

The most widespread lawsuits that women in Kyrgyzstan file are divorce and recovery of alimony payments. They make 85 per cent of all family cases at bar.

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According to the Supreme Court of Kyrgyzstan, local courts resolved 117,377 cases regarding family matters from 2015 to the first six months of 2019. The number of cases with women as plaintiffs is increasing. In 2017, such cases were 4,428, in 2018 they doubled to 10,956, and in the 1st half-year of 2019 they were 5,634.

What do the data of the Supreme Court show? Families break up. According to the statistics, every fifth couple gets divorced in Kyrgyzstan. Moreover, almost one-third of them break up within five years in marriage. As a result, nearly 13.3 thousand children are left without one of the parents. This is the number of children born during a marriage.

Every year, since 2015, over 150 thousand children are born in Kyrgyzstan. About 11 per cent of them are born by women who are not officially married. Half of children born out of wedlock have blank “father” entry. If in future the child’s mother wants to get alimony payments, she will have to prove paternity first in court. However, there are few who took this step in the country and the Supreme Court does not maintain the statistics of such cases.

As reported in the Bulletin of the Supreme Court of the Kyrgyz Republic No. 2 for 2019, the largest percent in the structure of family cases falls on divorce – 5,490 lawsuits for 6 months of 2019, or 62.6 per cent. Compared to the first half-year of 2018, 5,077 cases or 59.4 per cent, we can see the increase.

Recovery of alimony payments is the second widespread reason of lawsuits. In the first half-year of 2019, there were 1,954 or 22.3 per cent of cases among all other family matters. In the earlier year, there were a little bit more lawsuits on alimony recovery – 2,145 or 25 per cent. In addition, the bulletin takes into account all alimony suits, including suits to reduce alimony, which are usually filed by men.

There are no ex-children

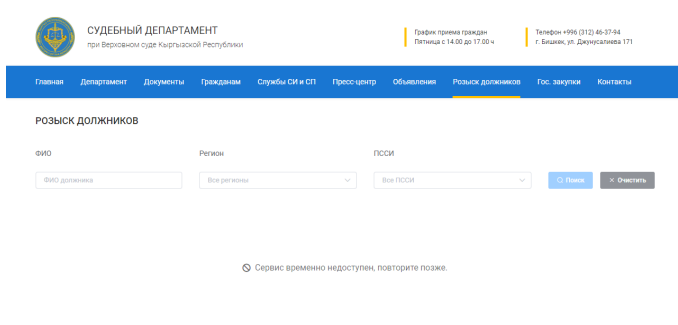
According to the judicial department of the Supreme Court, almost half of all enforcement orders received by them are alimony orders. Their number is increasing every year.

According to latest data, there are about 4 thousand alimony non-payers. Their debt is from 20 thousand to 1.5 million som (260-20,000 dollars). Some fathers fail to pay for over 10 years.

Previously, debtors were brought to trial under article 388 of the Criminal Code of the Kyrgyz Republic and could be sentenced up to 5 years. Now, according to the Code of Offences, they can only be fined from 40 to 60 thousand som (533-800 dollars) or sent to public and community works. However, no instruments or norms have been developed so far.

In majority of cases, children remain with their mothers after divorce and become ex to their fathers. Only 8 per cent of alimony non-payers in Kyrgyzstan are women.

According to the ministry of interior affairs, about 2.5 thousand alimony non-payers are on the wanted list. A section “Debtors wanted” is available on the website of the judicial department since the end of 2019. However, it has no relevant information yet. The section that should contain information about debtors looks as follows:



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Aida Sabyrbekova has been applying to courts for more than a year. At first, she was trying to prove that her daughter is the father’s daughter. She proved it. Then she applied to alimony. She won the case. The amount of the alimony is 2,300 som (31 dollars).

“The father of my daughter is not a poor man. He’s the son of ex-official who owns several companies. He always travels to foreign health resorts, posts his photos on Instagram, but

does not want to help his daughter,” Sabyrbekova said.



Photo courtesy of Aida Sabyrbekova

Then problems with her daughter’s travel beyond Kyrgyzstan arose. The child’s father started to blackmail and threaten her. He threatened not to permit the child’s departure if she doesn’t stop telling her story in social media.

However, Aida managed to get his consent only after she made her personal story available to public. Many women who don’t know her personally supported the woman. And father who did not want to meet his daughter surrendered. He signed the permit for one year only. And he told he would not prolong it if Aida “misbehaves”.

This is the first case in Kyrgyzstan when a parent sues himself and demands to deprive him of parental rights.

Now she again applies to courts – she filed a lawsuit regarding the schedule of father’s meetings with daughter Emilia as the girl wants to see her father. But father does not need daughter, so he filed a case to deprive him of parental rights. According to Aida Sabyrbekova, this is the first case in Kyrgyzstan when a parent sues himself and demands to deprive him of parental rights.

However, according to the Family Code of the Kyrgyz Republic, deprivation of parental rights does not deprive a parent of responsibility. “Non-father” will have to make alimony payments anyway.

The analysis of court judgements in the last month of 2020 (from May 15 to June 15) published on the website of the Supreme Court of the Kyrgyz Republic, showed that men usually apply for reduction of alimony payments. And they usually get a refusal. About 1,000 family lawsuits have been filed during the month. Complainants’ gender could be identified only in 40 per cent of all lawsuits. In 30 per cent, women were complainants. However, speaking of divorce proceedings, the proportion there is almost equal.

Divorce lawsuits are the most widespread and make 53 per cent of the total number of lawsuits in one month of 2020. Alimony lawsuits are second widespread and make just over

a third or 32 per cent. Then go paternity and adoption lawsuits, 3 per cent each. The number of lawsuits regarding the reduction of alimony payments filed by men was 9 in a month, or 2 per cent. The same number of lawsuits regarding deprivation of parental rights are applied either by women against fathers, or by children's services or prosecutor's office. And less than 2 per cent of lawsuits are lawsuits on determining children's place of residence and separation of spouses' property.

The Supreme Court's data published in the bulletin in the first half-year of 2019 confirm that divorce lawsuits are the most widespread - 62.6 per cent (5,490) of the total number of family matters (8,767). Moreover, if compared to 2018, the number of divorce proceedings increased by 3 per cent. 22.3 per cent (1,954 lawsuits) are alimony lawsuits. Almost 15 per cent of family matters are being reconsidered by court on appeal.

As to the geography of applied and considered lawsuits, more than a half of them fall on southern regions, particular, on Dzhalal Abad and Osh regions. Only 15 per cent of all lawsuits fall on Bishkek. This is the picture based on the analysis of court judgements published on the Supreme Court's website for one month of 2020.

The law is strict, but we'll not pass it

In 2019, women deputies initiated amendments to laws regulating alimony payment process. However, the gender ratio in the parliament of Kyrgyzstan is unequal - 19 vs. 101, and the amendments have not been passed yet. Draft law initiator **Aisuluu Mamashova** said the document has caused rejection in the beginning both of deputies and the society that thinks that family matters should not be discussed.

On June 17, 2020, the draft law was considered on the second reading and was again sent for finalisation.

The main amendments proposed by the initiators are:

- **“Malicious evasion of payment of alimony”**: in this Family Code, there is no such a term as “malicious taxpayer”. Once there is no term, there are no tools to punish. We suggest to introduce a norm to the law, when a non-payer that evades payment for two and more times is considered “malicious”.
- Minimum alimony amount for one child aged 7 to 14 must be at least one fourth of the parents' salary, but no less than a half of the minimum wage 4.143,44 som (55.25 dollars). Moreover, alimony may be recovered in fixed amount, if recovery in shares

violates the child's interests.

- **Temporary restriction of a taxpayer's leaving abroad.**
- **Temporary restriction of a non-payer's leaving abroad.**
- **Child's departure abroad and receiving the passport (duly) by judicial means.**

"At the last hearing, they rejected three important norms we proposed. The first one was about malicious "non-payer". They also removed a norm on child's accompaniment by one parent. They allowed departure upon court ruling. And the third one that was rejected is a norm about receipt of a passport. The government was totally against "malicious evasion", while migration services were against taking a child abroad by one parent," Mamashova said.



Aisuluu Mamashova. Photo: kenesh.kg

According to her, they had to struggle for every item of amendments proposed by them. Deputies asserted the right of a debtor to go abroad even having a debt to their children.

"They made up a whole bunch of reasons containing 5 reasons. For example, a debtor will be able to leave the country if their close relative falls ill. These are corruption elements. We are satisfied to have the minimum amount of alimony left. Now mothers will not get 100-200 som (1.33-2.67 dollars) per month," the deputy said.

On June 24, the parliament passed the draft law at the third reading. And, according to Aisuluu Mamashova, the items that allowed a debtor to leave abroad were not passed. Now mothers can demand, in addition to alimony, medical expenses and training costs of a child. The process of alimony recovery should be automated now like in Russia, Ukraine. In Uzbekistan, the minors can go on their own to court to recover alimony from parents in 2020.

Struggling for children

Today, women do not struggle for their rights, but for their children's rights in courts. According to article 36 of the Constitution of the Kyrgyz Republic, "every child has a right to the level of life necessary for their physical, mental, spiritual, moral, and social development... The responsibility for ensuring living conditions necessary for the development of a child, shall be borne by each of the parents within their capacity."

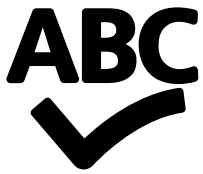
Lawyer **Aidina Dyo** helps women in difficult situation who encounter injustice in courts and their own families. She gives free of charge consultations at the district akimiat of Bishkek.

“I started helping women because I’ve had the same situation,” she explained.

Many years after the divorce, she asserted her child’s rights in court. At first, she applied for alimony he fails to pay, and then she applied for the schedule of meetings. Currently, her lawsuit against the actions of a judicial enforcement agent is pending.

“Almost 95 per cent of women’s cases have been won. Judges consider the lawsuits regarding child’s interests very carefully. They seldom render decisions against. [...] The main problem is delaying. Courts take years although there is a definite term of three months. Thus judges try to secure themselves and do not consider cases in the absence of one party, although it is not a reason for postponement,” the lawyer said.

Main photo: deputyandmizell.com



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