

BISHKEK RECOMMENDATIONS ON ADEQUATE FINANCING OF THE JUDICIARY AND FOR IMPROVING JUDICIAL TRAINING

A justice system's strength and effectiveness depend upon the availability of adequate financing and upon the professionalism of the judges themselves. These two factors are essential to achieve enduring independence of a judiciary and effective administration of justice based on the rule of law and human rights. These factors need careful attention and cooperative efforts to develop recommendations and interventions to improve financing and professionalism.

The Regional Forum for Judges ("Bishkek Forum") held in Bishkek, Kyrgyzstan on the 14th and 15th of March 2013 was a platform for judges representing regional judiciaries to discuss adequate financing of judiciaries and how to improve judicial training. The Bishkek Forum, initiated by the Supreme Court of the Kyrgyz Republic jointly with the International Development Law Organization (IDLO), was sponsored by the Kingdom of the Netherlands. Supreme Court representatives from the Kyrgyz Republic, Russian Federation, Kazakhstan, Republic of Moldova, Ukraine, Mongolia, Republic of Tajikistan and Republic of Georgia participated in the Bishkek Forum. Representatives of international organizations, international donors, academia and public institutions of the Kyrgyz Republic also participated.

The main objectives of the Bishkek Forum were to:

- Create a basis for long-term cooperation and information sharing among the judicial institutions of countries within the region;
- Build consensus about how to improve legal education and the quality of judicial training as part of strengthening the rule of law and sustainable development;
- Build consensus about how to address infrastructural and other needs to provide effective, transparent and adequate financing of judiciaries.

Adhering to prior international expressions of basic principles regarding the independence of judiciaries and their effectiveness, the Bishkek Forum set out to elaborate recommendations to address financing and professional training issues that regional judicial systems are facing.

Bishkek Forum participants endorsed IDLO's suggestion to undertake efforts to create a regional Bishkek-based institute for judicial and legal research, to support information and knowledge-sharing in the justice sector, to perform analysis and research and to organize events to promote regional development and cooperation among judicial institutions.

On the basis of presentations and discussion among the Bishkek Forum's participants, the following set of Recommendations on adequate financing of the judiciary and for improving judicial training were adopted during the Forum.



RECOMMENDATIONS ON ADEQUATE FINANCING OF THE JUDICIARY

(Adopted at the Regional Judicial Forum: Effective Justice: Problems and Solutions held in Bishkek, Kyrgyz Republic on March 15, 2013)

Whereas, it is necessary to strengthen the independence of the judiciary as a pre-requisite to building a democratic society based on the Rule of Law and respect for Human Rights;

Whereas, the main principles of judicial independence are reflected in the Basic Principles on the Independence of the Judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Milan, Italy, from 26 August to 6 September 1985 and endorsed by the United Nations General Assembly Resolution 40/32 of 29 November 1985; in Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, adopted by United Nations Economic and Social Council Resolution 1989/60 of 24 May 1989; in the Council of Europe Committee of Ministers' Recommendation No. R (94) 12 to Member States on the Independence, Efficiency and the Role of Judges, adopted on 13 October 1994; in the European Charter for the Statute of Judges, adopted in Strasbourg on 10 July 1998; Universal Charter of the Judge, adopted by the Central Council of the International Association of Judges in Taipei (Taiwan) on 17 November 1999; in the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights on 25 June 1993 and endorsed by the United Nations General Assembly Resolution 48/121 on 20 December 1993; in the Statement of Principles on the Independence of the Judiciary in the LAWASIA Region, adopted in Beijing on 19 August 1995 and amended in Manila on 28 August 1997 (Peking Principles);

Whereas, financial independence of the judiciary is a fundamental principle of a government based on law and this presumes adequate financing be provided to the judiciary;

Whereas, inadequate financing undermines a judiciary's independence and prevents normal functioning of the judiciary, full access to justice, realization of human rights and court protection of citizens;

The Regional Forum of Judges adopts the following recommendations:

1. Financing of a judiciary's activities should be provided in amounts sufficient to meet current needs and also on the basis of national target programs for development of the judicial system, including provision of financial resources for infrastructure construction and renovation of buildings, for development and introduction of modern rules of procedure for provision of justice, including automation for recording trials, for open access to judicial decisions and for preservation of case materials.
2. For timely and adequate provision of financing to judicial organs, it is necessary to provide and specify in laws:
 - a. A fixed resource from the budget allocated to the judiciary, expressed as a specifically established percentile of the state's overall budgeted expenditures;
 - b. The right of judicial bodies to participate in the formation of the budget for the judiciary and the right to decide independently about allocation of the budgeted resources;



- c. All budget lines for the judicial system should be recognized as “protected”;
 - d. Sequestration of a judiciary’s budget of up to 5 per cent of the confirmed budget should require approval by the Council of Judges or an analogous judicial self-governing body; sequestration of more than 5 per cent should require approval by the Assembly of Judges.
 - e. All funds for the judiciary should be secured at the beginning of the financial year;
 - f. Monthly funding of judicial bodies should be provided continuously, in equal installments of 1/12 the yearly state budget amount provided for their activities;
 - g. Provision of funds in the event of non-adoption of a current year fiscal budget should be carried out in monthly installments of 1/12 of the amount specified in the prior financial year of the state budget.
3. Periodic hearings before the national legislature for accountings by the executive branch concerning provision of the budget to the judiciary should be a requirement of law.
4. Specific measures for accountability of executive branch officials for failure to execute budget allocation rules regarding financing of the judiciary should be established in law.



RECOMMENDATIONS FOR IMPROVING JUDICIAL TRAINING

(Adopted March 15th, 2013 at the Regional Judicial Forum: *Effective Justice: Problems and Solutions* held in Bishkek, Kyrgyz Republic)

Whereas, it is necessary to strengthen the independence of the judiciary as a pre-requisite to building a democratic society based on the Rule of Law and respect for Human Rights;

Whereas, the main principles of judicial independence are reflected in the Basic Principles on the Independence of the Judiciary adopted by the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders, held in Milan, Italy, from 26 August to 6 September 1985 and endorsed by the United Nations General Assembly Resolution 40/32 of 29 November 1985; in Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary, adopted by United Nations Economic and Social Council Resolution 1989/60 of 24 May 1989; in the Council of Europe Committee of Ministers' Recommendation No. R (94) 12 to Member States on the Independence, Efficiency and the Role of Judges, adopted on 13 October 1994; in the European Charter for the Statute of Judges, adopted in Strasbourg on 10 July 1998; Universal Charter of the Judge, adopted by the Central Council of the International Association of Judges in Taipei (Taiwan) on 17 November 1999; in the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights on 25 June 1993 and endorsed by the United Nations General Assembly Resolution 48/121 on 20 December 1993; in the Statement of Principles on the Independence of the Judiciary in the LAWASIA Region, adopted in Beijing on 19 August 1995 and amended in Manila on 28 August 1997 (Peking Principles);

The Regional Forum of Judges adopts the following recommendations:

Independence of the judicial system, the genuine provision of justice and public confidence in the judiciary heavily depend upon high professional standards of judges. Taking this into consideration, it is necessary that:

1. First time applicants to become judges should be required to complete preliminary specialized training and to pass a qualification (exit) exam;
2. Preliminary training of applicants to become judges should be financed by the state.
3. Training of sitting judges should be mandatory and continuous over the course of professional activity, on the basis of a comprehensive program repeated periodically as established by regulations;
4. The results of training are to be considered as part of the professional activity of a judge;
5. Training and education of both judges applicants and sitting judges should be carried out by a specialized training body of the judiciary in accordance with approved standards and legislative requirements.

