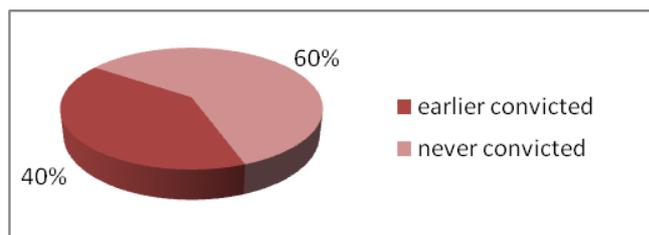
Table 4.
Pre-trial detention facilities. Ethnicity of respondents

Ethnicity	Number of people	Ethnicity	Number of people
Kyrgyz	91	Uyghur	3
Russian	15	Chechen	1
Uzbek	43	Karelian	1
Tatar	3		

Table 5.
Pre-trial detention facilities. Nationality of respondents

Nationality	Number of people
Kyrgyz Republic	156
Russian Federation	1

Diagram 11.
PDFs. Percentage of persons with and without prior conviction



Reception Centres

There are special institutions in the system of internal affairs bodies that are designed for holding people subjected to administrative detention and for persons of no fixed abode or without identification documents.

In accordance with the applicable legislation there are two types of such institutions, namely:

- reception centres under internal affairs bodies for persons of no fixed abode and without identification documents;
- special reception centres under internal affairs bodies for persons subjected to administrative detention.

According to the Regulation “On reception centres under internal affairs bodies for persons of no fixed abode and without documents,” these institutions are designed for persons of no fixed abode and without documents for purposes of establishing their identity and further transfer to relevant bodies and institutions (migration, medical, social, and others).²² According to the Regulation “On special reception centres under internal affairs bodies for persons subjected to administrative detention,” special reception centres are designed for persons subject to administrative detention.²³

However, as a matter of fact both individuals with no fixed abode and those subjected to administrative detention are placed in the two active reception centres in the Kyrgyz Republic.

Both reception centres have been covered by monitoring visits:

- reception centre under the Chief Interior Department of Bishkek;
- reception centres under the Chief Interior Department of Osh.

²² Regulation “On reception centres under internal affairs bodies for persons of no fixed abode and without documents,” approved by the Resolution of the Government of the Kyrgyz Republic, Ref. No. 42, of 19 January 1998 (as amended on 2 September 2004), para. 1.

²³ Regulation “On special reception centres under internal affairs bodies for persons subjected to administrative detention,” approved by the Resolution of the Government of the Kyrgyz Republic, Ref. No. 42, of 19 January 1998, para. 1.

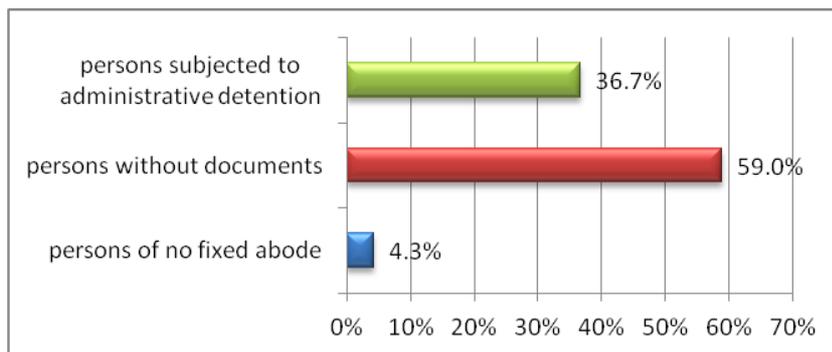
In the course of the monitoring study, as many as 139 persons were interviewed in the reception centres placed there at the moment of the research, of whom:

84 – in Bishkek,

55 – in Osh.

The same research methods were used for conducting interviews as the ones for conducting interviews with inmates in TDFs and PDFs. The group of respondents included persons of no fixed abode and without documents, and those who committed administrative offences

Diagram 12.
Reception centres. Percentage of respondents by status



The diagrams and tables below show the percentage of respondents in the reception centres by gender, age, ethnicity and nationality, as well as prior conviction for earlier committed crimes.

Diagram 13.
Reception centres. Percentage of respondents by gender

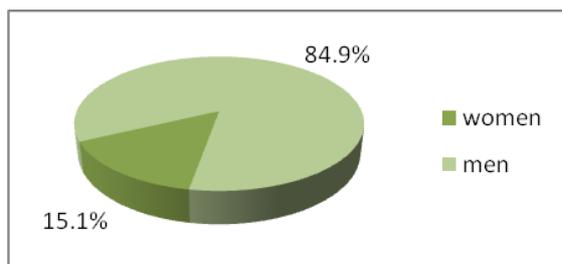


Diagram 14.
Reception centres. Percentage of full-aged and underage respondents

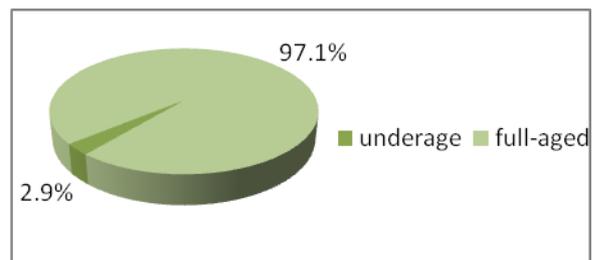


Diagram 15.
Reception centres. Percentage of respondents by age

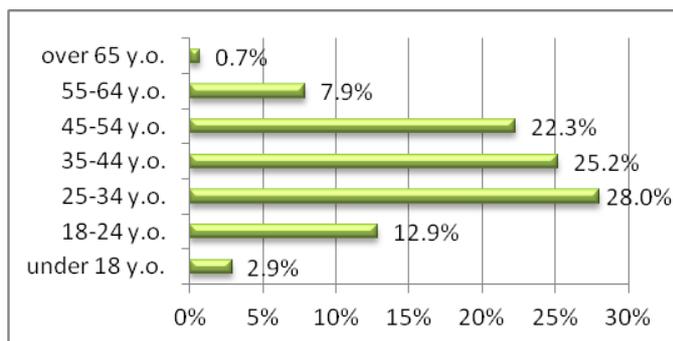


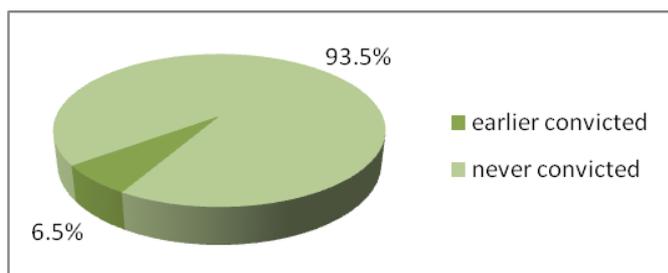
Table 6.
Reception centres. Respondents by ethnicity

Ethnicity	Number of people	Ethnicity	Number of people
Kyrgyz	101	Chinese	1
Uzbek	22	Nepalese	1
Russian	4	Turks	1
Kazakh	2	Turkmens	1
Tajik	2	Stateless persons	1
British	1		

Table 7.
Reception centres. Respondents by nationality

Nationality	Number of people
Kyrgyz Republic	100
Republic of Uzbekistan	22
Republic of Kazakhstan	2
Republic of Turkey	1
Russian Federation	4
Turkmenistan	1
People's Republic of China	4
Federal Democratic Republic of Nepal	1
United Kingdom of Great Britain and Northern Ireland	1
Republic of Tajikistan	2
Stateless persons	1

Diagram 16.
Reception centres. Percentage of persons with and without prior conviction



6. PROJECT FINDINGS

Information received from monitoring group reports allowed to draw some conclusions and reflect in this report the extent to which state authorities abide by their obligation to facilitate access to closed institutions under their jurisdiction, and the conditions under which monitoring groups had to work, including during interviews with persons placed in closed institutions.

At the same time, the project team collected materials concerning the compliance with international standards of the treatment of prisoners by relevant authorities, as well as about the necessity of introducing safeguards to increase the respect of their right to freedom from torture and to minimum detention conditions.

Some conclusions concerning the legality of detention, compliance with the right to access a defence counsel, issues related to the documentation of torture cases, the provision of legal assistance to victims of torture and their rehabilitation, working conditions of staff members in closed institutions are presented in a separate fashion.

6.1. CONDITIONS IN CLOSED INSTITUTIONS

6.1.1. CONDITIONS IN TEMPORARY DETENTION FACILITIES

A significant number of recommendations to state authorities stemming from the findings of the 2011 monitoring report of all TDFs under the MoI in the Kyrgyz Republic were aimed at bringing detention conditions in line with the internationally accepted minimum standards.

It is worth mentioning that relevant technical assistance in implementing these recommendations was provided by such international organizations as the International Committee of the Red Cross (ICRC), the OSCE Centre in Bishkek (and its Field Office in Osh, as well as its “Community Security Initiative” project).

In 2012, ICRC helped providing many TDFs under internal affairs bodies with mattress pads, wool blankets, plastic trash bins, hygienic kits (soap, toothpaste and toothbrushes) and electric heaters. The head of the TDF under the Chief Interior Department of Bishkek told monitors that after the last visit of the monitoring group in 2011, as assisted by the ICRC, video-surveillance cameras and new doors were installed, a new electric stove was purchased and a petrol-based generator for producing electricity was purchased.

In some TDFs, the OSCE financially supported the refurbishment or capital repair works of some buildings. For instance, in October this year minor renovation took place in the TDF of the Ton region. The cells and rooms were whitewashed to look clean, and a radio was fixed in the hallway. After capital repair works, detention conditions improved substantially in all TDFs in Chuy province, Karakol, Naryn, and the Issyk-Kul, Aktal, Jumgal and Kochkor regions. At the moment the monitoring group was there, repair works were underway in the TDF of the Panfilov region.

In every cell of the TDF in the Issyk-Ata region, personal hygiene facilities (a sink and a squatting pan) were installed.

Monitors noticed a significant improvement of detention conditions in the TDF of the Uzgen region where the premises had gone through capital repair thanks to support from the OSCE “Community Security Initiative” project financially supported by the Swiss Agency for Development and Co-operation.

In the TDF of the Kochkor region major capital repair works were carried out in the shower room that had been built with the help of the OSCE Centre in Bishkek.



A monitoring group in the chief's office, TDF in Tokmok

It is worth mentioning the efforts undertaken by heads of regional units of internal affairs bodies aimed at following the recommendations and trying to improve detention conditions in their TDFs using their own resources. For instance, staff members refurbished at their own initiative the premises of the TDF in the At-Bashy region and built a shower-room and a toilet, although they do not work because there is no running water in the building. The cells are clean and the air inside is fresh.

Staff members of the TDF in the Aravan region carried out minor repair works of the premises.

Following a request for sponsor assistance sent out by the TDF of the Panfilov region, the Kara-Balta medical school supplied the facility with mattress pads and other bedding.

In 2012, a boiler house was commissioned in the Talas province Interior Department which is also feeding the TDF. Observers noticed that compared to last year it is warmer and drier in the cells. A visiting room was installed on the premises of the TDF.

In the TDF of the Kara-Bura region, one of the major problems highlighted during the 2011 monitoring study was resolved which had to do with sewage treatment facilities and fast filling of waste matter pits as a result of a high subsoil water level. In 2012 this TDF was connected to the central sewerage system.



An observer talking to the deputy chief of the Interior Department, Talas province

Unfortunately, alongside positive changes, negative practices were also observed. Poor detention conditions in TDFs under internal affairs bodies that were revealed in the course of the 2011 monitoring study remained mostly unchanged, and in some cases further deteriorated.

For instance, monitors noticed unsatisfactory detention conditions in the TDFs of the Kara-Suu and Kadamjay regions.

In the administrative detention cell of the TDF in the Aktal region there is no covered floor and detainees sleep on mattress pads placed on a concrete floor. The windows are merely represented by metal sheets with drilled holes are installed in window openings, no glass. A shower-room is missing. There is not water in the temporary detention facility, and all water is delivered from the yard of the District Department of the Interior that has a well.

The state of affairs in the TDFs of the Jety-Oguz and Tyup regions has not changed: they do not have a shower room yet, and there is no rain and snow cover in the exercise yard. There is no shower room and exercise yard in the TDF of Balykchy.

The issue of absence of ventilation, or poor ventilation, highlighted by the monitors last year has not been resolved in TDFs in Balykchy and Jety-Oguz, Suzak, Nookan, Bazar-Korgon and Toguz-Toro regions.

As TDFs are located in the basements of temporary detention facilities in Suzak and Kara-Suu, fresh air cannot enter into neither the cells or offices, and artificial ventilation does not work properly. It is very hot and stuffy inside the buildings as a result. Complaints about the absence of appropriate ventilation were voiced by staff members and detainees in TDFs of the Nookan and Bazar-Korgon regions as well.



Exterior of the Toguz-Toro DDI

The issue of access to natural daylight remains unresolved in the Karakol TDF, where there is no glass in all the windows in all cells, while the light and air penetrate through iron bars with metal gauze on the windows.

In the majority of TDFs no signs of improvement were observed as regards the quantity and quality of food provided to detainees. For instance, detainees held in the Naryn TDF are given only tea and bread with no hot meals. The management of this TDF, as well as all other TDFs where hot meals are not provided, explain it by insufficient financing. For example, in the TDF of the Tyup region only 40 KGS (less than 1 USD) is allocated per each detainee for food.

The UN Special Rapporteur on Torture pointed out that detention conditions in temporary detention facilities are far from being consistent with international standards and are tantamount to inhuman and degrading treatment.²⁴ In his report he mentioned that in order to improve inhuman conditions in temporary detention facilities a coordinated approach and financing from the state budget will be required. Furthermore, having admitted that many of the existing problems are caused by a shortage of resources, he also emphasized that a number of important measures can be adopted that do not depend on the availability of resources. For instance, such measures can include strong legal and procedural guarantees and a wider application of non-custodial sanctions for persons charged with committing petty crimes.

6.1.2. CONDITIONS IN RECEPTION CENTRES

As was mentioned earlier, despite the fact that in accordance with the applicable legal framework there should be two separate types of reception centres, in practice both persons of no fixed abode and those subjected to administrative detention are held in the two reception centres functioning in the country.

As those placed in these closed institutions are supposed to be held in facilities with different purposes, and as the procedure and conditions of their detention are governed by different legal frameworks, the issue of what legal framework governs the management of the two active reception centres remains relevant.

²⁴ Report of the UN Special Rapporteur on Torture, para. 78.

Reception centres under internal affairs bodies for persons of no fixed abode and without documents	Special reception centres under internal affairs bodies for persons subjected to administrative detention
<p>Para. 1. Reception centres are designed for holding persons of no fixed abode and without documents for purposes of establishing their identity and further transfer to relevant bodies and institutions (migration, medical, social and others).</p>	<p>Para. 1. Special reception centres under internal affairs bodies for holding persons subjected to administrative detention (hereafter special reception centres) are established based on the order of the Minister of the Interior of the Kyrgyz Republic for serving one or several internal affairs bodies.</p>
<p>Para 9. In the buildings of reception centres, in accordance with their design standards, the following rooms should be set up:</p> <ul style="list-style-type: none"> - rooms with separate accommodation for men, women and women with children, foreigners and stateless persons, isolation rooms for newly arrived persons who did not go through decontamination, and those who are sick; - rooms for duty officers, clerical staff, head of the reception centre, medical worker, inspectors, and maintenance needs; - sanitary inspection room, rooms for warming up food and cooking, and toilet facilities. 	<p>Para 6. The following rooms should be set up, at the least, in special reception centres in accordance with their design standards:</p> <ul style="list-style-type: none"> - rooms for separate placement of men and women; - isolation rooms for newly arrived persons who did not go through decontamination and those who are sick; - rooms for the duty shift, head of the special reception centre, medical worker, inspectors and service personnel; - shower-room, disinfection room, drying room, rooms for warming up food, eating, washing and storing kitchen utensils, a closet for storing personal belongings of those in detention and other maintenance items, and toilet facilities.
<p>Para 31. Persons of no fixed abode and without documents should be placed in rooms that have doors with heavy latches and inspection holes; metal bars should be installed on the windows. Every cell should have internal regulations approved by a chief police officer hanging on the walls.</p>	<p>Para. 21. Those subjected to administrative detention should be placed in locked rooms which should be guarded and be under surveillance on a 24/7 basis. Men and women should only be placed separately.</p>
<p>Para 34. Detainees are placed on trestle beds or regular beds. They should be supplied with towels, and in case beds are available – with mattress pads and pillows with pillow-cases. Mattress pads and pillows with pillow-cases should be provided to persons with disabilities, senior citizens and underage persons staying with their parents at all times.</p>	<p>Para 22. Those subjected to administrative detention should be placed on beds. The standard space requirement per each person should be 2.5 sq. m. They should be provided with bedding, newspapers, magazines and board games. They should be taken out for walks on a daily basis.</p>
<p>Para 35. Detainees should be allowed to take one-hour walks daily.</p>	<p>Para 22. A walk should last at least two hours and should take place only in the daytime.</p>

Already on 13 September 2011, during a joint meeting of the Public Supervisory Boards under both the MoI and the State National Security Committee with the participation of then President Otunbaeva, members of the PSB under the MoI drew the attention of the leadership of the ministry to this problem and offered assistance in developing a new Regulation on reception centres under internal affairs bodies that would be fully compliant with all requirements as for minimum human rights standards. However, no response followed from the MoI.

Both reception centres were covered by monitoring visits:

- reception centre under the Bishkek Chief Interior Department;
- reception centre under the Osh Interior Department.

Reception centre under the Bishkek Chief Interior Department

The premises of the reception centre were built in 1977 and consist of seven buildings enclosed by a tall fence. The buildings include the following rooms: a guard's room, room for staff members, cells (rooms) for those in detention, toilet facilities, shower-room, garage and a boiler house.

Number of cells (rooms):

- for men – 16,
- for women – 2,
- for foreign nationals – 8.



A monitoring visit to the reception centre under the Bishkek Chief Interior Department

On average, the size of each cell (room) is 3 x 5 meters and the height of the ceiling is 2.95 m. The number of people kept in each cell (room) ranges from seven to seventeen depending on the size of the room. The floors are concrete. The overall state of walls and ceilings is satisfactory.

Cells (rooms) are equipped with a wooden trestle bed without bedding.

The windows have metal bars on them. There is an air vent installed. Rooms are heated with autonomous stoves.

Each cell (room) has a toilet in the form of a squatting pan fenced by a low wall which is around 1 meter tall and a sink with cold tap water. As reported by the staff, there is no water in the tap in summertime due to low pressure.



A cell (room) in the reception centre under the Bishkek Chief Interior Department

Because of insufficient amount of kitchen utensils, detainees are using common plates and cups which may lead to the contraction of infectious diseases.



A squatting pan in a cell (room) in the reception centre under the Bishkek Chief Interior Department

All windows in the cells (rooms) have bars on them, and in some cells the window glass is broken. Inside the cells (rooms) there is a pungent, unpleasant odour which is a mixture of faeces, sweat and cigarette smoke. Toilet paper and sanitary and hygienic items were not discovered. Since the shower-room is out of order, detainees are not able to follow basic personal hygiene requirements. The disinfection closet is in disrepair.

Number of rooms for staff members of the reception centre and other facilities:

- a guard's/duty officer's area – 3 rooms with different purposes (recreation, registration, waiting)
- room for clerical staff – 1
- chief's office – 1
- room for a medical worker – 1
- room for inspectors – 1
- maintenance room – 2
- room for warming up food – 1
- shower-room – 1
- disinfection room – 1
- toilet facilities for staff (a squatting pan and a wash basin) – 1

Recreation, registration and waiting rooms are 3 x 4 sq. m. in size and the ceiling is 2.9 meters high. Cells (rooms) are furnished with necessary furniture which includes tables, chairs, a safe, wall boards, etc. There are bars on the windows. The floors are concrete and covered with fibreboard. According to the assessment by the monitors, the overall condition of rooms for staff members is satisfactory.

As reported by the staff, since 2007 the shower-room had not been used for its intended purpose and had been adjusted to serve as temporary abode for the boiler operator who acts as head of the maintenance section.

The disinfection room does not work, and therefore, decontamination of newly arrived detainees is not carried out.

There is an exercise yard on the premises of the reception centre with a gazebo serving a recreational purpose and two benches. There are no special sports facilities. There is no shed for walks in the rainy weather.

In early June 2012, minor repair works were carried out on the second floor of the reception centre. The overall condition of buildings is satisfactory.

Reception centre under the Osh Interior Department

The reception centre is located ten kilometres away from downtown Osh, in the village of Kerme-Too, along the road from Osh to Aravan. The premises of the reception centre were erected in 1978 by police officers based on the “ashar” method²⁵. The building is encircled by a fence with barbed wire around the perimeter. The total area of the compound is 456.75 sq. m.

Number of cells (rooms) for holding people in custody:

- for men – 3
- for women – 1
- for foreign nationals – 1
- for newly arrived persons – 1
- for persons with infectious diseases – 1



Reception centre under the Osh Interior Department

²⁵ See for details <http://en.wikipedia.org/wiki/Ashar>

In the cell (room) for foreigners regular beds are available, while the other cells are equipped either with trestle beds or regular beds. One cell (room) is used for disciplinary purposes or as a “sobering room” with no chairs or trestle and regular beds. Detainees have to sleep on dirty mattress pads placed on the concrete floor. The walls and the ceiling in the “sobering room” require a major capital overhaul.

The windows in all cells (rooms) are barred. Rooms are heated with autonomous stoves.



A cell (room) in the reception centre under the Osh Interior Department



A cell (room) in the reception centre under the Osh Interior Department

Toilet facilities and taps with water in the cells (rooms) have not been observed. Detainees are taken out to the toilet through the backyard that has toilet facilities.

Except for cells (rooms) for detainees, the reception centre is also equipped with rooms for staff:

- a duty officer’s room – 1
- a clerical office – 1
- a chief’s office – 1
- a medical worker’s room – 1
- room for inspectors - 1

There is an exercise yard on the premises of the reception centre which is 7 x 40 meters in size.

Detainees do not have the possibility to take shower in the cold time of the year. A shower room consists of a tank filled with water that is heated up by the sun.

The staff room is not furnished with necessary furniture (insufficient number of tables and chairs) and office equipment (there are no computers, printers and copying machines). The staff rooms are not heated.



An exercise yard in the reception centre under the Osh Interior Department

The overall condition of the buildings and premises is satisfactory. The last time minor renovations were carried out was in 2011.

6.1.3. CONDITIONS IN PRE-TRIAL DETENTION FACILITIES²⁶

As mentioned above the leadership of the SSEP restricted the access of monitoring groups to PDFs in violation of the obligations voluntarily undertaken within the Memorandum of Understanding on human rights and fundamental freedoms. Against this background, this report contains information that was garnered and generalized on the basis of the results of monitoring visits to three out of six PDFs, namely PDF No. 23 in Karakol, PDF No. 24 in Naryn and PDF No. 25 in Osh.

²⁶ For describing detention conditions in pre-trial detention facilities, the report entitled “Human rights situation in pre-trial detention facilities under the SSEP and correctional institutions of the Kyrgyz Republic” was used (inter alia). Bishkek, 2012, pp. 132.

- ***Condition of PDF buildings and number of detainees***

All three PDFs covered by monitoring visits are located in the buildings of old compounds. For instance, there is one security section in the building of PDF No. 25 that was built as long ago as in 1890. Minor repair works were carried out in this building in the fall of 2011.

At the present time, the food unit building in PDF No. 24 that was built in 1962 requires a capital overhaul.

The premises of PDF No. 23 are approximately one hundred years old. One of the buildings in this facility is dilapidated and needs to be demolished. This year, with support by the OSCE Centre in Bishkek, repair works were carried out in the boiler house and in the exercise yard.

Table 8.
Capacity of pre-trial detention facilities

	PDF No. 23 Karakol	PDF No. 24 Naryn	PDF No. 25 Osh
Capacity (number of people)	142	40	390

Although PDF No. 25 can accommodate only 390 people, at the moment of monitoring visits there were more than 450 detainees there.

- ***Number, overall condition and equipment in cells***

Number of cells:

- PDF No. 23 – 19,
- PDF No. 24 – 13,
- PDF No. 25 – 29.

The overall condition of walls, floors and ceilings in the cells of those pre-trial detention facilities that were covered by the monitoring can be considered, by and large, as adequate.

Repair works were carried out and plastic windows were installed in PDF No. 24 (Naryn), while the cells are clean and toilet facilities are in a working order. Four cells have wooden floors and other cells have concrete floors.

European-style renovation was carried out in some cells of PDF No. 23 in Karakol, while the floors were tiled and plastic windows were installed.

Two-tier beds were installed in the cells of PDF No. 25. Almost in all cells the floors are concrete. Almost all cells need to be renovated.

As was revealed in the course of monitoring visits, no single cell in any of the three PDFs covered by the study was equipped in accordance with the provisions of national legislation and minimum international standards. For instance, despite the availability of mattress pads and blankets received as part of humanitarian assistance from the ICRC in August 2012, bedding (pillow-cases and bed sheets) is missing in all PDFs. As reported by detainees, they receive bedding from home.

However, all detainees have their own individual place for sleeping. The majority of cells have tables, benches (some cells have sofas), food storage closets, coat hangers, mirrors, trash bins, TV

sets, DVD players and radio sets. Almost all cells are equipped with power outlets for electric appliances. Kitchenware is also available.

- ***Lighting***

Monitors have noticed sufficient access to natural daylight in most cells in PDF No. 25 which is enough for reading and writing during daytime. In average, windows in cells are 1x1 meters in size.

In PDF No. 23 and PDF No. 24 the amount of natural lighting was assessed by observers as unsatisfactory.

Artificial lighting is sufficient, as all cells are equipped with electric bulbs.

- ***Heating and ventilation in cells***

PDF No. 25 in Osh is connected to the central city heating from the central heating and power plant. However, because of obsolete installations, the heat coming from central heating radiators is not enough, and makeshift electric heaters are often used for heating buildings, in contravention to basic fire safety regulations.

PDF No. 23 and PDF No. 24 use autonomous heating and there are boiler houses on the premises of these pre-trial detention facilities. A boiler house was fixed in PDF No. 23 with support from the OSCE Centre in Bishkek. The chief of PDF No. 23 mentioned that the absence of an electricity generator is a very urgent problem, as during falls and winters when there are frequent power supply interruptions electricity is not supplied to the entire facility. As a result, staff members of the institutions have to stand sentry all night long in the area adjoining the PDF building.

In the course of monitoring visits, the monitoring teams assessed as insufficient the access to natural ventilation in PDF No. 23 and PDF No. 24. Artificial ventilation was installed in the hallway of PDF No. 23. Good natural ventilation was noticed in PDF No. 25.

- ***Sanitary facilities***

The monitoring findings highlight that the right of detainees to satisfy their physical needs whenever they need to do so in clean and decent conditions is not respected fully. Toilet facilities are installed in all cells of pre-trial detention facilities which are made in the form of squatting pans with a supply tank and a sink with tap water. Toilet facilities are fenced by low walls or a curtain made by detainees themselves using bed sheets (PDF No. 23). The sanitary condition of many toilet facilities is inadequate.

As reported by the chief of PDF No. 23, in summertime the Karakol water supply service interrupts water supply, and the sewerage system in cells does not work.

In all PDFs, detainees have the possibility to take a shower once a week. However, all bathing and laundry facilities require capital repair works. For instance, shower rooms in PDF No. 24 and PDF No. 25 are in critical conditions, with mould on the walls due to dampness. Apart from the shower room, there is a bath house in PDF No. 25.

Detainees in PDF No. 23 also have a possibility to wash in a bath house which was renovated in 2012.

- ***Availability of personal hygiene utensils, cleaning supplies and kitchenware***

Monitoring visits highlighted that detainees do not have the possibility to follow personal hygiene requirements fully due to the lack of sanitary and hygiene aids. In most cases, personal hygiene items are brought by the relatives of detainees, in violation of national legislation providing for the delivery of laundry soap and paper for hygienic needs for common use in the cells. Soap and toothpaste are rarely provided in PDF No. 25.

- ***Nutrition***

The management of PDF No. 25 is making an effort to improve nutrition standards among detainees. They provide flour and bake bread themselves. Three hot meals are provided per day, while two hot courses are served during lunch (first course and second course).

In the course of interviews, no complaints regarding the quantity and quality of food provided in pre-trial detention facilities were voiced by detainees. Basically, in all PDFs detainees have an opportunity to cook their own food. For this purpose, electric stoves have been installed inside the cells. However, in many places electric wires are bare which is a violation of fire safety regulations and poses a serious threat to the life of detainees.

The food preparation process in the pre-trial detention facilities covered by the monitoring study is consistent with sanitary and hygiene requirements. Cooks keep the premises for preparing food clean by using special cleaning supplies.

An air vent was installed in the food unit of PDF No. 24 with support by the OSCE Centre in Bishkek.

- ***Sanitary and epidemiological activities***

Monitoring teams noticed that not in all pre-trial detention facilities sanitary and epidemiological activities are carried out properly. For instance the monitors noticed a significant number of cockroaches in one of the cells of PDF No. 25.

Some PDFs (for instance PDF No. 23) sign contracts with the sanitary and epidemiological service to conduct activities on exterminating rodents and insects.

- ***Exercise in the yard***

In all the PDFs covered by the monitoring report detainees can exercise in the fresh air for one hour daily.

On the premises of PDF No. 23 there are four exercise yards; one is 3x5 meters and the other three – 5x7 meters in size. With OSCE financial support a shed was installed to serve as protection from precipitations in this institution.

There are three exercise yards in PDF No. 24, one of which is used for life sentenced prisoners.

In PDF No. 25 there are four exercise yards which are 7x9.5 meters in size.

- ***Allowing visits***

In PDF No. 23 there is no room for visits.

In the other two PDFs (PDF No. 24 and PDF No. 25), rooms are available for short-term visits. As reported by detainees, visits take place on a regular basis.

The meeting room in PDF No. 25 is divided into three sections where detainees have a possibility to talk freely with their visitors through a screen which consists of metal gauze and organic glass.

- *Arrangements for leisure*

All pre-trial detention facilities covered by the monitoring study have a library; however, due to the lack of finances, library stocks have not been replenished for a long time. For the same reason, periodicals, newspapers and magazines are not purchased.

Detainees complained about the lack of books, mentioning that newspapers and magazines arrive with serious delays and with outdated information.

It is allowed to have private TVs and radio sets in all pre-trial detention facilities.

The cells for women in PDF No. 25 were equipped with TV sets purchased with financial support by the OSCE Centre in Bishkek.

- *Medical care*

Unlike medical and sanitary support for TDFs under internal affairs bodies, the SSEP under the Government of the Kyrgyz Republic has its own centralized medical and sanitary support system which is responsible for medical and sanitary units in pre-trial detention facilities.

Every PDF has its own medical and sanitary unit (MSU).

Table 9.
Organizational structure of medical and sanitary units in pre-trial detention facilities

Name of facility	Organizational structure
PDF No. 23	1. Chief 2. Infectious disease physician 3. TB specialist 4. Medical assistant
PDF No. 24	1. Chief 2. Medical assistance
PDF No. 25	1. Chief 2. TB doctor 3. Dentist 4. Psychiatrist 5. Radiologist 6. Medical assistant 7. Medical assistant 8. Medical assistant 9. X-ray laboratory assistant 10. Nurse 11. Laboratory assistant 12. Laboratory assistant 13. Physician

The building occupied by medical and sanitary units on PDF No. 23 and PDF No. 24 are very old and require capital repair works. Minor renovation is also required in all the wards, doctors' rooms, and treatment and dressing rooms.

Outpatient units for receiving patients are available.

Every PDF has three hospital-type wards and one isolation ward. Sphygmometers (tonometers for measuring blood pressure) are available, while any other equipment is missing.

The MSU of PDF No. 25 has the following rooms: MSU chief's office, staff room, dentist's room, examination room, pharmaceutical room, registration desk, laboratories, reception and dressing room, pharmacy, examination room in the women's section, two hospital-type wards for persons with somatic disorders and 12 rooms for persons with TB.

Medical workers deliver 24-hour service on the basis of a duty scheme approved by the head of the institution. If there is a need an ambulance can be called to all pre-trial detention facilities.

Based on the SSEP Order (Ref. No. 14 of 18 January 2012 "On delivering specialized assistance to convicts in SSEP institutions") and according to the visiting schedule of doctors in the central hospital within Correctional Colony No. 47 in Bishkek City, specialized doctors travel to SSEP institutions located in Chuy province on a weekly basis to provide medical consultations and select those in need of hospitalization to be transferred to the central hospital under Correctional Colony No. 47.

Upon admission to pre-trial detention facilities, all persons should pass a pre-testing consultation and a blood test for syphilis (Wassermann's test) and HIV, as well as an X-ray examination. As reported by the staff of medical and sanitary units, HIV tests are carried out only with the informed consent of detainees.

Independent examination studies are carried out by MSUs (drug examination and forensic and psychiatric assessment) with the participation of staff members of the Republican Centre of Mental Health and Republican Narcological Centre under the Health Ministry of the Kyrgyz Republic. In case of detecting patients with signs of mental disorders, MSU doctors provide care and treatment until such patients are transferred to relevant medical institutions. Patients who are diagnosed with "chronic drug addiction" or "alcohol addiction" in the course of narcological examination are transferred, on the basis of a court's decision, to a narcological unit under the central hospital in Correctional Colony No. 47.

- ***Freedom of religion or belief***

In all pre-trial detention facilities detainees have the possibility to perform religious rites.

In PDF No. 24 one of the cells was remodelled to serve as a prayer room for Muslims. During Friday prayers the management of the institution allows detainees to congregate in one room, not separating them into different categories (regular convicted prisoners, life sentenced prisoners, persons under investigation and defendants).

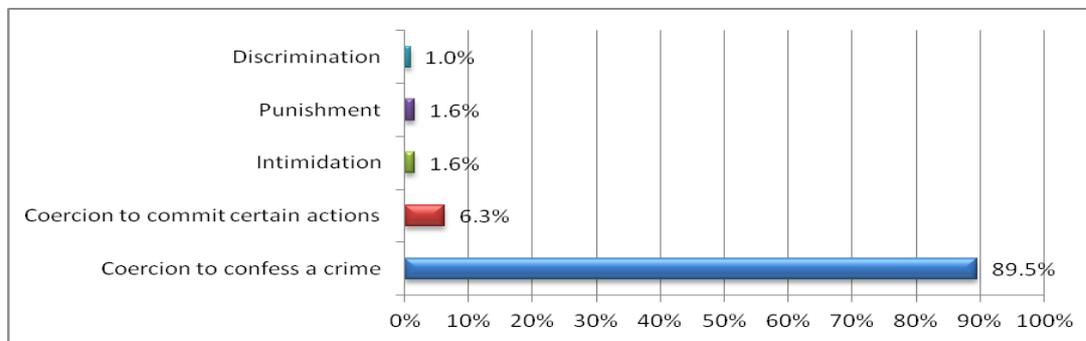
6.2. RESPECT FOR THE RIGHT TO FREEDOM FROM TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT

From the very outset the project team identified monitoring of the right to freedom from torture and ill treatment among detainees as a priority during monitoring visits to closed institutions both while in places of detention and before placement in closed institutions.

The assessment of the situation has been based on the information gathered in the course of the monitoring work with the use of a previously tested monitoring methodology. Direct sources such as torture allegations by suspects, persons charged with committing offences and convicts during interviews were a determining factor.

Almost all respondents informed of instances of torture and cruel treatment at the moment of apprehension for purposes of preliminary intimidation, suppressing their will, coercion to confess a crime and provide a written acknowledgement of guilt as well as for mere punishment purposes.

Diagram 17.
Purposes of torture



From a monitoring group report:

“They were forcing me to testify against a staff member of the village council, K., and the doctor, M., and to confirm that they were Hizb ut-Tahrir members.”²⁷

From a monitoring group report:

“On 20 October 2012 a police officer from the CCIU MI arrived and insisted that I should confess three more thefts, and was threatening me.”²⁸

From a monitoring group report:

“They were threatening and saying that if I do not confess three more offence additionally my mother will be locked up in a temporary detention facility.”²⁹

In 1.6% of cases, torture was used to punish individuals for disciplinary violations. Two detainees in TDFs asserted that torture against them was the result of ethnic discrimination. In 3.8% of cases, cruel treatment was accompanied by extortion.

From a monitoring group report:

“They were forcing me to confess the crimes that I did not commit, and the investigator was asking for 5000 KGS to send the case to court quickly.”³⁰

Every case of torture is special and unique, and depending on personal features, behaviour and mental state of the victim, torture can affect their psyche to varying degrees. In all cases, with no

²⁷ Monitoring group report, No. 4-d.

²⁸ Monitoring group report, No. 1-7/45.

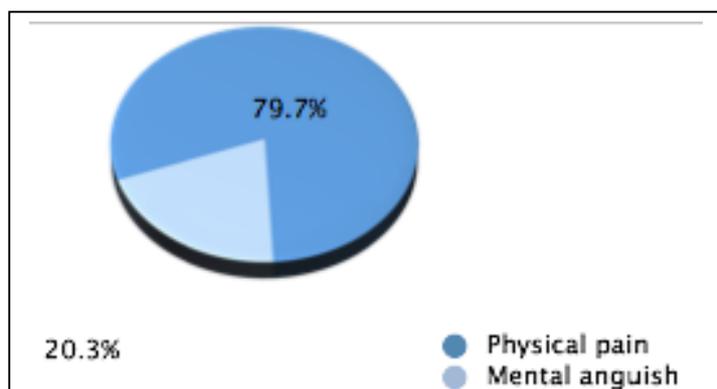
²⁹ Monitoring group report, No. 1-1/25.

³⁰ Monitoring group report, No. 1-2/10.

exceptions, physical pain caused by torture entails mental anguish, just as mental anguish is oftentimes accompanied by elements of physical pain. However, for illustration purposes, the report makes an attempt to distinguish physical and psychological torture and ill treatment.

In the overwhelming majority of cases – 79.7% - torture had to do with causing physical pain to victims, while in 20.3% of cases it had to do with causing mental anguish.

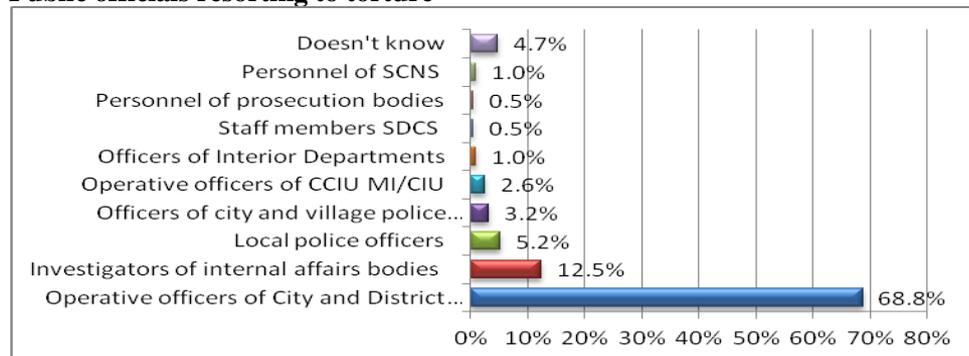
Diagram 18.
Types of torture



The analysis of statements made by respondents helped identifying how often various categories of public officials used torture and cruel treatment against those involved in criminal court proceedings and those taken into custody. The majority of torturers are to be found among officers of internal affairs bodies, with a lower number of SCNS officers and staff members of prosecution bodies and the State Drug Control Service.

In his report the UN Special Rapporteur on Torture, Mr. Juan Méndez also stressed that police departments, temporary detention facilities and criminal investigation units under the MoI were most often mentioned as places of ill treatment.³¹ He named a significant inclination of Kyrgyzstan’s judicial system toward confessionary statements as the cause of the increasing number of torture used by criminal investigation officers.³²

Diagram 19.
Public officials resorting to torture



From a monitoring group report:

³¹ Report of the UN Special Rapporteur on Torture, para. 38.

³² Report of the UN Special Rapporteur on Torture, para. 38.

“For three days and nights I was held in the office of the Criminal Investigation Unit, and DDI officers were torturing me.”³³

From a monitoring group report:

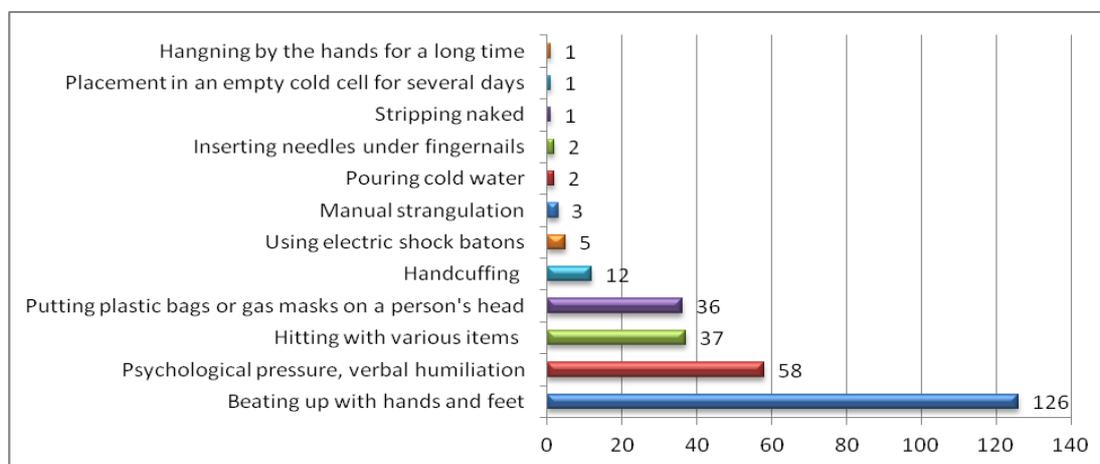
“Five to six DDI officers were beating me up, and I remember the names of two of them – A. and M.”³⁴

From a monitoring group report:

“DDI officers were beating me up for two days. After that they transferred me to a TDF.”³⁵

Torture methods have remained unchanged if compared to the monitoring findings of 2011. At the same time monitoring groups in 2012 documented new torture methods that had not been encountered before, such as pouring cold water, stripping people naked and inserting needles under the fingernails.

Diagram 20.
Torture techniques



From a monitoring group report:

“DDI officers were kicking me in the jaw and knocked two teeth out.”³⁶

From a monitoring group report:

“Operative officers of the CCIU were beating me up with a helmet, kicking me on the kidneys and putting a plastic bag on my head.”³⁷

From a monitoring group report:

“My friend, S., and I were detained, and they made us stand on our knees immediately and started beating us. They were punching us on the head and kicking on the back and legs; they were beating S. very heavily. Then they started shooting with the gun above our heads.”³⁸

From a monitoring group report:

“They were beating me mostly on the head, so heavily that blood started running out of my ears.”³⁹

³³ Monitoring group report, No. 1-2/9.

³⁴ Monitoring group report, No. 1-7/36.

³⁵ Monitoring group report, No. 1-7/47.

³⁶ Monitoring group report, No. 4-6/20.

³⁷ Monitoring group report, No. 1-3/28.

³⁸ Monitoring group reports, No. 3-6/6, 3-6/7.

³⁹ Monitoring group report, No. 1-7/47.

From a monitoring group report:

“They were hanging me by the hands using a rope every day, for three days in a row, from 28 till 30 April 2012, I was hanging for 12 hours each day.”⁴⁰

From a monitoring group report:

“They tied me to the chair with handcuffs and were using an electric shock baton.”⁴¹

From a monitoring group report:

“On 24 September, in the morning, six DDI officers took me to Sosnovka, and were beating me from the morning till 3 o’clock at night; they were putting a plastic bag on my head, strangling me and kicking me on the kidneys, legs, heels and the head. They threatened to insert a leg of the chair into my anus.”⁴²

With a view to reconstruct the full picture of torture practices by law enforcement officers, the project team attempted to monitor the violation of the right to freedom from torture among suspects and those charged with committing crimes during the various stages of detention, that is:

- at the moment of actual arrest and between the moment of actual detention and placement in a temporary detention facility;
- during detention in a temporary detention facility;
- when taken out of TDFs;
- during detention in pre-trial detention facilities;
- when taken out of PDFs.

In addition, the project team studied separately cases of torture against those placed in the reception centres under internal affairs bodies for serving administrative punishment in the form of administrative detention and those placed in these institutions because of no fixed abode or documents, and also at various stages of detention:

- at the moment of actual detention and between the moment of actual detention and placement in a reception centre;
- during detention in a reception centre;
- when taken out of a reception centre.

As was mentioned above, the following number of persons was covered by the monitoring study within the project:

- 756 persons in TDFs under internal affairs bodies;
- 157 persons in PDFs under the SSEP;
- 139 persons in reception centres under internal affairs bodies.

The analysis of questionnaires that came as a result of interviews with those suspected of and charged with committing offences has demonstrated that every fourth respondent (25.4%) placed in TDFs under internal affairs bodies claimed that torture was used against them at the moment of actual detention before they were placed in a temporary detention facility as criminal suspects.

Twice as many respondents (59.2%) among those placed in PDFs under the SSEP claimed that torture was used against them during the same period, i.e. between the moment of actual detention and placement in a temporary detention facility.

The simple comparison of these figures seems to confirm that while in temporary detention facilities those suspected of and charged with committing offences are afraid to report torture, because they are in fear of retaliation by police officers.

⁴⁰ Monitoring group report, No. P15-7.

⁴¹ Monitoring group report, No. 7-3/1.

⁴² Monitoring group report, No. 1-2/43.

Objectively, their concern is not unsubstantiated. Police officers do have unimpeded access to TDFs where victims of torture are held, as was confirmed by the findings of the 2011 monitoring report. In 2011, the project team documented cases when those in custody were taken out of TDFs at night and were handed over to operative officers who could with impunity apply coercive methods to extract confessions; cases when operative officers were allowed to communicate with detainees on the premises of temporary detention facilities were also documented.⁴³ The same cases were documented in the course of the 2012 monitoring study.

From a monitoring group report:

“They handcuffed me to a radiator and made me hang in an investigation room of the temporary detention facility, then they inserted needles under my fingernails and beat me with clubs on the heels.”⁴⁴

From a monitoring group report:

“I was subjected to torture throughout two months. People in masks entered the cell and beat me up. I could not walk and could barely stand on my feet, and my legs were swollen.”⁴⁵

From a monitoring group report:

“An operative officer named Mirbek took me out of the TDF. He and other police officers beat me with their fists.”⁴⁶

From a monitoring group report:

“When I was taken out of the TDF for the last time, operative officers beat me up.”⁴⁷

From a monitoring group report:

“In the TDF operative officers walked in and threatened me on a regular basis.”⁴⁸

From a monitoring group report:

“Five to six DDI officers beat me up, and I remember the names of two of them – Azamat and Meder.”⁴⁹

From a monitoring group report:

“DDI officers beat me up for three days.”⁵⁰

Undoubtedly, the above is a clear violation of a common rule whereby only the person who is in charge of criminal proceedings has the right to communicate with suspects, including first and foremost those detained on criminal grounds, and such communication has, in all cases, a clearly defined form and purpose. This includes carrying out investigation activities aimed at collecting evidence with the participation of a detained individual. In case operative officers need to meet with a detained person due to special investigation activities carried out by them, such meeting should be possible only with the consent of the person who is in charge of the specific criminal case. By its very nature, this meeting has nothing to do with legal relations, as none of the parties are bound by mutual rights and duties which is the case during investigation activities when every step is regulated by procedural rules.⁵¹

⁴³ Report on “Torture prevention in temporary detention facilities under internal affairs bodies of the Kyrgyz Republic,” Bishkek, 2011, p. 106.

⁴⁴ Monitoring group report, No. 1-7/36.

⁴⁵ Monitoring group report, No. C1-2.

⁴⁶ Monitoring group report, No. C6-1.

⁴⁷ Monitoring group report, No. C4-20.

⁴⁸ Monitoring group report, No. P10.

⁴⁹ Monitoring group report, No. 1-7/36.

⁵⁰ Monitoring group report, No. 1-2/9.

⁵¹ Comment to the CPC of the Russian Federation (article-by-article), Moscow, Vitrem Ltd, 2002, p. 130-131.

The conditions of conducting interviews with detainees described earlier when police officers and other detainees were present during the meeting serve as yet another factor restraining victims of torture from revealing their true story.

After their transfer to pre-trial detention facilities, which report to another body and to which operative officers have a restricted access, victims of torture feel relatively safer and become brave enough to recount those illegal methods that were used against them.

Table 10.
Torture reports by respondents held in TDFs and PDFs

	time period	torture reports	
		TDFs	PDFs
1	at the moment of actual detention and between actual detention and placement in a TDF	192 (25.4%)	93 (59.2%)
2	during detention in a TDF	44 (5.8%)	41 (26.1%)
3	when taken out of a TDF	62 (11.6%)	40 (38.8%)

This conclusion is also confirmed by other comparative data presented in the diagram below. The number of torture reports by persons held in PDFs is much higher than the number of torture reports by those placed in TDFs under internal affairs bodies.

Diagram 21.
Percentage of torture reports before and during detention in TDFs

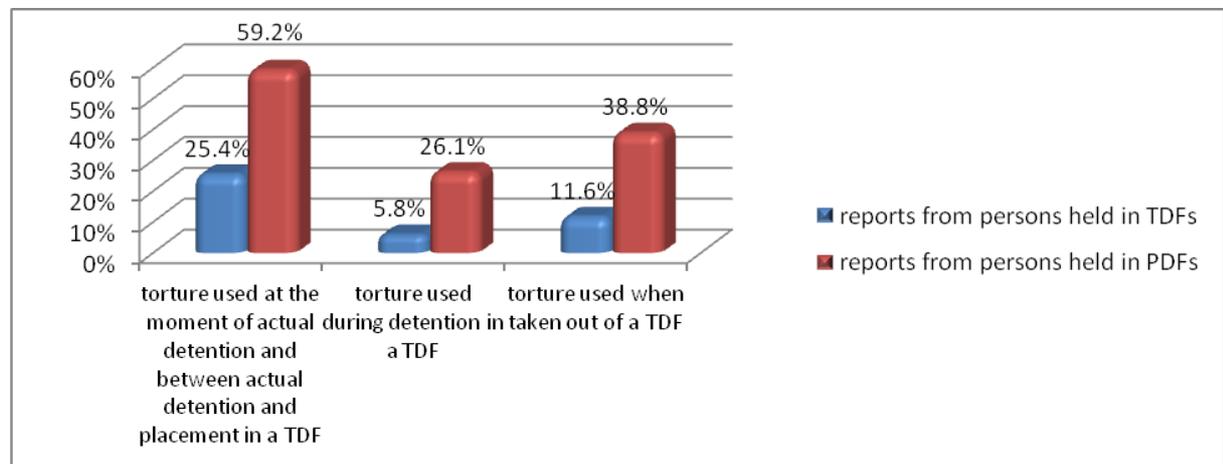


Table 11.
Torture reports during detention in pre-trial detention facilities

	time period	torture reports
1	during detention in a PDF	9 (5.7%)
2	when taken out of a PDF	12 (13.3%)

As many as 9 out of 157 persons held in pre-trial detention facilities who were interviewed reported that they were exposed to torture during their detention in a PDF.

From a monitoring group report:

*"Yes, they beat us here."*⁵²

*"Sometimes they beat us."*⁵³

*"Officers of the PDF beat me."*⁵⁴

*"Since I do not have any close relatives except for a disabled brother, officers of the PDF threatened and insulted me, and kept beating me on the head."*⁵⁵

*"The chief of the security unit keeps threatening me all the time."*⁵⁶

Twelve persons held in PDFs who participated in interviews reported that they were exposed to torture when they were taken out of PDFs.

From a monitoring group report:

*"When the trial hearing was over and the security guards were going to take us back to the PDF, an operative officer approached me in the court hallway and hit me in the face."*⁵⁷

*"Operative officers beat me and wanted to intimidate me."*⁵⁸

*"There was torture. The Ombudsman has my complaint."*⁵⁹

*"Officers of the PDF exerted psychological pressure."*⁶⁰

Table 12.
Torture reports by respondents held in reception centres

	time period	torture reports
1	at the moment of actual detention and between actual detention and placement in a reception centre	9 (6.3%)
2	during detention in a reception centre	0
3	when taken out of a reception centre	1 (0.7%)

Of 139 persons placed in the reception centres under the Bishkek Chief Interior Department and Osh Interior Department who were interviewed, nine persons (6.3%) stated that torture was used at the moment of actual detention and between actual detention and placement in a reception centre. All complaints about torture came from those held in the reception centre under the Bishkek Chief Interior Department.

⁵² Monitoring group report, No. C3-5.

⁵³ Monitoring group report, No. C6-5.

⁵⁴ Monitoring group report, No. C4-22.

⁵⁵ Monitoring group report, No. C4-32.

⁵⁶ Monitoring group report, No. C4-40.

⁵⁷ Monitoring group report, No. C3-9.

⁵⁸ Monitoring group report, No. C3-6.

⁵⁹ Monitoring group report, No. C5-1.

⁶⁰ Monitoring group report, No. C4-23.

From a monitoring group report:

*"The local police officer beat me up because I refused to register the apartment in his name and then he locked me up in a reception centre."*⁶¹

One detainee reported about torture when he was taken out of the reception centre.

From a monitoring group report:

*"They took me out of the reception centre and were holding me at the DDI for three days; operative officers beat me in the face with their fists and wanted me to confess."*⁶²

None of the interviewees in both institutions reported torture and cruel treatment used against them while inside the reception centre.

It should be mentioned that victims of ill treatment did not attempt to appeal against cases of torture and cruel treatment used against them in all cases. Some said that they could not do it while in temporary detention facilities, some did not know how to do it, and some were afraid of retribution from their tormentors. Due to this last reason, not only were victims of torture forced not to report torture, but they also attempted to conceal any signs of torture for fear of being taken back to a temporary detention facility.

From a monitoring group report:

*"When they took me to the PDF, my ribs were broken. But I did not tell anyone about it, otherwise they would not admit me to the PDF and would take me back to the TDF."*⁶³

From a monitoring group report:

*"I concealed my bruises and did not tell anyone about them, because they could have taken me back to the TDF."*⁶⁴

From a monitoring group report:

*"I told the doctor at the PDF that the bruises appeared because I was beaten by operative officers. She said that in this case she would not let me in, because I was beaten. I could have been taken back to the TDF, and I said that I did not want to be examined."*⁶⁵

A detailed description of legal appeal cases of torture and cruel treatment by other victims, and the outcomes of such appeals, are presented in the chapter below on "Documenting cases of torture. Providing legal assistance to victims of torture".

The findings of the 2012 monitoring report confirm the leading conclusions of the 2011 report according to which persons involved in criminal proceedings run the risk of becoming subjected to torture and ill treatment at the moment of actual detention and during detention in internal affairs bodies, particularly in the course of special investigation activities.

Based on the monitoring findings, a conclusion can be drawn that the risk of exposure to torture among those involved in criminal proceedings will be removed or minimized as soon as effective guarantees in line with minimum fair trial standards during criminal proceedings are introduced as

⁶¹ Monitoring group report, No. P1-2.

⁶² Monitoring group report, No. B8-28.

⁶³ Monitoring group report, No. C6-68.

⁶⁴ Monitoring group report, No. C6-72.

⁶⁵ Monitoring group report, No. C1-2.

well as guarantees of the right to liberty and security of the person and access to defence counsel (e.g. equality of arms, adversarial proceedings).

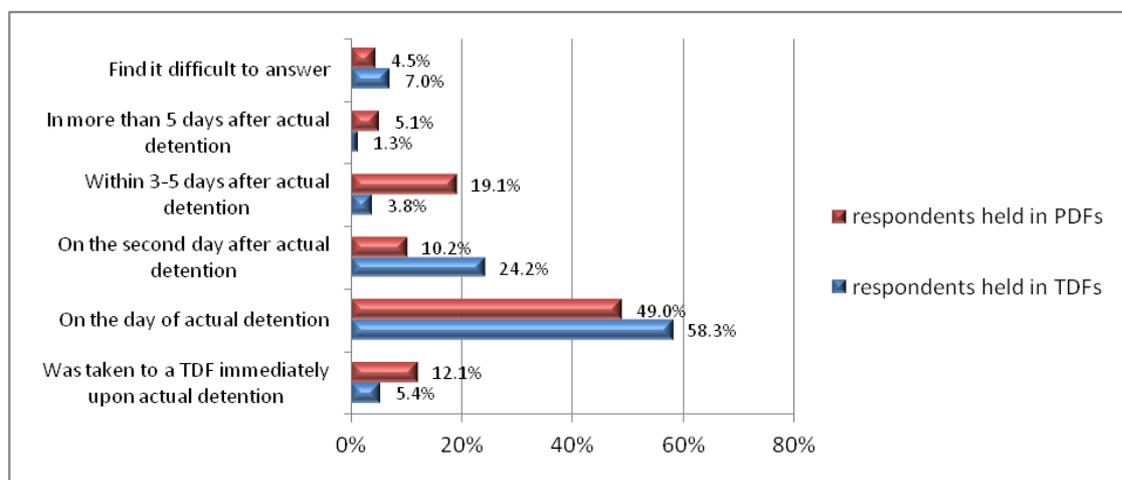
- Compliance with procedural safeguards in relation to arrest and detention of criminal suspects

According to Article 95 of the CPC KR, a detention report with respect to those suspected of committing an offence should be compiled no later than three hours from the moment of actual detention, and an investigator should report it, in writing, to a prosecutor within twelve hours from the moment a detention report is compiled. A detention report should mention the time of detention (hours and minutes), starting from which the 48-hour detention period is calculated. Furthermore, Article 98 of the CPC contains a strict requirement whereby persons suspected of committing an offence should be held only in temporary detention facilities.

However, in the course of the monitoring, numerous cases were detected when these requirements are disregarded and suspects are held in places that do not qualify as temporary detention facilities. Under these circumstances investigators are in a position to possibly do anything they deem appropriate to suspects for the purposes of solving criminal cases in which they are suspected, including at times forcing them to confess about the perpetration or involvement in other unrelated crimes that are still pending investigation.

In the course of the monitoring study it was identified that in 274 cases suspects were placed in TDFs under internal affairs bodies later than the moment of their actual detention. This time period varies from several hours to several days:

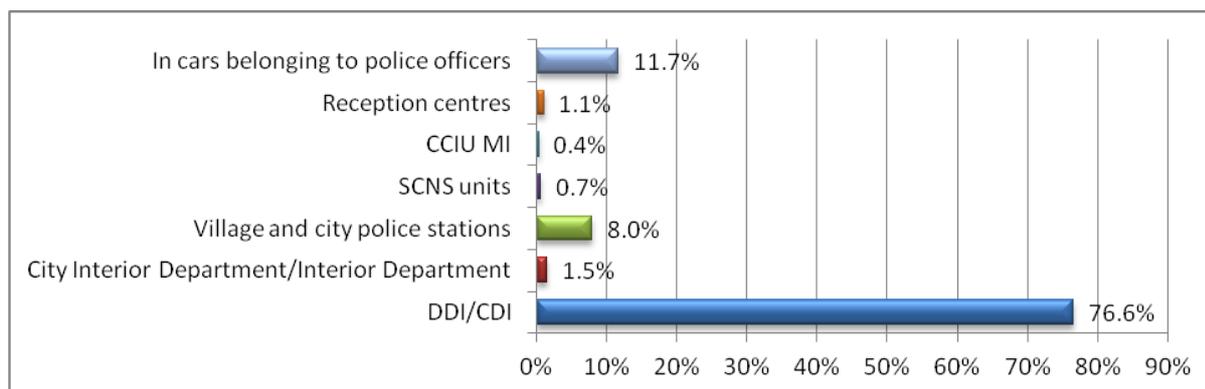
Diagram 22.
Time in TDFs after actual detention



In the majority of cases, those detained illegally were hidden in the offices in the buildings of district and city departments of the interior. At the same time, monitoring groups documented cases when detainees were held in village and city police stations illegally and for a long time or in the buildings of other units under internal affairs bodies, or were driven around in cars belonging to police officers for hours.

Diagram 23.

Location of a person between actual detention and placement in TDFs



From a monitoring group report:

*"I stayed in the operative officers' office for three days, and slept on the floor, on a newspaper."*⁶⁶

From a monitoring group report:

*"They took me from the office to another in the DDI for days."*⁶⁷

From a monitoring group report:

*"They first took me to the Chuy province Interior Department, but then I was taken to the Interior Department in Kant. The next day they took me back to the Chuy province Interior Department."*⁶⁸

In his report, the UN Special Rapporteur expressed concern over the fact that torture and coercion are already applied at the moment of actual detention and when detainees are taken to a police station, and this time period is never registered. National legislation allows the police to carry out arrests on suspicion of committing an offence without judicial orders which "in itself creates the ground for maltreatment."⁶⁹

The illegal – and almost routine – procedure for unregistered arrests makes it difficult to identify whether or not the maximum three-hour detention period used at the first stage of deprivation of liberty is followed at all. As detainees are not registered at the moment of actual detention, persons deprived of their liberty are highly vulnerable and not protected from torture and ill treatment, because in practice it is at this very stage that basic safeguards are normally not provided, and those arrested are left without any protection.⁷⁰ The UN Special Rapporteur recommended ensuring strict compliance with the rule to register detainees from the moment of actual detention.

- *Respect for the right to legal defence*

In its Concluding Observations, the UN Human Rights Committee noted that all detainees should enjoy immediate access to a defence lawyer.⁷¹

⁶⁶ Monitoring group report, No. 14-d.

⁶⁷ Monitoring group report, No. 3-1/1.

⁶⁸ Monitoring group report, No. 1-3/16.

⁶⁹ Report of the UN Special Rapporteur on Torture, para. 44.

⁷⁰ Report of the UN Special Rapporteur on Torture, para. 43.

⁷¹ Human Rights Committee, Concluding Observations on Georgia, U.N. Doc. CCPR/C/79/Add.74, 9 April 1997, para. 28.

The UN Basic Principles on the Role of Lawyers envisage everyone's right to be assisted by a lawyer of their own choice for protecting their rights and for preparing the defence at all stages of criminal proceedings. Immediately upon arrest all persons should be forthwith informed by the competent authority about this right. Anyone without access to a lawyer of their own choice should be entitled, in all cases in which the interests of justice so require, to have a lawyer assigned to them by a judicial or another body, free of charge if they lack sufficient financial resources to pay for such services.⁷²

The UN Basic Principles on the Role of Lawyers also envisage the right of an arrested individual or those taken into custody to communicate and consult with a lawyer for a sufficient amount of time and in conditions to meet with their lawyer without censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.⁷³

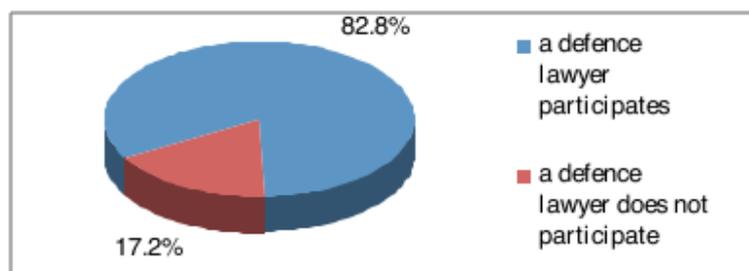
The Constitution of the Kyrgyz Republic guarantees everyone's right to receive qualified legal assistance at the expense of the state in the cases prescribed by law.⁷⁴ An investigator who is in charge of a criminal case is entitled to provide a defence attorney to participate in criminal proceedings, and as regards those who have the right to legal assistance at the expense of the state, to demand that a defence attorney be assigned from competent public officials who are responsible for providing legal assistance guaranteed by the state.⁷⁵

According to the CPC KR, a defence lawyer should be involved in the case from the moment of the first interrogation of a suspect (or a person charged with committing an offence) or from the moment of their actual detention.⁷⁶ At the same time, a defence lawyer is obliged to use all remedies prescribed by law for purposes of detecting and providing evidence that can justify a suspect or mitigate their liability, and to provide them with all necessary legal assistance.⁷⁷ A suspect has the right to communicate with their lawyer on an unimpeded basis, without limitations as regards the number and duration of such meetings.⁷⁸

Almost every fifth respondent covered by the monitoring study and held in closed institutions reported that their defence lawyer did not participate at the investigation stage or that they did not have a lawyer at all.

Diagram 24.

Participation of defence lawyers during investigation



⁷² UN Basic Principles on the Role of Lawyers, Principles 5-6.

⁷³ UN Basic Principles on the Role of Lawyers, Principle 8.

⁷⁴ Constitution of the Kyrgyz Republic, Article 40, para. 3.

⁷⁵ CPC, Article 36, Section 1, para. 12.

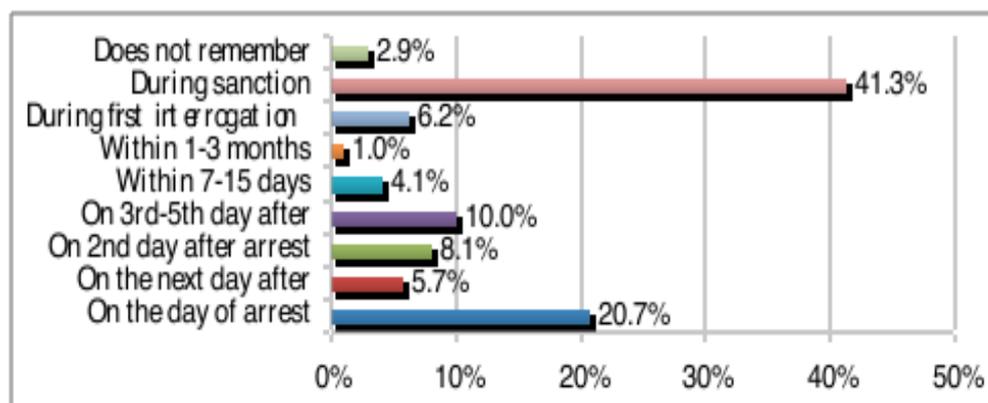
⁷⁶ CPC, Article 44, Section 3.

⁷⁷ CPC, Article 48, Section 2.

⁷⁸ CPC, Article 40, 42.

As claimed by the majority (41.9%) of those detainees who know that a defence lawyer should participate in a criminal case to protect their interests, they saw their lawyers only once in court when pre-trial restrictive measures were selected by the judge.

Diagram 25.
When a detainee met with his/her lawyer for the first time



From a monitoring group report:

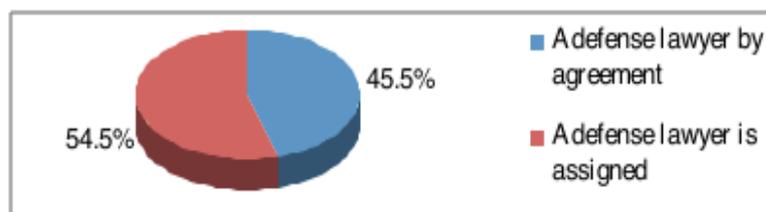
“Two detainees, one of whom has been detained for two days and the other one for three days, have not seen their lawyers even a single time.”⁷⁹

From a monitoring group report:

“I saw my defence lawyers when the investigation was over.”⁸⁰

In the majority of cases (54.5%), defence lawyers are assigned by an investigator.

Diagram 26.
Grounds for lawyer’s participation

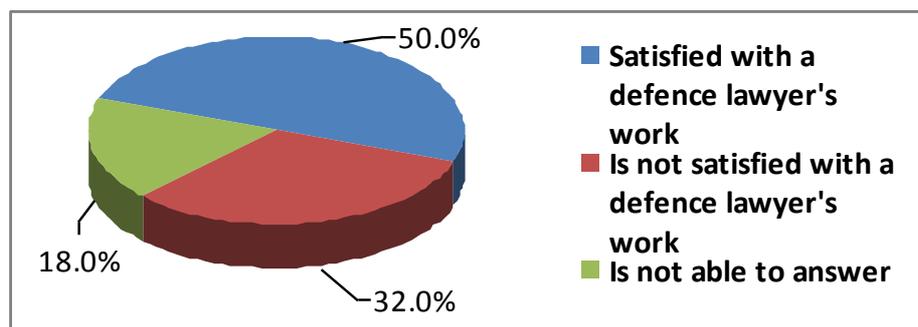


When observers were asking about the quality of assistance provided by defence lawyers, almost every third respondent said that they were dissatisfied with the work of their lawyers. Half of those in detention are satisfied with the work of their lawyers. The remaining 18% of respondents found it difficult to answer this question.

⁷⁹ Monitoring group report, No. 2-13.

⁸⁰ Monitoring group report, No. № 3-13.

Diagram 27.
Effectiveness of lawyer's assistance



From a monitoring group report:

“The lawyer does not show up on his own initiative. He comes only when the relatives ask him to a number of times.”⁸¹

From a monitoring group report:

“I do not like the defence lawyer; he’s not defending me but supporting the investigator. He does not listen to my arguments and does nothing during trial hearings.”⁸²

From a monitoring group report:

“The lawyer was there on the day I was arrested, and I have not seen him since.”⁸³

It should be mentioned that the quality of assistance provided by lawyers was evaluated only on the basis of the data obtained during interviews with those in detention. To formulate accurate and objective conclusions about the effectiveness of assistance provided by lawyers, a more full-scale research study is required that should include examination of case files, interviews with defence lawyers working with all respondents held in TDFs and PDFs, and so forth.

- *Complaints about torture in courts*

In his report upon completion of his mission to Kyrgyzstan, the UN Special Rapporteur on Torture stated that courts rely too heavily on confessions while assessing available evidence. If during court proceedings a defendant complains that his/her confession was extracted through torture or ill treatment, courts usually either ignore such statements or carry out a superficial investigation by just interrogating police officers in the courtroom.⁸⁴ After police officers deny allegations of torture, the judge concludes that the defendant’s accusations are unsubstantiated and they should be viewed as an attempt to elude the regular course of justice.⁸⁵ In this vein, the Special Rapporteur recommended Kyrgyzstan to remember that the rules for presenting evidence and misinterpretation thereof should not be a stimulus for illicit actions by law enforcement bodies and investigators, and that removing inadmissible evidence from consideration during court proceedings is one of the effective ways to counteract illegal actions and abuses during criminal proceedings.⁸⁶

⁸¹ Monitoring group report, No. 6-1/3.

⁸² Monitoring group report, No. 6-1/8.

⁸³ Monitoring group report, No. 5-3/4.

⁸⁴ Report of the Special Rapporteur on Torture, para. 46.

⁸⁵ Report of the Special Rapporteur on Torture, para. 46.

⁸⁶ Report of the Special Rapporteur on Torture, para. 81 (f).

The Special Rapporteur also noted that “judges are widely seen as formally present at the criminal process, but mainly to rubberstamp decisions of investigating officers or prosecutors rather than take a genuine interest in following up on torture allegations”⁸⁷. For this reason, he advised that the immediate consideration by courts of any complaints on torture and ill treatment should be ensured *ex officio* without the need to submit a relevant motion by the defence lawyer.⁸⁸

Of 192 detainees in TDFs under internal affairs bodies who told the monitors that they had been tortured only 70 individuals (36.5%) raised official torture complaints during judicial authorization of arrest hearings.

In 66 cases (94.3%), no response followed from judges to complaints about torture made by defendants. In two cases judges confined themselves to simply asking who used torture against the defendants. One judge summoned the investigator and “issued a reprimand,” while another judge “enjoined the prosecutor to carry out an investigation with respect to the defendant’s complaints about torture.”

From a monitoring group report:

“The judge said ‘you can file a written complaint against the police officers when the case files come to court’.”⁸⁹

From a monitoring group report:

“The judge asked where my bruises came from. I was afraid of the operative officers who were standing close to me, and said that I just fell down.”⁹⁰

From a monitoring group report:

When I said that I was beaten, the judge said, ‘you should have said it earlier’.”⁹¹

As reported by respondents, no response from prosecutors followed complaints about torture made by defendants during trial proceedings. Thus, during 63 out of the 70 trial hearings, prosecutors did not respond to such complaints.

In one case, the prosecutor asked the defendant who exactly had beaten him, and in another case he asked for a written copy of the statement to be submitted to the Prosecutor General’s Office. It was in one case only that a prosecutor assigned a forensic examination.

In the course of four trial hearings on selecting a pre-trial restrictive measure, the prosecutor was not present.⁹²

From a monitoring group report:

“When I said that I was beaten, the prosecutor came up and examined me, and told the judge that everything was all right, and I was just trying to avoid punishment.”⁹³

⁸⁷ Report of the Special Rapporteur on Torture, para. 52.

⁸⁸ Report of the Special Rapporteur on Torture, para. 80 (b).

⁸⁹ Monitoring group report, No. 5-9/4.

⁹⁰ Monitoring group report, No. 3-2/3.

⁹¹ Monitoring group reports, No. 5-7/15, 1-4/1.

⁹² Monitoring group reports, No. 7-1/2, 7-2/5, 3-1/9, 3-1/4.

⁹³ Monitoring group report, No. P15-d.

Diagram 28.
Judge's response to complaints about torture

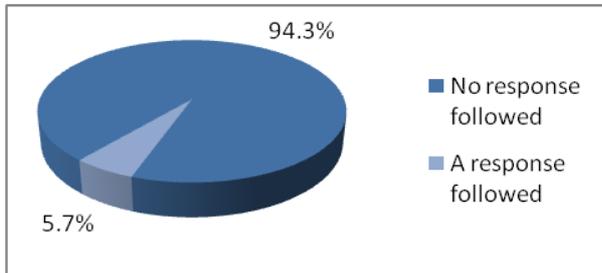
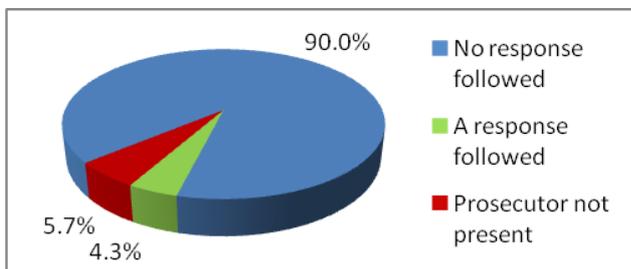


Diagram 29.
Prosecutor's response to complaints about torture



Upon completion of his mission to Kyrgyzstan, the Special Rapporteur on Torture concluded about the absence of prompt, impartial, or thorough investigation of torture complaints in the country, which means that such crimes remain unpunished.⁹⁴ He pointed out that impunity, in turn, reinforces the trend to rely on confessionary statements during criminal proceedings and to either allow or reject an independent forensic examination.

With a view to recover some public trust in the judicial system and justice as such, the Special Rapporteur recommended to the relevant Kyrgyz authorities not to further delay the conduct of prompt, impartial and thorough investigations on torture allegations and to launch criminal proceedings forthwith if this is supported by evidence; except for cases when such accusations are unsubstantiated. Law enforcement officers involved in such cases should be at least temporarily discharged of their functions while the investigation and judicial proceedings are taking place.⁹⁵

- **Medical examination**

The United Nations has highlighted in the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians the important role played by the ethical duties of health care workers in protecting detainees from torture and other cruel, inhuman and degrading treatment or punishment⁹⁶. The Principles spell out the moral obligation of medical workers to protect physical and mental health of detainees and prisoners, and they make it clear that active or passive participation in torture or conniving at torture in any form is an egregious violation of medical ethics.

⁹⁴ Report of the Special Rapporteur on Torture, para. 77.

⁹⁵ Report of the Special Rapporteur on Torture, para. 81 (d).

⁹⁶ Adopted by the UN General Assembly in 1982.

From the viewpoint of international standards, it is particularly important for a physician working in a closed institution not only to provide medical assistance, but also to carry out the medical examination of detainees arriving in the detention facility after being held in custody by the police.

National legislation, in particular the CPC KR, provides for the following: “Every time a suspect or a person charged with committing an offence is taken to a temporary detention facility or pre-trial detention facility, and also if they, their lawyer or relatives complain about physical violence used against them by inquiry or investigation officers, they shall be subjected to compulsory medical examination, and the relevant documentation should be compiled. The obligation to carry out a medical examination shall be imposed on the management of the temporary detention facility or pre-trial detention facility.”⁹⁷

To effectively document allegations of torture and ill treatment of prisoners (and in general to implement the right to medical services in closed institutions) adequate medical personnel is required. The 2011 monitoring report revealed that the post of medical worker (doctor, medical assistant) is not envisaged in the post table of TDFs under internal affairs bodies.

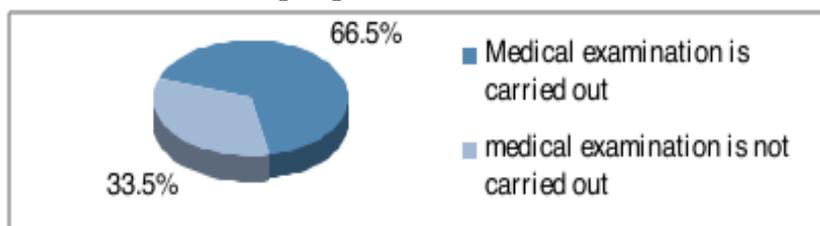
Regrettably, the situation has not improved so far. According to the official response of the MoI⁹⁸, the post of medical assistant exists only in one out of 47 TDFs in the country – temporary detention facility under the Bishkek Chief Interior Department- and he/she is paid from the local budget.

The provisions of the CPC KR which are not implemented, as explained by authorities, due to financial restraints are temporarily ensured owing to the support of donor organizations. Thus, at the time the monitoring was carried out there were doctors working in all TDFs in Osh and Batken provinces who were financed within the OSCE project mentioned above. Unfortunately, this is merely a temporary measure and it is expected that once financial support from international organizations comes to an end the work of medical workers in TDFs will also die away. It should be mentioned that financing from external sources should not become a common practice and fully replace the financing by the state. Funds should be allocated for the work of medical workers in TDFs from the state budget through the MoI.

It is also make more sense for medical personnel of TDFs to report to the Ministry of Health rather than be employed by the MoI, which may pose a threat to their independence.

The monitoring findings have demonstrated that even when a medical worker is present in a TDF medical examination is not always carried out when a detainee is admitted to the institution for the first time, in violation of relevant international standards and national law. Every third respondent held in a TDF reported that no medical examination was carried out when they first arrived in the closed institution.

Diagram 30.
Medical examination upon placement in a TDF



⁹⁷ CPC KR, Article 40, Section 5, Article 42, Section 7.

⁹⁸ Letter from the MoI of the Kyrgyz Republic of 24 April 2012, Ref. No. 11/646.

As could be gathered from the conversations with TDF staff members, medical examinations are carried out in regional medical facilities by duty doctors. For instance, the medical examination of each newcomer in the TDF in the Ton region is carried out by doctors from the Family Medicine Centre (FMC). In August 2012, a contract was signed on free medical examination of detainees admitted to the TDF. Earlier, staff members of the TDF and operative officers of the DDI were paying 25 KGS for each certificate using their own resources.



Examination of a torture victim in the TDF under the Sokuluk DDI

In the TDF of the At-Bashy region, medical examination is carried out by medical assistants from the Family Doctors Group.

In the TDF under the Bishkek Chief Interior Department, according to the official reply of the Chief Department for Public Safety under the MoI⁹⁹, medical examination is carried out by medical assistants in the medical worker's room inside the TDF, and examination results are registered in the examination log used for those under investigation who are placed in the TDF.

In a number of cases, when medical examination is carried out in the regional hospital, its procedure, as can be gathered from the interviews, leaves the impartiality of medical workers from the health care system in serious doubt. Some respondents reported that before they were placed in a TDF, they were taken to a hospital, but the doctor neither examined them nor asked any questions. A police officer accompanying them would enter the doctor's office and come out with a certificate about the detainee's state of health.

From a monitoring group report:

*"There was no medical examination; before they placed me in a TDF, they just received a certificate from the hospital."*¹⁰⁰

From a monitoring group report:

*"They carried out an examination, but a little later, when the bruises were gone."*¹⁰¹

From a monitoring group report:

*"They carried out an examination only two weeks after I was admitted to a TDF."*¹⁰²

From a monitoring group report:

*"There was no examination; the policeman just went in and got a certificate from the doctor."*¹⁰³

In other cases medical workers did not document bodily injuries even if there were obvious signs of beating on a detainee's face and body.

From a monitoring group report:

*"They carried out a medical examination, but did not register the bruises."*¹⁰⁴

⁹⁹ Letter of the Chief Department for Public Safety under the MoI, Ref. No. 11/934, of 11 June 2012.

¹⁰⁰ Monitoring group report, No. 1-7/40, 1-5/11.

¹⁰¹ Monitoring group report, No. 1-5/38.

¹⁰² Monitoring group report, No. 1-5/31.

¹⁰³ Monitoring group reports, No. 1-2/4, 1-2/8.

¹⁰⁴ Monitoring group report, No. 1-7/44.

From a monitoring group report:

*"I was taken in, all heavily beaten up, and the doctor said: Most importantly, you can stand on your feet, and issued a certificate."*¹⁰⁵

From a monitoring group report:

*"The doctor did not ask anything at all, he even did not look at me, just wrote down that I was healthy."*¹⁰⁶

In the course of the interviews, 86 persons held in custody (17.2%) said that when they were admitted, they were examined by the TDF chief and officers. For instance, this was the case in the TDF in Balykchy and Naryn, and in the TDF under the Talas province Interior Department.

Diagram 31.

Who carried out medical examination upon placement in the TDF

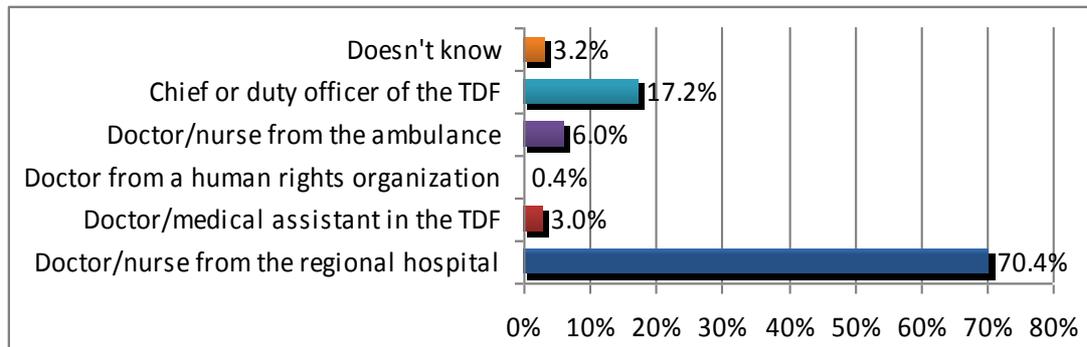
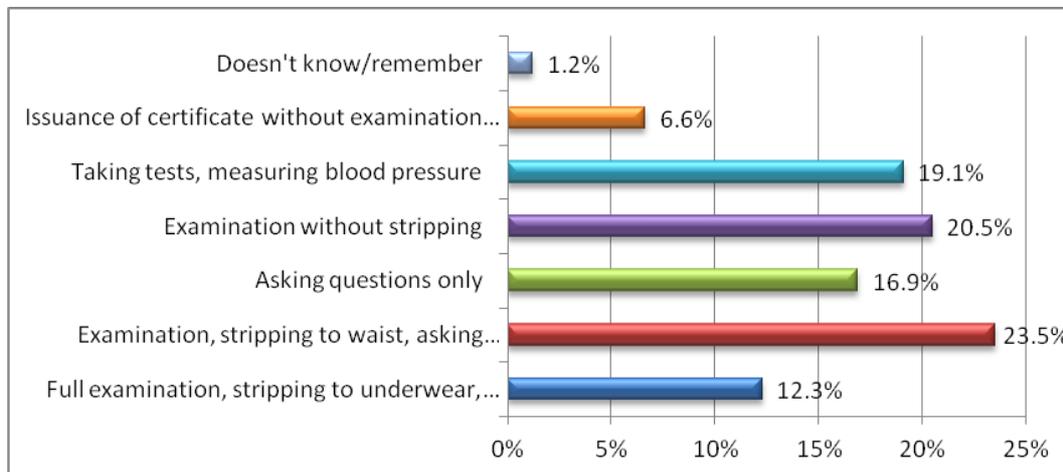


Diagram 32.

Medical examination procedure upon placement in the TDF



As can be deduced from the survey results, the medical examination procedure is not compliant with international standards, in particular the UN Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

¹⁰⁵ Monitoring group report, No. 1-2/25.

¹⁰⁶ Monitoring group report, No. 1-7/8.

Every fifth respondent (20.5%) held in TDFs was examined with clothes on. In 16.9% of cases, during medical examination doctors or medical assistants confined themselves to simply asking questions. Stripping to the waist and asking questions took place in 23.5% of cases. In 6.6% of cases the doctor issued a certificate without examination or asking any questions. Only in 12.3% of cases did medical workers carry out full examination and asked detainees question.

From a monitoring group report:

“Medical examination was not carried out. The doctor issued a certificate without examining me or asking anything.”¹⁰⁷



Signs of torture

As reported by the respondents in the overwhelming majority of cases medical examination is not carried after detainees are taken out of temporary detention facilities for investigation activities. Medical examinations were not carried out with respect to 82.7% of persons in detention upon every return to the TDF. Notably, in such cases medical examinations of detainees were carried out not by a medical worker, but by duty officers in the TDF.

This causes even greater concern in light of the information presented above according to which 11.6% of respondents placed in TDFs and 38.8% of respondents placed in PDFs reported that they were subjected to torture when they were taken outside the facility.

As reported by detainees, there were cases when police officers were beating them after medical examination was carried out and a doctor’s certificate on the state of health was received.

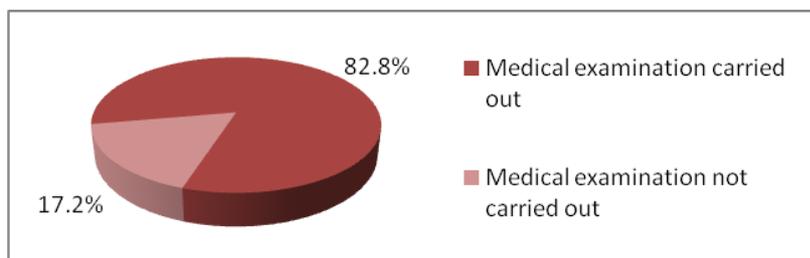
From a monitoring group report:

“On 14 June 2012, I was taken to a hospital for medical examination, and then, after we were out of the hospital, three operative officers (one of them was named Erzat, I do not know the other two, but I’ll recognize them if I see them) took me to the City Interior Department and beat me up. They were beating me from 10 a.m. till 3 o’clock at night. One of them was beating me on the legs with a club and the other two were punching and kicking me on the body and the head. They hurt my eye very badly. On 22 June I left a complaint with the duty officer and on 1 July I met with the prosecutor.”¹⁰⁸

Of respondents placed in PDFs, 17.2% stated that medical examinations were not carried out upon placement in the institution. In all remaining cases (82.8%), medical examination of those admitted to a PDF was done by a PDF doctor.

Diagram 33.

Medical examination upon placement in PDFs



¹⁰⁷ Monitoring group reports, No. 1-5/30, 1-5/31, 1-5/32.

¹⁰⁸ Monitoring group reports, No. 3-2/3.

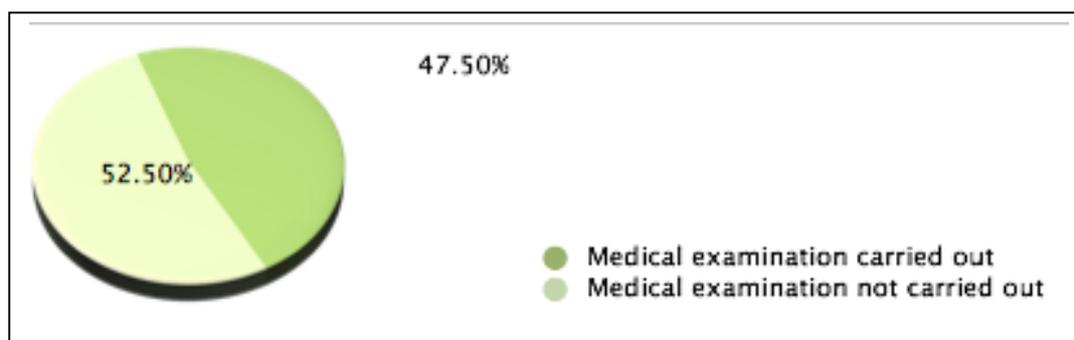


Signs of torture

Similarly to TDFs, in PDFs legal provisions on carrying out a medical examination every time a person is taken outside the PDF for purposes of investigation and for participating in trial hearings and then taken back are disregarded. Thus, no medical examination was carried out with respect to 71.2% of detainees upon their return to the institution.

More than half of all respondents (52.5%) reported that no medical examination was carried out upon placement in a reception centre.

Diagram 34.
Medical examination upon placement in reception centres



In reception centres, in all cases medical examination upon admission is carried out by a doctor and a medical assistant of the institution.¹⁰⁹

The monitoring study has revealed the absence of one standard and approved medical examination form for registering bodily injuries and the state of health among detainees upon placement in closed institutions under internal affairs bodies and the SSEP. In most cases, registration of bodily injuries is carried out by mid-level medical workers whose reports do not always contain full and professional information reflecting the actual state of health and circumstances under which a certain injury was procured.

In the personal files of detainees there are no final reports following medical examinations. As required by an investigator, a standard medical examination form is filled in to detect alcohol or drug consumption. It can thus be concluded that the existing medical examination practice is not compliant with necessary requirements in this area for purposes of effectively documenting cases of torture and ill treatment.

With a view to improve the current situation, in 2012 a group of non-governmental organizations together with doctors from PDFs under the SSEP (supported by the OSCE Centre in Bishkek) developed a Standard Medical Examination Form. This form is meant to improve the work of medical personnel in closed institutions as regards effective documentation of cases of torture and ill treatment in accordance with the UN Istanbul Protocol. In September and October 2012 the standard form was tested in two pre-trial detention facilities: PDF No. 21 and PDF No. 25. At the time of writing representatives from the Ministry of Health have joined the project team working to adapt and introduce the medical form in closed psychiatric and psycho-neurological institutions.

¹⁰⁹ Letter of the Chief Department for Public Safety under the MoI, Ref. No. 11/671, of 25 April 2012.

The form is expected to be introduced in the near future which will allow medical workers to document cases of torture effectively and will become yet another possibly effective mechanism in the area of torture prevention.

The UN Special Rapporteur on Torture pointed out that it is difficult to prove that torture was used unless a medical examination is carried out immediately. In this light, the Special Rapporteur recommended that Kyrgyzstan set, in its national legislation, a minimum timeline within which a medical examination should be conducted without delay in conformity with the Istanbul protocol.¹¹⁰

He also advised that the number of qualified medical workers in temporary and pre-trial detention facilities should be increased, while medical personnel should be guaranteed independence in places of detention by transferring them from the MoI and SSEP to the Ministry of Health. Forensic medical services on medical investigation of torture and other forms of ill treatment should receive adequate training.¹¹¹

6.3. DOCUMENTING CASES OF TORTURE.

PROVIDING LEGAL ASSISTANCE TO VICTIMS OF TORTURE

On the basis of the 2011 monitoring findings (but also taking into account the experience of non-governmental organizations involved in the monitoring of places of detention in 2012) persons subjected to torture and ill treatment oftentimes are not in a position to adequately protect their rights. The following were the most important tasks within this monitoring study:

- documentation of cases of torture and cruel treatment identified in the course of the monitoring study;
- providing emergency legal assistance to:
 - victims of torture or other cruel and inhuman treatment and punishment;
 - victims of other illegal actions by law enforcement officers;
 - persons in places of detention who are not provided with effective legal assistance in court (no defence lawyer);
 - juveniles in places of detention who are not provided with effective legal assistance in court (no defence lawyer);
 - women in places of detention who are not provided with effective legal assistance in court (no defence lawyer).

Unfortunately the situation concerning compliance with minimum fair trial standards did not significantly improve throughout 2012. One of the most egregious violations remains the limited access by those suspected, charged or defendants to legal assistance by a defence lawyer of their own choosing to protect their rights at all stages of criminal proceedings and more generally the right to access a lawyer for all those arrested or detained, either with or without charges brought against them.

As mentioned above, the majority of persons subjected to torture and ill treatment (as well as their relatives) due to financial restraints are not able to choose a lawyer independently. According to the CPC KR, in such cases the investigation bodies invite defence lawyers themselves to provide free

¹¹⁰ Report of the Special Rapporteur on Torture, para. 81 (c).

¹¹¹ Report of the Special Rapporteur on Torture, para. 81 (e).

legal assistance. However, the practice shows that these are so-called “pocket” or “on-duty” lawyers who do not discharge their functions adequately, are not engaged in investigation activities with the participation of victims of torture, they sign criminal case files without becoming familiar with them, and sometimes they play the role of mediators and persuade the defendants to take guilt upon themselves.

In this regard, the UN Special Rapporteur in his report following the country mission to Kyrgyzstan recommended that the authorities improve the assignment of defence lawyers by the state for protecting those suspected of and charged with committing an offence, and defendants.¹¹²

In the course of the monitoring, any person held in TDFs and reception centres under internal affairs bodies and PDFs under the SSEP could tell the members of the monitoring groups about cases of torture and ill treatment used against them. The experience and competence of monitoring groups’ members that included well-known human rights activists, staff members of the Ombudsman’s Office and members of the Public Oversight Bodies under the MoI and SSEP allowed documenting every substantiated allegation of torture and ill treatment.

Allegations of torture received from respondents in the course of the monitoring were immediately referred to prosecutors that are by mandate tasked to verify complaints about torture and consider the issue of initiating criminal proceedings against those guilty. The following five non-governmental organizations monitored the follow up on torture allegations and provided qualified legal assistance:

- Human Rights Protection Centre Kylym Shamy, Bishkek;
- Jalal-Abad province human rights organization Spravedlivost, Jalal-Abad;
- Public Foundation Luch Solomona, Osh;
- Public Foundation Golos Svobody, Bishkek;
- Public Association Youth Human Rights Group, Bishkek.

All organizations attracted defence attorneys who had experience protecting victims of torture and ill-treatment. In total, during the reporting period non-governmental organization sent as many as 144 complaints about torture to prosecutors, including:

- Kylym Shamy - 38,

including 6 complaints from persons held in custody in the course of the monitoring in closed institutions;

- Spravedlivost - 41,

including 36 complaints from persons held in custody in the course of the monitoring in closed institutions;

- Luch Solomona - 22,

including 14 complaints from persons held in custody in the course of the monitoring study in closed institutions;

- Golos Svobody - 43,

- Youth Human Rights Group -1,

including 38 complaints from persons held in custody in the course of the monitoring study in closed institutions.

¹¹² Report of the Special Rapporteur on torture, para. 81 (b): “ Overhaul the system of State-appointed lawyers completely and replace it with an open and transparent process of fairly remunerated independent lawyers, a process that is not controlled in practice by the investigating officers; and foresee the establishment of national legal aid programmes that guarantee access to a lawyer for all detainees, including prior to interrogation.”

Real-life example – Golos Svobody:

On 30 May 2012, officers of the village police station of Novopavlovsk arrested Mr. P.S., born in 1974, on suspicion of stealing chickens and took him to the police station. The suspect confessed his crime fully. However, when taken to the police station, P.S. was subjected to torture for purposes of obtaining confessionary statements with regard to another similar offence that was committed. He refused to admit his guilt with respect to the second crime. On 7 June 2012, when the monitoring group was visiting the TDF in the Sokuluk region, P.S. told them about torture. A complaint was submitted to the prosecutor's office of Sokuluk region which refused to initiate criminal proceedings on the same day. The Sokuluk district court, having considered a complaint from the man's defence lawyer, recognized the resolution on refusing to initiate criminal proceedings as illegal, overturned the resolution and sent the case files to the prosecution agency for further inspection and adoption of a legal decision.

Real-life example – Luch Solomona:

In the course of the monitoring visit to PDF No. 25 in Osh, Mr. R.U. who was charged with committing a crime as per Article 167 of the CC KR reported that torture was used against him by officers of the Osh TDF. The prosecutor's office in Osh refused to initiate criminal proceedings.

Criminal proceedings were initiated by prosecution agencies with respect to 19 complaints (13.2%) about cases of torture submitted by nongovernmental organizations, of which:

- 12 complaints from Kylym Shamy;
- 2 complaints from Spravedlivost;
- 1 complaint from Luch Solomona;
- 3 complaints from Golos Svobody;
- 1 complaint from Youth Human Rights Group.

Real-life example – Kylym Shamy:

On 30 April 2012, Ms. U.K., born in 1981, was arrested by police officers on suspicion of abducting a small child. During and after the arrest, U.K. was beaten up by operative officers of the Sverdlovskiy DDI in Bishkek who forced her to confess the crime. In one of the rooms of the operative officers in the DDI, U.K. was beaten for several hours in a row (from 8 a.m. till 5:30 p.m.); they put a plastic bag on her head and handcuffed her to the chair for a long time. On 5 June 2012, the woman's defence lawyer submitted a complaint to the Prosecutor General's Office asking to take action against the police officers. Following the inspection that was carried out, a criminal case was launched and on 25 September 2012 charges were brought against officers I.Ch., O.E. and A.M. as per Article 305-1, Section 2, para. 2 (Torture) of the CC KR. Investigative activities are currently underway.

Real-life example – Kylym Shamy:

Mr. I.S., born in 1979, was subjected to torture in the Interior Department of the Bakai-Ata region. Police officers put a gas mask on his head, and one of the officers sat on his lap so that he could not stand up, while others beat him with their hands and feet. I.S. fainted several times, and the police officers helped him come to his senses, then began beating him again, forcing him to confess to stealing of six sacks of French beans and an electric drill. I.S. was released only after his father, as instructed by these police officers, paid 5,000 KGS worth of a bribe. The Talas prosecutor's office initiated criminal proceedings on the basis of the above as per Article 304 (Abuse of power) and Article 305-1 (Torture) of the CC KR. At the present time, the criminal case is under investigation.

Real-life example – Kylym Shamy:

Ms. T.A., born in 1995, was subjected to torture for purposes of obtaining confessionary statements with respect to murder. Police officers beat her on the face and inflicted blows on various parts of her body. The prosecutor's office of the Sverdlovsk District in Bishkek initiated criminal proceedings as per Article 305-1, Section 2, para. 2 and Section 3, para. 1 (Torture) of the CC KR. The investigation is currently underway.

Nine out of the total number of criminal cases initiated on the basis of the complaints coming from non-governmental organizations were submitted to court to be considered on the merits. By the time this report was written, no decision had been reached on the merits.

Real-life example – Kylym Shamy:

M.Ch. and S.A., born in 1988 and 1987 respectively, were subjected to torture, first near the Narodniy store and later in the duty section of the Tokmok Interior Department, by eight law enforcement officers who were trying to force them to confess to disorderly conduct and drinking alcoholic beverages. The Tokmok prosecutor's office launched criminal proceedings against a police patrol officer, T.T., junior detective officer of the Chief Department for Combating Illegal Drug Trade, T.U., traffic police officer, S.A., and a neighbourhood police officer working at police station No. 3 under the Tokmok Interior Department, K.R., with charges brought against them as per Article 305, Section 2, para. 3 (Exceeding official authority) of the CC KR. According to the resolution of the Tokmok prosecutor's office, the police officers were dismissed from their position, while the criminal case was submitted to court to be considered on the merits. As of now, the criminal case has been suspended due to illness of the defendant, K.R.

In 108 cases, law enforcement agencies refused to initiate criminal proceedings, including the following:

- 25 – Kylym Shamy;
- 39 - Spravedlivost;
- 13 – Luch Solomona;
- 31- Golos Svobody.

Real-life example – Spravedlivost:

Mr. K.B., born in 1993, was arrested on 21 July 2012 in his own house in Jalal-Abad by 15 operative officers of the Interior Departments of the Aksy region. While this was taking place, he was beaten brutally and strangled with their hands, after which he was taken out of the house, unconscious. When they took the man to a TDF, police officers Abdrashit, Janysh and Tynash beat him in the abdomen and on the head. They put a sack on his head. Since the chief of the TDF took away all bedding, the man had to sleep on the concrete floor. In the course of the monitoring visit to the TDF of the Aksy region, K.B. told the observers about the torture. The observers submitted his complaint to the prosecution agency of the Aksy region which refused to initiate criminal proceedings due to the absence of elements of a crime. On 1 November 2012, this refusal was appealed in the Aksy District Court.

Real-life example – Kylym Shamy:

Mr. T.M., born in 1973, was arrested by SCNS and police officers on suspicion of complicity in an explosion in the sheep yard. T.M. was taken to the Alamudun District Interior Department and beaten for several hours. As a result, his teeth were knocked out, several ribs and his collarbone were broken, and both kidneys were badly hurt. This made T.M. a disabled person and he needed a surgery to be performed. Due to financial restraints, T.M.'s family could not hire a defence lawyer to help lead the case through the court and help him with rehabilitation. The prosecution agency of the Alamudun District refused to initiate criminal proceedings, to which a lawyer submitted a complaint to the Alamudun District Court. At the time of writing, the complaint was under consideration.

Real-life example – Luch Solomona:

Mr. M.M., born in 1985, was arrested by police officers on 18 May 2012. He was taken to the second city police station under the Osh Chief Interior Department where they started beating him, insisting that he confess to a number of thefts. They put a plastic bag on his head and cut off the air supply. Not being able to withstand torture, he signed a paper with confessional statements. A request to initiate criminal proceedings was turned down.

Real-life example – Luch Solomona:

Mr. A.T., born in 1983, was arrested on 13 July 2012 by officers of the Ak-Buura police station in Osh on suspicion of theft. After he was arrested, police officers started beating him with their hands and rubber truncheons to force him to make confessionary statements. A request to initiate criminal proceedings was turned down.

In 12 cases the refusal to launch criminal proceedings were appealed in court. Of these, in five cases the court recognized such refusals as illegal, overturned them and submitted case files back to prosecution bodies for additional investigation and the adoption of relevant legal action.

Real-life example – Kylum Shamy:

In the course of the monitoring visit to the TDF under the Talas province Department of the Interior, J. uulu M., born in 1980, filed a complaint asking to take action against police officers who had used torture against him. The Talas region prosecutor's office issued a resolution on refusing to initiate criminal proceedings due to the absence of the elements of crime. This resolution was appealed in the Talas District Court which satisfied the complaint, overturned the resolution and submitted the case files to the Talas region prosecutor's office for additional investigation.

Real-life example – Golos Svobody:

Mr. J.K., born in 1974, stood up for a young man near the Karakol bus station who was being beaten by men wearing police uniforms. As a result, he became a victim of arbitrary police actions himself. Upon carrying out an inspection on the basis of J.K.'s complaint, a decision was made not to initiate criminal proceedings. Following J.K.'s complaint, the prosecution agency of Issyk-Kul province overturned the refusal to launch criminal proceedings and initiated such proceedings as per Article 305 of the CC KR (Exceeding official authority).

In four cases, the decisions on refusing to launch criminal proceedings were upheld and the complaints were not satisfied.

Overall, in the course of the monitoring within the project legal assistance was provided to 75 individuals, including 22 victims of torture that were detected during monitoring visits to closed institutions, including:

- Kylum Shamy - 39 (7 victims of torture);
- Spravedlivost -7 (1 victim of torture);
- Luch Solomona - 23 (13 victims of torture);
- Golos Svobody - 6 (1 victim of torture).

Real-life example – Golos Svobody:

In the course of monitoring visits, an underage boy was detected in one of the cells of a pre-trial detention facility who reported that he was arrested on suspicion of theft by police officers that were beating him to obtain confessionary statements, also forcing him to say that he was 20 years old. Due to the effort of a defence lawyer hired by Golos Svobody, a pre-trial restrictive measure with respect to E.E. was changed to written undertaking not to leave the place. Following the court proceedings, E.E. was sentenced conditionally.

More detailed information is presented in the table below.

	Reports of torture	Kylym Shamy		Spravedlivost		Ray of Solomon		Voice of Freedom		YHRG		Total
		in the course of monitoring visits	outside of monitoring	in the course of monitoring visits	outside of monitoring	in the course of monitoring visits	outside of monitoring	in the course of monitoring visits	outside of monitoring	in the course of monitoring visits	outside of monitoring	
1	Defence lawyer assistance provided (to persons)	7	32	1	6	13	10	1	5	6	-	81
2	Complaints about torture sent to prosecution authorities	6	32	36	5	14	8	38	5	1	-	145
3.	Criminal cases launched	-	12	-	2	1	-	0	3	1	-	19
4.	Criminal cases submitted to courts	-	4	-	2	-	-	0	2	1	-	9
5.	Refusal to launch criminal proceedings	5	20	36	3	13		28	3	-	-	108
6.	Appeals against refusals to launch criminal proceedings in court	2	4	1	1	2		1	1	-	-	12
7.	Court satisfied a defence attorney's complaint on recognizing refusal to initiate criminal proceedings by prosecution authority as illegal	1	2		0	1		1		-	-	5
8.	Court failed to satisfy a defence attorney's complaint on recognizing refusal to initiate criminal proceedings by prosecution authority as illegal	1	2		1			0		-	-	4

6.4. REHABILITATION PROGRAMME FOR VICTIMS OF TORTURE

Initially, one of the important project tasks was providing rehabilitation services to victims of torture and ill-treatment. This component was undertaken also on the basis of the 2011 monitoring findings.

As in 2011, the rehabilitation component including the provision of medical, psychological and social assistance to victims of torture and ill-treatment was assigned to the Rehabilitation Centre for

Victims of Torture which was established in 2007 under the Public Foundation “Golos Svobody” (hereinafter the Rehabilitation Centre).¹¹³

The Rehabilitation Centre is the only programme in the Kyrgyz Republic on providing medical, psychological, psychotherapeutic and social services to victims of torture.

In total, eight staff members are involved in the activities of the Rehabilitation Centre, including four psychotherapists and a physician who belong to “highest-grade” doctors and have 17 to 40 years of experience working in this area, and also a psychologist, a social worker and a case manager. All staff members of the Centre have been trained in international standards on treatment of victims of torture and effective medical documentation of torture and ill-treatment.

Major activities that are carried out when torture case is detected (or when victims submit complaints themselves) are as follows:

- **Diagnostic services**

- medical diagnostic services including a primary interview, a clinical examination by specialists and determination of the mental and neurological condition of patients;
- a psychological examination for which various questionnaires were used to evaluate the symptoms of post-traumatic stress disorders, as well as a depression and anxiety scale, personal profile testing and projection tests;
- collection of a full medical history related to the time period preceding torture, during torture and after torture;
- history of torture with detailed information on where, by whom, and when torture was used against a particular person, and also which torture techniques were used;
- laboratory and instrumental examination; and
- producing medical and psychological reports specifying a diagnosis and providing relevant recommendations.



A psychologist of the Rehabilitation Centre talking with a victim of torture

- **Treatment and rehabilitation**

A crucial factor with respect to rehabilitation of victims of torture is an individual approach to each specific case, with obtaining a person’s consent to carry out necessary activities including the following:

- providing medical services that include medical procedures and drug treatment;
- psychological/psychotherapeutic rehabilitation and treatment;
- social rehabilitation.

The monitoring study in 2012 was special in the sense that doctors from the Rehabilitation Centre were part of monitoring groups along with observers. Their task was to carry out medical

¹¹³ The Rehabilitation Centre was established with the support of the United Nations Voluntary Fund for Victims of Torture and International Rehabilitation Council for Torture Victims.

examination of persons placed in TDFs under internal affairs bodies and PDFs under the SSEP with regard to bodily injuries in cases when detainees were complaining about torture used against them.

Unfortunately, minimum conditions conforming to international standards in the area of investigating and documenting torture and ill treatment were not always met during the monitoring. For instance, the Istanbul Protocol provides that detainees should be examined behind closed doors. Police officers and other law enforcement officers should not be present in the room where medical examination is taking place. This procedural safeguard can be violated only in those cases when, as believed by the examining doctor, there is convincing evidence that a detainee poses a serious threat to medical staff. And even in these cases, as requested by the examining doctor, security guards from a medical institution should be present, but not police officers or other law enforcement officers.¹¹⁴ Certain difficulties faced by doctors of the Rehabilitation Centre while discharging their duties had to do with the fact that persons undergoing medical examination were in detention. As there was no possibility to have unimpeded access to medical facilities providing therapeutic and psychological assistance, certain diagnostic examination methods were not available when needed.



Examination of a detainee in the TDF under the Issyk-Ata DDI

Another difficulty faced by doctors of the Rehabilitation Centre while discharging their duties had to do with a limited amount of time which they could allocate for interviewing and examining one detainee. Fifteen to twenty minutes for each interview was not enough to evaluate physical or psychological evidence of torture and to prescribe appropriate treatment. In some cases, there was a need to conduct the second and even third interview which was not possible in conditions of closed institution.

Regrettably, doctors of the Rehabilitation Centre failed to obtain access to persons held in PDFs under the SSEP in order to examine them. As was mentioned earlier, the management of the SSEP denied access to those under investigation held in PDFs pointing to the need to obtain permission from investigation and judicial bodies, and also basing their decision on the operational and security situation in the penal system.

The project activities show that restricted access to qualified medical and psychological assistance is a problem not only when victims of torture are held in places of detention, but oftentimes even after they are released. The Rehabilitation Centre had cases when victims of torture were seeking medical assistance in state-run institutions upon their release from places of detention, but they were rejected because law enforcement agencies were exerting pressure on medical workers. Many victims of torture are afraid to seek medical aid, because they always feel threatened by their torturers.

Every year the number of people approaching the Rehabilitation Centre for help is increasing. During the five years of its existence, the Rehabilitation Centre helped more than 300 people go through a rehabilitation programme.



Mobile group in Osh

¹¹⁴ Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), para. 165.

From January through November 2012, the Rehabilitation Centre provided rehabilitation services to 110 victims of torture who passed full examination and received medical assistance depending on the severity of their condition.

As many as 22 victims of torture have undergone in-patient treatment which implies compulsory hospitalization to a medical facility and combination treatment for ten days, including drug treatment with necessary medications as needed, psychological/psychotherapeutic treatment and other procedures.

Real-life example from the work of the Rehabilitation Centre:

Mr. M., 27, was subjected to torture twice by officers of the Tyup region Interior Department who wanted to punish him because he refused to fix a car belonging to one of the police officers for free. As reported by M., five police officers beat him up and kick him the head, after which he fainted. The police officers thought that the young man was dead, and they covered him with snow and left. But M. survived and filed a complaint to the prosecution authority. His condition was diagnosed by the supervising doctor as “consequences of an internal brain injury followed by asthenovegetative syndrome.” As part of the rehabilitation programme, M. was hospitalized and for ten days he went through combination and drug treatment. A psychotherapist has been working with M. and his mother for more than a year who is also applying combined psychotherapy, because apart from physical injuries, M. went through a severe psychological shock, while his mother was pressured by police officers.

As many as 28 people went through out-patient treatment, full examination and further treatment in medical institutions under the Kyrgyz Ministry of Health (clinics, hospitals and diagnostic centres) accompanied by a social worker.

Real-life example from the work of the Rehabilitation Centre:

An inhabitant of Talas province, Mr. S., 33, was subjected to torture by police officers of the Bakai-Ata region Interior Department who attempted to obtain confessionary statements with respect to the stealing of French beans. As reported by S., they handcuffed him behind his back and beat him with their hands and feet all over his body. They also beat him with batons and a plastic bottle filled with water, and put a gas mask on his face to strangle him. S. fainted several times. Upon his release from custody, since the criminal case against S. was terminated, his parents approached the Rehabilitation Programme. His condition was diagnosed by a physician of the Rehabilitation Centre as “consequences of a closed craniocerebral injury, brain concussion followed by convulsive disorder, a flare-up of chronic gastritis, active pyelonephritis.” He was diagnosed by his supervising doctor with a closed craniocerebral injury, brain concussion, late recovery accompanied by convulsive disorder, spasm of accommodation in both eyes, a flare-up of chronic septico maxilloethmoidal sinusitis on both sides, dextral frontal sinusitis. The doctor has pointed to the man’s critical condition and hospitalized him for conducting a combined examination. For more than a year, S. has been under psychotherapeutic observation because of the severe psychological stress that he went through.



Mobile group in Karakol

Rehabilitation of torture victims is necessary not only for restoring bodily functions that were interrupted due to physical and psychological torture and ill-treatment, but also for the reintegration of such individuals into regular life. One of the prerequisites is to change the surroundings while carrying out the rehabilitation programme. To achieve this goal, in 2012, six victims of torture from Issyk-Kul province passed rehabilitation treatment in Bishkek.

In their practical work, the Rehabilitation Centre often had to deal with cases when assistance had to be provided to non-transportable patients, due to their poor state of health, at their place of residence. To resolve this issue, since 2011 the Rehabilitation Centre has broadened co-operation with medical institutions in the regions. In 2012, as many as five victims of torture passed in-patient treatment in Osh clinics.

Alongside, the Rehabilitation Centre has created a mobile group consisting of three doctors, namely a physician, a psychologist and a psychotherapist, that travels to the regions to respond to torture reports in the regions on a timely basis and to prescribe necessary treatment. In 2012, four visits of the mobile group were organized to Osh and Issyk-Kul provinces.

The main mental disorders related to torture are post-injury stress disorders and severe depression.

In 2012, the Rehabilitation Programme extended the list of its services by including psychological assistance provided to victims of torture that went through rehabilitation activities previously. This new service is indeed important, as the negative impact of torture on a person's mental health can manifest itself at a later stage, sometimes a few months or even years later.

Fifteen victims who had previously undergone in-patient and out-patient treatment were covered by the "second rehabilitation stage" in 2012 which included group psychotherapy.

Real-life example from the work of the Rehabilitation Centre:

A 41-year-old man, Mr. J., was beaten by a police officer as punishment for a traffic accident and received a gunshot wound as a result of a shooting from a service gun. Later J. was hospitalized to a vascular surgery unit of the National Hospital under the Kyrgyz Ministry of Health. Diagnosis made by hospital surgeons and doctors: gunshot wound to the chest on the left side, post-gunshot injury of a clavicular artery on the left side at the level of the middle third of the collarbone, nodular goiter, post-injury plexitis of the left upper extremity. The man was diagnosed by a psychotherapist from the Rehabilitation Centre with post-injury stress disorder, moderate anxiety and depression. Within the rehabilitation programme, Mr. J. earlier underwent a comprehensive in-patient examination and treatment with medications. The doctor is still observing Mr. J's depression, since due to the injuries he received, he cannot work by his primary occupation and is limited in his work-related activities. At the present time, Mr. J. is undergoing the second stage of rehabilitation.

Throughout the entire implementation of the Rehabilitation Programme, no cases of medical institutions refusing to provide timely assistance to victims of torture have been observed.

**MEMORANDUM OF UNDERSTANDING
ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

MEMORANDUM OF UNDERSTANDING ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The Akyikatchy (Ombudsman) of the Kyrgyz Republic

(120 Tynystanov st., Bishkek, 720040, Kyrgyz Republic
Phone: +996 312 66 31 41)

Prosecutor General's Office

(39 Erkendik blvd., Bishkek, 720040, Kyrgyz Republic
Phone: +996 312 66 33 73)

Ministry of Interior

(469 Frunze st., Bishkek, 720000, Kyrgyz Republic
Phone: +996 312 66 24 50)

Ministry of Health

(148 Moscow st., Bishkek, 720040, Kyrgyz Republic
Phone: +996 312 66 31 41)

Ministry of Justice

(32 Mahatma Ghandi st., Bishkek, 720000, Kyrgyz Republic
Phone: +996 312 65 64 90)

State Service for the Execution of Punishments

(106 Ibraimov st., Bishkek, 720021, Kyrgyz Republic
Phone : +996 312 68 39 29)

OSCE Centre in Bishkek

(139 Toktogul st., 720001 Bishkek, Kyrgyz Republic
Phone: +996 312 66 50 15 / Fax: +996 312 66 31 69)

Soros Foundation Kyrgyzstan

(55A Logvinenko st., 720040, Bishkek, Kyrgyzstan
Tel: +996 312 66-34-75 / Fax: +996 312 66 34 48)

Freedom House Project “Strengthening Human Rights in Kyrgyzstan”

(204 Abdurakhmanov st., 4th Fl., 720040 Bishkek, Kyrgyz Republic
Phone: +996 312 62 35 82/ Fax: +996 312 62 08 30)

NGO “Ventus”

(123 Abdrakhmanov st., apt 83, Karakol, Kyrgyz Republic
Phone: +996 392 25 02 41)

NGO “Voice of Freedom”

(204 Abdrakhmanov st., 4th Fl., 720040 Bishkek, Kyrgyz Republic
Phone: +996 312 62 35 82/ Fax: +996 312 62 08 30)

NGO “Golos Svobody”

(8 Isanov st, office #4., 720017 Bishkek, Kyrgyz Republic
Phone: +996 312 62 35 82 / Fax +996 312 62 08 30)

NGO “Citizens Against Corruption”

(8B Isanov st., 720017 Bishkek, Kyrgyz Republic
Phone: +996 312 31 42 38)

NGO “Za Druzhbu Narodov”

(Microregion #1, house #6, Kyzikliya, Batken Region, Kyrgyz Republic
Phone: +996 555 84 09 15)

NGO “Kylym Shamy”

(27 Molodaya Gvardiya blvd., room 418, Bishkek, 720010, Kyrgyz Republic
Phone: +996 312 64 40 19 / fax: +996 312 64 40 08)

NGO “Luch Solomona”

(129 K. Datki st., Osh, Kyrgyz Republic
Phone: 996 3222 7 05 63)

NGO “Youth Human Rights Defenders Group”

(41 B Moscow st., apt. 8, 720021 Bishkek, Kyrgyz Republic,
Phone: +996 312 48 66 49 / Fax: +996 312 48 66 50)

NGO “Independent Human Rights Group”

(146 Ibrahimov st., apt. 31, Bishkek, 720011, Kyrgyz Republic
Phone: +996 312 30 50 76)

NGO “Soyuz Yedineniya”

(198 Frunze st., Talas, Kyrgyz Republic,
Phone: +996 342 25 34 87)

NGO “Spravedlivost”

(54/2 Toktogul st., Jalal-Abad, Kyrgyz Republic
Phone: +996 372 22 10 15)

NGO “Egl”

(Microregion #1, house 4, apt., 63, Bishkek, Kyrgyz Republic
Phone: +996 312 57 07 87)

(Hereinafter: “the Signatory Parties”)

- *Being based on the Memorandum of Understanding between the Organization for Security and Co-operation in Europe and the Government of the Kyrgyz Republic on the establishment of the OSCE Centre in Bishkek as of 3 December 1998;*
- *Determined to support the implementation by the Kyrgyz Republic of existing international human rights obligations, including the applicable OSCE human dimension commitments;*
- *Inspired by the provisions of the Constitution of the Kyrgyz Republic approved by national referendum on 27 June 2010, the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, signed on 10 December 1984, and the Optional Protocol to the Convention, ratified by the Kyrgyz Republic on 29 December 2008 (Law no. 52 of 5 April 2008);*
- *Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on unannounced regular visits to places of detention;*
- *Welcoming the willingness of the Ombudsman of the Kyrgyz Republic, the Prosecutor General’s Office, the Ministry of Interior, the Ministry of Health, the Ministry of Justice (hereinafter “Government Bodies”) and of nongovernmental organizations to cooperate in improving the human rights situation in the Kyrgyz Republic, including the area of torture prevention, with assistance of the OSCE Centre in Bishkek, the Freedom House Project “Strengthening Human Rights in Kyrgyzstan”, and the Soros Foundation Kyrgyzstan.*

Within the boundaries of their respective mandates, the Parties decide to set out the framework for their future cooperation in the following Memorandum:

Article 1

In line with the mandate provided by the Constitution and Laws of the Kyrgyz Republic, Government Bodies undertake to:

1. Establish and maintain regular cooperation with nongovernmental organizations actively working on issues pertaining to the protection of human rights and fundamental freedoms in the Kyrgyz Republic;
2. Actively participate in initiatives aimed at building their capacity in addressing human rights issues, organized by local or regional human rights organizations, the OSCE, Freedom House, and Soros Foundation Kyrgyzstan or other international organizations;
3. With the aim of strengthening the protection of persons deprived or limited in their freedom from torture and other cruel, inhuman or degrading treatment or punishment, actively engage in monitoring of places of detention or restriction of liberty with partner civil society organizations including but not limited to: pre-trial detention centers (SIZO), various temporary detention facilities,

including temporary detention isolators (IVS), police cells, detention-redistribution centers of the Ministry of Interior, disciplinary military detention facilities of the Ministry of Defense (“Gauptvahty”), administrative detention facilities of border control authorities, temporary reception and lodging facilities for IDPs and asylum-seekers, centers for adaptation and rehabilitation of minors, military facilities under the Ministry of Interior, the Ministry of Defense, the State Committee on National Security, the Ministry for Emergency Situations, the State Service for the Execution of Punishments and any other facility controlled by law enforcement authorities, as well as mental health institutions, medical facilities for compulsory treatment of persons suffering from alcohol or drug addictions, state-run and other types of medical and social care institutions for the elderly (including nursing homes), minors (including orphanages), persons with disabilities, and institutions for minors requiring specialized care and education (*hereinafter: “places of detention”*);

4. As necessary ensure access to places of detention for partner civil society and international organizations, including monitoring groups created by such organizations;
5. Exchange information, including contact information, of relevant government representatives and, as necessary, involve appropriate partner civil society and international organizations in regular monitoring of respect and observance of human rights and fundamental freedoms, including preparation of reports and recommendations stemming from regular monitoring;
6. Cooperate with partner civil society and pertinent international organizations in the development and implementation of effective torture prevention mechanisms in the Kyrgyz Republic in line with applicable international human rights obligations;
7. Cooperate with other civil society and international organizations in the promotion of human rights and fundamental freedoms, as well as in the spheres of early warning, conflict prevention, conflict resolution and peace building;
8. In line with applicable national legislation and international human rights standards, conduct effective, thorough, rigorous and prompt internal investigations of complaints on human rights violations and report results of such investigations to heads of relevant government bodies;
9. Immediately respond to notices of human rights and fundamental freedoms’ violations according to the legislation;
10. Participate in meetings organized by partner civil society and international organizations;
11. Ensure other cooperation, as appropriate and in line with applicable legislation of the Kyrgyz Republic, in the realization of regular monitoring of observance and respect of human rights and fundamental freedoms.

Article 2

Partner civil society organizations undertake to:

1. Actively cooperate with government bodies of the Kyrgyz Republic on issues related to the protection of human rights and fundamental freedoms;
2. Participate in joint visits to places of detention with a view to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment by way of regular and unannounced monitoring;
3. Inform government bodies about identified instances of violations of human rights and freedoms at places of detention;
4. Inform government bodies of trainings and events on human rights for their staff;
5. Support government bodies in the development of rapid response mechanisms to requests and complaints of violations of human rights and fundamental freedoms.

Article 3

In line with their mandates and available resources, the OSCE Centre in Bishkek¹, the Freedom House Project “Strengthening Human Rights in Kyrgyzstan” and Soros Foundation Kyrgyzstan undertake to:

1. Establish and maintain regular contacts with representatives of civil society and government bodies with the aim of promoting implementation of the OSCE principles and commitments in the Kyrgyz Republic;
2. Support and encourage cooperation among government bodies of the Kyrgyz Republic, representatives of civil society, and human rights and international organizations;
3. Cooperate with government bodies of the Kyrgyz Republic and partner civil society organizations in developing projects aimed at promoting the implementation of the OSCE principles and commitments in Kyrgyzstan;
4. Facilitate an exchange of best practices in the implementation of the OSCE principles and human dimension commitments within the Kyrgyz Republic;
5. Assist in the organization of events among representatives of the government agencies of the Kyrgyz Republic, civil society organizations, and international organizations to discuss the implementation of the OSCE principles and commitments and in Kyrgyzstan.

Article 4

1. This Memorandum shall enter into force on the date of its signing by the Signatory Parties. This Memorandum shall remain in force until 31 December 2012. The Signatory Parties agree to review this Memorandum annually.

¹Cf. OSCE Permanent Council Decision No. 245 of 23 July 1998.

2. With a view to strengthening the observance of human rights and fundamental freedoms, the annual review of the Memorandum shall consider the following:
 - a. whether any revision to the Memorandum is needed;
 - b. whether any changes are needed to the working arrangements, so that this Memorandum is put into practice effectively;
 - c. priorities for working together in the upcoming year;
3. This Memorandum supersedes previous agreements with the same purpose and object between Signatory Parties.
4. This Memorandum may be amended at any time by agreement of the Signatory Parties;
5. Any disagreements over the interpretation and/or application of this Memorandum shall be settled amicably through consultations among the Signatory Parties;
6. This Memorandum does not prevent non-signatory nongovernmental human rights organizations actively working in the Kyrgyz Republic from entering into similar agreements with government bodies;
7. Interested non-governmental organizations actively working in the sphere of human rights protection may request to become signatories to this Memorandum;
8. Non-governmental human rights organizations wishing to become signatories to this Memorandum shall submit a written request to this effect to any partner civil society organization, which then shall duly transmit the requests to other Signatory Parties for approval;
9. If no Signatory Party raises an objection within ten working days from the day of the receipt of a request to become a Signatory of this Memorandum, the requesting nongovernmental human rights organization shall become a signatory party to this Memorandum;
10. No provision of this Memorandum shall be deemed a waiver of any of the privileges and immunities enjoyed by the OSCE and/or its staff.

Article 5

1. The Signatory Parties assign their Special Representatives, who shall be authorized to represent the Parties on issues relating to the implementation of this Memorandum.
2. The Special Representatives of Government Bodies are:
 - a. The Institution of the Akyikatchy (Ombudsman) of the Kyrgyz Republic – **Mr. Niyazaly Bekberdinov**, Head of the Department of Monitoring and Analysis of Human Rights;
 - b. The Prosecutor General's Office – **Mr. Aymambetov Shayloobek** and **Mr. Malayev Almaz**, Deputy Prosecutors for the oversight of legality in the penitentiary institutions of the Kyrgyz Republic;

- c. The Ministry of Interior – **Mr. Shamshybek Mamyrov**, Head of the Scientific and Research Centre under the Ministry of Interior of the Kyrgyz Republic;
 - d. The Ministry of Health – **Ms. Gulmira Ibrayeva**, Chief specialist of the Medical Department;
 - e. The Ministry of Justice – **Ms. Kunduz Amanzholova**, Leading specialist of the Department on Notary and Bar;
3. The Special Representative of the OSCE Centre is **Mr. Fabio Piana**, Senior Human Dimension Officer, OSCE Centre in Bishkek.
 4. The Special Representative of the Freedom House project, “Strengthening Human Rights in Kyrgyzstan” is **Mr. Almaz Esengeldiyev**, Deputy Director of the Freedom House office in Kyrgyzstan.
 5. The Special Representative of the Soros Foundation Kyrgyzstan is **Mr. Ruslan Hakimov**, Law Program Director of the Soros Foundation Kyrgyzstan.
 6. The Special Representatives of the civil society organizations Signatory Parties to this Memorandum are:
 - a. The NGO “Ventus” – **Mr. Kamil Ruziyev**, Director of the NGO;
 - b. The NGO “Voice of Freedom” – **Mr. Abdumomun Mamaraimov**, Director of the NGO;
 - c. The NGO “Golos Svobody” – **Ms. Elmira Esenamanova**, Project coordinator of the NGO;
 - d. The NGO “Citizens against corruption” – **Ms. Evgeniya Krapivina**, Lawyer of the NGO;
 - e. The NGO “Za Drujbu Narodov” – **Mr. Khalimzhan Akhmedov**, Director of the NGO;
 - f. The NGO “Kylym Shamy” – **Ms. Aziza Abdirasulova**, Director of the NGO;
 - g. The NGO “Luch Solomona” – **Mr. Sadykzhan Makhmudov**, Director of the NGO;
 - h. The NGO “Youth Human Rights Defenders Group” – **Ms. Nadira Eshmatova**, Director of the NGO;
 - i. The NGO “Independent Human Rights Group” – **Ms. Dinara Sayakova**, President of the NGO;
 - j. The NGO “Soyuz Yedineniya” – **Ms. Svetlana Bozhkova**, Director of the NGO;
 - k. The NGO “Spravedlivost” – **Ms. Valentina Gritsenko**, Director of the NGO;
 - l. The NGO “Egl” – **Ms. Cholpon Omurkanova**, Director of the NGO.
 7. When a nongovernmental human rights organization becomes a signatory to this Memorandum by request, in accordance with Article 4, paragraphs 7 and 8, the joining party shall notify all of the Signatory partner civil society organizations of its Special Representative for the purposes of the

Memorandum. The notification shall be made through the Signatory organization which forwarded the initial request from the newly joined party to become a Signatory to this Memorandum.

Article 6

1. This Memorandum shall be deposited with the Akyikatchy (Ombudsman) of the Kyrgyz Republic. The Akyikatchy (Ombudsman) of the Kyrgyz Republic shall transmit certified copies of this Memorandum to all the Signatory Parties.

Done in Bishkek on 12 June 2012, in three original copies, one in the English language, one in the Russian language, and one in the Kyrgyz language. In case of discrepancy, the English version of the Memorandum shall be authoritative.

Government Bodies:

Akyikatchy
(Ombudsman)

The Prosecutor General's
Office

The Ministry of Interior

Tursunbek Akun

Aida Salyanova

Zarilbek Risaliev

The Ministry of Justice

The Ministry of Health

The State Service for the
Execution of
Punishments

Almambet Shikmamatov

Dinara Saginbaeva

Alikbek Mamyrkulov

International organizations:

The OSCE Centre in
Bishkek

The Freedom House
Project "Strengthening
Human Rights in
Kyrgyzstan"

Soros Foundation
Kyrgyzstan

Anders Troedsson

Stuart Kahn

Kumar Bekbolotov

Civil Society:

NGO “Ventus”

Kamil Ruziyev

NGO “Voice of Freedom”

Abdumomun Mamaraimov

NGO “Golos Svobody”

Sardarbek Bagishbekov

NGO “Citizens Against
Corruption”

Tolekan Ismailova

NGO “Za Druzhbu
Narodov”

Khalimzhan Akhmedov

NGO “Egl”

Cholpon Omurkanova

NGO “Kylym Shamy”

Aziza Abdirasulova

NGO “Luch Solomona”

Sadyk Makhmudov

NGO “Youth Human
Rights Defenders
Group”

Nadira Eshmatova

NGO “Independent
Human Rights Group”

Dinara Sayakova

NGO “Spravedlivost”

Valentina Gritsenko

NGO “Soyuz
Yedineniya”

Svetlana Bozhkova

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by Maria Mhitaryan