

Assessment of the Kyrgyz Legislature

The Kyrgyz Republic Parliament is the highest representative body that exercises legislative power and control functions within its powers, in compliance with the principle of separation of powers.

Legislature plays an important role in the National anti-corruption system in Kyrgyzstan by virtue of its authority to exercise oversight over the executive authorities.

Based on the assessment, it is obvious that the legislature is not yet able to fully use the parliamentary oversight tools prescribed by the law, mainly because of the limited independence and politicization of the Parliament towards the President, as well as insufficient transparency and accountability to the people with regards to its performance.

The positive aspects should be noted too, because, in general, the legal provisions governing the activities of the legislature are adequate, as are the availability of resources and work in terms of growing transparency in the practical activities of the Parliament.

Overall Pillar Score: 53/100

Dimension	Indicators	Law	Practice
Capacity 75/100	Resources	100	75
	Independence	100	25
Governance 46/100	Transparency	75	50
	Accountability	50	25
	Integrity mechanisms	50	25
Role 38/100	Executive Oversight		50
	Legal reforms		25
Law and practice average		64	39

Structure and organization

Supreme Council of the Kirghiz USSR of the 12-th Convocation had been working in Kyrgyzstan from April 1990 to September 1994; it has remained in the people's memory as the 'Legendary Parliament'. Since May 1993, after the adoption of the new Constitution, the legislative body of the Kyrgyz state became known as the Jogorku Kenesh of the Kyrgyz Republic (hereinafter, the Parliament). This legislative body has 120 seats, a unicameral chamber, which is elected every five years on the basis of the party lists.

Currently, the Sixth Convocation of the Parliament is comprised of the following 6 parties: SDPK - 38 seats; the Republic-Ata Jurt - 28 seats; Kyrgyzstan – 18 seats; Onuguu-Progress – 13 seats; Bir-Bol - 12 seats; and Ata-Meken – 11 seats. General principles of the Parliament are laid down in the Constitution of the Kyrgyz Republic, while more specific rules are given in Parliamentary Rules of Procedure. The Constitution states that the Parliament of the Kyrgyz Republic is the highest representative body that exercises legislative power and oversight

functions within its powers.¹ The leaders of the Parliament include Speaker (Toraga) and his/her MPs.

Parliament consists of nine standing committees.² Ad Hoc Parliament Committees may be formed with regards to certain issues.³ Members of Parliament are united in factions. Parliamentary majority is a faction or coalition of factions that has officially announced the establishment of the Coalition of Factions in the Parliament, and has more than one half of the parliamentary mandates.⁴ Parliamentary opposition is a faction or factions that are not part of the parliamentary majority and that have declared their opposition to it. To date, in total, there are six factions in the Kyrgyz Parliament.⁵

Until mid-April 2018, the Majority Coalition that was formed on November 3, 2016, united three factions: SDPK, Kyrgyzstan and Bir-Bol and consisted of 67 MPs. Changes in the Parliament occurred after the MPs have expressed their vote of no confidence in the government of Mr.S. Isakov. Then, the 28 MPs of the second-largest parliamentary faction, the Republic-Ata-Jurt, joined the Majority Coalition.⁶ At present, the Majority Coalition has 95 seats in the Parliament out of total 120 seats. Only the factions Ata-Meken and Onugu-Progress remain in the opposition.

Resources (law) -100

To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

The legal framework contains relevant provisions aimed at providing access to the necessary financial, human and material-and-technical resources in the Parliament.

In accordance with the law,⁷ material-and-technical and financial support for the activities of the Parliament and its bodies shall be carried out by the relevant structural unit of the Parliament, which shall be developing the draft budget of the Parliament for the next budget year and send it to the Ministry of Finance by July 1 of the current year. Annual budget of the Parliament provides for certain expenditure items for ensuring the activities of the Parliament, including provision for supporting the performance of the MPs (housing, cars, travel expenses, etc.). To carry out the functions of the Parliament, the following is to be developed: Reserve Fund of the Speaker, which shall be formed in accordance with the requirements of the budget law, the amount of which shall not be higher than 0.02 percent of the approved national budget expenses for each Reserve Fund (excluding the amount of the reserve fund).⁸ Information on the use of the Reserve Funds is attached to the Report on implementation of the national budget, and is a subject to mandatory publication on the official website.

¹ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 70 p. 1)

² <http://www.kenesh.kg/ru/committee/list/34>

³ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 76)

⁴ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 70 Part 3)

⁵ <http://www.kenesh.kg/ru/fraction/33/fraction-list>

⁶ <http://www.kenesh.kg/ru/news/show/5318/soglashenie-fraktsiy-uchastnits-koalitsii-parlamentskogo-bolyshinstva-zhogorku-kenesha-kirgizskoy-respubliki-o-vhozhenii-v-sostav-koalitsii-parlamentskogo-bolyshinstva-parlamentskoy-fraktsii-respublika-ata-zhurt>, <https://ru.sputnik.kg/politics/20180419/1038748723/frakciya-koaliciya-bolshinstvo.html>, https://kaktus.media/doc/373222_bystro_i_pochti_edinoglasno_kak_parlament_vyrazil_nedoverie_pravitelstvy.html

⁷ Law of the Kyrgyz Republic 'On Rules of Procedure of the Jogorku Kenesh', dated November 25, 2011 No 223 (Article 163)

⁸ Budget Code of the Kyrgyz Republic dated May 16, 2016, No. 59 (Article 25 Part 2, 6)

According to the law,⁹ the work of the Members of the Parliament, as well as the costs associated with parliamentary activities, are paid from the government budget. Members of the Parliament shall be banned to have any remunerations other than remuneration for creative work.

Organizational issues related to the work of the Parliament are carried out by the Apparatus and by the Executive Office of the Parliament, which provide MPs with office space, necessary office supplies, communications, and transport services. MPs are provided with proper environment, with office space and personal seats in the Meeting Room of the Parliament.¹⁰ Members of the Parliament are entitled to have Assistants and Advisors, whose activities are regulated by the Regulation on Assistants and Advisors for the Members of the Parliament.¹¹ MPs are also provided with special literature on legislative work, with the necessary reference materials and periodicals; and diplomatic passports are issued to them for the entire term of office.

Speaker administers the funds allocated to the Parliament according to the approved budget and cost estimates of the Parliament, arranges the development of the draft cost estimates of the Parliament and shall submit them to the Parliament not later than 3 months before the end of the fiscal year. Not later than 1.5 months after the end of the fiscal year, the Speaker and his/her Deputy in charge of financial and economic affairs shall submit to the Parliament information on the expenses of the Parliament for the past year in the form agreed upon with the Coordination Council. The information shall be examined along with the Opinion of the internal audit. The relevant Parliament Committee, within its jurisdiction, shall submit to the Speaker, on the basis of the Session Work Plan, the proposals to the Draft Budget of the Parliament for the next year.¹²

The Parliament forms relevant Committees from among the MPs, as well as the Ad Hoc Committees, forms their membership, while the Chairpersons of the Budget and Law Enforcement Committees shall be the representatives of the parliamentary opposition.¹³

Resources (practice) - 75

To what extent does the legislature have adequate resources to carry out its duties in practice?

According to the survey '*Jogorku Kenesh: Issues of Efficiency and Transparency*',¹⁴ over 15 years of parliamentarism development, the number of MPs has grown by 3.4 fold - from 35 MPs in 1995 to 120 MPs in 2010. Ratio of parliamentary wages to GDP per capita in Kyrgyzstan is very high compared to other countries of the world: almost 10 folds higher than in Spain; 3 folds higher than in Japan; and 1.3 folds higher than in India; almost twice as high as in Georgia and Ukraine. The Parliament independently develops the legal framework on all issues, including the parliamentary budget, which is formed in accordance with the requirements of the budgetary law. In that respect the experts point to the unlimited monopoly of the Parliament.¹⁵

⁹ Law of KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 No. 267 (Article 30)

¹⁰ Law of KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 No. 267 (Article 29)

¹¹ KR Regulation 'On Assistants and Advisors to the MPs of the KR Jogorku Kenesh', passed by the Decree of the KR Jogorku Kenesh on December 23, 2010 No 59-V

¹² Law of the Kyrgyz Republic "On Rules of Procedure of the Jogorku Kenesh, dated November 25, 2011 No 223 (Article 20 Part 1 p.p. 18-19, Part 4, Article 29 Part 1 p. 16)

¹³ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 76 Part 1)

¹⁴ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 29 Section 4.1, page 36-37 Section 4.6, page 76 Section 8), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnostii-prozrachnosti.html>

¹⁵ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 46 Section 5.1.), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnostii-prozrachnosti.html>

The official website of the Parliament publishes the agenda of the sittings of the Parliament,¹⁶ of its factions¹⁷ and committees.¹⁸ When it comes to timely release of the Agenda, then the analysis of the website identified different periods of time because the agenda of meetings of the Parliament are published in about 6-7 days in advance; the meeting of the factions - 1-2 days in advance; the agenda of Committee meetings - 5-6 days prior to the meeting. However, there are some agenda, which are published only one day before the meeting.

Starting from the First Convocation of the Kyrgyz Republic Parliament, the share of budget expenditures for the Parliament in nominal volume to GDP has been growing from 0.18% in the First convocation (1995-2000) to 0.22% in the Third (2005-2007), and to 0.20% in the Fifth Convocation (2010-2015). 'There was only one reduction in expenditures, in the Fourth Convocation (2007-2010) - 0.16%, but this was due to the fact that the country had been existing for almost half a year without any Parliament. Analysis of the indexed budget expenditures for the Parliament shows that, in general, since 2005, the costs of maintaining and supporting the activities of one MP have increased by 1.2 folds - from 2,621,500 Som in 2005, to 3,043,400 Som in 2011'.¹⁹

According to the majority of the interviewed key respondents, the financial resources allocated to ensure the smooth functioning of the Parliament are sufficient. The budget of the Parliament is one of the highest among the public agencies of the country. From the point of view of one of the experts,²⁰ there are some doubt in the correctness of its substantial spending because about one third of the budget of the Parliament should be devoted to legislative work, and most of financial resources of the Parliament should be spent on the performance of their supervisory functions, on the harmonizing of the legislation, on public hearings of draft laws, on assessment of the relevance of a particular law, and on the study of international best practice.

In the Parliament there are 9 Committees of up to 15 members each, and there is also the Examination Department. In the spring of 2016, the UNDP, in cooperation with the Examination Department of the Parliament carried out the unification of the examination standards that allows for a single comprehensive examination of draft laws, including the five kinds of examination. It is more optimized and streamlined, thus, eliminating the numerous overlaps, which also saves time and resources. This methodology for conducting a single examination has already been developed for the Parliament, the only issue is its adoption and approval. Unfortunately, in the opinion of many experts,²¹ there is a shortage of well-trained, skilled specialists, professional experts in the Parliament because many previously trained experts left the Parliament, and those who remained are not quite suitable for this work. According to the MPs and the ex-MPs,²² the Parliament is overstaffed and many employees do not have the necessary skills and qualifications, resulting in the shortage of professionals due to which the Parliament tends to seek assistance of external experts. Capacity of the staff of the Parliament Office needs to be strengthened and improved with regards to their selection. Like all other agencies, the Parliament has not escape tribalism and family ties in the selection of staff.

¹⁶ <http://kenesh.kg/ru/article/list/31>

¹⁷ <http://kenesh.kg/ru/links/32/list>

¹⁸ <http://kenesh.kg/ru/links/20/list>

¹⁹ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 31 Section 4.2.), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

²⁰ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance

²¹ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance, interview with expert T.R. Ibraimov, Center for Political and Legal Studies

²² Interview with the MPs and ex-MPs of the Parliament

According to the journalists, in the Parliament mainly qualified specialists of the old school work, who are the backbone. There are about 100 people left and they keep the whole Parliament going. Young specialists are not keen to work in the Office of the Parliament because for that they are required to have work experience with draft laws and analytical skills, and because the wages are very low.

According to the Report²³ *On Monitoring of the Fifth Convocation of the Parliament* ‘the amount of funds spent for the adoption of one Decree and one Law by the Parliament demonstrates that starting from the First Convocation the ‘cost price’ of each legal act, published by the MPs has been growing’. In particular, if Som 101,600.00 were spent on the drafting and adopting one Decree by the First Convocation of the Parliament, the MPs of the Fifth Convocation performed the similar work 5 times more expensive, they spent Som501,400.00. At the same time, the price for adoption of one law for the same period has risen by 6.3 folds, and reached Som3,046,300’.

Independence (law) -100

To what extent is the legislature independent and free from subordination to external actors by law?

The Kyrgyz Parliament is largely free from subordination to other institutions of power. The Constitution contains a number of provisions aimed at protecting the independence of the Legislature.

In accordance with the Constitution of the Kyrgyz Republic,²⁴ the Parliament may decide to dissolve itself. The decision on self-dissolution can be made by a majority of at least two-thirds of the total number of Members of Parliament. At the same time, the President, within five days from the date of the dissolution of the Parliament, shall call early election, which must be held no later than 45 days from the date of calling the early election.

In accordance with the law,²⁵ the President is entitled to call early Parliamentary Election, in addition to the self-dissolution of the Parliament, if the Parliament, in accordance with the procedure and terms, has failed in a due time to approve the agenda, to determine the structure and composition of the Government, or if the Prime Minister has exercised his/her right to raise before the Parliament the issue of confidence in the Government not more than twice a year, and if the Parliament has refused to trust the Government, the President shall make a decision on the resignation of the Government within 5 working days, or shall appoint early Parliamentary election.

Convocation of an Extraordinary Session of the Parliament shall be carried out by the Speaker at the proposal of at least one third of the MPs, as well as at the proposal of the President or the Cabinet. The Session of the Parliament shall be considered eligible provided that the majority of the total number of MPs is present at it.²⁶

²³ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 34, page 75 Section 8)
<http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

²⁴ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 78), KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, N 223 (Article 142)

²⁵ KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No223 (Article 143), Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 86 Part 1)

²⁶ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 77 Part Part 3-4), KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No 223 (Article 20 Part 1 p. 6, Article 34 Part 4)

In accordance with the Regulation,²⁷ the Parliament at the beginning of the new Convocation shall adopt the Parliament Development Strategy and, if necessary, amend it. The Parliament of the new convocation, not later than 3 months from the date of establishment of the Committees and Commissions, as well as not later than October 1 of the next regular session, shall approve a sessional work plan for the implementation of representative, legislative and control functions. The Parliament has the right to prematurely include in the agenda of the meeting the draft laws examined by the Committees.

The Parliament itself elects the Speaker, by secret ballot, by the majority of votes of the total number of MPs, and also elects the Speaker Deputies. From among the MPs, the Parliament itself determines the number of Committees, issues to be examined by them, as well as Ad Hoc Committees, and forms their membership.²⁸

In order to study individual issues and conduct parliamentary investigations, the Parliament established the Ad Hoc Committees. Factions or Committees shall be entitled to make proposals to establish Ad Hoc Committees, which is not subject to consideration by the Coordination Board.²⁹

Legal, organizational, documentary, informational and other support of activities of the Parliament and its bodies and institutions is provided by the Office, the structure of which is to be approved by the Parliament on the proposal of the Speaker.³⁰ Appointment and dismissal of the personnel of the Office are made in accordance with the legislation on Civil Service.³¹ Chief of Staff is appointed by the Speaker.³² At the suggestion of the Chief of Staff, the Speaker appoints the Deputy Speakers. Heads of structural units of the Office and their deputies are to be appointed and dismissed by the Order of the Speaker, and on the proposal of the Head of Office.

Procedure for visiting and staying in the buildings and in the territories under the jurisdiction of the Parliament is determined by the Regulation passed by the Parliament. Entrance to the Parliament building shall be carried out in accordance with the Regulation 'On Admittance to the Administrative Buildings' which provides for admittance to pass-holders only.

Members of Parliament enjoy certain immunity against prosecution. Namely, criminal prosecution of MPs is allowed only with the consent of the Parliament, by a majority of the total number of the members of the Parliament, with the exception of cases of especially serious crimes.³³ Refusal of the Parliament to agree to hold a Member of Parliament criminally liable is a circumstance that excludes criminal proceedings in respect of the particular MP.³⁴

Member of the Parliament shall not be prosecuted for the opinions expressed by him in connection with the parliamentary activities or based on the results of him voting in the

²⁷ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 42-43, 75)

²⁸ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 75 Part ч 1, 3, Article 76 Part1), KR Law 'On the Rules of e KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 19, 25 Part 2)

²⁹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 33), Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 76 Part1)

³⁰ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 159-160)

³¹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 160), KR Law 'On Civil Service and Municipal Service' dated May 30, 2016 No.75 (Article 3), Regulation 'On the procedure for admission to civil service in the Office of the KR Jogorku Kenesh in a special (out of competition) order', passed by the Resolution of the KR Jogorku Kenesh in Bishkek, dated June 30, 2016 No833-VI (p. 3.1.)

³² Regulation 'On the procedure for admission to civil service in the Office of the KR Jogorku Kenesh in a special (out Regulation 'On the KR Jogorku Kenesh Office', passed. by Order of the Speaker of the KR Jogorku Kenesh on February 27, 2012 No. 38-ОД (p. 4.1.)

³³ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 72 Part 1), KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 N 267 (Article 24 Part 3)

³⁴ KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 N 267 (Article 28 Part 6)

Parliament.³⁵ Furthermore, a Member of Parliament cannot be detained or arrested, subjected to search, personal search on the grounds provided for by the criminal procedure law, except in the case that he has committed a particularly serious crime. Housing, office space, luggage, personal and official vehicles, correspondence, communications, as well as documents belonging to a Member of the Parliament, shall not be a subject to examination and search.³⁶

Independence (practice) - 25

To what extent is the legislature free from subordination to external actors in practice?

From a legal point of view, the independence of the Parliament is largely protected, but its actual independence is in great doubt.

According to the MPs, independence of the Members of the Fifth Convocation Parliament³⁷ was more effective compared to the MPs of the Sixth Convocation. Availability of the Majority Coalition stipulates the need for opposition - and this is a normal phenomenon. However, currently the opposition is disintegrated and not constructive, it adheres to the compromising, conciliating view points.

According to the experts,³⁸ the Parliament is very politicized and largely dependent on the vertical of power, and substantially is still a Soviet structure. Thus, there is no balance of powers, it is dominated by the President and his staff, who forms the parliamentary majority faction, which, in turn, forms the government, which causes 'cover-up' and the vertical of power. In their opinion, there are quite a lot of examples of interference of external entities in the activities of the Legislature, such, for example, as the latest amendments to the Constitution, which further imbalance all branches of government and strengthen the vertical of power. In the Opinion of the Venice Commission³⁹ about the draft 'On Amending the Constitution of the Kyrgyz Republic', it was noted that 'the proposed amendments may have a negative impact on the balance of power by strengthening the powers of the Executive Branch and weakening the powers of the Legislature and, to an even greater extent, of the Judiciary'.

In April 2018, the MPs passed a *Vote of no Confidence* in the government, with the result that the government resigned. A. Alymbaeva, political science teacher of the International University in Central Asia noted that such a 'fast change of the government demonstrated that the Parliament is dependent on the President'.⁴⁰ Other examples of interference in the activities of MPs by the executive authorities, according to experts and MPs,⁴¹ are the persecution of individual MPs for political interests by the State Committee for National Security, by the General Prosecutor's Office, and by the Ministry of Internal Affairs. In some cases, in their opinion, it is reasonable, since it is known that many MPs are involved in corruption, but sometimes it has a political connotation, and it is difficult to determine, what is truth and what is lie. Persecution of some Members of Parliament often has a political motive, that is a question of

³⁵ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 72 Part 1), KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 139-140), KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 N 267 (Article 24 Part1)

³⁶ KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 N 267 (Article 24 Part 2)

³⁷ Interview with the Members of the Parliament

³⁸ Interview with expert E. Nogoibaeva; interview with an expert T.R. Ibraimov, Center for Political and Legal Studies

³⁹ Opinion of the Venice Commission about 'On Amending the Constitution of the Kyrgyz Republic' (page 6 p. 16 Section IV)

<http://www.osce.org/ru/odihr/313196?download=true>

⁴⁰ <https://rus.azattyk.org/a/29186240.html>

⁴¹ Interview with expert E. Nogoibaeva, interview with an expert T.R. Ibraimov, Center for Political and Legal Studies, Interview with the Members of the Parliament

fairness and equal treatment of all MPs, where some of them are held accountable, while others are not.

As for the Judiciary, it does not interfere in any way with the activities of the Parliament, since for this it has neither authority nor functions. The Constitutional Chamber within its competence may recognize any legislative act of the Parliament as unconstitutional, but this rarely happens. According to the experts,⁴² it's rather the Parliament intervenes more in the activities of the Judiciary, trying to influence the sentences and decisions using 'telephone law', from the moment the judges have been selected.

Expert G. Mamatkerimova believes⁴³ that the best separation of powers was under the 2010 Constitution, when the Parliament was given the broadest powers. Unfortunately, over this period of time, the Parliament has not been able to take full advantage of all the opportunities available, having spent forces on various 'political battles'. Amendments to the Constitution, introduced in 2016, has expanded the powers of executive authorities, including President.

Most Bills are initiated by the Legislature. According to the experts,⁴⁴ in Kyrgyzstan, MPs actively initiate draft laws, provided that the number of laws adopted is about 30-fold higher than in any Benelux country. However, in democratic countries, the executive authorities should take leading position in drafting the Bills, not the Legislature, because the executive authorities have resources, specialized ministries, such as Ministry of Justice, and other structures, personnel, and sector specialists who on a regular basis should be involved in drafting the Bills. MP N.V. Nikitenko⁴⁵ noted that 'in our country about 60% of the laws are adopted by the Parliament and 40% by the Government. The lawmaking initiative is often duplicated; the quality of laws suffers as well as the quality of their enforcement'.

Transparency (law) - 75

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

In accordance with the Constitution,⁴⁶ the Parliament sessions are carried out in the form of meetings, which should be carried out openly, if the nature of the issues under consideration does not require holding of the closed meetings.

Press Service of the Parliament should conduct audio and video recording of all official events of the Parliament and ensure that these materials are stored in the archive for five years. Journalists have the right to familiarize themselves with the records and obtain copies of them, except for the recordings of closed meetings.⁴⁷ Journalists accredited by the Parliament Press Service, can openly produce their own audio, video recordings of the meetings and other official events. Governmental television and radio broadcasting institutions are obliged to ensure the distribution of relevant television and radio programs in full according to the approved broadcasting schedule, no later than twenty hours after the following events: appeals and statements of the Parliament, the broadcast of which is provided for by the Parliament; opening of the first meeting of Parliament; Parliamentary meetings, the detailed coverage of those voted for by the

⁴² Interview with expert E. Nogoibaeva; interview with an expert T.R. Ibraimov, Center for Political and Legal Studies

⁴³ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance

⁴⁴ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance, interviews with expert E. Nogoibaeva, interviews with expert, analyst, Chairman of the Board of the Center for Political and Legal Studies T.R. Ibraimov

⁴⁵ Interview with the MP of the Sixth Convocation N.V. Nikitenko - Ata Meken faction

⁴⁶ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 77 Part 1-2)

⁴⁷ KR Law 'On the Procedure for Covering the Activities of the KR Jogorku Kenesh in government mass media' dated June 13, 2007 No. 86 (Article 3)

majority of MPs.⁴⁸ Coverage of Parliamentary meetings shall be carried out in the state and official languages.

Furthermore, governmental television and radio broadcasting institutions should include in their information programs statements about the following: most important decisions and actions of the Parliament on the issues referred to its jurisdiction by the Constitution of the Kyrgyz Republic; statements and appeals of the Parliament; speeches of the President, of the Prime Minister at the meetings of the Parliament; press conferences of the Speaker of the Parliament, of the MPs and MP associations (factions and MP Groups); and other publicly significant facts of the Parliament determined by the decision of the Jogorku Kenesh.⁴⁹ The Government should provide broadcast and rebroadcast of informational governmental programs about the Parliament performance all over the territory of the Kyrgyz Republic.

Minutes of the open Parliament sessions, Committees, as well as meetings of individual factions about their decisions shall be posted on the website and forwarded to the Parliament Library according to the requirements of the Regulation.⁵⁰ Factions, Committees, Commissions and MPs should have free access to the original transcripts and Minutes of the meetings of Parliament and its bodies. Edited transcripts of public meetings of the Parliament within a week after the end of the meeting should be forwarded to the Library Reading Room and posted on the official website of the Parliament.⁵¹ Familiarization with the transcripts and protocols of the closed Parliament sessions should be implemented in accordance with the Regulation approved by the Speaker. At the initiative of Committees and Commissions, representatives of public authorities, civil society, experts and specialists may be invited to the meetings of Parliament to provide it with the necessary information, opinions and explanations related to the draft laws and other issues examined by the Parliament.

Member of Parliament has the right to speak on the issues of his parliamentary activities on governmental television and radio broadcasting channels and in governmental print media in the manner prescribed by the Law.⁵²

Decisions of the Parliament shall be made at the meetings by the vote of MPs and shall be formalized by the resolutions.⁵³ Results of the registration and roll-call vote of the MPs shall be posted on the website of the Parliament no later than in 2 business days. When conducting a secret ballot using an electronic system, the results of each stage of voting shall be displayed in a form of the generalized voting result, while the roll-call lists are not entered into the computer's memory.

Session and monthly work plans of the Parliament are to be adopted by the resolutions and shall be posted on the website of the Parliament no later than 3 days from the date of adoption. MPs shall be provided with materials related to the agenda of the meetings no later than 3 days before

⁴⁸ KR Law 'On the Procedure for Covering the Activities of the KR Jogorku Kenesh in government mass media' dated June 13, 2007 No. 86 (Article 4)

⁴⁹ KR Law 'On the Procedure for Covering the Activities of the KR Jogorku Kenesh in government mass media' dated June 13, 2007 No. 86 (Article 5)

⁵⁰ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 37, 96)

⁵¹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 96 p. 3)

⁵² KR Law 'On the Status of Jogorku Kenesh Member' dated December 18, 2008 N N 267 (Article 17 Part 4), KR Law 'On the Procedure for Covering the Activities of the KR Jogorku Kenesh in government mass media' dated June 13, 2007 No. 86 (Article 6)

⁵³ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 77 Part 5)

the meeting of the Parliament, with the exception of cases established by the Regulation.⁵⁴ However, the law does not require publishing the Agenda of the sessions and hearings in the Committees.

Coverage of the activities of the Parliament shall be provided by broadcasting the meetings on television and radio, through other government media, as well as through the website of the Parliament. The Law⁵⁵ also does not limit the rights of journalists accredited to the Parliament Press Service to produce their own audio, video recording of the meetings and of the other official events of the Parliament. Rules for accrediting the journalists in the Parliament are available on its official website.⁵⁶ Cinema, video and photography recording, as well as sound recording of the meetings of the Parliament, its factions, Committees and Commissions shall be carried out in the manner prescribed by the Parliament.⁵⁷ Citizens and representatives of civil society have the right to attend open meetings of the Parliament and its bodies in the manner prescribed by the provision passed by the Parliament.⁵⁸

Each year, in the last decade of June, the Speaker submits to the Parliament the Parliament Performance Report for the sessional period. Deputy Speakers submit to the Parliament an annual report on their issues. Parliament hears the annual reports of: Chairpersons of Parliamentary Committees - no later than October 1; Speaker on his/her performance - no later than October 1 and a report on the expenses of the Parliament for the past year - no later than February 15; Coordination Council report based on the results of the internal audit - no later than February 15. Reports shall be forwarded to the Committees no later than one month prior to their examination at the meeting of the Parliament.⁵⁹

The Law⁶⁰ requires for the website of the Parliament to contain constantly updated information about the Parliament, the activities of its bodies and structures, approved work plans, statistical, analytical information and materials, electronic versions of draft laws, decrees with supporting documents, reports, opinions, reference information obtained and examined by the Committees, Minutes, Transcripts of open meetings, etc.

Factions, Committees and Commissions, after the theme of the parliamentary hearings has been approved as well as the time and venue of their execution, not later than 10 days before the parliamentary hearings shall post the information on Parliament's website and provide mass media with it. Parliamentary hearings are open to representatives of mass media, citizens and their associations. Parliamentary hearings should be shorthanded,⁶¹ but, unfortunately, they are not posted on the website.

Transparency (practice) - 50

⁵⁴ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 42 Part 4, Article 43 Part 7)

⁵⁵ KR Law 'On the Procedure for Covering the Activities of the KR Jogorku Kenesh in government mass media' dated June 13, 2007 No. 86 (Article 3)

⁵⁶ <http://www.kenesh.kg/ru/article/show/18/pravila-akkreditatsii-zhurnalistov-sredstv-massovoy-informatsii-v-zhogorku-keneshe-kirgizskoy-respubliki>

⁵⁷ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 157), Rules for the Accreditation of Journalists in the KR Jogorku Kenesh

⁵⁸ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 156 Part 1-5), Regulation 'On the Procedure for the Presence of Citizens and Representatives of Legal Entities at Public Meetings of the KR Jogorku Kenesh and its bodies', passed by the Resolution of the Housing Committee of the Kyrgyz Republic on April 23, 2014 No. 3989-V

⁵⁹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 20 Part3, 22 Part5, 101)

⁶⁰ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 158)

⁶¹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article Article 116, 117, 119 p. 2)

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?

Parliament is the most open body due to the fact that parliamentary sessions are broadcast on television and radio, journalists cover the work of the Parliament, and certain information is posted on the website. In general, the public has free access to information on the performance of the Parliament, although in some cases, the Parliament is not able to provide certain types of information in a timely manner.

According to the expert,⁶² the system of checks and balances within the Parliament has been operating and is still operating on different scales, now becoming stronger, now weakening, but always present. Greater level of transparency was demonstrated by the Parliament after the adoption of the 2010 Constitution, because the Fifth Convocation Parliament was populated by the parties that participated in a ‘big battle’, because at that time there were no supreme authorities, which would be using the administrative resources and promote their ‘pocket parties’ to the Parliament.

To date, the Parliament has a database of Bills, which allows people to find the necessary draft laws. It also has its own radio,⁶³ website, and parliamentary television.⁶⁴

According to the study ‘Jogorku Kenesh: Issues of Efficiency and Transparency’,⁶⁵ level of awareness of the MPs about the budget policy of the Parliament is insufficient, where, for example, information on the salaries of Parliamentarians is not available not only to the population, but also to the elected by people MPs. Human rights defenders failed to obtain this information in court. Request for the information about salaries of the MPs for the purpose of this study was rejected at all levels, although in international practice these data shall be publically available and posted on the websites of Parliaments. ‘As long as Kyrgyzstan’s Parliament is not transparent not to the MPs themselves, nor to the public, it would not become an example of openness and transparency for the other branches of government’. One can develop a rough idea about the size of salaries of the MPs on the basis of fragmentary media publications.⁶⁶

According to the journalists,⁶⁷ although the Parliament is a fairly open body, in practice it is not easy to obtain the necessary information on the activities of the Legislature and its Committees. This is due to the fact that the Parliament's website is not user friendly enough, information is not well structured and is not updated in a timely manner, there is no tag system (*HTML, tags are special HTML language markup characters that enable visual depiction of the websites content*). However, there is a search tool and a line of links for quick navigation. The website provides not complete, but rather selective information about performance of the Parliament, its Committees

⁶² Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance

⁶³ Broadcast in the frequency range for Bishkek – FM 90,2

⁶⁴ KR Law ‘On the Procedure for Covering the Activities of the KR Jogorku Kenesh in Government Mass Media’ dated June 13, 2007 N 86 (Articles 1, 3, 4), Regulation ‘On the Kabar Kyrgyz National News Agency’ passed by the KR President Decree on December 22, 2001 No. 375, Resolution of the KR Parliament ‘On Broadcasting of the KR Jogorku Kenesh Meetings, Live’ dated May 3, 2017 No. 1553- VI, Resolution of the KR Legislative Assembly ‘On the Procedure for Covering the Work of the Legislative Assembly of the KR Jogorku Kenesh’ dated December 27, 1995 3 N 279-1

⁶⁵ Jogorku Kenesh Report: Issues of Efficiency and Transparency » (page 45-46 Section 5.1., page 76 Section 8)

<http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

⁶⁶ https://kaktus.media/doc/368886_zarplata_depytatov_oklad_nadbavki_socpaket_i_chno_s_progylshikami.html,
https://24.kg/obschestvo/101470_zarplata_deputata_jogorku_kenesha_bez_nadbavok_v55_raza_vyishe_sredney_pensii/,
https://24.kg/vlast/74843_styidlivyie_deputaty_kakie_privilegii_est_unarodnyih_izbrannikov/

⁶⁷ Interviews with journalists

and Factions. For example, there are no transcripts of parliamentary hearings, conferences and workshops with participation of public. Even information about attendance by the MPs of the plenary sessions is posted on the website a week later, when it is no longer needed. It is very difficult to trace the information on each MP by their family names. Great difficulties arise in respect to the draft laws, amendments to laws, where it is impossible to trace by whom and what amendments were introduced, and there are no references to the law itself. Journalists have themselves to check the new and old versions of the law line by line, which takes a lot of time, and it is impossible to obtain a normal comment on the bBill from the MPs that have initiated the bills.

Almost all interviewed journalist spoke about the difficulty of obtaining information from the website, which, after it was upgraded has become even more confusing, not user friendly. The updated website, in their opinion, does not contain the same volume of Bills that existed on the old website. For example, in the process of preparation of the material of the draft law ‘On State Rewards’, we had to spend a lot of time looking for the Bill, given that MPs were examining it at the Fifth Convocation, then at the Sixth Convocation of Parliament, and we were not aware that the Bill was rejected at the third reading. The database of Bills is very lame, where often journalists do not find the necessary Bills, and it is not always that all drafts are published. Sometimes the Bill is posted only on the day of hearing, especially with regards to international treaties, grants and loans. Previously, on the old website, when clicking on a certain law, all versions of the law popped up, which means that the entire archive existed. On the updated website there is an unnecessary duplication of information on the Committee's agenda, making the search difficult, provided that it is also impossible to find the agenda by dates. All the above is very time consuming. Journalists cannot obtain information in advance about persons invited to attend meetings of Committees or Factions, about names of the speakers, their substitutes. However, this information is provided for the MPs, but journalists remain unaware.

Only very few journalists has different opinion, saying that the parliamentary website after upgrade contains enough information for the public with biographical data of each MP and Bills, which are posted on the website for the period of one month.

In Kyrgyzstan, public hearings of draft laws are not mandatory. Draft regulatory legal acts, directly affecting the interests of citizens and legal entities, except for draft regulations arising from the decision of the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic, are subject to public discussion by means of posting them on the website of the official rule-making body. In the event that the rule-making body does not have an official website and in cases provided by law, the regulatory legal acts shall be published in mass media.⁶⁸ Draft laws shall be published in the ‘Bills’ Section of the website⁶⁹ of the Parliament. However, according to the civil society representatives, it is difficult to submit the comments; public hearings are held only in respect of some draft laws, mainly at the initiative of civil society or international organizations.⁷⁰

Budget of the Legislature is published on the ‘Open Budget’ web-portal.⁷¹ The same portal publishes detailed information on expenses for the salaries of the entire Parliament, for their business trips, communication services, transportation services, security services, machinery and equipment, the purchase of goods and services, utilities, etc. However, the balance sheet about expenses are not published.

⁶⁸ KR Law on Regulatory Legal Acts dated July 20, 2009, No. 241 (Article 22)

⁶⁹ <http://www.kenesh.kg/ru/draftlaw/all/6>

⁷⁰ <http://www.oecd.org/daf/anti-bribery/Kyrgyzstan-Round-3-Monitoring-Report-RUS.pdf> OECD Report ‘Anti-corruption Reforms in Kyrgyzstan’, 3rd Round of Monitoring of the Istanbul Plan of Anti-corruption Actions, dated 24.03.2015(page 31)

⁷¹ http://budget.okmot.kg/ru/exp_vedom/index.html ‘Open Budget Portal’ of the KR Ministry of Finance

According to the survey,⁷² the measures for financial management of the Parliament's budget were rated by the MPs based on a 5-point scale (where 1 is the minimum point, 5 is the maximum point). The score was 2.9 points, which is even lower than 'satisfactory'.

All sessions reports should be shorthanded. There is a Department on work with the transcripts of the Parliament, however, these transcripts are not posted on the website of the Parliament, although the Regulation provides for posting on the official website of the Parliament. Access to transcripts is free only for the MPs, and is difficult for all others, it could be obtained only upon written request. According to the journalists, the MPs do not report to anyone, they have a free mandate even to their constituents, and they report in the regions only if they wish. There is only one report available, the report on the number of adopted Bills, although the quality of many laws leaves much to be desired. Records on voting are sometimes published on the website, but not timely, especially with regard to the roll-call vote.

According to the 2019 Survey of the International Republican Institute⁷³, the question 'How much are you informed about the work of the Parliament, about the laws or other decisions adopted by it?', 65 % of respondents said that they were not informed; 19% were informed in general; and only 8% of respondents were fully informed; 24% did not know what to say, or did not respond to this question. Regarding the availability of the necessary knowledge on the functioning of the Parliament in order to interact with it effectively, only 15% of the respondents answered that they knew; 70% of the respondents did not know; and 15% did not know what to answer, or did not respond.

During sessions, parliamentary hearings on important and relevant issues, the representatives of public can be present, but they cannot speak and express their opinions. For this, people need to pre-register, because due to the 'admittance to pass-holders only' system in the Parliament, the allowable number of seats for the public, according to the Regulation, should be less than 10 at the sessions of Parliament bodies, and not more than 20 at the meetings of Jogorku Kenesh,⁷⁴ as well as for the media, in addition to the seats of the MPs themselves. Parliament has a mailing address for electronic communications kattar@kenesh.kg and a special Department for letters⁷⁵ and reception of citizens. The Department shall accept applications and requests from citizens. However, this Department does not track each request because there is no system for tracking, no regulations controlling the responses of the MPs to the citizens' requests. As a result, the Parliament either answers the requests or not, the timing of the responses is also at the discretion of each individual MP.⁷⁶

Accountability (law) - 50

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?

⁷² 'Jogorku Kenesh Report: Issues of Efficiency and Transparency' (page 77 Section 8, page 42 Section 5.1.)
<http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

⁷³ https://www.iri.org/sites/default/files/february_2019_kyrgyzstan_poll.pdf

⁷⁴ Regulation 'On the Procedure for the Presence of Citizens and Representatives of Legal Entities at Public Sessions of the KR Parliament and its Bodies', adopted by the Resolution of the KR JK on April 23, 2014 No. 3989-V

⁷⁵ <http://www.kenesh.kg/ru/article/show/42-poryadok-rassmotreniya-elektronnih-obrashteniy-postupivshih-po-elektronnoy-pochte>

⁷⁶ Interview with the MPs and ex-MPs of the Parliament

Constitutional Chamber of the Supreme Court exercises constitutional oversight and have the authority to recognize as unconstitutional the laws and other regulatory legal acts in case they conflict with the Constitution.⁷⁷

Draft law on amendments to the Constitution is to be submitted to the Constitutional Chamber of the Supreme Court for its Opinion. The decision of the Parliament on the rejection of the draft law on the appointment of a referendum may be appealed to the Constitutional Chamber of the Supreme Court.⁷⁸

Parliament Rules of Procedures⁷⁹ contain a number of provisions requiring the MPs to report to their voters. MPs may arrange the reception of voters, to examine their proposals, applications, petitions, to hold gatherings, conferences, meetings, 'Round Tables', workshops, meetings, including the field ones, 'Open Days' and other events; to conduct parliamentary hearings on draft laws and socially important issues, inform voters and mass media about the state of work with citizens and the work of the Factions in the Parliament.

Interaction of MPs with voters is carried out not directly, but, to a greater extent through the factions, that are responsible for organizing the activities of their members to work with voters and fulfill the representative function of the Jogorku Kenesh members.⁸⁰

Legal provisions regarding public consultation on legislative issues are inadequate. Consultations with the public in the process of legislative work are formal, but not mandatory.

The legal framework does not stipulate mechanisms of recalling the MPs for not fulfilling their work in good faith, as well as liability mechanisms, which reduces the accountability of MPs.

There is no special mechanism for handling complaints about decisions and actions of the Parliament or its individual members. However, but they can be challenged within the judicial system.

Post of Member of Parliament is the highest political position of the Legislature,⁸¹ to which the Law 'On declaration of income, expenses, liabilities and property of persons acting as or holding the government and municipal positions' applies.⁸² MPs shall submit declarations on their or their close relatives' incomes and properties in their ownership, in the time and manner prescribed by the legislation of the Kyrgyz Republic.⁸³

Accountability (practice) - 25

To what extent do the legislature and its members report on and answer for their actions in practice?

Legal framework,⁸⁴ does not require elected representatives to report to government bodies and to the public, to their constituents. However, as noted in the 'de facto transparency' section of this report, the Legislature, as a rule, properly informs the public about its activities, in particular

⁷⁷ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 97 чPart 1, 6)

⁷⁸ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 64 Part 2, Article 66 Part 4)

⁷⁹ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223 (Article 151-152)

⁸⁰ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011 N 223 223(Article 152)

⁸¹ KR Law 'On the Status of a Member of the KR Jogorku Kenesh', dated December 18, 2008 N 267 (Article 1 p. 2)

⁸² KR Law 'On declaration of income, expenses, liabilities and property of persons acting as or holding the government and municipal positions' dated August 2, 2017, No. 164 (Article 1)

⁸³ Code of Conduct for the MPs, dated June 20, 2008 N 548- IV (Section 8 Part 4)

⁸⁴ KR Law 'On the Rules of KR Jogorku Kenesh' dated November 25, 2011, No223, KR Law 'On the Status of MP of the KR Parliament' dated December 18, 2008 N 267

through mass media, through the website. In addition, once a year, the Speaker reports to the Parliament, which is covered by mass media.

Real work of the MPs with public becomes more intense on the eve of election, when PR-campaigns are conducted for the voters. According to the MPs and ex-MPs,⁸⁵ the MPs begin to actively communicate with their voters during election campaigns, and much less after the end of electoral process, although some members voluntarily provide their progress reports at the end of the year, making some feedback efforts to their constituents. Unfortunately, in the regions, the work related to consultations, debates, meetings with public on the draft laws is not carried out.

According to the journalists, the MPs are practically not active in relation to meetings with the public, consultations on any issues. On the contrary, the public tends to initiate such meetings by submitting information to journalists on topical issues, on important Bills.

According to the study 'Jogorku Kenesh: issues of efficiency and transparency',⁸⁶ MPs have a free mandate, which excludes the possibility of their recall. This fact indicates the absence of a legislative basis for the Parliament to be accountable to the public. 'People do not have real levers of pressure on unscrupulous MPs. As a result, the main goal of the candidates for MPs is to give any promises to become a Parliament Member, while fulfilling the promises is not the goal'.

Journalists note that in practice there were no cases of open discussion of citizens' complaints about the MPs. In their opinion, the reason might be that the discussions take place at the meetings of Ethics Committee which are closed for mass media.

In 2019, Kaktus, the popular media outlet, forwarded its inquiries to 120 MPs on the following issues: 1) how many Bills they have drafted; 2) where did they go for a meeting with voters; and 3) what foreign business trips they made. Only 18 MPs responded this request.⁸⁷

According to the survey carried out by the International Republican Institute⁸⁸ in 2019, the question 'Do you know how to appeal to the Parliament or to a certain Member of Parliament in order to express your opinion?', 66% of respondents did not know the answer, 15% knew about the process partially, and only 13% responded that they knew.

Survey 'System of accountability of the authorities in the Kyrgyz Republic'⁸⁹ says about 'absence of forms of direct social accountability of the Jogorku Kenesh to citizens, with the exception of the norm on appeals and parliamentary hearings, which is connected with the system of election of MPs of the Jogorku Kenesh, namely, with formation of the Jogorku Kenesh on the basis of party lists. As a result, the Jogorku Kenesh's accountability to citizens is indirect and is implemented through political parties'. Therefore, the interaction of the Jogorku Kenesh with citizens to a greater extent does not go directly, but through factions in the Parliament. According to the Survey, the average Accountability Index in the pair 'Citizens - KR Jogorku Kenesh' was 33%.

⁸⁵ Interview with the MPs and ex-MPs of the Parliament

⁸⁶ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 72, Section 8),

<http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

⁸⁷ https://kaktus.media/doc/388038_kaktus.media_otpravil_120_zaprosov_depytatam_jogorky_kenesha_vot_chno_iz_etogo_vysh_lo.html

⁸⁸ https://www.iri.org/sites/default/files/february_2019_kyrgyzstan_poll.pdf

⁸⁹ Survey 'System of accountability of the KR authorities', Institute for Policy Development , (page16,17) [dpi.kg > library > download](http://dpi.kg/library/download)

Because of the immunity in the Parliament, the MPs cannot be held criminally liable without consent of the majority of MPs, except in cases of particularly serious crimes.⁹⁰ Procedures for the removal of immunity are established in Art. 28 of the KR Constitution, in the laws 'On the Status of Members of KR Parliament'⁹¹ and 'On the Rules of the KR JK'⁹² In 2015, two MPs were criminally persecuted, one MP was persecuted in 2016; three MPs were persecuted in 2017.

According to the MPs,⁹³ complaints about MPs are more often filed not by citizens, but by the parliamentarians themselves, often MPs sue each other, or mass media. As for the immunity of MPs, special committees are established to deprive MPs of the immunity; parliamentary investigations are carried out in order to separate the 'political' from the crime itself.

Declarations of income shall be submitted to the State Tax Service. Despite the ongoing verification of the declarations, in the opinion of many interviewed experts, there is a mistrust about effectiveness of the mechanism of verification of declarations, which is aggravated by the fact that there are family-clan relations in the country where the property of officials is registered on their relatives. Therefore, everyone thinks that the problem could be solved provided that all residents of Kyrgyzstan would submit their declarations.

The report of the Fourth Monitoring Round of the Istanbul Anti-Corruption Action Plan notes some doubts about the effective work of the STS with regards to declarations,⁹⁴ indicating that the 'Tax Service, by its nature, pursues the task of replenishing the budget, and the issues of conflict of interest or illicit enrichment are not inherent to it'. Furthermore, verification of the declarations of officials is considered questionable 'in the absence of electronic registers and databases that would be accessible to the inspection authority in an interdepartmental interaction mode, and not on the basis of a request-response principle'. Currently, the STS has access only to the databases of the State Registration Service. Unfavorable trend is that according to the opinion poll of the International Republican Institute,⁹⁵ 64% of respondents in Kyrgyzstan consider the Tax Service to be corrupt. According to the KR National Statistical Committee's Confidence Index,⁹⁶ in the first half of 2019, the KR State Tax Service had only 22.9%.

According to the website factcheck.kg, the portal 'Declarant' and other media published the names of officials and MPs, who did not mention their businesses in their declarations.⁹⁷ The journalists of the Economist.kg also noted that another 45 MPs have their own businesses.⁹⁸

Integrity mechanisms (law) - 50

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?

⁹⁰ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 72 Part 1), KR Law 'On the Status of a Member of KR JK' (Article 28)

⁹¹ 'On the Status of a Member of KR JK' (Article 28)

⁹² KR Law 'On the Rules of the KR Jogorku Kenesh' dated November 25, 2011N 223 (Article 140)

⁹³ Interview with the Members of Parliament

⁹⁴ Anti-Corruption Reforms in Kyrgyzstan: Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan, page 36 – 37.

⁹⁵ https://www.iri.org/sites/default/files/february_2019_kyrgyzstan_poll.pdf

⁹⁶ <http://www.stat.kg/ru/indeks-doveriya-naseleniya/>

⁹⁷ https://24.kg/obschestvo/133134_deputat_aysuluu_mamashova_skrivila_pyat_firm_otnalogovoy/,

<https://factcheck.kg/ru/post/256>, <http://factcheck.kg/ru/post/251>, <http://factcheck.kg/ru/post/286>, <http://factcheck.kg/ru/post/284>,

⁹⁸ <http://declarator.politmer.kg/human/178>, <https://knews.kg/2019/09/05/zhurnalisty-economist-kg-rastsenili-zayavlenie-deputata-strokovoj-kak-klevetu-i-domysly/>

The legal framework contains some provisions on integrity mechanisms in Parliament. There is also a Code of Conduct for MPs with provisions that oblige Parliament to resolve ethical issues.

The Code of Conduct for MPs prescribes the rules and relations of MPs.⁹⁹ They are prohibited from receiving remuneration from third parties in the form of gifts, money and services for carrying out some actions or inactions related to the exercise of official powers by them.¹⁰⁰

Members of Parliament are prohibited from combining parliamentary activities with any other governmental or municipal services, carrying out entrepreneurial activities, being members of the governing bodies or the supervisory boards of commercial organizations, but may be engaged in scientific, pedagogical and other creative activities.¹⁰¹

Violation by MPs of the requirements of the Code of Conduct shall be examined at the meetings of the Parliamentary Committee of Ethics and Rules of Procedure on the initiative of Committee members or on the basis of a written complaint to the Committee. The Committee must respond to the complaint within 30 calendar days.¹⁰²

Members of Parliament cannot receive any other payments, except for the monthly monetary remuneration, which they receive from the day of taking the oath, and payments for creative activities. The following is considered as payments for creative activities of the MP: royalties for works of art and their performance; publication of stories and books; appearances on radio and television programs; and payment for scientific and pedagogical work at time when they are not involved in the meetings of Parliament, parliamentary factions, committees and commissions.¹⁰³

In accordance with the law,¹⁰⁴ after termination of the term of office, Members of Parliament shall be employed in their previous work or position that they held before being elected to the Parliament, and in its absence, in other equivalent work or position. In the absence of such an opportunity, a Member of Parliament, upon written request, may be included in the Personnel Reserve, based on which he has the right to be appointed to the vacant position of a government body.

In accordance with the Code of Conduct for MPs,¹⁰⁵ the MPs are not entitled to lobby any issue in the Parliament in return of material compensation. If a question is brought up for discussion, in which MPs were or may be personally interested in the future, they are obliged to declare this before the discussion at the meetings of the Parliament, Parliamentary Faction, Committee and Ad Hoc Commission. Members of Parliament cannot use for personal gain any official information provided to them by government bodies and officials. They should not disclose information that they became aware of as a result of the exercise of parliamentary powers, if this information: concerns issues examined in closed meetings; relates to the field of secrets of the private lives of MPs protected by law, etc. When carrying out parliamentary activities, the MPs should always remember their liability to voters and should observe the government interests.

According to the Rules of Procedure,¹⁰⁶ in the event of a conflict of interest, the MPs shall be obliged to behave in accordance with the Code of Conduct and other norms of relevant

⁹⁹ Code of Conduct for the MPs, dated June 20, 2008 N 548- IV (Section 1 Part 5)

¹⁰⁰ Code of Conduct for the MPs, dated June 20, 2008 N 548- IV (Section 8 Part 6)

¹⁰¹ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 72 Part 2), Code of Conduct for the MPs, dated June 20, 2008 N 548- IV (Section 8 Part 3), KR Law ‘On the Status of a Member of the KR Jogorku Kenesh’, dated December 18, 2008 N 267 (Article 5)

¹⁰² Code of Conduct for the MPs, dated June 20, 2008 N 548- IV (Section 10)

¹⁰³ KR Law ‘On the Status of a Member of the KR Jogorku Kenesh’, dated December 18, 2008 N 267 (Article 30 p. 3)

¹⁰⁴ KR Law ‘On the Status of a Member of the KR Jogorku Kenesh’, dated December 18, 2008 N 267 (Article 35 p. 2)

¹⁰⁵ Code of Conduct for MPs, dated June 20, 2008 N 548- IV (Section 9)

¹⁰⁶ Law of the Kyrgyz Republic ‘On Rules of Procedure of the Jogorku Kenesh’, dated November 25, 2011 No 223 (Article 33 Part 1, 9, 10, Article 144 Part 1-4)

legislation. Prior to the start of reviewing any issue or during its examination at the meetings of Parliament, of a Committee, or Ad Hoc Commission, MP who has a personal interest in the matter in question shall notify the Chair of the meeting about a conflict of interest, and should keep him/herself aloof from further discussion of the issue and voting. In case of violation of these provisions by the MPs, the Committee in charge of the Rules of Procedure should submit an appropriate Opinion to be examined by the Parliament.

In June 2018, the law ‘On conflict of interests’ adopted by the Parliament on December 7, 2017 came in force. Unfortunately, this law has been criticized; the OECD report noted, that ‘it does not fully comply with international standards, as it does not cover the apparent conflict of interest’ and ‘has less legal force to prevent conflicts of interest in lobbying, nepotism, or public procurement’.¹⁰⁷

Furthermore, unfortunately, the system that reliably protects informants does not work well in Kyrgyzstan.

Integrity mechanisms (practice) - 25

To what extent is the integrity of legislators ensured in practice?

The existing Code of Parliamentary Conduct, according to the MPs¹⁰⁸, has a poor influence on them; in practice, family ties are maintained and conflicts of interest are not respected. The Law on Conflict of Interest itself, according to the report of the Istanbul Plan of the Fourth Round, ‘does not provide for an effective mechanism for its implementation’, because when it was adopted, the ‘restrictive rules for decision-making were removed with regards to cases where the relatives are potentially involved, which could give rise to a conflict of interests’.¹⁰⁹

The expert,¹¹⁰ also notes that ‘problems related to ethical behavior of MPs and to conflict of interests in the Parliament exist because many people initially think that being an MP is a means of rapid enrichment, a way to maintain their businesses and promote their own interests. This tendency has been particularly intensified since 2007, under the President Bakiev. In 2010, the Parliament was populated by people in the majority representing the business sector. Their goal was personal gain and quick obtaining of political and financial capital, rather than writing laws for people and developing the country’. Nevertheless, the Fifth Convocation Parliament, in her opinion, began to ‘be cleared’ when some MPs were sent to jail, many criminal cases were instituted against MPs and many of them ‘went on the run’.

According to the survey,¹¹¹ there is a tendency of growth in the proportion of officials and businessmen in the Parliament, which in the Fifth Convocation reached almost two thirds, 62%. ‘This indicates that even after two so-called ‘democratic revolutions’ in Kyrgyzstan, the process of bureaucratization and oligarchization of authorities is going on’. According to the researchers, ‘the high proportion of officials and wealthy entrepreneurs makes the Parliament deaf to people’s aspirations, while the MP-businessmen and officials quite often lobby for their interests’. As for the Fifth Convocation, the *Kaktus.media* studied the number of officials and businessmen in the

¹⁰⁷ OECD Report ‘Anti-Corruption Reforms in Kyrgyzstan, 4th Round of Monitoring of the Istanbul Anti-Corruption Action Plan’, page 32, <https://www.oecd.org/corruption/acn/OECD-ACN-Kyrgyzstan-4th-Round-Monitoring-Report-2018-RUS.pdf>

¹⁰⁸ Interview with Members of the Parliament

¹⁰⁹ OECD Report ‘Anti-Corruption Reforms in Kyrgyzstan, 4th Round of Monitoring of the Istanbul Anti-Corruption Action Plan’, page 32 <https://www.oecd.org/corruption/acn/OECD-ACN-Kyrgyzstan-4th-Round-Monitoring-Report-2018-RUS.pdf>

¹¹⁰ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance

¹¹¹ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 25 Section 3.5.), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>

Parliament, where more than 73% were businessmen and officials.¹¹² When interviewing various experts, many expressed concern about the fact that the Parliament lacks scientists, specialists, and experts in various fields among its members, as a result of which, in their opinion, the quality of the adopted laws suffers.

According to the IRI study, 67 % of respondents believe the Parliament is corrupt; 22% found it difficult to answer; and only 2% said that the Parliament is not corrupt.¹¹³

Based on the monitoring of the Fourth Round of the Istanbul Anti-Corruption Action Plan,¹¹⁴ it is recommended to update the MP Code of Conduct, as well as ensure effective monitoring of its implementation. The report notes that ‘the Code is clearly outdated and does not reflect the new requirements of the law and of the society. There is no training system for teaching the MPs about requirements of ethics, and no effective Code enforcement system’.

Expert T. Ibraimov describes a conflict of interest in the Parliament¹¹⁵ and believes that the appointment by MPs of their close relatives and acquaintances to the posts of assistants, consultants and other posts, unfortunately has become the norm and does not cause condemnation by other MPs.

In Kyrgyzstan, there is no legislative provision for the institution of lobbying and procedures for lobbying. MPs believe that since there is no law on lobbying, then there is no requirement for the disclosure of contacts with lobbyists, and in practice, all the initiators of the Bills are lobbyists.

Executive Oversight -

To what extent does the legislature provide effective oversight of the executive?

The Constitution sets out the general powers of the Parliament with regard to supervision of the implementation. The same powers are set forth in more detail in the procedures of the Parliamentary Rules.

In accordance with the Constitution, one of the main roles of the Parliament is to control the work of the Executive Branch. The Parliament approves the Government’s Performance Program, determines its structure and composition, makes a decision on confidence in the Government, expresses its distrust, hears the annual reports of the Prime Minister. The Government is accountable to the Parliament and is accountable to it within the limits provided for by the Constitution of the Kyrgyz Republic. A speaker, a faction, a committee or group of MPs have the right to initiate a parliamentary request to the heads of public authorities, local authorities, etc. The Prime Minister has the right to participate in open and closed meetings of Committees.¹¹⁶

¹¹² https://kaktus.media/doc/383621_schitaem_bazarkomov_kto_po_professii_depytaty_jogorky_kenesha.html

¹¹³ https://www.iri.org/sites/default/files/february_2019_kyrgyzstan_poll.pdf

¹¹⁴ OECD Report ‘Anti-Corruption Reforms in Kyrgyzstan, 4th Round of Monitoring of the Istanbul Anti-Corruption Action Plan (page 41) <https://www.oecd.org/corruption/acn/OECD-ACN-Kyrgyzstan-4th-Round-Monitoring-Report-2018-RUS.pdf>

¹¹⁵ Interview with expert, analyst, Board Chair of the Center for Political and Legal Studies, T.R.Ibraimov

¹¹⁶ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 70 Part 1, Article 74 Part 3 p.p. 1, 3, 4, Part 6 p. 3, Article 76 Part 1-2, Article 85 Part 1), KR Law ‘On KR JK Rules of Procedure’ dated November 25, 2011, N 223 (Article 3 Part 1 p. 6, 14, Article 27 Part 11, Article 110-111, Article 104-105, Article 123)

‘Jogorku Kenesh: issues of efficiency and transparency’ survey,¹¹⁷ within which the assessment of the Fifth Convocation Parliament was carried out, notes the ‘absence of the law on parliamentary oversight, which would define the Terms of Reference and criteria for evaluating the performance of each executive authority’. This study provides analysis of implementation by the Parliament of different forms of oversight, identifying the basic problems such as ‘ambiguity of the purpose of oversight, spontaneous approach, absence of indicators for oversight/evaluation, poor cooperation of Committees during oversight, as well as conflict of interest between the Committee Members and relevant agencies, which is still topical. Furthermore, in an expert discussion on parliamentary oversight of the security sector,¹¹⁸ representatives of the *Civil Union* NGO noted that ‘in general, we have no concept in our legislation about the meaning of parliamentary oversight. That is, each MP, each single lawyer can assess it in their own way’.

The Law¹¹⁹, states that in order to exercise parliamentary oversight, the Parliament has the right to conduct parliamentary investigations. All government authorities and officials are required to assist the Interim Parliamentary Inquiry Committee. At the request of the Committee, they are required to provide all the necessary information, materials and documents. In cases where it is necessary for the Committee to obtain data containing banking secrets or other secrets protected by law, all these documents should be stamped ‘For Official Use’ and should not be disclosed.

The Interim Parliamentary Inquiry Committee, in the event of discovery of an offense, has the right to raise the issue with the public authority or official about the suppression of the offense or the initiation of a criminal case, administrative or disciplinary proceedings. All decisions of the Committee shall be made by a majority vote of the members present. The Opinion of the Committee on parliamentary investigation shall be posted on Parliament's website and published in the ‘Erkin Too’ newspaper.

According to experts and journalists,¹²⁰ efficiency of Interim Parliamentary Inquiry Committee depends on the professionalism of the members of these committees who need to quickly carry out clarification of the circumstances of the case. There are Committees that work well and even draw Opinions, but there are also those that create a lot of ‘noise’, and then unsuccessfully complete their work.

From the perspective of another expert,¹²¹ currently, the specialized committees of the Parliament as well as the parliamentary commissions, when exercising their oversight functions over the Executive Branch, do not make any decisions independently and autonomously.

In accordance with the law,¹²² the Parliament exercises oversight over the execution of the national budget through committees and commissions, as well as through instructions from the Chamber of Accounts. Parliamentary Committees have the right to examine the current execution of the national budget on the relevant issues no more than four times a year. Following examination of the issues of the current budget at the proposal of the Committee, the Parliament may assign the Chamber of Accounts to prepare special reports on the execution of the national budget. Parliament may request the reports of the Chamber of Accounts on the audit of the efficiency of use of funds by public authorities, by local governments, and by legal entities in

¹¹⁷ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 39-40, Section 4.7), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnostii-prozrachnosti.html>

¹¹⁸ <https://www.reforma.kg/post/ekspertnoe-obsuzhdenie-parlamentskij-kontrol-za-sektorom-bezopas/>

¹¹⁹ KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No223 (Article 106, 109)

¹²⁰ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance, https://kaktus.media/doc/405777_imitaciia_byrnov_deiatelnosti_razbor_depytatskih_komissiy_po_skandalnym_temam.html

¹²¹ Interview with expert E. Nogoibaeva

¹²² KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No223 (Article 102)

which public authorities and local governments participate, as well as organizations funded by national and local budgets, and other audit reports.

The Survey¹²³ ‘Fifth Convocation Parliament Monitoring’ states that during the existence of parliamentarism in Kyrgyzstan, the Parliament Performance Reports have contained only the number of adopted laws, regulations and meetings held, which is relevant even for the Sixth Convocation Parliament’. ‘During this period, it has never made an attempt to develop criteria for the effectiveness of budget spending, in order to optimize the budget; it never conducted a comprehensive analysis of the effectiveness of the costs of the Parliament line by line’.

Constitution of Kyrgyzstan provides for impeachment proceedings. Constitutional powers of the Parliament include the adoption of a decision on the Expression of Confidence and on the Expression of No Confidence in the Government. Parliament, in the manner prescribed by the Constitution, is also entitled to bring charges against the President and decide on the dismissal of the President.¹²⁴

President may be prosecuted after his removal from office. President may be removed from office only on the basis of an accusation by the Parliament of a crime committed, confirmed by the Opinion of Prosecutor General that there are signs of a crime in the actions of the President. Decision of the Parliament on dismissal of the President shall be made by a majority of at least two-thirds of the total number of MPs, no later than three months after the indictment against President was brought. If the decision of the Parliament has not been made within this period, the charge shall be considered rejected.¹²⁵

The Legislature, in the presence of factology and majority in the Parliament, according to the expert,¹²⁶ has the power to impeach. During Akayev’s time, a number of MPs verbally spoke about impeachment, but this procedure has never been implemented. According to M. Kaiypov, the former Minister of Justice,¹²⁷ in the past, the impeachment rules were simpler, but after a series of referenda, the procedures have become complicated, such as the ‘requirement to provide an Opinion of the Attorney General, to have introduction of the issue on the agenda by the initiative group, where the Parliamentary Committee shall make Opinion that there has been a crime’. According to him, ‘the Prosecutor General may give a negative Opinion, because he cannot do so with the President, who appointed him’, and in order to implement this procedure ‘it is necessary to adopt a special law’.

The Parliament elects members of the Central Committee for Elections and Referenda, members of the Chamber of Accounts: one third of members - on the proposal of the President; one third of members to be represented by the parliamentary majority; and one third - by the parliamentary opposition; dismisses them in cases provided for by law; elects and dismisses the Ombudsman; and agrees to prosecute them. The President, from among the elected members of the Parliament appoints the Chairperson of the Chamber of Accounts and dismisses him according to the Constitution and the law. In turn, the Kyrgyz Parliament dismisses the Chairperson and members

¹²³ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 73, Section 8), <http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnostii-prozrachnosti.html>

¹²⁴ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 74 Part 3 p.p. 3-4, Part 7), KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No223 (Article 3 Part1 p.36)

¹²⁵ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 67), KR Law ‘On the Rules of KR Jogorku Kenesh’ dated November 25, 2011, No223 (Article 136)

¹²⁶ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance

¹²⁷ <https://rus.azattyk.org/a/28134386.html>, Story - Kaiypov: The impeachment procedure is rather complicated

of the Chamber of Accounts and the CEC members by a majority of votes from the number of those present, but not less than 50 votes of the MPs.¹²⁸

However, according to many experts, the process of appointing the Ombudsman, the heads of the Chamber of Accounts and the CEC is an absolute policy. All powers for their appointment are distributed by parties. So, in the process of nominating candidates for leadership positions, presidential appointments play an important role¹²⁹.

As for government contracts, the Parliament cannot directly control public procurement, except for budget approval and examination of budget execution reports. Head of Departments are appointed and dismissed by the Prime Minister on the proposal of the KR Minister of Finance, while the Parliament does not play any role in this process.¹³⁰ Parliament can indirectly monitor government contracts through the Chamber of Accounts, supreme audit institution, which is accountable to the Legislature. MPs can also obtain information from the Public Procurement Department of the KR Ministry of Finance using their right to obtain information from the Executive Branch.

Legal reforms - 25

To what extent does the legislature prioritize anti-corruption and governance as a concern in the country?

In recent years, the Kyrgyz Parliament has adopted a number of laws and legislative amendments aimed at reducing corruption and improving management efficiency, but not always in accordance with international standards and requirements. In 2005, the Kyrgyz Parliament ratified the UN Convention against Corruption.¹³¹ However, it cannot be said that the Parliament actively monitors its implementation in practice.

In June 2012, the Parliament passed the Anti-Corruption Law,¹³² in accordance with which,¹³³ the Parliament provides for the review and adoption of laws on anti-corruption matters. Furthermore, the Parliament should determine the validity and purposefulness of government spending and should carry out the parliamentary oversight over the efficient use of budget funds aimed at financing and logistical support of anti-corruption activities.

In 2004, the law ‘On declaring and publishing information about incomes, liabilities and properties of individuals holding political and other special governmental positions, as well as their close relatives’ was adopted. This law has lost force in connection with the adoption of the Kyrgyz Republic Law ‘On declaration of incomes, expenses, liabilities and properties of persons acting as or holding the government and municipal positions’ dated August 2, 2017.

¹²⁸ Constitution of the Kyrgyz Republic dated June 27, 2010 (Article 74 Part 4 p.p. 4-7, Article 64 Part 5 p. 4), KR Law ‘On the Rules of the KR Parliament’ dated November 25, No. 223 (Article Article124 Part 4, 125)

¹²⁹ Interview with G. Mamatkerimova, an expert in parliamentarism and democratic governance, with journalists and others

¹³⁰ KR Law ‘On Public Procurement’ dated April 3, 2015 No. 72 (Article 9), Regulation ‘On the Public Procurement Department of the KR Ministry of Finance’, passed by the Decree of the KR Government dated February 3, 2014 No. 68 (p. 10)

¹³¹ KR Law ‘On Ratification of the United Nations Convention against Corruption, signed on December 10, 2003’, dated August 6, 2005 N 128

¹³² Decree of the KR JK on adoption of the ‘Anti- Corruption Law’ of the Kyrgyz Republic dated June 28, N 2153-V

¹³³ KR ‘Anti- Corruption Law’ dated August 8, 2012, N 153 (Article 6 p. 2, Article 17)

In June 2014, the Parliament approved the governmental target program ‘Development of Judiciary of the Kyrgyz Republic in 2014-2017’.¹³⁴ In 2019, by the Decree of the KR Government, on the draft governmental target program ‘Development of the Judiciary of the Kyrgyz Republic in 2019-2022’ was adopted’.¹³⁵ Despite the adoption of these programs, the judiciary is constantly criticized for poor implementation of the reforms. According to the Global Corruption Barometer,¹³⁶ the judiciary ranks 2nd in terms of the level of corruption among public authorities.

In February 2015, the Parliament adopted the Law on Public Procurement.¹³⁷ The law details procedures of government contracts and transactions with a number of important issues, including conflict of interest, monitoring procedures, and procurement transparency. In 2013, the government procurement portal <http://zakupki.gov.kg> began its work, where procuring organizations post their procurement plans for a period of at least one year, which is a positive step.¹³⁸

The Law ‘On Civil Service and Municipal Service’¹³⁹ was adopted in April 2016. This law defines anti-corruption mechanisms, including conflict of interests in civil service and municipal service. In June 2018, the Law on Conflict of Interest came into force, it was adopted by the Parliament on December 7, 2017. However, as noted above, this law does not comply with international standards.

Recently, in the framework of judicial reform, the Parliament adopted and introduced 7 Codes and a number of laws, including the Criminal Code, the Code of Criminal Procedure, the Administrative Procedure Code, the Civil Procedure Code, etc., including 5 Codes of the criminal bloc providing for the humanization of legislation and 2 laws that entered into force on January 1, 2019.¹⁴⁰ However, the harmonization of other laws was delayed, the government was late with development of amendments, and submitted them to the Parliament urgently. The new Codes revealed a number of gaps and difficulties in working with them; the Committee was established to amend them.¹⁴¹ The amounts of fines were also criticized,¹⁴² and were subsequently revised.¹⁴³

In June 2020, the deputies adopted a package of 148 amendments to the criminal law. Lawyers and human rights activists criticized these norms, as there are many contradictions and a wide

¹³⁴KR Government target program ‘Development of Judiciary of the Kyrgyz Republic in 2014-2017’, http://sot.kg/wpcontent/uploads/sites/4/2018/01/2014.06.25_gosudarstvennaya_celeevaya_programma_utverzhdennyi_variant_v_zhk_kr_russkiy_variant.pdf

¹³⁵ Decree of the KR Government on the draft governmental target program ‘Development of Judiciary of the Kyrgyz Republic in 2019-2022’ dated March 7, 2019

¹³⁶ file:///C:/Users/User/Downloads/2016_GCB_ECA_EN.pdf

¹³⁷ Decree of the KR JK dated February 18, 2015 No. 4809-V, KR Law ‘On Public Procurement’, dated April 3, 2015 No. 72

¹³⁸ OECD Report ‘Anti-corruption Reforms in Kyrgyzstan’, 3rd Round of Monitoring of the Istanbul Plan of Anti-corruption Actions, dated 24.03.2015 (page 7) <http://www.oecd.org/daf/anti-bribery/Kyrgyzstan-Round-3-Monitoring-Report-RUS.pdf>, KR Law ‘On Public Procurement’, April 3, 2015, No. 72 (Article 12)

<http://www.oecd.org/daf/anti-bribery/Kyrgyzstan-Round-3-Monitoring-Report-RUS.pdf>, <http://zakupki.gov.kg/popp/>
¹³⁹ Decree of the KR Jogorku Kenesh dated April 21, 2016 No. 474-VI, KR Law ‘On Civil Service and Municipal Service’ Law of the Kyrgyz Republic “On Civil Service and Municipal Service” dated May 30, 2016 No.75

¹⁴⁰ <http://kabar.kg/news/v-2018-godu-v-kr-vstupiat-v-silu-5-novykh-kodeksov-i-2-zakona/>, <http://slovo.kg/?p=102044>, <https://kg.akipress.org/news:1412548/>

¹⁴¹ <https://rus.azattyk.org/a/29678929.html>

https://kaktus.media/doc/385597_teper_bydyt_ispravliat_sozdadyt_komissiu_dlia_vneseniia_popravok_v_novye_kodeksy.html

¹⁴² <https://ru.sputnik.kg/society/20190101/1042698060/kyrgyzstan-shtraf-narushenie-zakon.html>

¹⁴³ <https://ru.sputnik.kg/society/20190301/1043553023/kyrgyzstan-kodeksy-bezopasnyj-gorod.html>,

<https://ru.sputnik.kg/analytics/20190112/1042819515/kyrgyzstan-shtraf-kodeks-narusheniya.html>

scope for abuse.¹⁴⁴ And of course, the cherry on the cake was the adoption of the scandalous law “On the manipulation of information” in the second and third readings on June 25, 2020, which caused a flurry of criticism and even a rally where human rights activists and experts noted that the bill is discriminatory and can violate the constitutional rights of citizens.¹⁴⁵

The innovations have caused great criticism by Kyrgyz people, since the documents contain confusion. Officials admitted that there were problems and the Codes needed to be adjusted.¹⁴⁶ Almost everything has been redesigned in the new version of the Codes. Expert Working Group noted that ‘the changes are not point-by-point, but rather systemic. For example, the deadlines for appealing judicial acts were revised in the Civil Procedure Code. They also changed the order of enforcement of court decisions’.¹⁴⁷

On November 12, 2013, the Decree of the KR President No. 215 ‘On measures to eliminate the causes of political and systemic corruption in government authorities’ was issued. The Decree established the Working Group of the KR Defense Council to monitor the implementation of the Government Anti-Corruption Policy Strategy. The tasks of this Working Group were: evaluate the implementation of anti-corruption measures and assess the risks; develop measures to eradicate systemic corruption in public institutions and governmental companies listed in the Decree.

According to the expert,¹⁴⁸ the Security Council has taken course to and is promoting the anti-corruption activities to a greater extent. Since the fight against corruption in Kyrgyzstan is repressive in nature (fiscal authorities, tax authorities, financial police, State Committee for National Security and others), these issues are dealt with by vertical power. To date, the Executive Branch, as well as the Legislature are completely under the influence of the President, and are not independent institutions.

According to most experts, officials and MPs, despite the high number of the adopted anti-corruption laws, the whole problem is that many important laws are not properly enforced, as they do not meet international standards, while other laws are not enforced at all, and the Parliament does not actually carry out its oversight functions properly. Thus, in the Corruption Perception Index,¹⁴⁹ since 2012, Kyrgyzstan has been obtaining no more than 30 points out of 100, which indicates that the country is among the highly corrupt countries.

According to the Parliament Monitoring Survey,¹⁵⁰ ‘furthermore, political corruption in the Parliament correlates with the administrative interference of the Government in economic relations, and represents an important element of corruption of the Executive Authorities and Judiciary.

¹⁴⁴ https://24.kg/vlast/157312_popravki_vugolovnoe_zakonodatelstvo_yuristy_protiv_deputaty_i_za/,

https://kaktus.media/doc/415676_v_predlagaemyh_popravkah_k_trem_kodeksam_nashli_shirokoe_pole_dlia_zloypotrebleniy_a_naliz.html

¹⁴⁵ https://24.kg/vlast/157429_plevok_vnbspsvobodu_slova_deputaty_i_prinyali_zakon_onbspmanipulirovaniy_informatsiy/

¹⁴⁶ https://24.kg/obschestvo/106836_redkiy_sluchay_deputaty_i_priznali_svoyu_vinu_vspeshke_prinyatiya_novykh_kodeksov/

¹⁴⁷ <http://www.ktrk.kg/post/10655/ru>

¹⁴⁸ Interview with expert E. Nogoibaeva

¹⁴⁹ <https://www.transparency.org/research/cpi/overview>

¹⁵⁰ Jogorku Kenesh Report: Issues of Efficiency and Transparency (page 66-67),

<http://elpikir.kg/projects/24-zhogorkukenesh-voprosy-effektivnosti-prozrachnosti.html>