



British
Embassy Office
Almaty

Information Pack for British Prisoners in Kyrgyzstan

Author
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Introduction

Who can help?

The Foreign and Commonwealth Office (FCO):

The FCO is represented overseas by its Embassies and Consulates (High Commissions in Commonwealth Countries). Both employ consular officers, and one of their duties is to provide help and advice to any British National who gets into difficulty in a foreign country.

About the Embassy

We are impartial; we are not here to judge you. We aim to make sure that you are treated properly and fairly in accordance with local regulations, and that you are treated no less favourably than other prisoners.

We can answer questions about your welfare and about prison regulations but you must ask your lawyer or the court about legal matters. The attached list of lawyers is provided by the British Embassy for your convenience, but neither Her Majesty's Government, nor any official of the Consulate, take any responsibility for the competence or probity of any firm/advocate on the list or for the consequence of any legal action initiated or advice given.

We cannot get you out of prison, pay fines or stand bail or interfere with local judicial procedures to get you out of prison nor secure you an earlier trial date; we cannot investigate a crime.

We have tried to make sure that the information in this booklet is accurate and up to date, but the British Embassy cannot accept legal responsibility for any errors or omissions in the information. If in doubt contact a lawyer.

Who are the Consular Representatives?

Richard Dewell, HM Consul	Richard.Dewell@fco.gov.uk
Svetlana Solomkina, Pro-Consul	Svetlana.solomkina@fco.gov.uk

Contact Information

British Embassy Office, Almaty
Rahat Palace Hotel Business Centre
29/6 Satpaev Street, 7th floor
Almaty
050040
Kazakhstan

Email: Almaty.consular@fco.gov.uk or Kyrgyzstan.consular@fco.gov.uk
www.gov.uk/world/kyrgyzstan

Telephone +7 (7172) 556200 - dialing through Astana switchboard
Fax +7 (7272) 507962

Opening hours: GMT
Monday to Thursday: 2.30am to 11:00am
Friday: 2.30am to 9.30am

Local:
Monday to Thursday: 8.30am to 5.00pm
Friday: 8.30am to 3.30pm

British Embassy in the Kyrgyz Republic

21 Erkindik Boulevard
Office 404
Bishkek
720040
Kyrgyzstan

Email: ukin.kyrgyzrepublic@fco.gov.uk

Telephone +996 (312) 303637

Office hours (GMT):
Monday -Friday: 3am-7am and 8am -11:30am

Office hours (Local):
Monday - Friday: 9am - 1pm and 2pm - 5:30pm

First Steps

Who will know I have been detained?

As soon as a British Citizen is arrested or detained in Kyrgyzstan, the Kyrgyz authorities should ask if they wish to notify the nearest British Mission. Article 36 of the Vienna Convention on Consular Relations requires those foreign nationals who are arrested or detained be given notice ``without delay`` of their right to have their embassy or consulate notified of that of that arrest. The notice to the embassy can be as simple as a fax, giving the person's name, the place of arrest, and if possible, something about the reason for the arrest or detention. Unfortunately, we are frequently not informed within 24 hours. It is essential therefore that you ask for the British mission to be informed as soon as possible after your arrest. You may also be able to make a phone call to the Embassy or to family (with a covering charge). It is your right to do so.

What will my family be told?

For reasons of confidentiality we are not permitted to tell anyone that you have been detained or what the charges are without your permission. However, your family or friends could find out via the internet that you are detained.

However, should you wish to inform your family, we can make contact with them through our colleagues in the FCO in London. We can give your family or next of kin advice on prison procedure, regulations, and how you are doing. We can also pass on any messages from you.

What will the Consulate do?

We aim to make contact with you within 24 hours of being notified of your arrest. Our initial contact may be by telephone, but we will seek the necessary permissions to visit you as soon as possible. We will make sure you understand the charges against you. We will check

that you have legal representation by giving you an English-speaking lawyer's list, or ensuring a state lawyer has been appointed.

Would I have a criminal record in the UK?

You should be aware that if you have been convicted for certain serious offences, such as sexual assault or drugs trafficking, we are obliged to inform the UK police. It is therefore possible that information about this offence may appear if a Criminal Records Bureau check were carried out by a prospective employer.

Visits

How do my family and friends arrange a visit?

It is a general rule that in a pre-trial detention centre visits are not allowed.

When in a prison only close family are permitted to visit (parents, husband/wife, children and siblings). Closed visits are where prisoner and visitor sit either side of a glass window and speak to each other on the phone. Open visits are done in the `lawyers' rooms` where the prisoner and visitor can sit at opposite sides of a table.

An appointed lawyer can be in charge with organising a visit of the family.

Visitors are required to apply in person (or via the lawyer) to the public prosecutor in advance of the visit along with the below documents;

- Petition letter to public prosecutor
- Photocopy of passport
- Document showing the relationship between the prisoner and visitor

Visitors must show their passport and the permission approved by the prosecutor in charge when they arrive at the prison. These are held by the prison and the passport is returned at the end of the visit. Visitors will be searched before entering the prison.

How many visits am I allowed?

Frequency of prison visits depends on specific rules in a certain prison, its specific regime type, Article a prisoner was charged against and even his behaviour in prison. In general it happens not more frequently than once in months.

Consular visits

We hope to visit you every 6 months. You will be called to the prison's 'lawyers' rooms during a Consular visit.

What can visitors bring?

Only clothes, books and magazines can be brought to prisoners. As per other items such as food or tobacco stuff every prison has its own list of permitted and prohibited items. All bags and parcels will be searched before entry and authorities have the right to withhold items they deem to be unacceptable.

Prison conditions/services

Arrival at prison

Upon arrival you will be placed temporarily in the admittance cell. There will be 2 weeks quarantine and your medical condition will be checked. You will receive general information about prison rules and regulations. It is likely that this information will be available in Russian or Kyrgyz language only. Within a few days the Prison Board will decide which cell is best suited for you and you will be moved to your permanent cell following the Board's decision.

General prison conditions

There are 31 prisons in Kyrgyzstan. As of 01.01.2014 the total prison population in Kyrgyzstan is around 11800. Over-crowding is a major problem in some prisons. The tuberculosis rate is rather high. Women's prisons are separate to men's. The number of inmates to a cell depends on the size of the cell and the number of prisoners in the particular prison. A large prison can have dormitories with a capacity of 28 people split in to 7 rooms. Toilets and showers are mostly shared. Hot water is supplied. Laundry facilities are available but rudimentary. Prisoners are responsible for the cleaning of their cell.

How can I receive money?

Prisoners say that money is vital inside the prison. In Kyrgyz prisons you pay for everything other than the absolute basics. However, we strongly advise prisoners not to make it evident if they have access to regular funds (keep cash deliveries to a minimum, advise visitors/family not to send or deliver expensive gifts or large parcels). Foreign prisoners are always considered to be rich and as a result they are sometimes targeted by other inmates within the prison as a good source of funds and therefore they could become victims of theft and extortion, or targeted by drug abusers. It is also possible for friends and family to transfer money directly to the prison or through the FCO in London to avoid paying bank charges (on smaller transfers).

Can I work or study in prison?

Foreign nationals in prison in Kyrgyzstan usually cannot work or study. Occasionally, they can be engaged in cleaning and cooking at prison.

Can I receive medical and dental treatment?

In the larger prisons, there is a health service under the authority of a practitioner. This service has an infirmary where basic medical treatment can be given, a dental treatment unit, a dentist and adequate staff. Daily examinations, vaccinations and urgent dental care of the prisoners as well as examinations of newly arrived prisoners in the institution are carried out by this service.

If you need medical or dental treatment you should ask for an appointment to see the prison doctor or dentist. You write a request letter which is collected by prison wardens and passed to the medical division of the prison. Depending on number of patients and the urgency of the situation, prisoners may be assisted the same day or after 2-3 days. Basic medical attention is free of charge. It is unlikely that you will be treated by an English-speaking doctor. If you have a long-standing medical problem and have received treatment for in the UK, it may be useful if you have your medical records, or at least a report, sent from your doctor in the UK. Your UK doctor can send the report, via the Consulate, addressed to you.

Food and Diet

Prison food is free but very basic. You will need funds to pay for supplements to your diet such as tea, coffee, sugar, fruit, sweets etc which can be bought from the prison shop.

Mail/Parcels

Friends/family can send mail/parcels directly to the prison. In some prisons it is known to take a long time to receive the mail/parcel. If necessary, Consular staff may deliver vital mail or parcels (such as necessary clothing) from family/friends to the prison during routine visits. The consulate is not able to forward mail on your behalf back to UK. All letters are opened, and checked by prison staff before they are given to prisoners.

Can I make telephone calls?

Usually there is weekly or monthly access to a payphone. How frequently it will be permitted by prison authorities depends on each prison's rules and regulations, behaviour of a prisoner, his article of crime etc. Telephone cards are sold at the prison. You might be only allowed to call immediate family or the Embassy.

Leisure and entertainment

The larger prisons may have a library.

Drugs

All arriving prisoners are seen by the prison doctor or psychologist. Any prisoners that have a drug addiction are monitored by the psychologist to ensure they are able to recover suitably.

How can I make a complaint about mistreatment?

Incidences of harassment, threats or violence are rare, but if you do experience such treatment, you should report this to your Consular Representative as soon as possible. It is our responsibility to take up allegations of mistreatment against a British national. We will only raise concerns with the prison administration if you request that we do so.

The Kyrgyz Judicial System

Is the system the same as the UK?

In short, no. Although on the face of it there are many similarities. For example, prisoners are presumed innocent until proven guilty, they have a right to legal representative, interpreter, fair trial and appeal. However there are fundamental differences. For example, there is no jury system and judicial processes are not always correctly followed. Kyrgyzstan judicial system for proceedings in criminal cases has several levels: local courts (in particular –district and city courts); oblast courts; and the Supreme Court of the Republic of Kyrgyzstan). Local lawyers can charge outrageous sums of money, make grand promises and deliver very little. Prisoners can remain in prison without having been sentenced for well over a year. The system is also notoriously corrupt.

Remember, **you should never sign anything you cannot read**. If you find yourself under pressure to sign, ask to speak to the British Embassy.

What should happen when I am arrested?

Arrest is one of the measures of restraint and is applied if there are grounds to believe that a suspected person would escape investigation or court or hinder examination of case before court, or would continue acts of crime, and also for execution of a sentence of a court. Therefore, if such person, this means that his/her freedom (of action, movement) is temporarily restrained, as the arrested person is held in a detention facility.

If you are arrested at the airport you will initially spend some time in a police cell at the airport. Police should read the charges and your rights. Whilst you are there police will usually gather evidence and question you in the presence of a translator. You will be taken from the airport to cells at Police Headquarters, where a state prosecutor will start the first phase of investigation.

Whether arrested at the airport or elsewhere, you will usually remain in a police cell for a day or two (official time is 24 hours) before you are taken to court to give your pre-hearing statement to the prosecutor. At this point, depending on the evidence, judge decides either for arrest or release. If the decision is 'arrest' you are taken to prison to await your court hearing. The court hearing date is usually 3-6 months after the prosecutor's first decision. In the police cells and in prison you will probably share a cell with several other people. You may have access to your belongings, but this depends on whether the police consider them as evidence. If considered as evidence you will not be allowed to keep your possessions. Your passport and other identification will be taken away and kept by the prison authorities in your file.

The arrest procedure

Arrest is one of the measures of restraint and is applied if there are grounds to believe that a suspected person would escape investigation or court or hinder examination of case before court, or would continue acts of crime, and also for execution of a sentence of a court. Therefore, if such person, this means that his/her freedom (of action, movement) is temporarily restrained, as the arrested person is held in a detention facility.

An interrogation officer, investigator, prosecutor or court is obliged to notify relatives of the suspect about the arrest within 12 hours. If the detainee is a foreign citizen, the embassy, consulate or other representative office of his/her state must be notified within the stated time. In exceptional cases, such notice may be delayed for a period not exceeding 10 days (except for instances with minors).

Please read some extracts from the following Articles of the Kyrgyz Criminal Procedure Law

Article 94. Grounds for Detention of a Person Suspected in Committing a Crime

Grounds for detention are:

- 1) the person is caught during the commission of a crime or directly after its commission;
- 2) eyewitnesses, including the victims, directly point out the person as the offender;
- 3) the suspect, his clothes, or his dwelling have evident traces of the crime.

The person may be detained in the presence of other facts that give grounds to suspect the person in committing the crime, if attempted to escape, when he does not have a permanent place of residence or when his identification is not established.

Article 95. Procedure for Detaining a Person Suspected in Committing a Crime

The order of detention of persons suspected of committing a crime.

1. For not more than three hours after the actual detention an investigator should write a protocol, which indicates reasons and motives, time and place of arrest (with an indication of hours and minutes), the results of a search of the detainee, as well as the time of protocol. Protocol is declared the detainee and according to the Code of Law detainee has the right to call in a lawyer and it will be noted in the minutes. All further information a detainee can give in his lawyer's presence A protocol of detention must be signed by an investigator and the detainee. Then the investigator must inform the Prosecutor in writing about the detention within twelve hours after signing of an arrest report.
2. The detainee must be questioned in accordance with the rules of the Criminal Code.

For how long can I be remanded in custody?

It is general rule that a term of arrest in the course of pre-trial proceedings may not exceed 2 months. However, a term of arrest may be extended in certain circumstances and may, as a **maximum, last for 12 months.**

Article 111 of the Kyrgyz Criminal Procedure Law. Time Limits on Pre-Trial Detention and Extension Procedures

- (1) The pre-trial restraint measure imposed during criminal proceedings shall be applied under a judicial warrant for a term of up to two months.
- (2) If it is impossible to complete a preliminary investigation within the two-month time period and no grounds exist for altering or revoking the pre-trial restraint measure, a judge of a district (city) court or military garrison court may extend the time period:
 - 1) for six months - on motion of the investigator on consultation with a supervising procurator;
 - 2) for nine months - on motion of the investigator on consultation with Deputy Procurators General of the Kyrgyz Republic;
 - 3) for one year - on motion of the investigator on consultation with the Procurator General of the Kyrgyz Republic.
- (3) There shall be no further extension of time periods. The accused held in detention is subject to immediate release. A different pre-trial restraint measure shall be imposed with regard to the person released.
- (4) An order with regard to filing a motion on extending a detention period shall be submitted to a court in the venue of the preliminary investigation no later than five days before the expiration of the detention period. The order should reflect reasons necessitating the extension of the time period, circumstances to be investigated and grounds for applying this pre-trial restraint measure. The motion shall be reviewed by a judge, according to procedures specified by Article 110(5) of this Code.
- (5) The judge, not later than three days after he received the motion, shall make one of the following decisions:
 - 1) extending the detention period;
 - 2) declining the investigator's motion and denying the release of the accused from custody.
- (6) The period of detention during investigation shall be calculated from the time when the accused is detained until the time when the criminal case is forwarded to the court. The time period during which the accused was examining the case files, as provided for by (2) of this Article shall be counted as part of the detention period.
- (7) Also counted as part of the detention period is the time period:
 - 1) for which the person was held as a suspect;
 - 2) of any house arrest;
 - 3) of any involuntary commitment to a medical or psychiatric institution pursuant to a court decision;
 - 4) during which the person was detained on the territory of a foreign state pursuant to a request for legal assistance or for extradition of the person to the Kyrgyz Republic.
- (8) In the event of the repeat detention of an accused in the same criminal case or upon his criminal case being joined with or severed from another criminal case, the duration of the

relevant detention period shall include the period of time during which the accused had been detained earlier.

(9) When the case is sent back for filling the gaps of investigation, during which the detention period has expired, but detention as a pre-trial restraint measure is left unaltered due to the circumstances of the criminal case, the period of detention shall be calculated from the time when the case is sent back to a procurator and may not be longer than one month. Further extension of the said period shall be done according to the procedures and within time limits specified by (2) of this Article.

(10) A complaint regarding the judge's order extending the detention period or denying this may be filed in a higher court, according to procedures established by Article 132-1 of this Code.

What happens when I am charged?

You will be moved to prison to await trial.

What provision is there for bail?

The legislation contains a provision on bail. Bail may be in the form of money (and, upon a permit of a prosecutor or court, other valuables and real property) to be deposited by a suspected (accused) person or another person or entity with the court as security for performance by the suspected (accused) person of his/her duties, for example, a duty of appearance in court. The amount of bail is determined taking into account the gravity of accusation, the suspected (accused) person's identity and property status. No bail may be established with regard to persons accused of particularly grave crimes.

Article 109 of the Kyrgyz Criminal Procedure Law. Bail

(1) Bail is an amount of money placed by the accused or other person or organization on a special account as a guarantee that the accused will not commit acts enumerated in item 1, Article 105 of this Code.

(2) Bail as a sanction shall be applied by the investigator, prosecutor with a warrant of the supervising prosecutor, or by court ruling or resolution of the judge.

(3) Bail shall not be applied to persons charged with felony.

(4) The bail amount shall be determined by the body that selected the sanction and shall vary from 50 to 1000 estimated rates.

(5) Transcript of proceedings shall be compiled on bail acceptance and a copy of the transcript shall be filed with a surety. At the same time the surety shall be informed about the type of the case for which the sanction was selected and the grounds based on which the bail will be appropriated by the state; it shall be specified in the transcript of the proceedings.

(6) The bail shall be appropriated by the state if the accused committed one of the following violations:

- 1) without a valid cause failed to appear when summoned by the investigator or the court;
- 2) escaped from the investigation or the court;
- 3) committed acts aimed at prevention of determination of the truth on the criminal case;
- 4) committed another intentional offense.

(7) The investigator shall compile a transcript of proceedings on violations mentioned in item 6 of this Article that shall state facts of the violation and facts certifying the committed violation. The transcript of proceedings shall be signed by the accused, surety and persons certifying the specified in the transcript facts. In case the mentioned violations are committed by the accused in the course of court proceedings, the facts of such violation shall be stated in the transcript of court proceedings.

(8) In case the accused escaped from the investigation and the court, the transcript of proceedings shall be signed by the persons listed in item 7 of this Article.

(9) An issue of a bail return shall be resolved by the court in its resolution, ruling, verdict for the criminal case. In case of termination of the legal proceedings at the stage of investigation an issue of a bail return or its appropriation by the state shall be resolved by a motivated resolution of the investigator, or the prosecutor.

(10) In the case of the sanction change from the bail to taking into custody, if it is not concerned with improper behavior of the suspect or accused, the sum of the bail shall be returned to depositor.

Bail is rarely granted for foreigners. Foreigners holding a valid residence permit or those who are married to a Kyrgyz National can be granted bail depending on the charge.

What kind of legal assistance is available

Consular staff cannot give legal advice but they can provide you with a list of lawyers, all of whom speak English. You may choose to appoint a lawyer to represent you; a list of lawyers in your area is included in this information pack. The British Consulate cannot pay legal fees or guarantee to a lawyer that you will pay them.

If you do not have funds to hire a lawyer yourself, the court must appoint one. State appointed lawyers are free of charge but they rarely speak English. As in any country, some lawyers are better than others (paying a large fee does not guarantee that you will get a good lawyer). If you decide to pay for a lawyer, it may be possible to agree a flat fee for the whole case before they begin work so that you do not find yourself facing 'extra expenses'.

What happens at the trial?

Article 31 of the Kyrgyz Criminal Procedure Court. Composition of the Court

- (1) The criminal cases shall be examined by the collective of judges or by one judge
- (2) The hearing of criminal cases involving persons being charged with a crime punishable by life imprisonment shall be by a trial court, including a presiding judge and jurors.
- (3) The examination of criminal cases in an appeal shall be conducted by the panel of judges consisting of three judges.
- (4) The examination of criminal cases in cassation shall be conducted by the panel of judges of regional court and court equal to it consisting of three judges.
- (5) The hearing of cases in reviewing procedure shall be conducted by the Panel of Judges on criminal cases and cases about administrative offence of the Supreme Court of Kyrgyz Republic consisting of three judges.
- (6) During the examination of the criminal case by the court consisting of three judges, one of them shall be the chairman according to the on the instructions of the chairman or his deputy of this court.

In the process of a trial, a court investigation is carried out, at which the court hears to the views of all participants in the process (prosecution, defence, person on trial, person affected, witnesses), examines expert evidence, material evidence, pronounces records and other documents. After that, the court passes to judicial pleadings. In particular, those are speeches of the prosecuting attorney, the person affected (the victim), the person on trial and the defence attorney. After that, the court calls for the last plea of the person on trial. At the close, a sentence is signed and announced.

The court explains to the convicted (acquitted) person and other participants of the trial the procedure and timing for appeal against the sentence and also other rights. It must be explained to the acquitted person that he/she has the right to recovery for harm caused by illegal detention, holding him/her as accused person, application of a measure of restraint, illegal bringing to trial, and also it must be explained the procedure for exercising such right. If a person on trial is sentenced to the death penalty, the chairperson must explain to him/her that he/she has the right to intercede for mercy. No later than five days after announcement of a sentence, a copy thereof must be served to an convicted or acquitted person, defence attorney and prosecuting attorney. Within the same deadline, a copy of the sentence must be served to the person affected, civil claimant, civil defendant and their attorneys, if the applications from such persons were received by the court.

The court session is managed by a chairperson, who may, if some specific facts are found in the course of judicial investigation, expedite the case for further investigation or close the case. Therefore, there may be more than one hearing. The judge may ask for a second

hearing if s/he decides that more evidence is required. Sometimes lawyers ask for a second hearing if they need more time to work on the case.

Article 23 of the Kyrgyz Criminal Procedure Law . Language of Court Proceedings

(1) Court proceedings shall be administered in the national language or in the Russian language.

(2) Persons participating in the proceedings who do not speak the language the hearing is administered in, shall be secured the right to make statements, to testify, to put forward motions, to study the dossier of the case, to speak in court in their native languages and use services of an interpreter.

(3) A copy of the document of accusation and of the verdict (ruling, resolution) shall be handed to the accused or the convicted person with translation into his native language or any other language he speaks.

Article 66 of the Kyrgyz Criminal Procedure Law. Interpreter/Translator

(1) Interpreter/translator is a person not personally interested in the criminal case, having a command of a foreign language, and also understanding deaf and mute signs knowledge of which is necessary for the translation, summoned for participation in the investigative and court proceedings in cases when the suspect, accused, defendant, their defense attorneys or the victim, civil plaintiff, civil defendant or their representatives, and also the witnesses and other participants of the trial do not have a command of the language used in proceedings on the case, as well as for translation of written documents.

(2) A person shall be appointed an interpreter/translator by a resolution of the investigator or the judge, or by a ruling of the court.

The Court appoints and pays for an interpreter. Consular staff cannot act as interpreters. Consular officers check before the hearing if a lawyer and an interpreter are appointed. Consular Officers usually do not attend the hearings.

Sentences

A sentence is given after the final court hearing by the judge.

We would like to draw your attention to the fact that we are not experts in criminal law and criminal procedure law of Kyrgyzstan, also that we cannot act for anyone in such cases. This is the area of advocacy activity, which requires an advocate's licence. The above information is only a review of legislation and should not be treated as instructions.

How can appeals be made?

Lawyers, on behalf of their client, have a right to appeal against the final decision within ten working days.

Article 25 of the Kyrgyz Criminal Procedure Law. Appeal From Procedural Actions and Decisions

(1) Actions and decisions of the agency of preliminary investigation, the investigator, and prosecutor may be appealed as provided herein.

(2) The convicted person has the right to appeal from the verdict to the higher court as provided herein.

(3) The convicted person has the right to ask for pardon or mitigation of the sentence.

Article 126. The Right to Appeal from Actions and Decisions of the Court, Officials Administrating Criminal Case Proceedings

In accordance with Article 25 of this Code actions of the preliminary investigator, investigator, prosecutor, court, may be appealed, in the procedure established by this Code, by participants of the proceedings, persons, organizations if the undertaken procedural actions influence their interests.

Article 127 Appeal Filing

- (1) Appeals shall be filed with a state body or official who administrates criminal case proceedings and is authorized by the law to consider appeals and take decisions on them.
- (2) Appeals may be oral and written. Oral appeals shall be compiled into the transcript of proceedings that shall be signed by the applicant and the official who received the appeal. Additional materials may be enclosed with the appeal.
- (3) Any person who does not know the language in which criminal case proceedings are conducted shall be given the right to compile an appeal in his native language or the language he/she knows.

Article 128. Appeal Filing Procedure for Persons Detained or Taken into Custody

- (1) Administration of detention centers shall immediately transfer to the investigator, prosecutor, court addressed to them appeals of persons in custody or detained on grounds of suspicion of committing a crime.
- (2) The administration of detention centers shall immediately file appeals of persons in custody on the actions of preliminary investigator, the actions or decisions of the investigator, with the court, or the prosecutor who supervises the case investigation; appeals against actions and decisions of the prosecutor shall be filed with a superior prosecutor. The administration of detention centers shall transfer other appeals to a person or a body that administrates the case proceedings not within 24 hours from the moment of their filing.

Article 129. Appeal Filing Terms

Appeals against actions of preliminary investigator, actions and decisions of the investigator, prosecutor, judge or court may be filed at any moment during investigation or court proceedings. Appeals against the decision to dismiss a criminal case, against verdicts passed by courts of primary jurisdiction shall be filed within the terms established by this Code.

The appeal process is very slow (sometimes more than a full year) and can lead to delays in finalising the sentence. Prisoners have a right to withdraw the appeal if they wish.

What provision is there for reduction of sentence (remission) e.g. for good behaviour?

The judge may decide to make deductions from the sentence for the good behaviour of the prisoner.

What provision is there for early release e.g. on parole?

In Kyrgyzstan, the law makes a provision for the early release of prisoners serving a sentence. For your benefit under this provision it is important that your conduct whilst in prison is good.

Article 365. Release on Parole

- (1) Release on parole in cases provided in Article 69 of the Criminal Code of the Kyrgyz Republic shall be used by the court in the location where the convict serves the sentence upon the petition from the body executing the sentence. These measures (sanctions) shall also be applied to those serving their sentences in military disciplinary (correctional) units by court as petitioned by the Command of the military correctional unit.
- (2) Release on parole of persons who have committed offenses under 18 years of age shall be effectuated by court upon a joint petition from the body executing the sentence and the Juvenile Delinquency Commission.
- (3) If a parole petition has been rejected, the repeated examination of the same petition shall take place no earlier than one year after the rejection is deduced.
- (4) Releasing on parole, the court shall have the right to impose certain obligations upon the convict: not to change the place of permanent residence, to abstain from visiting certain places, as well as other obligations that are to facilitate his/her correction.
- (5) The bodies of the law enforcement agencies, and in respect of the military—the Command of military units and institution, shall watch the conduct of those let on parole.

(6) If the paroled convict has committed an offense disturbing the public order and, therefore, an administrative penalty has been imposed on him/her, or repeatedly has avoided the obligations inferred on him/her by court during the unserved portion of his/her sentence, the court shall resolve to recall the parole and order to serve out the remained portion of the sentence upon a petition filed by the body specified in paragraph 5 of this article.

(7) If the convict commits a new crime during the unserved portion of the sentence, the court shall pass a sentence upon the convict based on the strength of all verdicts.

What provision is there for clemency or pardon?

There is no clemency since the moratorium on death sentence in Kazakhstan was implemented. General Pardons depend on the political dynamics of the country, but note that crimes considered as affecting the core values and conscience of society (e.g. rape, child abuse, serial murder etc.) are not subjected to Pardon.

What about any financial penalties?

Financial penalties form part of the sentence given. Financial penalties are not usually large amounts.

Article 120. Fine

A fine may be imposed on a victim, witness, specialist, interpreter, and other persons for failure to fulfill procedural liabilities and violation of the procedure in cases stipulated by Articles 50, 61, 63, 65 and 67 of this Code. It shall be done according to the procedure established by Article 121 of this Code.

Article 121. Procedures for Imposing Financial Penalty and Forfeiting Bail to the State

(1) A financial penalty may only be imposed by a court in cases specified by Article 120 of this Code.

(2) If the violation in question is committed during a court proceeding, the penalty shall be imposed by the court in which the violation took place, as to which a relevant ruling or order shall be issued by the court.

(3) If the violation in question is committed during pre-trial proceedings, an official record of the violation shall be executed by the investigator or procurator. The official record of violation shall be forwarded to a district court to be reviewed by a judge within five days after it is filed. The person against whom a financial penalty maybe imposed and the person who executed the official record shall be summoned to the court hearing. The violator's failure to appear without valid reason shall not prevent review of the official record.

(4) As a result of the review of the official record, the judge shall issue an order imposing or declining to impose a financial penalty. A copy of the order shall be forwarded to the person who executed the official record and the person on whom the financial penalty is imposed.

(5) In imposing a financial penalty, a court may delay execution of its order or spread out the time for payment of the penalty over three months.

(6) A decision whether bail should be forfeited to the State in the situations specified by Article 109 (6) of this Code shall be determined in accordance with the procedure established by (3) and (4) of this Article.

Is transfer to another prison within Kyrgyzstan possible?

Yes, but only when there are exceptional compassionate, medical or administrative reasons for doing so. Local prison directors must authorise the transfer. If you have been convicted you will be allocated to a prison to serve your sentence. If you are interested in a transfer please speak to your consulate who can raise your request in writing with the prison authorities.

Is transfer to the UK a possibility?

No. There is no Prison Transfer Agreement signed between Kyrgyzstan and the United Kingdom.

What are the procedures for release and deportation?

If a released prisoner does not have a valid travel document, the Consulate can issue a travel document. The prisoner must pay a fee for the travel document, as well as for the flight. Also, a released prisoner must get an exit Kyrgyz visa or a deportation document from the Immigration police. If a former prisoner does not have sufficient funds for the required documents, Consular Representatives will contact family/friends in the UK to ask for a money transfer.

Prisoners Abroad

Since 1978 the charity Prisoners Abroad has offered practical support and advice to British citizens imprisoned overseas. It is the only UK charity providing this service and it is available to all, whether guilty or innocent, convicted or on remand. Prisoners Abroad is concerned with your health and welfare, both during your imprisonment and also on your return to the UK, through their resettlement service (if you have registered whilst in prison). They can also provide support and advice to your family during your imprisonment. In order to access any services, prisoners must first register with Prisoners Abroad by signing and returning their authorisation form.

Once you seek help from Prisoners Abroad, the Prisoner & Family Support Service will be your point of contact for advice and information. The type of assistance they can offer will vary from country to country, but generally they can provide you with information, in English, on:

- your rights as a prisoner and issues that may affect you such as health or transfer to the UK
- obtaining magazines, newspapers, books and the regular Prisoners Abroad newsletter
- writing to a pen pal
- learning the language of your country of imprisonment
- translation of documents
- grants for food if you are in a developing country and don't have funds from other sources
- grants for essential medicines and toiletries if you don't have funds from other sources
- preparing for release
- help for your loved ones, including information, family support groups and assistance with the cost of visiting

Prisoners Abroad
89 – 93 Fonthill Road
London N4 3JH
UK

Telephone: 00 44 (0)20 7561 6820 or, for your relatives in the UK, Freephone 0808 172 0098

(Mondays to Fridays 9.30 am to 4.30 pm, UK time)

Email: info@prisonersabroad.org.uk

Website: www.prisonersabroad.org.uk

Glossary of Terms

Article 5 of the Kyrgyz the Criminal Procedure Code. Major Definitions Used in the Criminal Procedure Code

Major terms:

“Court”— a tribunal trying criminal case in all degrees of jurisdiction and exercising judicial control over the legitimacy of investigational proceedings and decisions of a prosecutor, investigator, agency of preliminary investigation in cases stipulated by this Code.

“Court of primary jurisdiction”—any court authorized to determine circumstances of a case during hearing and rendering a verdict on the case.

“Court of appellate jurisdiction”— any regional, Bishkek city court, Military court of the Kyrgyz Republic, consisting of three judges, hearing appeals and petitions against court verdicts that did not take effect.

“Court of cassation jurisdiction” – regional courts, Bishkek city court, Military court of Kyrgyz Republic, consisting of three judges, hearing appeals and petitions against court verdicts that came into legal force.

“Court of review jurisdiction”— the supreme court of the Kyrgyz Republic hearing appeals and petitions against court verdicts, rulings and resolutions that took effect.

“Judge”—a judge of any court, the chairperson, deputy chair of a court.

“Presiding judge”—a judge presiding in collective or personal hearing a case.

“Parties”— agencies and persons performing functions of prosecution and defense in the process of the adversarial trial on a criminal case.

“Participants of procedure” – investigator, prosecutor (public prosecutor) and victim (private prosecutor), advocate, suspect, accused, civil claimant, civil defendant, and their representatives, and other persons drawn to proceedings.

“Prosecutor”—Prosecutor-General of the Kyrgyz Republic, prosecutor of the city of Bishkek, prosecutors of regions, district (city) prosecutors; military and other prosecutors authorized with the same rights as district (city) prosecutors; prosecutors’ deputies and aids, prosecutors of departments and administrations of public prosecutor offices.

“Investigator”— officer of procuracy agencies, police officer, national safety officer, tax police officer, customs officer of criminal-procedural system of Ministry of Justice of Kyrgyz Republic, authorized to conduct investigation on a criminal case.

“Investigation” – procedural form of pretrial actions of authorized agencies within the stipulated herein authorities to discover, establish and secure circumstances of a case and charge those who committed the crime with criminal liability.

“Defense”— procedural actions undertaken by defense party to secure rights and interests of suspects, confute or mitigate accusation, and discharge persons illegally exposed to criminal prosecution.

“Identifying witness” – adult person, with no interest in the case outcomes, drawn to certify the fact of investigative action, its progress and results.

“Applicant” – a person applying to investigation agencies for protection of his (some one else’s) actual or assumed right in the way of criminal procedure.

“Representatives” – persons, authorized to represent legal interests of a victim, civil claimant, civil defendant, as provided by law or treaty.

“Legal representatives”—parents, parents by adoption, trustees, guardians of the suspect, accused or of the victim of a crime, civil claimant, and also representatives of those organizations and persons who are in charge of the suspect, accused or the victim, public representatives.

The representatives of legal entities, political parties, professional unions, remedial and other public associations may be admitted as public representatives of an accused.

“Relatives” – persons related to each other, having common ancestors, spouses and parents of a spouse.

“Close relatives”—parents, spouse, children, parents by adoption, adopted children, own brothers and sisters, grandfathers, grandmothers, grandchildren.

“Criminal case” – individual proceeding conducted by investigating agency and court on one or several crimes committed (supposedly committed).

“Case procedure” – body of proceedings and decisions, taken on concrete criminal case in the course of its initiation, investigation, hearing and serving of a sentence (service).

“Case materials” – documents and items, being constituent part of the case or presented

to be included in it; messages, documents and items, which may help in establishing circumstances of the case.

“Proceedings” – actions, undertaken in the course of criminal procedure as provided by this Code;

“Transcript of proceedings”—procedural document describing each proceeding taken by the agency conducting the criminal procedure.

“Procedural decisions” – formal documents of application of procedural criminal law, made by agencies conducting criminal procedure, within the limits of their competence, and verdicts, resolutions, conclusions, petitions, sanctions presented in the form provided by this Code.

“Resolution”—decision of an investigator, prosecutor, personal decision of a judge other than a verdict, made in the course of criminal proceedings on a case; decision of the Supreme Court of the Kyrgyz Republic.

“Personal ruling”— decision made by a court which brings violations of laws, reasons and circumstances assisting the commission of crimes to the attention of state agencies and demands certain measures to be taken.

“Verdict”—decision of a court of primary jurisdiction, appellate jurisdiction rendered during the trial on a criminal case which determines whether the defendant is guilty and, if so, establishes the penalty, or not guilty.

“Ruling”—any decision other than verdict made at the trial by appellate instance of a court.

“Sanction (Warrant)” – document of prosecutor’s approval of procedural decision, made by the agency of investigation.

“Explanation” – verbal or written arguments brought forward by participants of the procedure and applicants to justify one’s claim, or the claim of a person one presents.

“Appeal” – petition of an accused, justified, defender, victim and his representative, civil claimant and civil defendant or their representatives against the court decisions.

“Petition”—petition of a prosecutor against decisions of a court.

“Personal complaint”—petition file by one of participants of the proceedings, except prosecutor, against the resolution of the judge.

“Personal petition”—petition of a prosecutor against the resolution of a judge.

“Motion” – request of a party or the applicant, towards the agency, which conducts the criminal proceedings.

“Scientific and technological facilities” – devices, special facilities, materials legally used to discover, withdraw, and investigate identifying evidences.

“Dwelling house” – premises or building for temporary or permanent residence of one or more persons, including: own or leased apartment, house, cottage, hotel room; verandahs, terraces, galleries, balconies, cellars and attics attached to them, except for apartment house.

“Night time”—from 10 P.M. till 6 A.M. local time.

“Damage” – moral, physical or property damage subject to money compensation.

"Pre-trial proceedings" - criminal proceedings from the point in time when a report of a crime is received until the time the criminal case is forwarded by the procurator to a court for trial on the merits.

"Criminal proceeding" - a pre-trial or judicial proceeding in a criminal case.

"Detention" - a coercive procedural action, which essentially consists in imprisoning a suspected person for a short period (up to forty-eight hours) pending a judicial warrant.

"Imposition of a pre-trial restraint measure" - a decision by an investigator, procurator, or court applying coercive measures to an accused or a defendant.

"Arrest" - a coercive procedural action, which essentially consists in incarcerating an accused under a court decision.

"Juror" - a person summoned in accordance with the procedures established by this Code to take part in a trial and render a verdict by a trial court.

"Evidentiary privilege" - the right of persons not to testify against themselves or their close relatives, and also under other circumstances specified in this Code.

"Representation for review" - an act by a procurator in reaction to a judicial decision, filed in accordance with the procedures established by this Code.

"Mediator" – a specially trained person capable of holding discussions between a victim

and accused (defendant, convict) on compensation for harm and settlement.
 "Estimated rate" – a standard monetary unit used to determine the amount of economic sanctions, administrative punishment and penalties to be approved by Zhogorku Kenesh of the Kyrgyz Republic on the proposal of the Government of the Kyrgyz Republic.

GLOSSARY OF TERMS

English	Russian
Arrest	Arest
Arrestee	Arestovanny
Accused person, defendant	Podozrevayemy
Border guards	Pogranichnaya Okhrana
Case	Delo
City court	Gorsud
Code of Criminal Procedure	Ugolovno-protsessualny Kodeks
Court, trial	Sud
Court's decision	Prigovor suda
Convict	Osuzhdyonny
Court venue	Yurisdiksiya suda
Court-appointed attorney	Gosudarstvenny zashchitnik
Criminal Code	Ugolovny Kodeks
Customs officials	Predstaviteli tamozhni
Custodian of legal records	Secretar suda
Defendant	Otvetchik
Detention	Zaderzhaniye
Detainee	Zaderzhanny
District court	Rayonny sud
Inquiry stage of First Stage of Investigation	Doznaniye
Investigation	Sledstviyel
Investigation period extension	Predvaritelnoye sledstviye
Indictment	Prodleniye sroka sledstviya
Judge	Sud'ya
Plaintiff	Istets
Police	Politsiya
Prosecutor	Prokuror
Prosecutor's office	Prokuratura
Preliminary investigation	Obvinitelny act
Private attorney	Chastny advokat
Search	Obysk
State prosecutor	Gosudarstvenny obvinitel
Suspect	Obvinyayemy
Transcript	Protocol
Translator, interpreter	Perevodchik
Trial	Sudebnoye zasedaniye, sud
To postpone trial	Otlozhit sudebnoye zasedaniye
Victim, the aggrieved party	Zhertva, Postradavshiy
Witness	Svidetel
Witness unable to appear at trial	Neyavka svidetelya

Annexes

Annex 1: List of English-Speaking Lawyers

<https://www.gov.uk/government/publications/kyrgyzstan-list-of-lawyers-translators>

Annex 2: List of Private Translators/Interpreters
<https://www.gov.uk/publications/kyrgyzstan-list-of-lawyers-translators>

Annex 3: FCO leaflet: *In prison abroad*
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35521/in-prison-abroad.pdf

Annex 4: Prisoners Abroad authorisation form
[Authorisation form](#)

Annex 5: Prisoners Abroad's general leaflet
[Prisoners general leaflet](#)

Annex 6: Fair Trials International questionnaire and leaflets
<http://www.fairtrials.org/publications/>

Disclaimer

This booklet was compiled by the Consular Section, British Embassy Office Almaty. It is revised on a regular basis

If any of the information contained in this booklet is incorrect, please draw inaccuracies to our attention so that we can make amendments.

The British Embassy in [Ruritania] is not accountable for the information provided in this booklet. Local proceedings are subject to change at any time.

Thank you.

19 March 2015