

REPORT  
ON THE RESULTS OF A STUDY  
OF THE ACTIVITIES OF

# **AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC**

The study was conducted by  
the IPF "Roza Otunbayeva Initiative" as part of the USAID Ukuk Bulagy project,  
implemented by the non-profit organization East-West Management Institute (EWMI)  
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The USAID Ukuk bulagy project aims to increase citizens’ access to justice by enhancing the transparency of judicial bodies’ activities, promoting gender-sensitive and people-oriented justice, and reducing corruption. Gender-sensitive and people-oriented justice is a new approach in public governance based on factual data that helps to understand and respond to systemic legal problems and citizens’ needs.

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# Abbreviations

AA	Aiyl aimak (rural district)
AC	Aksakals' courts
AO	Aiyl okmotu (village council)
CPC	Civil Procedure Code
CPDV	The Committee for Prevention of Domestic Violence
DDIA	District Department of Internal Affairs
DSA	District State Administration
FGD	Focus group discussion
II	In-depth interview
KR	Kyrgyz Republic
LSG	Local self-government
MoIA	Ministry of the Internal Affairs
MoLSWM	Ministry of Labor, Social Welfare and Migration
MTA	Municipal Territorial Administration
NGO	Non-governmental organization
NSC	National Statistics Committee
PPC	Public Prevention Centre
SGLA	State-guaranteed legal aid

# Research Summary

The report on the results of the study of ACs in the Kyrgyz Republic is dedicated to the activities of the ACs as a non-state mechanism for dispute resolution and the provision of accessible judicial services to the population. The study aims to evaluate the activities and current state of the ACs, practices of case consideration, and interactions with key stakeholders at the national and local levels of the country.

The report attempts to describe the portrait of the ACs, the regularities of their activities, relevance, effectiveness, sustainability of the institution, cooperation with other public bodies and institutions, as well as gender sensitivity today.

The report is based on the results of a desk analysis, which includes a review of the regulatory framework for the activities of the AC, an analysis of the draft new Law "On Aksakals' Courts", scientific publications, interdisciplinary research results. Moreover, it consists of the results of interviews with representatives of state authorities, the judicial and law enforcement systems, non-governmental organizations, national experts, and data from field research on the activities of ACs in 11 locations across seven regions of the Kyrgyz Republic.

According to the local government authorities, there are currently 541 ACs operating in the Kyrgyz Republic, with 3282 members registered. Of these, 2764 (84%) are men, and 518 (16%) are women. In ACs, women most often occupy the role of a secretary, and due to gender and structural barriers, they rarely become chairpersons. Nevertheless, the majority of ACs participants acknowledge the importance of women's participation in their work, which directly affects the frequency of women's appeals to ACs and their sensitivity to conflicts involving women.

AC, as a public jurisdictional body, has strong legal basis and mechanisms of the state support, such as constitutional status, special law, binding force of decisions, and financing from the local budget. However, they are not included in justice development programs, not discussed in the context of policy and legal agenda regarding access to justice, and do not receive assistance and support from any institution at the national level.

The study of the population's need for ACs showed that at the republican level, there is no understanding of the development model of this institution. However, interest in strengthening and developing ACs was identified at the local and district levels. ACs have a positive effect on reducing the level of conflict and tension in society, and

on public morality, by establishing norms of behaviour in society and serving as an environment for their formation. Nevertheless, the role of ACs has noticeably decreased compared to the first years of their existence.

The lack of proper support and attention to these courts, as well as excessive bureaucracy, mechanical borrowing of procedural forms of activity from state courts, and their passivity, can lead to the degeneration and loss of cultural and unique characteristics of the ACs. As a result, other players may fill the gaps in publicly accessible justice.

The ACs are popular among the population as an alternative form of dispute resolution, thanks to their proximity to the local context and cultural peculiarities, absence of fees, fast conflict resolution, and a wide range of sources for solution. However, they also have drawbacks, such as the lack of predictability and consistency in decision-making, insufficient openness and accountability of their activities, as well as the absence of mechanisms for controlling the decisions made.

Currently, the jurisdictional activity of the ACs is limited to the resolution of disputes between citizens in civil, property, and family relationships. The categories of disputes have distinct regional and urban specificities. The most common cases in ACs are related to family conflicts, compensation for damage to or loss of property, disputes over irrigation, neighbour disputes, and disputes based on national customs and traditions. ACs are no longer authorized to consider minor criminal cases and certain administrative offences. It has led to a reduction in the workload of the courts, a decrease in their activity, and limitations on the use of measures to influence violators.

ACs protect women's rights in property and land disputes, conduct preventive measures against offences, and engage in educational activities. In the majority of property and family disputes, they act to reconcile the parties and preserve family well-being. In disputes related to violence, ACs use public censure and calls for the observance of traditional gender roles. The powers of ACs to consider domestic violence cases, enshrined in the Law "On Aksakals' Courts", do not correspond to criminal and administrative legislation. In property and land disputes among family members, the aksakals' courts often take the side of women. However, the lack of a gender-sensitive approach and gender statistics affects the quality of case consideration and often leads to gender discrimination.

ACs use a wide range of social regulators to make decisions, including legislation, moral and ethical norms, traditions, and customs. The region and the composition of the members of ACs may determine the specific features of their decisions. For example, if a former law enforcement officer or a person with a legal education is among the members of AC, they are more likely to apply legislation. A new trend is the usage of religious norms as an additional source in resolving disputes.

ACs deal with various subjects at different levels (local kenesh, AO, law enforcement agencies, and courts). However, most protocols for interaction between them are not defined, which negatively affects the stability of contacts. For example, on civil procedural legislation, there is no regulation for transferring cases to ACs and appealing their decisions to state courts, which are the main players while interacting with ACs. Difficulties arise for public authorities related to the unclear definition of the scope of activity of various civil society institutions at the local level and the overlap of their powers.

The viability of the ACs hinges upon both financial and institutional factors. In order to operate more efficiently, aksakals' courts require material and technical assistance, capacity-building initiatives, experiential exchanges, and legal consultations. Despite being explicitly enshrined in the Constitution, funding for the AC from local budgets remains sparse due to the absence of well-defined mechanisms for disbursing public funds to civil society entities.

The ACs operate autonomously and do not constitute a unified network of public justice entities. Nonetheless, they unequivocally acknowledge the importance of sharing experiences and collaborating horizontally.

The report puts forward a set of comprehensive recommendations targeting various stakeholders in the state, municipal, and civil society sectors at both national and local levels. The recommendations aim to drive institutional change, enhance legislation and policies related to the activities of ACs, and strengthen their operational capacity.

# Introduction

The Institute of Aksakals' Courts was established in 1993 as a public institution under the system of local self-government in Kyrgyzstan to strengthen local communities, families, and cohabitation within the territory while relieving the state judicial system. During its operations, the ACs maintain consistent communication with state courts on organizational and procedural matters. Initially, ACs were integrated into the state judiciary, but since 1996, their status has changed, and they are no longer considered part of the formal justice system. However, the interaction principles between ACs and state courts have remained unchanged. As a result, the ACs have evolved into a hybrid entity that encompasses the characteristics of a non-judicial body while having a stringent legislative framework and fulfilling certain state duties.

However, the changes in legislation implemented as part of the judicial and legal reform of the Kyrgyz Republic, culminating in the adoption of new procedural codes in 2017, have led to the exacerbation of discrepancies and gaps in the legal framework of the ACs.

Despite efforts to emphasize the equal participation of women in the activities of ACs, there remain uncertainties surrounding their status, legal gaps and conflicts, a lack of reliable information on the number of active courts, and disagreements about their competence and role in adjudicating gender-related cases. These issues, coupled with the low representation of women in the courts, warrant further research. This study is relevant in assessing the current state of ACs and their ability to improve the quality of justice, understanding the diversity of actors and mechanisms used by citizens to resolve disputes, including non-state methods, and addressing the needs of vulnerable groups.

The study was conducted by a pre-agreed methodology.

Its results will be used to strengthen the institution of ACs in the KR and develop recommendations for future measures to improve their activities in the field of gender-sensitive justice.

This report provides a summary of the final report based on an analysis of the results of the study conducted from July to November 2022. IPF "Roza Otunbayeva Initiative" expresses its gratitude to all who supported the study and participated in it.

# Methodology of the research

*The object of the study* was the institution of aksakals' courts and *the subject* – the activities of aksakals' courts.

*The study aims* to evaluate the current state of the institution of aksakals' courts, including their activities, case evaluation practices, and their interaction with key stakeholders at both the national and local levels of the country.

In this study, gender analysis played a significant role by enabling the consideration of the interests, opportunities, and needs of different groups of women and men across all spheres of society. It served as an effective tool for implementing a gender-sensitive policy.

To achieve the goal of the study, the following tasks were established:

- to identify quantitative data on the composition of ACs concerning socio-demographic indicators;
- to examine the relevance and effectiveness of the activities carried out by the ACs;
- to conduct a gender analysis of informal justice mechanisms at the local level, using ACs as an example;
- to identify partners and stakeholders of the ACs and evaluate their level of engagement;
- to assess the sustainability of the ACs institution, considering institutional, social, financial, and other aspects.

## *Research hypothesis:*

Before commencing the study, the hypothesis was formulated that the institution of ACs operates with an outdated management policy, using inconsistent paradigms, including those related to gender, and fails to fully address the population's needs for justice at the local level.

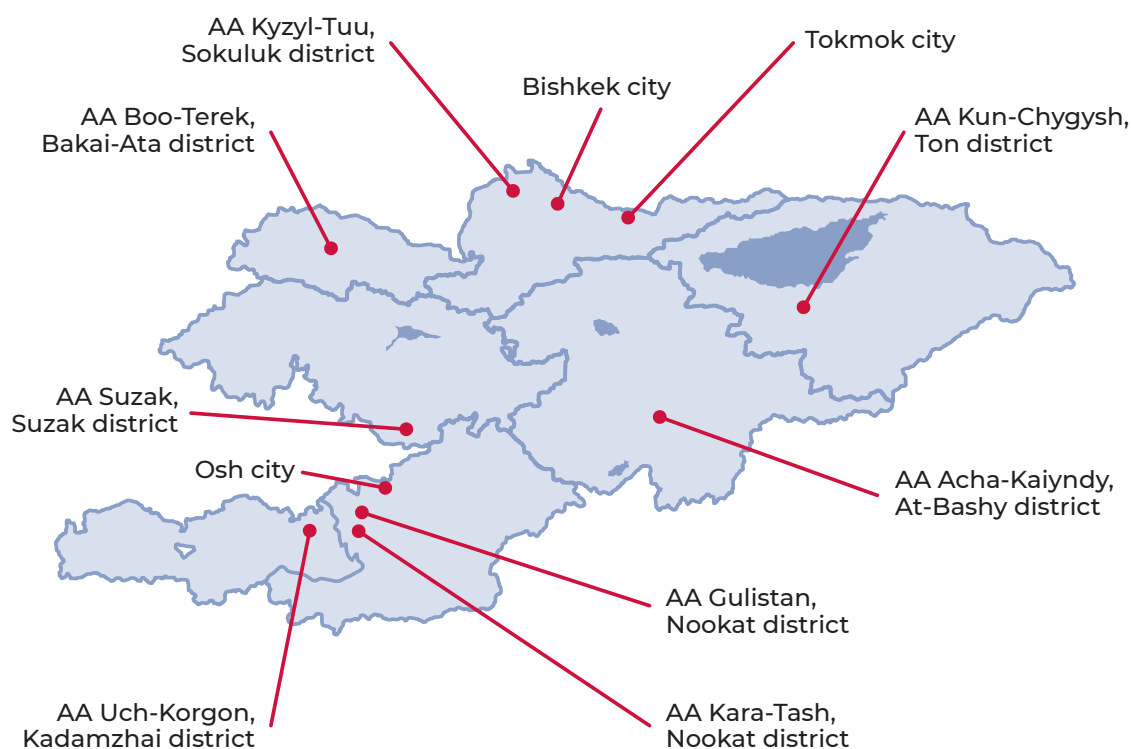
## *The study was carried out to determine:*

- the portrait of ACs;
- the current legal regulation of ACs;
- existing barriers to women's participation in AC activities;
- positive cases where women were full members of ACs and received gender-sensitive and fair decisions;
- the local population's perception of the role of ACs and the self-perception of AC members;
- the role of religion in the activities of ACs;
- the interaction between ACs and local authorities;
- the needs of ACs;
- recommendations for future interventions.

### Geographic coverage:

The study was conducted in 11 communities across the country, covering 7 regions and the cities of republican significance, Bishkek and Osh. The study examined 14 ACs in 7 regions of the KR. While this provides a general trend in the country, it should be noted that this sample is not exhaustive.

Moreover, data obtained from in-depth interviews with key stakeholders at the district level confirmed the similarity of the underlying trends identified in the field with the situation in the district as a whole.



### The locations were selected based on several criteria:

1. The ethnic composition of the community (monoethnic or polyethnic);
2. Population size (large or small);
3. Geographical location (remote from the district/regional centre);
4. Gender composition of the ACs (mono-gender or gender-balanced),
5. Ethnic composition of the ACs (monoethnic or polyethnic),
6. Date of formation of the current composition of the ACs (newly elected or with a long term);
7. Qualitative features of the composition of the AC members (the presidency of women, legal education and experience in legal activities, the presence of religious leaders, municipal employees, and the young age of AC members);
8. Number of cases considered (whether the courts have the highest or lowest).

### Research tools:

The following methods and tools were used to conduct the study:

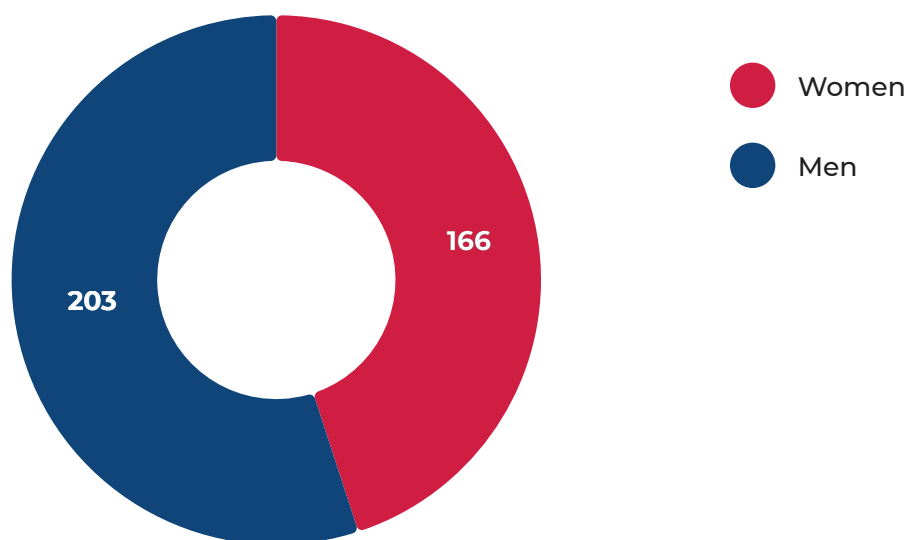
1. Data collection on active ACs;
2. Desk research;
3. A pilot study to test methods and tools;
4. Fieldwork.

Between September and November 2022, the research team visited selected communities and conducted the following activities:

- IIs with stakeholders at the national and local levels, including heads and key specialists of state bodies, state administrations of districts, territorial divisions of state bodies, LSG representatives, civil society organizations, as well as members and participants of the selected ACs;
- FGDs with AC participants and local residents to gather their perspectives;
- document analysis which involved reviewing logs of appeal registrations, protocols, decisions, and other relevant documents related to the functioning of the AC.

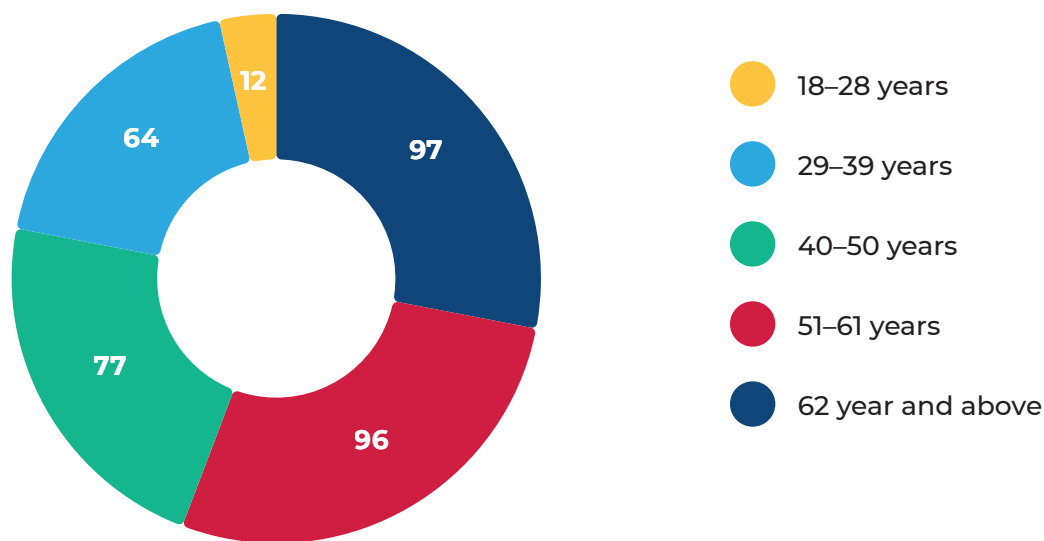
The study gathered data from 369 respondents, including 203 men (55%) and 166 women (45%). In addition, IIs were conducted with 245 respondents, consisting of 163 men (67%) and 82 women (33%). FGD involved 124 participants, with 84 women (68%) and 40 men (32%), who were selected from specific locations identified for the study.

**DIAGRAM 1. NUMBER OF RESPONDENTS IN FIELD STUDIES (PEOPLE)**



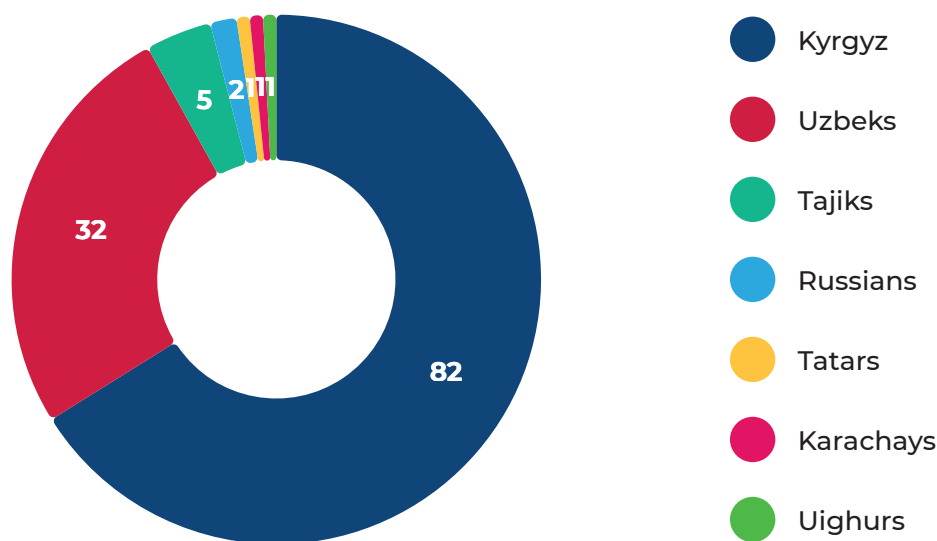
According to the study results, 56% of the respondents are 40 to 61 years. The smallest percentage of participants (3%) belongs to the age group of 18 to 28 years. On average, the age of participants is 51.7 years.

DIAGRAM 2. AGE GROUPS OF RESPONDENTS IN FIELD STUDIES (PEOPLE)



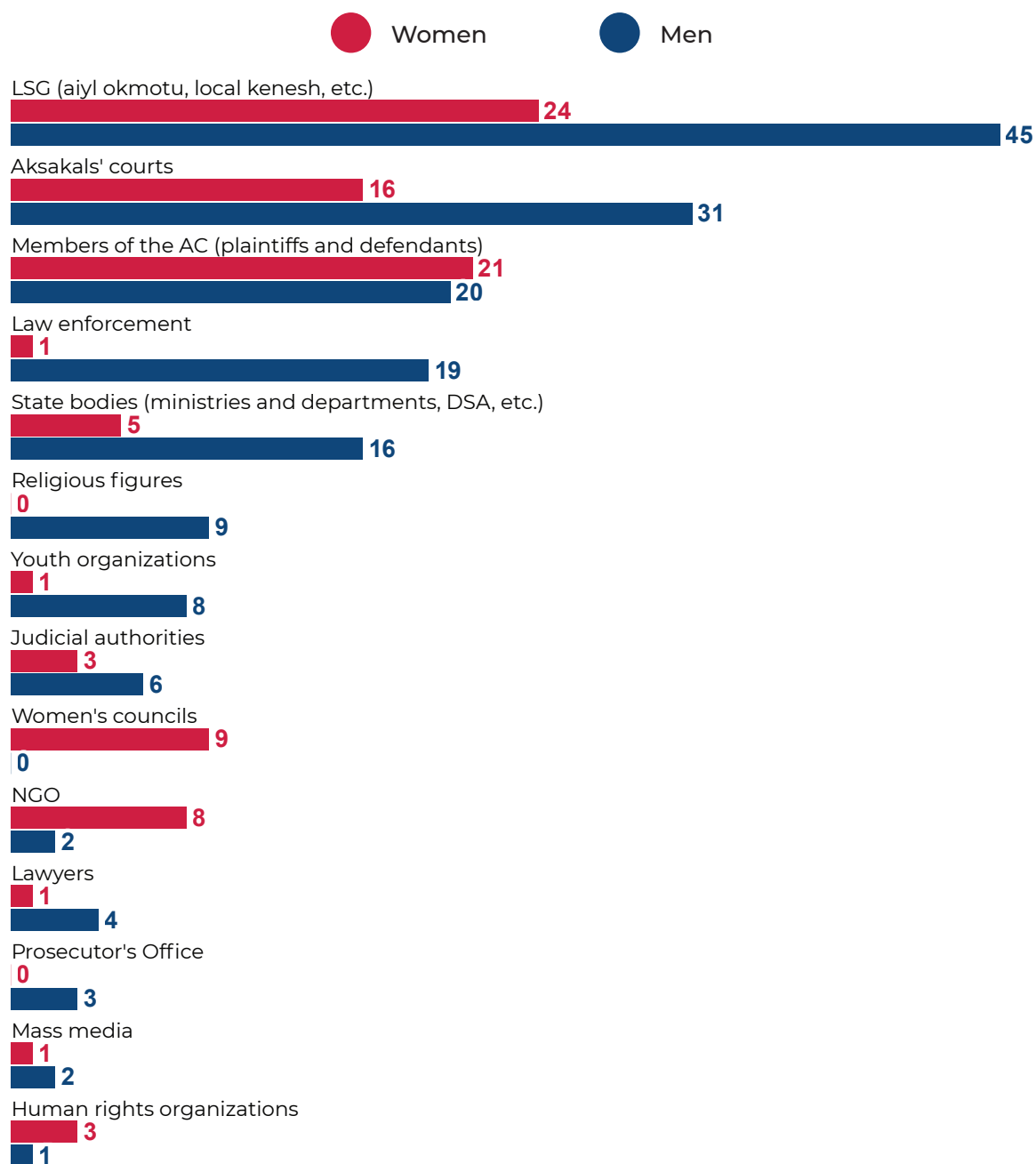
Among FGD participants, 66% are Kyrgyz, and 34% are representatives of other nationalities.

DIAGRAM 3. NATIONALITY OF RESPONDENTS IN FGD (PEOPLE)



According to sector representation, LSGs had the largest number of respondents, with 69 participants. State bodies at the district level, including DSA and territorial divisions of ministries and departments, were represented almost equally, with 20 and 21 respondents, respectively. The smallest number of respondents came from the prosecutor’s office, with only 3 participants.

**DIAGRAM 4. SECTOR CATEGORIES OF RESPONDENTS (PEOPLE)**



# Portrait of aksakals' courts

## Number of aksakals' courts

Based on open sources from 2015, there were reportedly 795 ACs in the Kyrgyz Republic, consisting of **4,385** citizens<sup>1</sup>.

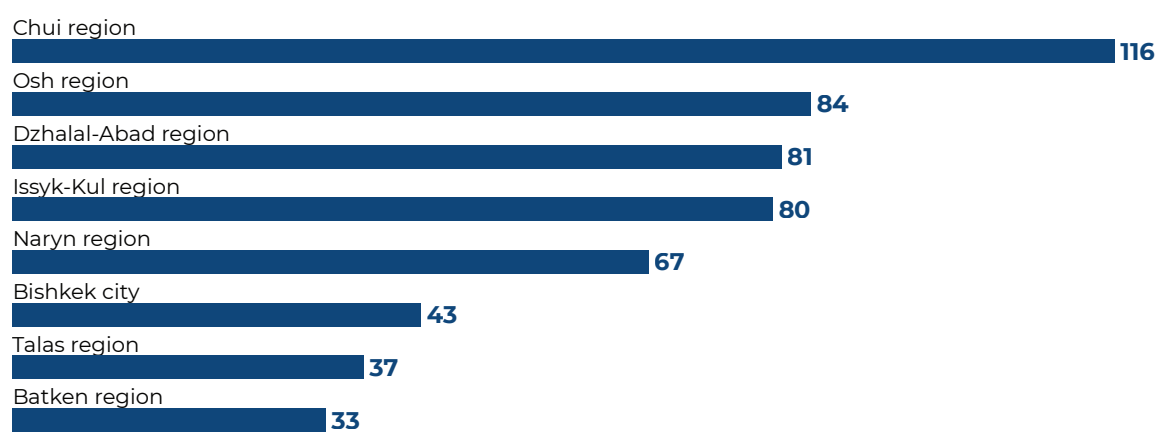
However, current information on the number and characteristics of ACs is not available in open sources.

To obtain up-to-date data, the study requested information from the Offices of Plenipotentiary Representatives of the President of the Kyrgyz Republic in the countries' regions. The data received from 461 municipalities, including 433 ACs and urban-type settlements, 15 cities of district importance, 11 cities of regional importance, and 2 cities of republican importance, revealed that there are currently **541** ACs operating in the country. However, data were not provided by 23 ACs, 3 cities of district importance, and 1 city of regional importance.

The research revealed disparities between the quantitative data published in open sources and the information provided by LSGs. These discrepancies may be due to differences in the time intervals for data collection, the absence of elections for AC members in some municipalities at the time of the request, and the lack of a standardized methodology for collecting data from state bodies.

According to the data provided by LSGs, there are currently **541** ACs operating in the country, with the majority located in the Chui region, comprising 116 courts (21% of the total), while the smallest number is in the Batken region, with 33 courts (6% of the total).

DIAGRAM 5. NUMBER OF AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC

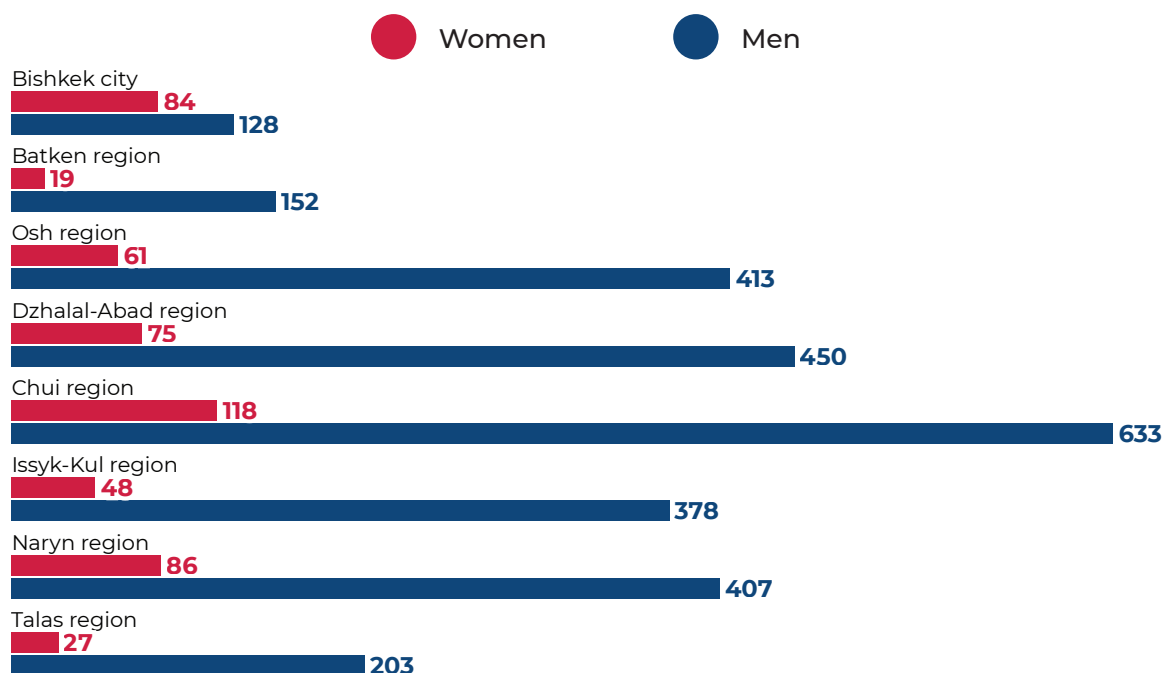


<sup>1</sup> Article about operating aksakals' courts.  
URL: [https://24.kg/parlament/23961\\_v\\_kyrgyzystane\\_deystvuet\\_795\\_sudov\\_aksakalov/](https://24.kg/parlament/23961_v_kyrgyzystane_deystvuet_795_sudov_aksakalov/)  
(date of access: 10.03.2023)

## Number of members of aksakals' courts

According to the data provided by LSGs, the total number of members of aksakals' courts in the Kyrgyz Republic is **3,282**. Of these, 2,764 members (84%) are men, and 518 (16%) are women.

**DIAGRAM 6. NUMBER OF MEMBERS IN AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC (2022 YEAR)**



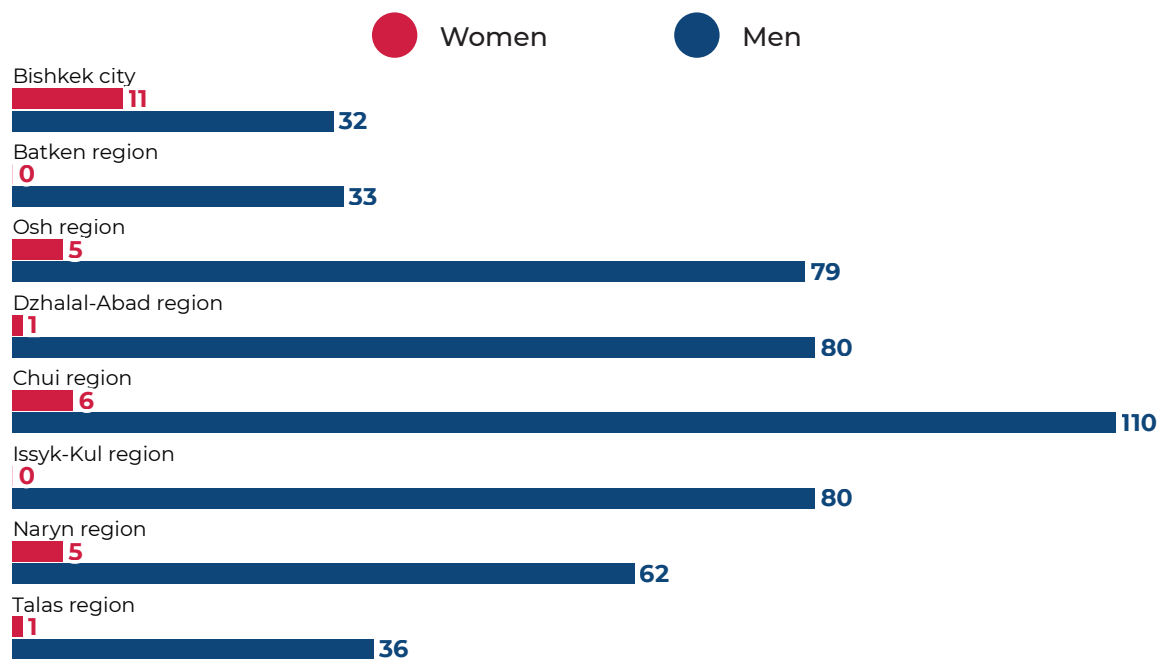
In the Naryn region, 86 women are members of the ACs, comprising 17% of the total members. It is the largest number of women represented in ACs in the KR. In Batken and Issyk-Kul regions, the proportion of women who are members of the ACs is the lowest in the Kyrgyz Republic, with 11% (19 people) and 19% (48 people), respectively. In the city of Bishkek, the proportion of women who are members of the ACs is 40%, with 84 women serving as members.

## Number of chairpersons of aksakals' courts

Among the 541 chairpersons of the ACs throughout the country, women are only 5% (29 people), while men make up 95% (512 people).

In the Naryn region, 5 out of the 71 chairpersons of the ACs are women, which represents 7% of the total number of chairpersons in the region. However, in Batken and Issyk-Kul region, there are no female chairpersons in the ACs. In the city of Bishkek, 11 chairpersons in the ACs are women, representing 26% of the total.

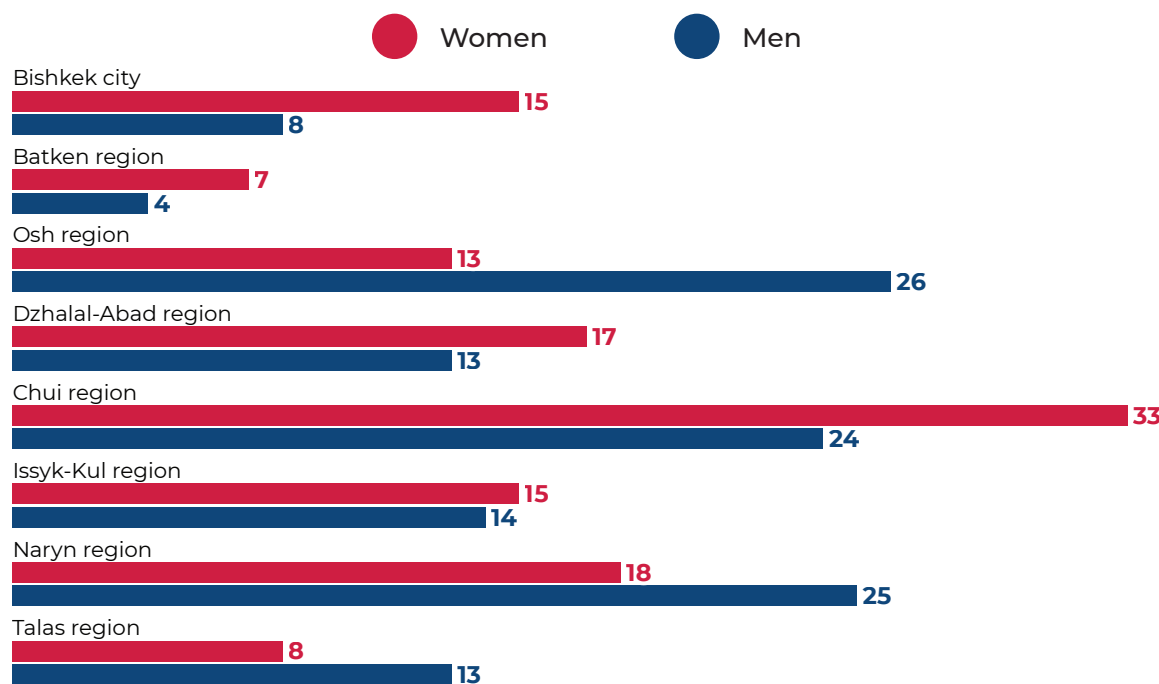
DIAGRAM 7. NUMBER OF CHAIRPERSONS IN AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC (2022 YEAR)



## Number of secretaries in aksakals' courts

The total number of AC secretaries in the KR is 253, of which 127 (50%) are men and 126 (50%) are women.

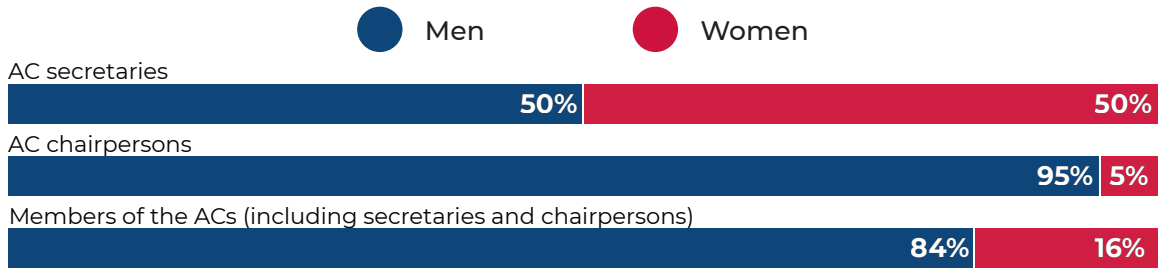
DIAGRAM 8. NUMBER OF SECRETARIES IN AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC (2022 YEAR)



The highest percentage of female secretaries of the ACs is found in Batken region, where 7 secretaries are women, representing 64% of the total. On the other hand, in Osh region, 13 secretaries are women, representing 33% of the total. In Bishkek, 15 secretaries are women, representing 65%.

Overall, men, representing 84% of the total, occupy the majority of positions in the AC. Women make up only 5% of the chairpersons of the AC. However, half of the AC secretaries in the country are women, which is 50% of the total.

DIAGRAM 9. ALLOCATION OF ROLES IN AKSAKALS' COURTS BY GENDER (%)

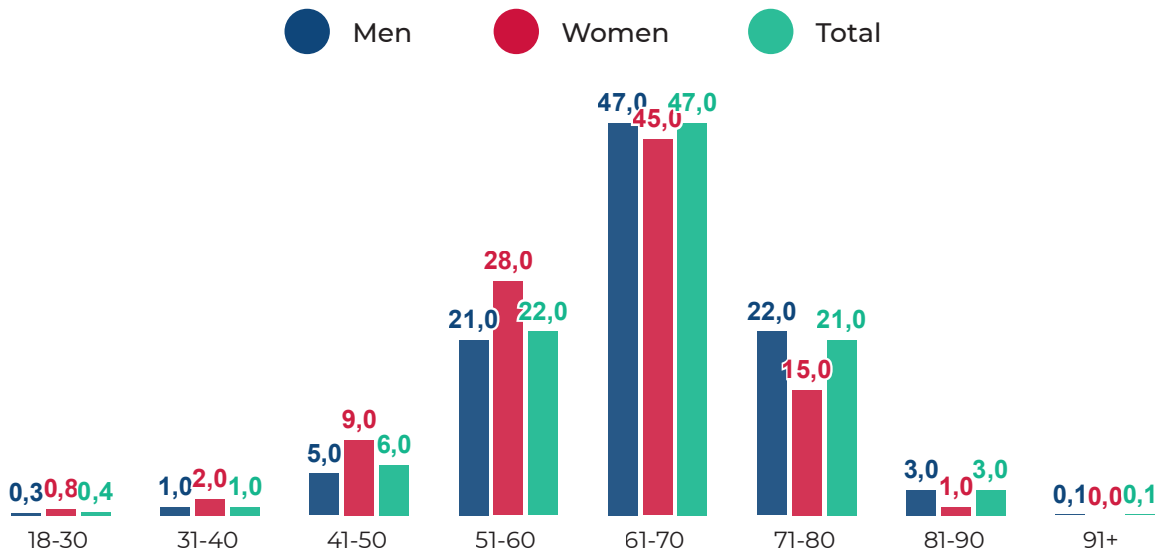


## Data on the age of members of the aksakals' courts

According to LSG data, the largest age group among AC members is aged 61–70, accounting for 47% of the total membership. This trend holds for men (47%) and women (45%). However, women are proportionally more represented in younger age groups: 28% of women are aged 51–60, while only 21% of men are in this age group, and 9% of women are aged 41–50, compared to 5% of men. In older age groups, the proportion of men is greater than women: 22% of men and 15% of women are aged 71–80.

The youngest male AC member is 23 years old and is located in the Naryn region, while the youngest female member is 20 years old and is located in Osh. The oldest male AC member is 104 years old and is located in Naryn, while the female member is 86 years old and is located in Bishkek.

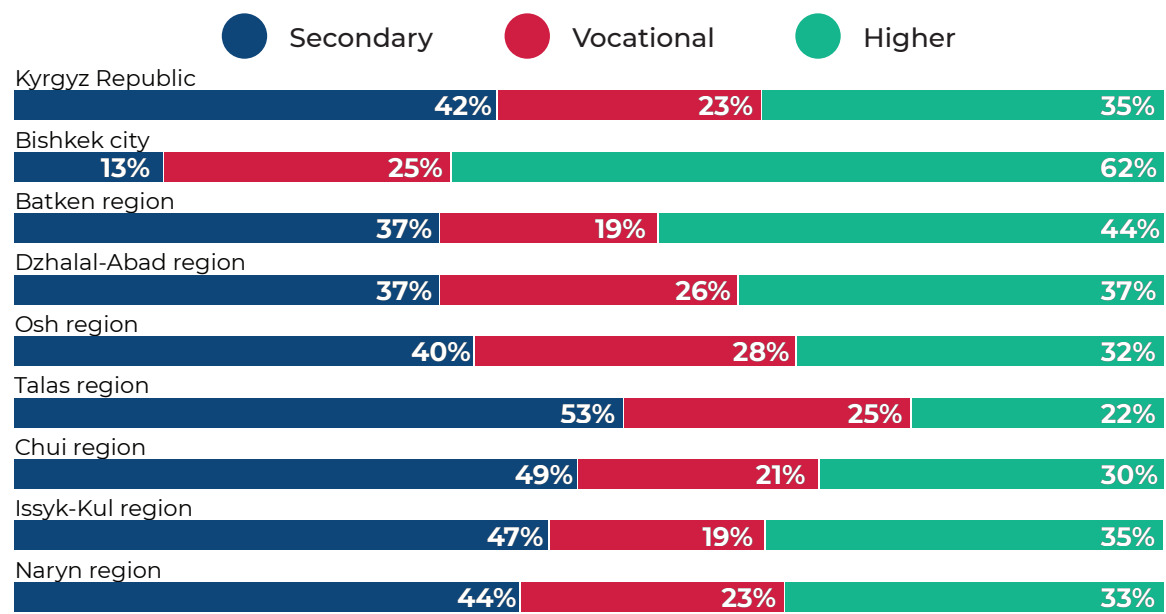
DIAGRAM 10. AGE GROUPS OF MEMBERS IN AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC (%)



# Data on the level of education of members of the aksakals' courts

According to the data by LSG, 35% of AC members in the KR have higher education, 23% have vocational education, and 42% have secondary education.

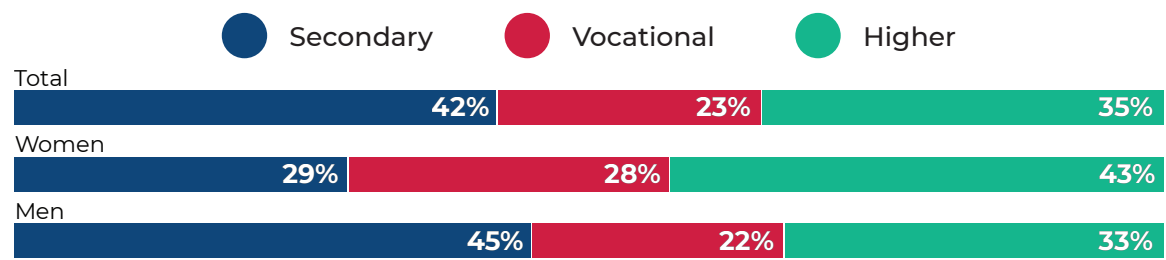
DIAGRAM 11. EDUCATION LEVEL OF MEMBERS IN AKSAKALS' COURTS BY REGIONS (%)



The highest proportion of AC members with higher education is in Bishkek city (62%), while Batken region has the highest proportion of AC members with higher education among the regions (44%). The lowest proportion of AC members with higher education is in Talas region (22%).

There is a notable difference in educational attainment between men and women in the AC. Women make up a higher proportion of AC members with higher education (43%) than men (33%), while a higher proportion of men (45%) have secondary education compared to women (29%). 28% of women and 22% of men have vocational education.

DIAGRAM 12. EDUCATION LEVEL OF MEMBERS IN AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC (%)

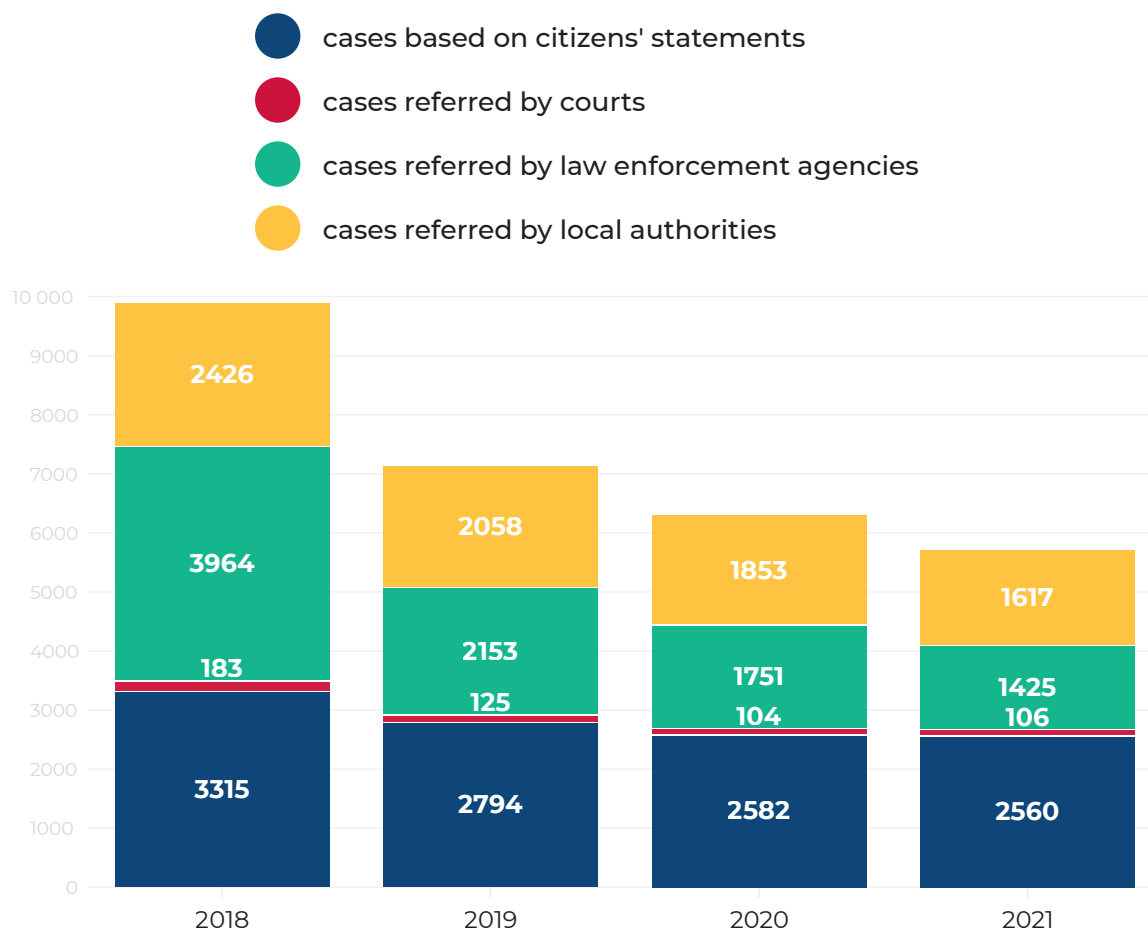


## Data on the number of cases considered by the aksakals' courts

The NSC KR's report highlights a substantial discrepancy between the number of cases considered by ACs across the country and the figures reported by local authorities. The NSC KR recorded 7,172 cases in 2018, 3,341 in 2019, 2,460 in 2020, and 2,443 in 2021, while local authorities reported significantly higher numbers: 9,888 cases in 2018, 7,130 in 2019, 6,290 in 2020, and 5,708 in 2021<sup>2</sup>.

One potential cause for the variance in the data could be inaccuracies in the collection of information and the absence of a standardized methodology for gathering data from municipal and state entities and aksakals' courts.

**DIAGRAM 13. NUMBER OF CASES CONSIDERED BY AKSAKALS' COURTS IN THE KYRGYZ REPUBLIC**



The diagram shows a decrease of 4180 cases (42%) in the number of cases examined by the ACs from 2018 to 2021. This decline was consistent across all referral sources, with local authorities referring 809 fewer cases (33%), law enforcement agencies referring 2539 fewer cases (64%), courts referring 77 fewer cases (42%), and citizens' statements referring 755 fewer cases (23%).

<sup>2</sup> Statistical compendium "Women and men of the Kyrgyz Republic" 2017–2021. – Bishkek: 2022. – p. 233–234. URL: <http://www.stat.kg/media/publicationarchive/9471f65a-7cbd-4320-8651-ca2edf36de24.pdf> (date of access: 14.12.2022)

# Relevance of aksakals' courts

Taking all aspects of this study into consideration, we can confidently conclude that the development of non-state forms of justice administration, with a focus on the end-user, is crucial and relevant in today's world. The UN Sustainable Development Goals 2030 prioritize gender equality, inclusion, and equal access to justice, which can be achieved through various means, such as the development of a pluralistic legal system and non-state dispute resolution mechanisms, such as the ACs<sup>3</sup>.

## Governmental support

The ACs have a solid legal foundation and receive significant state support at the legislative level, unlike any other public institution. With a constitutional status and operating under a special law, the ACs' activities are financed from the local budget, and its decisions have state support for enforcement.

However, despite the adoption of the Law "On Aksakals' Courts" in 2002, these courts need to be inclusive and supportive to maintain their positions and fulfil their assigned functions. Unfortunately, ACs are not included in any justice development programs and are excluded from discussions on the political and legal agenda regarding access to justice. They lack a patron or coordinating body and are left to their own without help or assistance from any national institution.

Despite the challenges faced by ACs, the legislation has immense potential for this institution, which was designed not only to perform public functions in reducing conflicts on the ground but also to take on some of the functions delegated by the state to consider minor criminal cases and administrative offences. It would help to ease the burden on the judicial system by allowing ACs to handle the majority of minor property and family disputes.

## The level of need of the population in the aksakals' courts

The study results indicated a difference in attitudes towards ACs between the republican and local levels.

However, decision-makers sometimes fail to comprehend the AC development model. At the republican level, respondents have expressed concerns about the need for such an institution for the state, society, and individual citizens. Additionally, the question remains open regarding the choice between maintaining the institution's current status as a public body or transforming it into the format of a world court.

The research conducted at local and district levels showed a clear interest from key stakeholders in strengthening and developing ACs. The positive impact of AC activities

<sup>3</sup> UN "Article Sustainable Development Goals".  
URL: <https://www.un.org/sustainabledevelopment/ru/sustainable-development-goals/>  
(date of access: 12.01.2023)

was generally noted, resulting in a reduction in conflict and social tension in the regions, unloading of the municipal government system, decentralization, and increased availability of justice administration services.

At the local level, there is a need for accessible, affordable, and understandable justice for ordinary citizens. The role of ACs in dispute resolution, peacebuilding, crime prevention, and educational work is significant, although it has significantly decreased compared to the first years of activity. It is due, firstly, to the lack of state support for ACs. Secondly, changes in legislation have limited the range of cases considered by ACs and deprived them of the right to impose administrative and legal measures of coercion (such as fines and community service), reducing their leverage over violators. Thirdly, the composition of ACs often does not provide the necessary level of confidence in the institution. Finally, the processes of internal and external migration, as well as globalization, especially in urban areas, have influenced the changing role of courts.

However, it is vital to be cautious when making generalizations about the situation, as it is not uniform throughout the country. The results of field studies suggest that, in large cities, ACs are less popular as a means of resolving conflicts compared to rural areas. It is attributed to the greater accessibility of formal dispute resolution mechanisms in cities, such as courts, police, mediation, and lawyers, as well as changes in the culture of dispute resolution and values among the urban population. In some regions, religious institutions are starting to play an active role and, in some cases, even resolve disputes through direct appeals from citizens.

## Risks of the status quo of aksakals' courts

Insufficient attention and support of the ACs, as well as other extremes such as excessive bureaucratization of its activities by complicating dispute resolution procedures, document flow, and their own passivity, will inevitably lead to a gradual decline in the role of the ACs. Meanwhile, the gap in public (informal) justice will likely be filled with other tools and institutions, such as religious leaders and quasi-courts, criminal elements, destructive forces, and bloggers that create public outcry and shape public opinion.

Another risk for ACs is the dilution of their functions and the fragmentation of their members. Assigning duties that are not typical for them (such as participating in electoral and campaign events, placing elderly people in nursing homes) and including AC members in various commissions and working groups where they act as individuals rather than a collective body do not contribute to the development of the ACs.

The risks of losing the identity of this unique body may arise due to the blending of the ACs' functions with those of mediators or their transformation into standard courts. In either case, the ACs risk losing their independence, cultural relevance, and uniqueness as a public and informal body that provides accessible justice in the places.

# Potential of aksakals' courts

While evaluating the benefits and risks of the AC as a non-state forum for resolving disputes, it is vital to note that its potential has not yet been fully realized. Several aspects should be considered, including its strengths and weaknesses.

## Legal basis for the activities of aksakals' courts

Although the legal framework for the AC is established by the Constitution, the Law “On Aksakals’ Courts”, the CPC, the Regulations on the activities of ACs, and other normative acts adopted by local keneshes, there are several gaps, ambiguities, internal conflicts, and contradictions with related legislation within each of these documents.

The current Law «On Aksakals’ Courts» has several noticeable shortcomings, including:

1. non-compliance with the provisions of the Law on the establishment of the AC by decision of local keneshes or other LSG representatives with constitutional norms on the right of citizens to establish aksakals’ courts;
2. lack of mechanisms for creating ACs in residential areas (new buildings);
3. the powers of the AC to consider cases of petty crimes, administrative offences, and cases of domestic violence do not comply with the current legislation of the criminal law block, which excluded ACs from the number of authorized bodies;
4. repetitions and internal conflicts regarding the powers of the ACs to consider property and family disputes, as well as the determination of persons entitled to apply to the AC;
5. outdated norms on the right of the AC to impose administrative fines;
6. the role of district police inspectors in ensuring order at the meeting of ACs and notifying the parties does not comply with relevant legislation on internal affairs bodies;
7. the provisions of the Law on the interaction between local courts and the ACs are not reflected in the civil procedure legislation. In particular, the CPC does not stipulate a mechanism for the transfer of AC cases by local courts; there is no mechanism for the court to recall cases referred by it to the AC in the absence of a quorum for the AC; the procedure for appealing the decisions of the AC in local courts has not been regulated;
8. issues of ensuring confidentiality for specific categories of disputes have not been worked out;
9. lack of mechanisms to control the decisions made by the AC and other issues.

The draft law “On Aksakals’ Courts”<sup>4</sup> currently under discussion fails to address existing problems and, in fact, exacerbates the situation. Among the most controversial provisions are:

1. excessive bureaucratization of the dispute resolution process in the AC and an over-reliance on judicial rituals from the CPC;

<sup>4</sup> Draft law of Kyrgyz Republic “On Aksakals’ Courts”. URL: <http://koomtalkuu.gov.kg/ru/view-npa/2091> (date of access: 12.01.2023)

2. restrictions on the language of the proceedings and the refusal to allow for a free trial of cases in the AC, which leads to a loss of flexibility in the proceeding of disputes;
3. reduction of powers in the most common categories of disputes, such as property disputes, contracts, debt collection, damages, disputes based on national customs and traditions, and others.

While the Law “On Aksakals’ Courts” and the Draft Law partially comply with the provisions of international human rights treaties ratified by the Kyrgyz Republic, as they do not contain explicit gender discrimination against women, they fail to provide for special measures and full participation of women in all processes of the institute. Furthermore, the concepts and procedures for disputes affecting the gender agenda remain vague. It could negatively impact the lives and well-being of women.

## Election of members of aksakals’ courts

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Open elections for the AC members were conceived as a crucial expression of people’s democracy and the principle of participation, which made the AC a people’s court.

However, over time, the role of elections in shaping the composition of the ACs has diminished, leading to a decline in their reputation and authority among the population. There has been a noticeable decrease in citizen engagement in organizing election meetings and nominating candidates. Moreover, quorum issues have become a common problem at AC election meetings. This issue is included in the agenda of the meeting, along with others of social importance, which will surely arouse greater interest among citizens and thereby ensure a quorum on the issue of elections.

There are frequent cases of formal and non-alternative elections, with member lists for the AO aksakals’ courts or AC chairperson being compiled. However, some positive experiences have been reported, such as candidates’ nomination through *aiyl bashchy* and street elders, who interact with the population in group messengers (e.g., in Acha-Kaiyndy village), or through the heads of clans (in Kyzyl-Tuu village).

Substituting the election of AC members with the appointment of candidates from the AO undermines the legitimacy of the AC, which should be based on the trust and authority it commands among the local population. Field research indicates that people often do not know the identity of their AC members, who nominated and elected them, and this lack of transparency and accountability weakens the legitimacy of the ACs. Instead, AC members should be citizens whose convictions correspond to the measure of justice in their decision-making, and their respect as aksakals should guarantee the readiness of the population to accept and implement their decisions unconditionally. Moreover, an inconsistent electoral process may hinder efforts to strengthen women’s representation in the AC by the introduction of special temporary measures.

In many locations, various principles have been used to form the composition of the AC, such as the representation of a member from each village in the AA or each clan, ethnic diversity. However, in no instance was the principle of gender representation used in the formation of members of the AC.

An analysis of the lists of members of the AC shows that the age limit is often not adhered to nominating candidates. Also, AC membership often includes employees of the AO, municipal employees and police officers. It could be due to perceived respect for their positions or confusion regarding the distinction between the ACs and the PPC.

## Composition of aksakals' courts

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The data for the republic shows that women are underrepresented in the AC, making up only 16% of the total number of members. The largest number of AC women members was noted in the city of Bishkek (40%), and among the regions, the Naryn region had the highest representation of women at 17%. However, the smallest number of women are present in Batken and Issyk-Kul regions (11% each).

In most cases, women are appointed as secretaries of the AC on an equal footing with men. However, women holding the position of chairperson in ACs are rare, making up only 5% of the total number of members.

There are various reasons for the underrepresentation of women in the AC, including gender and structural barriers. The AC is primarily viewed as a male-dominated institution, and women are often stereotyped as being excessively emotional and psychologically vulnerable. However, women may also be reluctant to become members of ACs due to these same societal and structural barriers.

The presence of structural barriers is related to non-transparent and often formal processes for electing members of ACs, as well as a lack of public awareness of these processes. Gender barriers stem from stereotypes, prejudices, and patriarchal roles of men and women in the family and society. The very name of the body – “aksakals' courts” – is gender-biased and does not promote women's participation in this body.

However, all parties recognize the importance of women's participation in the work of ACs, especially when resolving disputes that involve women. Women often face mental, behavioural, and psychological barriers when approaching the male composition of the court. A successful example of a woman's work as a member of ACs is the more than 10 years of participation by a local woman leader in the Kara-Tash AC of the Nookat district of the Osh region. She was selected for participation in a project to build the capacity and train women leaders in the AC. Moreover, she became the first woman to join the AC in this community, breaking the gender stereotype that only men can be members of it. Thanks to her professional and personal qualities, she has earned respect and trust of the population, both men and women. Her participation has led to an increase in the number of women applying to this AC.

The age composition of the AC is quite diverse, including young people under 30 years old and older people over 90 years old. However, the largest number of members are pensioners in the age group from 61 to 70 years (46.9%). While this indicates that the members have a lot of experience, it is also possible that established attitudes and ways of thinking may be prevalent.

It is important to note that all members of the AC have some level of education. The vast majority of members have higher or vocational education (60%). Therefore, claims by some that the AC is illiterate or lacks education are unfounded. Their high level of education enables them to recommend measures to improve their skills and build their capacity on specific issues related to their field. As the study showed, it is key to increasing trust, satisfaction with the result, and demand for the AC.

The AC brings together people from various professions, including former police officers, social workers, members of house committees, district and municipal employees, imams, and representatives of the rural intelligentsia. The professional composition of the AC and, especially, its chairperson has a direct impact on the types of disputes under consideration. For example, in an AC where the chairperson and active members have experience in the social field, applications related to social issues such as benefits, financial assistance, and assistance in obtaining documents are more readily considered. However, in legal disputes, complainants may be referred to court or law enforcement,

as the AC may not have the necessary expertise to resolve the conflict. Conversely, in an AC where the chairperson is a former police officer or a judge, property and family conflicts are likely to be considered more frequently.

## Organizational structure

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The AC operates as a collegiate body, and according to the law, all cases must be considered by the composition of the court in the presence of a quorum equal to 2/3 of the total number of members. Those ACs that adhere to the principle of collegiality have greater potential and are better equipped to consider cases with higher quality. Collective consideration of disputes enables the members of the court to discuss the circumstances of the case, shape the contours of the decision, improve the educational effect and distribute functional responsibilities among the members of the AC.

However, there are cases where the chairperson or another more authoritative member of the AC alone performs the functions of the ACs. In such cases, decisions may either be missing or formally signed by several members of the AC who did not actually participate in resolving the dispute. It can make the AC institution vulnerable, as the authority and trust in the court are associated with the individual, rather than the institution. The absence of a stable team and procedures makes the AC dependent on one person.

While each AC has a secretary, some courts face challenges in appointing one. The considerable age of the members of the AC and their lack of computer experience may be reasons for declining additional duties. In some cases, ACs rely on the assistance of third parties, such as the secretary of the AO or a member of the women's council, to perform secretarial functions.

# Effectiveness of aksakals' courts

To evaluate the effectiveness of ACs, it is essential to consider the goals they have achieved and the resources expended to achieve them. However, the lack of accurate and consistent quantitative data makes it almost impossible to measure their effectiveness. For instance, there is no reliable data on the number and types of cases handled by the AC, the number of decisions taken, and the number of decisions appealed and upheld or overturned by the court.

Despite the lack of accurate data, available figures suggest a relatively positive outlook. For example, it is reported that the ACs handle 3,300 cases each year<sup>5</sup>, and only 25 cases are appealed in court to enforce the decision<sup>6</sup>. These numbers indicate that the AC is successful in fulfilling its mission since most cases end in reconciliation or agreement on a decision.

However, the effectiveness and limitations of the ACs can be assessed indirectly by paying attention to certain features of the case consideration process.

## Advantages and disadvantages of aksakals' courts

The aksakals' courts are attractive to the local population due to several advantages. These include their proximity to the local population, understanding of the local context and cultural characteristics; knowledge of the inhabitants and the issues they face; absence of fees for dispute resolution; speedy resolution of disputes; lack of judicial bureaucracy and overregulation of the process; ability to consider disputes even in the absence of written evidence; a broad range of sources for resolving disputes; consideration of disputes with fairness; accessibility in terms of language and territory; ability to enforce court decisions and independence with less exposure to corruption.

However, it is worth noting that ACs also have some disadvantages, such as the lack of predictability and consistency in decision-making, limited transparency and accountability, and the absence of mechanisms for monitoring decisions.

## Functions of aksakals' courts

The functions of ACs have undergone significant changes due to the reform of the legislation in the criminal law sector. As a result, they no longer have the authority to consider criminal and administrative cases and can only handle disputes related to civil, property, and family legal matters. This change has led to a decrease in the number of pending cases and the overall activity of ACs. Previously, many ACs were primarily oc-

5 Statistical collections "Women and men of the Kyrgyz Republic" 2010–2014. – Bishkek, 2015. – p. 97.; Bishkek, 2016. – p. 220; Bishkek, 2021. – p. 229–230.  
URL: <http://www.stat.kg/ru/publications/sbornik-zhenshiny-i-muzhchiny-kyrgyzskoj-respubliki/>  
(date of access: 24.08.2022)

6 During an interview with representatives of the Supreme Court of the Kyrgyz Republic, data from the Judicial Department under the Supreme Court of the Kyrgyz Republic on the number of applications for enforcement of AC decisions from 2019 to 2022 were presented.

cupied with reviewing materials related to terminated criminal cases, as well as cases transferred to them by the police for the application of measures of public influence and the consideration of administrative offences. Since 2019, these ACs have been left without a workload as applications from citizens have reduced, and their preventive and educational mission remains unfulfilled.

It is worth noting that the decision to exclude criminal and administrative cases from the jurisdiction of ACs was not motivated by questions of efficiency or inefficiency. Rather, it was driven by the intention to develop mediation in criminal and administrative law.

## Competence of aksakals' courts to resolve disputes

Over the past 20 years, the competence of the ACs to resolve disputes between citizens has undergone significant changes. It has become clear that the specifics of case consideration depend on the region. For example, in the south of the republic, most disputes are related to family conflicts, while in the north, they are related to compensation for damage to property and irrigation disputes. ACs have also been particularly effective in protecting women's rights in property and land disputes, often siding with women and recognizing their right to property and land shares in the household, as well as dowry in the property division. In urban areas, the ACs primarily deal with neighbour disputes, such as apartment flooding, non-payment of rent, payments to homeowners' associations, and violations of hostel rules.

However, the AC's approach to dealing with complaints of domestic violence has changed. Nowadays, such cases are referred to the police or the court following changes in criminal law and the law on offences. Currently, the laws do not mention the AC as the competent authority to handle such cases. Therefore, the Law "On Aksakals' Courts" contradicts them as it still refers cases of violence to their competence.

Despite the limitations on their jurisdiction, there are still positive experiences of using ACs in collaboration with the MoIA for the prevention of offences and educational work in cases of violence, after a decision has been made by the competent authority. The MoIA recognizes the value of community involvement in troubled families<sup>7</sup>.

ACs are also still in demand for resolving conflicts that are not strictly legal and thus may not have a clear resolution in official structures. In the southern regions of the republic, ACs handle everyday conflicts such as those between mothers-in-law and daughters-in-law, neighbourly disputes, and generational misunderstandings. The ability of aksakals to listen, offer advice, give instructions, scold, or even threaten has proven to be a valuable resource for ordinary citizens, contributing to the preservation of peace, tranquillity, and stability in relationships.

ACs also deal with disputes related to national customs and traditions, including the division of property between spouses, dowry, and property disputes related to inheritance. During field studies, cases of the use of customs and traditions of the Kyrgyz and Uzbeks have been identified.

In recent times, there has been a trend of legal entities such as pasture committees, dacha cooperatives, homeowners' associations, and water user associations applying to ACs for the collection of payments, fines, and salaries. While this trend is positive, it is not currently recognized under the law, as legal entities cannot be parties to disputes considered by ACs.

<sup>7</sup> Data presented during interviews with representatives of the Ministry of Internal Affairs of the Kyrgyz Republic, 18.08.2022.

## Consideration by aksakals' courts of disputes with gender issues

ACs are involved in resolving gender disputes, including conflicts between family members, violence against women, disputes over property and land rights of women and children, as well as preventing early marriages. Studies show that women are more likely to seek help from ACs when the court panel includes women. In most property and family disputes, ACs try to reconcile the parties and save the family, utilizing a variety of methods. However, in cases involving domestic violence, the ACs may apply public shame against the accused perpetrator based on cultural norms, appeal to traditional gender roles and hierarchies within the community and family, as moral and religious beliefs. Unfortunately, in such disputes, children may be used as a tool to influence women.

Regarding land and property disputes between family members, ACs often take the side of women, justifying this with concerns for the future of children, and recognizing the right of women to property and land share in the household, as well as to dowry in the division of property. However, due to a lack of knowledge in the field of human rights protection, women's rights, and a gender-sensitive approach to the consideration of cases, as well as a lack of gender statistics, the quality of the AC's decisions can often be gender-discriminatory or gender-blind.

## Sources of decision-making

ACs across the republic utilize a wide range of social regulators, including legislation, moral and ethical norms, and customs and traditions. However, it cannot be assumed that all ACs are equally proficient in utilizing these tools. Often, they rely on a shared understanding of what is deemed good and bad, as well as their life experiences and wisdom.

AC practices vary depending on their region and composition. For instance, those in the north and the capital tend to rely more heavily on legislation, especially if they have former police officers or legal professionals as members.

In contrast, a new paradigm emerging in the southern region is the use of religious norms as an additional source. If an AC member is an imam, they may refer to quotes from the Qur'an and Sunnah as precise guides. In other cases, religious norms are used as an additional source to inform well-known moral and ethical norms.

## Measures of public influence

ACs primarily utilize enforcement measures outlined in Article 15 of the Law "On Aksakals' Courts".

The most commonly employed measures include warnings, public apologies, and compensation for material damages if ACs are unable to reconcile the parties.

Instances where influence measures not specified in the Law "On Aksakals' Courts" are used exceedingly rare. During the study, only one such case was recorded, where ACs expelled the family of a rapist from the village where the offence occurred against a minor resident. It was taken to prevent a large-scale conflict with the victims, given the social context and extraordinary circumstances.

However, the concept of collective responsibility can exacerbate negative effects and shift the focus from the perpetrator to their family, which is a particular concern in Kyr-

gyzstan. The country lacks gender sensitivity in its judicial system, and society tends to “blame the victim”, resulting in a lack of accountability for gender-based crimes.

While some ACs employ fines as an enforcement measure, questions arise regarding the maximum limit, payment procedures, and enforcement if payment is not made voluntarily. Article 28 of the Law “On Aksakals’ Courts” has different versions in the state and official languages on the website of Ministry of Justice, creating confusion in law enforcement. One version limits fines to three calculated indicators, while others do not have a maximum amount. ACs require violators to transfer fines to the bank account of AO on administrative penalties. However, as of 2019, ACs lack the authority to impose administrative fines. If the law grants ACs the power to impose fines, it is considered a measure of public influence allowed by law to a public body, rather than an administrative penalty as a state coercion measure.

ACs use public censure as an effective measure for educating and preventing offences. In some regions, it is common practice to publish the names of debtors in local newspapers who fail to comply voluntarily with AC decisions.

## Appeal against decisions of aksakals’ courts

Civil procedural legislation completely lacks a procedure for appealing decisions of ACs in court. In fact, they are considered under the rules of the lawsuit, which is fundamentally incorrect, since the court does not make a decision, but only reviews the decision of ACs. Therefore, the appeal procedure should be similar to an appeal. This issue has hardly been raised in either the judicial practice or the expert community and requires a legislative solution.

## Enforcement of decisions of aksakals’ courts

The number of cases of enforcing AC decisions is insignificant compared to the total number of decisions made by ACs. It can be explained by the fact that, firstly, the ideology of enforcing decisions is not typical for ACs. Usually, citizens voluntarily bring their case to ACs, choose court members they know and trust, and are willing to accept the AC’s decision. Therefore, cases where one of the parties avoids enforcement, are rare. Secondly, in most cases, the parties participate in the decision-making process since the discussion in the AC hearing is very open and democratic. The decision is not a surprise to the parties, and they naturally accept it.

There are legal barriers that can arise during interactions between state courts and ACs, particularly when it comes to the enforcement of decisions. These barriers stem from the different levels of formality in their procedures and the different sources they use to resolve disputes. While ACs can base their decisions on tradition and local practices, state courts are required to evaluate disputes solely based on the law. However, there may be instances where the same conflict can be viewed differently based on social attitudes and current law. In such cases, decisions made by ACs, based on their understanding of justice and local customs, may not align with legal standards and could result in a refusal to issue a writ of execution.

ACs face higher standards and requirements when interacting with the state apparatus, particularly during the enforcement phase. They are subject to stricter application form requirements, longer processing times, and restrictions on language use, which are similar to those imposed on state courts. To avoid potential non-enforcement of

their decisions, the ACs must adhere to these standards, limit themselves to traditional sources of dispute resolution, and strictly follow the law when making decisions. However, this can be challenging in practice because members of the ACs are not required to have a formal legal education, which can limit their understanding and interpretation of the law.

When the same standards are applied to state and non-state courts, it can have negative consequences for ACs. It can lead to a loss of dispute resolution dynamics, reduced accessibility and trust from citizens, excessive formalism, and complexity of the dispute resolution procedure. It is vital to consider the local context, socio-cultural patterns of behaviour, political and economic realities, and the potential and effectiveness of various dispute resolution methods when choosing a dispute resolution method for the local population. Therefore, the focus should not only be on the regulatory standard but also on the real situation faced by residents<sup>8</sup>.

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<sup>8</sup> Alenkina N. Enforcement of decisions of aksakals' courts: a commentary on certain article of the Civil Procedure Code of the Kyrgyz Republic / Bulletin of Civil Process. – 2023. №1 – p. 236–256.  
URL: <https://doi.org/10.24031/2226-0781-2023-13-1-236-256>

# Interaction of aksakals' courts with external entities

ACs interact with various bodies at the state, district, and local levels. However, most of these interactions are based on a personal level, as protocols for interaction with ACs are not well-defined. This lack of clear communication protocols can create uncertainty and instability in relationships.

The main players with which ACs interact are listed below.

## State courts

ACs interact with state courts on procedural matters such as case transfers, appeals against decisions, and enforcement of AC decisions. However, there are issues with civil procedural legislation in regulating the procedures for transferring cases to ACs and appealing decisions, which creates difficulties in their interaction.

Methodological assistance to ACs is provided irregularly and unsystematically, limited to seminars on the Law “On Aksakals’ Courts” or individual consultations. While some positive examples exist in the republic, they are not sustainable due to the rotation of judges and the lack of priority given to this activity in the court system. Furthermore, even positive examples of methodological assistance are not based on a serious analysis of AC practices.

One of the reasons for this is the lack of statistics on these issues. Additionally, there is no analysis of judicial practice in appeals against AC decisions or in considering applications for the issuance of writs of execution for the enforcement of their decisions.

## Statistics bodies

According to Article 35 of the Law “On Aksakals’ Courts”, ACs are required to keep a statistical record of the cases they consider, for which the NSC has developed an appropriate form of reporting. This statistical information is crucial for assessing the workload and activity of the courts, including cases of domestic violence and other categories of cases, and monitoring trends across the republic.

However, field research and data collection through local authorities have revealed that many ACs either do not submit statistical reports at all or submit inaccurate reports. It may be due to a lack of reporting skills, violations of office and document flow rules, including general data on cases considered by the PPC in the report on AC cases, formalism, and a focus on numbers. As a result, there are significant discrepancies between the number of applications registered in the registers and the number of cases considered by ACs.

## Local kenesh

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The local kenesh plays a vital role concerning ACs, performing a range of functions such as making decisions on the establishment of courts, organizing the election of court members, registering courts, issuing certificates to court members, early recall of court members, submitting materials for consideration, approving the procedure for the logistics of courts, accepting reports, and approving budgets. However, the effectiveness of these procedures varies among different ACs. For instance, in some ACs, court members are not provided with certificates, while in others, the issue of logistical support has not been properly resolved.

## Aiyul okmotu

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At the local level, ACs interact closely with AO. AO convenes meetings to select members of ACs, allocates premises for the consideration of cases, sends materials, and stores them after consideration. However, in practice, the interaction between the AC and the AO can vary greatly from locality to locality, ranging from a complete lack of cooperation to a high level of involvement by the AO in the needs of the AC.

In some communities, positive interaction between AO and AC has led to the AC being considered by the executive LSG as the “right hand” in settling conflicts on the ground and carrying out preventive work on offences and disputes. In such cases, the AO supports the AC financially by paying remuneration or bonuses, allocating funds to cover transportation and operating expenses, awarding certificates, and providing other forms of encouragement.

However, this positive practice may have negative consequences associated with the “merger” of these two independent institutions. It can be seen in direct appointments of AO members to AC, maintenance of a register of AC applications received by AO representative, use by AC of the aiyul okmotu seal to draw up decisions, and filing of AO applications with AC to consider the material on a citizen in a dispute with the aiyul okmotu itself. Additionally, members of AC may appeal to the state court on behalf of the AO regarding the enforcement of a decision made by the AC in favour of the aiyul okmotu. These facts raise concerns regarding the independence of AC.

## Law enforcement agencies (prosecutor's office, police)

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According to current legislation, the prosecutor's office and the police have limited interaction with ACs. Although the law “On Aksakals' Courts” grants the right to send materials to ACs, their competence to consider criminal and administrative cases is limited by the criminal, criminal procedure, and code of offences. As a result, these forms of interaction between ACs and law enforcement agencies are not currently implemented.

The Prosecutor's Office does not have the right to exercise supervisory powers over AC as a public body. As for the police, the situation in the republic varies. In some places, the police continue to partner with ACs and carry out their instructions, despite changes in legislation. However, in other places, district police inspectors refuse to invite persons whose participation is necessary to AC meetings, as such authority is not within their specialized laws. They also do not perform the function of ensuring law and order at AC meetings.

## Public bodies

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AC collaborates with various local public organizations, such as women's councils, veterans' councils, youth committees, CPDV, PPC, and others. Typically, their collaboration is limited to joint participation in common events, meetings, working groups, and collective bodies. However, there is a general problem with the activities of each organization separately and their interaction with each other. It is due to the vague definition of the scope of their activities, which can result in overlapping powers in preventive and educational work, reconciliation of parties, and a lack of clear understanding of the delimitation of competence.

This problem is particularly challenging when the same person is a member of several public organizations simultaneously. In such cases, there may be difficulties with self-identification and perception of this person by others. Legally, this becomes significant when the decision of a public body comes into contact with state structures. Each organization has its own requirements for the composition of members (age, position, education, etc.), procedures, decision-making, and execution requirements. Therefore, understanding which body made a decision is critical for its legality. The mixing of different public organizations can lead to duplication of applications considered by them, resulting in the same case being reflected in the reporting of each body included in the PPC.

# Stability of aksakals' courts

The sustainability of ACs depends on financial and institutional aspects, among which the following are especially important:

## Provision and financing of aksakals' courts

After analysis, it has been revealed that ACs across the country are vulnerable in resources. They are in dire need of material and technical assistance, funding, systematic training, experience sharing, legal advice, regulations, and other necessary information.

Although the Constitution explicitly provides for the financing of ACs from the local budget, in practice, cases of allocation of funds by the local kenesh are rare. It negatively affects the motivation of AC members and the sustainability of their activities. The lack of funding for ACs has economic reasons and is associated with insufficient elaboration of the mechanisms for paying money from the local budget to the public body. Where such payments are made, they may be in the form of annual bonuses paid to members of ACs, or wages paid to members of the AC by the AO based on an employment agreement. However, neither of these options is acceptable since they involve an employment relationship between the AO and a member of the AC, which means submission to labour discipline and regulations. AC must remain an independent body to effectively carry out the function of public justice.

Another manifestation of the lack of funding sources for the AC is when AC members combine their position with municipal service in the AO. It allows them to receive a salary for performing their duties as an AC member. However, such a measure is forced and cannot be considered a good practice.

There are also cases when remuneration is allocated only to the chairperson of the AC, thereby belittling the role of other AC members.

## Accountability, continuity, institutional memory

Despite efforts to maintain a system of document management and archiving, the AC faces difficulties in terms of logistical support and the lack of methodological assistance. As a result, not all applications are registered, and decisions on them are not always made in writing. Moreover, the minutes of AC meeting are either not kept or are drawn up together with the decision.

It is essential to unify the decisions and protocols of ACs to ensure their sustainability and legal validity. The state courts may review them as part of the procedure for appealing a decision or enforcement, and their quality has a direct impact on the AC's interaction with state justice.

ACs often fail to archive materials properly, and the completeness of the transmitted materials is not monitored. In some cases, the chairperson, who may lose or retain these materials upon re-election, holds the AC's archive. This lack of proper archiving prevents the AC from creating an institutional memory, and each new composition starts from scratch.

Furthermore, statistical reporting is often inaccurate, and the figures for the number of cases handled and their categories differ between the data provided by AO and in the registers.

## Exchange of experience between aksakals' courts

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ACs currently operate in isolation from each other, and there is a lack of a unified system for them to operate within. Despite this, the ACs recognize the importance of interaction and the exchange of experience among themselves. In the early years of AC's existence, state-organized congresses provided a platform for such interaction and were found to be useful for the country. However, such platforms no longer exist in the republic, and the public association "Association of Aksakals' Courts" is currently making significant efforts to create professional interaction between AC and establish a training system. Unfortunately, the efforts of a single private institution, which only brings together a narrow circle of members and lacks sustainable funding, are insufficient to address the current needs.

# Recommendations

These recommendations propose institutional changes, improvements in legislation and policy, and strengthening of the capacity of the aksakals' courts. They can be directed towards various parties, including the state, municipal, and public sectors at the national and local levels.

At the national level, the main priorities should include the formation of a legislative framework, the development of mechanisms for state support and financing of ACs, the development of forms for collecting statistical data, and the analysis of judicial practice. At the community level, greater impact can be achieved through pilot projects that include ACs. Such projects may include training, information campaigns, improving vertical and horizontal links, promoting best practices, as well as disseminating successful experiences throughout the country.

## 1. CHANGES TO THE LEGISLATION

- a. The contradictions between the Law “On Aksakals’ Courts” and other normative legal acts should be addressed. Specific attention should be given to clarifying the competence of ACs concerning the consideration of materials on domestic violence, the establishment and election of the AC, the imposition of fines, and the financing of their activities.
- b. Wide-ranging expert consultation is required to determine whether ACs should be given the right to consider materials on individual offences to impose penalties (fines, community service) and criminal offences to reconcile the parties as part of the reform of the criminal procedure law.
- c. The gaps and contradictions in the Law “On Aksakals’ Courts” concerning the creation of AC in new buildings should be eliminated.
- d. CPC and/or the Law “On Aksakals’ Courts” should be amended to establish mechanisms for the courts to transfer cases to ACs, as well as to regulate the issues of withdrawal by the court of cases (materials) transferred by them to ACs in the absence of a quorum from the aksakals’ courts. Additionally, a procedure for appealing the decisions of ACs in the district courts should be established.
- e. The Rules of Procedure of ACs of the city of Bishkek should be brought into compliance with the current Law «On Aksakals’ Courts» and the CPC. It includes the formalization of the decision and a dissenting opinion on the decision of AC, the collection of fines for administrative offences, and the filing of an application by the AC to the court to enforce its decision.
- f. To assist local communities in forming the regulatory framework for ACs and taking into account the characteristics and needs of these courts, a model Reg-

ulation on the activities of the AC should be developed and approved by a resolution of the Cabinet of Ministers of the Kyrgyz Republic.

- g. The draft of the new Law “On Aksakals’ Courts” needs legal, human rights, and gender expertise. The draft law contains numerous conflicts and violations of legislative techniques. Additionally, it touches on issues of gender equality and empowerment for all women and girls, as well as the rights of citizens to access justice in its broadest sense.

## 2. STRENGTHENING ELECTION PROCESSES IN AKSAKALS’ COURTS FOR MORE WOMEN’S REPRESENTATION

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- a. To promote gender equality and enhance the participation of women in ACs, the Law “On Aksakals’ Courts” should be amended to include provisions for reserving seats for women.
- b. An information campaign should be launched to raise awareness about gender equality and transform societal attitudes towards the role of women in ACs.
- c. To equip women community leaders with the skills needed to participate in AC elections, a comprehensive program should be implemented that includes the following:
  - an information campaign aimed at highlighting the achievements of active women members of ACs to increase their visibility;
  - comprehensive training to enhance the leadership capacity of women in the community, including public speaking, argumentation, effective management, and women’s rights;
  - a mentoring program in which current and former female members of ACs will share their experiences with active women in the community.

## 3. STATE SUPPORT OF AKSAKALS’ COURTS

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- a. It is recommended to establish a designated body or official at the state level to oversee and support the development of ACs. The role of the Secretary of State of the KR could be considered for this position.
- b. To encourage and support the activities of ACs, a comprehensive set of measures should be developed, including:
  - designing a comprehensive development program for ACs and/or integrating measures to strengthen and develop AC institution in state policy programs;
  - organizing regular meetings at the national, regional, and local levels involving representatives from state and municipal bodies with whom ACs interact. It would enable the exchange of experiences, discussion of challenges, and development of recommendations for improvement;
  - designating July 5 as Aksakals’ Courts Day to commemorate the adoption of the Law “On Aksakals’ Courts”;
  - developing measures to recognize and appreciate the contributions of members of ACs.

## 4. FINANCIAL AND MATERIAL SUPPORT OF AKSAKALS' COURTS

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Develop mechanisms to:

- a. ensure funding AC from the local budget to maintain its status as an independent public body and to provide adequate compensation for the performance of public functions;
- b. reimburse AC members for expenses related to the consideration of AC cases, such as office supplies and travel expenses;
- c. provide ACs with necessary office equipment, premises, and access to the Internet, legal databases, and other resources needed for their work.

## 5. GENERALIZATION AND ANALYSIS OF JUDICIAL

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- a. It is recommended to the Supreme Court of the Kyrgyz Republic conduct a comprehensive analysis of the judicial practice throughout the country over the past 5 years related to the appeal of decisions made by ACs and the enforcement of these decisions.
- b. Prepare a review of judicial practice in the indicated categories of cases.
- c. Consider the issue of the expediency of preparing the Plenum of the Supreme Court of the KR for the indicated categories of cases.

## 6. TRAINING AND PROFESSIONAL DEVELOPMENT

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- a. It is recommended to develop a comprehensive training program in both the state and official languages for AC members, which should cover the legal foundations of AC activity, case review procedures, protocol and decision-making, specific categories of disputes (e.g. property, land, family disputes), appealing and enforcing AC decisions, interactions with state and municipal authorities, office work in ACs, and ensuring human and gender rights.
- b. Information seminars should be organized for AC members to increase their awareness and negotiation skills, enabling them to play a more significant role in peacebuilding processes, strengthening inter-ethnic relations, preventing religious extremism and radicalism, and neutralizing other conflicts in both urban and rural areas.
- c. Family conflict mediation competencies training should be organized for AC members to enable them to understand the psychological and legal aspects of resolving and accompanying family disputes while also allowing participants in family disputes to improve their interactions and make informed decisions acceptable to all parties. The training will also aid in resolving issues related to divorce, children, and financial and property disputes.
- d. To ensure gender-sensitive handling of cases, it is recommended to develop a teaching and learning package for the AC that includes a training manual, handouts, presentations, and other necessary materials.

- e. Regular comprehensive training should be organized for AC members throughout the republic to improve their skills.
- f. The Higher School of Justice under the Supreme Court of the Kyrgyz Republic should provide methodological assistance in developing a training program for ACs and assist in conducting training with the involvement of external experts.

## 7. METHODOLOGICAL ASSISTANCE TO AKSAKALS' COURTS

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- a. Recommend the development of AC dispute resolution practice guides, handbooks, AC handbooks, sample protocols and AC decisions.
- b. Prepare a commentary on the Law "On Aksakals' Courts".

## 8. STATISTICS

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- a. It is recommended that statistical bodies develop forms of statistical accounting to organize data collection for the country. It should include information on the number of ACs, the quantitative and qualitative composition of their members. These forms should also track the number and categories of cases considered by ACs and pay special attention to gender issues.
- b. It is recommended to the Supreme Court of the Kyrgyz Republic allocate a separate line in existing forms of statistical accounting to track the following indicators related to ACs: the number of applications for appeal and enforcement of decisions, the number of satisfied applications, the number of applications that were left without satisfaction, and the number of applications that were not considered or returned.

## 9. OPENNESS AND ACCOUNTABILITY

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To increase openness, accountability, and public awareness of the activities of ACs, a comprehensive approach is needed that includes the following:

- a. organizing dialogues and regular meetings with state authorities, courts, and the police to discuss issues of mutual interest and build trust and cooperation;
- b. Establishing external relations for ACs and conducting information and explanatory work on the activities of ACs;
- c. Improving communication between ACs and the public, including direct communication, using the media and social networks to share information about the cases they have heard, and distributing press releases and bulletins;
- d. strengthening horizontal links between ACs at the district, regional, and republic levels;
- e. establishing a resource centre based on one of the district's successful ACs to serve as an example for other ACs in the district, providing guidance on work organization, approaches, and methodologies.

## 10. INTERACTION OF AKSAKALS' COURTS WITH OTHER PUBLIC BODIES

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It is required to analyze the existing public bodies at the local level, determine their functions and powers, identify overlapping issues and create an effective system of interaction to avoid duplication of activities.

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## Notes

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