

Bishkek December 18, 1993, # 1335-XII

THE LAW OF THE KYRGYZ REPUBLIC

On the Constitutional Court of the Kyrgyz Republic

(Introduced into force by the Resolution of Jogorku Kenesh of the Kyrgyz Republic of December 18, 1993, # 1335-XII)

(Vedomosti of Jogorku Kenesh of the Kyrgyz Republic, 1994, # 2, p.46)

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Chapter I General Provisions

Article 1. The Constitutional Court of the Kyrgyz Republic

The Constitutional Court of the Kyrgyz Republic is the supreme body of the judicial power for protection of the Constitution of the Kyrgyz Republic.

The Constitutional Court of the Kyrgyz Republic is established in order to ensure the superiority of KR Constitution throughout the territory of the Republic, protection of the constitutional system, and rights and freedoms of the citizens.

Article 2. Basic Principles of Activity of the Constitutional Court of the Kyrgyz Republic

The Constitutional Court of the Kyrgyz Republic shall function on the basis of legality, collegiateness, and publicity; it shall be independent and shall be governed only by the Constitution of the Kyrgyz Republic.

Article 3. The Legislation on the Constitutional Court of the Kyrgyz Republic

Organization and competence of the Constitutional Court of the Kyrgyz Republic, and the procedures for its functioning shall be determined by the Constitution of the Kyrgyz Republic, by this Law, and by the Law of the Kyrgyz Republic On Constitutional Proceedings in the Kyrgyz Republic.

With regard to internal aspects of its activity which are not governed by the legislation of the Kyrgyz Republic, the Constitutional Court of the Kyrgyz Republic may adopt the Regulation on the Constitutional Court consistent with the legislation in force.

Chapter II Composition of the Constitutional Court of the Kyrgyz Republic and Election Procedure

Article 4. Composition of the Constitutional Court of the Kyrgyz Republic

The Constitutional Court of the Kyrgyz Republic shall consist of nine justices, viz.: a chairperson, a deputy chairperson, and seven justices of the Constitutional Court of the Kyrgyz Republic.

Article 5. Election of the Constitutional Court of the Kyrgyz
Republic

A citizen of the Kyrgyz Republic who is not younger than 35 and not older than 70, has higher education in law and at least 10 years of professional experience may be a justice of the Constitutional Court.

The President of the Kyrgyz Republic shall introduce the candidates to the posts of a chairperson, of a deputy chairperson, and of seven justices of the Constitutional Court of the Kyrgyz Republic to Jogorku Kenesh of the Kyrgyz Republic. Jogorku Kenesh shall elect the composition of the Constitutional Court for a fifteen-year term, individually, and by secret ballot. A person who has won majority votes of the total number of the People's Representatives of the Kyrgyz Republic shall be considered elected.

The Constitutional Court of the Kyrgyz Republic may commence its activity provided that not less than two thirds of its composition are elected.

In the event of accelerated withdrawal of a chairperson, a deputy chairperson or a justice from the composition of the Constitutional Court, Jogorku Kenesh of the Kyrgyz Republic shall replace him/her with another person elected in a regular session in accordance with the procedures established by this Law.

Article 6. The Oath of Justices of the Constitutional Court of
the Kyrgyz Republic

A Toraga (Chairperson) of Jogorku Kenesh of the Kyrgyz Republic shall put the persons elected justices of the Constitutional Court of the Kyrgyz Republic under the following oath: "I, ..., taking up the post of a justice of the Constitutional Court of the Kyrgyz Republic swear before the people of Kyrgyzstan to piously observe and protect the Constitution of the Kyrgyz Republic, and honestly fulfil the duties of a justice of the Constitutional Court of the Kyrgyz Republic entrusted upon me, being governed by nothing and nobody but the Constitution of the Kyrgyz Republic".

Chapter III
The Status of Justices of the Constitutional Court
of the Kyrgyz Republic

Article 7. Independence of Justices of the Constitutional Court
of the Kyrgyz Republic

Justices of the Constitutional Court of the Kyrgyz Republic shall be independent in the course of fulfillment of their duties and shall be governed only by the Constitution of the Kyrgyz Republic. Any interference in their activities as well as any form of influence upon judges aimed at hindering their activities shall be prohibited and shall entail liability pursuant to the legislation.

A justice of the Constitutional Court may not express in public, anywhere else but a session of the Constitutional Court, his/her personal opinion of a case being examined or accepted for consideration by the Constitutional Court pendant the Constitutional Court renders a decision on such a case.

The status of a justice of the Constitutional Court is incompatible with the mandate of a deputy, membership in a political party or another public association pursuing political aims, occupation of any other position, business activities, work for and fees from other state agencies or public bodies, or private practice with the exception of art, science, and teaching.

A justice may not provide protection or perform representation except legal representation in court, arbitration court or other legal practice bodies, nor may s/he render patronage in any form to any person.

Justices of the Constitutional Court of the Kyrgyz Republic shall be irremovable during the term of their authority. They may not be deprived of their powers, restricted in them or dismissed from work except as provided by this Law.

The activities of the Constitutional Court regarding constitutional proceedings shall not be reportable.

Article 8. Inviolability of Justices of the Constitutional Court
of the Kyrgyz Republic

Justices of the Constitutional Court of the Kyrgyz Republic shall be inviolable.

Criminal proceedings may not be initiated against a justice of the Constitutional Court of the Kyrgyz Republic, nor may s/he be arrested or held administratively liable pursuant to the procedures established by court, unless there is the corresponding consent of Jogorku Kenesh of the Kyrgyz Republic. A justice shall not be subject to seizure or enforced attendance except the cases where s/he is captured in locus criminis, of which fact a chairperson or a deputy chairperson of the Constitutional Court of the Kyrgyz Republic shall be immediately notified. Criminal proceedings as

well as proceedings on administrative offence being within the competence of a court may be initiated against a justice of the Constitutional Court of the Kyrgyz Republic only by the Prosecutor General of the Kyrgyz Republic. Criminal or administrative proceedings with respect to a justice of the Constitutional Court shall refer to the exclusive jurisdiction of the Supreme Court of the Kyrgyz Republic.

Penetration into the residence or the office of a judge of the Constitutional Court of the Kyrgyz Republic, or into his/her personal or used by him/her means of transportation, examination, search or seizure in the said places, as well as personal examination or search of a justice of the Constitutional Court or examination or seizure of things or documents belonging to the justice may not take place otherwise than upon permit by the Prosecutor General and in regard to the proceedings initiated against the said justice.

A justice of the Constitutional Court may not be exposed to enforced measures of medical character, recognized as legally incapable or restricted in legal capacity unless Jogorku Kenesh of the Kyrgyz Republic gives its consent to initiation of the corresponding court proceedings.

A justice of the Constitutional Court may not be subject to any measures for expressing his/her opinion in the manner provided for the constitutional proceedings.

Article 9. Suspension of Powers of a Justice of the Constitutional Court of the Kyrgyz Republic

Powers of a justice of the Constitutional Court of the Kyrgyz Republic may be suspended if:

- 1) the justice of the Constitutional Court has been elected in offence of the procedures established;
- 2) the consent to arrest of the justice, initiation of administrative or criminal proceedings against the justice or filing with a court the claim for enforced measures of medical character, recognition as legally incapable or restriction of legal capacity of the justice is expressed in accordance with the established procedure;
- 3) the justice has violated the oath or failed to fulfil the requirements of the Constitution of the Kyrgyz Republic or of the legislation on the Constitutional Court;

- 4) the justice may not perform his/her duties for a long period of time due to poor health;
- 5) the justice is declared missing in accordance with a court decision having come into effect;
- 6) the justice has missed more than three sessions of the Constitutional Court without valid reasons;
- 7) the powers of a justice may also be suspended on the grounds provided for in the third clause of Article 7 of this Law.

The Constitutional Court of the Kyrgyz Republic shall suspend the powers of a justice until the said grounds are removed.

Presence of the grounds for suspension of a justice's powers shall be stated by the decision of the Constitutional Court that may not be rendered later than one month following the discovery of such grounds.

Article 10. Termination of Powers of a Justice of the Constitutional Court of the Kyrgyz Republic

Jogorku Kenesh shall terminate the powers of a justice of the Constitutional Court of the Kyrgyz Republic upon recommendation of the chairperson of the Constitutional Court of the Kyrgyz Republic and based on the resolution of the Constitutional Court due to:

- 1) granting the application for resignation by the justice;
- 2) a sentence rendered by the Supreme Court of the Kyrgyz Republic with regard to the justice, that has come into effective;
- 3) recognition of the justice as legally incapable by a court decision having come into effect;
- 4) recognition of death of the justice by a court decision having come into effect;
- 5) death of the justice.

Powers of a justice of the Constitutional Court of the Kyrgyz Republic may also be terminated on the grounds specified in the first clause of Article 9 of this Law.

Along with termination of powers of a justice of the Constitutional Court, his/her powers of a chairperson, deputy chairperson or a secretary of the Constitutional Court of the Kyrgyz Republic shall also cease.

Article 11. Financial and Social Provision of Justices of the Constitutional Court of the Kyrgyz Republic

Justices of the Constitutional Court of the Kyrgyz Republic shall be paid for performance of their professional duties the salary in the amount established by Jogorku Kenesh of the Kyrgyz Republic.

A justice of the Constitutional Court who quits due to poor health shall be paid a discharge pay in the amount of his/her annual salary.

The Constitutional Court shall provide a justice and his family members residing with him/her with a comfortable residence (a separate flat or house) in Bishkek city within three months following his/her election.

Article 12. Guarantees of Labor Rights of Justices of the Constitutional Court of the Kyrgyz Republic

The same or an equal position shall be offered to a justice whose term of authority has expired or terminated before the schedule, unless the justice is released from office for violation of the oath or in connection with coming into force of a court sentence or of a court decision on recognition of the justice as legally incapable.

The period of work as a justice of the Constitutional Court shall be included in the length of professional service.

Chapter IV The Competence of the Constitutional Court of the Kyrgyz Republic

Article 13. Powers of the Constitutional Court of the Kyrgyz Republic

The Constitutional Court of the Kyrgyz Republic may:

- 1) admit laws other than constitutional and other normative legal acts in case of their inconsistency with the Constitution;
- 2) settle the disputes associated with functioning, applying and interpreting the Constitution;
- 3) issue the resolution on lawfulness of election of the President of the Kyrgyz Republic;
- 4) issue the resolution on removal of the President of the Kyrgyz Republic, or of a justice of the Constitutional, Supreme or High Arbitration Court from office;
- 5) give its consent to initiation of criminal proceedings against a judge of a local court;
- 6) issue the resolution with regard to amendments and addenda to the Constitution of the Kyrgyz Republic;
- 7) cancel the decisions of local government bodies inconsistent with the Constitution of the Kyrgyz Republic;
- 8) render decisions on constitutionality of the legal practice affecting the constitutional rights of citizens.

The Constitutional Court shall not consider the issues of lawfulness of sentences and other decisions rendered by courts, arbitration courts, investigation agencies or public prosecutor's offices with regard to civil, criminal, administrative or arbitration cases unless such decisions have been rendered based on the legislation inconsistent with the Constitution.

The Constitutional Court of the Kyrgyz Republic shall:

- 1) adopt by-laws of the Constitutional Court on the issues not regulated by the legislation of the Kyrgyz Republic;
- 2) elect the Secretary of the Constitutional Court;
- 3) suspend the powers of Justices of the Constitutional Court;
- 4) exercise other powers provided to it by the legislation;

Sessions of the Constitutional Court shall be called in case of necessity.

A session of the Constitutional Court shall be considered lawful competent if at least two thirds of the composition of the Court are present.

The procedures for voting of the justices of the Constitutional Court shall be determined under the Law On Constitutional Proceedings in the Kyrgyz Republic.

The Constitutional Court of the Kyrgyz Republic may, in connection with a petition filed, request and receive information from any state agency, enterprise, institution or organization, political party and another public association, a scientific institution or informational center, and involve specialists in expertise and scientific and consulting work in accordance with the established procedures.

A chairperson, a deputy chairperson, and justices may attend the sessions of Jogorku Kenesh and the Government of the Kyrgyz Republic, and the Plenary Sessions of the Supreme Court of the Kyrgyz Republic and the High Arbitration Court of the Kyrgyz Republic.

Article 14. Legal Force of a Decision Rendered by the Constitutional Court of the Kyrgyz Republic

A decision rendered by the Constitutional Court of the Kyrgyz Republic shall be final and shall not be subject to appeal.

Acts and requirements of the Constitutional Court made within its jurisdiction shall be binding upon any state agency, legal entity, official, and citizen to whom they are addressed. Failure to fulfil such acts and requirements shall entail liability in the manner provided by the legislation.

A decision of the Constitutional Court stating unconstitutionality of a law or of another normative act in full or in part shall repeal their effect in the territory of the Kyrgyz Republic, as well as the effect of other normative acts based on the act recognized as unconstitutional.

Decisions rendered by a court or by another legal practice body based on a normative act recognized as unconstitutional shall not be subject to execution.

A decision of the Constitutional Court on recognition of a normative act or of a part of the normative act as unconstitutional shall prevent from its publishing and entail recognition of the decision on implementation of such an act as repealed.

A decree of the Constitutional Court on termination of proceedings on a case shall deprive the parties to the proceedings of the opportunity to petition the Constitutional Court repeatedly on the same grounds and with the same demand.

Article 15. A Chairperson of the Constitutional Court of the Kyrgyz Republic

A chairperson of the Constitutional Court of the Kyrgyz Republic shall:

- 1) supervise the preparation of cases and other issues to be submitted to the session of the Constitutional Court for consideration;
- 2) call the Constitutional Court, submit the items for its consideration, and preside at its sessions;
- 3) annually forward messages reflecting the state of affairs concerning constitutional lawfulness in the Kyrgyz Republic, to the President, Jogorku Kenesh, and the Government of the Kyrgyz Republic;
- 4) determine the responsibilities of the deputy chairperson of the Constitutional Court and distribute the duties among the justices of the Constitutional Court;
- 5) arrange the work of the justices of the Constitutional Court and of its Office;
- 6) submit the Regulations of the Constitutional Court for approval by the latter;
- 7) present the candidate to the position of the Secretary of the Constitutional Court for approval by the Constitutional Court;
- 8) determine the measures ensuring holding of a session and safety of its participants and persons present;
- 9) approve the Regulation on the Constitutional Court Office, and its structure and staff;
- 10) sign decisions and certain decrees and protocols of the sessions of the Constitutional Court;
- 11) submit to Jogorku Kenesh proposals of the termination of powers of justices of the Constitutional Court based on the resolution of the Constitutional Court.

Article 16. A Deputy Chairperson of the Constitutional Court of the Kyrgyz Republic

A deputy chairperson of the Constitutional Court of the Kyrgyz Republic shall substitute the chairperson in the event of his/her absence or impossibility to perform his/her functions. The deputy chairperson of the Constitutional Court shall perform his/her functions in compliance with his/her responsibilities determined by the Chairperson of the Constitutional Court.

Article 17. A Secretary of the Constitutional Court of the Kyrgyz Republic

A secretary of the Constitutional Court of the Kyrgyz Republic shall be elected of the number of justices of the Constitutional Court for a five-year term.

The secretary of the Constitutional Court shall, along with performance of the duties of a justice of the Constitutional Court:

- 1) arrange the preparation of sessions of the Constitutional Court of the Kyrgyz Republic and take the action required for execution of the decisions rendered by the Constitutional Court;
- 2) arrange keeping and timely drawing up the protocols of the Constitutional Court;
- 3) sign rulings, certain decrees, and protocols of the sessions of the Constitutional Court of the Kyrgyz Republic; organize forwarding of official documents to the corresponding agencies, enterprises, institutions, officials, and citizens;
- 4) (? - transl. note);

5) exercise other powers in the manner provided by the legislation on the Constitutional Court of the Kyrgyz Republic.

Chapter V
Issues of Functioning of the Constitutional Court
of the Kyrgyz Republic

Article 18. Financial Provision of the Activities of the
Constitutional Court of the Kyrgyz Republic

The activities of the Constitutional Court of the Kyrgyz Republic shall be financed at the expense of the national budget.

Pro forma expenses of the Constitutional Court shall be determined at the session of Jogorku Kenesh upon submission by the chairperson of the Constitutional Court.

Article 19. The Attributes of the Judicial Power of the
Constitutional Court of the Kyrgyz Republic

The National Emblem, the National Flag of the Kyrgyz Republic, and an edition of the Constitution of the Kyrgyz Republic shall be placed in the courtroom of the Constitutional Court of the Kyrgyz Republic.

Justices of the Constitutional Court shall be wearing judge's gowns during the sessions. The description and the samples of the gowns shall be approved by Jogorku Kenesh of the Kyrgyz Republic.

Article 20. The Seal of the Constitutional Court of the Kyrgyz
Republic

The Constitutional Court of the Kyrgyz Republic shall have a seal with the National Emblem of the Kyrgyz Republic and with the Court's name.

Article 21. Location of the Constitutional Court of the Kyrgyz
Republic

Bishkek city, the capital of the Kyrgyz Republic, shall be the permanent location of the Constitutional Court of the Kyrgyz Republic.

The Constitutional Court shall normally hold its sessions in the place of its permanent location. The Constitutional Court may also hold its session in another place whenever it thinks it necessary.

President of the Kyrgyz Republic A.Akaev