Fighting Corruption
in Transition Economies

The Kyrgyz Republic

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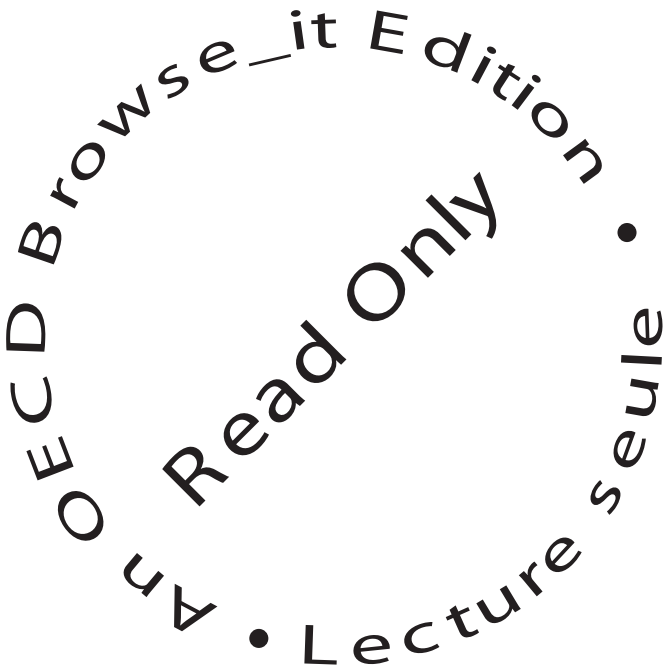

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КЫРГЫЗСКАЯ РЕСПУБЛИКА

FOREWORD

The fight against corruption has only recently been placed on the international policy agenda, despite its long-known effects on democratic institutions and economic and social development. Today, many international organisations are addressing the global and multi-faceted challenge of fighting corruption. The main contribution by the OECD has been in the area of fighting corruption in international business transactions. The 1997 *Convention on Combating Bribery of Foreign Public Official in International Business Transactions,* together with the 1996 *Recommendations* and 1997 *Revised Recommendation of the Council on Combating Bribery in International Business Transactions* were adopted by all OECD countries and five non-OECD countries. It is a legally binding document, the implementation of which is systematically monitored. This convention has since become a powerful tool in controlling international bribery.

The *OECD Guidelines for Multinational Enterprises* and *Principles of Corporate Governance* are non-binding tools that help level the competitive playing field for companies and ensure the integrity of business operations. The OECD also addresses the demand side of bribery through its work on public governance, which includes *Recommendations on Improving Ethical Conduct in the Public Service, Guidelines for Managing Conflict of Interest in Public Service* and *Best Practices for Budget Transparency*. The *Support for Improved Governance and Management Programme (SIGMA)* helps the EU candidate and new member countries to reform their public administration, and to strengthen their public procurement and financial control systems. The OECD also fights corruption in aid-funded procurement and has endorsed the *Recommendations on Anti-Corruption Proposals for Bilateral Aid Procurement*.

The OECD supports several regional initiatives to promote anti-corruption actions in non-member countries. The Anti-Corruption Network for Transition Economies — one such initiative — assists the countries of Central, Eastern and South Eastern Europe, Caucasus and Central Asia in their fight against corruption by providing a regional forum for exchanging experience and elaborating best practices. Ministers launched the Istanbul Anti-Corruption

Action Plan in 2003 to provide targeted support to Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine. Implementation of this Action Plan includes reviewing the legal and institutional framework for fighting corruption, identifying its achievements and weaknesses, and proposing further actions.

The review was based on the OECD methodology for self-assessment and peer review. Self-assessment reports were prepared by the governments of Istanbul Action Plan countries. International teams of experts reviewed the reports and provided their assessment and recommendations. The recommendations were endorsed at review meetings, which brought together national governments of Istanbul Action Plan countries, other transition economies and OECD countries, international organisations, international financial institutions, as well as civil society and business associations involved in fighting corruption in the region. The recommendations contain country specific actions in areas such as strengthening anti-corruption policy and institutions, reforming anti-corruption legislation according to international standards, and implementing preventive measures by ensuring an ethical civil service and effective financial control.

This report presents the first systematic international anti-corruption review of the Kyrgyz Republic. The results, presented in this publication, provide an important guide for this country in its anti-corruption efforts. The recommendations provide a benchmark for regular monitoring of the Kyrgyz Republic's progress. This report also serves as a reference for other partners involved in fighting corruption not only in transition economies, but also in other regions of the world.

William Witherell
Director for Financial and Enterprise Affairs
OECD

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ACKNOWLEDGEMENTS

The review of the legal and institutional framework for fighting corruption in the Kyrgyz Republic was carried out within the framework of the Istanbul Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, Russian Federation, Tajikistan, and Ukraine.

Olga Savran, OECD Anti-Corruption Division, provided the general management for the Istanbul Action Plan, including the review process. Goran Klemencic, legal advisor to the Istanbul Action Plan, took the lead in designing the review framework, co-ordinated the expert review team. Patrick Moulette, the Head of the OECD Anti-Corruption Division, and Daniel Thelesklaf, legal expert of the Istanbul Action Plan, chaired the review meeting and ensured effective discussions which resulted in the endorsement of recommendations by consensus of all the parties.

Kubanchybek Omuraliev, Head of the Secretariat to the Consultative Council for Good Governance, led the Kyrgyz delegation during the December 2004 review. The delegation included Kubat Kanimetov, Head of the President's Office; Uchkun Karimov, Deputy Prosecutor General; Akylbek Dzhumabaev, Acting Director of the Civil Service Agency; Tolondu Tojchubaev, Manager of Consulting Business Centre "Southern Gates" and Aigul Akmatjanova, Director of Future without corruption - Transparency International Kyrgyzstan.

The team of review experts who examined the self-assessment report for the Kyrgyz Republic and developed the draft assessment and recommendations included: Barseghyan Tigran, Legal Office of the Government, Republic of Armenia; Kalnins Valts, Centre for Public Policy Providus; Khalifaev Marizo, Office of Prosecutor General, Tajikistan; Papa Alfonso, Ministry of Justice, Italy; Penko Bostjan, Office of Prosecutor General, Slovenia; Zudova Olga, UNODC, Regional Office for Central Asia.

The review meeting, which examined the self-assessment report of the Kyrgyz Republic and endorsed the recommendations, brought together representatives from all Istanbul Action Plan countries, as well as selected OECD countries (Italy, Switzerland and the US), international organisations (Council of Europe, UNDP, UNODC, EBRD and OSCE), civil society and business associations (ABA CEELI and Transparency International).

Lyndia Levasseur-Tomassi, OECD Anti-Corruption Division, provided effective assistance to the review process.

The review was organised with the financial assistance of Italy.

The OECD Secretariat expresses its gratitude to all other partners who contributed to the review process.

INTRODUCTION

Istanbul Anti-Corruption Action Plan

The Istanbul Action Plan for Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republic, the Russian Federation, Tajikistan and Ukraine was endorsed at the 5th Annual Meeting of the Anti-Corruption Network for Transition Economies (ACN) in September 2003 in Istanbul. ACN Secretariat, based at the OECD Anti-Corruption Division, provides secretarial support for the Istanbul Action Plan. An Advisory Group was established to assist the Secretariat to develop, implement and assess the Work Programme of the Istanbul Action Plan; the Group brings together national coordinators from the Istanbul Action Plan countries, OECD members and donor agencies, international organisations, civil society and business groups.

The implementation of the Action Plan foresees several phases: review of legal and institutional framework for fighting corruption and endorsement of recommendations; implementation of the recommendations though national actions and international support; and review of progress in implementing the recommendations. The first phase – country review of legal and institutional frameworks for fighting corruption – has been conducted in 2004.

Country Reviews

The methodology of the review was based on the OECD practice of mutual examination, and took account of the experience of other organisations, such as the Council of Europe and its GRECO review programme. The Istanbul Action Plan review included the following elements: self-assessment carried out by the governments of examined countries; expert analysis of the self-assessment report by a team of peer reviewers; discussion of the assessment and recommendations developed by the experts during Istanbul Action Plan review meetings; and endorsement of country recommendations based on consensus.

To help the governments to carry out the self-assessment, the Secretariat developed Guidelines for Status Reports. The Guidelines included a series of questions with comments, covering the following areas: national anti-corruption strategy; promotion of accountability and transparency (ethics in the public

service; public procurement; financial control; tax and customs systems; money laundering; corporate accounting and auditing; access to information; private sector and civil society involvement; political party financing); criminalisation of corruption (definition and elements of offences including active and passive bribery and other corruption related offices; sanctions; statute of limitations; definition of a public official; defences and immunities; jurisdiction; confiscation of proceeds; corruption in private sector and liability of legal persons); specialised service; investigation and law enforcement (distribution of powers between law enforcement agencies; mandatory and discretionary prosecution; investigative capacities; organised crime and corruption); international aspects and mutual legal assistance.

The self-assessment reports were developed by the governments of the Istanbul Action Plan countries, based on the inputs of their national institutions involved in the prevention and combating corruption. The reports were supported by extracts from various legal acts. These reports provided the main basis for country examinations. Additional publicly available sources of information were used as well, such as reports developed by other international organisations. Reports specially prepared for this review by the civil society groups provided an important input.

Teams of review expert teams were established for each country. The experts were nominated by the governments of Istanbul Action Plan countries (excluding the examined country), other transition and OECD countries, international organisations and civil society groups participating in the Action Plan. The expert teams studied the reports and other available information, and developed draft assessments and recommendations for each country. The draft assessment and recommendations were presented at review meetings, which brought together some 80 participants, representing all the main stakeholders. The review meetings provided an opportunity for the national delegations to present their self-assessment report, the review team presented draft assessment and recommendations, and all the participants debated final recommendations. The recommendations were endorsed by consensus.

Assessments and Recommendations

The recommendations include general assessment and recommendations, followed by concrete recommendations in three broad areas: national anti-corruption policy and institutions; legislation and criminalisation of corruption and transparency of the civil service. The assessment and recommendations vary among the countries reflecting different national situations. While it is impossible to summarise the findings for all the countries, a number of common issues emerged during the review.

Anti-Corruption Policies and Institutions

Many countries have declared the fight against corruption a key priority in the broader framework of economic and social reforms. At the time of the reviews, Georgia and Ukraine were entering the stage of updating their existing anti-corruption strategies; Armenia has adopted its anti-corruption strategy; Azerbaijan and Tajikistan were in the process of elaborating and adopting such policy instruments. While recognising these achievements, the recommendations stress the need to improve the analytical basis for such programmes, including the need to study the patterns and trends of corruption in each country, to identify sectors and institutions where the risk of corruption is particularly high. The recommendations call for reinforcement of implementation measures, and a balanced approach of repressive and preventive measures. They further underline the importance of a participatory process for the elaboration and monitoring of anti-corruption programmes and strategies, which should involve all branches of public authorities, civil society and private sector. Finally, the recommendations stress the importance of effective monitoring and reporting mechanisms to support the implementation of anti-corruption policies.

Armenia, Georgia and Ukraine have established anti-corruption councils or committees responsible for the elaboration and/or monitoring of the implementation of anti-corruption strategies. The recommendations call to strengthen these bodies by ensuring their independence and high moral of their members, promoting public involvement in their work and providing adequate resources for their effective operations. Establishing a national multi-stakeholder anti-corruption council was recommended for Tajikistan. In addition to these policy bodies, it was recommended for all countries to establish specialised anti-corruption law-enforcement agencies, responsible for detection, investigation and prosecution, as well as for the coordination among other law-enforcement agencies involved in the fight against corruption.

The recommendations for all countries stress the importance of awareness raising among the general public and public officials, and training at all levels, including corruption-specific training for policy, prosecutors, judges and other law enforcement officials.

Legislation and Criminalisation of Corruption

The assessment of national anti-corruption legislation confirmed that all reviewed countries have developed core legislation criminalising corruption and corruption related crimes, but national anti-corruption legal standards fall short of international anti-corruption standards, such as the Council of Europe's

Criminal Law Convention on Corruption, the United Nation's Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The recommendations in the field of anti-corruption legislation require from all countries of the Action Plan to reform national legislation and to bring in line with the international anti-corruption standards, including the following recommendations:

- Criminalise offer and promise of bribe, non-material benefits and trading in influence, and bribery though a third person; clarify provisions about gifts to officials;
- Ensure adequate sanctions for corruption and corruption related offences, strengthen sanctions for active bribery;
- Ensure effective responsibility of legal persons for corruption;
- Ensure mandatory confiscation of proceeds, value based confiscation, and confiscation from third persons; consider introducing legal provisions for checking and seizure of unexplained wealth;
- Ensure sufficient statute of limitation for corruption and corruption related offences;
- Ensure that definition of a public official is broad enough to include all levels of power, state representatives on boards of companies, foreign and international officials;
- Reduce scope of immunities and categories of officials who benefit from them, clarify criteria for lifting immunities;
- Ensure effective international mutual legal assistance;
- Ratify the Council of Europe and the UN Conventions against corruption.

The recommendations call the countries to harmonise their anti-corruption legislation in order to ensure that the provisions of Laws on the Fight against Corruption, which were recently adopted in many countries, are adequately reflected in the Criminal Code and other relevant legislation, and that disciplinary, administrative and criminal corruption offences do not contradict each other, and do not leave legal gaps.

The reviews stressed that more information was needed to assess actual interpretation and implementation of the legal texts. The recommendations call the countries to evaluate continuously the application of their national anti-corruption legislation, and to develop it further based on the analysis of its effectiveness.

Transparency of Civil Service

During the review of corruption prevention measure in civil service, countries have reported about their efforts in developing regulatory frameworks in such areas as merit-based civil service and management of conflict of interest; transparency and fairness in public procurement and taxation; financial control and anti-money-laundering; political party finance; and public access to information. The recommendations propose further reforms in these areas, including the following:

- Introduce unified merit-based system for appointments and promotion in the civil service, which would, to the extend practicable, limit discretional decisions;
- Elaborate and disseminate comprehensive practical guides for public officials on corruption, conflict of interest, ethical standards, sanctions and reporting of corruption; provide training on anti-corruption to officials; introduce codes of conduct for civil servants, particularly in the agencies where the risk of corruption is high; consider the introduction of an ethics supervision body/commissioner;
- Ensure effective implementation of Conflict of Interest legislation, including strengthening of monitoring of its implementation, empowering relevant institutions to verify the accuracy of submitted declaration of assets, sanctions for failure to comply with requirements; Improve the mandatory asset disclosure system for higher ranking public officials in all branches of government;
- Adopt measures for the protection of employees in state institutions and other legal entities against disciplinary action and harassment when they report legitimate suspicious practices within the institutions to law enforcement authorities or prosecutors, by adopting legislation or regulations on the protection of "whistleblowers"; improve the system of internal investigations in cases of suspected or reported corruption offences;
- Introduce measures to limit discretion in public procurement; introduce eligibility criteria to exclude from bidding companies, which had been convicted for corruption; promote electronic contracting; enhance transparency of procedures and publishing public procurement information;
- Review the regulatory framework for taxation to reduce incentives for tax evasion and to limit the discretionary powers of tax officials;

- Pursue the implementation of the FATF recommendations; adopt and enact anti-money laundering legislation; establish and strengthen Financial Intelligence Units; build expertise necessary for financial investigations in corruption-related cases, ensure coordination and exchange of information with financial control/audit institutions;
- Consider establishing an office of an Information commissioner to receive appeals under the Law on Access to information; limit discretion of officials and the scope of information that could be withheld; enhance cooperation with civil society.

Implementation of Recommendations

While these recommendations are not legally binding, they represent the commitment of the participating states, and are expected be implemented as such by their governments. Implementation of these recommendations will not only support the objectives of the Istanbul Anti-Corruption Action Plan, but will also help the countries to meet their legally binding obligations under the United Nation's Convention on Corruption and the Council of Europe's Criminal Law Convention on Corruption.

Besides, the results of the reviews provide a framework for launching the second phase of the Istanbul Action Plan, which will focus at the regular monitoring of national actions to implement the recommendations and at thematic reviews on selected priority issues; they will also provide a benchmark for review of implementation of recommendations, planned under the third phase of the Action Plan.

Following the introduction, the book presents the recommendations. Next section contains the full text of the national self-assessment report. Selected legal acts and the Istanbul Action Plan are presented in Annexes. This publication was compiled by the OECD Secretariat; it is available in English and Russian languages. For more information, please refer to the web site of the Anti-Corruption Network for Transition Economies/OECD www.anticorruptionnet.org.

SUMMARY OF ASSESSMENT AND RECOMMENDATIONS

Endorsed on 14 December 2004

National Anti-Corruption policy and institutions

General assessment and recommendations

When the Kyrgyz Republic launched substantive reforms of its economic and political system in the 1990's, it encountered serious corruption problems in the business sector, financial circles and amongst government authorities. Transparency International's Corruption Perception Index ranked the Kyrgyz Republic 118th in 2003 and 122nd in 2004.

According to the Status Report, the Kyrgyz Republic is aware that corruption has a corrosive impact on socio-economic development, on the development of a market economy and on the promotion of investment, in addition to being detrimental to political and public institutions in a democratic state. The Government seemed to recognize that corruption is a major threat for the further development of the country. For example, at the March 2003 session of the Kyrgyz Security Council on Measures to Intensify the Fight against Corruption in the Kyrgyz Republic, devoted exclusively to corruption and anti-corruption issues, it was recognized that corruption was widespread amongst the customs and tax authorities, in the Ministry of Interior and Prosecutor offices, judiciary, banks and financial credit system. It also recognised that corruption took place in the health, education and social protection sectors. Between the years 2001-2003, 1522 public officials, including officers of tax and customs authorities, law enforcement agencies, social protection and licensing bodies, officials of the central and local government were brought to justice. The leadership of the Kyrgyz Republic recognised that the country had not made significant progress in overcoming corruption.

Such awareness and public acknowledgement of the seriousness of the problem, as well as political will at the highest levels of administration, are highly commendable. It should be noted that the country has since made significant efforts in building and strengthening its anti-corruption institutions and the legal framework to prevent and fight corruption.

The President of the Kyrgyz Republic has adopted a set of measures aimed at fighting corruption within the public administration. A three-year state programme was approved in early 1997 and was extended for another three years in 2001. In addition, the plan on implementation of the National Strategy entitled The Kyrgyz Republic – Country of Good Governance was adopted in 2003. In December 2003, the Kyrgyz Republic signed the UN Convention against Corruption.

One of the elements of the Decision of the Security Council of the Kyrgyz Republic No.2 of 31 March 2003, which approved the *Implementation Plan of the National Strategy "The Kyrgyz Republic – Country of Good Governance* was the development of a strategy to fight corruption, develop anticorruption preventive measures in public service and improve the anticorruption regulatory and legal framework. According to the Status Report, one of the first practical steps towards the implementation of the Plan was the establishment of the National Council for Good Governance (NCGG) under the chairmanship of the Prime Minister. The main objective was the elaboration and implementation of concrete measure for the formation and development of an adequate and efficient system of public administration. The National Council for Good Governance was abolished in October 2004 with the intention to carry on improving state anti-corruption policy and streamlining the activity of the Consultative Council for Good Governance (CCGG). The new body, the Consultative Council for Good Governance, was established by the Decree of the President of the Kyrgyz Republic in February 2004. The working body of the National Council for Good Governance - Secretariat to the National Council for Good Governance was converted into the Secretariat to the Consultative Council for Good Governance.

The adoption of a number of relevant laws, the enforcement of which is monitored by the Committee for Law and Order, the Fight against Crime and Corruption of the Legislative Assembly of Zhogorku Kenesh (Parliament) of the Kyrgyz Republic is a welcome development. The Law on the Fight against Corruption, the Law on Civil Service and the Law on State Procurement were all adopted during 2003-2004. Draft laws on the Declaration and Publication of Information on Income and Assets, Liabilities and Property of Political and other Special State Appointees and their Immediate Family Members and Law on Combating Terrorism Financing and Laundering of Profits Acquired by Illegal Means were in 2004 still pending. A draft Law on Access to Information, which will replace the current law, is in the process of negotiation by relevant parties (all branches of power, representatives of NGOs and business).

Investigation of corruption-related crimes is not regulated by any special act. Criminal proceedings established by the Code of Criminal Procedure are

binding on the court, the public prosecution bodies, investigators, and prosecutors. Investigation of criminal cases is conducted by investigators from the public prosecution offices, bodies of the Ministry of Interior, the National Security Service, financial police, the customs service department, the Drug Control Agency and the Ministry of Justice. The Code of Criminal Procedure establishes the jurisdiction of cases, *i.e.* determines which investigation authorities shall investigate the crimes. The law does not provide for any special method of detecting and investigating crimes in the sphere of corruption.

Nevertheless, in pursuance of the Concept of Development of the Public Prosecution Bodies of the Kyrgyz Republic in force until the year 2005, and which was approved by Presidential Edict of the Kyrgyz Republic No.101 of 21 March 2003, the Prosecutor General of the Kyrgyz Republic issued Order No.10 of 12 June 2003 establishing an investigation supervision office for monitoring the investigation of corruption crimes and encroachments on national security. It is not clear from the Status Report whether this office is operational, but on the basis of the same source it can be concluded that measures taken by the public prosecution authorities to ensure effective control over the investigation of corruption offences already contribute to the strengthening of the capacities of law-enforcement bodies against corruption. In the exercise of supervisory powers in 2004, with the view to ensure lawfulness of investigation of official crimes, public prosecutors have cancelled 466 illegal decisions concerning initiation or the refusal to initiate criminal proceedings, the termination of criminal cases or the suspension of investigation. It also detected and registered 74 previously unregistered and concealed crimes. According to the report, the inspections by the Prosecutor General have uncovered gross violations during the application of the legal provision on early discharge. According to preliminary data gathered during the inspection of judicial decisions in the Chuya region, more than 30 people sentenced for committing grave and especially grave crimes, including murder, plunder, robbery, drugs-related offences, were released on parole in 2003 after having served an insignificant part of their sentence. This suggests corruption of the corrective facilities wardens, judges, and public prosecutors. The Prosecutor General's Office and the Supreme Court are examining this problem in order to determine the measure of responsibility of judges, colony chiefs, and public prosecutors involved in corruptive offences in this sphere.

The Kyrgyz authorities describe the status of criminal cases related to bribery as particularly alarming. Despite the high level of bribery, only 88 criminal cases against 97 persons were fully investigated and referred to court in 2003 (23 cases involved 26 persons by the public prosecution authorities). In this context, evident discrepancy between the actual level of

corruption in the country and the prosecution and conviction rates for bribery and corruption-related offences remain a matter of serious concern.

The Status Report reveals a complex and fragmented system of detection, investigation and prosecution of corruption and corruption-related offences. One solution could be the simplification of Kyrgyz investigative proceedings with due regard to international human rights standards of a fair trial. As a priority, the country should undertake measures for consolidating efforts in repressing corruption.

Specific recommendations

1. Update the National Anti-Corruption Strategy of the Kyrgyz Republic, on the basis of the evaluation of the implementation of the current anti-corruption programmes, with the aim to unify multiple documents into a single comprehensive strategy.

2. Ensure the strengthening of institutional support for the public policy elaboration and monitoring in the field of fighting corruption. In the short term this can be done through the Consultative Council for Good Governance and its Secretariat; in the longer term a further consolidation and strengthening of independent anti-corruption agencies, taking into account the experience of other countries in this domain.

3. Carry out an inventory and analysis of existing functions of law-enforcement bodies involved in the fight against corruption with a view to further consolidate and specialise them. The coordination function currently implemented by the Prosecutor General's Office should be strengthened. Furthermore, adequate resources for the enforcement of anti-corruption legislation should be provided.

4. Conduct further surveys and relevant research, based on transparent internationally comparable methodology, to obtain more precise information about the scale of corruption in the country and to ascertain the true extent to which this phenomenon affects specific institutions, such as the police, judiciary, public procurement, tax and custom services, education, health system, etc.

5. Conduct awareness raising campaigns and organize training for the relevant public associations, state officials and the private sector about the sources and the impact of corruption, about the tools to fight and

prevent corruption, and on the rights of citizens in their interaction with public institutions.

6. Ratify the UN Convention against Corruption.

7. Upgrade monitoring and reporting of corruption and corruption-related offences on the basis of a harmonised methodology. Ensure the provision of regular information to the Consultative Council for Good Governance, covering all spheres of the Civil Service, the Police, the Public Prosecutor's Offices, and the Courts, which would enable comparisons among institutions.

8. Continue with efforts in the area of corruption-specific training for police, prosecutors, judges and other law enforcement officials; consider providing joint training for these bodies.

Legislation and Criminalisation of corruption

General assessment and recommendations

The Criminal Code of the Kyrgyz Republic has a number of provisions criminalizing active and passive bribery and other corruption and corruption-related offences. However, the scope of the criminalized acts does not fully meet the requirements of international anti-corruption standards (as enshrined in the Council of Europe's Criminal Law Convention on Corruption, the United Nation's Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions).

For example, the Kyrgyz Republic has criminalized active and passive bribery in the public sector in its Criminal Code as follows. Articles 310-314 establish as criminal offences: I) "receiving a bribe as remuneration" (without a preliminary agreement), ii) "receiving a bribe as subordination" (with a preliminary agreement), iii) "receiving a bribe for giving a position in the public (state) sector", iv) "solicitation of a bribe", and v) "giving a bribe".

Under these articles a subject of a bribe is limited to material benefits, and does not cover non-material advantages as a type of undue advantages stipulated by the UN Convention against Corruption. The exception is a bribe received with preliminary agreement (Article 311), the subject of which extends to one non-material benefit which is "a general support to career development or tolerance of undue service".

It seems that only receiving/giving a bribe by/to the official or his relatives and "close persons" (as it is interpreted by the Guidance of Supreme Court of 27 September 2003) is covered by the Criminal Code, while undue advantages for "another person or entity", as required by the UN Convention against Corruption, are not criminalized. Nor is the promise and offering of a bribe criminalized, although this type of conduct under certain circumstances can be qualified as an attempt to give a bribe.

Article 303 establishes "corruption" as a criminal offence, where a subject of corruption receives any kind of undue advantages. However, due to the vague and unclear definition of corruption, this article has never been applied in practice.

The notion of "public official" (as defined in Article 304) includes a wide range of persons holding legislative, administrative and judicial office. However, it is limited to the public officials of the Kyrgyz Republic and foreign and international public officials are not covered.

Trading in influence is only partially criminalized by Article 310 of the Criminal Code, the second part of this Article providing for criminal liability of a public official who receives a bribe for committing an illegal action, and Article 304 which provides for criminal liability of a public official acting beyond the limits of powers granted to him/her by law and "which has caused significant violation of rights and legitimate interests of citizens or organizations or the interests of the society and the state protected by law".

It should also be noted that the Criminal Code includes a number of articles related to abuse of official bodies; however, these often overlap other articles and the legal definition of such crimes as "abusing official powers" and "excess of official powers" lack precision that can result in confusion and problems of enforcement.

Illicit enrichment, *i.e.* significant increase in the assets of a public official that he/she cannot reasonably explain in relation to his/her lawful income, is not criminalized in the Kyrgyz Republic.

Active and passive bribery in the private sector is criminalized by Articles 224 and 225 of the Criminal Code, although the subject of bribery is limited only to material benefits; the promise and offering of a bribe is not criminalized.

Furthermore, it should be noted that the Law on the Fight against Corruption defines corruption as a criminal offence differently than does the

Criminal Code and gives a different definition of a public official. The Criminal Code enumerates more than 35 offences that can be associated with bribery or corruption related offences (*e.g.* Articles 178, 181, 185, 187, 188, 193, 194, 205, 207, 210, 214, 217, 218, 219, 220). On the other hand, the Law on the Fight against Corruption excessively narrows a circle of crimes falling under the standard concept of corruption to only a handful of offences. Consequently, the concept of corruption and the list of corruption offences from that law not only reduce the efficiency of law enforcement, but also skew the statistics on corruption. In addition, inconsistencies can be observed between the Law on the Fight against Corruption and the legislative framework regulating the declaration of assets and conflicts of interest and limits a number of transgressions to disciplinary, rather than criminal, sanctions. Further, some provisions of the law, such as "illegal enrichments," are not backed by sanctions as there are no corresponding provisions in the Criminal Code. It can be concluded that the Law on the Fight against Corruption appears to be declarative and is not applicable in practice. To be applicable the provisions of the said law, as well as any domestic law which provides for criminal or administrative liability must be included in the Criminal Code or Code on Administrative Liability in accordance with Article 1 paragraph 2, Article 5 paragraph 1 of the Criminal Code, and Article 6 of the Code on Administrative Liability.

Criminal legislation does not envisage criminal responsibility for legal entities that participate in corruption offences. It seems that administrative liability, monetary sanctions and/or civil liability for legal persons for corruption offences committed by representatives and/or employees of legal persons are not stipulated by law either. The lack of liability of legal persons creates the risk that those who bribe cannot be held responsible when no individual can be clearly identified. It can also lead to decisions which are based on the fact when an individual carries out an action of bribery on behalf of his employer, only that individual is held responsible and not the company. Such a situation does not encourage companies to fight corruption within their ranks.

Gaps concerning the confiscation of proceeds from crime, including proceeds from corruption, can also be identified in the legal framework. The law should enable the confiscation of monetary proceeds of crime or, if this is not possible, of confiscation of goods with equal value; any additional yields from proceeds should be confiscated as well. Proceeds should be confiscated from third persons, *i.e.* when the bribe taker has hidden them with relatives or other trustworthy persons. The report does not elaborate on the interim measures available at the investigation stage for the purpose of an eventual confiscation. In addition, the Kyrgyz Republic could explore possibilities to check unexplained enrichment, while respecting the proper checks and balances

in accordance with international practice, and seize or confiscate such wealth if it is determined to have been acquired as a result of illicit income.

The Criminal Procedure Code (Article 88, paragraphs 1 and 4) provides for obligatory confiscation of proceeds derived from any offences and of instruments of crime which belong to an offender; while the Criminal Code (Article 52, paragraphs 1 and 2) stipulates that confiscation of instruments and proceeds of crime (property of a convicted person which "used in, or destined for use in, or derived from an offence") can be imposed only for grave and particularly grave offences. It appears that in accordance with the law (Article 142 of the Criminal Procedural Code), law enforcement authorities are obliged to identify, trace and seize proceeds and instrumentalities of crime only under the above conditions and when an offence has caused damage. It should be noted that the Criminal Code and Criminal Procedural Code uses different language to define the proceeds and instrumentalities of crime.

Neither of the said Codes, nor the draft Law on Fighting Financing of Terrorism and Laundering of Proceeds of Crime, provide for confiscation of i) property into which proceeds of crime have been transformed or converted; ii) property with which proceed of crime have been intermingled; iii) income derived from i) and ii), as well as from proceeds of crime. Nor does Kyrgyz legislation provide for a reversal of onus of proof regarding the lawful origin of alleged proceeds of crime or other property liable to confiscation.

The Criminal Procedure Code (Article 88 paragraph 5) provides for obligatory confiscation of a subject of bribery. The Supreme Court of the Kyrgyz Republic in its Guidance No. 15 of 27 September 2003 ruled that any object of bribery must be confiscated even when a bribe-giver is exempted from criminal liability in bribe extortion cases or in cases when he/she voluntarily informed law enforcement authorities about giving a bribe. According to law enforcement authorities, the above provisions have led to the present situation whereby persons who have given bribes or who were forced to give bribes neither report such bribery cases to or co-operate with law enforcement authorities. Both prosecutors and law enforcement officers stated there was an urgent need to amend the above provisions and exempt from confiscation objects of a bribery given under the above-mentioned circumstances.

The Kyrgyz laws (on commercial secrecy, on bank secrecy, on banks and banking activity) limit investigative bodies from accessing bank records before a criminal proceeding is officially initiated. The present situation is described by law enforcement authorities as a "vicious circle" which prevents the obtaining of evidence in alleged financial crimes, including bribery and corruption. According to Article 150 of the Criminal Procedure Code, there must be a cause

and grounds for official commencement of a criminal proceeding. However, quite often these can be found only by accessing bank records.

Moreover, it should be noted that the Law on Banks and Banking Activity do not correspond to the Law on Bank Secrecy as the Law on Banks and Banking Activity (Article 55) allows law enforcement authorities to access bank accounts of physical and legal persons by order of a prosecutor, while the Law on Bank Secrecy (Article 10) allows it only under by order of a court.

The President, ex-Presidents, members of the *Zhogorku Kenesh* (Parliament) and judges enjoy immunity. The status report does not clarify the process of lifting these immunities, except for judges for whom consent of Parliament is necessary. However, immunities given to the President, Deputies (Members) of Parliament and judges seem to be balanced, although this issue needs to be assessed further. Members of Parliament and judges cannot be detained or arrested, exposed to any kind of search except in cases where "they are caught red-handed". The initiation of criminal or administrative proceedings against a member of Parliament or a judge is allowed only with the consent of Parliament.

A decision to initiate a criminal case or refuse its initiation must be taken within three days; only in exceptional cases this period shall not exceed ten days. This decision is taken by an investigator or a public prosecutor. This very short period raises concern if it allows for sufficient time to consider all aspects for taking this decision. A public prosecutor can override the decision of an investigator on terminating a criminal procedure.

The Criminal Procedure Code does not envisage special investigative methods and techniques and to date the Kyrgyz Republic has not yet adopted a comprehensive legislation to protect witnesses, experts, victims, and reporting persons in regard to any offences, including corruption offences. A few provisions contained in the Criminal Procedural Code, Laws on Operative and Detection Activity, and on Fighting Corruption do not provide for effective mechanisms of such protection. A draft law on the protection of witnesses, experts and victims presented to Parliament in 2003 was sent back for revision, and currently the working group headed by the Service of National Security has been working on the draft.

Specific recommendations

9. Amend the provisions related to corruption offences to meet the requirements of international standards as enshrined in the Council of Europe's Criminal Law Convention on Corruption, the United Nation's

Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Consequently, amend the Criminal Code to ensure that:

- corruption-related conduct including bribery of foreign and international public officials is criminalized, either by expanding the definition of a public official or by introducing separate criminal offences;
- the promise and offering of a bribe, both in public and private sector, is criminalized;
- the subject of a bribery, both in public and private sector, covers undue advantages, which include material as well as non-material benefits;
- bribery through intermediaries is fully covered;
- clarify the definitions of corruption-related offences in the sphere of abuse of official duties and powers and ensure precise legal definitions which would not invoke interpretative difficulties;
- "Concealment", "abuse of functions", illicit enrichment", as they are defined by the UN Convention against Corruption, are criminalized.

10. Consider significantly revising the Law on the Fight against Corruption along the following lines:
    - harmonise and clarify the concept of corruption in the Criminal Code and the Law on the Fight against Corruption;
    - remove contradictions between this law and other laws and codes, in particular in the field of declaration of assets, confiscation of property and illicit income;
    - introduce provisions that would enable actual enforcement of the law.
11. Recognising that the definition of the responsibility of legal persons for corruption offences is based on an international standard included in all international legal instruments on corruption, the Kyrgyz Republic should, with the assistance of organisations that have experience in implementing the concept of liability of legal persons (such as the OECD), consider how to introduce into its legal system efficient and effective liability of legal persons for corruption-related criminal offences.

12. Consider amending the Criminal Procedure Code, the Criminal Code and the draft Law on Fighting Financing of Terrorism and Laundering of Proceeds of Crime to ensure that the definition of proceeds of crime, which are subject to confiscation, include i) property into which proceeds of crime have been transformed or converted; ii) property with

which proceeds of crime have been intermingled; iii) income derived from i) and ii) as well as from proceeds of crime.

13. Amend the provisions of the Criminal Code and Criminal Procedure Code concerning the definition of proceeds and instrumentalities of crime to bring the provisions of both Codes in compliance with each other and the UN Convention against Corruption.

14. Consider introducing in the legislation the provision requiring an offender to prove the lawful origin of alleged proceeds of crime or other property liable to confiscation.

15. Review the provisions of the Criminal Procedure Code to ensure that the procedure to identify, trace and seize proceeds and instrumentalities of corruption offences are efficient and operational.

16. Bring in compliance with each other the Law on Banks and Banking Activity and the Law on Bank Secrecy with regard to the authority which gives permission to access bank records. Consider giving the right to access bank records before criminal proceedings are officially instituted, subject to either a court or a prosecutor's order.

17. Introduce an effective law on protection of witnesses, experts, victims, and reporting persons.

18. Consider introducing an amendment to the Code of Criminal Procedure to ensure that extradition and mutual legal assistance are given on reciprocity basis and contribute to ensuring effective international mutual legal assistance in investigation and prosecution of corruption cases.

19. Ensure that the immunity granted to certain categories of public officials does not prevent the investigation and prosecution of acts of corruption.

20. Study special investigation techniques for fighting corruption, consider introducing a legal basis for these techniques and methods in the Criminal Procedure Code, with due regard to international human rights standards, and secure funding for implementation of witness protection programmes.

Transparency of the civil service and Financial Control Issues

General assessment and recommendations

The Kyrgyz Republic has introduced basic laws and regulations necessary for the development of a merit-based public service. Thus joining the public service is based on participation in a competition, which is important for merit-based recruitment.

The position of state secretaries plays a key role in the functioning of the civil service. Like all prospective administrative civil servants, candidates to the post of state secretary face competition and an assessment of their suitability for such a position. In fact, however, the appointment of state secretaries has a political aspect in that although consideration of candidates should be based on their. "professional and personal qualities, existing work experience and managing skill", they are actually appointed and dismissed by the Prime Minister. The consent of the head of a corresponding public body is also required.

The system of the civil service personnel reserve may also present in practice an unnecessary obstacle to potentially qualified candidates from joining the public service. Since entry conditions in the reserve seem to be arbitrary (*e.g.* civil servants requesting promotion may enter the reserve upon the recommendation of the head of a public body and with consideration of the opinion of the State Secretary of a public body, but the law does not state criteria for when and whether a civil servant is entitled to receive such recommendation), there is a risk that the reserve excludes qualified individuals for reasons unrelated to their professional capacities. Nevertheless, it should be noted that the procedures for the dismissal of administrative public servants are, in principle, independent of changes in political public service positions.

Another element which may in practice impede the functioning of a comprehensive merit-based public service is the possibility to fill administrative public service positions with advisors, assistants and consultants to political public servants and political public servants who have not taken part in the process of competitive selection.

The Kyrgyz Republic deserves praise for the introduction of both the declaration of assets of public servants and the closest members of their families, as well as a prohibition on conflicts of interest. However, the system of declarations still appears to be overly complicated (there is one declaration for administrative public servants and another for political public servants), the definition of the circle of "closest relatives" differs for political and

administrative officials, and the declarations do not seem to provide all the information necessary to control conflicts of interest (apparently not all officials have to declare positions in private organizations and companies, ownership in companies, objects such as vehicles or real estate in use rather than in property). It also remains unclear whether it will be possible to control the declared information with sufficient rigour. The Agency for Civil Service accepts and reviews declarations, but does not appear to have sufficient powers to verify the authenticity of the information provided in the declarations, *e.g.* authority to request information on bank accounts.

Kyrgyz legislation contains a definition on conflicts of interest and its prohibition. The duty to report conflicts of interest rests with the official in question. However, since the Agency for Public Service has a broad range of functions, including the monitoring of compliance with the legislation, there is a risk that the Agency is unable to focus sufficiently on the control of conflicts of interest.

Kyrgyz legislation imposes a high sense of duty to all public servants to help in the fight against corruption. It should also be noted that persons reporting an incident of corruption or rendering some other form of support in the fight against corruption are guaranteed protection by the state; any information on such persons constitutes a state secret. The statutory responsibility for persons who intentionally report false information on corruption incurs a risk of abuse because due to difficulties in proving an act of corruption, reports thereof may be misleadingly portrayed as intentionally false.

A new Law on Public Procurement (state purchases), based on the recommendations of the World Bank, World Trade Organization and European Council, was adopted in 2004. The main institution responsible for the implementation of the law is a special State Commission on State Purchases. It oversees the normative legal regulating organization and purchases, the coordination and regulation of activities of different state bodies in the process of public procurement, as well as controls over the Law on Public Procurement. The Commission publishes weekly bulletins of state purchases, including information on future purchases and tender prices of products, jobs and services.

It seems that the Law on Public Procurement and the implementation of the regulations adopted within its framework correspond to international standards. The Kyrgyz Republic also possesses independent institutional structural departments under control of the State Commission on State Purchases and its territorial agencies, which are considered to be the important in the coordination and control of state bodies in this sphere.

However, some gaps can be identified. Article 17 of this law makes no provisions for electronic purchases. It is also urgent to establish the cases which limit public procurement to a single source as can limit the opportunity of organizations to participate in the purchase and may cause state bodies to prefer certain organizations that offer their service. Additionally, it may be a problem that extra-court appeal procedure is possible only before the tendering commission makes a final decision. There should be a stage between the time of the decision and signing of a contract when complaints could be submitted. This would be particularly important in cases where the final decision itself is subject to appeal.

The responsibilities for financial control and state audit are vested with the Chamber of Accounts, which is the highest state audit body, and the department of internal audit of the Ministry of Treasury. Its basic function of is to organise and carry out internal controls of the treasury of territorial bodies. From a normative perspective, the Law on Chamber of Accounts of the Kyrgyz Republic secures the independence of the auditors and is in line with international standards.

As far as the financial control of the executive authority and internal audit is concerned, the information provided in the Status Report does not allow for an objective assessment.

The separate problems of tax and customs bureaucracy are governed by the Revenue Committee Legislation under the Ministry of Finance. The main functions of this committee in fighting corruption are the consideration of applications, suggestions, and appeals of citizens and legal entities, the struggle against contraband, the disciplinary prosecution for legislation infringement as committed by officials of the committee, controlling officials' activities, etc. The administration responsible for staff and ethics has been established for the investigation of corrupt activities and is authorized to organize and to arrange measures for the removal of activities that infringe the law, of officials' that abuse prevention, and reveal and prevent possible acts of corruption. Periodic rotation of employees is also a preventive measure against internal corruption within the tax and customs bureaucracy.

The existence of a special sub-unit in the Revenue Committee is particularly important in such vulnerable spheres as tax and customs. It is not clear, however, whether this sub-unit is authorized to conduct investigations of tax and customs crimes or if there is another separate department in the system.

Nor is it clear if there is an electronic procedure of tax presentation and customs transactions. In order to prevent any corruption phenomena in the

sphere of tax and customs bureaucracy it is necessary to introduce electronic systems of tax payments and customs registration. This would minimize the possibility of direct contact between the taxpayers, goods transporters and public bodies, thus reducing the risks of corruption and possible cases of power abuse.

The Kyrgyz Republic has a Law on Guarantees and Freedom of Information Access which contains essential provisions for access to information. In principle, the state has a duty to provide information on request (except that information not subject to public disclosure). However, as far as can be ascertained from the Status Report, the law does not clearly delineate what information is not subject to disclosure. The filing of an application or complaint against slander entails responsibility according to the law. This appears to be an overly deterring and potentially abusive norm as it may deter people from making real complaints, and particularly when it is difficult to prove the relevant fact to a sufficient degree.

The Kyrgyz Republic has introduced highly commendable amendments to the Law on Regulatory Legal Acts of the Kyrgyz Republic, which are aimed at ensuring free public access to draft regulatory legal acts under development. This allows civil society actors and any other interested parties to contribute to the development of legal acts.

The Kyrgyz Republic has legal provisions for political party/candidate financing, which are aimed at limiting the influence of narrow money-based interests. The law requires political parties to submit annual reports and provides for special election funds for candidates. There are statutory limits for financial donations to election funds by particular groups of persons/sources (*i.e.* limits on contributions), and limits on the overall expenses of a candidate. However, financing of political parties is not sufficiently transparent, as the annual reports of political parties are not disclosed to the public. There are also no provisions against incumbent candidates using the administrative resources, which are available to them as public officials, for campaign purposes.

The Kyrgyz Republic has a very limited legal framework against money laundering, which is not criminalized. to date, no preventive legislation has been introduced. The Kyrgyz Republic has no financial intelligence unit either. The concealment or continued retention of property, when committed intentionally after the commission of offences stipulated by the UN Convention against Corruption without having participated in such offences, when the person involved knows that such property is the result of these offences, are not criminalized. Article 35 of the Criminal Code provides for criminal liability for concealment of, *inter alia*, objects obtained by illegal means only in cases

specifically stipulated by the Criminal Code. In particular, Article 177 of the Criminal Code criminalizes only the intentional acquiring or selling of criminal assets, including assets obtained as a result of committing corruption offences.

Legalization of money, assets or other property knowingly derived from an illegal activity (*i.e.* all kinds of unlawful activities) is criminalized as a separate offence under Article 183 of the Criminal Code. This article does not cover all elements of the "money laundering offence" stipulated by the UN Convention and other international instruments. Moreover, this article has never been applied in practice.

A Financial Intelligence Unit (FIU) has not been established; banks and other financial institutions have no obligation to report suspicious transactions to authorities. However, the draft Law on Fighting Financing of Terrorism and Laundering of Proceeds of Crime and relevant amendments to the Criminal Code and Code on Administrative Offences, adoption of which is currently pending, defines the "laundering of proceeds of crime" offence in line with the international instruments and provide for the creation of a FIU. All criminal offences stipulated by the Criminal Code are predicative offences to money laundering in accordance with the drafts.

Specific recommendations

21. Strengthen recruitment and promotion within the civil service by improving objectively verifiable and merit-related criteria and limiting to the extent possible opportunities for discretionary decisions. Reconsider the necessity of internal and national reserves, which may provide advantages for insiders as opposed to outside candidates.
22. Provide mechanisms for permanent control over the implementation of the Laws on Public Service, on Disclosure and Publication of Income and Property of High Officials and Members of their Families, and on the Fight against Corruption.
23. Streamline the system for public disclosure and control of the income and assets declarations of all public officials; analyse the experience of other countries that have been successful in this area. Explore possibilities to expand the circle of relatives of public officials who are required to submit income and assets declarations.
24. Explore possibilities for an electronic system of public procurement purchase in order to improve the transparency of state purchases. Information on state purchases, except for narrowly defined information subject to state secret, should be available to the public.

25. Limit the possibilities of state purchases from a single source.

26. Introduce internal auditing of executive authorities in order to reveal corruption as well as to stipulate free and permanent collaboration of bodies that provide financial control and audit.

27. Government held information, which is not subject to disclosure, should be delineated as clearly as possible by law (rather than in internal documents, instructions and the like); the discretion of public officials as to what constitutes such information should be limited to the maximum extent feasible.

28. Ensure that the information provided in non-public complaints cannot be used for unjustified prosecution for slander. Introduce additional measures to increase the protection of the citizens making complaints and proposals to the public bodies on issues of corruption.

29. Extend the application of permanent forms of co-operation (institutionalized councils and the like) between NGOs and the broader public on the one hand and public agencies on the other. Institutionalized councils where public officials are present but only NGOs/associations have voting powers are one potentially effective option for ensuring the free expression of public concerns. The decisions of such councils bear advisory character for public agencies. Develop a procedure for the permanent involvement of civil society (not only those represented by particularly active interested NGOs) in policy making.

30. Make sure that financial reporting of parties and candidates adequately reflects the actual situation. Verify that agencies in charge of party/candidate/campaign financing control operate with maximum public accountability (including vis-à-vis the civil society) to ensure that no opportunities exist to discriminate against some parties/candidates; verify that funds used for campaigns are acquired and spent in a transparent manner. Define the notion of "administrative resource", which is used by incumbent candidates in their campaigns, and prohibit the use of this "administrative resource". Annual financial reports of political parties shall be both submitted and published. Financial reports concerning election funds must be published also.

31. Introduce legislation to combat money laundering that meets international standard, namely to criminalize the laundering of proceeds of crimes, including corruption. Adopt preventive legislation that, among other measures, establishes a financial intelligence unit.

SELF-ASSESSMENT REPORT

Two strategic documents define the fundamental approaches to be taken by the Kyrgyz Republic for its further development. These are: the *Comprehensive Development Strategy of the Kyrgyz Republic until the Year 2010* (CDS), approved in May 2001, and the *National Poverty Reduction Strategy* (NPRS). These documents outline the reforms in public management that are to play a crucial role in poverty reduction. In conditions of considerable resource constraints, it is impossible to rapidly introduce comprehensive social and institutional transformations. However, the setting of reasonable priorities allows the State to promote and implement initiatives that demonstrate its responsibilities in reducing the scope of corruption and laying the basis for efficient, honest, and quality government services.

The leadership of the Kyrgyz Republic is well aware that corruption is one of the most dangerous problems that society and the public administration are confronted with. Therefore, anticorruption activity is viewed as a priority by the State.

National Programme of the Anticorruption Strategy and Action Plan (Strategy)

Perception of the Problem of Corruption in the Kyrgyz Republic

The development and implementation of an anticorruption strategy is based on the analyses of the major problems within the public administration system, and on the results of research conducted by international organisations and Non Governmental Organisations (NGOs).

Although the number of activities subject to licensing has decreased by more than half over the last several years, the existing procedures are rarely transparent, and supervisory authorities continue to demand and receive bribes. A World Bank survey noted that 26% of companies that received construction

permits stated they were forced to give bribes, as did 29% of respondents who had encounters with the sanitary-epidemiological service.[1]

The Corruption Perception Index (CPI) developed by Transparency International presents the results of 17 public opinion polls conducted in 2003 among representatives of the business and scientific circles and the perception of corruption by risk evaluation experts. This Index covers 113 countries. The index was calculated on the basis of corruption levels within the public administration system, and no distinction was made between political and administrative corruption.

The CPI ranks Kyrgyzstan 118th in terms of corruption. Lower indices of corruption are registered in only three other countries of the former Soviet Union (Table 1).

Table 1 Corruption Perception Index (CPI)[2] in 2003

Country rating[1]	Country[2]	Corruption Perception Index (CPI)[3]
118	Kyrgyzstan	2.1
124	Azerbaijan	1.8
124	Georgia	1.8
124	Tajikistan	1.8

1. Shows the country rating among 113 countries covered by the survey.
2. For the sake of comparison, only former socialist countries are presented.
3. CPI is calculated in points and reflects the perception of corruption by representatives of business and analysts. CPI evaluates corruption using a scale from 10 (corruption practically nonexistent) to 0 (very high level of corruption) points.

Statistics of Corruption-Related Offences

The analysis of the level of economic crime gives grounds to assume that the situation in the socioeconomic sphere remains complicated. The present situation stems largely from criminal encroachment on the economic foundations of the state. Criminal activities, particularly in the form of corruption, have a strong impact on the socioeconomic transformations and democratic reforms currently underway.

1. World Bank (2002), *Public Administration and Provision of Public Services in Kyrgyz Republic – Results of Diagnostic Studies*.

2. Transparency International, *Corruption Perception Index in 2003*.

The organizational and practical measures taken in 2003 have resulted in the detection of 2 372 economic crimes, including 503 official crimes; these included 120 acts of bribery, 247 cases of abuse of office, and 136 cases of negligence and official forgery. A total of 1 027 persons were held criminally responsible, including 434 officials and 338 public servants.

As a result of the investigation of these criminal cases, the state managed to recover 167 million KGS either stolen from the state treasury or misused. The prosecutor's office alone imposed criminal responsibility on 284 officials for abuse of office and bribery. It should be noted that responsibility has been increasingly imposed on high-ranking officials as well as rank-and-file employees. About 80 officials of local self-government bodies have been brought to account for official crimes. The court, for example, found the mayor of Mayluu-Suu, located in the Jalal-Abad region, guilty of negligence.

Table 2. Number of Corruptive Offences Detected by Law-Enforcement Bodies in 2001-2003

Offences detected	Interior bodies			Public prosecutor's bodies			National security service			Financial police			Customs service department		
	01	02	03	01	02	03	01	02	03	01	02	03	01	02	03
Bribery	135	120	120				8	8	11		4				
Office abuse	338	259	247				20	16	23	19	22	39	1	5	5
Negligence, official forgery	217	219	136	16	21	33	5	4	3	6	12	13		2	2
Corruptive offences	690	598	503	51	61	107	33	28	37	25	38	52	1	7	7

Source: Interior Ministry.

The actions of officials from the State Commission for the Securities Market were investigated. The investigation revealed that the issuance and placement of bills and bonds of the Renton Group company with the help of officials from the State Commission had serious negative consequences for many people. In April 2004, the Chairman was accused of negligence and abuse of office and forced to resign. He was later convicted for these crimes.

The Prosecutor General's Office investigated a criminal case concerning a former governor of the Issyk-Kul Region and which involved the illegal use of budgetary funds. As a result of this investigation and the measures subsequently

taken, 2.3 million KGS that had been misappropriated from the regional social development fund were recovered.

The National Security Service also investigated a case of abuse of office by officials from the State Commission for Antimonopoly Policy, the Social Fund, the State Employment Department at the Ministry of Labour and Social Protection of the Kyrgyz Republic, whose actions inflicted damage on public interests worth several million soms.

Measures taken by the public prosecution authorities to ensure the effective control over the investigation of corruption offences contribute to strengthening law-enforcement bodies. In the exercise of supervisory powers in 2004 and with a view to ensuring the lawfulness of the investigations concerning crimes committed by officials, public prosecutors cancelled 466 illegal decisions pertaining to the initiation or to the refusal to initiate criminal proceedings, the termination of criminal cases or to the suspension of investigation; they also discovered and subsequently registered 74 previously concealed crimes.

A total of 66 disciplinary cases have been initiated on violations by law-enforcement bodies and 71 proposals were issued to eliminate detected violations of procedures. Sixty-two officers of various Ministry of Interior bodies, the National Security Service, and the Financial Police were disciplined at the request of the Public Prosecutor. Criminal cases were initiated against 22 employees of law-enforcement agencies, and nine officers have been charged with criminal violations.

The adopted measures helped achieve certain results in the investigation of economic and official crimes and the compensation of the damage inflicted on the state (Table 3).

Table 3. Return of Funds
(%)

	2003	January-June 2004
On cases concerning the National Security Service	47,4	57.4
On cases concerning the Financial Police bodies	30.0	11.7
On cases concerning the Interior bodies	53.2	67.8

Corruption is especially unacceptable within the system of judicial and law-enforcement authorities. During the period of 2003-2004, 92 employees of law-enforcement, defence, and supervisory agencies were held criminally responsible for official crimes, abuse of power, and bribery. Responsibility has been imposed on 70 militia officers alone, a third of them for bribery. Representatives of the high command – generals and colonels – were also charged with criminal violations.

Inspections by prosecutors have uncovered acts of gross violations during the application of the legal provision on early discharge. According to preliminary data gathered during the inspection of judicial decisions in the Chuya region, more than 30 people sentenced for committing grave and especially grave crimes, including murder, plunder, robbery, and drug-related offences, were released on parole in 2003 after having served an insignificant part of their sentence. This suggests a degree of corruption between the chiefs of corrective facilities, judges, and public prosecutors. The Prosecutor General's Office and the Supreme Court are currently engaged in a detailed examination of this problem in order to determine the measure of responsibility of judges, penitentiary chiefs, and public prosecutors involved in corruption offences in this sphere.

During the first half of 2004, the qualification judicial assembly of the Supreme Court considered evidence in 14 disciplinary cases concerning 17 judges of local republican courts for official offences or disgraceful conduct, and for the violation of laws during the consideration of court cases. As a result, the conduct of eight judges was submitted for review to the Commission for Attestation of Judges of Local Courts. At the end of the review, six judges failed to receive the proper attestation. Disciplinary sanctions in the form of a reprimand or reproof were applied to all eight judges.

The qualification judicial assembly of the Supreme Court continues its activity and in 2004 was examining evidence concerning 11 disciplinary cases with respect to 14 judges of the republican local courts.[3]

International experience shows that the fight against corruption is inseparable from the process of reform of state power and administration. In 2003, the President issued an edict on the Concept of Development of the Public Prosecution Authorities until 2005 which set the basis upon which reforms would take place. In keeping with the Concept, the Prosecutor General's

3. Report by Chairman of the Supreme Court at the Session of the Consultative Council for Good Governance on 6 September 2004.

Office is taking measures towards structural and personnel optimisation. A set of measures has been implemented to change work methods and to instil an atmosphere of public trust in the prosecution authorities.

The status of criminal cases related to bribery is alarming. In 2003, only 88 criminal cases against 97 persons were fully investigated and referred to court (23 cases concerned 26 persons employed by public prosecution authorities). It is noteworthy that there were initially a large number of criminal cases initiated in reaction to acts of bribery, but in the process of investigations or court consideration the actions of the defendants were often reclassified under Article 225 (illegal acceptance of remuneration by an employee) or Article 166 (fraud) of the Criminal Code (CC). This is due, above all, to the impossibility of identifying the subject of the crime at the initial stage of a criminal case given that the official duties of a suspect are established only during the course of the investigation. Analysis has shown that the number of criminal cases in different regions varies from one fourth to one third of the overall number of initiated cases of bribery.

There have been cases where the courts have requalified the actions of persons accused of bribery as falling under Articles 166 or 225 of the Criminal Code and terminated proceedings of the criminal cases referred to them on the basis of Article 66 of the CC (in agreement with the victim), as they are categorised as offences of moderate gravity.

Anticorruption Strategy in the Kyrgyz Republic and Mechanisms of Control over its Implementation

When the Kyrgyz Republic launched a radical reform of its economic and political system in the 1990's it encountered serious corruption problems in the business sector, amongst government authorities and in financial circles. The President of the Kyrgyz Republic adopted a set of measures aimed at fighting corruption within the public administration. A three-year state programme for intensifying the fight against corruption was approved as early as 1997, and was extended for another three years in 2001.

Legislative authorities have adopted the necessary laws, the enforcement of which is monitored by the Committee for Law and Order of the *Zhogorku Kenesh*, the legislative assembly of the Kyrgyz Republic. *Zhogorku Kenesh* deputies, within the limits of their authority, can set up commissions and conduct investigations.

The new version of the Constitution of the Kyrgyz Republic adopted by a national referendum in February 2003 created the legal foundation for

developing an efficient public administration system, and for broader involvement of civil society institutions and the public in anticorruption activity.

The decision of the Security Council of the Kyrgyz Republic No.2 of 31 March 2003 On Measures to Intensify the Fight against Corruption in the Kyrgyz Republic approved the Implementation Plan of the National Strategy Kyrgyzstan as a Good Governance Country (Anticorruption Strategy of State Policy), which seeks to do the following:

- develop a strategy for fighting corruption;
- implement anticorruption preventive measures in the public service;
- improve the anticorruption regulatory and legal framework;
- improve the economic policy of the state;
- reform law-enforcement, fiscal, and judicial bodies;
- improve media coverage and awareness of the State's anticorruption policy;
- develop international co-operation in the fight against corruption.

One of the first practical steps towards the implementation of the Plan was the establishment in April 2003 of the National Council on Good Governance (NCGG) under the chairmanship of the Prime Minister. The main objective was the elaboration and implementation of measures for the development of an efficient public administration system.

The NCGG has elaborated and approved relevant measures for 2004 and identified the mechanisms for monitoring the pace of its implementation. The working procedures, information and analytical support of NCGG activity was established by the Presidential Edict of the Kyrgyz Republic No.331 of 15 October 2003, which also set up a working body, the Secretariat to act as an advisory and working body of the National Council.

The definition of a public authority's activity in the sphere of good governance, and the consideration and control of the pace of implementation of the measures established in this regard are the responsibility of the Consultative Council for Good Governance (CCGG), as set by Presidential Edict of the Kyrgyz Republic No.54 of 12 February 2004.

In October 2004, however, the NCGG was abolished by decision of the October session of the Security Council, taking into account the

recommendations of international experts, and the Consultative Council for Good Governance was nominated as the sole institution for the implementation and co-ordination of anticorruption measures. The Consultative Council for Good Governance, with the mandate to implement effective reforms of public administration, to create new mechanisms that ensured good governance, to improve the results of the antimonopoly policy, has held three sessions since it was established. The Council is headed by President of the Kyrgyz Republic and its members include five representatives of executive and business authorities of the Kyrgyz Republic and five members of international organisations and diplomatic missions accredited to the Kyrgyz Republic, allowing for more efficient use of foreign assistance.

At its sessions, the CCGG has approved the Strategy of Reform of the Public Administration System, issued relevant instructions to the government, the Prosecutor General's Office, and the NCGG. In pursuance of these instructions, the government and the State Commission for Reforming the Interior Bodies have developed a Draft Concept of Reform of the Interior Bodies and forwarded it to OSCE for review.

In order to implement the recommendations of the Consultative Council of 7 May 2004, the Supreme Court has prepared amendments to the Presidential Edict of the Kyrgyz Republic On Measures to Stimulate and Enhance the Responsibility of Judges in the Kyrgyz Republic No.63 of 26 February 2003 and elaborated and submitted to the *Zhogorku Kenesh* a Draft Constitutional Law of the Kyrgyz Republic On Administrative Courts in the Kyrgyz Republic, ensuring further development of the judicial system and access to judicial decisions for all stakeholders.

It is necessary to mention the consideration of the Strategy of Reforming the Public Administration System of the Kyrgyz Republic at a CCGG session, which was afterwards approved by Presidential Edict of the Kyrgyz Republic on 5 June 2004.

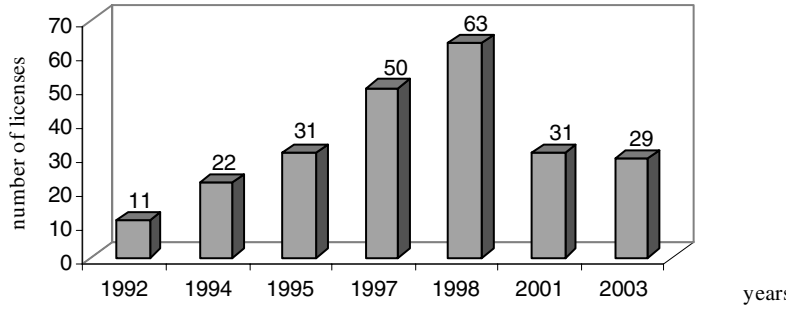
In keeping with current methodology and best international practices, the Strategy maps out priority objectives and goals to further develop the public administration system. Accordingly, the Government conducted a functional analysis of all government bodies up to the end of 2004. This analysis would allow it to develop plans to optimise the work of the various agencies within the Ministries, and to ensure an accurate adjustment of the entire functional set of public authorities in accordance with the programme of political and economic measures. A characteristic feature of this strategy is that resource support is elaborated in detail for each area of reform and financial assistance of donors is coordinated with the possibilities of the national budget. The functions of a

newly created central expert group include support to the government, NCGG, and CCGG in matters of forming a good, effective, and transparent public administration, enhancing the professionalism of public servants, and improve the regulatory and legal frameworks of good governance.

An action plan for the implementation of the aforementioned Strategy was elaborated and approved by Presidential Edict of the Kyrgyz Republic on 29 October 2004. In addition, Government Decree No.252 of 29 April 2003 created an Interdepartmental Commission for Public Safety. The subsequent Government No.442 of 15 July 2003 specified the composition of the Interdepartmental Commission, empowering it with additional functions in the fight against corruption. In particular, the Interdepartmental Commission was charged with additional functions to coordinate the activities of the executive authorities and prepare government decisions in the sphere of public security and the fight against corruption.

In view that the goals of the National Strategy "Kyrgyzstan as a Good Governance Country (Anticorruption Strategy of State Policy)" has been accorded top priority at the national level and is to be carried out with broad public support, the President of the Kyrgyz Republic has proclaimed 2004 the Year of Social Mobilisation and Good Governance. Awareness raising campaigns are being carried out, and particularly with respect to the aforementioned measures (approval of the Strategy Implementation Plan, establishment of NCGG, the NCGG Secretariat, CCGG, etc.).

Changes in the Licensing System of Kyrgyzstan during 1992-2003



Measures are introduced regularly to fight corruption. For example, fixed prices of medical services have been introduced experimentally to prevent abuse in the medical sector; the number of required licences has been reduced from 69

to 29, the number of permits to conduct business activities has been reduced from 196 to 102; special funds are being abolished as a matter of urgency; a system of national testing for enrolment in higher educational institutions has been introduced. In addition, the adoption of the Law on Technical Regulations will considerably reduce certification and standardisation requirements, while product certification will become voluntary.[4]

The Anticorruption Programme of the Kyrgyz Republic, the draft of which can be found on the CCGG Secretariat website (www.sgg.kg), is being developed on the initiative of the CCGG with the active participation of all stakeholders.

Introduction of the Principles ofAccountability and Transparency

Ethics in Public Service

Main Legal Acts Regulating Public Service

In accordance with the Constitution of the Kyrgyz Republic, citizens have a right to join the governmental or municipal service. The public service includes a broad array of services, including military service, diplomatic service, service in law-enforcement bodies, work of judges, and the civil service.

The main legal acts regulating public service are the Constitution of the Kyrgyz Republic, the Labour Code of the Kyrgyz Republic, laws On Public Service, On the Government of the Kyrgyz Republic, On the Supreme Court of the Kyrgyz Republic and Local Courts, On the Status of Judges, On the Status of a Deputy of the Legislative Assembly of the Zhogorku Kenesh and the Status of a Deputy of the Assembly of People's Representatives of the *Zhogorku Kenesh* of the Kyrgyz Republic, On the Public Prosecutor's Office of the Kyrgyz Republic, On the Chamber of Auditors of the Kyrgyz Republic, On the Order of Service in Customs and Tax Authorities, On the National Security Service, On Border Service, On Diplomatic Service in the Kyrgyz Republic, On the Status of Military Personnel, On Interior Bodies of the Kyrgyz Republic, On the Central Committee for Elections and for Organisation of Referendums of the Kyrgyz Republic, etc.

In accordance with the Law On Public Service, the legal framework of the public service includes regulatory acts of the President, the Government, and

4. Ministry of Economic Development, Industry, and Trade, *Information of the Entrepreneurship Development*, August 2004.

the Kyrgyz Agency for Public Service Affairs. If international treaties and agreements ratified by the Kyrgyz Republic envisage other rules concerning public administrative service, the provisions of those treaties and agreements shall prevail.

According to the Law On Public Service, public service positions (civil service) are divided into political public service positions and administrative public service positions:

- a political public service position is a public service position the appointment (election) to and dismissal from are made in accordance with the Constitution of the Kyrgyz Republic, and the range of responsibilities of which is established by the Constitution and laws of the Kyrgyz Republic;
- an administrative public service position is a position with a government body of legislative, executive or judicial authority, as well as the Presidential Administration of the Kyrgyz Republic, involving the powers and responsibilities connected with the implementation of tasks and functions of a government authority established by the Constitution and other regulatory and legal acts of the Kyrgyz Republic.

The register of public service positions contains a list of public service positions classified by public authorities, categories, groups, as well as other characteristics approved by the President of the Kyrgyz Republic. According to Article 3 of the Law On Public Service, its validity covers public servants occupying administrative public service positions.

This law also includes public servants on the staff of courts, the Ombudsman (*Akyikatchi*), bodies of justices of the peace, public prosecution, and persons having the status of officers of law-enforcement bodies to the extent in which their professional activity is not regulated by special laws.

The law On Public Service does not extend to:

- persons occupying political public service positions, unless stipulated otherwise;
- advisors, consultants, and assistants to persons occupying political public service positions, specifically their appointment, promotion, and dismissal;
- military personnel;

- municipal officials;
- officials of bodies, institutions, enterprises, and organisations within the jurisdiction of government authorities exercising scientific research, creative, educational, medical, sanitary, and other activity on the servicing of the population, not connected with executive regulatory functions of the state, including the heads of those institutions and organisations;
- technical and maintenance personnel of public authorities.

Public servants are covered by legislation on labour and social security, unless stipulated otherwise.

Institutional Structure of Public Service Administration

The Law On Public Service envisages the functioning of the Kyrgyz Republic Agency for Public Service (hereinafter the Agency), which is a standing government authority.

The Agency is headed by a director who is appointed by the President on approval of the *Zhogorku Kenesh*. The structure and staffing of the Agency are approved by the President. The provisions regulating the Agency's procedures , and which are not covered by the Law On Public Service are approved by the Council for Public Service.

The Agency shall:

- develop and implement a single state policy for public service;
- elaborate and adopt regulatory acts and uniform rules for all government authorities concerning competition to select candidates for Vacant administrative public service positions, as well as for the assessment and interdepartmental rotation of public servants;
- select on a competitive basis, in accordance with Article 14 of the Law "On Public Service," candidates to positions of state secretaries using transparent procedures and recommend selected candidates for appointment;
- develop proposals concerning the ethics of public servants which envisage, among other things, provisions on disciplinary responsibility of public servants for violations of the legislation on public service, and submit these for consideration to the Council;

- establish the format and procedure for filling, presenting, registering, and storing declarations on incomes and property of public servants;
- accept and consider the declarations filed by persons occupying political and administrative public service positions;
- develop rules and procedures for preventing conflicts of interest and provide consultation with public servants and their superiors on issues connected to conflicts of interests and how to resolve these;
- consider complaints filed by public servants against decisions of public authorities on the basis of official investigations;
- submit draft regulatory and legal acts on matters of public service for consideration by the President and Government of the Kyrgyz Republic;
- be the single coordinating authority on issues of formation and placement of government of training, retraining, advanced training, and internship programmes for public servants, including those offered abroad;
- monitor the observance of the legislation on public service and submit proposals to the Government, the *Zhogorku Kenesh*, and relevant public authorities for the improvement of observance of the law;
- analyse the status and efficiency of public service and issue recommendations for improving its efficiency;
- develop proposals concerning the improvement of the remuneration system, and social and legal support of public servants in consultation with the Government;
- elaborate and maintain a register of administrative public service positions; submit proposals for amendments to the register of administrative public service positions.

The Agency shall also execute other functions stemming from the Law On Public Service.

This law also stipulates that the Agency is the working body of the Council for Public Service Affairs (hereinafter the Council). The Council determines the development strategy of the public service and develops the mechanisms for co-ordinating the functioning and interaction of bodies of and administrations in this sphere; it sets the priorities of the regulatory and legal framework of the public administration, including issues related to transparency and good faith, and implementation of an anticorruption policy; develops policies for improving

the efficiency of performance of public authorities; and it decides which candidates shall be presented to the post of state secretary, gives or refuses its consent for the dismissal of the state secretary.

The Council hears reports and other information on the Agency's activity provided by the Agency director. The Council includes:

- Agency director – the Council Chairman;
- one representative of the President of the Kyrgyz Republic;
- two representatives of the *Zhogorku Kenesh*, one of whom is deputy chairman of the Council;
- two representatives of the Government of the Kyrgyz Republic;
- one representative of the Supreme Court of the Kyrgyz Republic.

Representatives of the *Zhogorku Kenesh* are appointed to the Council by the *Zhogorku Kenesh* for a term of one year. Representatives of the government are appointed to the Council for a term of one year. A representative of the Supreme Court is appointed to the Council by the Chairman of the Supreme Court for a term of one year. The Council decisions are adopted collegially by a majority vote of the Council members.

Institution of State Secretaries

Following the adoption of the Law On Public Service, the institution of state secretaries was established in 2004. A state secretary is a public servant occupying a senior administrative position in ministries, state committees, and administrative agencies. This position can also be found in other bodies of the executive and judicial authority.

The enforcement of this law by other government authorities not included in the above list is assigned to the heads of staff appointed by the heads of the relevant public authorities. The position of state secretary is permanent and does not change when the head of public authority either resigns or is dismissed from his job.

The state secretary of a public authority shall:

- pursue a single government policy in the sphere of public service;
- implement the policy elaborated by the head of a public authority on matters within the competence of this public authority;

- prepare presentations for appointment, transfer, rotation, and dismissal of public servants occupying administrative public service positions;
- be accountable and report to the head of a public authority in the sphere of financial management and use of public funds.

The selection of candidates to the post of state secretary is carried out by the Council on a competitive basis. Candidates are considered and recommended by the Council based on their professional and personal skills, relevant managerial experience and on the consent of the head of a public authority.

The state secretary is appointed and dismissed (the latter according to Articles 31 to 34) by the Prime Minister of on the recommendation of the Council and the consent of the head of the relevant public authority. During the establishment of the post of state secretary in other executive and judicial agencies, the procedure for appointment shall be established by the Council.

The Agency carries out the attestation of state secretaries according to the same procedures as established for other administrative public servants. Other matters concerning the activities of the state secretary, and which are not regulated by the Law On Public Service, shall be governed by provisions pertaining to this position as elaborated by the Agency and approved by the Council.

Procedures for Joining the Public Service, Promotion, Rotation, and Dismissal

The procedure for joining the public service is described in Articles 24 and 25 of the Law On Public Service. Accordingly, joining the public service is carried out in the form of a competition.

The Agency coordinates the work of public authorities on the selection of candidates to public service and gives methodological assistance.

The Agency disseminates information on vacant administrative public service positions and the holding of a national competition by placing advertisements in the official mass media and the Public Services Portal of the Kyrgyz Republic no later than one month prior to the start of the competition.

Joining the public service by contract is possible in some cases; such cases are determined by the President of the Kyrgyz Republic.

Administrative public service positions may be temporarily occupied outside competitive selection, but must comply with the following qualification requirements:

- public servants within the same category of positions and within the same public authority;
- advisers, assistance, and consultants of political public servants;
- political public servants who have suspended their duties.

Public servants occupying political, as well as senior administrative public service positions, and dismissed for discrediting such positions shall not be reinstated in their former position or occupy an equivalent public service position afterwards.

The heads of public authorities issuing decisions bears the responsibility if:

- a person occupying an administrative public service position has proven the groundlessness of his dismissal;
- persons admitted to a public service position have not undergone competitive selection, with the exception of persons stipulated by the Law On Public Service.

If a vacancy opens, the state secretary of the public authority shall notify the Agency in writing within three working days. A competition is announced for this position. A contender is a person who has filed an application for participation in the competition and admitted to such a competition.

A competition for a vacant administrative public service position (hereinafter the competition) is held to ensure equal access of all citizens to public service.

A competition shall initially be held among persons listed on an internal reserve list. If a competition was not held due to the refusal of persons on this list or no one was chosen from this list following a competition, then a competition shall be announced for persons listed on the national reserve list.

Information on open competitions for vacant administrative public service positions should contain the following data:

- name and legal address of the public authority;
- name of the vacant position;
- qualification requirements;

- job description;
- list of documents necessary for participating in the competition;
- time and place of document acceptance;
- time and place of the competition.

Persons who presented documents and information not meeting the above requirements shall not be admitted to the competition. The participants shall be notified of the results of the open competition within one month from the date of its completion.

The state secretary shall make a presentation on the appointment of the successful candidate to the head of the public authority no later than three days of the date the decision has been taken.

In order to create or maintain a personnel reserve for junior public service positions, the Agency can organise a national competition among the graduates of higher educational institutions.

When assuming public office for the first time, a public servant signs a written oath.

To gain the necessary experience and test the professional skills of a specialist enrolled in public service for the first time, the head of the relevant public authority may appoint him to a public service position for a trial period of up to three months with salary paid. The trial period does not include the period of temporary inability or when the employee was absent from work for valid reasons.

If upon the expiration of the trial period the results are unsatisfactory, the public servant can be appointed to another lower-ranking position or be dismissed from public service with the consent of the Agency.

During the trial period, the person temporarily occupying a public service position shall be covered by the Law On Public Service.

Rotation (transfer) of public servants occupying particular categories of public service positions is carried out to ensure the effective use of the potential of public servants, taking into account the needs of the state, creation of the necessary conditions for their career development, ensuring equal opportunities for official careers, and securing personnel in public service positions as well as

lowering the risk of corruption. Internal and inter-departmental rotation of public servants shall be carried out not more than once every five years.

A public servant can be transferred to another job at a different location, another public authority or institution to a similar or equivalent position before the scheduled time of rotation if circumstances necessitate such measure to prevent serious damage to the public service.

The justification, rotation pattern, and coordination with the host party shall be the responsibility of the public authority where the public servant is employed, after which a proposal shall be submitted to the Agency. To carry out a rotation as per part three of Article 28 of the Law On Public Service, consent of the public servant is not required. A public authority's decision on rotation of a public servant may be, however, appealed in the Agency. The grounds for terminating public service include the following:

- unsolicited resignation;
- dismissal on the initiative of a public authority's administration;
- circumstances not depending on the will of the parties.

Dismissal of a public authority on the initiative of the public authority's administration shall be exercised by the head of the public authority on consent of the state secretary after completing the required procedures in keeping with the Law On Public Service. If the state secretary does not agree with the dismissal of a public servant, the head of the public authority has a right to dismiss the public servant and the state secretary can appeal this decision at the Council. The decision of the Council shall be final.

The change of persons occupying political public service positions in the public authorities shall not serve as grounds for dismissal, demotion, rotation, and attestation of public servants occupying administrative public service positions.

A public servant can be dismissed from position on the initiative of a public authority in the following cases:

- reorganisation of the public authority;
- redundancy of the administrative public service position;
- election or appointment of the public servant to a position incompatible with public service;

- insufficient qualification of the public servant for the occupied position as confirmed by and attestation or exam results, as well as the failure to pass the trial period;
- gross violation of the labour discipline by the public servant:
  - truancy (absence for more than three hours from the work place without a valid reason during a working day);
  - theft (including minor) of property at the work place, losses, intentional destruction or damage of property;
  - showing up at work in a state of alcoholic, narcotic, or other form of intoxication;
  - disclosure of a state-protected secret (government, official or other) which has become known to a public servant in connection with discharging of his official duties;
  - multiple non-fulfilment or inadequate fulfilment by a public servant of his official functions, if disciplinary measures had earlier been imposed on him;
  - participation in activities of political parties, public associations, and religious organisations outside official activities, except cases directly stipulated by law or official instructions;
- entering into force of a guilty verdict with respect of the public servant;
- establishing a fact of non-observance of restrictions imposed by Articles 10 and 11 of the Law "On Public Service;"
- presentation of false documents or giving intentionally false information by a public servant;
- termination of access to state secret if the implemented job requires access to state secret;
- refusal to accept a rotation transfer;
- loss of citizenship of the Kyrgyz Republic;
- reaching retirement age;
- failure to file a declaration of property and income as stipulated by this law, or the intentional concealment of property and incomes from declaration or intentional presentation of false information.

The reorganisation or liquidation of a public authority body or changing the public authority's manning table at its own initiative, entailing a reduction of administrative positions, shall be enacted only on consent of the Agency.

Dismissal for grounds of reorganisation or liquidation of a public authority body or reduction of a public service position shall be permitted if it is impossible to transfer a public servant to another job on his consent.

Dismissal of a public servant on the initiative of a public authority (except dismissal on grounds of reorganisation or liquidation of the public authority or reduction of the public authority's personnel) in the period of his temporary inability or during his vacation shall not be admitted.

In the event of termination of the activity of a subordinate or other isolated structural unit of a public authority situated in another locality, dismissal of public servants of that structural unit shall be carried out according to the rules envisaged for cases of liquidation of the public authority.

Professional Training of Public Servants

In order to create an educational, organisational and methodological framework of public service, to provide public authorities with highly qualified personnel, the Management Academy was formed in 1997 under the aegis of President of the Kyrgyz Republic. It was assigned not only to educate public servants on the above framework, but also to training, retraining, and advanced training courses to public servants.

In 2004, a government decree approved the Programme of Training and Advanced Training of State and Municipal Servants in the Kyrgyz Republic for 2004–2005 in various sectors, and set up two training centres in the cities of Bishkek and Osh. In addition, there are a number of specialised centres for advanced training (at the Ministry of Finance, the Ministry of Economic Development of Industry and Trade, the Ministry of Labour and Social Protection, the Ministry of Education, the State Committee for State Property Management, and others).

In accordance with the Law On Public Service, the training of a public servant pursues the goals of raising his qualification, developing the potential of future public authority heads, conducts reforms with the introduction of new rules, procedures, and systems to improve the efficiency and effectiveness of the public service. At the end of training sessions, attestations are delivered.

Training is decided on the initiative of a public servant, the public authority head or state secretary. The subjects are chosen at the discretion of the public servant himself. A public servant who is on maternity leave has a priority to training.

The Agency, as a single customer, selects training programmes and educational institutions on a competitive basis. Budgetary financing is allocated for the training of public servants for an amount not less than 1% of the money allocated for the financing of public authorities. Training can also be paid for by other funds as long as this is not contrary to other legislation of the Kyrgyz Republic.

Public Service Codes of Conduct

Presidential Edict of the Kyrgyz Republic On Ethics of Public Servants No.11 of 9 January 2001 approved the provision on the fundamental ethics of public servants and formed an Ethics Commission under the aegis of the President of the Kyrgyz Republic. Proceeding from this document, public administration authorities have developed their own ethical norms for public servants and have formed internal commissions.

In addition, in keeping with Article 10 of the Law On Public Service, it is stipulated that the ethics of public servants is a series of norms that determine the rules of a public servant's conduct. The observance of ethical norms is the duty of each public servant.

A public servant should abide by the following main ethical principles:

- always act in such a way so as to develop, maintain, and strengthen citizens' faith in the honesty, impartiality, and effectiveness of public authorities and bodies of local self-government;
- be polite, reasonable, patient, principled, try to understand the fundamental problem, acquire listening skills and try to understand the citizen's point of view, as well as make measured decisions; he must fulfil his official duties at a high professional level, and improve his general educational and professional level;
- take measures envisaged by the Public Servant's Ethics Code when detecting violations by other public servants;
- not to force a subordinate officer to take unlawful decisions or carry out illegal actions;
- avoid a conflicts of interest;
- respect national customs and traditions;
- prevent illegal influence or interference by someone, including other officials, regardless of their post or position, on his (her) official duties.

Other principles and ethic norms of public servants shall be established by a special law.

The head of a public authority shall take all measures to prevent and terminate the violations of ethics by subordinate public servants.

The state secretary of a public authority shall be responsible for creating a good working atmosphere in the collective, excluding the violation of ethic norms by subordinate public servants.

Conflict of Interests and Declaration of Public Servants' Assets

Article 11 of the Law On the Fight against Corruption establishes measures aimed at preventing conflicts of interest and requires the declaration of public servants' assets. In particular, citizens who wish to join the public service shall present to the relevant authorities of the state tax service information on all income and property owned by them, including property claims.

Public servants, as well as citizens exercising their activity in municipal services, heads of institutions, organisations, and enterprises whose activity is financed from the state budget, or the authorised capital which has a state-owned share, opening personal accounts at banking or financial and crediting institutions of the Kyrgyz Republic or a foreign country shall notify the tax inspection office at their place of residence in writing within a three-day period of the numbers of their bank accounts and the details of the banking institution. The failure to present such notification entails responsibility in the manner prescribed by the legislation of the Kyrgyz Republic.

In addition, Article 9 of the Law On Public Service stipulates that a conflict of interest emerges in a situation where decisions of officials may be influenced by their personal interest in using the advantages of their official powers to promote personal interests. This leads to officials making decisions that do not necessarily coincide with the broader interests of the state.

A public servant who is aware about a conflict of interest shall take measures to prevent the emergence of a real or potential conflict of interest. If there is a conflict of interest, a public servant shall immediately report thereof to his direct superior who must take the following measures:

- temporarily suspend the public servant from duties (functions);
- intensify control over the fulfilment of duties by the public servant.

In addition, according to the Law On Public Service, public servants shall present a declaration of property and income (hereinafter the declaration) owned by them and the closest members of their families. The declaration should indicate the following properties located in the Kyrgyz Republic and abroad and belonging to public servants and the closest members of their families on the rights of ownership:

- immovable property – land plots, isolated water facilities and everything closely connected with land, *i.e.* objects the transfer of which is impossible without inflicting damage incompatible with their purpose, including forests, perennial plants, buildings, structures, etc.;
- movable property:
  a. vehicles;
  b. property with a cultural value and antiques recognised as such in the established manner;
  c. monetary assets (denominated in national and foreign currencies);
  d. securities;
  e. cattle and other animals.

A public servant filing a declaration shall indicate all incomes, and their source, actually received in the Kyrgyz Republic and abroad by him (her) and the closest members of his (her) family over a stipulated period .

The following shall be considered as income of a person filing a declaration (whether in the form of objects or monetary sums received in the national and foreign currency):

a. labour remuneration and other equivalent payments;

b. payments for copyright and compensation (author royalties) received for the use of literary works, artistic and scientific works or for the right of usage resulting from any copyright, for the use or right to use any know-how, trademark, device or reproduction, plan, secret formula or technological process, commercial or scientific equipment or for providing information of production, technical, organisational, commercial or scientific nature;

c. interests or other compensations accrued on loans;

d. dividends, interests;

e. income (gains) from casinos and gambling;

f. presents or monetary sums (prize money) received at competitions and contests, as well as lottery wins;

g. property (including monetary assets) received as prize or welfare;

h. property (including monetary assets) received as inheritance;

i. insurance indemnity, including insurance compensation paid by an organisation for a person presenting a declaration;

j. incomes gained from entrepreneurial activity;

k. remuneration and other incomes from civil legal transactions;

l. all forms of allowances, stipends, pensions, and lump sum payments;

m. incomes from any other sources, not stipulated above.

Data indicated in (e) – (h) and (k) shall be declared if their value exceeds 100 times the minimum salary as established by the legislation of the Kyrgyz Republic.

In accordance with the Law On Public Service, the closest family members of a public servant include his (her) spouse, parents, children, brothers and sisters, dependent on him (her). Those members dependent on a public servant shall be recognised as persons financially dependent on the public servant from the point of view of covering their expenses on housing, education, health care, and other necessary expenses. The fulfilment of the duty to file a declaration of property and income does not release the public servant or members of his family from the need to file declarations required by the tax legislation of the Kyrgyz Republic.

Declarations of persons occupying senior administrative public service positions, envisaged by the Register of Administrative Positions, are subject to publication in mass media in the manner prescribed by the legislation of the Kyrgyz Republic.

A public servant shall file a declaration:

- in the event of appointment to an administrative public service position within thirty days from the moment of assuming the position for the reporting period preceding the year of assuming the public service position and for the current year period;
- in the period of stay in the administrative public service position, including the time of transfer from one position to another, including the rotation procedures, annually until 1 March for the period from 1 January to 31 December inclusively;

- in case of termination of a civil service appointment within thirty days from the date of dismissal from position – for the period from 1 January of the current year until the first day of the month in which the public servant is dismissed from his position.

Declarations shall be presented at the place of enrolment or work in a public service position for further referral by the public authority to the Agency. The form of declarations, the procedure for their filling, presenting, registering, and keeping shall be determined by the Agency jointly with the tax service.

A public authority employing the public servant shall present a certified copy of declarations of property and incomes of public servants and their closest family members to the Agency before 1 June of the year following the reporting year.

The Agency examines the data presented in the declaration, information provided by public authorities concerning the incomes, liabilities and property of persons covered by this law, and when necessary verifies the data of the declaration in cooperation with the public servant filing the declaration.

The Agency ensures access to the data presented in the declaration of property and incomes of public servants for the public and authorised public agencies in the manner determined by the Agency. A public authority's refusal to provide the required information may be appealed in court or through administrative procedures.

The following information is not subject to disclosure except cases stipulated by legislation:

- address, telephone numbers and other personal information about a public servant presenting a declaration and closest members of his family;
- individual name and location of the property indicated in the declaration;
- the property and incomes of closest family members of a public servant.

A public authority shall guarantee the confidentiality of the information contained in the declaration which, according to part four of this article, shall not be provided and is not subject to disclosure. Information not subject to disclosure according to provisions of this law may be provided to third persons after receiving consent of the person presenting the declaration, certified by a

notary. The Agency head bears criminal responsibility for disclosure of confidential information.

In addition, in order to create a system of openness and transparency of the incomes of senior and other officials of public authorities, their accountability and responsibility to the people of Kyrgyzstan and in keeping with the Law On Declaration and Publication of Data on Incomes, Liabilities, and Property of Persons Occupying Political and Other Special Public Service Positions and their Next of Kin, the following officials shall declare and publish their incomes:

- The President of the Kyrgyz Republic, the State Secretary of the Kyrgyz Republic, the chief and deputy chiefs of the Presidential Administration of the Kyrgyz Republic, the Secretary of the Security Council of the Kyrgyz Republic, heads of structural units of the Presidential Administration of the Kyrgyz Republic, heads of public authorities appointed by the President of the Kyrgyz Republic;
- Prime Minister of the Kyrgyz Republic;
- Toraga, deputies of Toraga and deputies of the *Zhogorku Kenesh*;
- Chairman of the Constitutional Court of the Kyrgyz Republic, his deputies, and judges of the Constitutional Court of the Kyrgyz Republic;
- Chairman of the Supreme Court of the Kyrgyz Republic, his deputies ,and judges of the Supreme Court of the Kyrgyz Republic, as well as all judges of local courts;
- first vice-prime-minister and vice-prime-ministers of the Kyrgyz Republic;
- ministers and chairmen of state committees of the Kyrgyz Republic, heads of administrative agencies, state commissions and funds at the Government of the Kyrgyz Republic;
- Chairman of the Social Fund of the Kyrgyz Republic;
- Prosecutor General of the Kyrgyz Republic and his deputies, as well as public prosecutors of regions, the city of Bishkek, Osh, prosecutors of specialised prosecution offices, and district prosecution offices;
- Chairman of the Auditors Chamber of the Kyrgyz Republic;
- Chairman of the National Bank of the Kyrgyz Republic and his deputies;

- Chairman of the Central Commission for Elections and Referendums in the Kyrgyz Republic;
- Heads of the central and local bodies of customs and tax services;
- Heads of central and local bodies of financial police;
- Heads of regional, district public administration, and mayors of the cities of Bishkek and Osh.

This same law also covers other persons occupying political and special public service positions as stipulated in the Register of Public Service Positions, and in keeping with the Law On Public Service.

The aforementioned persons shall file declarations of property and incomes for themselves and their close relatives in the manner prescribed by the Law On Declaration and Publication of Data on Incomes, Liabilities, and Property of Persons Occupying Political and Other Special Public Service Positions and their Next of Kin. The following persons are regarded as close relatives of a declaration presenter:

- spouse and underage children;
- his (her) dependent persons, either fully or enjoying the right to allowance granting by the declaration presenter in keeping with the legislation of the Kyrgyz Republic;
- adult children, parents, brothers and sisters, with respect to whom the declaration presenters bears financial expenses to cover their spending on housing, education, health care, and other necessary expenses.

The fulfilment of the duty to file a declaration of property and income does not release from the need to file declarations required by the tax legislation of the Kyrgyz Republic. The declaration shall provide the data on property owned by the declaration presenter and their close relatives:

- immovable property;
- movable property – vehicles, monetary assets (denominated in national and foreign currencies), securities, their share in the capital of enterprises, jewellery made of precious and semiprecious metals, gems and stones, domestic cattle and other animals, except those of little value, financial and other property claims to individuals and legal entities, as well as property with a cultural value, antiques recognised as such in a legally established manner.

If an individual completing a declaration has financial liabilities to individuals and legal entities, the declaration shall also provide information thereof, including the amount of the liability.

In addition to the data listed above, the declaration shall also provide information on all income received by the individual completing the declaration and his next of kin during the reporting period, as well as their sources, on:

- labour remuneration and other similar payments;
- compensation received as a result of intellectual property usage;
- interests or other compensation accrued on deposits or loans;
- profits from entrepreneurial activity, including dividends; incomes from brokerage transactions, other incomes from civil legal transactions;
- awards received in competitions, contests, as well as lottery and gambling wins; monetary funds and/or other property received as prize, welfare or inheritance, if they exceed one hundred minimal salaries established by law;
- sums received on insurance contracts;
- all kinds of allowances, stipends, pensions, and lump sum payments;
- incomes from any other sources not stipulated above, if they exceed one hundred minimal salaries established by law.

If insurance compensations are paid in favour and with consent of the individual completing the declaration and his (her) close relatives by individuals and legal entities, the declaration shall also provide data thereof, including the size of the payments.

In accordance with Article 7 of the Law On the Fight against Corruption, all public authorities and public servants must engage in the fight against corruption within the limits of their competence. The heads of public authorities and institutions, within their competence, shall ensure the enforcement of requirements of the aforementioned law and application of measures stipulated by it. The heads of ministries, state committees, administrative agencies, bodies of local self-government and legal entities, regardless of their form of ownership, as well as citizens, shall render support and the necessary assistance to authorised bodies in the fight against corruption.

Detecting, preventing, and terminating corruptive offences and imposing responsibility on guilty persons is conducted by law-enforcement bodies within the frames of their competence. Article 12 of the Law of the Kyrgyz Republic On the Fight against Corruption stipulates that public servants are prohibited from:

- engaging in another paid activity except educational, scientific, or creative;
- personally engaging in entrepreneurial activity and use their official position to support individuals and legal entities in their entrepreneurial activity and receive any form of compensation for it;
- act as representatives of third parties in public authorities, in which they are employed or which is directly subordinate or controlled by them;
- use for purposes not related to their service the means of material, technical, financial and information support, corporate vehicles, other public property and official information;
- accept from individuals and legal entities remuneration in the form of presents, money and services for actions or inaction related to discharging their official functions;
- participating in strikes, manifestations, and in other way prevent the functioning of public authorities and fulfilment of official duties by public service officials;
- participating in the activity of political parties in connection with official activities;
- occupying an official position in which their services involves direct subordination or accountability to persons closely related to them (parents, spouse, brothers, sisters, and children).

A public servant who has a share in the authorised capital of commercial organisations or other property used for purposes of gaining profit shall transfer these shares and property into trust management within a month after assuming a public service position for the time of stay in public service, in the manner prescribed by law.

Public servants engaged in activities prohibited by this law and the law on public service bear responsibility and shall be dismissed from their position in the manner prescribed by the legislation of the Kyrgyz Republic.

In addition, similar restrictions are envisaged under Article 11 of the Law On Public Service, specifically, a public servant shall not:

- engage in other paid activity, except educational, scientific and creative, to the extent in which it does not interfere with discharging their main functional duties;
- personally engage in entrepreneurial activity and use their official position to support individuals and legal entities in their entrepreneurial activity and receive in exchange any direct or indirect benefits for the public servant or members of his family;
- act as representatives of third parties in public authorities, in which they are employed or which is directly subordinate or controlled by them;
- use public property, financial means, official information, other subordinate public servants for purposes not related to their official duties;
- act as representatives of third parties in public authorities, in which they are employed or which is directly subordinate or controlled by them;
- participate in the activity of political parties, public associations and religious organisations in connection with their official functions and during working hours; the subordination of public service activities to party programmes and decisions is prohibited;
- occupy public service positions involving direct subordination or accountability to their close relatives (parents, spouse, brothers, sisters, and children);
- assume unauthorised responsibilities and give unauthorised promises connected with their service;
- use their official position for solving issues directly connected with the personal interests of the public servants and members of their families, as well as their close relatives.

After termination of public service employment, a public servant shall not within one year of that termination:

- address their former place of service in the interests of third parties on matters within their competence;
- act on behalf of some individual or legal entity on matters which were within his (her) competence during his (her) period in public service,

which would provide this individual or legal entity with an additional advantage.

A person occupying an administrative or political public service position shall be prohibited from occupying the position of an enterprise head, regardless of its form of ownership, and participate in bodies of management of other entrepreneurial entities in which the state has over 30% share (stocks).

For the violation of the aforementioned restrictions as well as for offences described in paragraph (h), a public servant shall be subject to disciplinary measures stipulated in paragraphs (h) and (i) hereof.

Offences Creating Conditions for Corruption, Corruptive Offences, and Responsibility for them

The Law On the Fight against Corruption stipulates that offences creating conditions for corruption include the following actions or inactions of public servants:

- unlawful interference in the activity of other public authorities and legal entities;
- using official powers for solving the issues connected with their personal interests, the interests of their close relatives of in-laws;
- granting advantages not envisaged by law to a person during the enrolment and promotion in public service;
- granting unlawful preference to individuals and legal entities during the development and adoption of decisions;
- participation as an agent of individuals and legal entities in the affairs of public authorities, government enterprises and institutions in which they are employed, subordinate, controlled or accountable to them;
- using information not subject to official dissemination and obtained during the exercising of official duties for personal or group interests;
- unjustified refusal to grant information to individuals and legal entities, the provision of which is stipulated by laws and regulations, its untimely presentation or presentation of unreliable or incomplete information;
- demanding information from individuals or legal entities the provision of which is not envisaged by law;

- transfer of public or communal financial and other material resources to election funds of candidates and public organisations, as well as their illegal transfer to other individuals and legal entities;
- violation of a legally established procedure for considering the applications of individuals and legal entities and solving issues within their competence;
- offering gifts, providing material and other benefits, rendering unofficial services to higher ranking officials, except token signs of attention and token souvenirs during protocol and other official functions;
- creating obstacles to individuals and legal entities in exercising their rights and lawful interests;
- participation in gambling of a monetary and other property nature with superior or subordinate officials, or officers in any other way dependent on them;
- delegating the responsibilities of public regulation of entrepreneurial activity to individuals and legal entities exercising such activity, as well as control over it, unless stipulated otherwise by the legislation of the Kyrgyz Republic.

Committing any of the aforementioned offences entails disciplinary sanctions, including suspension from duties and subsequent discharge from public service, if the said offences do not contain elements of a criminally punishable deed.

According to the aforementioned law, the following deeds shall be recognised as corruption offences:

- acceptance of any remuneration in the form of money or services for performing official duties of a public servant in the interests of other physical or legal persons from organisations in which those persons do not discharge relevant functions or from individuals, unless stipulated otherwise by the legislation of the Kyrgyz Republic;
- acceptance of gifts in connection with fulfilment of their functional duties or acceptance of them from their subordinates, except token souvenirs in accordance with the generally accepted etiquette or during protocol or other official functions;
- accepting invitations to national and foreign tourist, medical and sanitary and other trips at the expense of foreign individual and legal

entities, individuals and legal entities of the Kyrgyz Republic, except trips:

- on the invitation of close relatives at their expense;
- on the invitation of other individuals, if relationships with them do not concern professional activity of the invitees;
- undertaken in accordance with international agreements of the Kyrgyz Republic or on a mutual basis on agreement between public authorities of the Kyrgyz Republic and foreign public authorities at the expense of the relevant public authorities and (or) international organisations;
- undertaken on consent of a superior official or collegial administrative body for participation in international scientific, sportive, creative, professional, humanitarian events exercised within the frameworks of statutory activity of public associations on the invitations and at the expense of partners;

- using transport and communication means, electronic computing devices, monetary means, immovable and other property provided for purposes of exercising their functional duties, in their personal, group, and other interests not connected with their service duties.

Committing any of the aforementioned corruption offences entails disciplinary sanctions, including suspension from duties subsequent discharge from service, if the said offences do not contain elements of a criminally punishable deed.

According to the law, monetary means received on the account of a corrupt offender, as well as the means accepted for the exercising of his (her) functional duties in the interests of other individuals and legal entities in the form of money and services, are subject to transfer in favour of the state budget within ten days after their detection, supplemented with explanations of the circumstances of receipt of these funds.

Gifts received without the knowledge of a public servant, as well as gifts accepted by him (her) in connection with fulfilment of official duties, or accepting them from subordinates, except token souvenirs in keeping with commonly accepted etiquette or during protocol and other official events, shall be handed over to a special public fund within a ten-day period, or a sum equal to the market value of the gifts shall be remitted within this period to the public fund.

Illegally accepted presents and monetary means shall be collected in favour of the state on a court order. The value of illegally received services shall be charged from the guilty party on a court decision and be transferred to the state budget.

System of Disciplinary Investigations

Issues of applying disciplinary measures and conducting official investigations are regulated by the Law On Public Service, as well as the Labour Code of the Kyrgyz Republic (according to Article 2 of the Law On Public Service, the Labour Code constitutes part of the legislation on public service). In keeping with this legislation, a public servant committing such violation may be brought to disciplinary, administrative, material, and criminal responsibility.

Disciplinary responsibility of a public servant is recognised as the application by the head of a public authority (employer) of disciplinary actions (punishment) to a public servant for a guilty, illegitimate, non-fulfilment or inadequate fulfilment of his (her) official duties (disciplinable offence).

Disciplinary action may be brought on a public servant by the head of a public authority only in the event of establishment or confirmation of the fact of a disciplinable offence. To establish or confirm the fact of disciplinable offence by a public servant, an official investigation can be conducted on the initiative of the head of a public authority, on proposal of the commission for ethics or the public servant himself. An official investigation can also be conducted on the basis of applications filed by citizens and legal entities, in case of publication of reports in the mass media on an official (disciplinable) offence committed by a public servant.

An official investigation shall be conducted by the public authority employing the public servant with the participation of representatives of the public authority's ethics commission according to the appeals procedure.

No official investigation shall be terminated or conducted in the following cases:

- a public servant's honest confession of his (her) guilt of the offence if the facts correspond to reality;
- expiration of the terms for imposing disciplinary liability;

- if the committed offence contains elements of a criminal offence or administrative misdemeanour, with referral of the materials to the relevant competent authority.

The following disciplinary penalties may be imposed on a public servant for non-fulfilment or inadequate fulfilment of his (her) official duties:

- reproof;
- reprimand;
- severe reprimand;
- notice of inconsistency with official position;
- downgrading or demotion;
- degrading;
- retention of salary bonuses for a certain period in the established manner;
- dismissal from position.

Disciplinary penalties shall be imposed immediately upon the detection of the offence, but not later than six months from the date of its detection. Only one disciplinary penalty can be imposed for violation of the labour discipline.

A decision taken on the results of an official investigation conducted with respect to a public servant may be appealed in the Agency, and in the event of disagreement with the Agency's decision, within one month from the date of the decision. A certified copy of a public authority's decision shall be issued to the public servant on the date of its adoption.

The procedure for consideration by the Agency of a public servant's complaint against a decision taken by a public authority shall be determined by the President of the Kyrgyz Republic.

The services of a lawyer employed by a public servant with respect to an official investigation shall be paid by the public servant. If a decision is passed that the public servant is innocent or the charges against him (her) are dropped, the public servant's expenses on hiring a lawyer shall be compensated by the public authority initiating and conducting the official investigation.

The services of experts involved in an official investigation shall be paid for by the public authority conducting such an investigation.

Material responsibility for inflicted damage shall be imposed on a public servant for his (her) guilty illegal conduct (actions or inactions).

The damage inflicted on third parties as a result of illegal actions (inactions) of public servants in the process of discharging their official functions, shall be compensated by the public authority employing those public servants.

The public authority shall compensate the inflicted damage at the expense of funds allocated for the financing of this public authority by stipulating a relevant item in the budget.

A public authority which has compensated the damage shall enjoy the right of reverse claim (recourse) to the public servant who is personally responsible for committing those illegal actions.

Damage shall be compensated by a public servant regardless of the imposition on him (her) of disciplinary, administrative or criminal responsibility for actions (inactions) inflicting damage on a public authority.

A public servant shall be temporarily suspended from official duties in the following cases:

- issuance of a decision by the investigatory bodies of the Kyrgyz Republic, in accordance with the legislation, on suspension from duty until a final decision is passed on the case;
- conducting an official investigation (except cases of appointment of the investigation on demand of the public servant himself) for the entire period of the investigation.

If a public servant is temporarily suspended from duties in accordance with Article 42 (part 1, paragraph 2) of the Law On Public Service, the public servant shall retain his (her) salary. In all other cases, the salary shall not be retained. The compensation of damage inflicted by illegal imposition of criminal responsibility on a public servant shall be exercised in accordance with law.

All legal disputes connected with public service shall be considered by the Agency as well as the courts in accordance with the Law On Public Service and the labour legislation of the Kyrgyz Republic.

Requirements of Reporting Information on Improper Conduct, Violations, and Corruption

As already mentioned in paragraph (g) above, all public authorities and public servants shall engage in the fight against corruption within their competence. The heads of public authorities and institutions shall, within the framework of their competence, ensure the observance of the Law On the Fight against Corruption and the application of measures stipulated therein. The heads of ministries, state committees, administrative agencies, bodies of local self-government, and legal entities, regardless of their form of ownership, as well as individual citizens, shall render support and the necessary assistance to authorised bodies in the fight against corruption.

Also, according to the point 9 of Article 7 of the Law On Civil Service it is the duty of the civil servant to immediately inform the management and relevant public bodies about acts of violation of the legislation of the Kyrgyz Republic which have become known to him.

Detection, prevention, and termination of corruption offences and imposing liability on guilty parties shall be exercised by law-enforcement bodies within their competence. For example, officers of law-enforcement bodies, in keeping with the laws On the Public Prosecutor's Office, On Interior Bodies, On the National Security Bodies, etc., shall detect, prevent, terminate, and expose crimes. An officer of another law-enforcement body shall bear disciplinary liability for the violation of his statutory responsibilities.

In addition, in accordance with legislation, mass media shall develop a civil position aimed at preventing corruption, and create an atmosphere of moral purity and legal culture within the systems of public and municipal services. Public authorities shall inform the public via mass media on detected acts of corruption. This information shall be published in the same mass media in which it was initially been published. The information presented to the mass media shall confirm or refute the fact of corruption.

As for the system of protection of persons "voluntarily informing of offences,"" including via mass media, it should be noted that according to Article 9 of the Law On the Fight against Corruption, a person reporting an act of corruption or rendering another form of support in the fight against corruption shall be guaranteed protection by the state.

Information about a person assisting the fight against corruption constitutes a state secret and shall be provided only on written requests of public authorities

authorised to fight corruption, or the court in the manner prescribed by the legislation of the Kyrgyz Republic.

A person intentionally reporting false information on manifestations of corruption shall bear responsibility in the manner prescribed by the legislation of the Kyrgyz Republic.

In addition, the law on criminal procedure (Article 12 of the Code of Criminal Procedure) stipulates that with sufficient evidence of the fact that a victim, witness or other participant in the case, as well as members of their families or next of kin, are threatened with violence, property destruction or damage, or other dangerous illegal actions, the court, the public prosecutor, the investigator or the body of inquiry shall, within the frames of their competence, take legally prescribed actions to protect the life, health, honour, dignity, and property of those persons.

Government Procurement

In 2002, the World Bank conducted a survey of government procurements in the Kyrgyz Republic. Recommendations were made to introduce amendments and additions to the Law of the Kyrgyz Republic On Government Procurement of Goods, Jobs, and Services. On the recommendation of the World Bank, the World Trade Organisation, and the European Union, a new draft law On Government Procurements was elaborated in 2003 and signed by the President of the Kyrgyz Republic on 24 May 2004.

The principal methods of government procurement are listed in Article 17 of the Law of the Kyrgyz Republic On Government Procurements. Government procurements are exercised using the following methods:

- unrestricted tendering;
- restricted tendering;
- two-tier tendering;
- request for quotations;
- procurement from a single source.

The Decree No. 130 of 5 March 2004 On Introduction of Amendments to Decree of the Government of the Kyrgyz Republic No.327 of 9 July 2001 'On Approval of Marginal Sums for Government Procurements' approves the following marginal sums allocated for:

- procurement of goods and services: minimum margin – 70 000 KGS, maximum margin – 700 000 KGS;
- procurement of services: minimum margin: 100 000 KGS; maximum margin – 700 000 KGS.

In the event of procurement for a sum equal or exceeding the maximum margin, the tender announcement is to be published in the mass media and the *Government Procurement Bulletin*. Announcements of international tenders are published in the international magazine *Development Business*, popular technical magazines, newspapers and/or broadly circulated international trade editions.

In the event of procurement for a sum below the maximum margin, the tendering announcement is to be placed in the *Government Procurement Bulletin.* No announcement is to be published for procurements below the minimum margin.

The Government Commission for Procurements issues a weekly *Government Procurement Bulletin*. This bulletin publishes information on upcoming tenders, tenders already held, and makes a detailed analysis of government procurements and average tender prices of goods, jobs, and services, and comments by experts on government procurements.

A total of 760 announcements were published in 2003. In addition, announcements are placed on the Government Commission's website (www.goszakupki.gov.kg).

The procedure for appealing the results of the tenders is the following: tender participants may file a complaint before the tendering commission makes a final decision on the choice made to the purchasing organisation or an authorised procurement body.

Disputes between the suppliers (contractors) and the purchasing organisation arising in the process of procurement, as well as decisions of the purchasing organisation and the government authority, adopted in accordance with the Law On Government Procurements, shall be settled in court in the manner prescribed by legislation.

To ensure effective use of government budgetary funds, foreign credits and grants in the course of government procurements of goods, services, and jobs for governmental purposes, Presidential Edict of the Kyrgyz Republic No.31 of 29 January 1997 created the Government Procurement Agency and assigned it

the duty to conduct government policy in the sphere of procurement of goods, jobs and services at government expense.

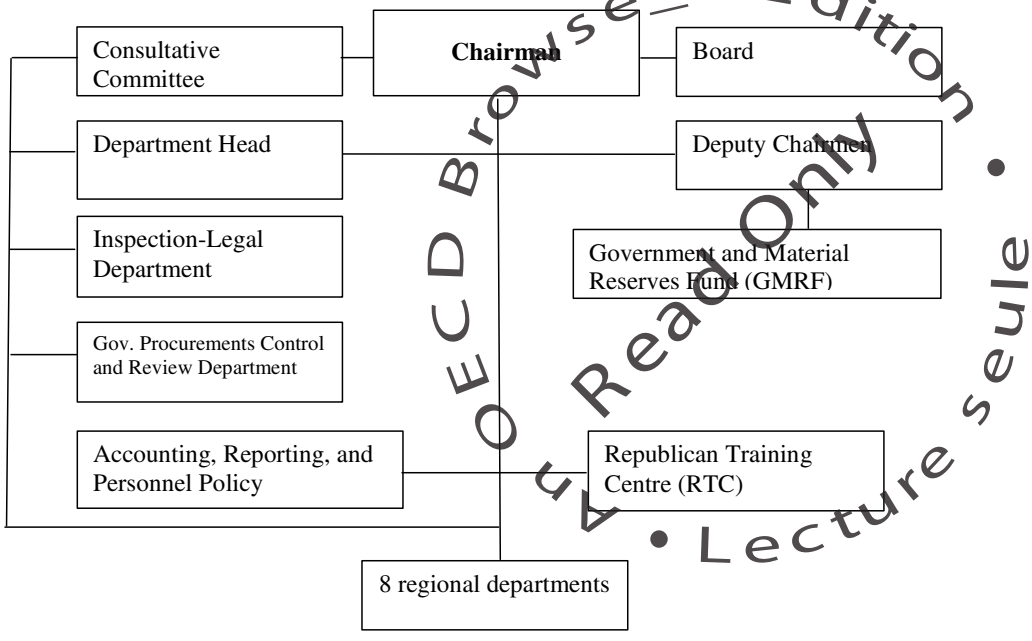
In 2001, the Government Procurement Agency was transformed into the State Commission for Government Procurements and Material Reserves of the Government of the Kyrgyz Republic (hereinafter the Commission for Procurements). The main goals and objectives of the Commission for Procurements include:

- development of a regulatory and legal framework for the functioning of the government procurement system, including the rules and procedures of procurement, conclusion of contracts, and settlements thereon;
- coordination and regulation of the activity of public authorities on procurement of goods, jobs, services and consultative services at government expense;
- control over the observance of the laws of the Kyrgyz Republic on government procurements by public authorities;
- assistance to public authorities in procurement of goods, jobs, services and consultative services, including the training of personnel in procurement procedures and rendering consultative support;
- ensuring transparency and openness of procurement procedures;
- consideration of complaints and protests, issuance of opinions on them, as prescribed by the laws on government procurements, within the limits of its competence.

Acts of the State Commission for Procurements issued within its competence are binding on all ministries, administrative agencies, bodies of local self-government, government organisations and institutions of the Kyrgyz Republic.

Structure of the State Commission for Government Procurements and Material Reserves

The State Commission for Procurements has regional departments in all regional centres and the city of Bishkek, and a Regional Training Centre. Regional departments are structural units subordinate to the State Commission for Procurements. The functions and authorities of regional departments are determined by the Provision on Regional Departments.



According to Article 413 of the Code of Administrative Responsibility, violations in the sphere of government procurements entail an administrative penalty against officials in the amount of up to twenty times the minimum salary, and non-fulfilment of decisions of the State Commission for Procurements by institutions, enterprises and organisations also entails administrative penalty against officials in the amount up to twenty times the minimum salary. If government procurements are carried out without holding a tender, with overrun or misuse of government funds, the strictest measures of responsibility shall be applied, and in case of detection of evidence of embezzlement of government funds or inflicting material damage, the materials shall be referred to bodies of inquiry.

The State Commission for Procurements monitors the observance of the legislation on government procurement of goods, jobs and services, and considers cases of administrative offences, as stipulated in Article 413 of the Code of Administrative Offences. The Chairman of the State Commission for Procurements is authorised to consider cases of administrative offences and impose administrative penalties.

The purchasing organisation assigns the responsibility for procurements to one of its departments and sets up an individual tendering commission for each tender.

In keeping with Article 2 of the Law On Government Procurements, this law is applicable to procurements of goods, jobs, services and consultative services exercised fully or partially at government expense.

In accordance with Article 1 of the Law On Government Procurements, government funds include financing sources provided by:

- government budgetary means or budgetary means of bodies of local self-governments aimed at the fulfilment of their activities and capital investments;
- means identified by the law on the budget as "extra-budgetary assets," means of joint stock companies where the share of the state is not less than 51%, means of funds created at the expense of the government, and means of state enterprises;
- means provided as foreign assistance on the basis of international agreements, if those agreements do not stipulate other forms of utilisation of those assets;
- guaranteed and secured credit resources.

The Law On Government Procurements (Article 2, paragraph 2) stipulates that this law shall not regulate procurements directly connected with state security, national defence, protection of state secret, and eliminating the aftermaths of natural disasters, the order of organisation of which shall be determined by the Government of the Kyrgyz Republic.

In pursuance of Government Decree No.71 of 10 February 2004 On Creation of a Centralised Tendering Commission, working bodies of the centralised tendering commission have been created:

- for procurement of foodstuffs and consumer goods;
- for procurement of solid fuel;
- for procurement of medicines (pharmaceuticals) and medical equipment.

As for the other types of products not included in the aforementioned list and purchased by centralised tendering commissions, the purchasing organisations conduct tenders on their own, in accordance with the Law On Government Procurements.

Financial Control and State Audit

State financial control is exercised by the Auditors Chamber of the Kyrgyz Republic, the independent supreme body of state audit, by the internal audit department of the Finance Ministry Treasury, whose main functions include the organisation and exercising of internal audit in regional and district treasury departments on accounts of the republican and local budgets via the financial reporting system, control over the execution of the republican budget by the regional treasury department to verify compliance with regulatory documents, and by internal audit services of the Social Fund and the Ministry of Labour and Social Protection.

The appointment procedure of the auditors of the Auditors Chamber is determined by the Constitution, in accordance with which the chairman of the Auditors Chamber and its 14 auditors are elected by the *Zhogorku Kenesh* and the President of the Kyrgyz Republic.

In accordance with Article 46 (subparagraph 6 of paragraph 6) of the Constitution of the Kyrgyz Republic, the President of the Kyrgyz Republic appoints the chairman of the Auditors Chamber of the Kyrgyz Republic, with the consent of the *Zhogorku Kenesh* , appoints half of the auditors of the Auditors Chamber of the Kyrgyz Republic, and dismisses them from their position.

In accordance with Article 58 of the Constitution, the authority of *Zhogorku Kenesh* includes the issuance of consent for the appointment of chairman of the Auditors Chamber of the Kyrgyz Republic, the appointment of half of the auditors of the Auditors Chamber of the Kyrgyz Republic (subparagraphs 18 and 19 of paragraph 1).

The Auditors Chamber is a collegial body, the decisions of the Board of the Auditors Chamber are passed by a majority vote, it has a staff servicing the auditors and a chairman. There are three territorial inspections in the structure of the staff.

The monitoring of financial and business activity is conducted in the form of financial controls and audits, compliance controls and audits, and the practice of efficiency controls and audits has been launched recently, and conforms to world practice on the operation of supreme financial control bodies. Ninety percent of control measures are planned, and in 10% of cases are initiated on the instructions of the *Zhogorku Kenesh*, the President of the Kyrgyz Republic, and law-enforcement bodies. Based on the results of the control measures, the Auditors Chamber adopts resolutions and issues proposals and instructions to

the audited entity, the superior organisation, and when necessary to the President and the *Zhogorku Kenesh* for information and adoption of measures to eliminate the violations.

The activity of the Auditors Chamber is regulated by the Law On the Auditors Chamber of the Kyrgyz Republic and bylaws of the Chamber in the form of statutes, instructions and provisions. According to this law, the main objective of the activities of the Auditors Chamber is to carry out audits and effectiveness audits, which mean the assessment of the execution of the republican and local budgets, extra-budgetary and special means, the use of state and municipal property, ensuring the implementation of standards, elaboration of methodologies on international accounting standards and promotion of reforms in the field of financial management in public and municipal enterprises and institutions.

Besides, the mandate of the Auditors Chamber covers enterprises and institutions with private and other forms of property, with a large share of state or municipal participation, of 51% and above. On the request of the *Zhogorku Kenesh* of the President of the Kyrgyz Republic, the Auditors Chamber can carry out effectiveness audit of enterprises and institutions with the public share of 33% and above.

A report on the execution of the state budget is submitted to the legislative and executive authorities (the *Zhogorku Kenesh* of the Kyrgyz Republic, the Government of the Kyrgyz Republic, the National Bank, the National Committee for Statistics, the National Security Service) on a monthly basis.

The National Committee for Statistics issues monthly statistics on the state budget in the magazine *Socioeconomic Position of the Kyrgyz Republic*.

The Finance Ministry publishes a detailed review of the state budget execution in the quarterly magazine *Financial-Economic Bulletin*. Parliamentary public hearings, round tables, seminars for mass media on state budget issues are held on a regular basis.

Information on budgetary execution (analytical abstract, tables) is placed in the website of the Finance Ministry (http://www.minfin.kg) on a monthly basis. The annual report on the execution of the budget is subject to audit by the Auditors Chamber of the Kyrgyz Republic. The report of the Auditors Chamber on audit results is placed on the website of the Government of (http://www.gov.kg).

According to the Provision on the Committee for Incomes at the Finance Ministry of the Kyrgyz Republic (approved by Government Decree No 729 of 30 October 2003), the functions of the Committee include:

- considering, in the duly established order, applications, proposals and complaints filed by legal and physical persons on problems of taxation, customs duties, tariffs, and other obligatory payments, and against illegal actions of officials from bodies of the Committee for Incomes;
- conducting the fight against contraband, preventing illegal transfer of products across the customs border of the Kyrgyz Republic, supporting the protection of state and economic security of the Kyrgyz Republic within its competence;
- imposing disciplinary liability on officials of the Committee for Incomes for violations and flaws in their activities in accordance with the legislation of the Kyrgyz Republic, if those violations do not envisage criminal responsibility;
- exercising control over the observance of the law by officials of bodies of the Committee for Incomes (tax and customs authorities) in exercising their functions, conducting prophylactic work on preventing and terminating violations of the law and other requirements by officials of bodies of the Committee for Incomes.

To detect and investigate facts of corruptive activities and prevent official violations, a Department for Personnel and Ethics has been set up at the Committee for Incomes, subordinate directly to the Committee chairman and assigned with the following functions:

- organisation and implementation of measures, jointly with the Incomes Committee bodies, aimed at the elimination of reasons and conditions leading to official offences;
- preventing and terminating abuse by officials, preventing the coalescence of criminal elements with the Incomes Committee staff, conducting documental audits of custom papers on instruction of superiors, in order to verify the correctness of establishment of the customs price, charging customs fees and duties;
- preventing official crimes in customs and tax bodies, identifying and eliminating the reasons and conditions leading to such crimes;

- detecting and preventing the penetration of persons formerly brought to criminal responsibility, connected with criminal elements, or nurturing criminal intentions, among the personnel of the Incomes Committee at the Finance Ministry;
- detecting and terminating possible facts of corruption, official and criminal offences by officers of the customs and tax authorities, etc.

In pursuance of the decision of the Security Council On Measures to Intensify the Fight against Corruption in the Kyrgyz Republic of 31 March 2003, a plan of organisational and practical measures has been elaborated for fighting corruption in structural units of the Committee for Incomes at the Finance Ministry.

In order to prevent and terminate acts of corruption and ensure the observance of ethical norms among officials of the Committee for Incomes, permanent monitoring is conducted on the fulfilment of official duties in strict compliance with requirements of the customs and tax legislation, and on-site inspections are carried out in structural units.

To ensure timely reaction to complaints and applications of citizens against unlawful actions of officials of the Committee for Incomes, as well as acts of corruption among the latter, "hotlines" have been introduced in the Personnel and Ethics Department and other structural units of the Committee. These and other measures are being conveyed to the public through the mass media and by information stands located at customs stations.

Official investigations are conducted on all complaints and applications filed by individuals and legal entities against illegal actions by the Committee personnel, as well as on acts of detected violations of customs and tax legislation. A conclusion is issued upon the results of each official investigation and disciplinary measures, which includes dismissal, are imposed on the guilty parties. If the actions of officials of the Committee for Incomes contain elements of criminally punishable deeds, this is referred for consideration to the bodies of inquiry.

It is also necessary to note internal corruption within a tax or customs administration is prevented by the rotation of the staff of the Committee for Incomes and its structural subdivisions. Specifically, such measure is envisaged by paragraph 7 of Article 17 of the Law "On Service in the Customs Bodies of the Kyrgyz Republic," according to which employees can be transferred from one position to another for reasons of official necessity (rotation to an equivalent position), on personal request, or due to other circumstances. This is

an efficient method of preventing corruption and constitutes a mechanism of internal control by the employer over the actions of employees.

The personnel rotation procedure within the tax system is exercised in coordination with the administration superior to the state tax inspection, in this case with the leadership of the Committee for Incomes, which considers the incoming documents, thoroughly examines the grounds and need for rotation of officials within one tax inspection of the transfer of employees between several tax inspections.

To ensure effective resistance against smuggling and corruption, the Incomes Committee cooperates with relevant services of other countries on the basis of multilateral and bilateral agreements, such as the Protocol on Cooperation between Customs Services of the Customs Union Member States in the Sphere of Ensuring Internal Security" of 8 December 1998. In addition, the 37th session of the Council of Heads of Customs Services in July 2003 approved the Draft Agreement on Information Interaction between the Council of Heads of Customs Services of CIS member states and the Council of Heads of the Security Bodies and Special Services of CIS member states.

The Committee for Incomes has concluded an agreement with the internal security service of the Customs Department for the Zhambyl region and the Kordai customs office of the Republic of Kazakhstan and has drawn up a join working plan on detecting and terminating acts of corruption on the part of officials of the customs bodies.

In addition, joint working meetings are held to exchange operative information on offences committed by officials of the customs bodies of the Republic of Kazakhstan and the Kyrgyz Republic and to discuss problems of cooperation in detecting and eliminating the conditions for crime.

The tax legislation of the Kyrgyz Republic does not envisage deduction of expenses for bribes on sums taxed.

Money Laundering

Considering that the struggle against the laundering of criminal proceeds is one of the components in the fight against corruption, in pursuance of 40 Financial Action Task Force on Money Laundering (FATF) recommendations, the working group set up by the Government has completed the Draft Law ”On the Fight against the Financing of Terrorism and the Laundering of Crime Proceeds” and submitted it to the *Zhogorku Kenesh* for consideration in March 2004.

The main objective of the draft law is to create a legal framework for preventing, detecting, and investigating the activity connected with the financing of terrorism and the laundering of crime proceeds, creating conditions for the formation and operation of a state body authorised to conduct an analysis and to convey information with respect to suspicious transactions and transactions subject to obligatory control in accordance with this law, and to demand from persons providing the information to take measures aimed at the fight against the financing of terrorism and the laundering of crime proceeds as stipulated by this law and other laws and regulations, to the extent that they do not contradict this law.

A Eurasian group of the FATF has been created and the Kyrgyz Republic is a member of this group. The main objective is to provide assistance to the countries which do not have relevant bodies to establishing mechanisms in the fight against illicit incomes and terrorist financing, as implementation of the measures required by the FATF recommendations. On 5-6 October 2004 in Moscow, the statutory documents were signed on behalf of the Eurasian Group for the fight against money laundering and terrorist financing (EAG) in order to obtain the status of EAG as a regional group of the FATF.

In accordance with the Cooperation Agreement between interior ministries of the Azerbaijani Republic, the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan, Ukraine, signed on 17 February 1994, the parties have agreed to cooperate in the form of exchanges of operative, investigatory, reference, criminal, and other information of mutual interest which specifically concern criminal activities by organised groups, including the laundering of crime proceeds, and the most effective ways to oppose such organised crime.

At the international level, the Kyrgyz Republic ratified the UN Convention against Transnational Organised Crime of 15 November 2000 (the Law of the Kyrgyz Republic of 15 April 2003). This Convention contains provisions on criminalisation of the laundering of crime proceeds (Article 6) and measures to fight the laundering of crime proceeds (Article 7). Under this Convention, Kyrgyzstan assumed the obligation to take legislative and other measures, in keeping with the fundamental principles of its domestic laws, necessary to recognise as criminally punishable the following deeds:

- conversion or transfer of property, if such property is known to represent crime proceeds, for purposes of concealment or withholding of the criminal source of this property or for purposes of assisting any

person involved in the main offence, to enable the latter to evade responsibility for his actions;

- concealment or withholding of the true nature, source, location, means of disposal, transportation, title to property or its affiliation, if such property is known to represent crime proceeds;

On conditions of observance of the main principles of its legal system:

- the acquisition, ownership or usage of property, if at the moment of its receipt this property is known to represent crime proceeds;
- participation, involvement or connivance for purposes of committing any of the crimes recognised as such under this article, attempt at committing it, as well as complicity, abetting, assisting or counselling the offenders during the committing of the crime.

In addition, the Kyrgyz Republic pledges:

- to institute a comprehensive internal regime of regulation and control over banks and non-banking financial institutions, and, when appropriate, other agencies which are particularly vulnerable from the point of view of laundering crime proceeds, within their competence for purposes of preventing and detecting all forms of money laundering; moreover, such a regime is based on the requirements of identifying the client, record-keeping and providing information on suspicious transactions;
- ensure the possibility of administrative, regulatory, law-enforcement, and other authorities engaged in the struggle against money laundering (including judicial authorities, when it agrees with the domestic law) to cooperate and exchange information on a national and international level on terms established by its domestic law, and for these purposes considers the issue of establishing a department for financial operative information to function as a national centre for gathering, analysing and disseminating information concerning the possible cases of money laundering.

For purposes of fighting money laundering, Kyrgyzstan and other participating countries shall strive to develop and encourage global, regional, subregional, and bilateral cooperation between judicial and law-enforcement bodies, as well as financial regulatory authorities.

The Kyrgyz Republic actively cooperates with other countries in the struggle against money laundering. Specifically, on 2 February 1998, the

Government concluded an agreement with the Government of the Federal Republic of Germany on cooperation in the fight against organised crime, terrorism, and other offences posing an increased danger. In keeping with the said Agreement (Article 2), money laundering is included in the sphere of cooperation between the two countries.

Since 12 April 1996, the Kyrgyz Republic has been a participant in the CIS Agreement on Cooperation in the Fight against Crimes in the Economic Sphere, which coordinates strategy and strengthens interaction between law-enforcement and controlling authorities to fight crime in the economic sphere, in the banking, financial and credit systems, in foreign economic activities, and in the laundering (legalising) of crime proceeds. The parties cooperate on the basis of the provisions of the Agreement in observing the laws and international obligations of each country.

In addition, the National Bank of the Kyrgyz Republic (NBKR) has adopted the following laws and regulations in this sphere:

- Decision of the NBKR Board "On Some Restrictions in the Activity of Banks in the Kyrgyz Republic" No.24/10 of 2 December 1997.
- Decision of the NBKR Board "On the Opening of Correspondence Accounts in Banks Incorporated in Offshore Zones, their Subsidiary Banks and Isolated Branches, which are not Independent Legal Entities" No.15/6 of 19 April 2000.
- Decision of the NBKR Board "Provision on Classification of Assets and Relevant Provisions for Reserve for Potential Losses"" No.20/2 of 26 April 2002.
- Decision of the NBKR Board "On Introduction of Requirements of Identifying the Entities and List of Offshore Zones" No.13/2 of 16 April 2003.
- "NBKR Recommendations on Detecting Suspicious Transactions and Indications of Unusual Transactions" No.121-3/880 of 28 February 2003.

These documents are aimed at ensuring guaranteed rights and lawful interests of citizens, civil society institutions and the state in adopting measures against money laundering. Presumably, they will regulate relations between persons participating in monetary and material transactions, and public authorities and officials exercising control over them for the purpose of detecting and preventing offences connected with the receipt of crime proceeds originating from money laundering.

The National Bank of the Kyrgyz Republic does not have special structural units to fight money laundering, in keeping with national law. The main objectives of the National Bank consist in maintaining the solvency of the national currency, ensuring the efficiency, security, and reliability of the republican banking and payment systems.

Corporate Accounting and Auditing Convention

In accordance with the provision On the State Commission for Financial Reporting and Auditing Standards at the Government of the Kyrgyz Republic (the State Commission), approved by Government Decree No.316 of 29 April 2004, the State Commission shall pursue a single state policy for reforming the accounting, financial reporting and audit systems.

The Law On Accounting establishes the legal and methodological framework for the organisation and keeping of accounts and determines the procedures for government regulations for accounting and financial reporting. The law stipulates that "the single methodological basis of accounting and financial reporting applicable on the territory of the Kyrgyz Republic by all entities, regardless of their form of property (except budgetary institutions and individual entrepreneurs), is the International Financial Reporting Standards (IFRS) developed by the IFRS Committee (London)," accepted by Government Decree No.593 of 28 September 2001 as financial reporting standard.

According to the Law On Accounting, the head of an entity shall be responsible for the organisation of accounting in the entity, observance of the law in the course of business transactions, and ensuring obligatory audit in cases stipulated by law. The entity management is also responsible for the preparation and presentation of financial reporting of the enterprise, documenting business transactions and providing the necessary data. Articles of the law dealing with initial documentation recording all business transactions provide important regulations for the organisation of reliable accounting and for subsequent verification of accounts and accounting registers designed for systemizing and accumulating accounting information for further financial reporting. Up-to-date methods for registering initial accounting documents, their inclusion within established timeframes in the accounting system and the reliability of their data are ensured by the persons compiling and signing those documents. The persons maintaining the book ledgers are responsible for the accuracy of the data reflected.

The Law On Accounting sets the main requirements for financial reporting, the procedures and terms of its presentation, the rules for drawing up

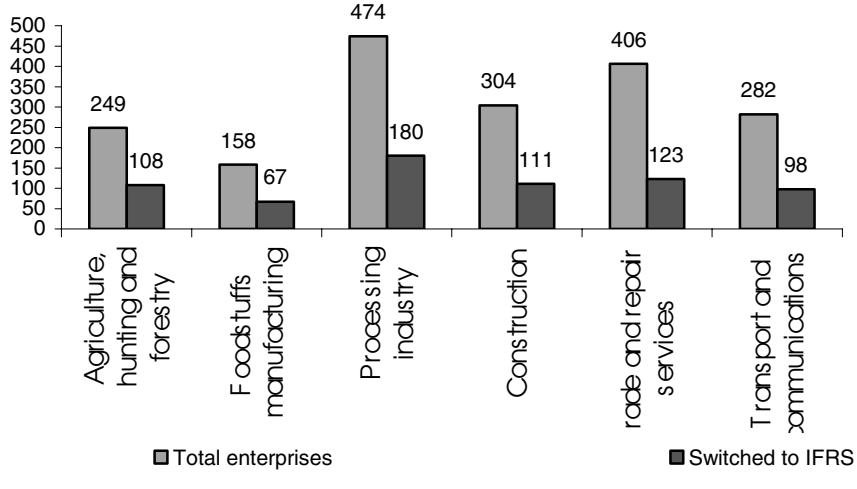
consolidated financial reporting, the order for keeping accounting documents and publishing financial reports, the latter which includes an audit summary.

The State Commission has elaborated and approved instructions on the presentation of annual financial reports in accordance with IFRS. Financial reports include:

- a balance sheet;
- a report on results of financial and business activity;
- a cash flow report;
- a capital flow report; and
- an explanatory note of the financial report as a whole.

In case of failure to keep accounts and draw up financial reports in accordance with the Law On Accounting, or distortion of financial information, non-observance of the timeframes for its presentation and publication, the management of the entities shall be subjected to liability as per the legislation of the Kyrgyz Republic (Article 187, Article 216 of the Criminal Code of the Kyrgyz Republic and the Code of Administrative Offence of the Kyrgyz Republic).

Number of Enterprises in the Real Economic Sector that have switched to IFRS



To ensure an organised transfer to IFRS, the Government has adopted Decree No.236 On Ensuring the Implementation of the Edict of the President of the Kyrgyz Republic 'On Measures to Reform the Accounting and Financial Reporting System' of 22 April 2003 concerning the acceleration of acceptance of financial reporting by the tax and statistics authorities and the State Commission for the Securities Market in strict compliance with IFRS. According to the data of the National Committee for Statistics, of 2 122 large and medium-scale enterprises of the real economic sector, 741 have transferred to the IFRS during 2002.

Relations emerging in the process of exercising audit activity in the Kyrgyz Republic are regulated by the Law On Audit. The Decree On International Standards of Audit in the Kyrgyz Republic No.235 of 22 April 2003 approved the International Standards of Auditing of 2001 (ISA) as the auditing standard for the Kyrgyz Republic. In pursuance of this decree, the State Commission has developed measures to ensure the quality of auditors' performance and its conformity with the International Standards of Auditing (ISA), approved by decision of the State Commission Board No.23 of 30 December 2003. These include the following measures:

- review information on audit organisations or individual auditors (financial status, personnel number, technological equipment);
- reviewing clients' claims to audit organisations or individual auditors;
- organising a competition between audit organisations for purposes of developing methodologies on the rules and procedures of general internal quality control of audit organisation;
- ensure the observance of the law of the Kyrgyz Republic on audit by audit organisations or individual auditors;
- supporting audit organisations and individual auditors in applying the International Standards of Auditing (ISA)by organising training seminars and conferences;

The work conducted by the State Commission on reforming the accounting system seeks to create investment incentives, to improve the role of financial reporting of economic entities, to enable transparent, comprehensive financial reporting for investors, and thereby providing additional conditions in the fight against corruption.

Accountants, auditors, and representatives of consultancies do not have to inform law-enforcement bodies of their doubts and suspicions concerning the violations detected by them.

Information Access

Citizens' right to demand and receive information is guaranteed by the Constitution and other law of the Kyrgyz Republic. For example, the Law On Guarantees and Freedom of Information Access of 5 December 1997 (with amendments of 18 October 2002) introduces the principles of freedom of information, public accessibility, openness and reliability of information, duty of the state to provide information on request (except information not subject to public disclosure), and citizens' right to appeal the refusal to provide the necessary information in court.

It should be noted that the order of addressing and receiving information, as well as appealing the refusal to provide information, are at present regulated, in addition to the aforementioned law, by the Law On Administrative Procedures.

It is noteworthy that matters of citizens' appeals to state and municipal authorities, and receiving their responses, are also regulated by the Law On the Order of Considering Citizens' Proposals, Applications, and Complaints. In accordance with Articles 1, 2, 9, and 11, all government authorities must guarantee citizens' rights based on the Constitution and laws of the Kyrgyz Republic to submit written and verbal proposals to state, public, and other authorities, enterprises, organisations and institutions concerning the improvement of their activity, file applications, and appeal against the actions of their officials.

State, public, and other authorities, enterprises, organisations and institutions, their management and other officials shall accept such appeals, within their competence, and review in the established manner within the prescribed timeframes the proposals, applications and complaints filed by citizens, issue responses, and adopt the necessary measures.

To ensure timely consideration of citizens' proposals and complaints:

- proposals and complaints shall be filed by citizens to the authorities, enterprises, institutions, organisations or officials whose direct responsibility includes the solution of the issue;
- complaints shall be filed to bodies or officials directly superior to the state, public or other state, public, and other authority enterprises, organisation, institution or officials, whose actions have caused the complaint.

Applications and complaints shall be settled within a period of one month from the date of their filing with the state, public or other authority, enterprise, organisation and institution reviewing the merits of the case and if not requiring additional review and inspection, within a period not exceeding 15 days.

The violation of the established order for considering citizens' proposals, applications and complaints, as well as pursuing citizens in connection with the filing of proposals, applications and complaints entail the responsibility of the guilty parties under the legislation of the Kyrgyz Republic.

The filing of an application or complaint for purposes of slander entails responsibility in accordance with the law of the Kyrgyz Republic.

In addition, many practical measures are being taken to enable each citizen, regardless of place of residence, to have access to information (telephone, radio, television, newspapers, magazines, internet, etc.). Questions concerning the implementation of these measures on the long-term perspective have been elaborated. Specifically, decision of the Council for Information and Communication Technologies of 16 September 2003 has approved an Action Plan for the implementation of the "Electronic Government" programme, the principal idea being to provide citizens living in remote and hard-to-reach settlements with access to information. In addition, the implementation of measures envisaged by this programme seeks to enforce anticorruption laws by ensuring transparency of the activities of public management bodies.

Level of Access to information in the Kyrgyz Republic

Characteristics	
Number of Internet users	120 000
Number of public information access centres	24
Number of Internet providers	17
Number of modem pools	1 000
Number of computers in individual usage per 1,000 people	80
Average number of personal computers per one enterprise/organisation	9.2
Average number of personal computers per 100 workers	9.7

To ensure citizens' rights to information, 21 public information access centres have been opened in all regions of the country. Each is equipped with communication means and the necessary hardware (an average of 7 – 8

computers). High-skilled personnel, besides the servicing of equipment, provide free assistance to anyone who wishes to gain access to information on internet and the State Computer Network, which promotes higher population awareness of activities of government authorities.

Active work is underway on computerisation of the government services; practically all, including the courts, have their own websites where they publish information on the activity of relevant bodies and the services they render.

In addition, a government internet portal is open on the web, concentrating all the necessary information on the activity of governmental authorities and their services.

Further steps are being taken to develop the mechanisms for interaction between public authorities and civil society. Government Decree No.591 of 29 August 2002 On the Public Reception Office of the Prime Minister of the Kyrgyz Republic mandated the opening of public reception offices of the Prime Minister in government administrations at the district and regional levels, the principal objective being to provide consultations with citizens for purposes of explaining applicants' rights as guaranteed by the legislation of the Kyrgyz Republic, and the rendering of practical assistance in solving citizens' problems. On the whole, 1 369 citizens filed applications with the public reception offices of the Prime Minister in 2003. The analysis of these applications showed that most appeals deal with the timeliness of payment of pensions and allowances, tariff increases and disconnection of electric power supply, supply of solid fuel, allocation of a property share or land plot, benefits, and social welfare.

To raise the population's awareness of the work of the Government, to make the Government's work as transparent as possible, the media carry daily information materials on the work of ministries, agencies, local government administrations, and bodies of local self-government. News conferences are held on a regular basis with the participation of the Prime Minister, vice prime ministers, heads of ministries and agencies, to provide coverage on the pace of reforms and transformations conducted by the Government. It has become a tradition to broadcast live programmes with the participation of the Prime Minister and members of the Government. Two live programmes were shown in 2003, the first of which summed up the results of the Government's activity in the first half-year, and the second for the year as a whole. A characteristic feature of these programmes is that the Prime Minister and members of the Government answer direct phone calls from television viewers and questions from journalists.

One of the key areas of the government activities is the implementation of measures to provide 100% television and radio coverage to the entire population. To this end, the Government issued a decree on 2 May 2003 to develop a satellite television and radio broadcasting network. On 8 December 2003, JSC Kyrgyztelecom signed a contract for an overall sum of USD 700 000 to implement this project jointly with the Russian company Teleport-TP, chosen after a call to tender.

In keeping with Presidential Decrees of On the Concept of Development of Legal Computerisation in the Kyrgyz Republic No.285 of 17 October 1997 and On Measures to Form a Centralised Bank of Legal Informatisation in the Kyrgyz Republic No.56 of 10 February 2001, a centralised databank of legal information was created in the Justice Ministry (www.minjust.gov.kg) on the basis of the ministry's laws and regulations within the frameworks of the FINSAC/TA project. The main purpose of the databank is to provide government authorities, organisations, legal entities, and individuals with legal information.

The centralised databank of legal information presently includes over 24 000 documents (laws, edicts, decrees, instructions, regulations of ministries and agencies, acts of local self-government and local government administrations) covering the period from 1990 to the present,; this information is stored in electronic format. Work has been initiated to input information in the Kyrgyz language. Government authorities connected to the Government Computer Network, as well as the users of legal information connected to the internet, have free access to the centralised databank.

On 17 July 2004, the President signed the Law On Introduction of Amendments to the Law of the Kyrgyz Republic 'On Regulatory Legal Acts of the Kyrgyz Republic'. This law ensures free public access to the developed draft regulatory legal acts by making obligatory its publication on official websites or in the mass media, and the reception of comments to the proposals, which should be taken into consideration during the completion of the draft laws.

A joint project with representatives from the Soros-Kyrgyzstan Foundation and the Public Association "Future without Corruption – Transparency International" seeks to provide free public access to information. The project deals with the issues of joint activity of donors (USAID, DFID, the World Bank, IMF) in holding seminars and round tables on issues of citizens' rights to reliable information.

Private Sector Initiatives and Civil Society Participation

Nongovernmental organisations (NGOs) play an important role Kyrgyzstan. Government entities and NGOs actively work together in the development of the strategic COR and NSSB programmes, as well as cooperate closely in the fight against corruption. Considerable effort is being made to draw all strata of society in solving this problem by consolidated forces.

The NCGG Secretariat and the Soros-Kyrgyzstan Foundation have launched the project "Open Kyrgyzstan" aimed at improving contacts between the public with government administrative bodies. Several ministries have been nominated to the pilot project, which seeks to establish a regular dialogue with the public via mass media channels, and thereby actively draw the population into discussions on the problems of good governance. The main objective of the project is to promote openness and transparency as well as improve the feedback mechanism. The project was presented and approved at the NCGG and CCGG sessions, and has received the support of government authorities.

The NCGG Secretariat and the Public Association "Future without Corruption – Transparency International" have launched a survey on the subject "Analysis of Efficiency of the Use of the Working Time by Employees of Public Authorities and Performance Assessment. Survey of the Openness and Transparency of Work of Public Authorities." Three aspects of the work of public officials will be reviewed: time spent working, performance quality, and public openness (transparency).

Another example of close cooperation of law-enforcement bodies with NGOs is in the sphere of human trafficking. This is a relatively new type of criminal activity, closely related to abuse of office by law-enforcement bodies.

According to expert estimates, human trafficking is the third criminal business after arms and drugs dealing, for which transnational groups receive tremendous profits. A total of 24 criminal cases of human trafficking were initiated in 2003, and in 2004 the court had already issued five guilty verdicts.

Good connections have been established in the tackling of this problem with nongovernmental and international organisations. A project of stepping up the struggle against human trafficking and forming a single electronic databank is being implemented at the donors' expenses by the Public Prosecutor's Office. The programme is financed by the US government via USAID.

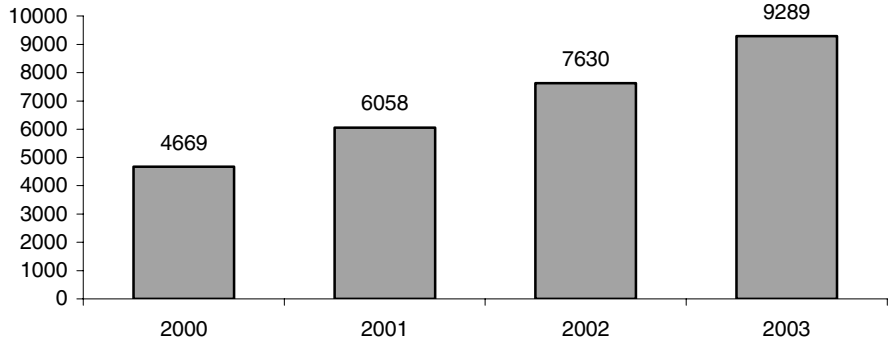
The analysis of activities aimed at preventing human trafficking shows that many such offences are committed with the connivance, negligence, and

sometimes even direct participation of officers of passport and visa issuing services.

The chief investigative department of the Interior Ministry has recently filed charges against high-ranking officials of the passport and visa department for abuse of office and official forgery. In addition, the Prosecutor General's Office is working in close cooperation with the nongovernmental organisation Diamond concerning problems of gender equality and domestic violence against women.

The growth in the number of nongovernmental organisations (public associations, public foundations, political parties, religious organisations, affiliations of legal entities (associations, unions), credit unions, non-profit consumer cooperatives, housing proprietors' partnerships (condominiums) is illustrated in the following graph.

Number of NGOs in 2000-2003



Source: National Committee for Statistics of the Kyrgyz Republic.

The legal status of non-profit organisations and their creation, activity, reorganisation, and liquidation are based on the Constitution of the Kyrgyz Republic and regulated by the Civil Code of the Kyrgyz Republic, The Law On Non-Profit Organisations, the Law On State Registration of Legal Entities, and other laws and regulations of the Kyrgyz Republic, international acts and agreements, approved and ratified by the Kyrgyz Republic.

All non-profit organisations are created and operated on the basis of principles of voluntary, self-government, lawfulness, openness, and transparency.

A citizen's participation or non-participation in the activity of a non-profit organisation cannot serve as grounds for restricting his rights and freedoms.

The state guarantees non-profit organisations' conditions for the implementation of their statutory objectives. Government authorities and officials shall ensure the observance of the rights and lawful interests of non-profit organisations in accordance with the Constitution and legislation of the Kyrgyz Republic and render them support in their activity.

Non-profit organisations acquire the rights of legal entities as of the date of their state registration. Registration of non-profit organisations is exercised in accordance with the Law On State Registration of Legal Entities.

According to Article 4 of this law, ‚state registration of legal entities shall be exercised by the Justice Ministry and its territorial bodies (registering authorities) at the legal entity's location (incorporation).

The registration of a non-profit organisation requires the filing of an application with the relevant authority as established by the Justice Ministry with the application of the founder's decision, the articles of incorporation and (or) charter (provision), depending on the form of incorporation, in keeping with the requirements of the legislation of the Kyrgyz Republic and the constitutive documents.

According to Article 8, from the time of receipt of the necessary package of documents, the registering authority shall: check that all documents are complete and correct; issue a decree on the registration of a legal entity if the constitutive documents meet the legal requirements; log the data on the legal entity in the register; issue a certificate of state registration of the legal entity; document the case, containing one copy of each document presented by the founder or the latter's representative to the registering authority. Following registration, two copies of the constitutive documents shall be returned to the founder or the founder's representative with a state registration mark; the state statistic bodies shall be notified within a ten-day period of the registration of the legal entity.

In pursuance of Presidential Edicts On the National Human Rights Programme for the Period of 2002-2010 No.1 of 2 January 2002, On Measures for Implementing the National Idea 'Kyrgyzstan as a Country of Human Rights' No.151 of 15 May 2003, Government Decree No.513 of 2 August 2002 On Comprehensive Measures for Implementing the National Human Rights Programme for the Period of 2002-2010, the Government issued its Decree No.200 of 25 March 2004 On Approval of the Concept of Cooperation between

Public Associations, Public Foundations (Nongovernmental Organisations) and Public Authorities of the Kyrgyz Republic which approved the cooperation concept between public associations, public foundations (nongovernmental organisations) and the public authorities.

Political Party Financing

Over 43 political parties are presently registered in the Kyrgyz Republic and operate in accordance with the Law On Political Parties, adopted by the *Zhogorku Kenesh* on 12 June 1999. Financing of political parties in the Kyrgyz Republic is regulated by this law.

The activities of political parties are financed at the expense of those parties' funds without allocations from the state budget, except the financing of election campaigns in accordance with the law on elections of deputies.

The Code On Elections in the Kyrgyz Republic does not envisage separate funding of the activity and participation in election campaigns of political parties of the Kyrgyz Republic.

The financing of political parties' activities by foreign countries, foreign parties, and other legal and physical persons of foreign countries is prohibited (Article 16 of the Law On Political Parties).

The funds of political parties are derived from member contributions, voluntary donations, credits, incomes from property, events, dissemination of printed editions and publications, as well as other receipts not prohibited by law (Article 17).

Political parties and their organisations may own movable and immovable property, equipment, appliances, publishing houses, printing facilities, as well as other property necessary for the implementation of their statutory objectives.

Parties are entitled to use buildings and other property in accordance with the loan or rent contract concluded with legal or physical persons.

Parties are not allowed to own, store, and keep weapons, explosives and other materials posing a threat to security of society and ecology, as well as the life and health of citizens (Article 18).

Political parties may set up enterprises and organisations with the rights of legal entities only for purposes of implementing their statutory objectives, in the legally prescribed manner.

The profits from the activity of those enterprises and organisations shall not be distributed among party members and are used only for statutory purposes.

Party members have no title to the incomes and property of those enterprises and organisations, except cases indicated in part two of Article 18, and do not bear liability for their debts.

The use of profits is permitted for charity purposes and acts of welfare regardless of statutory requirements (Article .19).

The Kyrgyz Republic has no special system of regulating the financing of events within the frames of the current activity of parties, on the one hand, and the financing of election campaigns, on the other. The activity of parties is regulated by the Law On Political Parties and internal statutory goals and objectives of the parties. Election campaigns are conducted by political parties with their own sources of financing and voluntary donations of physical and natural persons.

According to the Law On Political Parties, rendering financial assistance to political parties is not restricted for physical and legal persons, with the exception of the ban on foreign financing of party activities.

The nomination of citizens by political parties, election blocs, election assemblies, and self-nomination of candidates for elected positions to public authorities and bodies of local self-government shall set up their own election funds for the financing of their election campaigns.

Candidates to deputies of local *keneshes*, and heads of local self-government bodies are allowed not to create an election fund if they do not plan to use priced services of television, radio, printed periodicals in their election campaigns or publish printed materials.

Candidates' election funds may be created by the following means:

- the candidate's own means;
- funds allocated to the candidate by a political party or election bloc;
- voluntary contributions of citizens and legal entities, except donations from:
  - foreign countries, foreign governmental authorities, institutions and enterprises, other foreign legal entities, their affiliates and branches, foreign citizens, international organisations, legal

entities registered in the Kyrgyz Republic, whose participants are foreign citizens and legal entities;
- persons without citizenship;
- public authorities and bodies of local self-government;
- state and municipal institutions and enterprises;
- legal entities holding a government or municipal share in the charter capital, and enjoying exemptions on taxes, levies and other dues;
- military units;
- law-enforcement bodies and courts;
- charity organisations;
- religious organisations;
- anonymous donations.

The contribution of monetary funds to a candidate's election fund by legal entities indebted to the budget or the Social Fund of the Kyrgyz Republic is not admitted. A candidate shall not bear responsibility in the event of contribution of money to the election fund by the aforementioned persons (Article 51 of the Code On Elections in the Kyrgyz Republic).

The law establishes the maximum amount of funds that may be contributed to election funds of candidates from the candidate's own means, by political parties, an election bloc, voluntary donations of citizens and legal entities, as well as the maximum amount from election funds that can be spent.

Election funds can be formed by monetary assets, as well as the information campaigning materials, which are taken into account by the Central Commission for Elections of the Kyrgyz Republic.

The election fund of a candidate to the post of President of the Kyrgyz Republic shall be formed by the following resources:

- the candidate's own means, which shall not exceed the minimum salary by more than 15 000 times;
- means allocated to the candidate by a political party and election bloc which shall not exceed the minimum salary by more than 50 000 times;
- voluntary donations from individuals, each of which shall not exceed the minimum salary by more than 50 times;
- voluntary donations from legal entities, each of which shall not exceed the minimum salary more than 2 000 times.

The maximum amount of a candidate's expenses from his election fund shall not exceed the minimum salary by more than 400 000 times (Article 51 of the Code On Elections in the Kyrgyz Republic).

The election fund of a candidate to the *Zhogorku Kenesh* shall be derived from the following resources:

- the candidate's own means, which shall not exceed the minimum salary by more than 3 000 times;
- means allocated to the candidate by a political party, which shall not exceed the minimum salary by more than 1 500 times;
- donations from individuals, each of which shall not exceed the minimum salary by more than 200 times;
- donations from legal entities, each of which shall not exceed the minimum salary by more than 200 times.

The maximum amount of a candidate's expenses from his election fund shall not exceed the minimal salary more than 5 000 times (Article 74 of the Code On Elections in the Kyrgyz Republic).

The election fund of a candidate to deputies of local *keneshes* of the Kyrgyz Republic shall be formed by the following resources:

- the candidate's own means, which shall not exceed the minimum salary more than 100 times;
- means allocated to the candidate by a political party, which shall not exceed the minimum salary by more than 200 times;
- donations from individuals, each of which shall not exceed the minimum salary by more than 20 times;
- donations from legal entities, each of which shall not exceed the minimum salary by more than 150 times.

The maximum amount of a candidate's expenses from his election fund shall not exceed the minimum salary more than 5 000 times (Article 85 of the Code On Elections in the Kyrgyz Republic).

The election fund of a candidate to the post of head of a local self-government body of the Kyrgyz Republic shall be derived from the following resources:

- the candidate's own means, which shall not exceed the minimum salary be more than 100 times;
- means allocated to the candidate by a political party, which shall not exceed the minimum salary by more than 200 times;
- donations from individuals, each of which shall not exceed the minimum salary by more than 20 times;
- donations from legal entities, each of which shall not exceed the minimum salary by more than 150 times.

The maximum amount of a candidate's expenses from his election fund shall not exceed the minimum salary by more than 15 000 times (Article 92 of the Code On Elections in the Kyrgyz Republic).

The financing of elections in any form by foreign countries, foreign governmental authorities, institutions and enterprises, other foreign legal entities, their affiliates and branches, foreign citizens, international organisations, legal entities registered in the Kyrgyz Republic, whose participants are foreign citizens and legal entities is not admitted, with the exception of the financing of the programmes of development of the election legislation, informational, educational, scientific and research programmes, technical preparation of elections, raising electors' legal culture (Article 50).

According to Article 20 of the Law On Political Parties, financial reporting of political parties shall be conducted in accordance with the legislation of the Kyrgyz Republic .

The material and financial assets of a political party which has announced its self-disbandment upon a congress (conference) decision shall be channelled only for statutory purposes.

The property of a political party disbanded by a court decision n shall be collected in favour of the state and be channelled for purposes envisaged by Article14 of the Law On Political Parties (Article 21 of the Law On Political Parties).

According to legislation, a political party shall submit annual financial reports on its activity to the Social Fund of the Kyrgyz Republic, the tax service of the Kyrgyz Republic, and other authorities. These reports shall not be conveyed to the public.

In case of violation of the financing procedure, political parties shall bear responsibility as prescribed by the legislation of the Kyrgyz Republic.

Criminal Responsibility

Bribe-Giving and Bribe-Taking

Definitions and Elements of Crimes

Abuse of office (Article 304 of the Criminal Code), exceeding official powers (Article .305 of the CC), illegal participation in entrepreneurial activity (Article 309 of the CC), and official forgery (Article 315 of the CC) constitute official crimes qualified under Article 30 of the Criminal Code.

Bribery is referred to in the category of official crimes. When the Criminal Code was adopted in 1997, the legislators, proceeding from their own assessments of the social danger of bribery, envisaged the following qualifying circumstances aggravating criminal responsibility for the committed offence:

- Bribes received in the form of remuneration (Article 310 of the CC) means the acceptance by an official, personally or via an intermediary, of a preliminarily agreed bribe in the form of money, securities, other property or property-related benefits for an action (inaction) in favour of the bribe-giver or persons represented by him, if such action (inaction) is included in the official responsibilities of the official or this official can promote such actions by using his official position.

Article 310 (part 2) stipulates the circumstances aggravating the responsibility for bribe-taking in the form of remuneration, such as bribe-taking by an official occupying a high-ranking position, repeatedly, for a large amount, and for committing an illegal action (inaction).

Large amounts are qualified as a sum of money, the value of securities of other property, or property-related benefits, exceeding 200 times the minimum salary.

The main type of punishment for this offence is imprisonment for a term from three to eight years; property confiscation and deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years can be imposed as an additional penalty.

A bribe received in the form of graft (Article 311 of the CC) differs from the crime stipulated in Article 310 of the CC, as in this case an official receives a preliminarily agreed bribe for committing an action (or inaction) described in Article 310.This type of bribe can be taken for general patronage or official connivance. In addition, unlike a bribe in the form of remuneration, this crime

can be committed by a group of persons based on preliminary collusion or by an organised group. This is why legislators have envisaged a more severe punishment for graft than for bribes in the form of remuneration.

The maximum punishment envisaged for bribes in the form graft is imprisonment for up to 12 years.

Taking a bribe for providing a position (Article 312 of the CC). The legislators have devoted a separate article of the Criminal Code to this type of crime and introduced a punishment of imprisonment for a term up to 15 years.

In so far as bribe extortion (Article 313 of the CC) is concerned, the Criminal Code reserves the most severe punishment (terms of imprisonment for up to 20 years). In this type of bribe, an official demands a bribe in exchange for the fulfilment or non-fulfilment of certain actions in the interests of the bribe-giver and places the latter in a situation where he is compelled to pay a bribe (frequently for an amount beyond his financial means) in order to prevent damaging consequences for himself and thereby forcing the bribe giver to commit a crime.

The Government has also presented to the *Zhogorku Kenesh* a draft law On Amendments to the Criminal Code of the Kyrgyz Republic, which proposes the following reading of the point 1 of Article 314: "Mediator-intermediary is the person, who has facilitated the reaching and implementation of the agreement for receiving or giving of a bribe. The mediator-intermediary in receiving or giving a bribe is released from criminal responsibility if he voluntarily reported this fact to the body, which has the authority to launch a criminal investigation of the case".

Sanctions

Criminal law envisages punishment for each crime connected with bribery, the punishment itself depending on the gravity of the crime. For example, preventing the exercising of electoral rights or the work of election commissions combined with bribery, as well as embracing electors' votes, entails a maximum punishment of five years imprisonment; illegally obtaining information, constituting commercial or banking secrets, by means of bribery is punishable with imprisonment for a term of up to six months; the bribery of participants and organisers of sports events and entertainment contests, and commercial bribery entail imprisonment for a term of up to five years; bribe-giving is punishable with imprisonment for a term from three to eight years; subordination, compelling a person to testify, evading testimony, or incorrect translation is punishable with imprisonment for a term from three to ten years.

Depending on the gravity of the crime, the Criminal Code classifies the crimes into the following types:

- least grave crimes – intentional crimes, the maximum punishment for which does not exceed two years imprisonment, as well as negligent offences, the maximum punishment for which does not exceed five years imprisonment;
- crimes of moderate gravity – intentional crimes, the maximum punishment for which does not exceed five years imprisonment, as well as negligent actions entailing punishment in the form of imprisonment for a term exceeding five years;
- grave crimes – intentional crimes the legally established punishment for which is over five years imprisonment, but not more than ten years;
- especially grave crimes – intentional crimes entailing punishment in the form of imprisonment for a term exceeding ten years.

According to the above, crimes involving bribery, such as preventing the exercising of election rights or the work of election commissions combined with bribery, embracing electors' votes, bribery of participants and organisers of sports events and entertainment contests, as well as commercial bribery are qualified as crimes of moderate gravity, whereas illegal receipt of information constituting commercial or banking secret by way of bribery is classified as the least grave crimes, and bribe-giving, subordination, compelling a person to testify or evading giving testifying, or incorrect translation are referred to as grave crimes.

Statute of Limitations

In accordance with Article 67 of the Criminal Code, a person shall not be held criminally responsible if the following time periods have elapsed since the time the crime was committed:

- two years after committing a least grave crime;
- five years after committing a crime of moderate gravity;
- ten years after committing a grave crime;
- fifteen years after committing an especially grave crime, except crimes committed against peace and safety of humanity.

The statute of limitations is calculated from the date the crime was committed until the moment a verdict is pronounced and is not interrupted in connection with initiation of criminal proceedings.

If a person commits a new crime before the expiration of the above periods, the statute of limitation shall be terminated and a new statute of limitations calculated from the moment the new crime was committed.

If a person guilty of committing a crime is hiding from investigation before the trial, the period of limitations shall be terminated. In such cases, the statute of limitations shall be resumed from the moment of the person's arrest or surrender. The aforementioned periods shall double in this case, but shall not exceed 15 years.

Other Corruption Related Crimes

The responsibility for other corruption offences, such as illegal registration of transactions, legalization of illegal profits, office abuse, bribery, power abuse, illegal participation in commercial activities, and official forgery, is envisaged by Article 179 (registration of illegal transactions with land), Article 183 (legalisation of illegally acquired monetary assets or property), Article 220 (bribing a participant or organiser of professional sports competitions and entertainment contests), Article 304 (office abuse), Article 305 (power abuse), Article 109 (illegal participation in entrepreneurial activity), Articles 310-313 (bribery), and Article 315 (official forgery) of the Criminal Code.

- *Illegal registration of transactions with land (Article 179).* This refers to illegal registration, distortion of registration data of the State Land Cadastre, intentional understatement or overstatement of the amounts of land payments. Responsibility shall be imposed under this article on officials if they commit those actions through abuse of their official position.
  Sanction – fine in the amount of one hundred to two hundred times the minimum monthly salary, deprivation of the right to occupy certain positions or engage in certain activities for a term up to five years.

- *Legalisation of illegally acquired monetary assets or other property (Article 183).* This crime consists in conducting financial transactions and other operations with monetary assets of other property acquired through indisputably unlawful methods, and in the use of the said assets for exercising entrepreneurial or other business activity.

Part two of this article stipulates the circumstances aggravating the responsibility for this crime, such as the committing of this offence by a group of persons with preliminary collusion, repeatedly, or by a person misusing his official position.

Part three envisages the responsibility for committing this crime by an organised group.
Sanction – the maximum penalty is ten years of imprisonment.

- *Bribing a participant or organiser of professional sports competitions and entertainment contests (Article 220).* This crime consists in the bribery of athletes, umpires, trainers, team managers and other participants or organisers of professional sports competitions, organisers and jury members of entertaining commercial contests, for purposes of influencing the result of those competitions or contests.
  Sanction – the maximum punishment is imprisonment for a term up to five years.

Definition of the Term "Public Official"

According to Article 303 of the Criminal Code, corruption constitutes intentional deeds consisting in the establishment of illegal steady connections of one or several officials vested with power, with individual or groups for purposes of gaining illegal material and any other benefits and privileges, and granting them benefits and advantages by physical and legal persons, thereby posing a danger to the interests of society or the state. An official may bear criminal or administrative responsibility for actions committed, as prescribed by the criminal and administrative legislation of the Kyrgyz Republic.

Public officials, as defined in the note to Article .304 of the Criminal Code, are "persons permanently, temporarily, or on special authority exercising the functions of representative of the authorities or carrying out organisational, managerial, administrative, supervisory and auditing functions in the public authorities, bodies of local self-government, state and municipal institutions, as well as the Armed Forces of the Kyrgyz Republic and other military formations, are recognised as public officials."

A representative of the authorities is an official vested with power with respect to citizens not officially subordinated to them, regardless of their departmental jurisdiction. Representatives of authorities may include deputies of the *Zhogorku Kenesh* and local *keneshes*; in the executive sphere – government members, heads of bodies of local self-government, officials of law-enforcement and controlling bodies (the Interior Ministry, the National

Security Service, the Public Prosecutor's Office, the customs office, etc.); in the judicial sphere, representatives of the authorities include judges of the Supreme and local courts, and judges of the Constitutional Court of the Kyrgyz Republic.

Organisational and managerial functions consist in the management of the activity of public authorities, institutions and subordinate employees. The essence of those functions are the organisation of jobs, maintaining labour discipline, controlling and monitoring legal enforcement in the public authority, in local self-governments, state or municipal institutions, the Armed Forces of the Kyrgyz Republic and another military formations. Persons vested with these functions include the heads of ministries, agencies, enterprises, institutions, and organisations.

The administrative functions consist in the administration and disposal of public property, its storage, processing, realisation, ensuring control over these operations, organisation of citizens' servicing, etc. Unlike the organisational and managerial functions, administrative functions suggest the disposal of tangible assets.

The supervisory and auditing functions consist in conducting different sorts of inspections, making control purchases and auditing economic entities. As a rule, these entities fulfil strictly determined functions (the Auditors Chamber, State Sanitary Inspection, State Fire Department, etc.).

Circumstances Releasing from Responsibility and Exemptions

The criminal law of the Kyrgyz Republic envisages the following circumstances, excluding the criminal nature of the deed:

- necessary defence (Art.36);
- extreme necessity (Art.37);
- inflicting damage during the arrest of the offender;
- fulfilment of an order or another instruction (Art.39);
- justified risk (Art.40).

The circumstances ensuring the lawfulness of the said circumstances include: (a) a real threat of dangerous implications; (b) a person commits the deed for the sake of achieving a socially useful objective; (c) this objective could not have been achieved by other methods; and (d) there is a corresponding level between the inflicted damage and the threat, and the circumstances under which that threat was eliminated.

However, the said circumstances are not applicable to crimes of corruption, for which legislation of the Kyrgyz Republic does not envisage any exceptions, exemptions and clauses during the investigation of corruption-related crimes, including the burden of evidence or special circumstances releasing from responsibility for corruption-related crimes.

Immunity

In keeping with the Constitution of the Kyrgyz Republic, immunity is granted to the president, ex-presidents, deputies of the *Zhogorku Kenesh*, and judges.

Article 49 (paragraph 1) of the Constitution states:

"The President of the Kyrgyz Republic is granted a right of immunity. The honour and dignity of the President of the Kyrgyz Republic are protected by law."

Article 53 of the Constitution of the Kyrgyz Republic states:

"1. All former presidents of the Kyrgyz Republic, except those discharged from office in the manner prescribed by article 51 of this Constitution, shall hold the title of ex-president of the Kyrgyz Republic.
2. An ex-president of the Kyrgyz Republic is granted the status of immunity. He shall not be brought to criminal or administrative responsibility for an action or inaction committed during the period of fulfilling the authorities of President of the Kyrgyz Republic, as well as be detained, arrested, subjected to search, questioning or personal examination.
3. Immunity of an ex-president of the Kyrgyz Republic shall include his housing and official premises, vehicles, means of communication, personal archives, documents, luggage, other property, and personal correspondence."

Article 56 (paragraph 4) of the Constitution of the Kyrgyz Republic states:

"4. A deputy of the *Zhogorku Kenesh* of the Kyrgyz Republic is granted the right of immunity. He shall not be persecuted for the judgments expressed in connection with his activity as deputy or for the results of vote in the *Zhogorku Kenesh* of the Kyrgyz Republic. A deputy shall not be detained or arrested, subjected to search or personal examination, except in cases when he was caught red-handed at the scene of a crime. Imposition of criminal and administrative responsibility on a deputy is admitted through judicial procedures only with the consent of the *Zhogorku Kenesh* of the Kyrgyz Republic."

Article 80 (paragraph 2) of the Constitution of the Kyrgyz Republic states:

"2. A judge is granted the right of immunity and shall not be detained or arrested, subjected to search or personal examination, except in cases when he was caught red-handed at the scene of a crime.

Imposing criminal and administrative responsibility on a judge of the Constitutional Court of the Kyrgyz Republic is admitted through judicial procedures only with the consent of the *Zhogorku Kenesh* of the Kyrgyz Republic.

Immunity of a judge shall include his housing and official premises, vehicles, communication means, personal correspondence, property, and documents"

Jurisdiction

In accordance with the Constitution and the general principles of international law, all citizens of the Kyrgyz Republic are equal before the law and the court. No one shall be subjected to any discrimination, infringement of rights and freedoms on grounds of origin, sex, race, ethnic origin, language, creed, political and religious convictions, or on any other considerations and circumstances of a personal or public nature. Foreigners and persons without citizenship are granted the same rights and freedoms in the Kyrgyz Republic as citizens, and bear responsibilities on grounds, on terms and in the manner prescribed by laws and international treaties and agreements of the Kyrgyz Republic.

Violation of the rights and freedoms of a human being and of a citizen, and corruption-related crimes (crimes committed by a holder of an official post), which are specified above, entail responsibility, including criminal responsibility. Chapter 2 of Article 5 of the Criminal Code stipulates that all persons who have committed crimes on the territory of the Kyrgyz Republic should bear responsibility under the above mentioned Code.

Responsibility for a crime committed on the territory of another state is covered by the Criminal Code if the crime was completed or stopped on the territory of the Kyrgyz Republic.

The issue of criminal responsibility for crimes committed on the territory of the Kyrgyz Republic by diplomatic representatives of foreign states and other citizens, who are not responsible to the courts of the Kyrgyz Republic according to national laws or international agreements, is resolved through diplomatic measures on the basis of international law.

As for the application of the criminal legislation for persons who have committed crimes outside the territory of the Kyrgyz Republic, Article 6 of the Criminal Code foresees responsibility under the above Code for citizens of the Kyrgyz Republic and persons without citizenship permanently residing in the Kyrgyz Republic, if they have not been already convicted according to a court decision of a foreign state.

Citizens of the Kyrgyz Republic who have committed a crime on the territory of another state are not subject to extradition to that state.

Foreign citizens and persons without citizenship who live on the territory of the Kyrgyz Republic and who have committed a crime outside the territory of the Kyrgyz Republic can be extradited to the foreign state for criminal investigations or for serving the court sentence according to an international agreement.

In addition, according to Article 7 of the Criminal Code the elements of office and the sanctions are defined by the law in place at the time the crime was committed.

A law which cancels an element of an offence or which establishes softer sanctions has a reverse power, *i.e.* it can be applied to the persons who have committed a relevant crime before the entry of this law into force, including persons serving their sentence or who have already served their sentence, but who have a criminal record.

A law which introduces a new element of office or which establishes stronger sanctions or worsens the situation of a person does not have a reverse power.

The Kyrgyz Republic has signed a number of multilateral and bilateral agreements on legal assistance in civil, family, and criminal cases.

In keeping with the Convention on Legal Assistance and Legal Cooperation in Civil, Family, and Criminal Cases signed on 7 October 2002 within the CIS (Kyrgyzstan ratified it on 19 March 2004), citizens of each of the Parties to the Convention, as well as persons residing on its territory, shall be granted the same legal protection of their personal and property rights on the territories of all other Parties to the Convention as their own citizens.

Citizens of each of the Parties to the Convention as well as other persons residing on its territory shall have the right of free and unimpeded appeal to courts, bodies of public prosecution, bodies of the interior, and other institutions

of other Convention Participants, the competence of which includes civil, family, and criminal cases (hereinafter, the justice institutions), the right to appear in those institutions, file applications, claims, take other procedural actions on the same terms as the citizens of a given Party to the Convention.

Provisions of this Convention are also applicable to legal entities created in accordance with the legislation of the Convention Participants.

Corruption in the Private Sector

Chapter 23 of the Criminal Code envisages responsibility for corruption offences in the private sector:

- Article 221. Abuse of office by officials of commercial or other organisations.
- Article 222. Abuse of office abuse by a private auditor.
- Article 223. Abuse of power by private detective services.
- Article 224. Commercial bribery.
- Article 225. Illegal receipt of remuneration by officials.

The above articles recognise as officials of a commercial or other organisation a person permanently, temporarily, or on special authorisation discharging managerial or administrative functions in commercial organisations, regardless of their form of ownership, and in non-profit organisations which are not public authorities or bodies of local self-government, institutions of public authorities or bodies of local self-government.

Criminal responsibility of officials of commercial and other organisations for the aforementioned offences is considerably lower than the responsibility of public officials. For example, the maximum punishment envisaged for office abuse by officials of commercial and other organisations does not exceed three years of imprisonment, whereas public officials shall be penalised with imprisonment for a term up to 15 years with confiscation of property.

As for the statute of limitations for these crimes,

- offences envisaged under Article 221 (part 1), Article 224 (part 1), and Article 225 of the Criminal Code are qualified as least grave crimes, therefore the period of limitations constitutes two years from the moment the crime was committed;

- offences envisaged under Article 221 (part 2), Article 222, Article 223 (part 1), and Article 224 (parts 2-4) of the Criminal Code are qualified as crimes of moderate gravity and the period of limitations is five years from the time the crime was committed;
- the crime stipulated by Article 223 (part 2) of the CC is qualified as a grave crime with a period of limitations equalling ten years from the moment of the crime.

Persons guilty of crimes stipulated by parts one and two of Article 224 of the CC shall be released from criminal responsibility if they were victims of extortion, or if a person voluntarily reported the fact of the crime to an authority empowered to initiate criminal proceedings.

Confiscation of Crime Proceeds

The Civil Code (Article 287, Confiscation) stipulates: "1. Property may be requisitioned without return from an owner in cases envisaged by law on a court decision as a sanction for committing a crime or another offence (confiscation). 2. In cases envisaged by law, confiscation can be exercised according to administrative procedures. A confiscation decision adopted through administrative procedures may be appealed in court."

Article 52 also regulates issues of confiscation, implying the following: (1) Property confiscation consists in forced non-repayable requisitioning in favour of the state of the property of a convicted person which was used or intended for committing a crime or was received as a result of it, except the property subject to return in the manner prescribed by the legislation of the Kyrgyz Republic. If only part of the property is subject to confiscation, the court shall indicate which particular part of the property is subject to confiscation or list the confiscation items. (2) Property confiscation can be prescribed by the court only for grave or especially grave crimes committed for mercenary purposes, envisaged by relevant articles of the special part of this Code. (3) In the event of confiscation, the state shall not be accountable for the debts and liabilities of the convicted person that resulted after the adoption of measures for the safe keeping of this property by investigatory authorities of the court, and without the knowledge of these authorities. (4) As for the claims subject to settlement at the expense of the confiscated property, the state shall be accountable only within the limits of the assets, using the priority rules established by the Code of Civil Procedure of the Kyrgyz Republic.

It is noteworthy that money and other valuables constituting bribe matter or an object of contraband are subject to requisitioning in favour of the state on

a court decision in accordance with the criminal legislation (the Code of Criminal Procedure of the Kyrgyz Republic, Article 88, Measures Applicable to Material Evidence in a Criminal Case).

The issue of possible property confiscation at the stage of investigation is regulated by Article 142, Responsibility of Granting a Civil Claim and Property Confiscation Stipulated by Law, of the Code of Criminal Procedure of the Kyrgyz Republic.

The confiscation of criminally gained incomes and property (official crimes) is a sanction envisaged by the following articles of the Code of Criminal Procedure of the Kyrgyz Republic:

- Article 303 (parts 1 and 2), Corruption – with property confiscation;
- Article 304 (part 4), Abuse Office Abuse – with or without property confiscation;
- Article 305 (part 2), Exceeding Official Powers – with or without property confiscation;
- Article 306 (part 2), Concluding a Contract, Carrying out Government Procurement Contrary to the Interests of the Kyrgyz Republic – with property confiscation;
- Article 308, Illegal Use of Budgetary Funds – with property confiscation;
- Article 310 (part 2), Bribe in the Form of Remuneration – with property confiscation;
- Article 311 (parts 1 and 2), Graft – with property confiscation;
- Article 312 (parts 1 and 2), Bribe-Taking for Providing a Position – with property confiscation;
- Article 313 (parts 1 and 2), Bribe Extortion – with property confiscation.

The Code of Administrative Responsibility also regulates the problems of confiscation. In accordance with this Code, the confiscation of an object which is a crime weapon or a concrete object of an administrative offence is applied as an administrative sanction. This form of penalty may be imposed only as an additional sanction. A confiscation decision shall be passed by the court.

Responsibility of Legal Entities

The criminal legislation of the Kyrgyz Republic does not envisage criminal responsibility of legal entities for crimes committed or for other offences. Legal entities are also exempt from disciplinary penalty. The only possible grounds for imposing administrative responsibility on them may be illegal entrepreneurship or violation of the law on taxation, payment of duties, and social insurance. Legal entities can only be subjected to administrative penalties, such as fines, license revocation, etc.

Civil legal responsibility of legal entities is also possible. For example,. Article91 of the Civil Code stipulates:

- Legal entities, except those financed by the owner of institutions, shall be liable for their obligations with all the property in their possession.
- An institution financed by its owner shall be liable for its obligations in the manner and on terms established by Article 164 of the Civil Code.
- The founder (participant) of a legal entity or the owner of its property shall not be liable for the obligations of the legal entity, and the legal entity shall not be liable for the obligations of its founder (participant) or owner, except cases stipulated by this Code or the legal entity's constitutive documents.

Special Services

In accordance with Article 7 of the Law On the Fight against Corruption, all public authorities and public officials shall exercise the fight against corruption within their competencies. Heads of ministries, state committees, administrative bodies, and bodies of local self-government render support and the necessary assistance to authorised bodies in the fight against corruption.

Detection, prevention, and termination of corruption offences and imposing responsibility on persons guilty of committing them shall be exercised by law-enforcement bodies within the limits of their competencies.

In pursuance of the Concept of Development of the Public Prosecution Bodies of the Kyrgyz Republic until the year 2005, approved by Presidential Edict No.101 of 21 March 2003, creating conditions for optimal organisational and legal support of service in the public prosecution bodies, management improvement in the central staff and subordinate branches and the personnel policy, the Prosecutor General issued Order No.10 of 12 June 2003, setting up

an investigation supervision office for monitoring the investigation of corruption and encroachments on national security at the department for investigation control.

In addition, according to the Resolution of the Government of 24 December 2003 No.799 On Implementation of the Decree of the President of the Kyrgyz Republic "On Measures for Further Improvement of the System of the Fight against Corruption and Economic Crimes in the Kyrgyz Republic", the former Main Department for the Fight against Economic Crime and Corruption was transformed into the Main Department for the Fight against Office and Related Crime in the bodies of state power and management, local authorities, in state and non-state sectors of economy and in the field of high technology.

In keeping with the Presidential Edict of 21 January 2001 On the Introduction of Amendments and Additions to the Presidential Edict "On the Reorganisation of the Central Bodies of Public Administration" of 28 December 2000, a Financial Police Department was set up at the Finance Ministry on the same basis as the Department of Tax Police at the State Tax Inspection, the Internal Security Department of the State Tax Inspection, and the Official Investigations Department of the State Tax Inspection. The Financial Police Department is a centralised system subordinate and accountable to the Finance Minister.

The bodies of the Financial Police are: the central staff of the Financial Police Department at the Finance Ministry; inter-territorial (inter-regional), regional departments (offices) and the Bishkek city department; inter-district, district, city offices (branches).

The prevention of corruption within the tax and customs services is exercised through preventive measures among the officers of these services.

Investigation and Enforcement

Distribution of Authorities and Duties among the Interior and Public Prosecution Authorities during the Investigation of Criminal Cases

Proceedings in criminal cases, including investigation, are regulated by the Constitution of the Kyrgyz Republic, international treaties ratified by the Government, the Code of Criminal Procedure, and other relevant laws of the Kyrgyz Republic.

The legislation of the Kyrgyz Republic does not use legal precedents, and the investigation of criminal cases is conducted in accordance with effective laws.

Investigation of corruption-related crimes is not regulated by any special acts. Criminal proceedings established by the Code of Criminal Procedure are binding on the court, the public prosecution bodies, investigators, and prosecutors, during the investigation of all types of crimes, including corruption-related offences.

According to Article 156 of the Code of Criminal Procedure, an investigator or public prosecutor shall initiate criminal proceedings, or refuse their initiation, whenever a statement or report of a crime committed or being prepared is received, or where there is direct detection of a crime, following the necessary information verification procedures. If the consideration of such statements or reports lies within the jurisdiction of other authorities, they can be referred to the latter. A decision to initiate a criminal case or refuse its initiation shall be taken within three days, and in exceptional cases within a period of not more than ten days.

A ruling shall be issued during the initiation of a criminal case or refusal of its initiation. The public prosecutor is responsible for control over the lawfulness and justification of the decision taken.

Following the initiation of proceedings in a criminal case, the investigator shall proceed with the investigation. He is empowered to take the necessary decisions, carry out investigative and other procedural actions needed for a comprehensive, complete and impartial investigation, issue binding written instructions to the body of inquiry to perform operative search measures and take certain investigatory and procedural actions.

The public prosecutor conducts criminal persecution within his competencies. According to the Constitution of the Kyrgyz Republic, the public prosecution office shall exercise control over the lawfulness of inquiry and investigation, and support the persecution in court. A public prosecutor has the right to make presentations against illegal actions of the court to a superior court.

A public prosecutor shall be independent in exercising his authority in a criminal case and fully obey the law. A public prosecutor shall also file civil claims in support of property interests of the state.

Such investigative actions as the arrest of an accused as a measure of restraint, search of dwelling premises, seizure, seizing postal and telegraph correspondence, and eavesdropping conversations are carried out under the order of a public prosecutor.

The actions of a public prosecutor and investigator may be appealed in court.

Obligatory and Non-obligatory Criminal Persecution

The investigation of criminal cases is conducted by investigatory or public prosecution offices, bodies of the Ministry of the Interior, the National Security Service, the financial police, the customs service department, the Drug Control Agency of the Kyrgyz Republic and the Ministry of Justice. The Code of Criminal Procedure establishes the jurisdiction of cases, *i.e.* determines which investigative authorities shall investigate the crimes.

- According to the Code of Criminal Procedure (Article 26), charges shall be presented in court on a private, private-public, or public basis depending on the nature and gravity of the crime committed.
- Cases of private accusation (beatings, slander, insult, etc.) shall be initiated by filing a court appeal for imposing criminal responsibility on another person.
- Private-public cases include cases of the least grave crimes, crimes of moderate gravity, as well as crimes envisaged by part one of Article 129 (rape) and part one of Article 130 (sexual violence).
- Cases of a private-public nature shall not be initiated otherwise than on the charges filed by the victim.
- Articles 28, 29 and 225 of the Code of Criminal Procedure explicitly identify the grounds for terminating proceedings in a criminal case and criminal persecution. The powers to terminate persecution are placed with a public prosecutor and investigator. Exercising control over the lawfulness of investigation, a public prosecutor, however, is empowered to cancel a decision of an investigator on terminating criminal proceedings.
- In case of termination of a criminal persecution, the victim shall not continue the prosecution by himself, but has the right to appeal against the decision of the authority, investigator or public persecutor with a superior public prosecution office or in court.

Investigative Competence

The law does not envisage any special methods for detecting and investigating crimes in the sphere of corruption, but the officers of law-enforcement bodies undergo relevant training in conducting investigations of various types of criminal cases.

According to Article 10 of the Law of the Kyrgyz Republic On Banking Secret, data constituting a banking secret shall be provided by banks on the basis of a procedural act issued in accordance with the law on criminal procedure of the Kyrgyz Republic.

The withdrawal of banking documents, with the existence of relevant grounds, shall be conducted only on initiated criminal cases, on a motivated warrant of an investigator with the sanctions of the public prosecutor.

As for the witness protection system, part 4 of Article 12 of the Code of Criminal Procedure of the Kyrgyz Republic stipulates that if there is sufficient evidence that a victim, witness or other participants in the case, as well as members of their families, are threatened with violence, destruction or damage to property, or any other dangerous illegal actions, the court, the public prosecutor, the investigator, the body of inquiry shall, within the framework of their competence, take measures prescribed by the law to protect the life, health, honour, dignity, and property of those persons. However, due to financial and other difficulties, there is at present no witness protection system of any sort. Work is currently underway in this direction and certain draft laws have been prepared.

The Code of Criminal Procedure does not envisage procedures for cooperation with suspects, but Article 54 of the Criminal Code indicates circumstances that mitigate responsibility and punishment, including voluntary surrender, assistance in solving the crime, and revealing the names of other crime participants. In addition, Article 314 (note) stipulates that a bribe-giver shall not be held criminally responsible if he was a victim of extortion or if this person voluntarily reported the act of bribe-giving to law-enforcement bodies.

A legal entity's report on a case can be accepted as evidence only if it is made officially according to procedures envisaged by law.

Any factual data, which provide the grounds for the investigator, prosecutor and the court to determine, according the provisions established by law, the presence or absence of the offence, as determined by the Criminal Code, the role of the suspect, accused or judged in the implementation of this

offence, his guilt or innocence, together with any other circumstances which may play a role for a correct investigation of the case, can be used as evidence, with the exception of evidence produced in violation of the Criminal Procedures Code.

The inadmissibility of disclosure of the data of preliminary investigation is established by Article 173 of the Code of Criminal Procedure. This article stipulates that the materials used for the investigation are subject to disclosure only on permission of the authority conducting the case.

Organised Crime and Corruption

Organized crime in the Kyrgyz Republic covers illegal drug trafficking, arms trade, contraband of fuel, lubricants, and alcohol, racketeering and extortion, human trafficking and prostitution for which the majority of profits go to organised criminal groups. Leaders of organised crime make attempts to involve certain officials, including officers of fiscal, law-enforcement, and customs bodies, and public authorities in order to cover their criminal activities.

According to the Law of the Kyrgyz Republic On the Fight against Corruption, corruption is a mercenary deed of officials carrying out certain official responsibilities that leading to the violations of those responsibilities. Such violations include:

- bribery, theft, larceny, negligence, and embezzlement of public and private property by officials;
- office abuse for gaining any illegal benefits (privileges, advantages) for themselves and others as a result of unofficial use of their official status.

The Criminal Code of the Kyrgyz Republic envisages the responsibility for corruption in a separate article (Article 303). Corruption constitutes intentional deeds consisting in the creation of illegal stable connections with one or several officials, empowered with authority, and individuals or groups of persons for purposes of unlawful gaining of material and any other benefits and advantages, as well as providing those benefits and advantages by them to physical and legal persons, creating a threat to the interests of society or the state.

The definition of organised crime by the Criminal Code of the Kyrgyz Republic is made in part 4 of Article 31, stipulating that organised crime should be recognised as a stable group of two or more persons or groups organised in advance for purposes of committing crimes. Consequently, an organised criminal group (as well as corruption) is a stable group consisting of two or

more persons. The goal in both cases is to commit a crime. Any person who 14 years or older can only be considered as a participant of an organised criminal group, whereas a subject of corruption is always an official.

The Criminal Code of the Kyrgyz Republic envisages the punishment for crimes committed by an organised criminal group against a person (murder, inflicting serious and less serious damage to health, torture, murder threat), against the freedom, honour and dignity of a person (kidnapping, human trafficking, illegal deprivation of freedom), crimes against sexual inviolability (rape, sexual violence), against the constitutional rights and freedoms of a person, as well as for crimes in the economic sphere (theft, burglary, fraud, robbery, extortion, illegal capture of an automobile or another type of vehicle), in the sphere of economic activity (illegal entrepreneurship, illegal banking activity, legalisation of criminally gained monetary assets or other property, monopolistic activity or restriction of competition, compelling to enter a transaction or refuse from concluding it, smuggling, etc.), for official crimes, as well as for criminal acts not related to corruption.

The fight against corruption is inseparable from the fight against organised crime. Proving that a crime, including corruption, was committed by an organised group is much more difficult than for a crime committed by a single person or a group of persons in collusion. However, law-enforcement bodies are conducting work in this direction. For example, as mentioned above there is a special structural unit within the Interior Ministry for the fight against organised crime and which conducts its activity in close cooperation with other structural units, including those engaged in the fight against corruption. According to statistics, in 2003 law-enforcement bodies solved 70 crimes committed by organised groups, or 1.9% of all registered crimes.

International Aspects

In December 2003, Kyrgyzstan signed the UN Convention against Corruption, adopted by the 58th Session of the UN General Assembly on 31 October 2003. This is the first document on corruption coordinated within the UN. The fact that Kyrgyzstan has signed this Convention demonstrates its firm commitment to combat corruption and places Kyrgyzstan in line with developed countries. The Kyrgyz Republic is the 53rd country and the second CIS state to sign this unique international legal instrument. This document was translated and published in three languages: Kyrgyz, Russian, and English. The Convention was presented at one of the NCGG sessions and is currently undergoing ratification in the *Zhogorku Kenesh*.

In keeping with the CIS Charter adopted on 22 January 1993, CIS member states have agreed to exercise joint activity in the sphere of fighting organised crime. On 12 April 1996, twelve CIS states signed the Agreement on Cooperation in the Fight against Crime in the Economic Sphere. In particular, the parties agreed to cooperate in elaborating a coordinated strategy and to strengthen cooperation between law-enforcement and controlling bodies, particularly in the banking, financial and crediting systems, in foreign economic activity, and the laundering (legalisation) of crime proceeds.

In accordance with Article 2 of the said Agreement, the parties have undertaken to work towards streamlining their national legislations with the norms of international law, including the regulation of:

- the qualification of deeds connected with the legalisation of crime proceeds as criminal offences;
- matters of confiscation and transfer of crime proceeds to other parties;
- the terms of providing banking, credit and financial documents to other parties for purposes of preventing, detecting, and terminating crimes in the economic sphere.

On 17 May 1996, the Interstate Programme of Joint Measures for the Fight against Organised Crime and Other Types of Dangerous Offences on the Territory of CIS Member States was adopted for the period until 2000. In particular, the Council of CIS member states noted during the approval of this programme that the legalisation of crime proceeds, as well as crimes in the financial and foreign economic sphere, including with the use of information and computing equipment and advances payment systems, have become particularly widespread among other types of crime. CIS member states have set the task of elaborating an Agreement on the Fight against the Legalisation of Crime Proceeds. A draft agreement has been elaborated by the Russian Federation within the framework of the said Interstate Programme, but the agreement on this issue has not been adopted by the CIS states, and the draft was sent for revision in light of the proposals and remarks submitted by the participating states.

One of the measures within the aforementioned Interstate Programme was the elaboration of a model law in the fight against corruption based on proposals by the Inter-parliamentary Assembly of CIS member states. It was also recommended that CIS member states develop a mechanism of income declaration for physical and legal persons in order to create the possibility of real control over the lawfulness of their origin.

On 25 November 1998, a Cooperation Agreement was signed between CIS member states on cooperation in the fight against crime. According to this Agreement, the Parties shall cooperate in preventing, terminating, detecting, solving, and investigating crimes, especially crimes in the economic sphere, including taxation, legalisation (laundering) of crime proceeds, smuggling, counterfeit, and forgery of securities. To implement these objectives, the competent authorities shall exchange information on legal entities and property owners used for purposes of legalising (laundering) crime proceeds and fulfil requests on conducting operative search measures and investigatory actions. The Parties shall also exchange information, conduct joint surveys and exchange relevant information. The Agreement also presents a detailed procedure for completing the requests filed by one Party to counterpart competent authorities. According to the Annex of this Agreement, competent authorities engaged in cooperation in the fight against crime include: the Prosecutor General's Office, the Interior Ministry, customs and tax services at the Finance Ministry, and the National Security Service of the Kyrgyz Republic.

Kyrgyzstan has signed and is a participant of all the aforementioned agreements and programmes. In addition, the government has signed a number of international bilateral agreements on the fight against crime and agreements on cooperation between law-enforcement bodies. Specifically, it has signed an Agreement on Cooperation in Fighting Crime with the Republic of Uzbekistan, which was ratified by the Law No.91of the Kyrgyz Republic on 26 November 2000. This Agreement introduces the provisions on cooperation between the governments of the two countries in the sphere of preventing crime and administering criminal justice. Within the framework of this Agreement, competent authorities shall cooperate in the prevention, detection, termination, and investigation of crime related to terrorism, including religious extremism, organised crime, and corruption.

The central competent authorities of the Kyrgyz Republic responsible for the implementation of this Agreement are: the Prosecutor General's bodies, the National Security Service, the Interior Ministry, the Finance Ministry, customs and tax services of the Finance Ministry, the State Agency for Drugs Control, and the National Bank of the Kyrgyz Republic.

A similar provision in the fight against corruption is envisaged by the Agreement on Cooperation between the Interior Ministry of the Kyrgyz Republic and the Interior Ministry of the Islamic Republic of Pakistan, signed on 27 October 1996, Article 2 of this agreement envisages cooperation of the parties in the fight against organised crime and corruption.

In addition, Kyrgyzstan has concluded 11 agreements on technical assistance which include anticorruption provisions. These agreements have been signed with such countries as Switzerland, Japan, Sweden, Finland, as well as with international financial organisations (International Development Association (IDA) and the Asian Development Bank).

According to Article 7 of the Agreement between the Government of the Kyrgyz Republic and the Government of the Swiss Confederacy, both parties to the Kyrgyz-Swiss agricultural programme (1999-2001) share a common concern over corruption, which undermines good governance, expends resources, and prevents efficient project implementation. In this connection, they have pooled their efforts to fight corruption and proclaim that any circumstance or benefit that can be interpreted as an illegal practice will serve as grounds for taking immediate action in keeping with the applicable laws and regulations.

Similar provisions are stipulated by agreements between the Government of the Kyrgyz Republic and the Government of the Swiss Confederacy on co-financing of the Consolidated Structural Adjustment Credit (approved by Governmental Decree of the Kyrgyz Republic No.745 of 18 December 2000), on financial support of the GIS/Cadastre project (the consolidation phase), the Kyrgyz-Swiss Public Health Reform Support Project, and on technical and financial cooperation and humanitarian assistance.

Another agreement between the Government of the Kyrgyz Republic and the Government of Sweden on training/development of social work with children of the risk group in 2001-2002 (ratified by the Law of the Kyrgyz Republic No.21 of 15 January 2003) contains the following provision on supplies:

> "No gifts, payments or offers of any sort of benefits which constitute or could be interpreted as illegal or corruptive practice, or as an incentive or remuneration for the fulfilment of a contract financed under this project shall be offered or accepted either directly or indirectly.
>
> "Sweden shall supply or ensure the supply of all goods, jobs, and services under this project according to the Swedish National Rules of Supplies."

Supplies shall be made by the Kyrgyz Republic within the framework of this project only after consultation with the head of the Swedish project and will always take into account such considerations as the timeframe, the best common economic conditions, and transparency.

Similar provisions are envisaged by the Kyrgyz-Japanese agreements concluded by an exchange of notes on the Japanese grant to Kyrgyzstan, as well as other credit and financial agreements between Kyrgyzstan and international financial organisations.

The Kyrgyz Republic has also concluded 15 bilateral and multilateral agreements on legal assistance in civil, family, and criminal cases, as well as extradition of criminals. In particular, it has signed multilateral agreements within the CIS, as well as bilateral agreements with Iran, China, Latvia, and Mongolia:

- Agreements between the Kyrgyz Republic and the Islamic Republic of Iran on legal assistance in civil, family, and criminal cases (Teheran, 21 December 2003)
- Agreements between the Kyrgyz Republic and Mongolia on legal assistance and legal relations in criminal cases (Bishkek, 4 December 1999)
- Agreement between the Kyrgyz Republic and the Azerbaijani Republic on legal assistance and legal relations in civil, family, and criminal cases (Baku, 5 August 1997)
- Agreement between the Kyrgyz Republic and the Latvian Republic on legal assistance in civil, family, and criminal cases (Bishkek, 10 April 1997)
- Agreement between the Kyrgyz Republic and the People's Republic of China on legal assistance in civil and criminal cases (Bishkek, 4 July 1996)
- Agreement between the Kyrgyz Republic and the Republic of Uzbekistan on mutual legal assistance in civil, family, and criminal cases (Tashkent, 24 December 1996)
- Agreement between the Kyrgyz Republic and the republic of Kazakhstan on mutual legal assistance in civil, family, and criminal cases (Almaty, 26 August 1996)
- Agreement between the Russian Federation and the Kyrgyz Republic on legal assistance in civil and criminal cases Bishkek, 14 September 1992)
- CIS Convention on legal assistance and legal relations in civil, family, and criminal cases (Minsk, 22 January 1993)

- Extradition agreement between the Kyrgyz Republic and the Azerbaijani Republic (Baku, 5 August 1997)
- Agreement between the Kyrgyz Republic and the Republic of Kazakhstan on the extradition of criminals and criminal persecution (Almaty, 8 April 1997)
- Agreement between the USSR and (former) Czechoslovakia on legal assistance and legal relations in civil, family, and criminal cases of 12 August 1982 (Presidential Edict of the Kyrgyz Republic No.172 of 21 July 1999)
- CIS Convention on legal assistance and legal relations in civil, family, and criminal cases (Kishinev, 7 October 2002)
- Agreement between the Kyrgyz Republic and the Islamic Republic of Iran on the extradition of criminals (Teheran, 24 June 2003)
- Extradition agreement between the Kyrgyz Republic and the People's Republic of China (Beijing, 27 April 1998)

GLOSSARY OF TERMS AND ACRONYMS

ADB	Asian Development Bank
CDS	Comprehensive Development Strategy
NPRD	National Poverty Reduction Strategy
CC	Criminal Code
CCGG	Consultative Council for Good Governance
CCP	Code of Criminal Procedure
CDB	Central Database
CIS	Commonwealth of Independent States
DFID	UK Department for International Development
IDA	International Development Association
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IM	Interior Ministry
ISA	International Standards of Audit
JSC	Joint-stock company
NCGG	National Council on Good Governance
NGO	Non-governmental organisations
NSS	National Security Service
NBKR	National Bank of the Kyrgyz Republic
OSCE	Organisation for Security and Co-operation in Europe
PA	Public Association (organisation)
Toraga	Speaker
UN	United Nations Organisation
Zhogorku Kenesh	Legislative Body of the Kyrgyz Republic

Annex 1

Abstract from the Criminal Code of the Kyrgyz Republic

Article 303. Corruption

(1) Corruption – intentional deeds consisting in creating by the offending party of steady connections between one or several officials vested with power and individual persons or groups for purposes of illegal receipt of material or any other benefits and advantages as well as providing such benefits and advantages to individuals and legal entities, creating a treat to the interests of society or the state –

shall be penalized with imprisonment for a term from eight to fifteen years with confiscation of property and deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

(2) Similar actions committed in the interests of an organized group, a criminal association or entailing grave consequences –

shall be penalized with imprisonment for a term from fifteen to twenty years with confiscation of property and deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

See comment to article 303 of this Code.

Article 304. Office Abuse

(1) Using by an official of his (her) official position in defiance of the service interests, if this deed has entailed a considerable violation of the rights and legal interests of citizens or legal entities or legally protected interests of society or the state –

shall be penalized with a fine in the amount from 100 to 200 minimal monthly salaries or imprisonment for a term from three to five years with or without confiscation of property.

(2) Similar actions committed for purposes of gaining personal benefits and advantages or benefits and advantages in favour of other persons, or another form of personal interest –

shall be penalized with a fine in the amount from 200 to 500 minimal monthly salaries or imprisonment for a term from three to six years with or without confiscation of property.

(3) Actions stipulated by part 2 of this article:

1. inflicting a particularly large damage;
2. committed in the interests of an organized group or a criminal association;
3. committed by a high-ranking official –

shall be penalized with imprisonment for a term from five to eight years with or without confiscation of property.

(4) Actions stipulated by articles two and three of this article committed repeatedly or entailing grave consequences –

shall be penalized with imprisonment for a term from eight to fifteen years with confiscation of property.

Notes.

1. In articles of chapter, officials shall be recognized as persons permanently, temporarily of by special assignment fulfilling the functions of representatives of the authorities, or exercising organizational, administrative, control and audit functions at government agencies, bodies of local self-government, public and municipal institutions, as well as the Armed Forces of the Kyrgyz Republic and other military formations.

2. In articles of this Code, high-ranking officials shall be recognized as persons occupying governmental positions established by the Constitution of the Kyrgyz Republic, and constitutional laws of the Kyrgyz Republic for immediate discharge of the functions of public institutions.

3. Public servants and servants of bodies of local self-government not categorized as officials shall bear criminal responsibility as stipulated by relevant articles of this Code.

See comment to article 304 of this Code.

Article 304-1. Conducting Illegal Inspections by Officials of Public Control Institutions

(1) Conducting illegal inspections by an official of a public control institution, if those inspections have entailed the violation of rights and legal interests of individuals and legal entities –

shall be penalized with a fine in the amount from 100 to 200 minimal monthly salaries or imprisonment for a term from one to three years with or without deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

(2) Similar actions committed for purposes of gaining personal benefits and advantages or benefits and advantages in favour of other persons, or another form of personal interest –

shall be penalized with a fine in the amount from 200 to 500 minimal monthly salaries with or without deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years or imprisonment for a term from three to five years with or without confiscation of property.

(3) Actions stipulated by part two of this article committed repeatedly or entailing grave consequences –

shall be penalized with imprisonment for a term from six to ten years with confiscation of property.

(in edition of the Law of the Kyrgyz Republic No.192 of 5 August 2003)

Article 305. Exceeding Official Powers

(1) Committing actions by an official going evidently beyond his (her) official powers and entailing a considerable violation of the rights and legal interests of citizens or legal entities or legally protected interests of society or the state –

shall be penalized with a fine in the amount from 100 to 200 minimal monthly salaries or deprivation of the right to occupy certain positions or engage in certain activities for a period up to five years or imprisonment for a term up to four years.

(2) Similar actions:

1. committed in the interests of an organized group or a criminal association;
2. committed by a high-ranking official;
3. committed with the use of physical violence or a threat of its use;

4. committed with the use of weapons or special assets;
5. entailing grave consequences –

shall be penalized with imprisonment for a term from four to eight years with or without confiscation of property and deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

See comment to article 305 of this Code.

Article 305-1. Torture

Intentional inflicting of physical or psychological damage on a person in an attempt to obtain information or confession from that person, punish him (her) for an action he (she) had committed or is suspected of committing, or to intimidate him (her) and force to commit certain actions, if such action is committed by an official or on his (her) knowledge or consent by any other person –

shall be penalized with imprisonment for a term from three to five years with or without deprivation of the right to engage in certain activities for a period from one to three years.

(in edition of the Law of the Kyrgyz Republic No.223 of 15 November 2003)

Article 305-2. Violation of the Land Legislation of the Kyrgyz Republic

Providing land constituting public and municipal property in the ownership or temporary use of individuals or legal entities by officials in violation of the land legislation of the Kyrgyz Republic –

shall be penalized with a fine in the amount from 50 to 500 minimal monthly salaries or imprisonment for a term up to five years.

Note. In this article, and official shall be recognized as an official of relevant authorized institutions regulating land relations.

(in edition of the Law of the Kyrgyz Republic No.17 of 7 March 2004)

Article 306. Concluding Contracts and Exercising Public Procurement in Defiance of the Interests of the Kyrgyz Republic

(1) The deliberate conclusion of a contract unprofitable to the state, as well as exercising public procurement entailing damage on a large scale –

shall be penalized with a fine in the amount from 700 to 1,000 minimal monthly salaries with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years or imprisonment for a term from three to five years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

(2) Similar actions committed:

1. repeatedly;
2. by a group of persons on collusion;
3. in the interests of an organized group –

shall be penalized with imprisonment for a term from five to eight to with confiscation of property.

See comment to article 306 of this Code.

Article 307. Office Abuse in Exercising Privatization, Tax, Customs or Licensing Activity

(1) The use by an official of his (her) position consisting in the transfer into ownership of estate not subject to privatization or understatement of taxes, customs duties or the value of the privatized estate, as well as illegal exemption from taxes of customs duties or illegal issuance of a license –

shall be penalized with a fine in the amount from 100 to 200 minimal monthly salaries with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years or imprisonment for a term up to five years.

(2) Similar actions committed by a group of persons on collusion or entailing serious damage –

shall be penalized with imprisonment for a term from five to eight years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

See comment to article 307 of this Code.

Article 308. Misuse of Budgetary Funds

Misuse of budgetary funds by an official inflicting damage on public or governmental interests –

shall be penalized with a fine in the amount from 500 to 1,000 minimal monthly salaries with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years or imprisonment for a term from five to eight years with confiscation of property.

See comment to article 308 of this Code.

Article 309. Illegal Participation in Entrepreneurial Activity

The establishment by an official of an organization exercising entrepreneurial activity or participation in the management of such an organization, personally or by proxy, in defiance of a legal ban, if these actions involve the granting of benefits and preferences to such an organization or another form of patronage –

shall be penalized with the deprivation of the right to occupy certain positions or engage in certain activities for a period up to five years and a fine in the amount from 100 to 200 minimal monthly salaries, or arrest for a term from three to six months, or imprisonment for a term up to two years.

See comment to article 309 of this Code.

Article 310. Bribe in the Form of Remuneration

(1) The acceptance by an official personally or via an intermediary of a bribe, not agreed preliminarily, in the form of money, securities, other property or property-related benefits for an action (inaction) in favour of the bribe-giver or persons represented by him (her), if such action (inaction) is included in the official responsibilities of the official or this official can promote such actions (inaction) by using his (her) official position –

shall be penalized with a fine in the amount from 200 to 500 minimal monthly salaries or imprisonment for a term up to three years with the deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

(2) Actions stipulated by part one of this article:

1. committed by a high-ranking official;
2. committed repeatedly;
3. committed on a large scale;
4. illegal actions (inaction) –

shall be penalized with imprisonment for a term from three to eight years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years with confiscation of property.

Note. Bribe on a large scale is qualified in this article, as well as articles 311, 312, and 313 of this chapter as a sum of money, the value of securities, other property or property-related benefits, exceeding the minimal monthly salary, established by the legislation of the Kyrgyz Republic at the moment of the crime, 200 times.

See comment to article 310 of this Code.

Article 311. Bribe in the Form of Graft

(1) The acceptance by an official personally or via an intermediary of a preliminarily agreed bribe in the form of money, securities, other property or property-related benefits for an action (inaction) in favour of the bribe-giver or persons represented by him (her), if such action (inaction) is included in the official responsibilities of the official or this official can promote such actions (inaction) by using his (her) official position, as well as general patronage or official connivance –

shall be penalized with imprisonment for a term from five to eight years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years with confiscation of property.

(2) Similar actions committed:

1. by a group of persons on connivance;
2. by an organized group;
3. by a high-ranking official;
4. repeatedly;
5. on a large scale –

shall be penalized with imprisonment for a term from seven to twelve years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years with confiscation of property.

See comment to article 311 of this Code.

Article 312. Bribe-Taking for Providing a Position

(1) The acceptance by an official personally or via an intermediary of a bribe in return for providing a position within the system of public service –

shall be penalized with imprisonment for a term from five to eight years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years and confiscation of property.

(2) Similar actions committed:

1. repeatedly;
2. on a large scale;
3. by a high-ranking official –

shall be penalized with imprisonment for a term from eight to fifteen years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years and confiscation of property.

See comment to article 312 of this Code.

Article 313. Bribe Extortion

(1) Bribe extortion, i.e. demand by an official of a bribe in return of fulfilment in the interests of the bribe-giver of certain action (inaction) violating his (her) legal rights, as well as compelling him (her) to give a bribe in order to prevent harmful consequences to his (her) legally protected interests –

shall be penalized with imprisonment for a term from ten to fifteen years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years and confiscation of property.

(2) Bribe extortion:

1. committed repeatedly;
2. on a large scale;
3. by a high-ranking official –

shall be penalized with imprisonment for a term from twelve to twenty years with confiscation of property.

See comment to article 313 of this Code.

Article 314. Bribe-Giving

(1) Bribe-giving to an official personally or via an intermediary –

shall be penalized with arrest for a term from three to six months or imprisonment for a term up to three years.

(2) Similar actions committed:

1. repeatedly;
2. on a large scale;
3. in the interests of an organized group, as well as bribe-giving in return for committing a deliberately illegal action (inaction) –

shall be penalized with imprisonment for a term from three to eight years.

Notes.

1. An intermediary or accomplice shall be recognized as a person assisting in reaching and implementing the agreement on bribe-taking or bribe-giving.

2. A bribe-giver shall be exempt from criminal responsibility if there had been a fact of bribe extortion on the part of the official and if this person has voluntarily reported the fact of bribe-giving to a body authorized to initiate criminal proceedings.

See comment to article 314 of this Code.

Article 315. Official Forgery

Official forgery, or deliberate introduction by an official, as well as a public servant or employee of a local self-government body, of false data, as well as amendment of the said documents, distorting their actual content, if such actions have been committed for malicious or other personal interest –

shall be penalized with a fine in the amount from 100 to 200 minimal monthly salaries with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years or imprisonment for a term from up to two years with deprivation of the right to occupy certain positions or engage in certain activities for a period up to three years.

See comment to article 315 of this Code.

Annex 2

Law of the Kyrgyz Republic on Civil Service

Approved by the Legislative Assembly

June 30, 2004

of the Jogorku Kenesh of the Kyrgyz Republic

This Law shall establish fundamentals of organization of the civil service, and regulate legal status of a civil servant, conditions of the civil service, as well as the system of incentives and accountability of civil servants.

This Law aims to ensure succession, stability and independence of the professional civil service, promote the qualified staff to the civil service, and improve efficiency of the civil service administration.

CHAPTER I. GENERAL PROVISIONS

Article 1. Main definitions

Following definitions shall be used within this Law:

a) **Civil service** means activity of civil servants within bodies of the state, fulfilling the tasks, functions and authorities defined by the Constitution and other legal and regulatory acts of the Kyrgyz Republic on the professional basis;

b) **Civil servant** is a citizen of the Kyrgyz Republic holding an official public position within the public body who carries out professional activity on the full time basis in exchange for monetary reward from the state budget, exercising powers provided to him/her due to the position held and being accountable for the execution thereof;

c) **Public body** means a body established on a permanent basis in accordance with the Constitution of the Kyrgyz Republic, constitutional and other laws of the Kyrgyz Republic, decrees of the President of the Kyrgyz Republic, resolutions of the Government of the Kyrgyz Republic, which is empowered to perform functions of legislative, executive or judicial public authority, as well as the Administration of the President of the Kyrgyz Republic, make decisions mandatory for execution and ensure their implementation, as well as financed from the state budget. The term of "public

body" also means any territorial subdivision or unit that implements all or some of the functions of a central-level public body;

d) **Public position** means a position envisaged by the Constitution of the Kyrgyz Republic, as well as the other legal and regulatory acts, or a position instituted in accordance with the legally established procedure as a staff unit of a public body with the specified scope of duties in terms of implementing and assuring authority of such a public body. Public positions are divided into political public positions and administrative public positions;

d) **Political public position** means a public position, filled through appointment (election) or vacated in accordance with the Constitution of the Kyrgyz Republic, with certain scope of authority, established by the Constitution and legislation of the Kyrgyz Republic;

e) **Administrative public position** means a position within the apparatus of a public body of the legislative, executive or the judicial branch of power, with a certain scope of authority and responsibility for the fulfilment of tasks and functions vested into the public body, as established by the Constitution and respective legal and regulatory acts of the Kyrgyz Republic;

f) **Registry of public positions** is the list of positions within the civil service, approved by the President of the Kyrgyz Republic, unified and classified by public bodies, categories, groups and any other criteria as approved by the President of the Kyrgyz Republic.

Article 2. Legislation on civil service

Legislation on civil services shall consist of the Constitution of the Kyrgyz Republic, this Law, and any associated legal regulatory acts of the President of the Kyrgyz Republic, Jogorku Kenesh of the Kyrgyz Republic, the Government of the Kyrgyz Republic and the Agency on Civil Service of the Kyrgyz Republic.

Unless international treaties and agreements ratified by the Kyrgyz Republic envisage different legal provisions in respect of the civil administrative service, legal provisions of such treaties and agreements shall apply.

Unless otherwise envisaged by this Law, the Law of the Kyrgyz Republic on labour and social protection shall apply to civil servants.

Article 3. Purview of this Law

This Law shall cover civil servants holding administrative public positions.

This Law shall also apply to the civil servants of apparatus of: courts, Ombudsman (Akiykatchi) of the Kyrgyz Republic, bodies of justice and prosecution, as well as servants with the status of public Law enforcement officers, to the extent not regulated by other specific laws.

This Law shall not be applied to:

- persons holding public political positions, unless otherwise envisaged by this Law;
- advisers, consultants, and assistants to persons holding public political positions in terms of nomination, promotion and dismissal;
- military personnel;
- municipal servants;
- servants employed in bodies, institutions, enterprises and organizations under the jurisdiction of state bodies carrying out scientific and research, creative, teaching, curative and health promoting and other activities to serve the population not related to executive and administrative functions of the state, including managers of such institutions and organizations;
- technical and support personnel within bodies of the state.

Article 4. Major principles of civil service

Civil service in the Kyrgyz Republic shall be guided by the following principles and perform its functions on the basis thereof:

1) supremacy of the Constitution of the Kyrgyz Republic, legislation of the Kyrgyz Republic, and priority of human and civil rights and freedoms;
2) allegiance of civil servants to the people of Kyrgyzstan;
3) stability of civil service;
4) openness and accessibility of information about activities of a civil servant for the public;
5) professionalism, competence, initiative and integrity;
6) equal right of citizens of the Kyrgyz Republic to employment opportunities in the civil service;
7) discipline and personal responsibility for performance of official duties, integrity and impartiality of the disciplinary liability system;
8) controllability and accountability of civil servants, obligation for them to implement the decisions made by higher public bodies and officials within the scope of jurisdiction given to them by the legislation;
9) legal, economical and social protection of civil servants, guaranteeing for them and their families a decent standard of life;
10) continuous enhancement of the civil service system;
11) transparency and impartial staff selection, performance evaluation and promotion on a competitive basis;
12) elimination of political influence on, and illegitimate interference in activities of the civil service.

CHAPTER II. CIVIL SERVANT LEGAL STATUS

Article 5. Functions and authority of civil servant

Civil servant shall perform professional activities to implement goals, objectives and functions established by legislation on this public body, as well as the person in a political or special public position.

The scope of authority of a civil servant shall be determined by objectives and functions of a public body, as well as the scope of rights and responsibilities implied by given position in accordance with the Constitution of the Kyrgyz Republic, this Law and other legal and regulatory acts of the Kyrgyz Republic.

Article 6. Major civil servants requirements

None of the following may qualify for civil service:

- a person without citizenship of the Kyrgyz Republic;
- a person at the age of below 21;
- a person judicially declared incapable or incompetent, or a person who may not, in pursuance of a judicial judgment, perform activities in a capacity of a civil servant, or hold certain civil service positions;
- a person with a criminal record or prior conviction in court, that is not discharged in accordance with the legally established procedure;
- a person who does not meet qualifications requirements established for the administrative position by the legislation of the Kyrgyz Republic or corresponding public bodies responsible for recruitment.

Article 7. Main duties of civil servant

A civil servant shall have the duties as follows:

1) observe the Kyrgyz Republic Constitution and legislation of the Kyrgyz Republic;
2) discharge his/her official authority in good faith;
3) observe the Code of Civil Servant Ethics of a public body;
4) discharge his/her official duty impartially and be guided in his/her decisions by the Constitution of the Kyrgyz Republic, legislation and legal and regulatory acts of the Kyrgyz Republic;
5) not to make statements and assess publicly (including in mass media) activities of public bodies, their managers, their decisions, without corresponding authorization;
6) execute orders, resolutions, directions and other decisions of superior officials and pertinent public bodies issued within the limits of their authority without having a proper authorization. In case of receiving illegitimate orders, regulations or instructions, civil servant shall be guided by provisions of the legislation;
7) prevent violation of civil rights, freedoms and interests;
8) give consideration to appeals of citizens, commercial and non-commercial organizations, local self-government bodies and public bodies and in a timely and objective manner take decisions on them in accordance with the legislation;
9) without delay inform his/her management and pertinent public bodies on cases of violation of the Kyrgyz Republic legislation that became known to him;

10) have a level of professional qualification needed to discharge his/her official authority;
11) keep state, official and other secrets protected by law, including within a legally established period upon termination of civil service;
12) observe confidentiality of any information concerning private life, honour and dignity of citizens that a civil servant becomes aware of in the course of discharging his/her official duties. Neither shall a civil servant request provision of such information by citizens unless such requests are envisaged by the legislation;
13) ensure careful treatment and safe custody of state property and estate;
14) accept any restrictions associated with civil service as established by this Law.

A civil servant may have other duties according to the legislation of the Kyrgyz Republic.

Article 8. Main rights of civil servant

Civil servant shall have the right to:

1) enjoy respect to his/her personal dignity, fair and respectful attitude to him from managers, colleagues and citizens;
2) receive following the establish procedure information, documents and other materials needed to discharge his/her official authority;
3) visit in the line of exercising official authority public bodies, local self-government bodies, profit and non-profit organizations following the procedure as established by legislation;
4) demand from pertinent public bodies and local self-government bodies and their officials, legal entities and citizens compliance with the Kyrgyz Republic Constitution, laws and other legal regulatory acts of the Kyrgyz Republic as well as with decisions adopted by the civil servant within the scope of his/her official authority delegated by the state;
5) receive salary; have a leave of absence and related benefits;
6) safe working conditions;
7) appropriate training to upgrade professional skills;
8) promotion, taking into account his/her level of education, competency, professional qualification, experience and official work performance results;
9) adopt decisions or participate in their preparation and consideration;
10) demand from the head of the establishment of clearly defined official authority;
11) defend his/her rights and legal interests, as well as appeal against any wrongful acts of officials in accordance with the procedure established by the legislation of the Kyrgyz Republic;
12) demand that an official investigation be carried out with an aim of dismissing groundless charges and suspicions against him if he believes so;

13) pension security, social and legal protection to be made by the state including members of his/her family and in cases stipulated by the legislation;
14) resign on his/her own will, following the procedure prescribed by legislation of the Kyrgyz Republic;
15) demand a written confirmation of a verbal instruction of a manager in case he doubts lawfulness of the instruction;
16) associate into trade unions;
17) protection against persecution by the superior (head of a public body).

The civil servants shall also enjoy other rights established by the legislation of the Kyrgyz Republic.

Heads and state secretaries of the public bodies shall be obliged to ensure implementation of the civil servant rights stipulated by this Law.

Article 9. Conflict of interest

The situation of conflict of interest occurs when decisions made by public officials may be influenced by their private personal interests by taking advantage of their public office to promote personal interests to advance their private gain. Conflict of interests results in officials making decisions which do not necessarily coincide with the broader interests of the states of the state.

Being aware of conflict of interest, a civil servant must take the measure to prevent real or potential conflict of interests.

In case there is a conflict of interest a civil servant must immediately report this to his/her immediate manager, who is obliged to take measures to prevent negative consequences of such a conflict of interest:

- to temporarily suspend execution of duties (implementation of functions) by the civil servant, when a conflict of interest arises in the process of their implementation, or;
- to tighten control over execution by the civil servant of duties giving rise to a conflict of interest in the process of their implementation.

Article 10. Ethics of the civil servant

Ethics of the civil servant shall be a system of norms that establish and regulate the rules of conduct of the civil servant. Complying with the ethics shall be an obligation of each civil servant.

The civil servant shall observe the following main principles of the ethics:

- behave in such a way so that to form, maintain and strengthen confidence of citizens in integrity, impartiality and efficiency of the public bodies, local self-government bodies;
- be polite, regardful, patient, principled, seek to obtain a deep insight of an issue, be able to hear out an interlocutor and come to understanding of his/her position, and weigh in the balance and reason

decisions adopted; on highly professional level perform duties entrusted to him duties, raise his/her level of general education and professionalism;

- take measures envisaged by the Code of Civil Servant Ethics in case of discovering facts of violation of the ethics norms by other civil servants;
- do not force his/her subordinate to take illegal decisions or commit illegal acts;
- prevent occurrence of the conflict of interest in his/her activities;
- take a respectful attitude to peoples' customs and traditions;
- exclude illegal influence or influence from anybody else, including other officials independently of the posts they held and their status, on discharge of his/her official activities.

Other civil servant ethic norms and principles shall be established by special law.

The manager of the state body shall take actions for the purpose of preventing and suppressing violations of ethics by subordinate civil servants and ensure confidentiality of the information about persons reporting on ethics violations.

State secretary of a public body shall bear responsibility for creating favourable work environment in the collective that would exclude any violation of ethics by subordinate civil servants.

Article 11. Restrictions related to civil service

A civil servant shall not have the right to:

1) engage in other paid activities except for pedagogical, scientific and creative activities, insofar as such activities do not interfere with the performance of the civil servant's major official duties;
2) personally engage in entrepreneurial activities or utilize his/her official position for assisting individuals and legal entities in carrying out entrepreneurial activities, in exchange for any direct or indirect benefit derived by the civil servant or his/her family members;
3) act as a representative in relation to affairs of third parties in a public body in which he serves or which is directly subordinated to him or is under his/her control;
4) utilize for unofficial purposes public assets and financial resources, official information, subordinate civil servants;
5) receive from third parties remuneration in the form of gifts, money and services for action or inaction in relation with discharge of official authority;
6) participate in activities of political parties, public associations and religious organizations in relation to his/her official activities and during his/her working hours; a civil servant shall not postpone the interests of the civil service to his/her political commitments;

7) be employed in civil service related to direct subordination of or controllability over near related individuals (parents, spouse, brothers, sisters and children);
8) take unauthorized commitments and give promises related with service he discharges;
9) it shall be prohibited for him to use his/her official position to resolve issues that directly affect the personal interests of a civil servant or that of members of his/her family and close relatives.

Establishment of the fact of non-compliance with the limitations envisaged by this Article shall be the ground for enforcement in respect of a civil servant of disciplinary actions envisaged by this Law.

Within one year following termination of his/her civil service a civil servant may not:

- make inquiries about the matters within his/her competence at the place of his/her previous service for the interest of a third party;
- act on behalf of any individual or legal entity for the cases under his/her jurisdiction during civil service in a way that it could result in providing additional advantages for that individual or legal entity.

A person in administrative or political public position shall not have the right to hold position of a head of an enterprise irrespective of its ownership patterns, neither shall he/she have the right to participate in management of other commercial entities with more than 30 percent of the stock (shares) belonging to the state.

CHAPTER III. FUNDAMENTAL ORGANIZATION OF CIVIL SERVICE

Article 12. Civil Service Agency of the Kyrgyz Republic

With a view to pursue common state policy in the area of civil service, the President of the Kyrgyz Republic shall establish the Civil Service Agency of the Kyrgyz Republic (hereinafter referred to as the Agency).

The Agency shall be a working body of the Civil Service Council (hereinafter referred to as the Council) established for performance as a public body on a permanent basis.

The Council shall determine the civil service development strategy and develop the mechanisms of concerted actions and coordination of activities of the public authorities and public administration bodies; identify the priorities of establishing the legal and regulatory framework of public administration and civil service; develop the policy of improving efficiency of public bodies as well as the staffing capacity of the state; make decisions on nomination of candidates to fill in positions of state secretaries of public bodies, give its consent or object to giving its consent to dismissal of state secretaries of public bodies; elaborate key principles of the governance and civil service reform including the issues of transparency and good faith in performance of public bodies and civil servants, as well as implementation of anticorruption policy; address other associated issues.

The Council shall consider reports, papers and other information associated with the Agency activities as provided by Director of the Agency.

The Council shall include:

- Director of the Agency – Chairman of the Council;
- One representative of the President of the Kyrgyz Republic;
- Two representatives of the Jogorku Kenesh of the Kyrgyz Republic (one of these representatives is a deputy Chairman of the Council);
- Two representatives of the Government of the Kyrgyz Republic;
- One representative of the Supreme Court of the Kyrgyz Republic.

Members of the Council on behalf of the Jogorku Kenesh shall be designated by the Jogorku Kenesh of the Kyrgyz Republic for the term of one year.

Members of the Council on behalf of the Government of the Kyrgyz Republic shall be designated by the Government of the Kyrgyz Republic for the term of one year.

A member of the Council on behalf of the Supreme Court of the Kyrgyz Republic shall be designated by the Chairman of the Supreme Court from amount the existing members of the Supreme Court for the term of one year.

The Council shall make collective decisions by the majority of the total number of the Council members.

The Council shall hold its meetings as necessary, yet not less than once in three months. The Council shall be guided by the regulations on the Council approved by the Council.

The Agency shall be headed by Directors designed by the President of the Kyrgyz Republic upon consent of the Jogorku Kenesh of the Kyrgyz Republic. The structure and number of staff of the Agency shall be approved by the President of the Kyrgyz Republic. The regulation on the order of implementing activities of the Agency to the extent that is not regulated by this Law, shall be approved the Civil Service Council.

The Director of the Agency shall have the right to unilateral participation in the meetings of the Government of the Kyrgyz Republic and other public bodies. State secretary position shall be introduced in the Agency.

Actions and decisions of the Agency may be appealed through court proceedings.

Article 13. Functions of the Agency on Civil Service of the Kyrgyz Republic

In accordance with the Law on civil service and resolutions of the Council, the Agency shall:

- elaborate and pursue the uniform policy of the state in the area of civil service;

- prepare and approve regulatory acts and uniform regulations that a mandatory for the public bodies in implementation of the process of competitive selection of candidates for open administrative positions, as well as in evaluation and interdepartmental rotation of civil servants;
- select on a competitive basis candidates to fill in positions of state secretaries of public bodies in accordance with ARTICLE 14 of this Law and with application of transparent procedures; recommend selected candidates for the designation;
- prepare proposals regarding ethics of civil servants that inter alia include provisions on disciplinary liability of civil servants for violation of legislation on civil service; submit these proposals to the Council for consideration;
- determine the format and procedure of completing, submission, registration and keeping of declarations of income and property of civil servants;
- accept and review declarations of income of persons in political and administrative positions;
- elaborate procedures and rules with a view to prevent conflicts of interest that must be implemented by all of the public bodies and provides consultations to civil servants and their superiors on the issues associated with conflicts of interests, as well as the ways of addressing them;
- administer complaints of civil servants about decisions of civil bodies made upon internal investigation;
- submit draft legal and regulatory acts in respect of civil service for consideration to the President of the Kyrgyz Republic, the Government of the Kyrgyz Republic;
- be the single coordinating body responsible for the issues of forming and placement of government orders under government programs of training, conversion of skills, professional development and internship of civil servants, including internship abroad;
- monitor compliance with the legislation of the Kyrgyz Republic on civil service and submits proposals on improvements in the legislation compliance to the Government, Jogorku Kenesh of the Kyrgyz Republic and corresponding public bodies;
- analyze status and efficiency of civil services in the public authorities and provides recommendations on performance improvement;
- develop proposals of improvements in the salary system and social and legal assurance of civil servants in consultation with the Government of the Kyrgyz Republic;
- develop and maintain the Registry of administrative public positions; introduce proposals on amendments to the Registry of administrative service.

The Agency shall perform other functions associated with this Law.

Article 14. State secretary of a public body

State secretary shall be a civil servant holding supreme administrative public position in ministries, state committees and administrative agencies of the Kyrgyz Republic. State secretary position may be established in the other executive and judicial bodies.

In the other state bodies not included in the list provided in the first paragraph of this article, responsibility for implementation of provisions of this Law shall be vested with the heads of apparatus of these bodies designated by heads of corresponding state bodies.

State secretary shall hold the position permanently and shall not be replaced in connection with the resignation or dismissal of the head of the respective public body.

Legal status of the state secretary shall be equal to that of the first deputy head of the respective public body.

The state secretary in the public body shall:

- be entrusted with implementation of the consolidated state policy in respect to the civil service;
- be entrusted with implementation of the policies developed by the head of the respective public body, in respect to all matters within the jurisdiction of the public body;
- nominate candidates for appointment, promotion, rotation and dismissal of civil servants holding administrative public positions;
- be accountable to the head of the public body for matters of financial management and use of public funds in sphere of civil service.

Selection to a vacant position of the State secretary of the public body shall be carried out by the Civil Service Council of the Agency based on a competitive basis. Nominees shall be considered and recommended by the Civil Service Council given their professional and personal qualities, existing work experience and managing skill by consent of the head of the public body.

State secretaries in executive bodies shall be designated and dismissed by the Prime Minister of the Kyrgyz Republic upon recommendation by the Council and by consent of the head of a corresponding public body. The Council shall establish the procedure of designating a state secretary in case of introduction of state secretary position in the other executive and judiciary bodies.

A state secretary may be dismissed on the grounds envisaged by the article 31-34 of this Law.

State secretary may be dismissed from the office:

- upon a proposal from the head of the public body, approved by the Civil Service Council of the Agency;
- upon a proposal from the Civil Service Council of the Agency, supported by the head of the public body.

The Civil Service Agency shall conduct the attestation of state secretary in accordance with the procedure as established for other civil administrative servants.

The issues of legal status and activities of state secretaries that are not regulated by this Law shall be established by the Regulation on the State Secretary to be elaborated by the Agency and approved by the Council.

Article 15. Classification of administrative positions

Administrative public positions shall divide into categories of managers and specialists, as well as into the following groups:

- principal position;
- senior position;
- public position;
- junior position.

Composition and proportion of categories and groups of administrative civil servants shall be determined by the President of the Kyrgyz Republic upon reasonable recommendation of the Agency.

The list of administrative public positions designated (elected) by the President of the Kyrgyz Republic, Jogorku Kenesh of the Kyrgyz Republic, Prime Minister of the Kyrgyz Republic and other official authorities and public bodies of the Kyrgyz Republic shall be determined by the Constitution of the Kyrgyz Republic, legislation of the Kyrgyz Republic and associated legal and regulatory acts of the Kyrgyz Republic.

Article 16. Registry of administrative service

The registry of administrative public positions shall contain standard names of positions allocated by public bodies and categories, and be an integral part of the Registry of administrative service approved by the President of the Kyrgyz Republic.

The procedure of formation, maintenance and amendment of the Registry of administrative service shall be established by the Council.

Proposals of establishing new administrative public positions may be made in coordination with the Ministry of Finance of the Kyrgyz Republic.

Article 17. Qualification requirements

The qualification requirements to civil servants shall include the requirements of:

- the level and profile of professional education taking into account the category and group of administrative public positions;
- the length of service and work experience on given specialty and pertinent professional skills.

The following qualification requirements to the years of service and work experience on specialty shall be established for administrative state public positions:

- junior administrative state public positions – without any requirements to the record of service;
- senior administrative state public positions – the record of civil service in junior positions of at least one year or work experience in specialty of at least three years;
- principal administrative state public positions – the record of civil services in senior positions of at least five years or the work experience in specialty of at least seven years;
- superior administrative state public positions – the record of civil service in principal positions of at least seven years of work experience in specialty of at least ten years.

Article 18. Civil service personnel reserve

The civil service personnel reserve (hereinafter referred to as the personnel reserve) shall be a group of candidates specially formed to fill public positions in the civil service. The civil service personnel reserve shall be composed of the national and internal personnel reserves.

The Agency shall form the national personnel reserve by conducting corresponding competitions among following candidates:

- graduates of higher education institutions who passed successfully national competition to fill junior administrative public positions;
- civil servants claiming promotion upon recommendation of the head of the public body and with proper consideration of opinion of a state secretary of the public body;
- civil servants dismissed as a result of liquidation of an institution, reduction of staff, prolonged disability or temporarily disqualification for the state of health;
- persons serving as state servants who are recommended for appointment to a certain position, but not appointed for the reasons beyond their control.

The internal personnel reserve of a public body shall be directly formed out of civil servants filling administrative public positions in the same public body, recommended for promotion upon appraisal results and having previously applied for enrolment to the reserve.

Article 19. Civil servant personal profile

All information pertaining to labour relations between a civil servant and a public body shall be reflected in a personal profile of the civil servant. The personal profile shall be maintained by the personnel management service of a pertinent public body. Should a public civil servant be transferred to another public position then his personal profile shall be transferred to the specified new place of employment in the

civil service. Maintaining several personal profiles for the same civil servant shall not be admitted.

Collecting and introducing into the personal profile of information pertaining to political and religious views of the civil servant, as well as his private life shall be prohibited.

The order of keeping personal profiles of civil servants, list of information and documents for inclusion to personal profiles, the order of access to them, as well as the accessibility procedure and other issues associated with keeping records of civil service shall be developed by the Agency and approved by the Council.

Staff of personnel management service shall not disclose any information from a civil servant's personal profile. A civil servant shall have the right to learn the materials in his/her personal profile.

Article 20. Civil servant attestation

Attestations shall be held to determine fitness of professional knowledge and working skills of a civil servant to a position he holds and career development prospects.

An attestation is a form for identifying professional knowledge and working skills of a civil servant and provides incentives for his professional development, determined his performance in a public body.

The following shall be considered as general principles of an attestation:

- objectivity – an equitable, impartial attitude to a being attested civil servant as well as to his activities in the public body;
- uniformity – a list of assessment indices and criteria employed for assessment of civil servants based upon statement of facts;
- transparency – an open procedure for attestation of civil servants, results of which shall be reported to all civil servants of the public body with explanation of all reasons and motives behind adopting a decision on results of attestation;
- regularity – periodically correct and permanently organized procedure of attestation of civil servants.

An attestation and competition commission (hereinafter – the commission) of the public body shall be formed to hold an attestation.

Attestation of civil servants may be held in accordance with the following types:

- attestation upon expiration of a probation period – this shall be held upon expiration of a probation period to determine the degree of fitness of a civil servant to the position held, development of a proposal on further professional development the civil servant use of one being attested;

- attestation for assessing fitness to a position held and promotion (hereinafter referred to as regular attestation) – this shall be held on a regular basis to assess activities of civil servants and for assigning a class rank; a short statement concerning work done and results achieved made in accordance with a structure approved by the attestation and competition commission, assessment of the level of professional knowledge and revealed potential of a civil servant as well as his level of professional training for promotion to a higher position shall constitute a basis for attestation.

A civil servant shall be subject to attestation not more than once in three years.

The following civil servants shall not be subject to regular attestation:

- ones who has been filling a position of a pertinent category less than a year if only by themselves they did not express their desire to pass the attestation;
- pregnant women if only they by themselves did not express their desire to pass the attestation;
- ones on maternity leave, child care leave if only they by themselves did not express their desire to pass the attestation.

The above-mentioned civil servants shall be subject to regular attestation not earlier than one year following end of the above-mentioned social leaves.

A civil servant on a regular leave, on business trip, as well as those who are temporarily disabled shall go through attestation after one month since the day they returned to their jobs.

Following the attestation a civil servant shall be given one of the following assessments:

- fit to hold the public position held;
- fit to hold the public position held upon compliance with recommendations issued by the attestation commission concerning his official activities with a follow-up attestation to be held in 6 months;
- unfit to a public position held;
- fit to be promoted.

Special/extraordinary sessions shall not be allowed.

Provision on attestation of civil servants shall be determined by the President of the Kyrgyz Republic and subsequently approved by the Jogorku Kenesh of the Kyrgyz Republic.

Article 21. Civil servant training

Training of a civil servant shall be conducted in order to upgrade his qualifications, build capacity of a corresponding public body, impellent reforms with the introduction of new rules, procedures and systems, improvement of efficiency and effectiveness of civil services, as well as based upon results of attestation of a civil servant, in case official duties of this position have been changed.

Training shall be conducted on initiative of civil servant, manager or state secretary of a public body.

The civil servant who was on a pregnancy, delivery or childcare leave has a priority right to training.

The Agency shall, as a single customer, select training programs and educational institutions on a competitive basis.

Funds to finance training of civil servants shall be allocated in the amount not less than one percent of the funds designated for funding operations of the public bodies. Training may be also provided at the expense of other funds not prohibited by legislation of the Kyrgyz Republic.

Article 22. Civil servant class rank

The class ranks of the civil servants shall indicate at conformance of their level of training to the qualification requirements set up for pertinent public positions.

The civil servants may be commissioned for assigning them the following class ranks:

- Junior Civil Service Inspector;
- Civil Service Inspector 3rd Class;
- Civil Service Inspector 2nd Class;
- Civil Service Inspector 1st Class;
- Civil Service Counsellor 3rd Class;
- Civil Service Counsellor 2nd Class;
- Civil Service Counsellor 1st Class;
- Civil Service State Counsellor.

Article 23. Procedure of commissioning for assignment of civil service ranks

Civil servants filling junior public positions may be commissioned for assigning to them the rank of a Junior Civil Service Inspector, as well as the rank of the 3rd Class Civil Service Inspector.

Civil servants filling senior public positions may be commissioned for assigning to them the 3rd, 2nd and 1st Class Civil Service Inspector ranks and the 3rd Class Civil Service Councillor rank.

Civil servants filling principal public positions may be commissioned for assigning to them the 3rd, 2nd and 1st Class Civil Service Councillor ranks.

Civil servants filling superior public positions may be commissioned for assigning to them the Civil Service State Councillor ranks.

The manager of the public body upon recommendation of the State secretary of the body based on the civil servant attestation results shall be responsible for assigning, depriving, demoting in the class ranks of the junior civil service inspector, the 3rd, 2nd and 1st civil service inspector.

The head of the public body shall upon recommendation of the State secretary of a corresponding public body be responsible for assigning, depriving, demoting in the class ranks of the 3rd, 2nd and 1st civil service state Councillor ranks.

The President of the Kyrgyz Republic President shall assign, deprive, and demote the class ranks of the civil service state Councillor upon joint recommendation of the Agency and the head of the corresponding public body.

The assigned class rank shall be indicated in the service certificate of the civil servant, and upon assignment of the class ranks of Civil Service State Councillor or Civil Service Councillor the civil servant shall be issued a pertinent certificate.

The class rank of a Junior Civil Service Inspector shall be assigned to a newly recruited civil service upon completion of a six-month period of service, including probation period.

Other issues on assigning class ranks to civil servants shall be specified by the President of the Kyrgyz Republic.

When the civil servant is transferred from one public body, for the staff of which the assignment of military ranks, special class ranks and special titles, diplomatic ranks is envisaged, to another public body, for which the assignment of class ranks is envisaged in accordance with the present Law, he shall retain the existing military rank, special class rank, special title, diplomatic rank. In this case the next military rank, special class rank, special title, diplomatic rank may be assigned to the civil servants, whose functional authority by its profile is similar to the position he held earlier in the previous public body.

Another military rank, special class rank, special title, diplomatic rank, except for the superior ones, can be assigned by the manager of the public body, where the civil servant was assigned the last military rank, special class rank, special title, diplomatic rank upon recommendation.

In other cases civil servants with a military rank, special class rank, special title, and diplomatic rank shall be assigned another corresponding class rank as envisaged by the present Law upon recommendation of the public body he was transferred to.

CHAPTER IV. THE ORDER OF CIVIL SERVICE

Article 24. Procedure of enrolment to the civil service

Enrolment with civil service shall be made on the basis of participation in an open competition.

The Agency shall coordinate the system of selection of candidates for the civil service and provide methodology support.

The Agency shall disseminate information on civil service administrative vacancies and holding of a national competition to fill these vacancies through publication of information on open positions in the state owned mass media and the

Kyrgyz Republic Civil Service Portal no later than one month prior to the commencement of the competitive selection.

Recruitment Enrolment to civil service on the basis of contractual arrangements shall be allowed in cases and manner stipulated by the President of the Kyrgyz Republic.

Following is the list of those eligible to hold administrative positions in civil service without participation in the process competitive selection, provided that they meet the corresponding qualification requirements:

- civil servants within the same category of positions in the same public body;
- advisors, assistants and consultants to political civil servants;
- political civil servants with terminated authority.

Civil servants in political and executive and chief administrative positions in civil service, earlier dismissed from their positions for discrediting status of a civil servant shall not have the right to reinstatement and holding similar or equivalent position in civil service again.

Public body heads shall bear responsibility as envisaged by the legislation of the Kyrgyz Republic in the cases as follow:

- if a person in administrative position in civil service proves wrongfulness of his/her dismissal;
- nomination to administrative position in civil service individuals who have not passed the competitive selection process, with the exception of those specified by this Law.

Article 25. Competition for filling administrative public positions

Should there be a public position vacancy available then the Permanent Secretary of the public body shall inform the Agency about it in writing within three working days.

The competition shall be announced upon availability of a civil service public position vacancy.

A participant of the competition for filling a public position vacancy shall be an individual who has filed an application for participation in the competition and was admitted for participation in the competition.

The competition for filling a public position vacancy (hereinafter referred to as competition) shall provide an equal access to civil service for secure an equal access of all Kyrgyz Republic citizens to the civil service.

In the first place, there shall be held a competition among persons listed in internal reserve. If the competition does not take place because of refusal of persons listed in internal reserve to participate in it, or because the qualified person has not been appointed upon results of the competition, that there shall be announced competition among those listed in the national reserve.

Information on holding the competition to fill a public administrative public position vacancy shall contain the following information:

1) name and legal address of a public body;
2) name of the civil service administrative position vacancy;
3) qualification requirements set for the civil service public administrative position administrative vacancy;
4) functional duties to be performed on that position;
5) list of documents required for participation in the competition;
6) time and place where the documents are to be submitted to;
7) place and time when the competition is held.

Citizens who presented documents and information that do not answer satisfy the set requirements, shall not be admitted for participation in the competition.

Competition results shall be reported to participants within a month since the day of its completion.

A state secretary shall have within three days recommend the head of the public body designation of a person who has successfully passed the competition.

The Agency may decide to hold national competition among graduates of institutions of higher education for the purpose of forming reserve of staff for junior public positions.

Article 26. Oath taking by civil servant

A civil servant when entering civil service for the first time shall give the following oath in writing to the official who appointed him to this position:

"*Me, …, the citizen of the Kyrgyz Republic, now hereupon entering the civil service and apperceiving the high responsibility assumed by me before the People of Kyrgyzstan, solemnly swear that I will sacredly observe the Constitution and laws of the Kyrgyz Republic and in all any of my activities stick to the principles of legitimacy and equity, perform my responsibilities in an honest manner and in good faith, and serve to the People of Kyrgyzstan with out of my best knowledge and aspirations, and observe the norms of the Code of Civil Servant Ethics. For violation of this oath I am ready to bear the established responsibility".*

A civil servant taking the oath shall sign the text of the oath and specify the date when it was taken. The oath text shall be filed in the personal profile of the civil servant.

Article 27. Probation period in civil service

To enable obtaining of a necessary experience and test professional qualities of a specialist entering the civil service for the first time with no previous work record a manager of a pertinent public body may appoint him to a public position with a probation period of up to 3 months with payment of a wage designated for that public

position. Preliminary probation period does not include the period of temporary disability nor other periods when a servant was absent for valid reasons.

Should upon expiration of the probation period a result of the probation be considered as unsatisfactory then a civil servant may be either appointed to another lower public position or dismissed from civil service with consent of the Agency.

This Law shall be also applicable to an individual on probation replacing the public position.

Article 28. Civil servant rotation (reshuffling)

Rotation (reshuffling) of civil servants filling certain categories of public positions shall be made to make effective utilization of civil servants' potential to meet potential the needs of the State, create necessary conditions for their promotion and professional development, provide equal opportunities for career development and retain personnel in civil service, as well as reduce the risk of corruption.

Internal and interdepartmental rotation of civil servants shall be made no more than once in five years.

A civil servant may be transferred at any time to work in another location, in another public body or institution to the same or adequate equivalent position before the rotation time comes, if the circumstances require such a measure in order to prevent causing a serious damage to the civil service. Before time for rotation comes should there occur circumstances requiring these measures to prevent inflicting a serious damage to civil service.

The justification, rotation scheme and coordination with the accepting party shall be prepared by the public body where the civil servant works, then the prepared proposal shall be submitted to the Agency for information. No consent of a civil servant shall be required for conducting rotation envisaged by paragraph three of this Article.

A decision made by a public body on rotation of a civil servant may be appealed at the Agency.

Article 29. Termination of employment in the civil service

The following shall be grounds for termination of employment in the civil service:

- application with request on resignation at one's own initiative;
- dismissal initiated by a public body;
- circumstances beyond control of the parties.

Dismissal of a civil servant on the initiative of administration of a public body shall be made by the head of the public body with the consent of the state secretary upon implementation of all the appropriate procedures in accordance with this Law. In case the state secretary does not agree to dismissal of a civil servant, the right to dismiss such civil servant shall be reserved by the head of the public body. The state secretary

shall have the right to appeal such a decision with the Council. Decision of the Council shall be conclusive.

Replacement in public bodies of persons filling political public position shall not be the basis for dismissal, demotion, rotation or attestation of civil servants in administrative public positions.

Article 30. Termination of employment in the public body on the initiative of the civil servant (at his own will)

The civil servant shall have the right to retire from the civil service having informed about this the manager of the public body in writing two weeks prior, if the civil servant has not specified in his report another period for him to be dismissed from the position he holds and to be retired.

Within three days before the period of retirement expires, the civil servant shall have the right to withdraw his report. In this case he will not be dismissed, if earlier the public body has not issued a decision on dismissal.

At the expiration of the period of notification of dismissal, a civil servant shall have the right to stop implementation of his/her duties, and the public body shall be obliged to give the workbook to the person to be retired and make the complete final settlement of payments to such a servant.

Article 31. Termination of employment in the public body on the initiative of the administration of the public body

On the initiative of the public body the civil servant may be dismissed from the position held in cases of:

a) reorganization or liquidation of the public body;
b) reduction of the administrative public position held;
c) civil servant fills the elective position or appointed position incompatible with civil service;
d) civil servant does not fit the filled position as a result of insufficient qualification as confirmed by the results of attestation or qualification exam, probation period;
e) rude violation of labour discipline by a civil servant:
   - absence (absence from work without reasonable excuses for more than three hours during a working day);
   - committing a theft of somebody's property in the place of work (including a petty larceny), squandering, wilful destruction or damage;
   - presence at work in the status of alcoholic, narcotic or other intoxication;
   - disclosure of a (state, service or other) secret protected by the law, which became known to the civil servant through execution of his duties;

- repeated non-execution or improper execution of obligations placed by a civil servant, if he/she has a disciplinary punishment;
- participation in activities of political parties, non-governmental and religious organizations outside his/her official activities, except for the cases envisaged by legislation or duty regulations;

f) legal effectiveness of either a judgment in respect of a civil servant;
g) established fact of non-compliance with the limitations envisaged by the Articles 10 and 11 of this Law;
h) submission to the public body of falsified documents or information known to be false at the time of being recruited in the civil service;
i) termination of admittance to the state secret if the work to be executed requires admittance to the state secret;
j) a refusal to be transferred for the purpose of rotation;
k) loss of citizenship of the Kyrgyz Republic;
l) retirement age;
m) failure to submit declaration of income and property envisaged by this Law, or deliberate hiding of actual income and property from declaring, or deliberate declaration of false information about income and property.

Reorganization, liquidation of a public body, or changes in its personnel arrangements upon its initiative shall only be made by approbation of the Agency, if it implies reduction of administrative positions in a public body.

Retirement on the basis of reorganization or liquidation of the public body or reduction of the established post shall be permitted in case it is impossible to transfer the civil servant to another work upon his consent.

It shall not be permitted to dismiss the civil servant on the initiative of the public body (except for the dismissal on the basis of reorganization or liquidation of the public body or reduction of the established post of the public body) during the period of his temporary disability and during his leave of absence.

In case of termination of operations of a subordinate or another detached structural subdivision of the public body located in another area, civil servants of these structural subdivisions shall be dismissed according to the rules envisaged for the cases of liquidation of a public body.

Article 32. Termination of employment in the public body due to the circumstances not depending on the parties' will

The service in the public body may be terminated due to the following circumstances not depending on the parties' will:

a) drafting a civil servant for military service or his referral to an alternative civil service;
b) restoration of a civil servant to the earlier held position by a court decision;
c) imposition of a punishment on a civil servant inhibiting to continue the previous work in accordance with the consummated court decision;

d) his health condition in accordance with the medical statement;
e) death of a civil servant, as well as recognition of a civil servant by the court as dead or missing;
f) refusal of a civil servant to continue performance of his/her official duties in the changed work environment.

Termination of employment in the public body in connection with the restoration of a civil servant to the earlier held position by decision of the Agency or a court shall be permitted if it is impossible to transfer the civil servant who filled the position of the person to be restored to another position upon his consent.

Chapter V. Declaration of income and property of civil servants

Article 33. Information on property and income of the civil servant and most immediate members of his family

Civil servants of the Kyrgyz Republic shall submit a declaration containing information on assets and income (hereinafter referred to as the declaration) belonging to them and their immediate family members.

The following property located in the Kyrgyz Republic and beyond owned by civil servants and immediate members of their families shall be indicated in the declaration:

- immovable property – land plots, separately located water objects and everything tightly connected to land, i.e. objects transfer of which is impossible without inflicting an incommensurable damage to their purposes including forests, perennial plantations, buildings, structures and others;

- movable property:

a) transportation means;
b) property of cultural value and antiques recognized as such in a prescribed manner;
c) monetary means (in terms of both national and foreign currency);
d) securities;
e) cattle and other living creatures.

A civil servant that submits the declaration shall indicate in it all incomes actually received by him and immediate members of his family over the past period in the Kyrgyz Republic and beyond as well as sources of those incomes.

Things and sums received by an individual submitting the declaration shall be recognized as his incomes if he received them in national and foreign currency as:

a) remuneration for labour and other payments found similar to it;
b) copyright payments and author's royalty paid to him for using literature work, art and scientific research works or for the right of use occurring as a result of any copyright, for use or the right to use any know-how, trade mark, a device or a reproduction, a plan, a secret formula or a technological process, a computer software and databases, or industrial,

commercial or scientific equipment or for providing information of industrial, technical, organizational, commercial or scientific character;

c) interest or other compensations accrued for allocation of loans;
d) dividends, interest;
e) incomes (wins) received in casinos and from gambling;
f) gifts or payments in cash (cash prize) received at competitions and tournaments, and lottery wins;
g) property (including cash) received as a gift or financial support;
h) property (including cash) received as inheritance;
i) insurance benefit payments including benefits paid on insurance made by an organization in respect of an individual submitting the declaration;
j) incomes received from engaging in entrepreneurial activities;
k) remuneration and other incomes received from entrance into civil and legal deals;
l) all types of benefits, stipends, pensions and one-time payments.
m) income from other sources, not listed above.

Information specified in paragraphs "e" through "h" and "k" shall be subject to declaration if an amount (cost) of incomes (property) received exceeds the hundredfold minimum wage as established in accordance with the legislation of the Kyrgyz Republic.

According to this Law a spouse, parents, children, brothers and sisters of a civil servant depending on him shall be considered as immediate members of his family.

Individuals who are financially dependent on the civil servant in terms of covering their costs for subsistence, education, healthcare and other necessary expenditures, or who are entitled to be maintained by the civil servant shall be recognized as immediate family members that are on the civil servant.

Execution of duty on submission income and assets declaration does not discharge state servant and his family members from submission of declarations envisaged by tax legislation of the Kyrgyz Republic.

Declarations provided by officials in the superior administrative public positions according to the Registry of administrative positions, shall be subject to publication in mass media in accordance with the procedure established by the legislation of the Kyrgyz Republic

Article 34. Procedure and time period for declaration submission

Civil servant shall provide his/her declaration:

- in case of appointment to an administrative public position within thirty days upon the date of assumption of office – declaration for the year under review which is preceding the year of appointment and for the past period of the current year;
- during the holding of administrative public position, including time of the transfer from one position to another – declaration covering period since

January 1st till December 31st shall be provided annually before the 1st of March, each year;

- in case of termination of employment in the civil service – declaration covering period from January 1st, this year, till the 1st of the month following termination of employment shall be provided within thirty days upon such termination.

Declarations shall be submitted at the place of enrolment or employment with the civil service to be further submitted by the public body to the Agency.

The Agency shall establish the format and procedure of completing, filing, registering and storing declarations in conference with the tax service.

Article 35. Guarantees in respect of confidentiality and access of public to information provided in declarations

- By the 1st of June of the year following the reporting year, the public body, where the civil servant is employed, shall present a verified copy of the assets and income declaration of the public servant and their immediate family members to the Agency.
- The Agency shall examine information provided in declaration by public bodies about income, liabilities and property of civil servants in accordance with the procedure established by the Agency and where necessary clarify together with the declarer information provided in declaration.
- The Agency shall provide access for the public and authorized bodies of the public to the information contained in the declarations on assets and income of civil servants, in accordance with procedures established by the Agency. Through provision of that information on request of interested individuals. A refusal by the public body to provide required information may be appealed following administrative or judicial procedures.

The following information shall not be disclosed except for cases stipulated by the Kyrgyz Republic legislation:

a) address, telephone numbers and other means of personal contact to a civil servant submitting the declaration and those of immediate members of his family;
b) individual title and location of property indicated in the declaration;
c) income and assets of close family members of a state servant.

The state body shall ensure confidentiality of information contained in the declaration that according to part four of this Article may not be provided and shall not be subject to disclosure.

Information that is not subject to disclosure according to the provisions of this Law may be provided to other individuals upon issuance of notary office attested consent of an individual who submitted the declaration.

The head of the Agency shall bear criminal liability for disclosure of confidential information.

CHAPTER VI. CIVIL SERVANT DISCIPLINARY RESPONSIBILITY AND INCENTIVES

Article 36. Types of incentives used in respect to civil servants

For their impeccable outstanding and conscientious performance of official authorities, execution of tasks of especial importance and complexity, the civil servants may by encouraged with the following types of incentives:

- expression of official appreciation;
- rewarding with a diploma of a public body;
- rewarding with other professional awards of the Kyrgyz Republic in accordance with legislation of the Kyrgyz Republic;
- one time remuneration in cash;
- conferring honorary badges and valuable gifts;
- remission of a disciplinary action taken earlier;
- recommendation for government awards (decorations).

A manager who has an authority to appoint a civil servant to a position upon recommendation of the Permanent Secretary of the public body shall decide on providing incentives to the civil servant.

Article 37. Civil servant disciplinary responsibility

A civil servant shall bear disciplinary, administrative, financial property and criminal liability in accordance with the Kyrgyz Republic legislation.

The disciplinary liability of a civil servant shall mean that a manager of a public body (the employer) in respect to a civil servant may take some disciplinary actions (punishments) for culpable or illicit actions, failure to execute or improper execution of official duties (for disciplinary infraction).

A disciplinary punishment may be imposed on a civil servant by the manager of a public body only in cases where committing of a disciplinary misconduct has been established or proved.

Instituted by a manager of a public body or by proposition of the commission on ethics or proposed by a civil servant himself, there may be a disciplinary investigation carried out to establish or confirm a case of misconduct committed by a civil servant.

The official investigation may also be carried out on the grounds of appeals by citizens and legal entities, in cases of publication by mass media of information on an official misconduct (disciplinary infraction) committed by a civil servant.

The official investigation shall be carried out by the public body of a civil servant, with participation of representatives of the commission on ethics of the public body as an appeal procedure.

The official investigation shall be terminated or shall not be carried out in cases of:

- sincere open-hearted confession by a civil servant of a commitment of an the alleged infraction, where the true facts are represented;
- expiration of the time limitation for bringing to disciplinary account;
- an infraction containing elements of a criminal offence or administrative offence with submission of materials to a relevant competent authority.

Article 38. Disciplinary punishments imposed on civil servant

The following disciplinary punishments may be imposed on a civil servant for failure to execute or improper execution of duties entrusted to him:

- an admonition;
- a reprimand;
- a sever reprimand;
- warning on not being completely fit for the position;
- demotion in a class rank or demotion in a position;
- deprivation of a class rank.
- stoppage of wage supplements over a certain period of time as established by law;
- dismissal from the position held.

The disciplinary punishments shall be imposed immediately upon detection of an offence but no later than a month since the day of its detection. For each violation of labour discipline there may be only one disciplinary punishment imposed.

The civil servant shall not be promoted during the period for which the disciplinary punishment is imposed.

Article 39. Appeals against official investigation decisions

A decision adopted following outcomes of an official investigation carried out in respect to a civil servant may be appealed against by him at the Agency, and in case he disagrees with a decision of the Agency – at the court within one month since the day he familiarized himself with the decision. An attested copy of a decision of a public body shall be given to a civil servant within the same day the decision was adopted.

The President of the Kyrgyz Republic shall determine a procedure for consideration of a complaint lodged by a civil servant against a decision adopted by a public body based upon outcomes of an official investigation carried out in respect to him.

Article 40. Official investigation expenses

A civil servant himself shall pay for services of a lawyer he hires in relation with an official investigation carried out in respect to him. A public body that initiated and carried out an official investigation in case it was decided that the civil servant was not guilty or charges against him have been cancelled shall compensate expenses related to the services of a lawyer.

A public body that carries out such an investigation shall pay services of experts invited to assist in carrying out an official investigation.

Article 41. Financial accountability of civil servants

Financial accountability of a civil servant for a damage inflicted shall occur as a result of his guilty wrongful conduct (action or inaction).

A damage inflicted on third parties as a result of a wrongful action (inaction) of a civil servant in the line of discharging by him of his official authorities shall be compensated by a public body that employs him.

A public body shall be obliged to compensate the damage inflicted at the expense of funds envisaged for funding this public body in a corresponding section of the budget.

A public body that compensated the damage shall have the right of recourse to a civil servant who actually committed the wrongful acts.

A public servant shall compensate the damage irrespective of bringing him to disciplinary, administrative or criminal accountability for an action (inaction) due to which there was a damage inflicted on a public body.

Article 42. Temporary suspension of civil servant

A civil servant shall be temporarily suspended from exercising his duties in cases of:

1)a resolution issued by investigation bodies of the Kyrgyz Republic in accordance with the legislation on suspension from exercising official duties before a definitive decision is taken in relation to the case;

2)holding an official investigation (except cases of institution of the investigation upon a demand for that lodged by a civil servant himself) – for the whole period of investigation.

In cases of temporary suspension of a civil servant from exercising his duties in accordance with paragraph 2 Part one of this Article the civil servant still shall be entitled to his wage. In the rest of the cases a civil servant shall not be entitled to receive the wage. Compensation of a damage inflicted by an illegal call of a civil servant to a criminal liability shall be made in accordance with the legislation.

Article 43. Consideration of civil servant labour disputes

All labour disputes associated with delivery of civil service may be processed by the Agency, as well as the courts, in accordance with this Law and labour legislation of the Kyrgyz Republic.

CHAPTER VII. MATERIAL AND SOCIAL SUPPORT OF CIVIL SERVANTS

Article 44. Civil servant pay

The President of Kyrgyz Republic in consultation with Prime-Minister and based upon the recommendations of the Civil Service Agency shall approve a single system of civil servant pay.

The uniform system of remuneration of civil servants provides for a pay consisting of official salary and bonuses. A civil servant may have personal bonuses assigned as an incentive for better performance, initiative and commitment to the outcomes, as well as the rank and long-service bonuses.

The record of civil service for the purposes of paying of long-service bonuses as a percentage shall be calculated in accordance with the procedure established by the Government of the Kyrgyz Republic. Estimation of the length of service in civil service shall include employment of an individual with the apparatuses of the party, soviet, trade unions and Komsomol bodies, ministries, agencies, state enterprises, institutions and organizations finance from the budget of the former USSR, as well as fixed-period service in the armed forces of the former USSR and the Kyrgyz Republic, performance in a permanent capacity of a Parliamentarian, as well as the length of retraining and advanced training (professional development) in the area of public administration upon recommendation of a public body.

Public bodies may provide financial assistance from their own budgets to address social and domestic problems of their civil servants.

Salary and other payments to civil servants shall be subject to indexation in accordance with the legally established procedure.

Article 45. Civil servant leave of absence

A civil servant shall be entitled to an annual paid leave of absence for thirty calendar days with payment of a health rehabilitation benefit in the legally established amount of salary.

Should the length of civil service be more than five, ten and fifteen years given the requirements of Article 46 of this Law then the paid leave of absence shall be increased by two, four and six calendar days, respectively.

In particular cases a manager of a public body may grant to a civil servant a leave of absence without pay on the basis of a written request of a civil servant and in accordance with the existing labour legislation.

Article 46. Social guarantees and compensations to civil servants

Should civil servants be transferred to work in other locations then they shall be paid compensation for transport expenses related with relocation and the costs of temporary accommodation in the new place in the amount and according to the procedures established by the Kyrgyz Republic Government.

Civil servants shall have secured right to remuneration of expenditures associated with their business trips, including travel abroad. They are also subject to other compensations as envisaged by the existing legislation, including payment in cash for work in particularly difficult conditions, as well as payment of overtime for work on holidays and days off.

Civil servants and members of their family residing together with them shall enjoy free health care services at pertinent public health care institutions upon conditions and in accordance with the procedure as established by the Kyrgyz Republic Government.

Civil servants shall be subject to mandatory state insurance out of funds of the republican budget against cases of a damage inflicted on their life, health or property in relation with discharge of official duties as well as a disease or disability occurred within time of delivery of service by them following the procedure as established by the Kyrgyz Republic Government.

Should a disability occur as a result of an inflicted injury or professional disease acquired in relation with discharge of official authorities by a civil servant then he shall be paid a benefit the size of which shall be determined by the Kyrgyz Republic Government.

Should a civil servant be killed when discharging his official authorities then his family shall be paid one-time cash benefit in the amount as established by the Labour Code of the Kyrgyz Republic.

The civil servant shall be entitled to pension in accordance with legislation of the Kyrgyz Republic.

Article 47. Guarantees to civil servant upon liquidation or reorganization of the public body

Upon liquidation (reorganization) of a public body, reduction of its staff a civil servant shall be offered another job within the limits of a pertinent category of positions taking into account his profession and qualification. In case there is no vacant position and upon consent of a dismissed civil servant he may be given another position in a lower category with payment of an average wage attached to the previous position for the whole time of work in the new position.

Should a civil servant decline a proposed position then he shall be dismissed and may upon his/her consent be referred for retraining in order to provide him with a possibility of employment with state owned enterprises, institutions and private sector.

Upon dismissal in relation with liquidation, reorganization or reduction of staff a civil servant shall be paid the following in case he declines another job proposed to him:

1) a severance pay that is determined by taking one fourth average monthly wage times a number of full years of work in that public body, but no less than three average monthly wages on previously filled position. This norm shall not be applicable to pension age civil servants;
2) an average wage of three months on a previously filled position provided that a civil servant within 10 days following his dismissal has registered with the employment services as a job seeking person.
3) an average wage is determined based upon payments over the recent five years of work of a civil servant.

Upon application by an individual being dismissed (or already dismissed) from the civil service on the grounds stipulated by this Article, this individual may be registered with the personnel reserve following which he (she) shall have the right to be appointed to a vacancy in a public body on a priority basis.

Article 48. Civil servant burial allowance

Upon burial of a civil servant who was killed (died) in relation with discharge of official authorities or of an individual who died after termination of civil service due to injury or disease received in relation with discharge of official authorities, a spouse, a near of kin, a legal representative of the deceased or other individual that assumed the burial duties shall be paid a burial allowance in the amount of a minimal expense needed for the burial in that locale by a public body in which the deceased filled a public position, at the expense of the republican funds allocated for the civil service.

Article 49. Effectiveness of this Law

This Law shall enter into force from the day of publication except for the provisions that entail additional expense of budgetary funds.

The provisions of this Law that entail additional expense of the budgetary funds shall enter into force beginning from January 1, 2005.

The President of the Kyrgyz Republic shall be requested to bring within two months corresponding legal regulatory acts in compliance with this Law.

The Government of the Kyrgyz Republic:

- when preparing a draft republican budget for 2005 and subsequent years, shall envisage expenditures required for implementation of this Law;
- to bring within two months its legal regulatory acts in compliance with this Law.

To recognize as null and void:

- The Law the Kyrgyz Republic on Civil Service dated November 30, 1999, № 132;

- Article 1 of the Law of the Kyrgyz Republic "On Introducing Amendments and Addenda to Some Legislative Acts of the Kyrgyz Republic" dated July 25, 2002, № 130;
- Article 2 of the Law of the Kyrgyz Republic "On Introducing Amendments and Addenda to Some Legislative Acts of the Kyrgyz Republic" dated July 30, 2003, № 160;
- The Law of the Kyrgyz Republic "On Introducing Amendments and Addenda to the Law of the Kyrgyz Republic "On Civil Service" dated August 5, 2003, № 190.

The President of the Kyrgyz Republic **A. Akaev**

Annex 3

The Kyrgyz Republic Law on Declaration and Publication of Information on Income and Assets, Liabilities and Property of Political and other Special State Appointees and their Immediate Family Members

Adopted by the Legislative Assembly of Jogorku Kenesh of the Kyrgyz Republic on June 30 2004

The current law is aimed at creation of an effective system of openness and transparency of income of state and other political officials of state bodies of Kyrgyz Republic, their accountability and responsibility to people of Kyrgyzstan and regulates legal relationships connected with declaring of their income.

Article 1. The sphere of application of the current Law

1. Pursuant to the current Law the following person are considered to be state and other officials and providing declaration:

The President of the Kyrgyz Republic, the State Secretary of the Kyrgyz Republic, the head, deputy heads of the President's Administration of the Kyrgyz Republic, the Secretary of the Security Council of the Kyrgyz Republic, heads of structural divisions of the President's Administration of the Kyrgyz Republic, heads of government agencies appointed by the President of the Kyrgyz Republic;
The Prime-Minister of the Kyrgyz Republic;
Toraga, deputies Toraga and members of the Parliament of the Kyrgyz Republic;
The Chairman of Constitutional Court of the Kyrgyz Republic, his or her deputy and judges of Constitutional Court of the Kyrgyz Republic;
The Chairman of Supreme Court of the Kyrgyz Republic, his or her deputy and judges of Supreme Court of the Kyrgyz Republic;
The First Vice-Prime-Minister and Vice-Prime-Ministers of the Kyrgyz Republic;
Ministers and chairmen of State committees of the Kyrgyz Republic and their deputies, heads of administrative bodies, state commissions and foundations under the Government of the Kyrgyz Republic;
The Chairman of the Social Found of the Kyrgyz Republic;
Public Prosecutor of the Kyrgyz Republic and his/her deputies and also prosecutors of oblasts, Bishkek and Osh cities, prosecutors of specialized prosecutor's offices and rayon prosecutors;
The Chairman of the Chamber of Accounts of the Kyrgyz Republic;

The Chairman of National Bank, his/her deputies;
The Chairman of the Central Elections and Referenda Commission of the Kyrgyz Republic;
Heads of central and local bodies of custom and tax inspections;
Heads of central and local bodies of Financial police;
Heads of oblast, rayon state administrations and mayors of Bishkek and Osh cities.

2. The current Law is also applied to other persons occupying political and special government positions indicated in the Registry of government positions of the Kyrgyz Republic pursuant to the Civil Service Law of the Kyrgyz Republic.

Article 2. Declaring responsibility

1. Persons identified in Article 1 of the current Law (hereinafter referred to as declaring persons) shall submit an assets and income declaration and it's sources for themselves and their immediate family members in accordance with the procedure set by the current Law.

Due to the current law the following persons should be considered as a declaring person's immediate family members:

a) spouse, minor children;
b) the declaring person's dependents, persons who are in his full care or persons having the right to get maintenance grant from a declaring person pursuant to the legislation of the Kyrgyz Republic;
c) Adult children, parents, brothers and sisters who are financially dependent on declaring persons for meeting their living, educational, healthcare and other necessary expenses.

2. The execution of duties on assets and income declaration doesn't exempt from responsibility on assets and income declaration provided by Tax Law of Kyrgyz Republic.

Article 3. Information on property and liabilities - subject to declaration

1. Declaring persons shall declare the information in regards of property belonging to them and their immediate family members:

1) immovable;
2) movable – vehicles, cash (in national and foreign currency), securities, shares of business capital, belonging to state official, jewellery made of precious and semi-precious metals, gems and stones, household cattle and other poultry, financial and other liabilities owed to natural persons and legal entities and also property of a high culture value and antiquities which were acknowledged to be as such according to prescribed procedure of the legislation.

2. If declaring person has financial liabilities owed to natural persons and legal entities he or she shall indicate the amount of financial liabilities.

Article 4. Incomes and their sources subject to be declared

1. Besides the information indicated in Article 3 of the current Law, persons submitting declaration shall declare all incomes actually received by declaring person and their immediate family members during the reporting period and also sources of their formation, including but not limited to:

a) compensation for work and other similar payments;
b) compensation, received for using of intellectual property objects;
c) interest or other compensation accrued from the provision of loans;
d) prizes, received through at contests, and competitions, and also lotteries, gambling, betting, income received from business activity, including dividends and other incomes received from civil bargain;
e) funds and/or other belongings received as a gift, welfare or inheritance;
f) sums received on insurance agreement;
g) all types of payments, scholarships, pensions and single payments;
h) income from any other source not mentioned above.

2. If insurance payment to natural person and legal entities with informing and in profit of declaring person and his immediate family members have taken place, declaring person shall declare that, including the size of amount.

Article 5. Procedure, conditions and terms of the Submission of Declarations

1. Declaration should be submitted:

in case of election or appointment to position, mentioned in Article1 of the current Law during thirty days from the day of acting for that position at the moment of election or appointment;

at time of being on position, including cases of transfer from on position to another position mentioned in article 1 of current Law - annually not later than 1st of March, following the report year. The report year is the term from 1st of January till 31st of December;

in case of leaving the position mentioned in Article 1 of the current Law, during thirty days from moment of leaving the position – for the period of current year. The current year is the term from 1st of January till day of submitting of declaration.

2. In case of leaving the position, the person occupying the position mentioned in Article 1 of the current Law shall submit annual declaration during the next two years after leaving the position. Such standard is not used if a dismissed person is appointed to another position mentioned in Article 1 of the current Law.

3. Declaration will be submitted to the Civil Service Agency of the Kyrgyz Republic.

The Civil Service Agency of the Kyrgyz Republic in consultation with tax inspection determines the declaration form, procedure of its completion, registration, safekeeping and publication.

Article 6. Powers of the Civil Service Agency of the Kyrgyz Republic

1. The Civil Service Agency of the Kyrgyz Republic:

a) maintains the register of declaring persons and register of declarations received, ensure their safekeeping and provide confidentiality and secrecy of information that can not be disclosed;
b) provides declaration forms, clarifications and guidance to declaring persons;
c) informs the declaring persons about the need of providing timely declarations, undertakes measures ensuring completeness and truthfulness of submitted declarations and information indicated in them;
d) investigates declarations; in case of necessity sends the letter of inquiry in tax inspection in order to indicate fullness and authenticity of information mentioned in declaration; investigates received information in regard of income, liabilities and belongings to the declaring person, fall under the current Law from state bodies, local self-governments, commercial and non-commercial organizations and citizens; if necessary defines the information mentioned in declaration together with declaring persons.
e) provides opportunity to declaring persons to correct their declarations after submission for those declarations submitted before May 1;
f) publishes consolidated data on assets and income of high and other sate officials and their immediate family members
g) annually by the 1st of September submits a report of its activities and present it to the President of the Kyrgyz Republic, to Jogorku Kenesh of the Kyrgyz Republic the Government of the Kyrgyz Republic, the Court of Constitution of the Kyrgyz Republic and the Supreme Court of the Kyrgyz Republic and reflects that information in its annual report.
h) fulfil other powers identified by the legislation of the Kyrgyz Republic

2. If in the process of inspection of the declaration after May 1 incomplete and/or untruthful information is identified the Civil Service Agency of Kyrgyz Republic within a month sends an appropriate information to the President of Kyrgyz Republic, Jogorku Kenesh of the Kyrgyz Republic, the Government of Kyrgyz Republic, ,the Constitution Court of Kyrgyz Republic and Supreme Court of Kyrgyz Republic and reflects that information in its annual report.

Article 7. Publication of information contained in the declaration

1. The Civil Service Agency of the Kyrgyz Republic publishes the summery data on income and assets of high and other state officials and their immediate family members in the Official bulletin and also posts that information in Internet on the Government Civil Service Portal of the Kyrgyz Republic.

2. The following information indicated in the declaration is not subject to disclosure and publication:

a) the address, telephone numbers and other means of personal contacts of a declaring person and his immediate family members;
b) location of property indicated in the declaration.

3. The Civil Service Agency of the Kyrgyz Republic guarantees confidentiality of information mentioned in point 2 of the current article. Disclosure of the confidential information results in responsibility identified by the legislation of the Kyrgyz Republic.

Article 8. Responsibility for violation of provisions of the current Law

In case of failure to file declarations on time or lawless actions regarding the disclosure of confidential information persons who are to blame bear responsibility in accordance with the procedure set forth by the legislation of the Kyrgyz Republic. In case if the declaration is filed with violation of the timeframe, presence of incomplete or untruthful information in the submitted declaration the Civil Service Agency of the Kyrgyz Republic publishes information on those persons in the mass media.

Article 9. Law effectiveness

1. The current Law becomes effective on January 1 2005.

2. Persons indicated in Article 1 of the current Law shall submit the declaration envisaged by the current Law to the Civil Service Agency of Kyrgyz Republic after the Law becomes effective until 1 May 2005..

3. The Government of the Kyrgyz Republic together with Civil Service Agency of the Kyrgyz Republic shall:

- develop standard legal acts adequate to the current Law and introduce draft laws of the Kyrgyz Republic resulting from the current Law for consideration of Jogorku Kenesh of the Kyrgyz Republic ;
- bring its decisions in line with the current Law.

The President of
the Kyrgyz Republic A. Akaev

Annex 4

Anti-Corruption Action Plan for Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan and Ukraine[1]

PREAMBLE[2]

We, the Heads of Governmental Delegations from Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan and Ukraine at the 5th Annual meeting of the Anti-Corruption Network for Transition Economies on the 10th of September, 2003, in Istanbul, Turkey:

BUILDING on the guidance of the Anti-Corruption Network for Transition Economies expressed at its 4th Annual meeting in Istanbul in March 2002 to develop a special sub-regional Anti-Corruption Action Plan for those transition economies not yet engaged in targeted sub-regional initiatives;

CONVINCED that corruption is a widespread phenomenon and is inimical to the practice of democracy, erodes the rule of law, hampers economic growth, discourages domestic and foreign investment, and damages the trust of citizens in their governments;

ACKNOWLEDGING that corruption raises serious moral and political concerns and that fighting corruption requires strong action by governments as well as the effective involvement of all elements of society including business and the general public;

RECOGNISING the value of co-operation and action-oriented knowledge sharing both among the countries participating in this Action Plan and with other countries active within the framework of the Anti-Corruption Network and other regional and international anti-corruption initiatives;

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1 The Action Plan is open for endorsement by other transition economies not engaged in targeted sub-regional initiatives; Kazakhstan and the Kyrgyz Republic joined the Action Plan at a later stage.

2 The Action Plan, together with its implementation plan, is a legally non-binding document which contains a number of principles towards policy reform which participating countries politically commit to implement on a voluntary basis and which can provide a basis for donor assistance.

RECALLING that national anti-corruption measures can benefit from existing regional and international instruments and good practices such as those developed by the countries in the region, the Council of Europe (CoE), the European Union (EU), the Financial Action Task Force on Money Laundering (FATF), the Organisation for Economic Co-operation and Development (OECD), the Organisation for Security and Co-operation in Europe (OSCE), and the United Nations (UN);

WELCOMING the pledge made by donor countries and international organisations to support the countries of the region in their fight against corruption through technical cooperation programmes;

ENDORSE this Anti-Corruption Action Plan as a framework for developing effective and transparent systems for public service, promoting integrity in business operations and supporting active public involvement in reform; and commit to take all necessary means to ensure its implementation.

PILLARS OF ACTION

PILLAR 1.
Developing Effective and Transparent Systems for Public Service

Integrity in the Public Service

- Establish open, transparent, efficient and fair employment systems for public officials that ensure the highest levels of competence and integrity, foster the impartiality of civil service, safeguard equitable and adequate compensation and encourage hiring and promotion practices that avoid patronage, nepotism and favouritism;

- Adopt public management measures and regulations that affirmatively promote and uphold the highest levels of professionalism and integrity through the promotion of codes of conduct and the provision of corresponding education, training and supervision of officials in order for them to understand and apply these codes; and

- Establish systems which provide for appropriate oversight of discretionary decision-making; systems which govern conflicts of interest and provide for disclosure and/or monitoring of personal assets and liabilities; and systems which ensure that contacts between government officials and business services users are free from undue and improper influence, and that enable officials to report such misconduct without endangering their safety and professional status.

Accountability and Transparency

- Safeguard accountability of public service through, *inter alia*, appropriate auditing procedures applicable to public administration and the public sector, and measures and systems to provide timely public reporting on decision making and performance;

- Ensure transparent procedures for public procurement, privatisation, state projects, state licences, state commissions, national bank loans and other government guaranteed loans, budget allocations, and tax breaks. These procedures should promote fair competition and deter corrupt activity, and establish adequate simplified regulatory environments by abolishing overlapping, ambiguous or excessive regulations that burden business;

- Promote systems for access to information that include such issues as political party finance, and electoral campaign funding and expenditure.

PILLAR 2.
Strengthening Anti-Bribery Actions and
Promoting Integrity in Business Operations

Effective Prevention, Investigation and Prosecution

Take concrete and meaningful steps to actively combat bribery by:

- Ensuring the existence of legislation with dissuasive sanctions which effectively and actively combat bribery of public officials, including anti-money laundering legislation that provides for substantial criminal penalties for the laundering of the proceeds of corruption;

- Ensuring the existence and enforcement of universally applicable rules to ensure that bribery offences are thoroughly investigated and prosecuted by competent authorities. This includes the strengthening of investigative and prosecutorial capacities by fostering inter-agency co-operation, by ensuring that investigation and prosecution are free from improper influence and have effective means for gathering evidence, by protecting those persons who bring violations to the attention of authorities and by conducting thorough examinations of all revelations of corruption; and

- Strengthening bi- and multilateral co-operation in investigations and other legal proceedings by providing (i) effective exchange of information and evidence, (ii) extradition where expedient, and (iii) co-operation in searching for and identifying forfeitable assets as well as prompt international seizure and repatriation of such assets.

Corporate Responsibility and Accountability

- Promoting corporate responsibility and accountability so that laws, rules and practices with respect to accounting requirements, external audit and internal company controls are fully applied to help prevent and detect bribery of public officials in business. This includes the existence and thorough implementation of legislation requiring transparent company accounts and providing for effective, proportionate and dissuasive penalties for omissions and falsifications for the purpose of bribing a public official, or hiding such bribery in the books, records, accounts and financial statements of companies;

- Ensuring the existence and the effective enforcement of legislation to eliminate tax deductibility of bribes and to assist tax inspectors to detect bribe payments; and

- Denying public licenses, government procurement contracts or access to public sector contracts for enterprises that engage in bribery or fail to comply with open tender procedures.

PILLAR 3.
Supporting Active Public Involvement in Reform

Public Discussion and Participation

Encourage public discussion of the issue of corruption and participation of citizens in preventing corruption by:

- Initiating public awareness campaigns and education campaigns at different levels about the negative effects of corruption and joint efforts to prevent it with civil society groups such as NGOs, labour unions, the media, and other organisations; and the private sector represented by chambers of commerce, professional associations, private companies, financial institutions, etc.;

- Involving NGOs in monitoring of public sector programmes and activities, and taking measures to ensure that such organisations are equipped with the necessary methods and skills to help prevent corruption;

- Broadening co-operation in anti-corruption work among government structures, NGOs, the private sector, professional bodies, scientific-analytical centres and, in particular, independent centres;

- Passing legislation and regulations that guarantee NGOs the necessary rights to ensure their effective participation in anti-corruption work.

Access to Information

Ensure public access to information, in particular information on corruption matters through the development and implementation of:

- Requirements to give the public information that includes statements on government efforts to ensure lawfulness, honesty, public scrutiny and corruption prevention in its activities, as well as the results of concrete cases, materials and other reports concerning corruption.

- Measures which ensure that the general public and the media have freedom to request and receive relevant information in relation to prevention and enforcement measures.

- Information systems and data bases concerning corruption, the factors and circumstances that enable it to occur, and measures provided for in governmental and other state programmes/plans for the prevention of corruption, so that such information is available to the public, non-governmental organisations and other civil society institutions.

IMPLEMENTATION

In order to implement these pillars of action, participating governments of the region concur with the attached Implementation Plan and will endeavour to comply with its terms. Participating governments of the region will take measures to publicise the Action Plan throughout government agencies, NGOs engaged in the fight against corruption, and the media; and in the framework of the Advisory Group Meetings, to meet regularly and to assess progress in the implementation of the measures provided for in the Action Plan.

IMPLEMENTATION PLAN

Introduction

The Action Plan contains legally non-binding principles and standards towards policy reform which participating governments of Armenia, Azerbaijan, Georgia, the Russian Federation, Tajikistan, and Ukraine voluntarily agree to implement in order to combat corruption and bribery in a co-ordinated and comprehensive manner and thus contribute to development, economic growth and social stability. Although the Action Plan describes policy objectives that are currently relevant to the fight against corruption in participating governments, it should remain flexible so that new ideas and priorities can be taken into account as necessary. This section describes the implementation of the Action Plan. Taking into account national conditions, implementation will draw upon existing instruments and good practices developed by participating countries, regional institutions and international organisations.

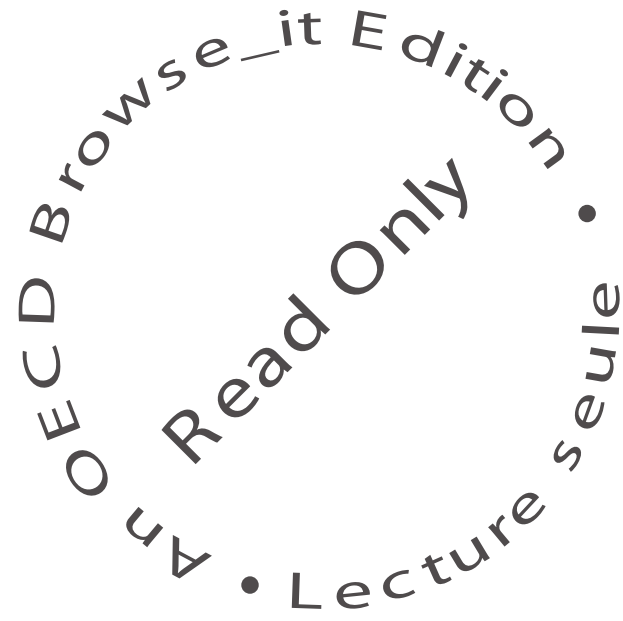
Identifying Country Mechanisms

While the Action Plan recalls the need to fight corruption and lays out overall policy objectives, it acknowledges that the situation in each country of the region may be specific. To address these differences, each participating country will identify priority reform areas which would fall under the three pillars, and aim to implement necessary measures in a workable timeframe.

Mechanisms

Advisory Group: To facilitate the implementation of the Action Plan, each participating government will designate a national coordinator who will be their representative on a Advisory Group. The Advisory Group will also comprise experts on methodical and technical issues to be discussed during a particular Steering Group meeting as well as representatives of participating international organisations and civil society. The Advisory Group will meet on an annual basis and serve three main purposes: (i) to review progress achieved in implementing each country's priorities; (ii) to serve as a forum for the exchange of experience and for addressing issues that arise in connection with the implementation of the policy objectives laid out in the Action Plan; and (iii) to promote a dialogue with representatives of the international community, civil society and the business sector in order to mobilise donor support.

Funding: Funding for implementing the Action Plan will be solicited from international organisations, governments and other parties from inside and outside the region actively supporting the Action Plan.



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Fighting Corruption in Transition Economies

The Kyrgyz Republic

What progress have transition economies made in fighting corruption? This book presents the outcomes of a review of legal and institutional frameworks for fighting corruption in the Kyrgyz Republic, which was carried out in the framework of the Anti-Corruption Network for Transition Economies based at the OECD. The review examined national anti-corruption policy and institutions currently in place in the Kyrgyz Republic, national anti-corruption legislation, and preventive measures to ensure the integrity of civil service and effective financial control.

The review process was based on the OECD practice of mutual analysis and policy formulation. A self-assessment report was prepared by the government of the Kyrgyz Republic. An international group of peers carried out expert assessment and elaborated draft recommendations. A review meeting of national governments, international organisations, civil society and business associations discussed the report and its expert assessment, and endorsed the recommendations.

This publication contains the recommendations as well as the full text of the self-assessment report provided by the government of the Kyrgyz Republic. It will provide an important guide for the country in developing its national anti-corruption actions and will become a useful reference material for other countries reforming their anti-corruption policy, legislation and institutions.

For more information, please refer to the Web site of the Anti-Corruption Network for Transition Economies ***www.anticorruptionnet.org*** as well as the Web site of the OECD Anti-Corruption Division ***www.oecd.org/corruption***.

Other editions in this series cover assessments of anti-corruption efforts in Armenia, Azerbaijan, Georgia, Kazakhstan, Tajikistan, the Russian Federation and Ukraine.

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