



Freedom of Religion and Belief in the Kyrgyz Republic: Overview of the Legislation and Practice

Dmitry Kabak, Almaz Esengeldiev



<http://prava.kloop.kg>



<http://facebook.com/OpenViewpoint>



<http://twitter/OpenVP>



OpenVP@gmail.com

This publication was supported by



Organization for Security and
Co-operation in Europe

УДК 322
ББК 86.3
F86

**F86 Freedom of Religion and Belief in the Kyrgyz Republic: Overview of the
Legislation and Practice.** Dmitry Kabak, Almaz Esengeldiev – Bishkek: Open
Viewpoint Public Foundation, 2011. – 72 pages

ISBN 978-9967-26-534-9

This publication provides the overview of legal framework and religious freedom implementation practice and activity of religious organizations in the Kyrgyz Republic. The information collected is intended to facilitate improvement of religious freedom legal regulation considering constitutional norms and the international commitments of the Kyrgyz Republic.

The Open Viewpoint Public Foundation is mainly focusing on development of the legal provisions and means for protection of human rights. From 2009 to 2010 the foundation led the strategic litigation to protect the religious believers who suffered from torture and inhuman treatment, the lack of fair trial during the investigation and court hearings on the clashes of inhabitants with the law enforcement bodies in Nookat of October 1, 2008. The foundation provided with legal protection up to the Supreme Court of the Kyrgyz Republic as well as the international mechanisms such as the Special Mandate Holders, and was preparing the individual communications to the UN Human Rights Committee under the International Covenant on Civil and Political Rights.

In 2010 the Open Viewpoint Public Foundation took part in designing of the Human Rights Charter of the Kyrgyz Constitution as well as drafting the amendments to bring number of laws in line with the Constitution. There are laws on the access to information from the government bodies, the access to information from the private companies, on implementation of decisions of the international bodies, on the freedom of conscience and religious organization, on the peaceful assemblies as well as provisions that ensure human rights and set liability for their violations.

The Open Viewpoint Public Foundation is a member of the Human Rights Defenders Council of Kyrgyzstan that unites the representatives of the leading human rights organizations. Please find more information at:



<http://prava.kloop.kg>



<http://facebook.com/OpenViewpoint>



<http://OpenVP>



OpenVP@gmail.com

F0403000000-11
ISBN 978-9967-26-534-9

УДК 322
ББК 86.3
F86





© Open Viewpoint Public Foundation, 2011
© Dmitry Kabak
© Almaz Esengeldiev, Part 6



Freedom of Religion and Belief in the Kyrgyz Republic: Overview of the Legislation and Practice

Dmitry Kabak, Almaz Esengeldiev

This version incorporates feedback of the round table conducted on November 29, 2011

 <http://prava.kloop.kg>
 <http://facebook.com/OpenViewpoint>
 <http://OpenVP>
 OpenVP@gmail.com

This publication was supported by



Bishkek – 2011

Acknowledgement

Open Viewpoint Public Foundation would like to thank OSCE Office in Bishkek for the support that allowed collection of the information and enabled preparation of the review of the situation regarding religious freedom, as well as to thank Freedom House for consulting support related to religious study issues. The opinions containing in this publication do not reflect OSCE or Freedom House's views.

This study builds upon the results of the efforts related to development of the bill on freedom of religion and religious organizations elaborated in 2010 with the support of OHCHR, joint UNDP and European Union project, and upon the developments considered by the Working group of the Ministry of Justice of the Kyrgyz Republic.

Research team and staff members of Open Viewpoint Public Foundation – Dmitry Kabak, Gulshair Abdirasulova, Almaz Esengeldiev - appreciate the support provided by the representatives of religious and public organizations, academia, public authority and experts on religious studies and religious freedom issues to collect the relevant information and prepare this overview. Special gratitude should be expressed to Galina Kolodzinskaya, Aturkul Alisheva and Lilia Dendeberova for consulting during the period of this overview preparation.

The foundation appreciates openness and willingness to cooperate of the following public administration agencies:

- Presidential administration of the Kyrgyz Republic, and especially of the Department on ethnic and religious policy and interaction with civil society
- The State Commission on religious affairs
- The Ministry of Justice
- The State National Security Committee
- The Ministry of Education and Science

Taking into account legal regulation deficiencies identified, the organization anticipates that the Members of the Parliament will harmonize the legislation in accordance with the Constitution of the Kyrgyz Republic, and this particularly concerns the following members of the committees:

- the Committee on constitutional legislation, state system, legitimacy and local self-governance,
- The Committee on human rights, equal opportunities and public associations,
- the Committee on education, science, culture, information and religious policy
- the Committee on defense and security

The issues related to criminal sanction for the crimes concerning religious freedom and the issues that have not been addressed in the responses to the inquiries remained unstudied (the Ministry of Interior, Office of Public Prosecutor, Judicial Department) to be able to make conclusions based on objective information.

Preface

The new Constitution of the Kyrgyz Republic adopted in 2010 requires revision of a lot of normative and legal acts to enable observance of constitutional principles and guaranteed human rights and freedoms. At that, it is important to consider the international human rights and freedoms commitments of the country.

Once the provision of the Constitution on freedom of religion are amended, it is required to ensure their implementation by progressive legal norms. Clear identification of competences of different public administration agencies will address the issue of responsibility and effective protection of human rights. The provisions related to prohibitions should be stipulated in Criminal Code and in the Code on administrative liability, and should be revised as appropriate to suppress violations and to enable effective combating illegal actions. With this approach due mechanism of legal (judicial) protection will be ensured.

In 2010, the provisions related to freedom of religion along with other human rights and freedoms were stipulated in details in the Constitution of the Kyrgyz Republic. At the constitutional meeting and later on at the session of the Working group under the Ministry of Justice of the Kyrgyz Republic, experience of the Kyrgyz Republic and of the international community was considered and the international commitments of the state were incorporated. The experts carried out this work with the support of OHCHR, joint UNDP and European Union project, OSCE/ODIHR and other partners. Universal list of human rights and freedoms appeared in the Constitution and approaches were identified to imposition of these rights restriction.

In 2008, amendments were introduced to the law “On freedom of religion and religious organizations” that limited activity of religious organizations. The Constitution adopted in 2010 requires new principles and the relevant approaches to religious freedom regulation integration, including consideration of diversity in the society, secular nature of the state, equal rights of all citizens and equal legal status of religious associations. The legal provisions should develop constitutional norms related to state system, freedom of conscience, and prohibition provisions. The rights of believers and their associations should be stipulated considering human rights and freedoms; and identification of competences of public administration bodies and enforcement measures should be made.

In 2010, the relevant developments were submitted to the Working group under the Ministry of Justice, but further consideration was suspended. In 2011, Open Viewpoint Public Foundation submitted the bill to profile committees of the Parliament as the proposals on how to enable religious freedom in effective way. These developments were discussed with religious organizations, and legal and religious expert examination was carried out with participation of Ombudsman office (Akyikatchy).

The required information was collected to overview the situation in the sphere of religious freedom, including by the interviews conducted with religious leaders and public officials. Based on situation overview it becomes possible to improve legal regulation of religious

freedom sphere and religious organizations' activity. This overview provides understanding of the issues that require attention of the lawmakers, executive authorities, academia representatives dealing with enforcement and protection of human rights and freedoms and with the tasks related to human world outlook formation.

On efforts upon overview preparation

Respect of diversity. The study covered large and small communities of various religions, reviewed features of organizations represented in the capital city and the ones working in the regions.

Instruments. The questionnaire was developed for the interviews. The survey was performed in the form of semi-structured interviews. Some questions concerned general information about the organizations, the character of relations between the state and religious organizations, possible solutions regarding legal regulation of activity, including taking into account peculiarities of religious organizations.

Research team was interested in the cases related to involvement of religious organizations to election campaign by political actors, implementation of educational and charity activity by the organizations and their work in social and closed institutions.

The question was asked regarding attitude of religious organizations' doctrine to marriage registration, military service, taxation, and burial issues. In addition, presence of mass media with organizations and the character of relations with public and private mass media were identified.

Survey participants. The interviews were carried out in Bishkek city and in Chui oblast, in Osh and Jalal-Abad cities to collect the information about religious organizations, and to receive their feedback regarding impact of legal framework on meeting needs of believers and their associations. The survey covered the representatives of religious organizations of different trends that have large or small number of members.

The information was requested from legal assistance centers to identify legal disputes related to religious freedom issues, including by popular mailing lists в KelKel, Birge and Hr-Kyrgyzstan. The number of responses was insignificant, most part of the information was received during personal meetings. Search of information for Kyrgyzstan related to religious freedom was made with the help of search systems.

Consultations were carried out with several members of Public Supervisory Council (including lecturers of Kyrgyz State University and Kyrgyz-Russian Slavic University), acting and former staff members of the State Commission on religious affairs.

To gain understanding of features of organizations regarding geographical area of activity, in October 2011, trips to Osh and Jalal-Abad cities were undertaken, where interviews were also

carried out. The study was performed regarding proceedings against religious communities: members of Jehovah's Witnesses, who were charged for affiliation with Hizb ut-Tahrir prohibited party, and regarding appeal against the decision of the State Commission on religious affairs regarding Evangelic –Christian –Missionary Center "Blagodat" (Grace).

Inquiries to receive the information from public authorities. 16 inquiries were sent to receive the information from public authorities, for which 12 responses were received as of the date of this publication preparation. In one instance, it was denied to provide the information, due to the fact that the law provides for payment for each inquiry to the State register of legal entities. Four inquiries remained unanswered. The office of Public Prosecutor General failed to provide the information in a view of the fact that its archive was burnt on April 7, 2010, and redirected this inquiry to Information-analytical center of MI. The Ministry of Justice requested additional time in a view of requirement to collect the data from oblast justice system departments.

Not all responses received contained the required information. Two inquiries had to be sent repeatedly to remind about expired term, or to request to specify the information. The information was provided for one repeated inquiry. Part of the information was obtained due to personal communication, or with assistance of other public administration agencies. Lack of some information caused failure to make certain conclusions based on the information. The work with inquiries illustrated the state of affairs regarding the right to access to information in the competence of public administration agencies.

Round table in Osh city. Round table was conducted in Osh city on October 20, 2011, where the issues were discussed regarding legal regulation of religious freedom and activity of religious organizations. The provisions of the Constitution of the Kyrgyz Republic were considered along with the issues related to legal framework improvement. The participants were presented the bill on religious freedom and religious organizations (see Annex 1) developed within the frame of the efforts on harmonization of the legislation with the Constitution of the Kyrgyz Republic (in 2010, this bill was considered by the Working group of the Ministry of Justice and after certain changes it was submitted for consideration of the Government).

The representatives of religious organizations surveyed were invited to take part in the round table, along with the lecturers of theological department of Osh State University and public officials from the State Commission on religious affairs for southern region, Ombudsman of Osh city and Osh oblast, and department of internal affairs of Osh oblast, Office of Public Prosecutor of Osh oblast and the representative of the President in Osh region.

Promotion of legal framework improvement on religious freedom and regulation of activity of religious organizations. The bill on religious freedom and religious organizations developed in 2010 was presented to six Committees of the Parliament to bring the legislation in line with the Constitution KR (three of them provided responses), meetings with two representatives of the apparatus of the Parliament were conducted.

Earlier the bill was reviewed by the Working group of the Ministry of Justice, but was not submitted by the Government for consideration of the Parliament. The bill was used as material

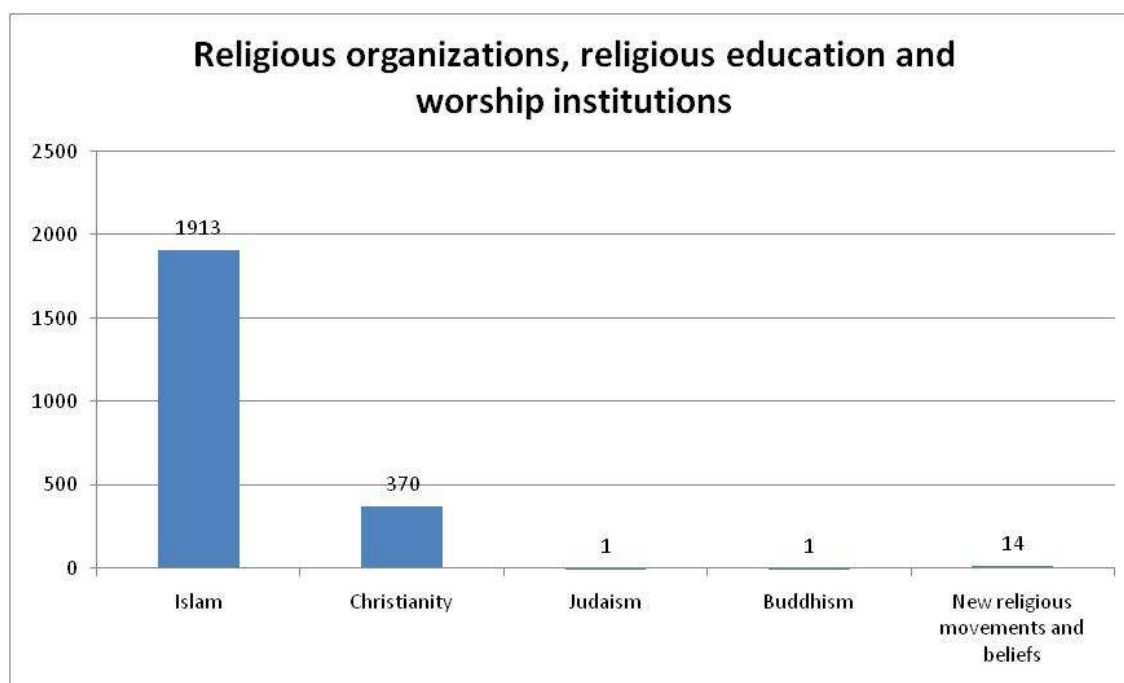
to carry out legal and human rights protection expert examination by the staff of the office of Ombudsman (Akyikatchy). The international and national consultants were involved to the process of this bill elaboration in 2010, including Roman Podoprighora – former member of OSCE/ODIHR expert group on religious freedom, Almaz Esengeldiev and Dmitry Kabak. OHCHR and joint UNDP/European Union project on constitutional reform promotion supported the work on the bill in 2010.

Part 1. General information

Religions practiced in the Kyrgyz Republic and religious associations of believers

The religious associations and organizations of the following trends passed record registration in the Kyrgyz Republic¹: **Islam** (the Spiritual administration of Moslems of Kyrgyzstan, its regional kazyats, other Islamic associations and organizations), **Christianity** (Orthodox, Catholics, Baptists, Christians-Seventh-day Adventists, Pentecostal movement members, Lutherans, Presbyterians, Charismatics, foreign confession missions, non-denominated organizations of Protestant trend, Jehovah's Witnesses), **Judaism**, **Buddhism**, and associations referred to **new religious movements**² – Bakhai, United methodology church (Methodism)³, Scientology Church.

Classification of religious movements and trends used by the State Commission on religious affairs is considered in Parts 1 and 3 of this overview. Practical application of classification used by authorities is of importance in a view of comparison with legal norms, and in terms of consequences for implementation of religious freedom.



¹ The information of the State Commission on religious affairs (outgoing #02-16/604 as of August 02 , 2011), and specifications received with facilitation of the Department on ethnic and religious policy and interaction with civil society of Presidential administration (outgoing #10-73-11013 as of October 14, 2011).

² From the interviews with the experts: indicated by the State Commission on religious affairs non-denominated churches are Evangelic churches, some of them refer to missionary campaigns (for example, all churches with the title "Word of life" are part of missionary campaigns with single doctrine).

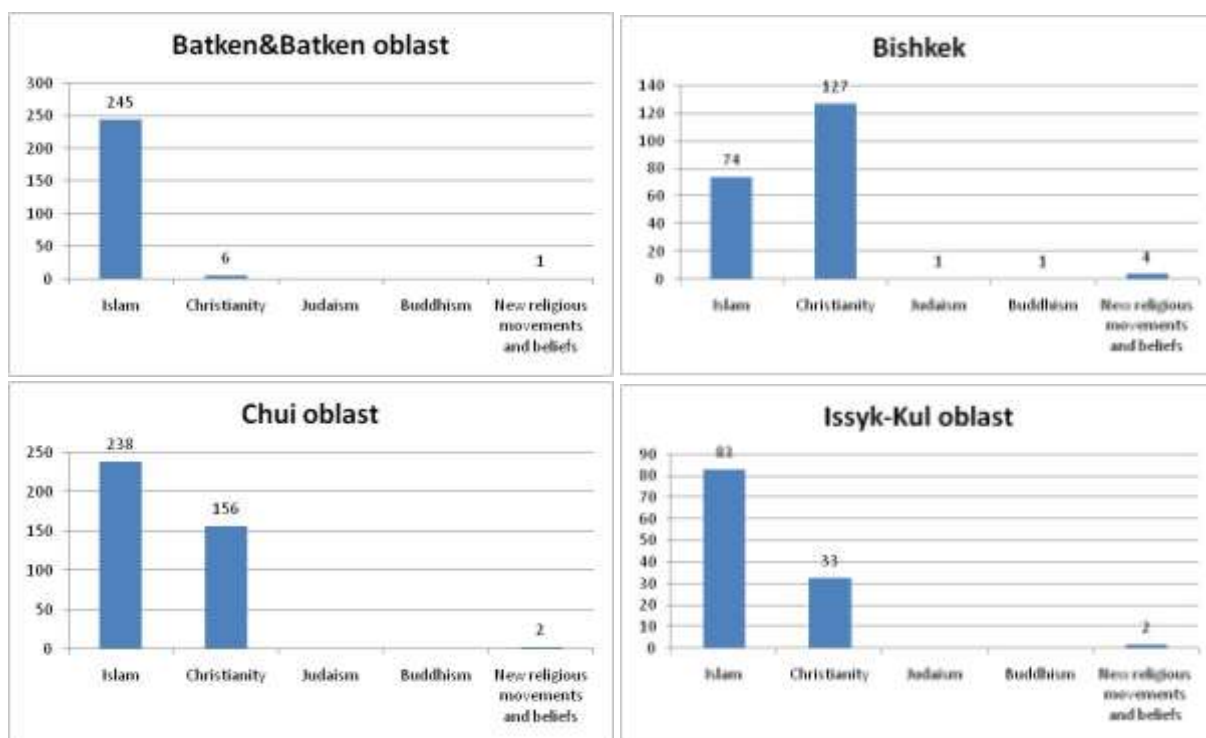
³ Attribution of United methodology church to new religious movements requires correction, since it is referred to Protestantism; and based on the form of divine service is close to Catholic church and Lutheran church. This church is second largest in England.

The diagrams provided are made based on the data of record registration of the State Commission on religious affairs that summarizes the information about the number of religious organizations, their branches (representations), and the number of religious facilities.

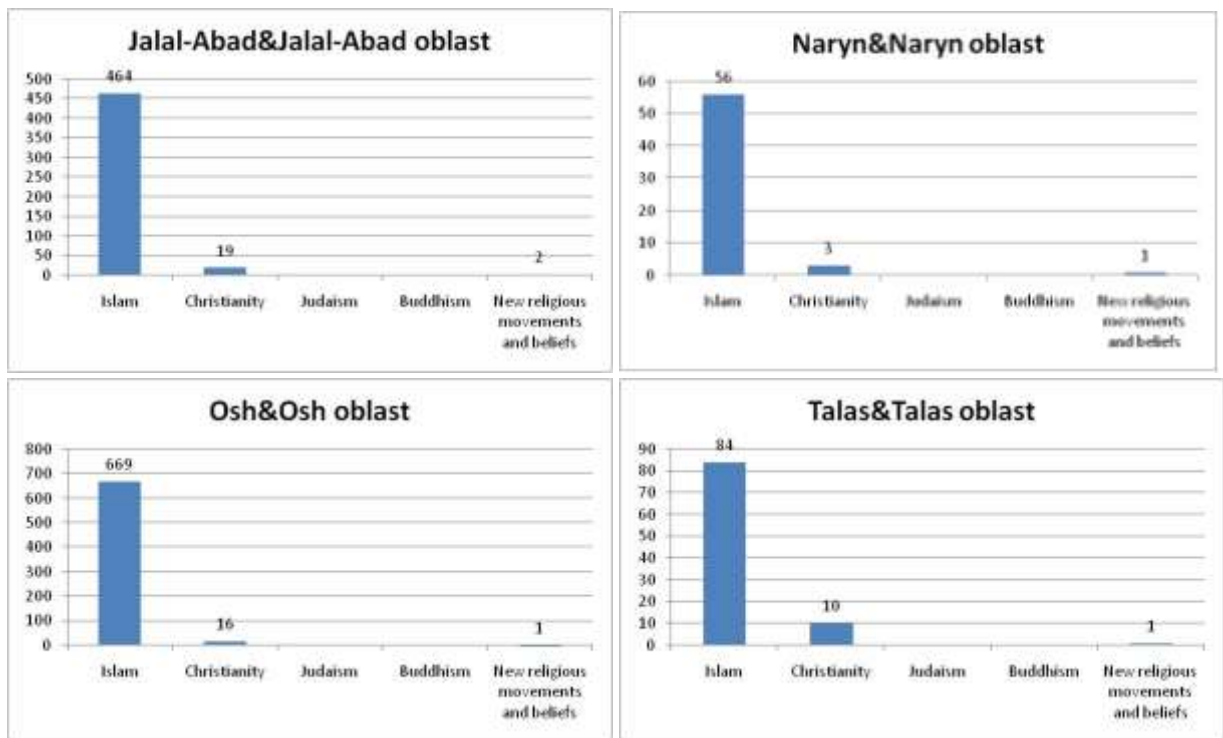
The main territories where religious movements and beliefs are spread in the Kyrgyz Republic

The diagrams below demonstrate areas where religious movements and beliefs are spread on the territory of the Kyrgyz Republic. These diagrams are based on record registration data for religious organizations and religious facilities, which does not reflect real picture of affiliation of citizens to particular religion. It should also be noted that, according to article 18 of the International Covenant on Civil and Political Rights,⁴ atheistic views are also considered as a part of religious freedom. However, atheistic views were not addressed in this overview.

Record registration data gives some ideas on the areas where religious organizations and religious facilities are located of different religious trends.



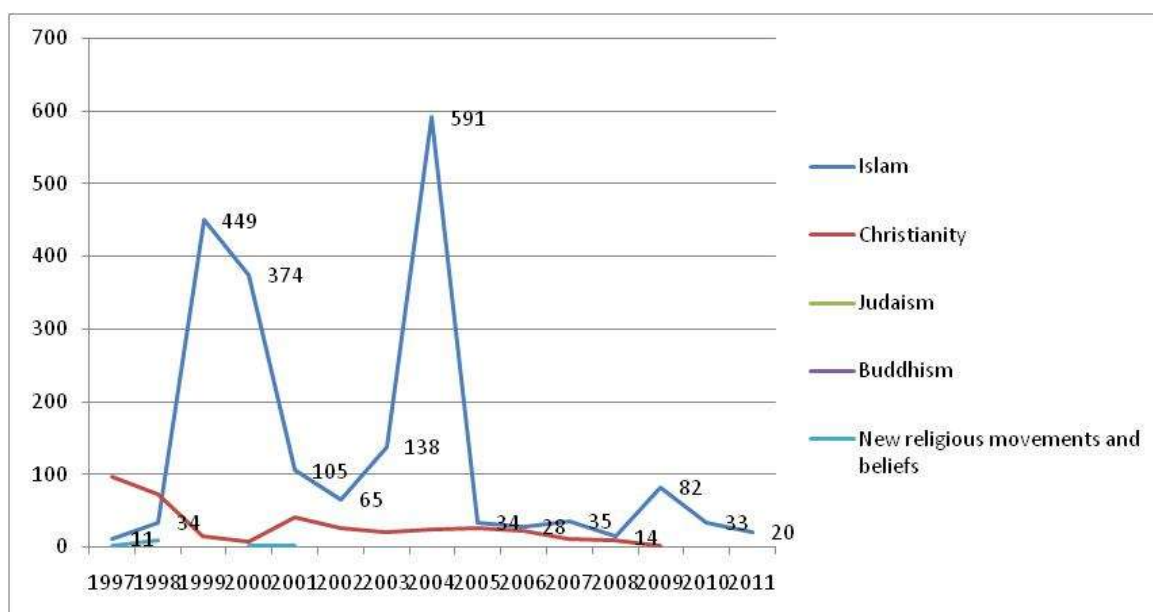
⁴ the Kyrgyz Republic joined the Covenant on October of 1994, and it was made effective in the Kyrgyz Republic on January 7, 1995.



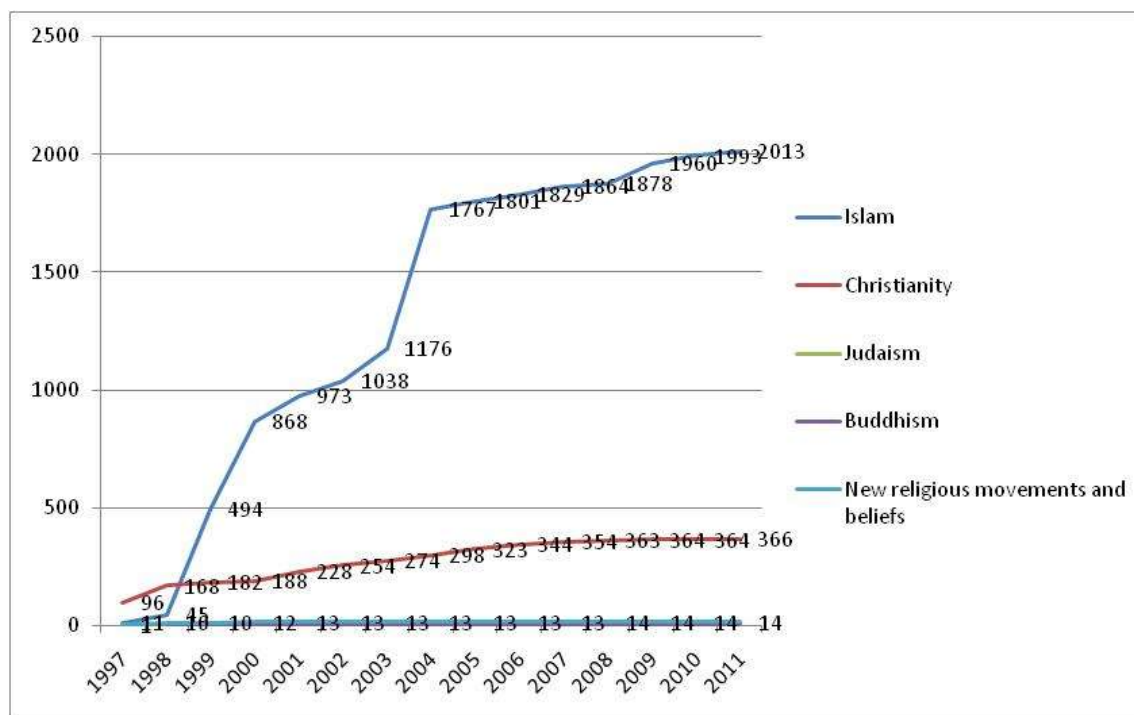
In a view of lack of information from justice bodies, it is impossible to compare record registration data of the State Commission on religious affairs in terms of belonging of the facilities to particular legal entities (organizations).

Dynamics of record registration of religious organizations and religious education institutions

The diagrams below demonstrate the dynamics of record registration of religious facilities belonging to different confessions summarizing the information on religious organizations and religious education institutions. Growth of record registration numbers for Islamic facilities was observed during 1999-2000 (449 and 374 facilities) and in 2004 (591 facilities).



Before 2000, Christian organizations' record registration dynamics was reduced (from 1996 – up to 6 cases), after increase in 2001 (40 facilities), further from 2002 to 2006, new facilities registration dynamics was maintained constant (varied between maximum value of 26 and minimal value of 20).



Growth of dynamics was observed in 1998 for new religious movements (10 organizations were registered), then one organization was added in 2000 and in 2001 (made up 12 and 13 organizations, respectively). Further, during six years (from 2001 to 2007) no new facilities were registered. In 2008, another organization was registered (total number made up 14). In a view of small number, one cannot see the information in the diagram about registration of organizations belonging to Judaism and Buddhism, and of the ones referred to new religious movements and beliefs.

Comparison of legal entities registration data of justice bodies and the record registration data of the State Commission on religious affairs

It is only possible to compare registration information for legal entities with the record registration data for the period from December 31, 2008⁵ to August, 2011: justice bodies registered 28 religious organizations with legal entity status⁶ during this period. 135 Islamic facilities were registered during this period and 3 Christian (Orthodox) facilities⁷. Without registered mosques (112) the number of other Islamic facilities (Islamic higher education institutions, madrassas, other Islamic organizations) made up 23, while Christian (Orthodox) facilities made up 3. Total 28 registered legal entities fall at 26 record registration facilities. Thus, after adoption of new law only Islamic and Christian Orthodox organizations were registered.

⁵ From the date of adoption of new law KR "On freedom of religion and religious organizations in the Kyrgyz republic".

⁶ From the response of the Ministry of Justice (#03-6/6992 as of 04.08.2011).

⁷ From the response of the Department of ethnic, religious policy and interaction with civil society (#10-73-11013 as of 14.10.2011), according to the information of the State Commission on religious affairs.

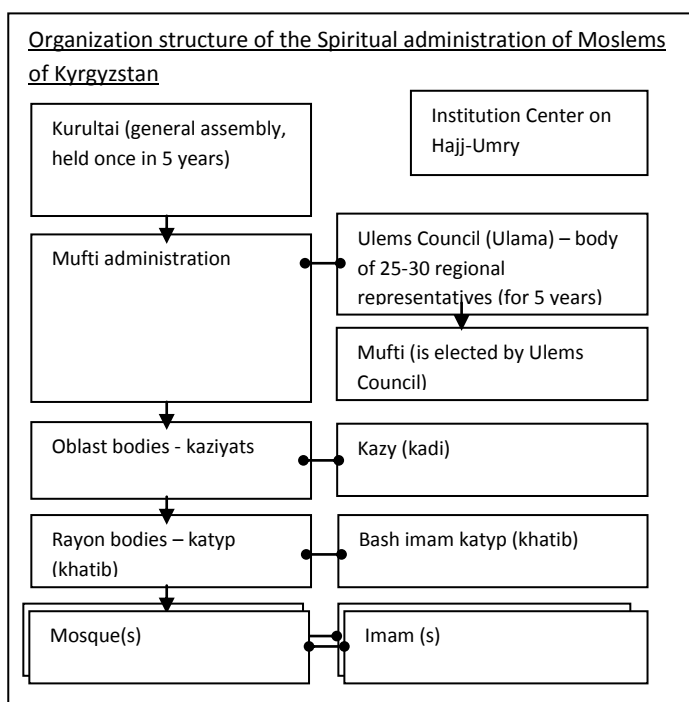
Islamic religious organizations

At the international level, Islamic organizations are lacking hierarchy and single structure, in some cases it may exist at the level of the state. This fact has to be taken into account while considering the issues of legal regulation of religious organizations' activity, and especially in relation to legal entities (organizations) in civil law.

In Kyrgyzstan, Islamic organizations are represented by the Spiritual administration of Moslems of Kyrgyzstan and by other Islamic associations⁸. At the moment there is no information on demarcation of mosques and religious education institutions based on confessional affiliation.

Spiritual administration of Moslems of Kyrgyzstan

The Spiritual administration of Moslems of Kyrgyzstan (hereinafter referred to as SAMK) is the largest association of Moslems in the Kyrgyz Republic that has headquarters in Bishkek and regional representations – kazyats⁹, acting at oblast level and in oblast cities Bishkek and Osh headed by religious leaders – kazy (kadi). Imam-katyps (khatib) are rayon level religious leaders. Imams are mosque leaders



Organization structure of Mufti administration

1. Mufti
2. Deputy Mufti
3. Heads of departments
 - a. Secretariat
 - b. Education institutions department
 - c. Mosques department
 - d. Dawat department
 - e. Legal department
 - f. Religious movements department
 - g. Press service
 - i. Newspaper
 - ii. Website

SAMK has the following governance bodies¹⁰: 1) Kurultai (general assembly), called once in five years, 2) Ulems Council (Ulama) – a body comprised of 25-30 regional representatives (for 5 years term), 3) Mufti administration – executive body headed by Mufti elected by Ulems' Council (Ulama). Mufti has deputies and advisor. Mufti administration has departments managed by heads of departments. Republican

⁸ According to record registration data of the State Commission on religious affairs.

⁹ Spiritual administration subordinate to kazy or kadi (there is no analog in Russian).

¹⁰ From the interview with Usur Loma, the Chair of public association of Dungans "Fanchin", former advisor of Mufti of Kyrgyzstan.

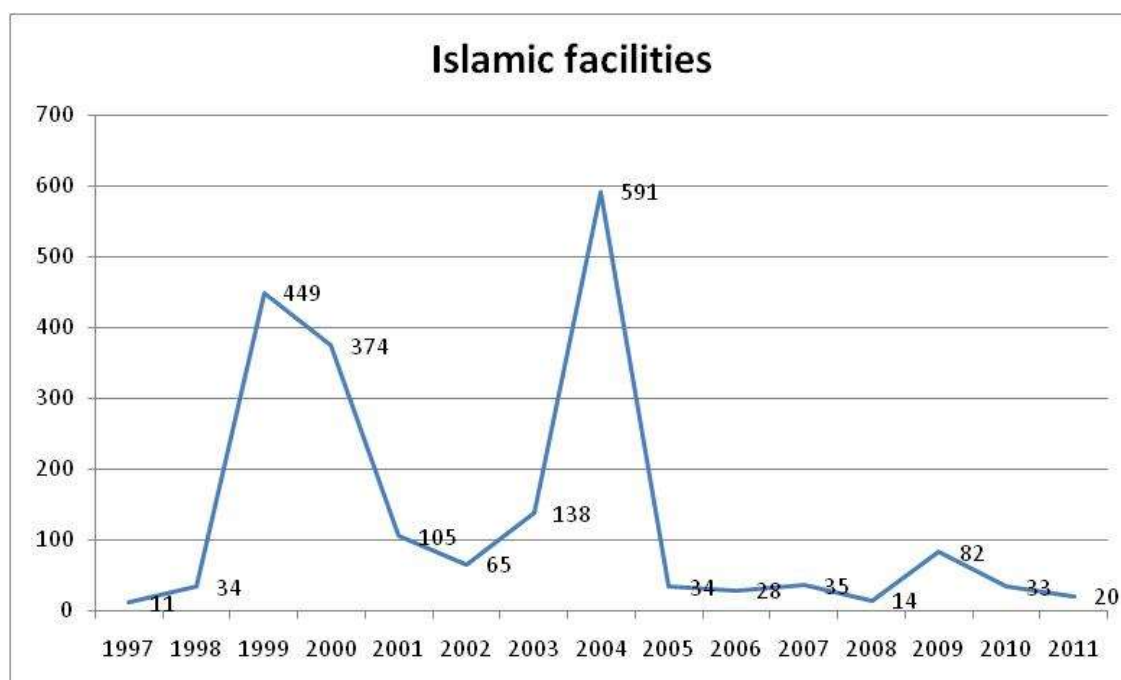
headquarters was established annually to deal with hajj arrangement. In 2011, this function was entrusted to specially established legal entity – Institution “Center on Hajj-Umry”¹¹.

Other Islamic associations

The organizations referred to a group of “other Islamic associations” by record registration data of the State Commission on religious affairs are not included to the Spiritual administration of Moslems of Kyrgyzstan and have their own governance bodies, their regional representation is defined by available capacity. In the information provided there is no list of organizations included in this group.

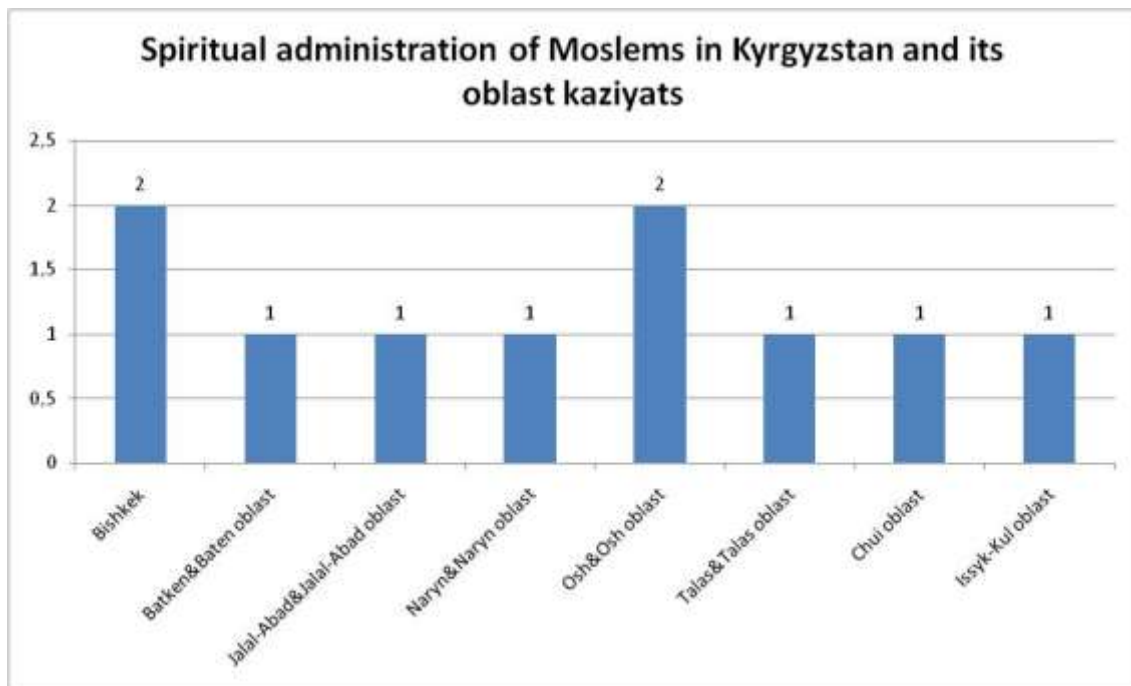
Dynamics of record registration of Islamic organizations

From 1997 to 2003, formation of oblast kazyats of the Spiritual administration of Moslems of Kyrgyzstan occurred in three stages: two of them were established in 1997, two - in 1999 and one - in 2000, and then four - in 2003. Growth of the number of mosques determined the dynamics of record registration of Islamic organizations; peaks were observed in 1999 (437 facilities) and in 2000 (367 facilities). The next peak occurred in 2004 (471 mosques) against 120 mosques in 2003 and 21 mosques in 2005. And then another peak occurred in 2009 (76 mosques).

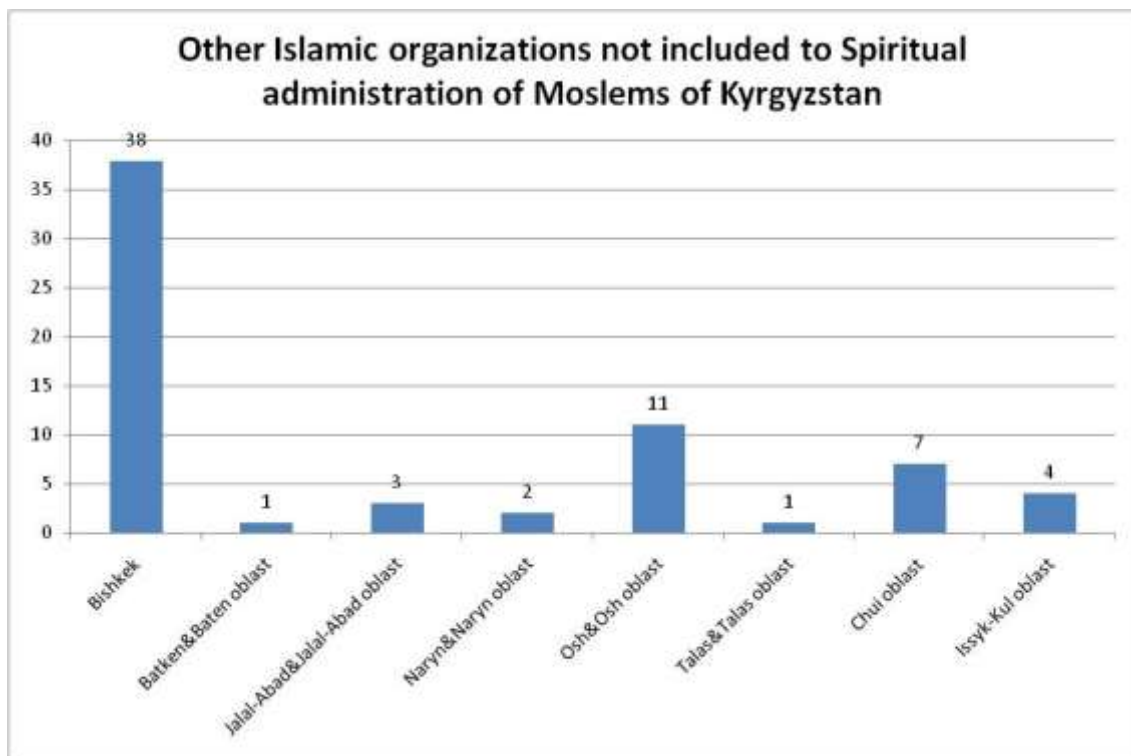


The number of other facilities that passed record registration is small compared to the number of mosques: madrassas (maximum growth - 12 facilities in 2004) and other Islamic associations and organizations (maximum growth - eight facilities in 2003 and in 2004).

¹¹ See website of the Parliament, session of the Committee (reduced reference) <http://is.gd/gynTsH>



The diagram shows the information on location of central authority and regional representations of the Spiritual administration of Moslems of Kyrgyzstan.



The information on other Islamic organizations and associations summarizes the data about the number of religious organizations, their regional representations and religious facilities. This information will

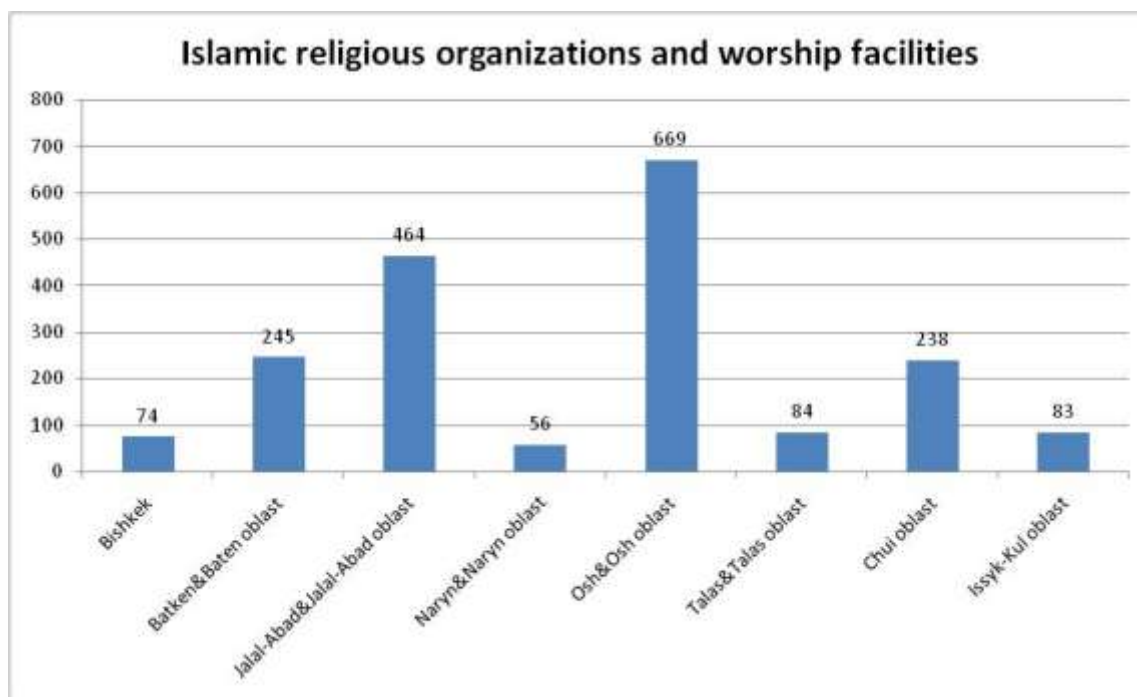
look differently when considered in the light of their belonging to legal entities, and from the perspective of demarcation of mosques and religious institutions based on confession affiliation¹².

In a view of absence of the information from justice system bodies, it is not possible to compare record registration data of the State Commission on religious affairs in terms of belonging of the facilities to particular legal entities (organizations).

Analysis of record registration data of Islamic organizations and facilities

Record registration data of Islamic associations and organizations requires specification. This information summarizes the data on independent legal entities, their branches (representations), and on mosques that are not organizations, but rather places for religious practice.

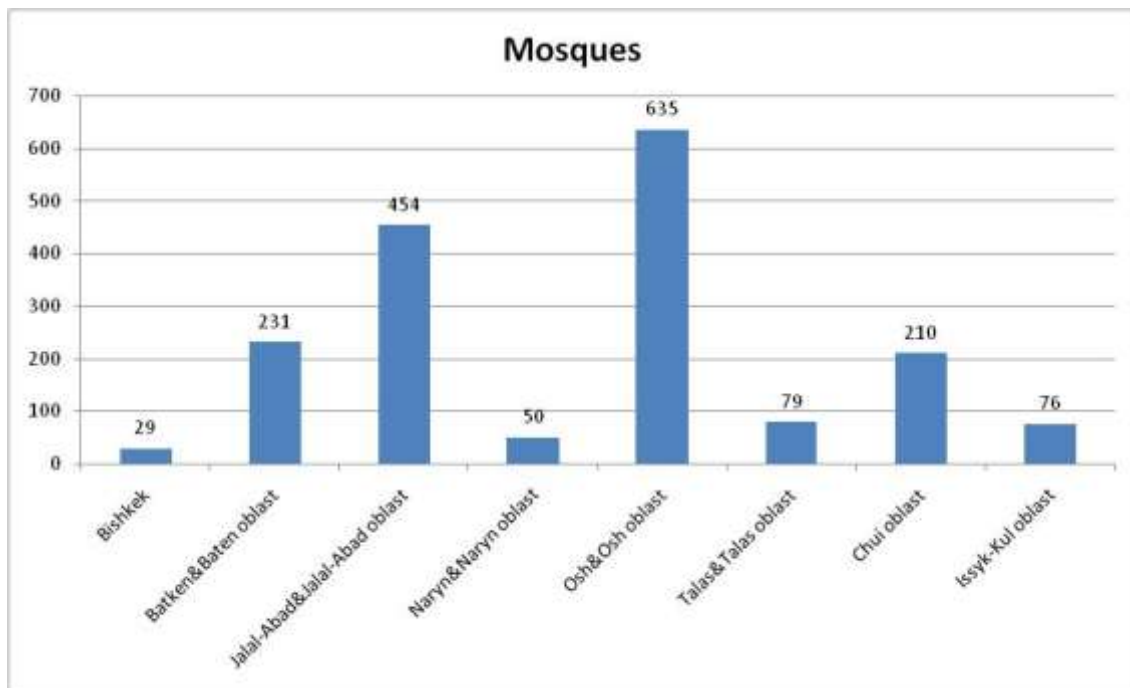
Improvement of the legislation aimed at removal of controversy norms, enhanced effectiveness of interaction between authorities and religious associations and education and awareness raising efforts for law enforcement officers on religious freedom and activity of religious organizations should facilitate due provision of constitutional guarantees and removal of contradictory interpretation of the law and resulted deficiencies of practice.



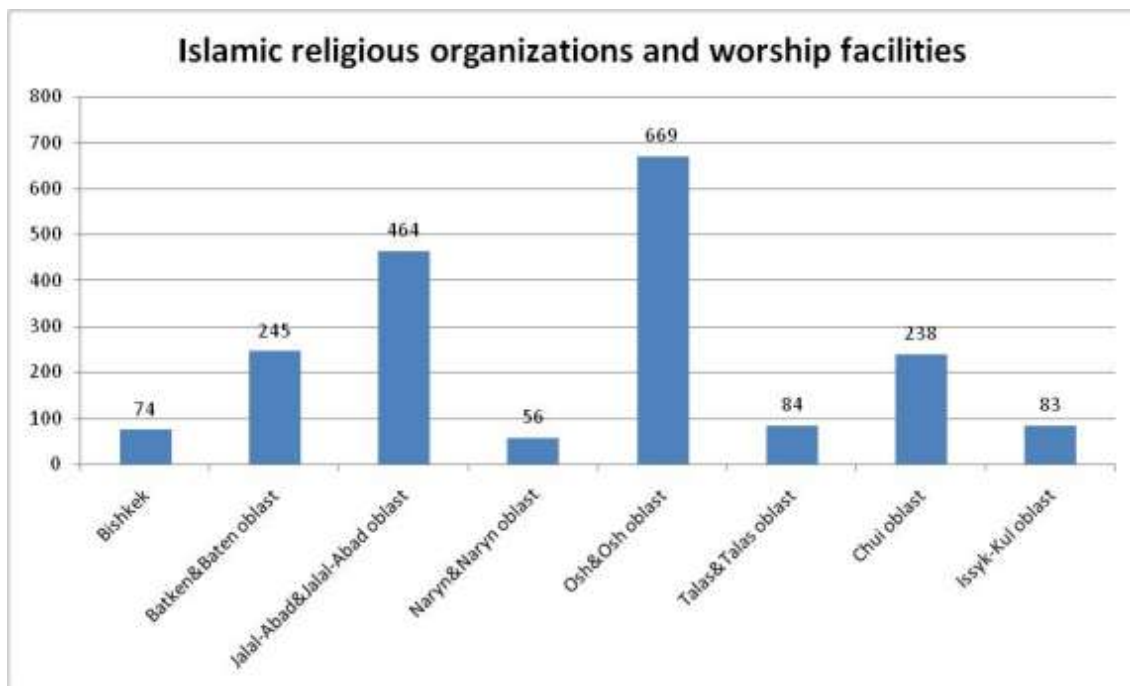
In the information on record registration the data about madrassas¹³ is distinguished that most often act in the mosques. This feature should be considered when addressing improvement of record registration and development of the legislation on religious organizations and religious education.

¹² The following Islamic movements are present in Kyrgyzstan among new Islamic movements: Akhmadi Islamic community (another name is Kadiani), and possibly Subud movement, which is present in Russia. Black Islam and Moor-American temple of science are known in the world as well.

¹³ As a rule, madrassa is considered as religious education institution, whereas it deals with spiritual upbringing sphere.



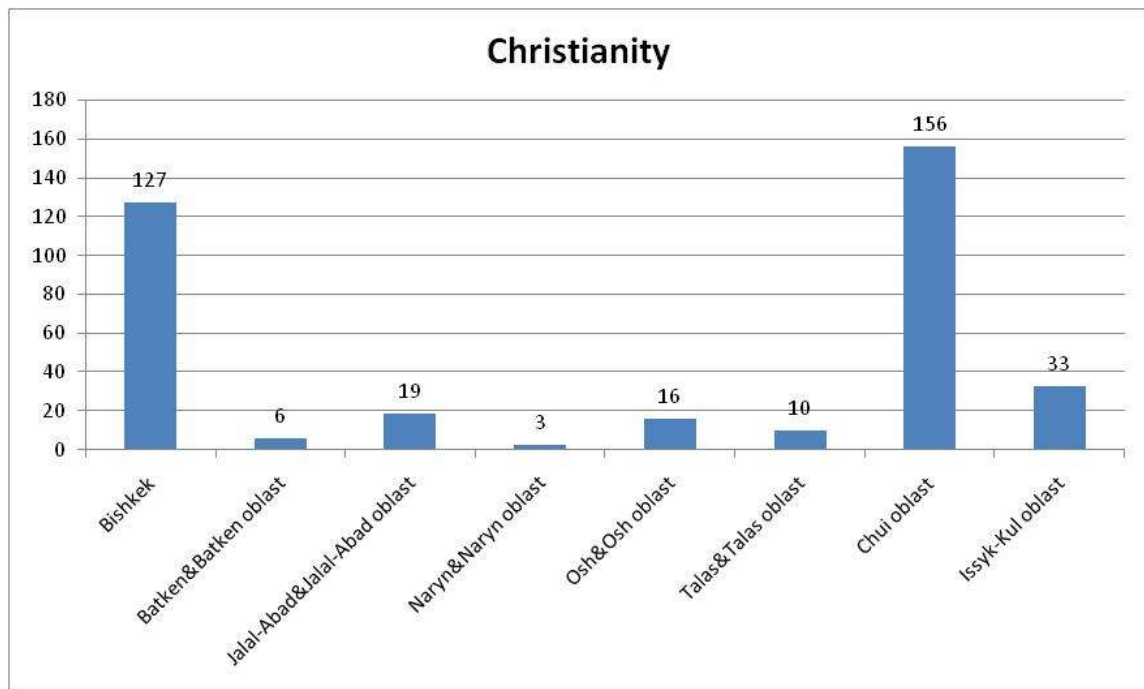
In a view of lack of information from justice bodies it is impossible to compare record registration data of the State Commission on religious affairs in terms of belonging of the facilities to particular legal entities (organizations).



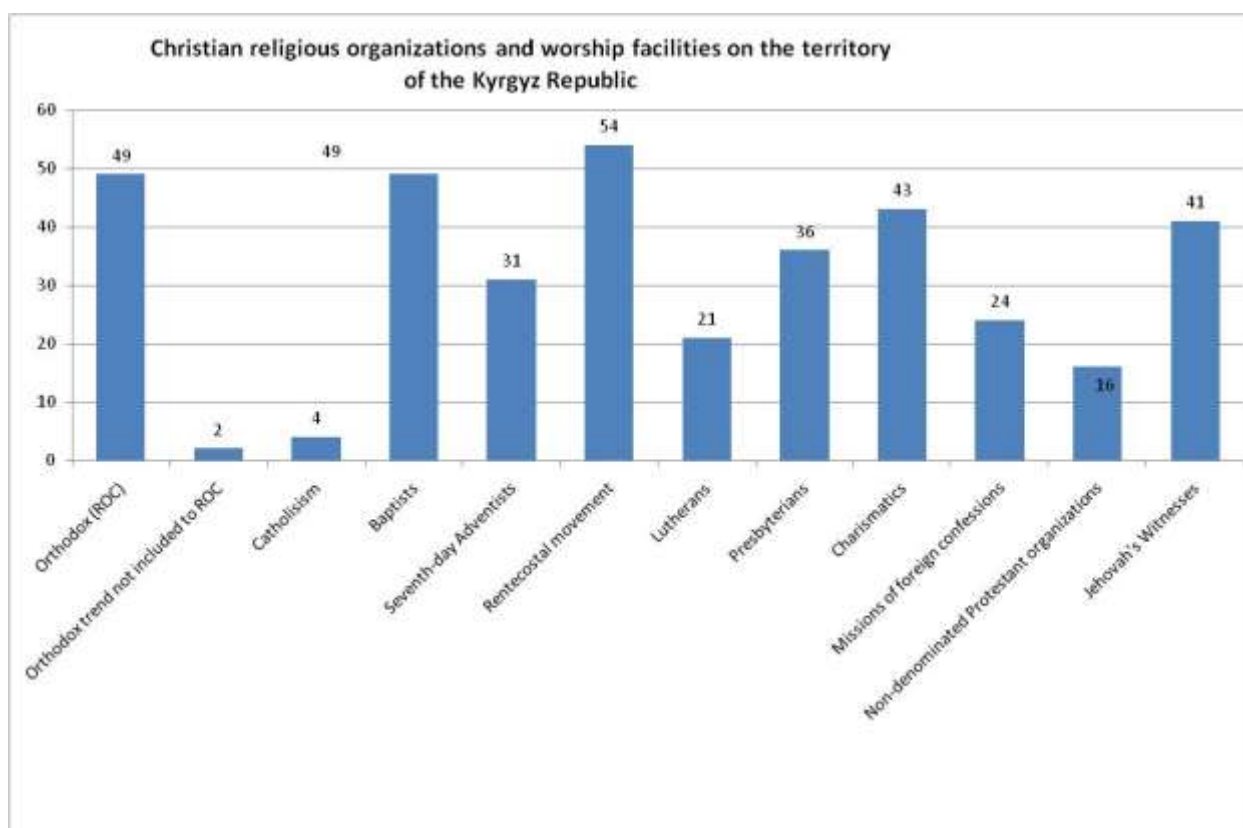
The information containing in record registration data of Islamic education institutions will be considered in the relevant section dedicated to religious education and training of human resources of religious organizations. The State Commission on religious affairs (hereafter referred to as SCRA) deals with record registration of only religious (theological) education organizations. Higher education institutions where religious study subject is taught are secular, those institutions are not subject of record registration with SCRA.

Christian religious organizations

There are various Christian organizations with different approaches to religious doctrine. The diagram given below demonstrates record registration data for different Christian religious organizations and facilities used for worship, education, religious ceremonies and etc.



The following Christian organizations are present in record registration data: Russian Orthodox Church, Old Believers community, Old Orthodox Christians community; Catholic Church; Protestantism (Baptists, Pentecostal movement, Lutherans, Reformed Church, Seventh-Day Adventists, Bible-Christians, Presbyterians, Charismatics), Jehovah's Witnesses. In record registration data there are terms "non-denominated organization of Protestant trend" and "mission of foreign confession", which are not applicable to classification of religious affiliation.



There is hierarchy in Christian organizations at global level among Orthodox and Catholic religious organizations. Most often there is hierarchy at the local level excepting cases when independent churches are being established. Understanding of this specifics is of importance for development of legal norms that regulate establishment, reorganization and liquidation of religious organizations as legal entities and for assignment of governance bodies.

Buddhism

Buddhistic community is represented in Kyrgyzstan by single organization – religious Buddhistic society “Chamsen” registered in Bishkek.

Judaism

Judaism is represented by Jewish religious community in Bishkek.

New religious movements and beliefs¹⁴

Bakhai¹⁵ movement has 12 communities (community of the Kyrgyz Republic, in Bishkek, Kara-Balta, Kant, Karakol, Balykchy, Osh, Kyzyl-Kiya, Maili-Suu, Tash-Kumyr, Talas and in Kochkor village).

Messianic Jewish community “Beit Joshua”¹⁶ – 1 community registered in Bishkek.

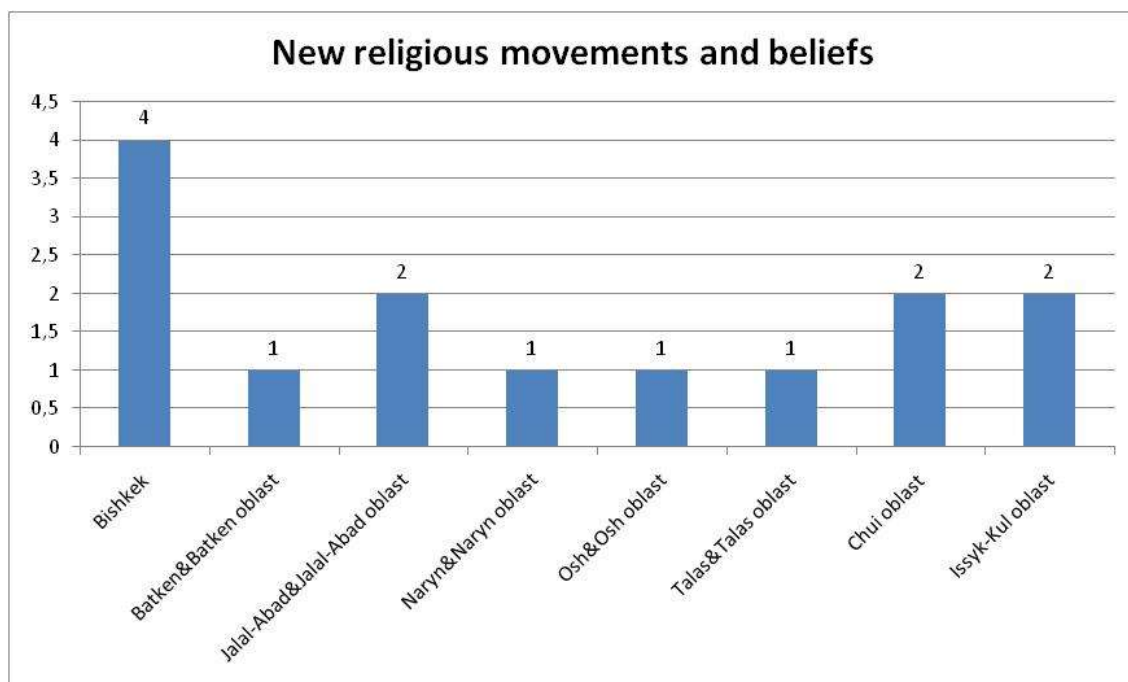
¹⁴ In this list there is no Akhmadly Islamic community that was registered earlier in Bishkek, however, its record registration was suspended by the State Commission on religious affairs.

¹⁵ In religious studies is referred to new movement that originated from Islam.

¹⁶ Jewish - messianic movement referred to Christianity.

Lutheran church “Concordia”¹⁷ – 1 community registered in Bishkek.

Scientology Church, scientology doctrine¹⁸ – 1 community registered in Bishkek.



Missions of foreign confessions¹⁹

Missions of foreign confessions included into record registration data are represented by two trends:

- Christian trend (new apostolic Christians: 2 communities in Bishkek and Kara-Balta) and 1 institution “Transworld radio in Central Asia” (Bishkek)²⁰.
- Protestant trend – Bishkek (13 communities), Chui oblast (5 communities), Osh oblast (1 community).

¹⁷ Has a status of a mission of foreign confession.

¹⁸ According to the information of the State Commission on religious affairs: the center is located in Los Angeles, USA and does not have official status of religious organization in the world.

¹⁹ In addition, messianic Jewish community “Beit Joshua” is referred to foreign confession that SCRA attributes to “other religious movements”.

²⁰ In record registration data of the State Commission on religious affairs is in the category “Missions of Christian foreign confessions”, although could be attributed to mass media based on the name (activity).

Part 2. On public policy of the Kyrgyz Republic in the sphere of religion

Public policy in the sphere of religion is stipulated in the section dedicated to basic principles of constitutional system of the Constitution of the Kyrgyz Republic: any religion cannot be established as public or mandatory religion; religion and all cults are separated from the state, interference of religious associations and religious leaders into the activity of public administration bodies is prohibited²¹.

Establishment of political parties on the basis of religion and pursuing political objectives by religious associations is prohibited²². Activity of religious associations aimed at forced change of constitutional system, undermining national security, stirring up international, inter-ethnic and religious enmity²³, and propaganda of religious hatred, social superiority causing discrimination, hostility or violence²⁴ is prohibited.

The Constitution contains universal definition of religious freedom²⁵, and regulates approaches to restriction of the right to religious freedom²⁶. This concerns prohibition for expression of opinions, religious or other views or refusal from those, as well as recognition of the right of everybody to have and choose religious views.

Each person shall be entitled to perform any acts and activity, excepting acts and activities prohibited by this Constitution and by the laws (article 18 of the Constitution). The state and its bodies shall serve the society as a whole, rather than a part of it (part 1 of article 5 of the Constitution). The state, its bodies, local self-governance bodies and their officials shall not go beyond powers defined by this Constitution and by the laws (part 3 of article 5 of the Constitution).

Constitutional provisions should be interpreted in other normative and legal acts – in the law on religious freedom and religious organizations, in the regulations of the State Commission on religious affairs, in the provisions regarding responsibility for preventing implementation of religious freedom. Analysis of the law on religious freedom (see Part 6) provides evidence of legal framework deficiency concerning religious freedom, regulation of public relations in the sphere of religion, ensuring equality, and the requirement to revise powers of public administration bodies.

Training of public administration bodies' staff on religious issues, human rights and freedoms facilitates religious freedom. Education regarding diversity of the society and practiced religions facilitates fighting stereotypes, increasing tolerance and understanding public policy. This activity positively impacts strengthening of the state system, confidence in public administration bodies and their officials, formation of world outlook, fostering critical attitude to those organizations that use religion for illegal purposes.

²¹ Article 7 of the Constitution of the Kyrgyz Republic adopted by the referendum conducted on June 27, 2010.

²² Item 3, part 4 of article 4 of the Constitution of the Kyrgyz Republic.

²³ Item 5, part 4 of article 4 of the Constitution of the Kyrgyz Republic.

²⁴ Item 4 of article 31 of the Constitution of the Kyrgyz Republic.

²⁵ Article 32 of the Constitution of the Kyrgyz Republic.

²⁶ Article 20 of the Constitution of the Kyrgyz Republic.

Part 3. Review of practice and analysis of the data obtained

Different categories mixing in record registration

Legal entities, their branches and representations, religious education institutions, and religious facilities (mosques, churches, oratories)²⁷ are included in record registration of the State Commission on religious affairs. In this view, it is required to distinguish the notions “religious association” (confession or faith), “religious education institution” (madrassa, seminary, theological university) and “religious facility” (church, mosque, namazkana, including those established in municipal buildings).

Difference between registration data of the institutions of justice (legal entities) and record registration of the State Commission on religious affairs

440 legal entities are registered with the institutions of justice of the Kyrgyz Republic that passed record registration in the State Commission on religious affairs under the Government of the Kyrgyz Republic. These entities include religious organizations and organizations registered in other organizational-legal forms²⁸. Single state register of legal entities, branches (representations), which is maintained by the Ministry of Justice, includes 339 religious organizations, two of which ceased to exist²⁹.

The data of record registration of the State Commission on religious affairs looks different. This includes both the information about religious organizations, their branches (representations), and about education institutions (including madrassas and Sunday schools)³⁰. Record registration data also include the facilities used by religious organizations, but that are not legal entities – organizations. This explains the difference between the information from the Ministry of Justice and from the State Commission on religious affairs (339 legal entities against 2299 facilities registered).

Classification of the information used in record registration

The following categories used for classification of the facilities could be distinguished when analyzing the data of record registration³¹:

- 1) Foreign missions (based on available information it could be concluded that this category includes the information about the activities of the missionaries, and organizations established with participation of foreign associations that maintain legal connection with those associations).

²⁷ In the response of the State Commission on religious affairs (#02-16,604 as of 02.02.2011), the information is presented on the number of Islamic educational institutions. There is no information about the names and locations of education institutions of other religious organizations.

²⁸ In the data of record registration of the State Commission on religious affairs the information is broken down based on “centers” category (these probably are education institutions), “foundations”, “associations”, that perform their activity of general religious and research nature. Apparently “public associations” were meant as membership organizations and “foundations” - as organizations without membership.

²⁹ As of October 4, 2011, according to the information provided by the Ministry of Justice of the Kyrgyz Republic.

³⁰ From responses of the State Commission on religious affairs dated August 2 and October 14, 2011.

³¹ Response of the State Commission on religious affairs #02-16/604 as of August 2, 2011.

- 2) Religious associations (based on available information it could be concluded that these include organizations registered in other forms of non-for-profit organizations (public associations, public foundations) uniting membership organizations (religious organization, public association) and organizations without membership (foundations, institutions)³².
- 3) Spiritual education institutions (this category includes activity of educational nature performed without establishment of legal entity (madrassas, Sunday schools), as well as education institutions (individual legal entities); the information is categorized based on the level of education (higher education institutions are striking examples).
- 4) Religious or ceremonial facilities (mosques, churches, district parish and cloisters)³³.

Issues of identification of religious belonging of religious organizations and movements

Upon collection of the information we failed to get the information about classification used by the State Commission on religious affairs when dealing with record registration to attribute registered organizations to particular confession³⁴.

Islam³⁵:

- Spiritual administration of Moslems of Kyrgyzstan and oblast kaziyats (Sunnism Hanafiyah),
- Religious movement “Tabligii Jamaat”,
- Shiite Moslem mosque,
- Islamic charity funds.

Christianity:

- Orthodoxy (Russian Orthodox Church, Old Believer community, Old Orthodox Christians community),
- Catholicism (Roman Catholic mission),
- Protestantism (Baptists, Pentecostal movement, Lutherans, Reformed Church, Seventh-Day Adventists³⁶, Bible-Christians, Presbyterians, Charismatics),
- Jehovah’s Witnesses (post-Christian millenarian movement)),

Judaism: Orthodox

Buddhism: Mahayana movement

New religious movements (NRMs)³⁷:

³² See response #02-16/604 as of August 2, 2011.

³³ The notion “brotherhood (sisterhood)” was also used in the information.

³⁴ This material was prepared based on judgments of the experts dealing with religious issues and cooperating with the State Commission on religious affairs.

³⁵ In the south of Kyrgyzstan, from 16 century Sunnism Hanafiyah was prevalent, while in the north Sufism was partially spread that was mixed with earlier beliefs of Kyrgyz and with Islamic movements introduced by graduates of foreign Islamic theological higher education institutions during the years of independence and by some charity Islamic organizations.

³⁶ There are regular Adventists whose doctrine is quite different from that of Seventh-Day Adventists

³⁷ Grigorenko, A.Yu. Religious studies. - Saint-Petersburg: Peter, 2008. Ilyin V.V., Karmin A.S., Nosovich N.V. Religious studies. - Saint-Petersburg: Peter, 2008. Soldatov A.V. Religious studies. - Saint-Petersburg: “Lan”, 2004. New religious movements (NRMs) include syncretistic, eclectic doctrines appeared in 19-20 centuries, based on

- Bakhai (emerged in Islam and separated later),
- Scientology Church.

Procedure of record registration requires from organizations to indicate their confession belonging. It has to be further studied how presence or absence of certain directions in classifier impacts the registration process.

Information about denial, suspension of registration

The State Commission on religious affairs failed to provide the information about associations, education institutions and missionaries that could not pass record registration, re-registration, whose registration was suspended with indication of the grounds for such a decision. During the survey it was reported about the difficulties associated with receiving justified response from the State Commission on religious affairs regarding registration (re-registration) issues.

Practice of justice bodies was given as an example that should be introduced into the work of public body on religious affairs: in the orders on registration, grounds for the decisions made were presented with the reference to legal provision. Unfortunately, the team that dealt with collection of the information was not provided with the copies of the orders about record registration, denials to register or suspension of the registration³⁸. Some representatives of religious organizations reported about lost interest to complete the registration (re-registration) process due to various reasons³⁹.

In particular, the following reasons were mentioned: lack of enforcement procedures for legal provisions, availability of insoluble contradictions (collisions in the laws), impracticability of some requirements, recognition of present legal status effective and compliant with the legislation as of the date of primary registration, consideration of amendments in the laws as forcing registration and re-registration, complexity of repeated or periodical submission of full set of documentation needed for re-registration, including those in the competence of authority; unwillingness or limited capacity of believers to protect their interests by legal mechanisms, lack of due protection of constitutional principles by authorities, cases related to violations of neutrality by authority and officials and etc.

Religious expert examination

Issues of religious expert examination are of importance for implementation of freedom of religion and activity of religious organizations. Some issues are closely related to expert conclusion that has legal

“revelations” given by charismatic individuals, which created new doctrines that were radically different from the sources of faith of known religious traditions of any nature.

³⁸ Inquiry to receive copies of the orders of the State Commission on religious affairs (Outgoing #3/07 as of July 23, 2011).

³⁹ The following reasons were reported: refusal to re-register in a view of presence of effective status of legal entity, lack of requirement to have legal entity status, lack of support from the part of authorities to pass record registration (re-registration), collision between legal provisions, and the need to duly prepare decisions of administration bodies.

consequences (for example, to identify signs of criminal activities in the acts)⁴⁰. The regulation adopted in the past needs legal assessment that allows investigation agencies to carry out religious expert examination by local spiritual leaders⁴¹. This issue is related to liability for the conclusion, which is provided for the expert by the legislation or for the specialist in criminal proceedings.

Taking into account diversity of the society, religious expert examination cannot support any party, which is of special importance upon presence of intra-confessional and inter-confessional conflict, facilitating promotion of principles of legality and freedom of religion provided for by the Constitution of the Kyrgyz Republic. The decision of the Parliament was important in this view that dismissed the initiative in September 2011 related to involvement of the largest confessions to religious expert examination process⁴². The bill affected principle of equality of religious organizations, and entrusted religious organizations with powers of public authorities. Expert examination should avoid escalation of inter-confessional dispute based on different religious views.

Differentiation between issues of religious freedom of human rights nature and illegal actions

Activity of organizations with illegal purposes⁴³ has nothing to do with freedom of religion protected by the Constitution of the Kyrgyz Republic and by the international law⁴⁴. Actions that violate the law (crimes, violations, prohibited activity), are regulated by the relevant legislation. Such cases should be considered and investigated with guaranteed compliance with due procedure, protection of the rights in the court, respect of equality principle between prosecution and defense and recognition of full range of human rights.

Recognition of organizations being destructive and authoritarian

The State Commission on religious affairs considers some associations and movements destructive and totalitarian⁴⁵ (see the relevant section). Criteria and procedures required to consider any group being destructive and totalitarian needs due legal stipulation and effective means of legal (judicial) protection.

The State Commission on religious affairs considers the following associations being destructive and totalitarian: The Church of Moon San Man association (Moon), the International Society for Krishna

⁴⁰ According to the conclusion prepared by the staff members of the State Commission on religious affairs in October 2008, invitation to Orozo Ait celebration with cooking and drawing contained signs of calls to constitutional system overthrow.

⁴¹ In the workshop materials for the law enforcement officers in Bishkek, one of the Regulations of the Government was referred to that entrusted such power to investigation agencies.

⁴² Initiative of MP T. Bakir uulu.

⁴³ Prohibitions in relation to associations and participation in political activity are provided for by part 4, article 4 of the Constitution of the Kyrgyz Republic.

⁴⁴ In accordance with part 3, article 6 of the Constitution, prohibition of activity of some organizations may be based on the international agreements that the Kyrgyz Republic is a party.

⁴⁵ It is required to check the procedure and criteria for compliance with the Constitution of the Kyrgyz Republic and the international human rights instruments (in the sphere of freedom of religion), and to provide effective legal protection mechanism.

Consciousness (Krishnaites), the Church of Jesus Christ of latter-day saints (Mormons), Sri Chinmoy church, Dolmar Channong, Falun Gong, Sri Aurobindo Ghose, White brotherhood, Satanists⁴⁶. In the documents of the State Commission on religious affairs the term “sect” is applied to these associations that in confession environment has neutral meaning – “sector”⁴⁷. Unusual for legal terminology and having negative perception in the society term “sect” was fixed in the law in 2008⁴⁸.

It is needed to provide legal assessment to this list, its compliance with the prohibitions provided for by the Constitution of the Kyrgyz Republic, observance of due legal procedure and legal grounds to recognize organizations and movements being destructive and totalitarian. Assessment of activities and actions of organizations or individuals should deal with legal categories – presence of corpus delicti in the acts, and evidence for belonging of persons to prohibited organization.

Recognition of organizations being extremist and terrorist on the territory of the Kyrgyz Republic

Associations that were recognized as terrorist and extremist⁴⁹ by the court are included into separate list; their activity is prohibited by the court in the Kyrgyz Republic.

These organizations include: East-Turkistan Islamic party (also known as Islamic movement of East Turkistan – Sharky Turkistan Islam partiyasy), Organization of East Turkistan liberation (Sharki Azat Turkistan), Islamic party of Turkistan (also known as Islamic movement of Uzbekistan), and Khizb-ut-Tahrir Al Islami, recognized as extremist organization⁵⁰. Later on the following organizations were added into the list of terrorist organizations: al-Qaeda and Taliban movement⁵¹. The following organizations were recognized terrorist too: People’s Congress of Kurdistan (also known as Kurd people’s congress, Kurdistan Workers party, Congra-gel) and Jihad group (also known as Jaamat al-jihad, Islamic group of jihad, Union of Islamic jihad, Islamic jihad-jaamat of mujahiddins, Jaamat of mujahiddins of Central Asia)⁵².

The issue emerges about the procedure of inclusion to the list of organizations prohibited based on initiatives of other states, based on the international agreements, or in a view of membership of the Kyrgyz Republic in the international organizations. The Ministry of Foreign Affairs of the Kyrgyz Republic

⁴⁶ Response of the State Commission on religious affairs #02-16/604 as of August 2, 2011.

⁴⁷ Procedures and criteria to be applied to attribute associations to sects, and assessment of legality of such actions needs to be checked for compliance with the Constitution and international human rights agreements, which the Kyrgyz Republic is a party

⁴⁸ The law “On freedom of religion and religious organizations”, version of 2008.

⁴⁹ Decisions of Supreme Court of the Kyrgyz Republic as of May 14, 2003 (in other source as of August 20, 2003), Pervomaysky district court of Bishkek city as of September 15, 2006 and June 11, 2008.

⁵⁰ Decisions of Supreme Court of the Kyrgyz Republic as of May 14, 2003 (from the response of the State national security committee #4/14253 as of August 10, 2011). In the response of the State Commission on religious affairs #02-16/604 as of August 2, 2011, the date August 20, 2003 is given.

⁵¹ Decision of Pervomaysky district court of Bishkek city as of September 15, 2006.

⁵² Decision of Pervomaysky district court of Bishkek city as of June 11, 2008.

advised to refer to “competent body” without indicating its name⁵³. It was reported in the explanatory letter that the above issue was not in the jurisdiction of this ministry.

Recognition of some organizations being extremist and terrorist does not release from responsibility to provide evidence that some individuals belong to the relevant organizations and of committing acts comprising corpus delicti by these individuals.

Combating stereotypes, overcoming negative consequences of terrorism, extremism and radicalism fighting that affects status of believers

The statements about anti-terrorist operations or terrorist acts spelled out in connection to religion⁵⁴, affect the status of believers. There are cases of intolerance from the part of law enforcement officers, torture, cruel and humiliating treatment based on religious belonging⁵⁵.

It is required to ensure civil control from the part of the Parliament, surveillance from the part of the Office of Public Prosecutor and judicial control over legitimacy of the operations carried out, adequacy of measures to real threat, including to eliminate extrajudicial executions⁵⁶. In a view of participation of the Kyrgyz Republic in the international organizations and treaties aimed at terrorism and extremism counteraction, the relevant amendments are introduced to the legislation.

Upon collection of the information we failed to obtain the list of the relevant international organizations and international treaties⁵⁷, where the Kyrgyz Republic is a party, and to establish the procedure of

⁵³ Response of the Ministry of Foreign Affairs of the Kyrgyz Republic as of September 04, 2011 #091/K-66.

⁵⁴ According to the information of “Human rights protection center “Kalym Shamy”: the responsibility was imposed to the party Khazb ut-Tahrir for explosion of gas cylinder at Dordoi market in Bishkek in January 2002; clash between civil population and law enforcement agencies in Nookat on October 1, 2008. In June 2009 in Jalal-Abad city special operation was carried out, in the course of which two persons were killed, a house was burnt and the property of the Satyvaldievs and Joldoshevs was damaged; 4 persons were killed during special operations in Uzgen, house and property of the Mamadalievs was burnt. In October 2010, imam of the mosque from Majrum-Tal district in Osh city was killed. In November 2010, mass arrests took place in a view of detection of mine-strewn car near the police station building in Bishkek. In December 2010, explosion took place near the Sports Palace in Bishkek during the hearings about the April 2010 events and special operation was carried out in Besh-Kungei village, in the course of which two persons were killed and the Topozovs family suffered (their house and property were burnt).

⁵⁵ See “Torture victims in Kyrgyzstan: Material of human rights violations monitoring based on accusation for extremist activity involvement”, prepared by A. Abdurasulova et. al. - Bishkek: “Open Position» public foundation, 2009. – p. 87, see <http://prava.kloop.kg/?p=543>

⁵⁶ In accordance with article 21 of the Constitution of the Kyrgyz Republic, death penalty is prohibited. Prohibition for arbitrary (extrajudicial) executions follows from the obligations assumed according to the Second Optional Protocol to the International Covenant on Civil and Political Rights (made effective for the Kyrgyz Republic on December 6, 2010).

⁵⁷ Inquiry to the State national security committee KR (outgoing #1/07 as of July 23, 2011), Ministry of Interior KR (outgoing # 2/07 as of July 23, 2011), the State Commission of religious affairs (outgoing #3/07 as of July 23, 2011), the Ministry of Justice KR (outgoing #4/07 as of July 23, 2011), the Ministry of Foreign Affairs KR (outgoing #11/08 as of August 18, 2011).

assessment of the obligations assumed for compliance with the provisions of the Constitution of the Kyrgyz Republic and effective international human rights instruments⁵⁸.

Hajj arrangement, protection of citizens interests (within the country and abroad)

To arrange pilgrimage (hajj) of Kyrgyz Moslems to Mecca the Republican headquarters was established with participation of authorities and Spiritual administration of Moslems in Kyrgyzstan. It was engaged in coordination efforts to address issues related to arrangement and participation of citizens of the Kyrgyz Republic in pilgrimage (hajj). The state assumes the responsibility to ensure protection to its citizens abroad⁵⁹. In 2011, the issues related to hajj were entrusted to “Hajj center –Umry” established by Spiritual administration of Moslems in Kyrgyzstan.

Differentiation between ethnic origin and religious belonging

In public discussions often ethnic origin and religious affiliation are assumed equal. These statements have nothing to do with reality in a view of diversity of the society in terms of attitude to religion and beliefs and cannot be identified for sure. Compulsion to express one’s attitude to religion is under the constitutional prohibition⁶⁰.

Preservation of neutrality and equal attitude of the state to different religious movements and beliefs

In the Kyrgyz Republic any religion cannot be established in the status of public or mandatory religion. Religions and any cult are separated from the state system⁶¹. Public administration bodies and officials should enable respect of the Constitution of the Kyrgyz Republic and the laws adopted in accordance with the Constitution, as well as the international human rights instruments⁶², which the Kyrgyz Republic is a party.

In practice there are cases related to violation of constitutional principles by officials and public servants, promotion of atheistic or religious views using official status⁶³. In the state programs and print media belonging to authority there are cases related to violation of neutrality in terms of freedom of religion⁶⁴. Authority suspended registration of organizations referring to “sect” notion⁶⁵, and illegal

⁵⁸ Part 3, article 6 of the Constitution of the Kyrgyz Republic provides for priority of the international human rights instruments over other international agreements.

⁵⁹ Part 5, article 50 of the Constitution of the Kyrgyz Republic.

⁶⁰ Prohibition for coercion related to freedom of religion, liberty of conscience and freedom of opinion.

⁶¹ Article 7 of the Constitution of the Kyrgyz Republic.

⁶² Freedom of thought, conscience and religion is protected by article 18 of the International Covenant on Civil and Political Rights, and by article 14 of Convention on the Rights of a Child.

⁶³ Opening of namazkana (prayer room for Moslems) in the building of the Parliament on June 23, 2011 on initiative of “Ar-Namys” party caused violent discussion. Also the issue was discussed related to personal beliefs and religious symbols in the premises of public body – Ombudsman office.

⁶⁴ In “Kut Bilim” newspaper as of February 11, 2011, issued by the Ministry of Education KR, draft Program was presented on ethic education developed by the Institute of Education KR. This document disclaims the right of

categories of “traditional” or “non-traditional” religion⁶⁶, which contradict the definition of freedom of conscience, religion or belief.

Registration with public administration bodies, prolongation and termination of activity

The state of legal framework that regulates establishment and activity of religious organizations affected the dynamics of religious organizations’ registration. Despite of unitary nature of the Kyrgyz Republic, some organizations faced the issue related to opening of prayer houses⁶⁷. Authorized agency dealing with religious issues considers the requirement for registration of each facility being separate organization (legal entity)⁶⁸.

For example, Baptists have their churches in Osh city, Kadamjai and Tash-Kumyr, but each of them are registered separately. The community faced difficulties related to registration in Kara-Kulja, where they tried to pass record registration with SCRA, submitting documents several times (in 2001, 2003 and in 2005). According to the respondent, the denial was given in verbal form without presenting a document. At the moment the community bought a house on behalf of Osh church for service purposes, however, SCRA prohibits the service referring to the lack of record registration of the facility (or Kara-Kulja representation) with SCRA.

The issue was cited related to the drawbacks of re-registration of the missions to legal entities of the Kyrgyz Republic. Probably due to errors in the documents submitted, or by mistake of registration agencies some organizations were not duly re-registered, some of them maintained a status of foreign mission, while others obtained a status of local religious organization.

Some issues are related to the procedure of reprofiling of the buildings, which religious organizations receive from the third persons or purchase for their own resources. Failure to pass reprofiling procedure serves as the ground to restrict the activity of organizations in those facilities and premises that belong to them as private property⁶⁹. Some organizations could not pass reprofiling of the building in a view of the fact that architecture authorities demanded to provide a reference that this organization was not a sect. At that, this organization has a certificate of record registration with SCRA. However, it became impossible to submit a reference to architecture agency, since SCRA refused to provide such a

each individual to freely choose and have religious and other beliefs. Religion choice is presented as “repudiation from the history of people, ancestry spirit and saint native land treachery”.

⁶⁵ The term “sect” is used in the documents of the State Commission on religious affairs, however, appearance of this term is related to the definition in the Law “On freedom of religion”, version of 2008.

⁶⁶ The reasons to suspend record registration of Akhmady Moslem religious community related to the fact that “this community does not refer to traditional Islam” (from the letter of the State Commission on religious affairs #02-11/202 as of June 26, 2011).

⁶⁷ From the interview with the representative of Baptists organization in Osh city. This also follows from the data of record registration of the State Commission on religious affairs.

⁶⁸ This could also be concluded based on analysis of record registration data.

⁶⁹ From the interview with Baptists in Osh city.

document⁷⁰. For record registration purpose SCRA required from some organizations to introduce amendments to their Charters, having restricted the area of activity of organization to the individual settlement, for instance Osh city, instead of the entire territory of the Kyrgyz Republic⁷¹.

Registration of pastorate with SCRA became one of the problems, where in a view of amendments in the law in 2008, the requirement appeared to get approval for pastor candidature from local councils. This provision relates to visitor missionaries⁷². Registration of each missionary requires submission of a full set of documents of organization, which he or she represents. A copy of the Charter, diploma, other documents provided for by the law to register missionary are demanded.

The duration of visa became an instrument, which could regulate the duration of foreign missionary stay on the territory of KR. At that, while one of the missionaries had residence permit in KR, he was denied to prolong record registration with SCRA, referring to non-regulated provision in the law in case of completion of primary 3-years term of missionary registration⁷³.

The requirement introduced to the law in 2008 on the need to have two hundred founders to establish religious organization hinder registration of religious organization within established time; using this provision the state acts as controller - extortioner (this norm is of corruption nature)⁷⁴.

Record registration and registration as legal entity

Upon state registration (re-registration) of religious organization as legal entity, a copy of the document should be submitted that certifies the fact of record registration (re-registration) with authorized public administration agency for religious affairs.⁷⁵ In this view, religious organizations cannot pass registration as a legal entity without record registration with the State Commission on religious affairs⁷⁶.

The law provides for prolongation of period envisaged for consideration of the applications for record registration of religious organizations by a month⁷⁷, if there is a need to receive additional information and conclusions of the relevant agencies⁷⁸, as well as upon sending statutory documents of the applicant for religious expert examination⁷⁹. The issue of expert examination affected the bill considered in

⁷⁰ From the interview with the representative of Pentecostal movement member in Osh city.

⁷¹ From the interview with the representative of Pentecostal movement member in Osh city.

⁷² From the interview with the representative of Evangelic-Christian Baptist center "Blagodat".

⁷³ From the interview with the representative of Evangelic-Christian Baptist center "Blagodat".

⁷⁴ From the interview with the representative of Evangelic communities councils.

⁷⁵ From the response of the State Commission on religious affairs #02-16/604 as of 02.08.2011.

⁷⁶ From the reference of the Ministry of Justice to state-secretary Ms. Ch. Mamidinova as of 26.10.11.

⁷⁷ In accordance with item 3, article 10 and item 4, article 11 and item 4, article 12 of the Law KR "On freedom of religion and religious organizations in the Kyrgyz Republic" as of December 31, 2008, #282.

⁷⁸ The response does not detail which information or conclusions of which agencies could be required.

⁷⁹ From the response of the State Commission on religious affairs #02-16/688 as of 29.08.2011.

September 2011⁸⁰, according to which religious organizations were supposed to be entitled to carry out religious expert examination. This case affected the functions of the state as neutral regulator, and questioned respect of equality principle for different organizations.

In a view of the April 2011 events, Single register of religious organizations and some other documents were lost, the State Commission on religious affairs is engaged in restoration of the data⁸¹.

As of October 4, 2011, 440 legal entities (both religious organizations, and centers, foundations, associations that perform their activity of religious, charity and research nature)⁸² were registered with the State Commission on religious affairs. Since 2008 to 2011, with adoption of new Law KR "On freedom of religion and religious organizations in the Kyrgyz Republic" #282 total 28 religious organizations were registered as legal entities⁸³. Thus, before adoption of new law in 2008, 412 legal entities were registered. Upon presence of a dynamics of religious organizations' registration as legal entities broken down based on oblasts and confession we can judge about the impact of amendments introduced to the law.

Connection of record registration data to legal entities gives additional information about institutional development of organizations. This is especially important for protection of organizations' interests, since the status of legal entity is related to the area of activity to be undertaken on the territory of the Kyrgyz Republic as unitary state. Insufficient focus on legal connection of the facilities with legal entities creates certain difficulties for the development. For example, upon establishment of branches, representations, and in terms of property issues.

Single state register of legal entities, branches (representations) does not have the information about activities of organizations, and in this view, it is impossible to identify the information about organizations dealing with religion⁸⁴. Registration of religious organizations is in the competence of the State Commission on religious affairs. The only exclusion when based on the information from the Register⁸⁵ one may judge about presence of "religious sphere" of organizations in the Register, is the information about legal entities registered as "religious organizations" (associations), as well as organizations, which are founded by religious organizations⁸⁶, in particular, "religious education organizations" (at that, the activity of established organizations may not be connected to religious sphere).

⁸⁰ Initiator of the bill is Tursunbai Bakir uulu – "Ar-Namys" party deputy.

⁸¹ From the response of the State Commission on religious affairs #02-16/604 as of 02.08.2011.

⁸² From (memorandum/staff report) of the Ministry of Justice to state-secretary Ms. Ch. Mamidinova as of 26.10.11.

⁸³ From the response of the Ministry of Justice #03-6/6992 as of 04.08.2011.

⁸⁴ From the response of the Ministry of Justice #03-6/6992 of 04.08.2011.

⁸⁵ From the response of the Ministry of Justice #03-6/6992 of 04.08.2011.

⁸⁶ From the reference of the Ministry of Justice to state-secretary Ms. Ch. Mamidinova as of 26.10.11.

The case is interesting when the organization has registration certificate as legal entity⁸⁷, however, record registration with the agency for religious affairs was not extended, which follows from available copies of the documents⁸⁸. This case is an example of intra-confessional dispute, where the state should take neutral view and treat religious groups on equal basis⁸⁹. It appears that organization may continue to exist as legal entity, while divine service, education activity, religious practice and devotions could be prohibited. This issue should be brought in line with the definition of the right to freedom of religion⁹⁰.

During collection of the information the issue was raised about interpretation of the norm on 3-years term of record registration of the missionary⁹¹. The rule about prolongation of the duration of record registration for the next period should eliminate the problem of different interpretation of this provision, which might be perceived as the prohibition of missionary activity as such. In this issue it is required to take into account affiliation of the missionary with legal entities registered on the territory of the Kyrgyz Republic. In addition, there is an issue related to status of organizations registered as missions, and organizations registered as independent associations. In one case organization passed the re-registration process and was sure that all its facilities would be re-registered for it as for legal entity⁹².

Registration issues also are related to property (buildings) transferred to religious organizations or purchased for their activities. The difficulties are related to the requirement to reprofile these buildings and to legalize those buildings as property of legal entities.

Some reasons, why believers are becoming infringers are caused by the provisions of the legislation on freedom of religion and on religious organizations, which should be brought in line with the Constitution of 2010. This work was performed by the Working group under the Ministry of Justice, however, the bill was not submitted by the Government to the Parliament. The solutions proposed in this bill to ensure freedom of religion and legal regulation of activity of religious organizations may eliminate the shortcomings of effective law. One of the issues that needs to be considered in new law consists in the fact that legal entity and the relevant rights of the legal entity not always are required to implement the right to freedom of religion together with other believers. Another important issue relates to the role of local councils in terms of implementation by a group of believers of their right to freedom of association. This provision should be considered as actual permit to be provided by local council to create association by a group of individuals, in this particular case by a group of believers. Creation of associations refers to personal freedom issues⁹³.

⁸⁷ A case of Akhmamy Islamic community.

⁸⁸ We failed to obtain additional explanations from the part of community representative, so the conclusions are made based on the registration documents submitted earlier and based on letters sent to different agencies.

⁸⁹ Upon presence of signs of a crime in the actions of the individuals, measures should be taken to direct infringers, rather than to organizations, unless its purposes are prohibited by the Constitution KR.

⁹⁰ Article 32 of the Constitution KR and article 18 of the International Covenant on Civil and Political Rights.

⁹¹ A case of Evangelic-Christian Baptist center "Blagodat".

⁹² In this case the issue most probably relates to due preparation of documentation that needs to be submitted for re-registration, including submission of the relevant decisions of management bodies of each legal entity.

⁹³ Article 32 of the Constitution KR and article 18 of the International Covenant on Civil and Political Rights.

Excessive requirements for registration cause the fact that religious associations avoid vision of authority. Responsibility is provided for failure to observe the requirement of the legislation about registration. In case of contradictory requirements of the legislation law-abiding citizens and organizations could become infringers unintentionally. Implementation of controversy norms is also problematic and might cause violations from the part of authorities and officials. The issues related to prohibition of activity of organizations, and of bringing natural persons to responsibility for actions should also be addressed in legal format respecting presumption of innocence principle.

Cases related to discrimination and undue practice

The requirement of the law appeared in 2008 and related to the need to obtain consent (approval) from local council for establishment of religious organizations and for missionary activity created issue for implementation of religious freedom. This norm delays the process of record registration and makes it insurmountable, since the procedure of approval is not stipulated in the law on local self-governance bodies (LSG) and local public administration bodies (LPA). In addition, the right to association is related to the individuals willing to establish such association, but not to representative local government body⁹⁴.

The definitions of “proselytism” (the act or process of proselytizing), “sect” are of subjective and evaluative nature. There is a confusion between the terms “missionary” and “missionary activity” in the law. Religious activity includes all types of activities, while missionary activity includes only predicant activity. It is required to bring the terms used in the law in line with the practice and dogma of religious organizations⁹⁵. Prohibition for involvement of children to religious activity contradicts the provisions of Convention on the Rights of a Child, which gives parents the right to guide a child in terms of implementation of his right by a method that considers developing abilities of a child⁹⁶. The views spelled out that religions are divided onto “traditional” and “non-traditional” ones impact inter-confessional and intra-confessional accord. The term “sect” that originates from the word “sector” (part), is perceived negatively by the society.

Access to information in the competence of public administration agencies

Registration agency levies fee⁹⁷ for provision of the information containing in the State register of legal entities, branches (representations)⁹⁸. The price of each reference is determined by a tariff for paid services⁹⁹ provided by registration administration of justice agencies¹⁰⁰. Information is not provided without payment¹⁰¹.

^{94 94} From the interview with Alexander Kim, Council of evangelic communities, Bishkek.

⁹⁵ From the interview with Alexander Kim, Council of evangelic communities, Bishkek.

⁹⁶ From the interview with Alexander Kim, Council of evangelic communities, Bishkek.

⁹⁷ In accordance with article 20 of the Law KR “On state register of legal entities, branches (representations) in the Kyrgyz Republic”.

⁹⁸ As of 12.07.2011, there are more than 2000 non-for-profit (religious education organizations).

⁹⁹ Approved by the regulation of the Main anti-monopoly agency under the Government of the Kyrgyz Republic as of October 15, 2009 #426 and of the Ministry of Justice of the Kyrgyz Republic as of October 28, 2009 #214-a.

To obtain the information about religious and terrorist organizations prohibited on the territory of SCO and CIS member states it was recommended to apply to the relevant bodies and representation offices of the member states¹⁰². Taking into consideration international relations issues, these matters should be in the competence of the Ministry of Foreign Affairs KR (MFA), however, this ministry denied to provide the information about the list of international agencies and international agreements that regulate the procedure and grounds to recognize organizations being prohibited. The list of prohibited organizations was provided neither referring to the fact that this issue is not in MFA jurisdiction¹⁰³.

The Kyrgyz Republic as a member state of SCO and CIS has international obligations and takes necessary measures to suppress activity of those organizations that have been recognized as illegal. The list of organizations prohibited based on initiatives of other member states of SCO and CIS should be available with the relevant agencies of the Kyrgyz Republic dealing with fighting prohibited religious and terrorist organizations.

In a view of absence of the information about the types of activities in Single state register of legal entities, branches (representations)¹⁰⁴, justice agencies could not provide the relevant information on the inquiry. Upon request to provide the information from the Register about organizations that fall under the criterion “of having religious orientation”, most probably there will be the information about religious organizations and organizations, which were founded by religious organizations¹⁰⁵.

The State Commission on religious affairs could not provide some information referring to the fact that during the April 2011 events Single register of religious organizations and some documents were lost and the work is performed to restore the data¹⁰⁶. Upon inquiry to the State Commission on religious affairs to obtain the information on record registration of the facilities related to religious organizations, we could not establish connection of the information to the status of legal entity¹⁰⁷.

Introduction of automation (electronic government) in the operation of authorities should facilitate addressing of the task related to provision of access to the information and duly provision of the data.

Enhancement of competence of officials dealing with religious issues

From the beginning of 2011, the State Commission on religious affairs carried out trainings for law enforcement agencies' officers. The training participants consider issues related to formation of “The

¹⁰⁰ As of the date of inquiry the cost made up 64 soms.

¹⁰¹ From the response of the Ministry of Justice #03-6/6992 as of 04.08.2011.

¹⁰² From the response of the State national security committee #4/14253 as of 10.08.2011.

¹⁰³ From the response of MIA # 091/K-66 as of 04.09.2011.

¹⁰⁴ From the response of the Ministry of Justice #03-6/6992 as of 04.08.2011.

¹⁰⁵ From the reference of the Ministry of Justice to state-secretary Ms. Ch. Mamidinova as of 26.10.11.

¹⁰⁶ From the response of the State Commission on religious affairs #02-16/604 as of 02.08.2011.

¹⁰⁷ Connection of the information to the status of legal entity is in line with unitary system of the Kyrgyz Republic, facilitates recognition of internal issues of organization: decisions of government bodies in accordance with their competences, including on structure, territory of activity of established branches (representations), property management and etc.

Concept of interaction between law enforcement agencies and religious organizations”¹⁰⁸. “Maps of religious security” used in the course of training demonstrate the main issues in the sphere of religion broken down based on oblasts¹⁰⁹.

Law enforcement officers who took part in the trainings considered the right to choose and change religion as a threat. This issue requires special explanation of the essence of the right of each person to freedom of religion that includes the right to choose and change religion, to enable law enforcement officers to protect the rights of citizens guaranteed by the Constitution and by the legislation of KR. The term “threat” applicable for this situation is related more to possible risk of conflict emergence, which reflects current state of education in the society and touches upon a subject of inter-confessional tolerance.

Addressing of the above described problems should be related to general efforts of the state in the sphere of education and world outlook formation aimed at respect of the rule of law, diversity in the society (including of religious beliefs). This task should be addressed not only by the State Commission on religious affairs, but also by other agencies and institutions in their respective spheres of competence. The State Commission on religious affairs should facilitate the process by providing the required information.

International cooperation efforts of Kyrgyzstan in terms of suppression of activity of prohibited religious organizations, evaluation of prohibition legality, procedures of inclusion and exclusion from the list

The attempt was undertaken to identify a list of the international agencies and the international agreements, where the Kyrgyz Republic is a party, in accordance with which obligations were assumed to recognize activity of certain organizations prohibited, as well as a list of organizations falling under the relevant prohibition. The Ministry of Foreign Affairs of the Kyrgyz Republic, acting as depositary of the international agreements of the Kyrgyz Republic, proposed to refer to “competent body” with this regard without indicating its name¹¹⁰.

We failed to establish the procedure, in accordance with the requirements of the legislation of the Kyrgyz Republic, to ensure legality and to carry out assessment in terms of legality of recognition of any organization being prohibited on the territory of the Kyrgyz Republic based on initiative of other states, based on the international agreements, or in a view of membership of the state in the international organizations (for example, in CIS, SCO, CSTO, UN). The procedure of inclusion and exclusion from the list of prohibited organizations is also not known.

We failed to identify, which religious and terrorist organization were recognized as prohibited ones in the Kyrgyz Republic in a view of prohibition of these organizations on the territory of SCO and CIS member states. It was advised to refer to the relevant agencies and representation offices of member states to specify the above information¹¹¹.

¹⁰⁸ From the beginning of 2011 together with local OSCE office in Osh city and with the support of the Ministry of Interior within the frame of the project “Promotion of religious freedom and freedom of conscience as basic human rights through building dialogue and partnership”.

¹⁰⁹ From the response of the State Commission on religious affairs #02-16/604 as of 02.08.2011. Training program covered Bishkek city, Batken, Talas, Chui, Naryn and Issyk-Kul oblasts.

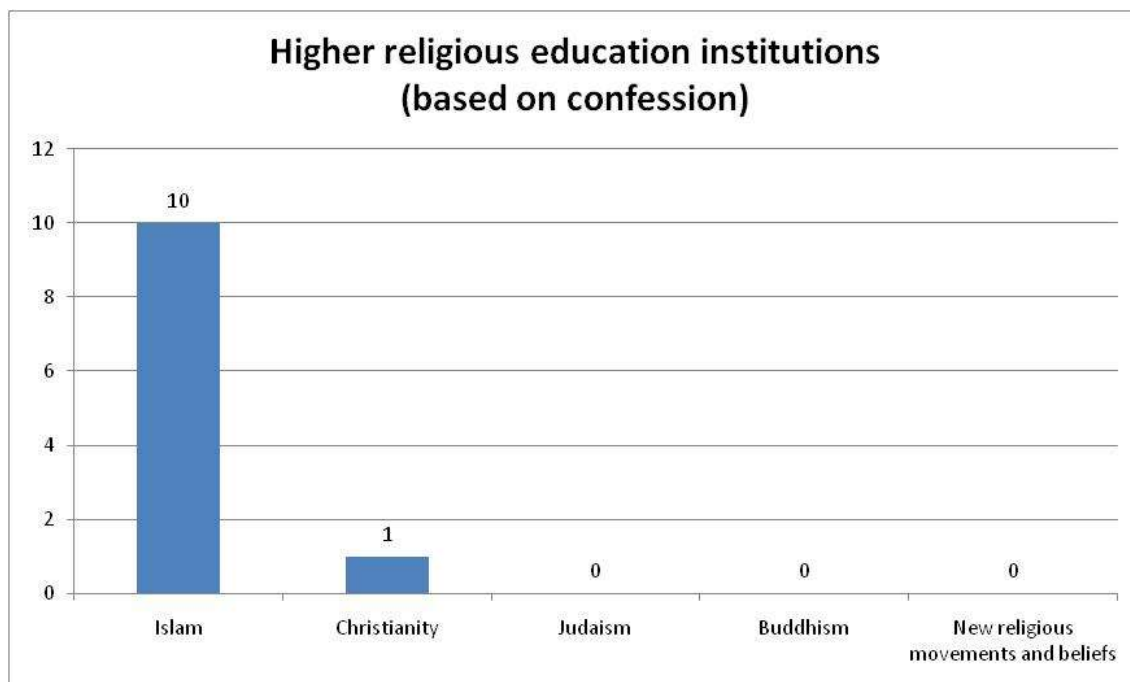
¹¹⁰ Response of the Ministry of Foreign Affairs of the Kyrgyz Republic as of September 04, 2011 #091/K-66.

¹¹¹ From the response of the State national security committee #4/14253 as of August 10, 2011.

Part 4. Education in religious sphere

Higher religious (theological) education

Regarding obtaining higher religious education the data of the survey shows that the members of Christian, Protestant and Catholic organizations obtain theological education or upgrade qualification mostly beyond the territory of the Kyrgyz Republic¹¹². Higher theological education of Islamic sphere could be obtained both in Kyrgyzstan, and abroad.



During the interviews the issue was raised about an opportunity to recognize the diplomas. To assist graduates in terms of their future employment the idea was discussed relating combination of both spiritual disciplines, and the subjects included into the state education standard in the curriculum.

Eleven higher religious education institutions include the following ones:

Bishkek city

Islamic institute in Kyrgyzstan
Islamic institute named after Rasul Akram
Theological institute "Silk Road" (Christian)

Batken oblast:

Islamic institute *Abdullah ibn Abbas*

Jalal-Abad oblast

Islamic institute *Amir Khanza*

Chui oblast

Islamic institute *Khazreti Osmon*
Islamic institute *Kuran Nuru*
Tokmok institute *Lukman al Khakim*

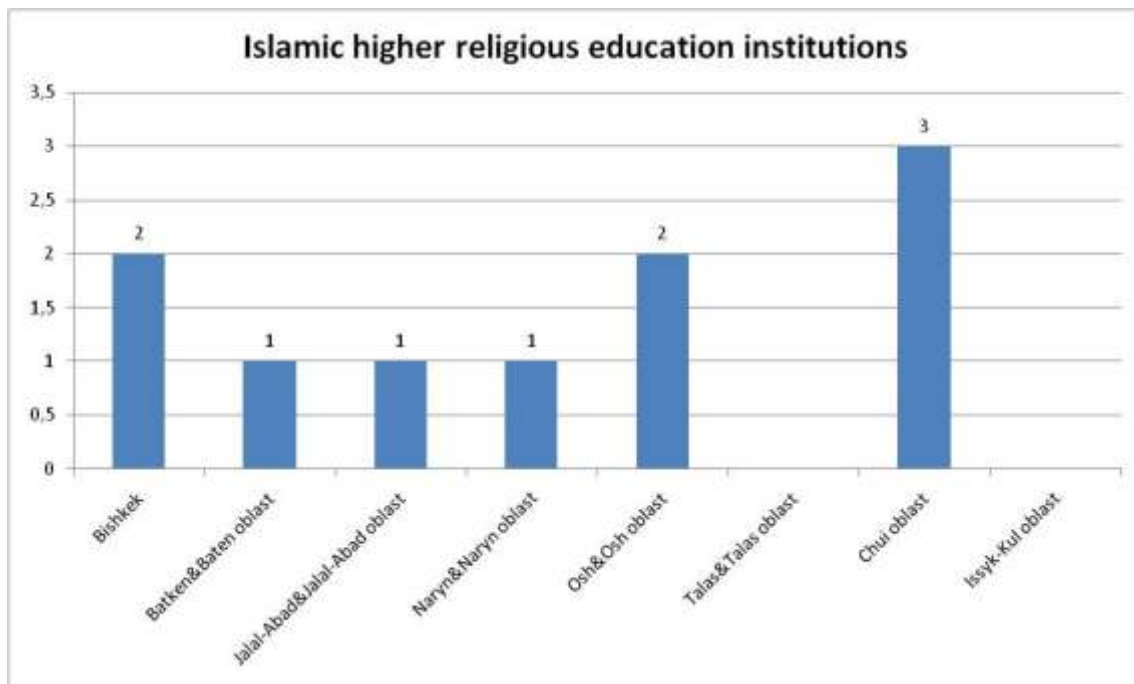
Osh oblast

Islamic institute *Imam al Bukhari*
Islamic institute *Abdyjapar*

Naryn oblast

Islamic institute *Beshkender uulu Omurakun*

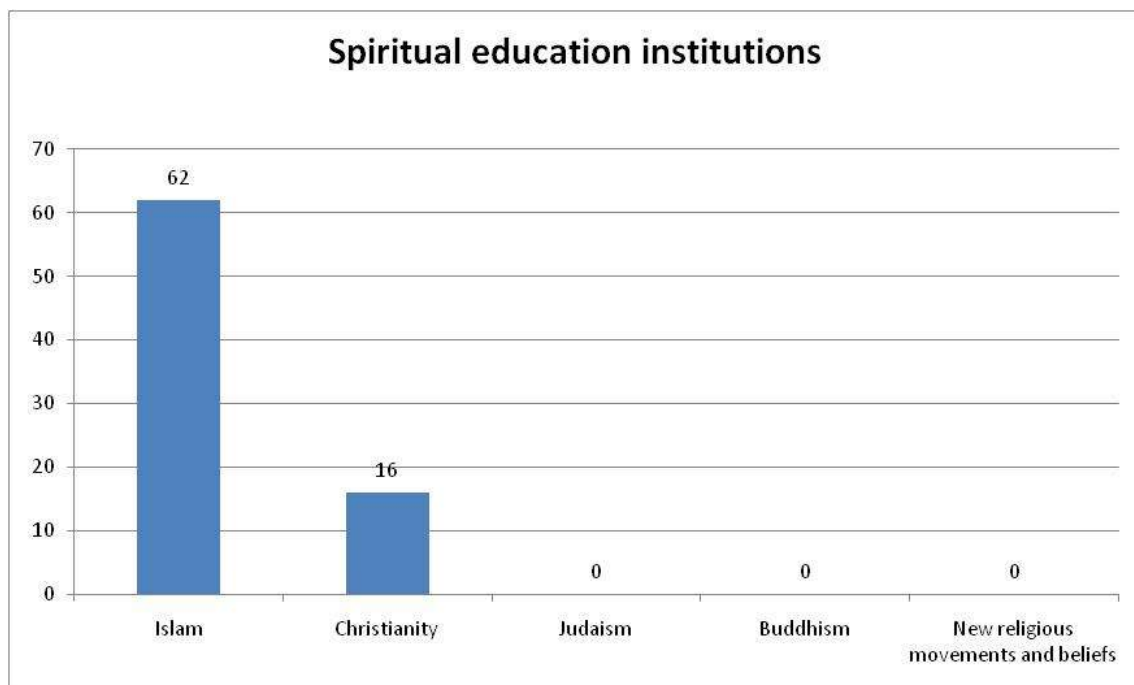
¹¹² From the interview with the representative of Christian organizations.



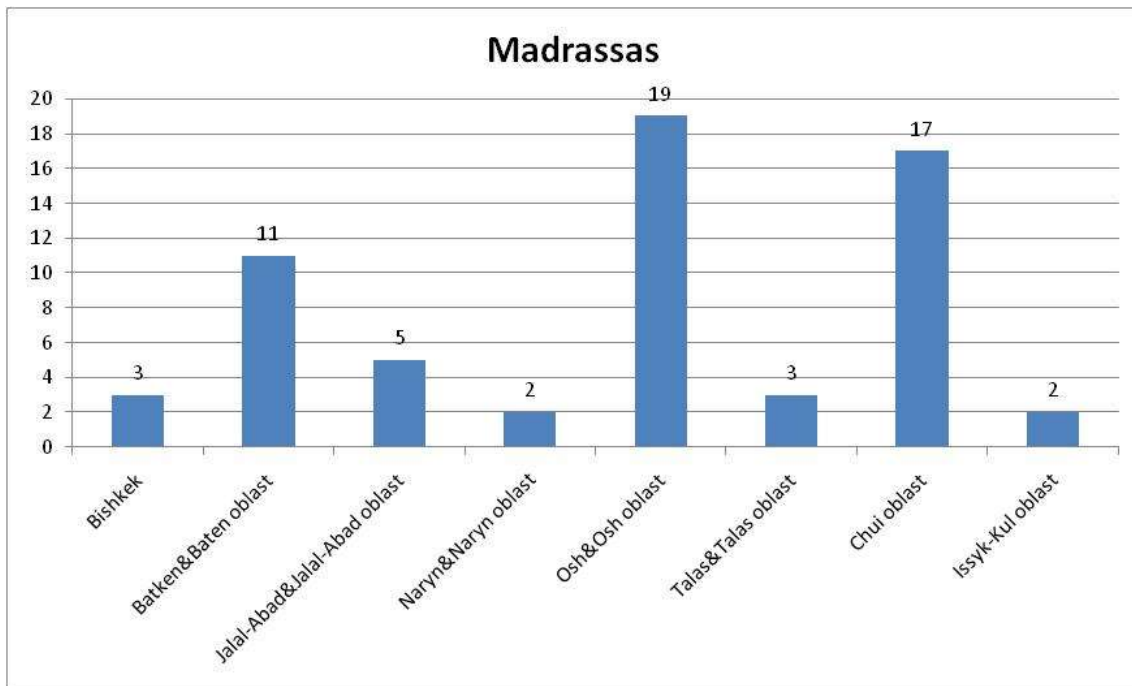
The diagram shows distribution of higher religious education institutions on the territory of the Kyrgyz Republic.

Spiritual education institutions not referred to higher theological education system

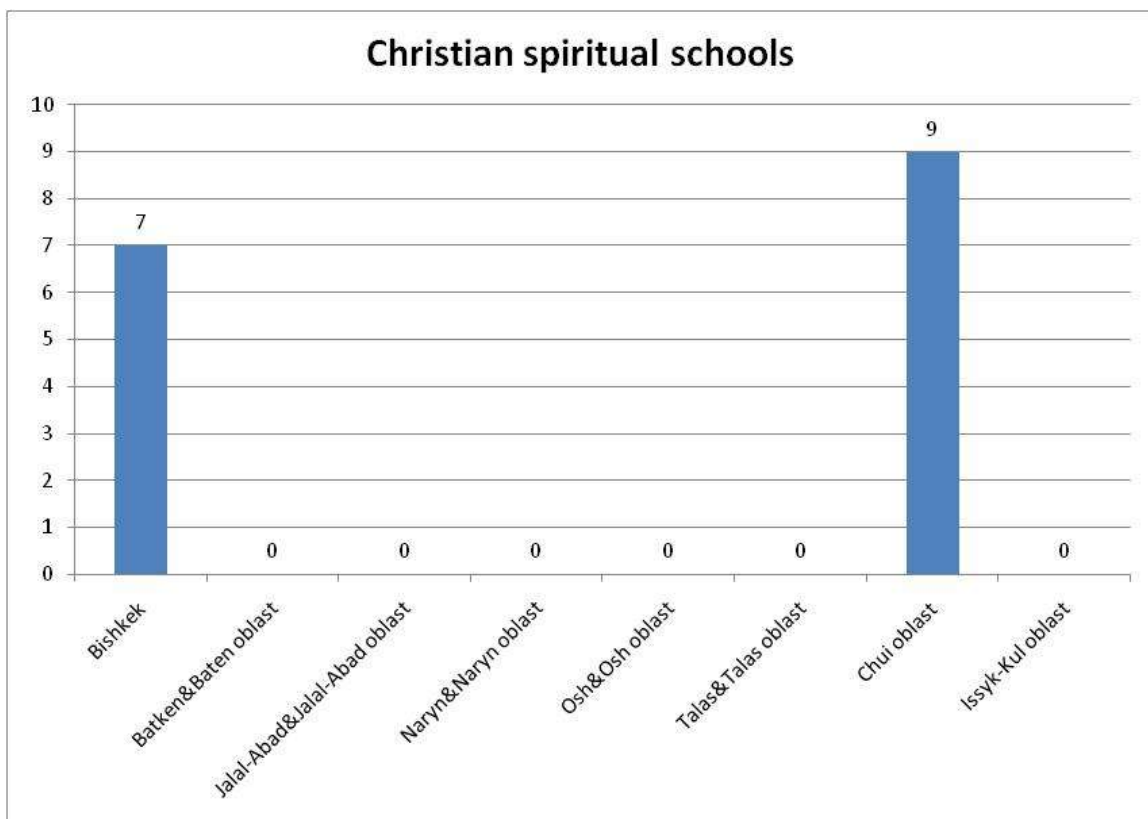
The category “spiritual education institutions” in record registration information includes: 62 madrassas of Islamic trend, 16 facilities of Christian trend presented in disaggregated numbers based on confession belonging.



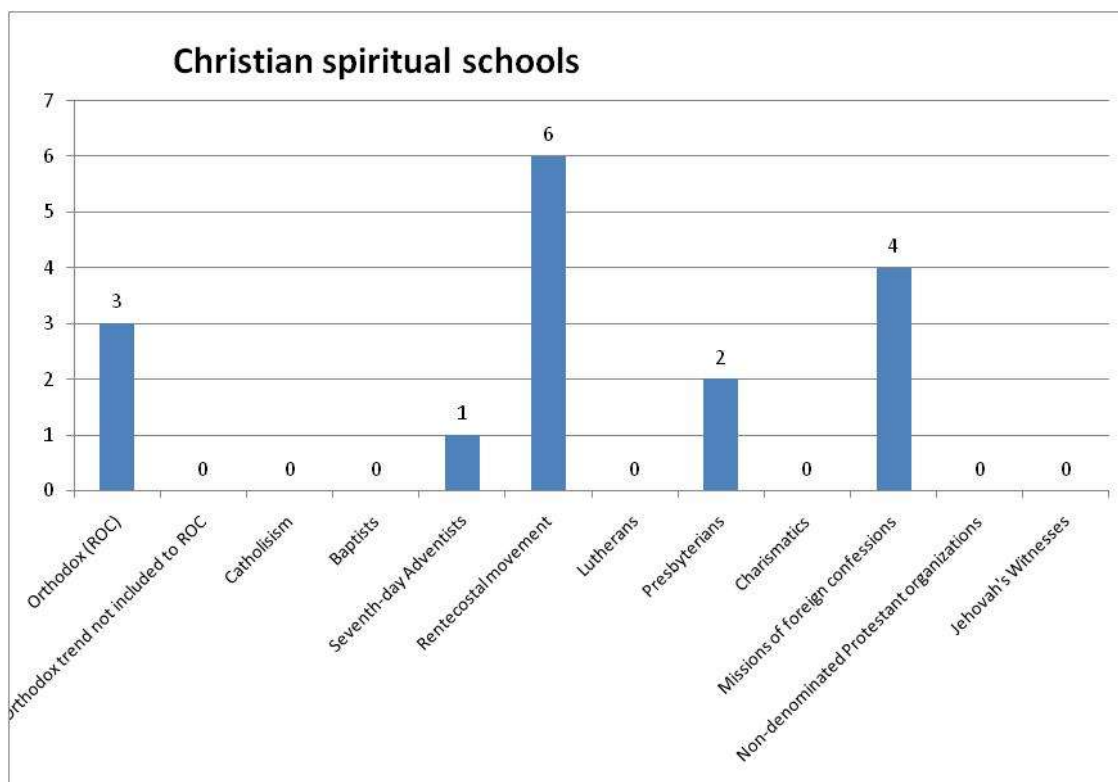
Below, territorial distribution of madrassas is shown.



The information of record registration of Christian spiritual education institutions give some idea about the locations of the institutions.



Also, conclusion could be made about confession affiliation of the facilities.



The data of record registration compliments the information about religious organizations that act as founders of education institutions¹¹³:

- Institution “Central-Asian Reformativ Seminary” (Protestants)
- Institution “Spiritual education institution “Kolmo madrassa” (SAMK)
- Institution “Orthodox parochial school “Svetoch” (Russian Orthodox Church)

In Kyrgyzstan, seven schools are performing that implement secular general education program¹¹⁴.

¹¹³ As of October 4, 2011. From the information provided by the Ministry of Justice of the Kyrgyz Republic.

¹¹⁴ Based on the information provided by the Ministry of Education and Science (outgoing #12-1/7747).

Part 5. Activity of religious organizations

Obtaining education and upgrading qualification of the staff of religious organizations

The institutions, on the base of which one could obtain higher theological education in Kyrgyzstan, are accessible only on Islamic trend. For Christian organizations all listed above education institutions appeared to be located abroad¹¹⁵. Some participants of the survey named the departments of religious studies as one of the ways to obtain the relevant education¹¹⁶.

College is certain transitional link between secondary and higher education (obtaining education on the basis of secondary education degree)¹¹⁷, which were named by Christian organizations. Confessional education institutions of secondary level in Kyrgyzstan are represented by madrassas, and parochial schools.

In a view of absence of the law on religious education there is no legal stipulation of the levels of confessional education. The issue was cited about recognition of diplomas of religious education, which is related to curricula and an opportunity to combine the systems of education. Obtaining religious education abroad raises the issue related to impossibility to recognize the document of the education obtained.

Religious organizations of various directions are dealing with spiritual education in the form of sermons: Moslem in madrassas (most often with the mosques), Christian organization – in Sunday schools¹¹⁸. There is also an education in the form of courses¹¹⁹.

Involvement of the followers

The representatives of religious organizations named conversation as the main form to attract the followers (these forms of the work have different names – daavat, evangelization, proselytism). Believers invite new people (often from their circle) to summons carried out in the mosques and churches. In addition, such invitations could be combined with religious holidays celebrations, for example, of Easter, Christmas, and Orozo Ait. The choice to participate or do not participate is personal for each citizen¹²⁰. Implementation of predicator activity beyond religious organizations appeared to be affected by amendments introduced into the in 2008. At that, the law cannot ensure implementation of

¹¹⁵ Baptists named the institute with the church in Kazakhstan; Seventh-day Adventists – a branch of Zaorskaya spiritual academy in Kazakhstan; Orthodox Church members (Russian Orthodox Church) – Spiritual academy in Tashkent; Catholics – in Kazakhstan; Presbyterians – in Russia. Also such institutions as “Silk Road” and “Emmanuel Institute “ were mentioned, which could not enroll adequate number of students recently.

¹¹⁶ The participants of the interview named Kyrgyz-Russian Slavic University, Kyrgyz National University named after Jusup Balasagun, Kuwait University, Kyrgyz-Turkish University “Manas”, Osh State University.

¹¹⁷ The representatives of Christian organizations named the institutions in Tokmok and “Silk Road” in Bishkek.

¹¹⁸ Sunday schools were mentioned in the interview with the representatives of Russian Orthodox Church and Catholic Church.

¹¹⁹ The representative of one of Presbyterian churches reported about 6-months courses that new members have to pass before christening.

¹²⁰ This view was spelled out by the representatives of all religious organizations that took part in the interview.

one's own right in one's own property. Establishment of prayer rooms in public and municipal institutions puts a question related to observing the norms of effective law.

Financial sustainability of religious organizations

Private donations are source of income for the operation of religious organizations¹²¹, while in some cases - donations in certain percentage from income generated, however, during the interview it was emphasized that these were voluntary donations. Some organizations have funds abroad that provide support for maintenance and repair of the church¹²². Some organizations mentioned the issue of resources shortage to pay to their staff¹²³. In a view of lack of financial sustainability, religious leaders having devoted their lives to religious service¹²⁴ not always are able to make social contributions to ensure future pension. Some organizations consider their financial state as stable and adequate to cover all required costs, at that, sometimes they connect this to external assistance¹²⁵.

During the interview the issue related to state support to religious organizations was touched upon in a view of provision of certain services to the population, which could allow to request subsidies and tax privileges, otherwise taxation is made according to usual procedure the same way as for other public organizations¹²⁶. Amendments in tax legislation affected the requirement for land tax payment¹²⁷. The issue was raised about an opportunity to return the facilities that belonged to the church in the past¹²⁸.

Spheres covered by activity of religious organizations

Some organizations carry out programs related to confessional activity. In particular, health care, school meals programs were mentioned¹²⁹, visits of poor to the bath-house¹³⁰, repair of the bath-house and the premises of mental hospital¹³¹. Some organizations deal with distribution of humanitarian aid

¹²¹ From the interview with the representatives of various organizations – Baptists, Seventh-day Adventists, Pentecostal movement members, Catholics, “Blagodat” center, “Antioch” church, Orthodox Church members, Moslems.

¹²² From the interview with the representative of Catholic Church and Seventh-day Adventists in Jalal-Abad

¹²³ From the interview with Pentecostal movement members in Osh city and protestants (referred to under denominations) in Bishkek.

¹²⁴ From the interview with c Usur Loma, and Protestant Evangelic-Christian “Antioch” church in Bishkek.

¹²⁵ From the interview with the representatives of Russian Orthodox Church in Bishkek, Catholic Church in Jalal-Abad, Seventh-day Adventists in Jalal-Abade.

¹²⁶ From the interview with Alexander Kim, Council of evangelic communities, Bishkek.

¹²⁷ From the interview with the representative of Russian Orthodox Church in Osh city.

¹²⁸ In particular, the issue was raised about the chapel in Oak park in Bishkek, which is used as the gallery at the moment.

¹²⁹ From the interview with the representative of Seventh-day Adventists in Osh and Jalal-Abad cities.

¹³⁰ From the interview with the representative of *Sun Bogym* organization (Pentecostal movement members) in Osh city.

¹³¹ From the interview with the representative of Catholic Church in Jalal-Abad city.

received from abroad¹³². At that, some organizations distribute the aid through social protection agencies¹³³, arrange visits of doctors from abroad¹³⁴, and provide hot meals for homeless persons¹³⁵.

Registration of marriage

Most religious communities support the requirement of state registration of marriage. Some of them do not regulate turns of state registration and the registration according to religious tradition¹³⁶ – nika/wedding ceremony, but all of them agree about the need to pass state registration procedure as a condition to protect the rights of persons that would like to marry and their family members (children)¹³⁷. Catholics do not deny state registration of marriage¹³⁸. Russian Orthodox Church supports priority of state registration marriage over wedding ceremony¹³⁹. Islam requires consent for marriage. At that, religious leaders of Islam mentioned the problem related to wedding ceremony performance not by imam, but by other persons, for example, by mullah¹⁴⁰.

Practically all religions do not approve divorce with rare exceptions in a view of the following circumstances: marriage was made by means of deception, presence of illness, insuperable problems in terms of attitude to religion, adultery¹⁴¹. Orthodox Church does not allow divorce until the documents are submitted about marriage dissolution by the state¹⁴².

¹³² From the interview with the representative of Evangelic-Christian center “Blagodat” in Bishkek, and Seventh-day Adventists in Osh city and Jalal-Abad (Seventh-day Adventists have separate agency – ADRA).

¹³³ From the interview with the representative of Evangelic-Christian center “Blagodat” in Bishkek.

¹³⁴ From the interview with the representative of Evangelic-Christian center “Blagodat” in Bishkek, and Seventh-day Adventists in Osh city and Jalal-Abad.

¹³⁵ From the interview with Protestant-Evangelic Christian church “Antioch” in Bishkek.

¹³⁶ From the interview with the representative of “Antioch” church: before the God, but depends on a situation, for example, “to marry not to live in sin”.

¹³⁷ Baptists, Seventh-day Adventists, Sun Bogym.

¹³⁸ Catholics traditionally registered their marriage in the church books, which represented analog of state procedures of the registration, based on which the issues were addressed related to opportunity for marriage (lack of wedding ceremony as a barrier for marriage)

¹³⁹ From the interview with Igor Dronov in Bishkek.

¹⁴⁰ From the interview with Islamic religious leader in Jalal-Abad.

¹⁴¹ From the interview with Catholics, Seventh-day Adventists in Jalal-Abad and in Osh.

¹⁴² From the interview with Igor Dronov in Bishkek.

Part 6. Review of legal framework for freedom of religion and regulation of religious organizations' activity

Legal regulation of freedom of religion and religious organizations in KR

Legal regulation of freedom of religion and religious organizations in KR is provided by the Constitution, by the Law "On freedom of religion and religious organizations in the Kyrgyz Republic", other laws and secondary legislation.

Authors of this research took versions of the Constitution of the period of Kirghiz SSR (was effective until May 5, 1993), versions of the Constitution as of 1993, 2003, 2007 and 2010. During these periods, norms related to freedom of religion were amended and added.

The Law "On freedom of religion and religious organizations" initially was adopted on December 16, 1991 practically at the same time when constitutional status was adopted for the law "Declaration of state independence of the Republic of Kyrgyzstan"¹⁴³ and after 3 months from the date of its adoption¹⁴⁴. The law of 1991 was effective with minor amendments introduced in 1997 and in 2008 up to January 16, 2009, when new law came into force with the same title signed by the President on December 31, 2008. For analysis all versions of the law were reviewed, i.e. of 1991, 1997, of October 17 and December 31, 2008, as well as the last version as of 2011, since each of considered versions reflected attitude of the state to legal regulation of religious organizations' activity.

Legal regulation of freedom of religion and religious organizations in KR may be exercised by generally recognized principles and norms of international law, by the international agreements that came into force in accordance with established procedure, where the Kyrgyz Republic is a party, and which the Constitution of 2010 referred to legal system of Kyrgyzstan (item 3, article 6). Earlier in the law of 1991 up to its abolition in 2009, the norm was effective about the application of the rules of international agreement if the rules different from that are contained in the legislation of the Kyrgyz Republic on freedom of religion and religious organizations¹⁴⁵. The new law, despite of declared in its first article guaranteed human right to freedom of religion defined by the Constitution and by the international agreements ratified by the Kyrgyz Republic, removed former rule about priority of the international law over national legislation. As a result, the issue remains open regarding recognition of priority of action and application of international law in case of controversy between national provisions and international commitments of the country.

International commitments of Kyrgyzstan on freedom of religion

Out of nine main UN human rights Conventions six provide for obligations for members states regarding freedom of religion. UN Conventions against tortures, on discrimination against women and about the rights of disabled do not mention freedom of religion.

The Kyrgyz Republic ratified eight out of nine main UN Conventions on human rights, UN Convention for the Protection of All Persons Against Enforced Disappearance remains unratified. International

¹⁴³ Adopted on December 11, 1991.

¹⁴⁴ Adopted on August 31, 1991

¹⁴⁵ Article 23 of the Law of 1991

commitments of Kyrgyzstan related to freedom of religion are defined in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of a Child, Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Elimination of All Forms of Racial Discrimination.

General rule regarding freedom of religion is provided for by article 18 of the International Covenant on Civil and Political Rights, according to which the member state is obliged to provide to everyone:

- Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching¹⁴⁶;
- No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice¹⁴⁷.

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions¹⁴⁸.

The Covenant also provides for freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others¹⁴⁹.

Guarantees of the right to freedom of religion

The right to freedom of religion was provided for by all versions of the Constitution.

Constitution of Kirghiz SSR provided for “the right to practice any religion, or not to practice any religion, to exercise religious cults or carry out atheistic propaganda”¹⁵⁰. The citizens of the Soviet Kighizia were entitled to this rights by the Constitution. The rights and freedoms provided for by the law were guaranteed by the Constitution for foreign nationals and stateless persons¹⁵¹. In relation to restriction of the right the general norm was effective that the rights and freedoms used by the citizens should not affect the interests of the society and the state and the rights of other people¹⁵².

Constitution of 1993 provided each person the right to “freedom of religion, spiritual and cult freedom”¹⁵³. Constitution of 1993 in its provisions introduced the rules about restriction of the rights

¹⁴⁶ Item 1, article 18 of the International Covenant on Civil and Political Rights.

¹⁴⁷ Item 2, article 18 of the International Covenant on Civil and Political Rights.

¹⁴⁸ Item 4, article 18 of the International Covenant on Civil and Political Rights.

¹⁴⁹ Item 3, article 18 of the International Covenant on Civil and Political Rights.

¹⁵⁰ Article 50 of the Constitution of the Kirghiz SSR.

¹⁵¹ Paragraph 1, article 35 of the Constitution of the Kirghiz SSR.

¹⁵² Paragraph 2, article 37 of the Constitution of the Kirghiz SSR.

¹⁵³ Paragraph 5, item 2 of article 16 of the Constitution 1993.

and freedoms that was allowed by the Constitution and by the laws of the Kyrgyz Republic only to ensure the rights and freedoms of other persons, public security and protection of constitutional system. At that, the essence of constitutional rights and freedoms could not be affected¹⁵⁴.

Constitution of 2003 guaranteed each person “the right to freedom of religion, religious or atheistic activity” and the rights “to freely practice any religion, or not to practice any religion, to choose, have or disseminate religious or atheistic views”¹⁵⁵. Constitution of 2003 maintained approaches to restriction of the rights adopted by the Constitution of 1993 having added ensuring of public order and territorial integrity to the grounds applied to restrict the rights and freedoms¹⁵⁶.

Constitution of 2007 introduced minor changes to restriction of the rights and guaranteed each person “freedom of religion and atheistic views”. The rules and grounds remained unchanged compared to the Constitution of 2003.

Constitution of 2010 was the first out of the versions of the main laws to reflect this right in accordance with minimal human rights standards having stipulated a norm when every person was entitled to practice any religion individually, or together with others, to freely choose and have religious and other views. New Constitution provided prohibition for coercion to express one’s own religious and other views or to refuse from those.

Constitution of 2010 brought the provisions related to restriction of human rights in line with the international human rights standards. Restriction of human rights and freedoms was allowed only by the Constitution and by the laws to protect national security, public order, health and morale of the population, rights and freedoms of other people¹⁵⁷. The rights to freely choose and have religious and other views¹⁵⁸ could not be restricted in any way, and coercion to express religious and other views or refuse from these views was prohibited¹⁵⁹.

Constitution of 2010 introduced direct constitutional prohibition for adoption of normative and legal acts that restrict human and citizen rights and freedoms¹⁶⁰. This provision enhanced constitutional rule that restrictions may be imposed only by the law, which means that any public administration body, except Parliament should not be entitled to adopt legal acts restricting the right to freedom of religion, since the law can only be adopted by the Parliament.

¹⁵⁴ Item 2, article 17 of the Constitution 1993.

¹⁵⁵ Item 11, article 16 of the Constitution 2003.

¹⁵⁶ Item 2, article 17 of the Constitution.

¹⁵⁷ Article 20 of the Constitution 2010.

¹⁵⁸ Sub item 5, item of 5 article 20 of the Constitution 2010.

¹⁵⁹ Sub item 7m item of 4 article 20 of the Constitution 2010.

¹⁶⁰ Item 2, article 20 of the Constitution 2010.

Constitution of 2010 also introduced principle of adequacy of restrictions introduced and prohibited imposition of restrictions of the rights and freedoms other and to greater extent than provided by the Constitution¹⁶¹.

Secular state

Secular nature of the state first was defined by the Constitution of Kyrgyzstan as of 1993 and then was transferred to further versions. This principle was absent only in the Constitution of Kirghiz SSR and in the Constitution of the Kyrgyz Republic as of 2007. Constitution of Soviet Kirghizia instead of provision about secular state provided the rule of dualism about separation of the church from the state and school from the church¹⁶².

Constitution of 2007 that did not provided secular nature of the Kyrgyz Republic, maintained prohibitions in its provisions established by the first Constitution of independent Kyrgyzstan as of 1993. Article 8 of the Constitution of 2007 reflected similar meaning of article 8 of the Constitution of 1993 that any religion could not be recognized as public or mandatory religion, and prohibited interference of religious organizations and religious leaders to the activity of public administration bodies¹⁶³, activity of foreign political parties, public and religious organizations, their representations and branches, pursuing political objectives¹⁶⁴, establishment of political parties on religious grounds, pursuing political aims and tasks by religious organizations¹⁶⁵. In the Constitution of 2007 as in other versions of the Constitution of independent Kyrgyzstan, dualism principle was excluded, constitutional norms prohibited only participation of religion in affairs of the state.

As distinct from the Constitutions of the Kyrgyz Republic, the laws about freedom of religion included provisions not only on separation of religious organizations from the state, but also separation of school from religious organizations. The law of 1991 allowed an opportunity for religious organizations to participate in political life and prohibited establishment of religious political parties¹⁶⁶. As for education institutions, the law of 1991 declared that “state system of education in the Kyrgyz Republic shall be separated from religious organizations”¹⁶⁷. The law entitled registered religious organizations to establish education institutions for religious education of children and adults¹⁶⁸.

The law of 2008 prohibited interference of religious organizations and religious leaders to the activity of public administration agencies and local self-governance bodies. Regarding relations between education institutions and religious organizations the law of 2008 established two controversy rules. On one hand, registered religious organizations were entitled to establish and maintain religious education institutions

¹⁶¹ Item 2, article 20 of the Constitution 2010.

¹⁶² Article 50 of the Constitution of the Kirghiz SSR.

¹⁶³ Paragraph 4, item 5.

¹⁶⁴ Paragraph 5, item 5.

¹⁶⁵ Paragraph 6, item 5.

¹⁶⁶ Paragraph 3, article 5 of the Law 1991.

¹⁶⁷ Paragraph 1, article 6 of the Law 1991.

¹⁶⁸ Paragraph 3, article 6 of the Law 1991.

to enable religious education for children and adults¹⁶⁹. On the other hand, only those citizens with mandatory general secondary education in accordance with the law of the Kyrgyz Republic “On education”¹⁷⁰ were allowed to enter higher and secondary religious education institutions. The law “On education” provided for secular nature of education system in education institutions¹⁷¹. Thus, the lawmaker is not against the establishment of religious education institutions, but it is allowed to study in religious education institutions only after secular education degree.

Definition of the terms in the legislation

Version of the Law “On freedom of religion and religious organizations” as of 1991 did not contain definitions of the terms. New Law of 2008 introduced special article for the main terms and definitions. The definition of the terms introduced increased the number of contradictions with other normative and legal acts and international norms. The rules of legal technique were also violated when working with these terms.

International and constitutional norms use the notions of “public” or “national security” as the aims, for the sake of which restrictions of the right could be introduced, whereas effective law applied the term “spiritual” security¹⁷². Probably protection of morale was meant; this is the term that is applied in legal practice and theory, in this case it is required to bring the legislation in line with generally recognized terminology.

New law uses terms and notions defined by civil, criminal and administrative legislation. The terminology used is not coordinated, there are different definitions and approaches to regulation, which apparently complicates understanding, causes different interpretation and contradiction with effective norms of civil, criminal and administrative legislation.

“Religious radicalism”¹⁷³ prohibited by the state does not have legal definition. Introduction and definition of “proselytism” serves to establish prohibition for “pressing actions aimed at conversion of believers of one confession to another”¹⁷⁴. At that, the law of 2008 does not provide the definition for “pressing” and gives an opportunity for any subjective interpretation, but namely for “pressing” persons guilty of conversion to another religion should be brought to account¹⁷⁵.

Prohibition for servicemen to propagandize “one or another attitude to religion”¹⁷⁶ is not clear. Instead of understanding of “religious organization” as organizational-legal form of non-for-profit organization, this term is proposed to mean not only types of activities of organization, but also the facilities that

¹⁶⁹ Item 3, article 6 of the Law 2008.

¹⁷⁰ Item 5, article 6 of the law 2008.

¹⁷¹ Paragraph 12, article 4.

¹⁷² Item 2, article 1 of the law 2008.

¹⁷³ Item 2, article 5 of the law 2008.

¹⁷⁴ Item 4, article 5 of the law 2008.

¹⁷⁵ Item 4, article 5 of the law 2008.

¹⁷⁶ Item 2, article 7 of the law.

belong to it – “religious societies, centers, religious education institutions, mosques, churches, prayer houses, monasteries and etc.”¹⁷⁷.

Application of “religious association” term to define associations of religious organizations contradicts civil legislation that applies the term “associations” or “unions” to indicate associations of legal entities¹⁷⁸.

The law of 2008 provides for responsibility for “production, storage and dissemination of printing publications, photo, audio, video products and other materials containing ideas of religious extremism, separatism and fundamentalism”¹⁷⁹, whereas the relevant article of Criminal Code prohibits production and dissemination of extremist materials, while storage and acquisition, transportation and delivery is considered socially dangerous if this is made with the aim of dissemination¹⁸⁰.

Some terms that new law defines are not used in the text of the law. “Sect”, “cult practice” and “religious symbols” are mentioned only in article 3 of effective law and only in the form of the terms and definitions, and were not used anywhere else in the text.

The attempts of the lawmaker to provide unified definitions of the terms, which in different religions and philosophy groups have different understanding and different interpretation, represent unjustified interference of the state to theological and philosophical judgments about religions, and to independence of religious organizations.

“Religion”, according to effective law, is based on “belief to supernatural”¹⁸¹, “creed” belongs to “religion with traditional cult practice”¹⁸², “circumcision” characterized in old law as of 1991 as “ancient ceremony of Islam” is transferred to the new law in unchanged form¹⁸³. The lawmaker denies an opportunity for other definitions of the terms to exist, the law, and the view of the state cease to be neutral and try to influence freedom of thought.

Religious activity and state registration

International standards and civil legislation of the country allow for activity not prohibited by the law with establishing and even without establishing legal entity.

The law effective earlier allowed implementation of religious freedom “individually or together with other people”¹⁸⁴ and did not provide for the rules that forced religious associations to acquire a status of legal entity. Current law removed this provision and established the rule, according to which activity and

¹⁷⁷ Item 1, article 8 of the law 2008.

¹⁷⁸ Item 5, article 8 of the law 2008.

¹⁷⁹ Item 8, article 22 of the law 2008.

¹⁸⁰ Article 299-2 of Criminal Code KR.

¹⁸¹ Paragraph 10, article 3 of the law 2008.

¹⁸² Paragraph 3, article 3 of the law 2008.

¹⁸³ Item 5, article 21 of the law 2008.

¹⁸⁴ Paragraph 1, article 3 of the Law 1991.

functioning of religious organizations without record registration with public agency dealing with religious affairs is prohibited¹⁸⁵. Teaching religious disciplines individually is prohibited at all levels of education system¹⁸⁶.

Restrictions imposed for the registration of religious associations of people demonstrate intention of the state to seriously complicate or make it impossible for religious associations to obtain a status of legal entity. In accordance with the rules that were established, religious organization obtains the right to performing religious activity from the date when record registration certificate is issued by public agency dealing with religious affairs¹⁸⁷.

For record registration new law established 30 days period "from the date of application along with all documents submitted to check those for compliance with effective legislation"¹⁸⁸. "If the application for record registration and the documents attached contain violations of this law, public agency dealing with religious affairs should return these documents to the applicant without consideration" (item 5, article 11 of the law 2008). The term of registration is prolonged for another month, if public agency dealing with religious affairs decides to request additional information and receive conclusion of the relevant agencies, and to submit statutory documents of the applicant to religious expert examination¹⁸⁹.

Apart from record registration, religious organization should pass state registration with the agencies of the Ministry of Justice¹⁹⁰, with tax authority, statistics authority, the Ministry of Interior, Social Fund, where their own duration is provided for consideration of the documents. These agencies have their own approved periods for registration. In the agencies of the Ministry of Justice this period is 10 calendar days from the date of submission of all documents required¹⁹¹. In Tax authority the registration is made not later than within 15 days from the date of state registration as legal entity¹⁹².

The law of 2008 provides for record registration requirement not only for religious organizations, but also for religious facilities¹⁹³. Thus, according to the meaning of the law, before record registration of these facilities, religious activity is also prohibited¹⁹⁴.

¹⁸⁵ Item 2, article 8 of the law 2008.

¹⁸⁶ Item 7, article 6 of the law 2008.

¹⁸⁷ Item 1, article 10 of the law 2008.

¹⁸⁸ Item 3, article 10 of the law 2008.

¹⁸⁹ Paragraph 2, item 3 of article 10 of the law 2008.

¹⁹⁰ Paragraph 3, item 15 of article 10 of the law on state registration of legal entities, item 5 of article 10 of the law of 2008.

¹⁹¹ Item 2, article 8 of the law on state registration of legal entities.

¹⁹² Item 2, article 96 of Tax Code.

¹⁹³ Item 1, article 10 of the law of 2008.

¹⁹⁴ Item 4, article 10 of the law of 2008.

According to the law of 1991, availability of 10 people was required to register legal entity, now at least 200 people are needed who permanently stay on the territory of Kyrgyzstan¹⁹⁵. In accordance with new requirements, upon registration of organization it is needed to additionally provide certified by notary public and coordinated with local councils list of citizens and initiators of establishment of religious organization, Charter in Kyrgyz and in Russian languages¹⁹⁶. Restriction is imposed for associations of religious organizations in the form of requirement to have “at least ten religious organizations of single religion, of which at least one has been performing its activity on the territory of the Kyrgyz Republic at least during fifteen years”¹⁹⁷.

Further any amendment or addition in the Charter should be subject to re-registration in accordance with the same procedure as applied for record registration of religious organization¹⁹⁸. The terms in the case of re-registration are the same.

The law of 2008 seriously complicated the registration procedure for the missions (representations) of foreign religious organizations and foreign missionaries. The law of 1991 did not regulate registration of the missions and missionaries. Registration of the missions and missionaries was introduced by the Decree of the President as of November 14, 1996 (# UP-319), which approved provisional regulations on record registration of the missions, missionaries and religious organizations and for religious teaching. In the same Decree, prohibition was introduced for missionary or other religious activity without record registration in the country. These provisional regulations introduced 15 years ago are still effective, despite of the fact that their content was duplicated in new law.

The law of 2008 added new restrictions to the requirement of provisions as of 1996 to obtain record registration for the missions and missionaries. Before, to receive record registration for the mission, application was required along with the Regulation and information about the staff of the mission. According to new rules, mission should also provide a copy of a Charter of foreign center translated to state or official language and certified by notary public, reference from the register of the country of registration of religious center, document that certifies location of the mission, power of attorney for the representative of the mission certified by notary public and a list of citizens who initiated establishment of both religious organization, and the mission¹⁹⁹. Since according to new law, at least 200 people are required for religious organization, many confessions that do not have such number of believers failed to obtain permission for the activity of their mission.

Record registration of the missionaries, according to the rules provided by the provisional regulations, implied personal completion and submission of the questionnaire. New law added the requirement that the missionary should provide reference from higher instance organization along with translation of this document certified by notary public, and a list of citizens, members of constituent council who invited the missionary to Kyrgyzstan and who initiated establishment of religious organization and mission approved by local councils and certified by notary public. Condition about presence of at least 200

¹⁹⁵ Item 3, article 8 of the law 2008.

¹⁹⁶ Paragraphs 3 and 4, item 2, article 10 of the law 2008.

¹⁹⁷ Item 5, article 7 of the law.

¹⁹⁸ Paragraph 3, item 3 of article 10 of the law 2008.

¹⁹⁹ Article 11 of the law 2008.

people to initiate religious organization, the list of which requires approval by local council, for many confessions became insurmountable obstacle for invitation of the missionary from abroad.

Reference...

As official information about the dynamics of record registration shows, during the period of new law effectiveness there were no missions or missionaries registered. Before such state of affairs was observed only in 2002 and in 2005. For the period from 1997 to 2008, authorized public agency for religious affairs annually registered various missions, total number of registered missions during these years made up 24 missions.

The law of 2008 apart from the documents required for the registration of the missions and missionaries provides for denial to register in a view of inauthenticity of the information provided or in a view of threat to state and public security, inter-ethnic or inter-confessional accord, health and morale of the population. The same rules are applied for record registration terms of the missions and missionaries as for religious organizations. When all registration procedures are performed, the mission or missionary receives registration certificate for a period not longer than 1 year. When this period expires, re-registration should be made according to the same procedure²⁰⁰.

The law of 2008 introduced special rules to control activity of non-registered religious organizations. In accordance with these rules, "religious organization is obliged to submit a set of documents to state statistics agencies, tax authorities and the state agency dealing with religious affairs, office of Public Prosecutor, including report on its activity, personal composition of management bodies, and the reports on resources spending and using other assets, including assets and resources received from the international and foreign organizations, foreign nationals and stateless persons. Formats and dates for submission of these documents should be defined by the state agency on religious affairs"²⁰¹. If religious organization fails to submit the required information, this might be a justification for its liquidation based on court decision²⁰². Before the court decision, "state agency on religious affairs should be entitled to make a decision to suspend the activity of religious organization"²⁰³. Suspension entails prohibition not only for religious activity, but also for any other activity, excepting implementation of liabilities related to payments to the budget, compensation of damage and settlements on earlier concluded agreements²⁰⁴.

According to effective rules, the state on one hand prohibits activity of the missions and missionaries without record registration, while on the other hand, establishes insuperable obstacles when they will to register. The law provides for administrative responsibility for activity without registration and for evasion from registration by religious association²⁰⁵. On the other hand, activity of registered entities overburdened by control functions of public authorities.

²⁰⁰ Articles 11 and 12 of the law 2008.

²⁰¹ Item 4, article 26 of the law 2008.

²⁰² Item 7, article 26 of the law 2008.

²⁰³ Item 2, article 27 of the law 2008.

²⁰⁴ Article 28 of the law 2008.

²⁰⁵ Article 395 and 402 of the Code on administrative liability.

New law forces religious associations of the citizens, the number of which does not reach the number required by the law, or which list of initiators was not approved by local authorities, to violate the law and implement religious freedom without state registration, or choose other organizational-legal forms for registration of legal entity (public foundation, institution, public association and etc.). Missions and missionaries have to perform their activity illegally without state registration. As a result, the state is deprived of an opportunity to implement full-fledged participation and regulation in religious sphere, since one of its mechanisms – registration of the entities – is presented in topped form.

Reference:

According to official information from authorized public agency on religious affairs, from the date when new version of the law came into force only 3 organizations of Orthodox and 135 organizations of Islamic confessions passed official registration. For the period from 2009 to 2011, not a single organization of other confessions were registered in “religious organization” organizational-legal form. Before adoption of new law of 2008, religious associations of other confessions were registered annually.

Property and religious facilities

As for the property of religious organizations, the law of 1991 allowed broad opportunities to own buildings, premises, worship articles, industrial, social and charity facilities, cash and other assets required to perform their activity, including assets owned abroad²⁰⁶. The law of 2008 extended these rules to the missions and religious education institutions, having excluded the item related to owning assets abroad. Despite of elimination of this opportunity, lack of direct prohibition for acquisition of property in other countries gives religious entities the rights to make such transactions.

The norm in the law of 2008 should be considered new, according to which the missions should indicate in its regulation that “upon reorganization or liquidation of the mission, the facilities that represent architectural, cultural and historical value should remain on the territory of the Kyrgyz Republic”²⁰⁷. According to another rule of the law of 2008, upon completion of the mission, assets provided for use should be returned to former owner or to legal successor²⁰⁸. Since the mission is not a legal entity²⁰⁹, and so does not have civil or legal capacity and capability and thus cannot acquire by its actions and on its behalf the rights and responsibilities, including the right to use and the right to own, it becomes unclear, how the lawmaker intended to implement the indicated norm. On the other hand, if property of foreign religious organization that stays on the territory of the Kyrgyz Republic is in question, then the rule to leave this property without consent of its owner should be considered as violation of the ownership right of foreign religious organization. Third, there is controversy between two norms, one of which requires to leave property in the country, whereas another requires to return property to the owner or to legal successor. As a result, mission of foreign religious organization will be forced to refuse from importation of the items that could be considered by the state as having historical, cultural and

²⁰⁶ Paragraphs 1 and 3 of the law 1991.

²⁰⁷ Paragraph 2, article 11 of the law 2008.

²⁰⁸ Item 1, article 19 of the law 2008.

²⁰⁹ Item 12, article 11 of the law 2008.

architectural value to be left in the country. Thus, the norm of the law of 2008 imposes additional restrictions for the activity of the missions.

In relation to assets of religious organizations and missions that ceased their activity, for which there are no legal successors, the rule is introduced to transfer these assets to the ownership of the state²¹⁰. In this view it is not clear, if the state will become a legal successor in terms of liabilities of the entity that ceased its operation?

Religious ceremony of marriage and marriage dissolution

Marriage is entered to in the agencies dealing with registration of civil acts²¹¹. Thus, the state does not recognize marriages entered to based on religious rules. The law of 2008, and the law of 1991 allow for consecration of the marriage according to Islamic tradition in the mosque, or in the family for Moslems, wedding ceremony in the church for Christians along with civil registration of the marriage²¹², without mentioning opportunities for marriage according to the rules of other religions.

Alternative (military and civilian) service

In relation to civil duties implementation the laws of 1991 and 2008 provided a rule, according to which nobody can avoid implementation of duties provided for by the law based on religious views. Replacement of one duty by another based on views is allowed only in the cases provided for by the legislation²¹³.

One of civil duties is a duty of male citizens reached call-up age to serve in Armed forces and other military formations of the Kyrgyz Republic. In accordance with the law “On universal military service of the citizens of the Kyrgyz Republic, on military and alternative service”, alternative service could be provided to the citizens instead of military service based on age, religious views, family status, criminal records or health condition²¹⁴.

The lawmaker failed to provide release from call-up in a view of other than religious views of a person, and in the case of practicing religion on individual basis or in religious association without a status of registered legal entity. According to the law, a citizen should be called-up to alternative service, if he is a member of registered religious organization, which ideology does not allow to use arms and to serve in the Armed forces²¹⁵.

The issue related to arrangement of civil alternative service is not adequately regulated. In 2009, in new version of the law “On universal military service of the citizens of the Kyrgyz Republic, on military and alternative service” the lawmaker does not use the term “civilian service”. For some religious doctrines not only military service is not allowed, but also any service related to the operation of military sector.

²¹⁰ Item 4, article 19 of the law 2008.

²¹¹ Article 11 of Family Code.

²¹² Item 5, article 21 of the law 2008.

²¹³ Item 10, article 4 of the law 2008.

²¹⁴ Item 1, article 32 of the law on universal military service.

²¹⁵ Paragraph 3, item 2 of article 32 of the law on universal military service.

The rules of new law on military service do not ensure civil nature of alternative service. Alternative service implies payments to be made by servicemen to special account of the Ministry of Defense of the Kyrgyz Republic through district (city) military committees at the location of call-up²¹⁶. Old versions of the law “On alternative (civilian) service” provided the rule that “arrangement of alternative (civilian) service and control over this service should be implemented by the Ministry of Defense of the Kyrgyz Republic”²¹⁷. Constitution of 2010 returned the term “civilian service”²¹⁸, and thus, the work should be performed to bring the legislation in line with the provisions of the main law.

Taxation and social protection in religious organizations

In accordance with the rules of the law of 1991, financial and asset donations to religious organizations were not taxed²¹⁹. This provision was removed from the law of 1991 by amendment as of October 17, 2008. The law of 2008 provides that “revenue from business activity and other income of religious organizations should be taxed in accordance with the legislation of the Kyrgyz Republic”.

As for taxation of income of the citizens, including priests, received as a result of working in religious organizations, the law on freedom of religion in all its versions initially established taxation.

The law of 1991 extended the norms of the legislation on social insurance and social welfare to the persons working in religious organizations and in other organizations created by them based on labor agreement. Religious organizations and organizations created by them had to make payments to the Fund of state social insurance and to Pension fund of the country²²⁰. According to the law of 2008, religious organizations and organizations created by them “should make social insurance payments according to the procedure and in the amounts provided for by the legislation”²²¹. From the language of the law of 2008 it is not clear, if citizens are in labor or in civil-legal relations with religious organization.

Right to burial

The law of 2008 denied to regulate issues of using cemeteries by people of different religions. There is no rule provided for local governments to consider religion affiliation upon arrangement of cemeteries. New law established reference rule that “recognition of the rules to use religious cemeteries and the rules about cemetery fee should be regulated by local self-governance bodies”²²². As a result of absence of single norms in Kyrgyzstan, in the locations of stay of religious majority conflicts emerge related to use of cemeteries, and regarding religious ceremonies carried out there.

The law “On counteracting terrorism” establishes the rule, according to which “burial of terrorists died as a result of terrorist act suppression should be made in accordance with the procedure established by

²¹⁶ Item 4 article 32 of the law on universal military service.

²¹⁷ Article 4 of the Law “On alternative (civilian) service” as of 1992 and 2002.

²¹⁸ Item 2, article 56 of the Constitution 2010.

²¹⁹ Paragraph 5, article 11 of the law 1991.

²²⁰ Article 20 of the law 1991.

²²¹ Item 1, article 25 of the Law.

²²² Item 3, article 16 of the Law 2008.

the Government of the Kyrgyz Republic. At that, their bodies should not be issued for burial, and the information about the location of their burial should not be made known”²²³. The law does not indicate procedures and rules, according to which a person would be recognized guilty of committing terrorism, which allows different interpretation and application of the norm of the law.

²²³ Article 36 of the law “On counteracting terrorism”.

Part 7. Recommendations to ensure the right to religious freedom

1. To ensure revision of effective law on religious freedom and religious organizations to bring it in line with the provisions of the Constitution of the Kyrgyz Republic and commitments of the Kyrgyz Republic assumed within the frame of international human rights instruments, where the Kyrgyz Republic is a party.
2. To ensure training of staff of public agencies dealing with freedom of conscience and religious freedom to respect diversity of views and convictions, and to observe human rights and freedoms. To eliminate from practice of authorities and officials incorrect (insulting and discriminatory) terminology used in relation to religious organizations. To ensure legality and equal attitude to religious organizations from the part of authorities.
3. To facilitate education of the society on diversity of views, which could include religious, atheistic or other views. To enable production of the relevant programs by mass media companies where the state participates as shareholder, to encourage production of the programs or coverage of these issues by private channels. To focus on fighting stereotypes that affect status of believers. To fight radicalization by means of awareness raising, education and provision of assistance.
4. To establish effective communication between authorities and confessions and promote constructive inter-confessional dialogue. In this view, to refer to the international experience related to arrangement of the work aimed at development of inter-confessional interaction formats. The state should perform protocol function: interact with the confessions to identify relevant issues and find solutions.
5. Registration procedure for religious organizations needs improvement in terms of harmonization with the approaches used in relation to legal entities, as well as considering rules, structures and governance bodies within the organizations. It is required to eliminate shortcomings of practice that turned believers to infringers in a view of presence of illegitimate norms.
6. To ensure application of legal mechanism to combat those organizations that pursue illegal objectives, including by using religion. To ensure revision of decisions that are based on illegitimate categories, such as “sect”, “traditional religion”, “destructive organization”, “totalitarian organization”, and to bring these decisions in compliance with the law. To touch upon these issues while arranging religious expert examination.
7. While interacting with religious organizations it is required to develop single approach to regulate relations between the state and confessions in the sphere of education, public and municipal service, provision of support to the activity of religious organizations within the frame of general strategy for supporting generally useful activity, considering diversity of the society and views in accordance with effective constitutional legal framework and international standards.

Annex. The draft law “On freedom of religion and religious organizations”²²⁴

THE KYRGYZ REPUBLIC

THE LAW

“On freedom of religion and religious organizations in the Kyrgyz Republic”

Chapter I. GENERAL PROVISIONS

Article 1. Subject of the law

This law regulates relations in the sphere of implementation of the rights to freedom of religion, activity of religious organizations, and relations that are established between the state and religious organizations.

Article 2. Objectives of the law

This Law guarantees implementation of the right to freedom of religion of each person stipulated by the Constitution of the Kyrgyz Republic, and in the international human rights treaties and agreements, defines legal status and spheres of activity of religious organizations, principles of relations between the state and religious organizations.

Article 3. The legislation on freedom of religion and religious organizations.

1. The legislation on freedom of religion and religious organizations in the Kyrgyz Republic is based on the Constitution of the Kyrgyz Republic and consists of this law and other normative and legal acts adopted in accordance with these acts.
2. Issue of the acts contradicting this law by public administration bodies shall be prohibited.
3. In the case of contradiction between the provisions of other laws related to freedom of religion and activity of religious organizations and the provisions of this law, the latter shall prevail.
4. This law shall not regulate issue of atheistic or other beliefs of non-religion nature and shall not be extended to the activity of atheistic or other ideological organizations of non-religious nature.

Article 4. International agreements

If the international agreements stipulate other rules than that containing in the legislation of the Kyrgyz Republic on freedom of religion and religious organizations, the provisions of the international agreements shall prevail.

Article 5. The right to freedom of religion

1. Every person staying on the territory of the Kyrgyz Republic shall be entitled to freedom of religion, i.e. to the right to adopt or change religion, to practice religion both individually, and together with

²²⁴ The bill as of August 30, 2010. This bill was developed with participation of “Open Position” public foundation with the support of Regional OHCHR office and upon involvement of Mr. Roman Podoprighora who was included into OSCE/ODIHR expert panel on freedom of religion.

others, in public or private settings, to exercise cult, to carry out religious and ritual ceremonies and ideology, to disseminate religious beliefs and act in accordance with those beliefs.

2. The right to freedom of religion shall be implemented both individually and collectively.

3. The provisions of this law shall be extended to the citizens of the Kyrgyz Republic and to foreign nationals and stateless persons staying on the territory of the Kyrgyz Republic.

Article 6. Essence of the right to freedom of religion

1. The essence of the right to freedom of religion shall be expressed in free performance of the following actions:

1) exercise devotions, divine service and other religious ceremonies, religious meetings, establish and maintain premises for these purposes;

2) establish and maintain charity or humanitarian institutions;

3) produce, acquire and use the required products and materials related to religious ceremonies, customs or beliefs;

4) prepare, publish and disseminate publications and other materials related to meeting religious needs;

5) teach and learn religious issues or beliefs in the settings appropriate for the purpose;

6) request and receive voluntary financial or other donations;

7) prepare, assign, elect or dismiss leaders of religious organizations in accordance with the rules of one or another religion;

8) organize in accordance with their own hierarchy and institutional structure;

9) observe religious holidays;

10) establish and maintain contacts with the individuals and communities in the sphere of religion and beliefs at the national and international levels.

2. Any coercion in terms of determination of attitude to religion, to participation, or non-participation in the service, religious ceremonies, in teaching religion shall be prohibited.

Article 7. Freedom of religion and equality of citizens

Every person shall be equal before the law in all spheres of economic, political, social and cultural life regardless of attitude to religion.

2. Direct or indirect restriction of the rights, imposing additional liabilities or any advantages depending on attitude to religion or instigation of related enmity and hatred, or insulting people's feelings, as well as profanation of items, structures and places respected by the followers of any religion shall entail responsibility provided for by the legislation of the Kyrgyz Republic.

3. Nobody is obliged to inform about one's attitude to religion. Indication of religion affiliation of the citizen should be prohibited in official documents .

Article 8. Religious views and civil duties

1. The state shall respect religious views of believers and as appropriate shall adopt acts that allow for replacement of civil duties that contradict religious views.
2. Citizens shall be entitled to replacement of military service by alternative (civilian) service if military service is in conflict with their religious views. The procedure of military service replacement shall be regulated by the law.

Article 9. Restriction of the right to religious freedom

Implementation of the right to religious freedom shall be restricted by the law only with the purpose of protection of public security, public order, health, morale or rights and freedoms of other persons.

Chapter II. THE STATE AND RELIGIOUS ORGANIZATIONS

Article 10. Separation of religious organizations from the state

1. Religious organizations shall be separated from the state.
2. Any religions shall not be established as public, official or mandatory.
3. Religious organizations shall not perform any public administration functions and the state shall not interfere to the activity of religious organizations, unless this activity violates the legislation of the Kyrgyz Republic.
4. Religious organizations shall not take part in elections (assignment) of public administration bodies and public servants.
5. Religious organizations shall not establish or take part in the activity of political parties or other organizations pursuing political objectives.
6. Public worship premises shall not be used for meetings and public events within the frame of election campaigns, preparation and conducting of referendums and other actions of political nature.
7. The state shall not finance religious organizations, excepting cases when there is a requirement to preserve assets that present historical and cultural value.
8. Activity of public administration bodies shall not be associated with religious ceremonies and other religious events. Public servants shall not use their official status to form attitude to any religion, or use it to create preferences or obstacles for religious organizations and believers.
9. Separation of religious organizations from the state shall not mean restriction of voting rights of the members of religious organizations and their access to public service, and restriction of religious rights of public servants.

Article 11. Equality of religious organizations

1. All religious organizations shall be equal before the law. Any religion or religious organization shall not enjoy any privileges or preferences compared to others.

2. The state shall facilitate establishment of mutual tolerance and respect between citizens practicing and not practicing religion, and between different religious organizations and their followers.

Article 12. Autonomy of religious organizations

1. The state shall recognize internal rules of religious organizations and opportunity to be guided by these rules in their activity provided that the legislation of the Kyrgyz Republic is observed.

2. Religious organizations shall observe the requirement of the legislation of the Kyrgyz Republic and law and order. Religious nature of organization, presence of its own rules and norms shall not serve as the grounds to avoid observance of the legislation.

Article 13. Cooperation between the state and religious organizations

1. The state and religious organizations may cooperate in educational, elucidative, charity spheres, and in the sphere of social and health care provision.

2. The state may provide assistance to religious organizations related to maintenance of religious buildings and other assets that present historical and cultural value, to carry out religious events of public importance.

Article 14. Public agencies dealing with religious organizations

1. Public agency dealing with religious organizations shall be established in the system of executive power. This agency shall be entrusted with the following functions:

- 1) development of proposals for the government on public confessional policy;
 - 2) coordination of activity of the government to implement single public confessional policy;
 - 3) review and analysis of religious situation in the country, maintaining database about religious organizations;
 - 4) control over implementation of the legislation on religious freedom and religious organizations by the citizens, public administration agencies, public and non-governmental organizations;
 - 5) review foreign experience in terms of relations between the state and confessions;
 - 6) provide the information to public administration bodies required for decision-making related to religion and religious organizations;
 - 7) promote cooperation between the state and religious organizations.
 - 8) arrange religious studies work;
 - 9) prepare normative and legal acts in the sphere of state-confessional relations;
 - 10) provide assistance to train public servants on religious issues.
2. Public agency may have its subdivisions at local public administration level.

Chapter III. THE STATE AND RELIGIOUS EDUCATION

Article 15. The right to religious education and training

1. Each person shall be entitled to training and education in accordance with religious views.
2. Discrimination in the sphere of education based on religion shall be prohibited and shall be punished in accordance with the legislation of the Kyrgyz Republic.
3. Parents or persons that replace parents shall be entitled to train and educate their children in accordance with their views.
4. Violent acts to involve children to religion shall be prohibited.
5. Citizens who study in education institutions established by religious organizations and registered by public administration bodies shall use benefits provided to students in accordance with the legislation of the Kyrgyz Republic on education.
6. Religious education and training may be implemented in private (individual, family) setting, or in education institutions considering requirements of this law.
7. Establishment of religious organizations shall be prohibited in education institutions, excepting education institutions created by religious organizations.

Article 16. Religious education in private setting

Each person shall be entitled to religious education on individual basis or together with other people without establishing special education institutions or attending those institutions.

Article 17. Religious education in public education institutions

1. Public education institutions shall be separated from religious organizations.
2. Teaching religious studies disciplines shall be allowed in public education institutions on voluntary basis.
3. Teaching religious disciplines shall be accepted in public higher education institutions, if these disciplines comprise required element of special training and are included into the state education standard.
4. Administration of public education institutions shall respect religious views of students and create tolerant environment in the education institutions.

Article 18. Religious education in non-governmental education institutions

1. Religious organizations may establish non-governmental education institutions that provide religious and (or) secular education.
2. In case of establishment of non-governmental education institutions that provides secular education, this entity shall be licensed in accordance with the requirements of the legislation of the Kyrgyz Republic.
3. Religious organizations shall freely provide religious education in schools, colleges, institutes, academies and other education institutions created by them.

4. Teaching religious disciplines may be implemented on voluntary basis in non-governmental education institutions established by other (non-religious) organizations.
5. Religious organizations may with the purpose of educational and training activity create internal subdivisions without independent legal status and registration with public administration bodies.

Chapter IV. RELIGIOUS ORGANIZATIONS

Article 19. Religious organizations

For the purpose of this law organization shall be recognized as religious if it is established by the citizens on voluntary basis or by acting religious organization(s) to meet religious needs and interests and meeting the following criteria:

- 1) organizational unity;
- 2) general religious ideology;
- 3) religious practice, or activity related to religion (management, service, charity, educational).

Article 20. Types of religious organizations

1. Local religious organizations, their associations, religious education institutions, religious centers, and other formations established by the citizens and religious organizations shall be recognized as religious organizations.
2. Local religious organizations may establish regional or republican religious organizations.
3. Regional or republican religious organizations may be created by acting foreign religious centers (organizations) registered according to the legislation of the country of origin.
4. Religious organizations may act being registered or non-registered.
5. Non-registered organizations cannot enter into legal relations, participant of which, in accordance with the legislation of the Kyrgyz Republic, may only be legal entity. Non-registered organizations cannot enter into legal relations on their own behalf, while in case of requirement their rights and interests shall be implemented through the citizens – members of non-registered organizations.
6. Relations with religious organizations, their management bodies, including those located beyond the Kyrgyz Republic, and not regulated by the legislation of the Kyrgyz Republic, shall be addressed in accordance with agreements between them and public administration bodies of the Kyrgyz Republic.

Article 21. Registration of religious organizations

1. Registration of religious organizations means acquisition of the rights of legal entity and shall be implemented by authorized public agency that implements registration of legal entities on initiative of citizens and (or) religious organizations.
2. Religious organizations shall not be obliged to pass state registration.
3. Local religious organizations shall be established by initiative of at least 10 citizens who reached full legal age.

4. In the case of local organization establishment as structural (local) subdivision of acting religious organization, the decision of acting religious organization bodies shall be required on inclusion of the organization established in its structure.
5. Religious organizations shall not be obliged to be included into the structure of acting foreign, republican or regional religious organizations.
6. Religious organizations may form republican or regional religious organization that shall be registered at the location of its governance body.
7. Religious organizations registered with justice bodies shall be entitled to establish spiritual education institutions and other religious organizations.
8. State registration, re-registration, denial to register shall be performed in accordance with the procedure and within the terms provided for by effective legislation of the Kyrgyz Republic.
9. Public administration bodies may discontinue the duration of state registration for not longer than one months period if it is required to carry out religious or other expert examination, and obtain the conclusion of specialist regarding the documents submitted by religious organization.

Article 22. Liquidation of religious organization

1. Religious organization shall be liquidated in accordance with the procedure and based on the grounds provided for by the legislation of the Kyrgyz Republic.
2. Religious organization shall not be liquidated if the number of its members became less than 10 people.

Article 23. Charter (regulations) of religious organization

1. Religious organization registered as legal entity shall perform its activity based on charter (regulations) that shall contain the following:
 - 1) title;
 - 2) location of governance body;
 - 3) religious belonging;
 - 4) objectives and types of activity;
 - 5) structure, procedure of formation, competence and duration of governance bodies' powers;
 - 6) procedure of admittance and exclusion of the members (if there is membership);
 - 7) sources of assets;
 - 8) procedure for introduction of amendments and additions to the charter;
 - 9) procedure of reorganization and liquidation.
2. Religious belonging shall be defined by the founder (founders) of religious organization.

3. Procedure of admittance and exclusion of the members shall be indicated if religious organization is established based on declaration of will of the citizens. The founders and believers accepted to the organization in accordance with the charter of the organization shall be understood as members for the purpose of this article.

Membership in accordance with religious norms shall be regulated by internal rules of religious organizations.

4. The structure of religious organization, procedure of formation, competence and duration of governance bodies' powers may be defined considering internal rules of religious organizations.

5. The charter of religious organization shall not contain the provisions that contradict the Constitution of the Kyrgyz Republic and effective legislation.

Chapter V. THE RIGHTS OF CITIZENS AND RELIGIOUS ORGANIZATIONS RELATED TO RELIGIOUS FREEDOM

Article 24. Religious ceremonies and devotions

1. The citizens and religious organizations shall be entitled to found and maintain places for public worship or religious meetings, and places respected by the followers of one or other religion (pilgrimage places and other).

2. Public worship, devotions and other ceremonies shall be carried out without difficulty in religious buildings, pilgrimage places, in the premises belonging to religious organizations based on ownership right, lease or based on other grounds, in cemeteries, in crematoria, and in the apartments and houses of the citizens.

3. The citizens and religious organizations shall be entitled to exercise religious ceremonies and devotions and participate in them in military units, in health care facilities, old people's homes, nursing homes and other social institutions, in pre-trial detention facilities and penitentiary institutions. Command of military units and administration of the above institutions shall ensure implementation of the right of citizens to religious freedom and shall assist to invite ministers of religion, to identify time, location and provide other conditions for public worship, devotions and ceremonies performance.

Religious ceremonies and devotions indicated in this item shall be carried out taking into account regime rules established in these institutions.

4. In other cases not indicated in items 2 and 3 of this article, public worships, ceremonies aimed at meeting religious needs of the citizens shall be carried out in accordance with the procedure established for peaceful meetings and other public events.

5. Religious ceremonies and other religious activity shall be free and shall not be subject to restriction provided that public order is observed, rights and freedoms of citizens are respected, including of atheist citizens, and the legislation of the Kyrgyz Republic is not violated.

Article 25. Religious literature and religious articles

1. The citizens and religious organizations shall be entitled to acquire and use religious literature, and other articles and materials of religious nature at their discretion.

2. The citizens and religious organizations shall be entitled to publish, produce, export, import and disseminate articles of religious nature, divine service literature and other information materials of religious nature.
3. Issue of periodical publications of religious nature and other religious literature that is not intended for divine service shall be made in accordance with the legislation of the Kyrgyz Republic on press.
4. Religious organizations shall be entitled to use mass media.

Article 26. Charity and cultural-education activity

1. The citizens and religious organizations shall be entitled to perform charity and mercy activity both through other organizations, and independently, and to establish charity organizations (shelters, hostels, hospitals and other social institutions).
2. The citizens and religious organizations shall be entitled to establish societies, brotherhoods and other associations of citizens for charity purpose, studying and dissemination of religious literature and performing other cultural-education activity. They may have their own charters and register as legal entities, or act as structural subdivisions of religious organizations without the right of legal entity.
3. Religious organizations may unite to associations (unions) on voluntary basis to perform charity, cultural-education and other socially useful activity.

Article 27. Missionary activity

1. Activity related to dissemination of the doctrine by means of religious propaganda, education, charity and other forms of religious ideology dissemination shall be understood as missionary activity in this law.
2. Missionary activity shall be permitted provided that other religions and views of atheistic citizens are respected.
3. Missionary activity shall be prohibited that insults the representatives of other religions, calls to forcibly change constitutional system and violates public order, is related to violence, deception, corruption or committing other illegal acts.

Article 28. International relations and contacts

1. The citizens and religious organizations shall be entitled to establish and maintain international relations and personal contacts individually or in a group, including trips abroad for pilgrimage purpose, to participate in the meetings, congresses, conferences and other religious events.
2. Religious organizations may send citizens abroad to study in religious education institutions and accept foreign nationals for this purpose.

Chapter VI. PROPERTY, LABOR AND FINANCIAL LEGAL RELATIONS OF RELIGIOUS ORGANIZATIONS

Article 29. Property of religious organizations

1. Property of religious organizations includes buildings, cult items, industrial, social and charity facilities, cash and other assets needed to ensure their operation.

2. Religious organizations shall be entitled to property right for assets acquired or created due to their own resources, donated by the citizens, organizations or transferred by the state and acquired based on other grounds that do not violated the law.
3. Assets located abroad may be owned by religious organizations.
4. Property right in multi-level religious organizations (republican, regional) shall be determined in accordance with the Charters of these organizations.
5. Religious organizations shall be entitled to apply for voluntary and other donations and receive those.

Article 30. Using assets owned by the state, non-governmental organizations and citizens

1. Citizens and religious organizations shall use buildings, territory and property that are provided to them by the state based on agreement, by non-governmental organizations and citizens.
2. Citizens and religious organizations may use assets that belong to other owners on free basis.
3. Local governments shall be entitled to transfer religious buildings or other assets owned by the state to the ownership or to free use to religious organizations. Religious organizations shall have preferential right for religious buildings along with adjacent area.
4. Transfer of the facilities that present historical and cultural sites to religious organizations and use of these sites by them shall be implemented in accordance with the legislation of the Kyrgyz Republic.
5. The state may provide material assistance to religious organizations to restore religious buildings of historical and cultural value.

Article 31. Entrepreneurial and economic activity of religious organizations

1. Religious organizations in accordance with the legislation of the Kyrgyz Republic and their charters (regulations) shall be entitled to establish publishing, polygraphic, industrial, restoration and construction, agricultural and other commercial organizations, that have the rights of legal entity.
2. Activity of commercial legal entities created by religious organizations shall be related to the objectives of activity of religious organizations.
3. Religious organizations to ensure provision and supply of their activity (maintenance of the buildings, transportation of religious ministers, material support for ceremonies) may establish internal management subdivisions without the rights of legal entity or may choose to deal with such provision and supply directly.

Article 32. Disposal of the assets of liquidated religious organization

1. Upon liquidation of religious organization, disposal of its assets owned by this organization shall be made in accordance with its Charter (regulations) and effective legislation of the Kyrgyz Republic.
2. The assets shall be transferred to the ownership of the state with the absence of legal successors.

Article 33. Religious buildings (premises)

1. Religious organizations shall be entitled to use both religious and other buildings (premises) for their purposes.
2. Public administration bodies dealing with planning and development of the area shall envisage and plan religious facilities in their master plans.

Article 34. Labor legal relationship of the citizens in religious organizations

1. Religious organizations shall be entitled to hire the individuals in accordance with labor legislation of the Kyrgyz Republic.
2. Religious organizations shall be entitled to hire citizens, including ministers of religion on paid or on free basis without concluding labor contract. In such cases their work shall be regulated by internal rules of religious organizations, which shall be stipulated in the decision of governance body or in the agreement on performance of religious (official) duties between religious organization and the employees (ministers).
3. Labor legislation of the Kyrgyz Republic, procedure of taxation shall be extended to the citizens working in religious organizations based on labor contract the same way as for the employees of public and non-governmental organizations.
4. If the individuals in cases indicated in item 2 of this article receive income resulted from performance of their duties, this income shall be subject to taxation the same way as for the employees of public and non-governmental organizations.

Article 35. Social welfare of the individuals working in religious organizations

1. The individuals, including ministers of religion, working in religious organizations based on labor agreement shall be provided with social welfare on a par with the employees of public and non-governmental organizations.
2. With this purpose religious organizations shall make social insurance contributions in accordance with the procedures and in the amounts provided for by the legislation of the Kyrgyz Republic.
3. Social welfare of the individuals, including ministers of religion, working in religious organizations without labor agreement shall be provided based on the rules of religious organizations through their own social funds or in accordance with other practice.
4. Procedure for calculation of pensions to the staff (ministers), who performed their duties during the period when they were excluded from the system of social welfare and social insurance shall be established by the regulation of the Government.

Chapter VII. CONTROL OVER THE LEGISLATION ON FREEDOM OF RELIGION AND RELIGIOUS ORGANIZATION OBSERVANCE AND LIABILITY FOR VIOLATION THEREOF

Article 36. Control over observance of the legislation on freedom of religion and religious organizations

Control over observance of the legislation on freedom of religion and religious organizations shall be made by public authorities in accordance with their jurisdiction established by the legislation of the Kyrgyz Republic.

Article 37. Liability for violation of the legislation on freedom of religion and on religious organizations

Officials, natural persons and legal entities guilty of violation of the legislation on freedom of religion and on religious organization shall be liable in accordance with the legislation of the Kyrgyz Republic.

The President of the Kyrgyz Republic

Table of contents

Acknowledgement.....	4
Preface.....	5
On efforts upon overview preparation	6
Part 1. General information	9
Religions practiced in the Kyrgyz Republic and religious associations of believers.....	9
The main territories where religious movements and beliefs are spread in the Kyrgyz Republic	10
Dynamics of record registration of religious organizations and religious education institutions	11
Comparison of legal entities registration data of justice bodies and the record registration data of the State Commission on religious affairs	12
Islamic religious organizations	13
Spiritual administration of Moslems of Kyrgyzstan	13
Other Islamic associations.....	14
Dynamics of record registration of Islamic organizations.....	14
Analysis of record registration data of Islamic organizations and facilities.....	16
Christian religious organizations	18
Buddhism	19
Judaism.....	19
New religious movements and beliefs	19
Missions of foreign confessions	20
Part 2. On public policy of the Kyrgyz Republic in the sphere of religion	21
Part 3. Review of practice and analysis of the data obtained.....	22
Different categories mixing in record registration.....	22
Difference between registration data of the institutions of justice (legal entities) and record registration of the State Commission on religious affairs	22
Classification of the information used in record registration	22
Issues of identification of religious belonging of religious organizations and movements.....	23
Information about denial, suspension of registration	24
Religious expert examination.....	24

Differentiation between issues of religious freedom of human rights nature and illegal actions	25
Recognition of organizations being destructive and authoritarian	25
Recognition of organizations being extremist and terrorist on the territory of the Kyrgyz Republic	26
Combating stereotypes, overcoming negative consequences of terrorism, extremism and radicalism fighting that affects status of believers.....	27
Hajj arrangement, protection of citizens interests (within the country and abroad).....	28
Differentiation between ethnic origin and religious belonging	28
Preservation of neutrality and equal attitude of the state to different religious movements and beliefs	28
Registration with public administration bodies, prolongation and termination of activity	29
Record registration and registration as legal entity.....	30
Cases related to discrimination and undue practice.....	33
Access to information in the competence of public administration agencies.....	33
Enhancement of competence of officials dealing with religious issues	34
International cooperation efforts of Kyrgyzstan in terms of suppression of activity of prohibited religious organizations, evaluation of prohibition legality, procedures of inclusion and exclusion from the list.....	35
Part 4. Education in religious sphere	36
Higher religious (theological) education	36
Spiritual education institutions not referred to higher theological education system.....	37
Part 5. Activity of religious organizations.....	40
Obtaining education and upgrading qualification of the staff of religious organizations	40
Involvement of the followers	40
Financial sustainability of religious organizations.....	41
Spheres covered by activity of religious organizations.....	41
Registration of marriage	42
Part 6. Review of legal framework for freedom of religion and regulation of religious organizations' activity	43
Legal regulation of freedom of religion and religious organizations in KR	43
International commitments of Kyrgyzstan on freedom of religion	43
Guarantees of the right to freedom of religion	44

Secular state	46
Definition of the terms in the legislation	47
Religious activity and state registration.....	48
Property and religious facilities.....	52
Religious ceremony of marriage and marriage dissolution	53
Alternative (military and civilian) service.....	53
Taxation and social protection in religious organizations.....	54
Right to burial.....	54
Part 7. Recommendations to ensure the right to religious freedom.....	56
Annex. The draft law “On freedom of religion and religious organizations”	57

List of abbreviations

PF	– Public foundation
OSCE	– Organization for Security and Cooperation in Europe
OHCHR	– Office of the United Nations High Commissioner for Human Rights
UN	– United Nations Organization
UNDP	– United Nations Development Program
ODIHR	– Office for Democratic Institutions and Human Rights
MI	– the Ministry of Interior
SAMK	– the Spiritual administration of Moslems of Kyrgyzstan
SCRA	– the State Commission on religious affairs
ROC	– Russian Orthodox Church
NRM	– New religious movement
SCO	– Shanghai Cooperation Organization
CIS	– Commonwealth of Independent States
KR	– the Kyrgyz Republic
CSTO	– Collective Security Treaty Organization
SSR	– Soviet Socialist Republic (in the Soviet Union)