

Overall Score:

**64 - Weak**

Legal Framework Score:

**85 - Strong**

Actual Implementation Score:

**46 - Very Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>67</sup>Civil Society Organizations

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### 1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

**YES** | NO

**Comments:**

According to the constitution and the civil code, citizens have a right to form CSOs, including those focused on anti-corruption or good governance. (Anti-corruption and good governance are not specifically mentioned, though.) Also, according to Article 12 of the Law on Noncommercial Organizations, non-commercial organizations can engage in any legal activity declared in their mission statement.

**References:**

The constitution and the civil code  
The Law on Non-commercial Organizations

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

**Comments:**

There are no formal legal or regulatory bans to raising money from foreign or domestic sources.

**References:**

The Law on Non-commercial organizations.

**YES:** A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**NO:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

**Comments:**

According to Article 17 of the Law On Non-commercial Organizations, NGOs (in general) are required to submit information to government agencies about the structure of their funding and property. Saltanat Baetova, a lawyer at the human rights center Citizens Against Corruption, said that they provide information on grants and funding in their official reports to the government and donors.

**References:**

the Law on Non-commercial organizations, article 17

There are three salient CSOs working on anti-corruption/good governance issues. They are human rights center Citizens Against Corruption, Public Fund Future Without Corruption (both located in Bishkek, capital of Kyrgyzstan), and Against Corruption in Osh (which operates more like a watchdog organization doing research and monitoring). Citizens Against Corruption has two regional affiliates in the Cholpon-Ata and the Osh regions of Kyrgyzstan.

**YES:** A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

**NO:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are good governance/anti-corruption CSOs able to operate freely?

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

CSOs try to assert themselves as a real power in a decision making by taking part in lawmaking process. They have made progress in being recognized as important members of lawmaking teams.

The CSO Citizens Against Corruption is involved in revisions of the law on the mass media (to keep the government from pressuring the mass media) and in a draft law draft on legal guaranties for opposition activities.

Still, they recognize that there is lot more to do to become a real power in the political and policymaking process. As far as public opinion goes, they do not promote their agenda consistently enough, so their activities are not salient enough to make specific corruption practices unacceptable in public opinion. Political figures are much more influential because (1) they are more savvy regarding publicity and do not underestimate that part of the business, (2) they have access to more financial resources to exert influence in all walks of life.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

**YES** | NO

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**YES:** A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

**NO:** A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are civil society activists safe when working on corruption issues?

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3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

**YES** | NO

**References:**

Interview with Shamaral Maichevm, media representative.

**YES:** A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

**NO:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | **NO**

**Comments:**

There was an assault on E. Baisalov, leader of the Coalition of NGOs for Democracy and Civil Society, on April 12, 2006. It's not clear who attacked him and what the attack was related to. He is the most vocal human rights activist in country, but it's hard to say that he was assaulted for voicing concerns about specific corruption issues. During that period of time, public attention was focused on general criminalization of power elites.

The Ministry of Internal Affairs (the law enforcement agency) lawsuit against human rights activist Valentina Gritsenko, lawyer Makhamanjan Abdujaparov and journalist Abdumalik Sharipov for publishing an article about an assault on a female employee by her superior is another case in point. This article shed light on abuses of power within the ministry.

**References:**

Interview with Shamaral Maichev, media representative, July 2006.

**YES:** A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work.

**NO:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

**YES** | NO

**References:**

Interview with Shamaral Maichev, media representative.

**YES:** A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.

**NO:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

4a. In law, citizens have a right to organize into trade unions.

YES | NO

**Comments:**

According to Article 8 of the constitution and a law on trade unions, a citizen age 14 and older can form and become a member of the trade union of his/her choice. Trade unions are independent entities and subject only to the laws of the Kyrgyz Republic.

**References:**

The constitution, the law on trade unions.

**YES:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

As of today, there 22 trade unions in the country. They are all organized within the Republican Trade Union Federation, which takes an active part in the lawmaking process. Every year the government, the association of employers and the Federation sign a general agreement. Its purpose is to protect employees.

The Federation (1) provides legal expertise, (2) drafts and lobbies labor related laws, (3) monitors implementation of labor laws, and (4) represents members of unions in courts. According to V. G. Breiva, the head of the Human Rights Department of the Federation, the main problem the unions face is quite endemic, i.e., low legal culture and corruption leading to breach of contracts. It entails legal nihilism and low credibility of the unions. Another obstacle to creating vibrant and powerful unions is a weak economy, the size of most enterprises and a high turnover rate. These don't contribute to forming stable professional strata in the country.

**References:**

V.G. Breiva, the head of the human rights department of the Republican Trade Union Federation.

**100:** Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## I-2. Media

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### 5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

**YES** | NO

**Comments:**

According to Article 36 of the constitution, culture, arts, literature, science and the mass media are free. This clause makes the mass media an object of cultural rather than political or socio-economic spheres. In 1998 the constitution's Article 65 (Lawmaking Activities) has been amended to strengthen the position of the mass media: No laws shall be made to abridge freedom of speech and the press.

**References:**

The constitution.

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

**YES** | NO

**Comments:**

According to Article 16 of the constitution, every citizen has a right to free expression and distribution of thoughts, ideas and opinions, free literary, artistic, scientific creative activities, free printing, communication and distribution of information.

**References:**  
The constitution.

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form media entities?

31

6a. In practice, the government does not create barriers to form a media entity.

100 | 75 | **50** | 25 | 0

**Comments:**

The government doesn't create barriers to form media entities. Unofficial barriers may exist, depending on the loyalty level of groups creating such entities. S. Maichev: Division of broadcast bandwidth is stalled for the last two years because the government has not figured out and established appropriate mechanism to do it (auction or tender)."

**References:**

Interview with Shamaral Maichev, media representative.

**100:** Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

**75:**

**50:** Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | **NO**

**Comments:**

There is no appeal process. The latest licenses were issued to the electronic media for political reasons (JK). As of today, 33

companies are on a waiting list to get a broadcast bandwidth. Lawyers suggested trying to solve the issue through the court, but none of them dared to do so. (S. Maichev).

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

Interview with Shamara Maichev, media representative.

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

**NO:** A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Even though by law there is a one-month waiting period to receive a license, the State Commission on Radio Frequencies/Bandwidth works slowly. It may be the result of an unresolved issue regarding the mechanics of bandwidth distribution.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is affordable to a middle class citizen.

**References:**

Interview with Shamaral Maichev, media representative.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are the media able to report on corruption?

75

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

**Comments:**

According to Article 16.10 of the constitution, censorship is prohibited in the Kyrgyz Republic. Accurate reporting is quite rare, though.

**References:**

The constitution.

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Although the government and its proxies declare their commitment to anti-corruption/good governance, the media and journalists

widely practice self-censorship in the light of a criminal spree in the aftermath of the Tulip Revolution on March 24, 2005.

During that period, three members of parliament with ambiguous backgrounds were assassinated, leaders of criminal gangs began voicing their political ambitions in an attempt to legalize their capital and businesses, and new political elites launched wide-scale redistribution of the former president Akaev family's wealth and businesses

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

There have been no documented cases of this kind lately.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

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## 8. Are the media credible sources of information?

8a. In law, media companies are required to disclose their ownership.

YES | NO

**Comments:**

This information is considered open. It is published and available online.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**YES:** A YES score is earned if media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such thing as objective and neutral reporting. In general, most experts note low levels of professionalism. Most journalists act as press agents and sell their services.

**References:**

Interview with Shamara Maichev, media representative.  
Interview with Jyldyz Kuvatova, Marina Sivasheva (journalist).

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

**Comments:**

The most recent presidential election took place in July 2005. According to international and local experts, e.g. Freedom House and the Institute of the Media Representative, all candidates had equal access to media outlets. It was in the aftermath of the Tulip Revolution and the election coverage was perceived as relatively fair and balanced.

**References:**

Freedom House  
The Institute of the Media Representative

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

**Comments:**

Lately, the government has been ensuring that all contestants have equal access to state-owned media.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 9. Are journalists safe when investigating corruption?

100

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

### References:

Interview with Shamaral Maichev, media representative.

**YES:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

**NO:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

### References:

Interview with Shamaral Maichev, media representative.

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

**References:**

Interview with Shamara Maichev, media representative.

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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76  
I-3. Public Access to Information

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10. Do citizens have a legal right of access to information?

67

10a. In law, citizens have a right of access to government information and basic government records.

YES | NO

**Comments:**

According to Article 16.15 and the law on guarantees and freedom of information access, citizens have a right to demand and receive information.

**References:**

the law on guarantees and freedom of information access.

**YES:** A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

**NO:** A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

**Comments:**

Along with the principles of freedom of information, public accessibility, openness and reliability of information, it is the duty of the state to provide information upon request (except information that is not subject to public disclosure).

The law on guarantees and freedom of information access introduced the citizen's right to appeal in court if the government refuses to provide the requested information. The appeal process is also regulated by the law on administrative procedures.

**References:**

The law on administrative procedures.

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests.

**NO:** A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

**Comments:**

There is no single government office handling public requests for information—neither government agencies, nor ministries have special units to handle such requests. The law says that citizens have to file their proposals and complaints to respective state, public and other authorities.

In the past, the government tried to solve this problem by implementing the Electronic Government Program. The principal idea of this program was to provide citizens in remote areas with access to information. But given low usage of the Internet (the number of users in the country is 120,000 as of 2005, according to OECD), the efficiency of this initiative is questionable. Moreover, remote areas of the country have the worst communication infrastructure, so the Internet is a luxury, not a primary channel of communication or source of information.

The Ministry of Justice created a Web site that is supposed to be open to public, but as of today (August 24, 2006) it doesn't download.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**YES:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**NO:** A NO score is earned if there is no such formal mechanism or institution.

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## 11. Is the right of access to information effective?

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Because of overall institutional weakness and low legal culture of government agencies, many requests do not receive equal consideration. Some of them may even be ignored unless a requester consistently follows up.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

By law, such records are free. Fees for photocopying and mailing may apply.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency/entity usually does not act quickly, putting appeals in the same order as if they were first-time requests. If the request was previously denied, it may mean that it was done for a reason. S. Maichev, a media lawyer, said that the government institution may even ignore such appeals.

**References:**

Interview with Shamara Maichev, media representative.

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Bureaucracy and prohibitive costs make middle class citizens shy away from the pursuit of information. Usually they will take advantage of personal contacts to access necessary information.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

11e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

Often the government does not bother to respond to an information request. Officials may cite a flurry of reasons such as lack of authority or appropriate people to respond.

**References:**

Interview with Shamara Maichev, media representative.  
Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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Category II. Elections

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II-1. <sup>60</sup>Voting & Citizen Participation

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12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

**Comments:**

According to the constitution, elections shall be free and shall be held on the basis of the equal and direct universal suffrage by secret ballot. Citizens of the Kyrgyz Republic who have attained to the age of 18 years may cast their votes.

**References:**

The constitution, article 1.

**YES:** A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**NO:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

**References:**

The election code of the Kyrgyz Republic.

**YES:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**NO:** A NO score is earned if no such framework exists.

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### 13. Can all citizens exercise their right to vote?

83

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no documented evidence that a right to vote has recently been abused in Kyrgyzstan.

**References:**

Presidential election, July 10, 2005 Kyrgyz Republic OSCE/ODIHR final report.

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 | 75 | **50** | 25 | 0

**Comments:**

International observers noted that the unexplained fluctuations in the number of voters on the main voters list—up to and including election day—raises questions about the accounting of ballots at the last election.

**References:**

Presidential election, July 10, 2005 Kyrgyz Republic, OSCE/ODIHR final report.

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

**100** | 75 | 50 | 25 | 0

**Comments:**

There are no exceptions.

**References:**

Interview with a staff member of Central Election Commission (confidential source).

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

#### 14. Are citizens able to participate equally in the political process?

75

14a. In law, all citizens have a right to form political parties.

**YES** | NO

**Comments:**

Political parties, trade unions and other public associations may be formed in the Kyrgyz Republic on the bases of free will and common interests. The state shall secure the rights and lawful interests of public associations.

**References:**

The constitution, Article 8.

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

**YES** | NO

**Comments:**

Individuals with a history of criminality, or those under criminal process are banned from running for office.

**References:**

The constitution, article 23  
The law on civil service  
The election code

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Svetlana Sorokina, election specialist.

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

Based on a recent by-election in the Kurshab presinct (south Kyrgyzstan), the government may impose regulatory burdens on candidates.

**References:**

Interview with a staff member of the Central Election Commission (confidential source).

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

14e. In practice, an opposition party is represented in the legislature.

100 | 75 | **50** | 25 | 0

**Comments:**

There are several deputies who represent opposition parties in the parliament. But their ability to advance legislation depends on their personal political weight, rather than their affiliation.

**References:**

A former staff member of parliament (confidential source).

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

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## II-2. Election Integrity

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15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

**Comments:**

There is a set of agencies named Election Commissions.” Election Commissions are a mix of permanent state bodies at the national and regional levels, as well as the capital city of Bishkek. The Election Commissions also include ad hoc non-governmental bodies at the district and county levels.

**References:**

the Constitution of the Kyrgyz Republic  
The law on the central election commission  
Commentary to the election code of the Kyrgyz Republic, Bishkek 2004

**YES:** A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.

**NO:** A NO score is earned if no agency or set of agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police.

---

## 16. Is the election monitoring agency effective?

65

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

**Comments:**

Half of the Central (National) Election Commission’s members are appointed by the president (the head of state). Another part is appointed by the parliament.

**References:**

the Constitution of the Kyrgyz Republic  
The law on the central election commission

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The chairperson of the Central Election Commission is appointed by the president. According to the law, he or she is the only civil servant on the commission (others are non-permanent staff) and the chairman is usually politically influenced by the president and his administration.

**References:**

A member of the Central Election Commission's (CEC) staff (confidential source).

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Election commission staff members are non-professional, volunteer staff, except the chairpersons of the regional commissions and the city of Bishkek's commissions. The latter are civil servants paid by the government.

The staff members of the election commissions are representatives of political parties, public associations and associations of voters. A current employer of a member of the election commission has to keep paying the staff member his or her monthly salary during election campaigns. One-third of each commission might be civil or municipal servants. An ad hoc election commissions' mandate expires after an election.

**References:**

Election code of the Kyrgyz Republic, General Part, article 11. items 3, 7.

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports are released according to the law and available at CEC's Web site.

**References:**

Presidential Election, July 10,2005, Kyrgyz Republic OSCE/ODIHR final report  
[www.shailoo.gov.kg](http://www.shailoo.gov.kg)

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The election commissions tend to be selective in enforcing rules.

On April 10, 2006, Chairman of the Central Electoral Commission Tuigunaly Abdraimov declared the results of elections in parliament on Precinct # 69 at a press conference. More than 79 percent of voters voted for Rysbek Akmatbaev. But Akmatbaev's registration as deputy of the Kyrgyz Parliament has been suspended, because in the election code there are clauses contradicting each other, as the head of the Central Electoral Commission explained to journalists. The problem was that Akmatbaev was an alleged crime boss and murderer. He has been under legal prosecution. According to Kyrgyz election laws, Akmatbaev should not be able to run for public office. But if Akmatbaev is officially a candidate for public office, he enjoys immunity from investigation or prosecution.

The Central Electoral Commission has turned the matter over to the parliament for a ruling. But this story unexpectedly ended one month later, on May 10, 2006, when Rysbek Akmatbaev was shot dead. Now Akmatbaev's family demands to declare his

position as deputy posthumously.

**References:**

www.shailoo.gov.kg

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

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## 17. Are elections systems transparent and effective?

67

17a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

**Comments:**

A registration system exists but it is not transparent. Double voting and ghost" voting by non-existent voters is common, especially in rural regions.

As OSCE/ODIHR observers reported at the last presidential elections in July 2005, there were unexplained fluctuations in the officially announced number of registered voters up to and including election day. On June 26, when ballot printing started, the number of voters on the voter lists countrywide was 2,691,478. Yet the number of voters on the voter lists at the start of election day was 2,555,246, and the number of voters in the main voter lists at the end of voting was 2,562,603, with another 107,927 on the additional voter lists.

Some Kyrgyz citizens voted from abroad (37,655), although up to 500 000 migrants from Kyrgyzstan live abroad.

Based on these numbers, it appears some of the vote was inaccurate.

**References:**

Presidential Election, July 10, 2005, Kyrgyz Republic OSCE/ODIHR final report.

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.

**YES** | NO

**Comments:**

An appeal related to the election rights of citizens can be submitted to an election commission or other state, municipal or public body.

**References:**

Election code, general part, Article 55.

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | **50** | 25 | 0

**Comments:**

The appeals mechanisms are not clear and there may be problems with its implementation.

**References:**

Presidential Election, July 10, 2005, Kyrgyz Republic OSCE/ODIHR final report.

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the

announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

100 | 75 | **50** | 25 | 0

**Comments:**

It is difficult to find documented examples of law enforcement's involvement in an election process. Informally, voters see law enforcement's active support to candidates loyal to the ruling party.

During the last presidential election, June 23, 2005, police searched two campaign offices of Bakir Uulu in Osh Oblast, allegedly to look for evidence of ties between the candidate and the radical Islamic group Hizb ut-Tahrir. Bakir Uulu's campaign staff officially protested that the searches might have had an adverse effect on his campaign and reputation. A June 25, 2005 letter signed by Bakir Uulu and the chairman of the southern regional headquarters of Bakir Uulu, was sent to the Prosecutor general, acting minister of the interior and others.

**References:**

Presidential Election, July 10 2005, Kyrgyz Republic OSCE/ODIHR final report.

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

**YES** | NO

**Comments:**

Foreign (international) observers have to be accredited at the Central Election Commission.

**References:**

Election code, general part, Article 17.

**YES:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**Comments:**

The last election was atypical for Kyrgyzstan in many aspects. The parliamentary elections in February and March 2005 were assessed as falling short of OSCE commitments and other international standards for democratic elections. The irregularities in the election process contributed to public protests which ultimately led to the ousting of President Askar Akaev on March 24 and his departure from the country.

Sustainability of progress in transparent and fair elections is doubtful.

**References:**

Presidential election, July 10, 2005, Kyrgyz Republic OSCE/ODIHR final report.

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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77  
II-3. Political Financing

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18. Are there regulations governing political financing?

18a. In law, there are regulations governing private contributions to political parties.

YES | NO

**Comments:**

Political parties' funds are derived from member contributions, voluntary donations, credits etc. There are no limits. However, political parties are prohibited from receiving financing from abroad (including private contributions).

**References:**

The law on political parties, Article 16.

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

**Comments:**

The limits have to do with candidates only.

**References:**

The election code.

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

**Comments:**

The limits have to do with candidates only.

**References:**

The election code.

**YES:** A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | **NO**

**Comments:**

Political parties in Kyrgyzstan operate like any other legal entities. They may set up businesses and use profits for their statutory purposes. But party members have no title to the income and property of those businesses and do not bear liability for their debts.

**References:**

The law on political parties.

**YES:** A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

**NO:** A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | **NO**

**Comments:**

A political party shall submit annual financial reports on its activity to the Social Fund, the tax service and other authorities of the Kyrgyz Republic. These reports are not to be disclosed to the to the public. In other words, political parties operate as regular commercial or non-commercial entities.

**References:**

The law on political parties.

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | **NO**

**Comments:**

Only publicly listed companies make independent audits of their finances. Political parties submit regular financial reports to fiscal bodies. Candidates' finances are controlled by the election commissions, but this is not an independent audit.

**References:**

The law on political parties.  
The election code.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

---

## 19. Are the regulations governing political financing effective?

17

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | **0**

**Comments:**

Limits are so low that they are meaningless in the context of the overall costs of running a campaign. Donations from individuals may not exceed the minimum salary (120 KGS) by a multiple of 20. It means that private donations shall not exceed US\$60, which is a very small amount of money for parties.

**References:**

Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

#### References:

Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

#### Comments:

Donations from legal entities to election funds may not exceed the minimum salary by more than a multiple of 150 (US\$450), according to the law. In practice, corporations make cash donations of thousands of dollars that are not traceable.

There are no limits to parties' expenditures. Parties' expenditures shall not exceed their incomes including donations, loans and other sources. But most expenditures by legal entities in Kyrgyzstan are made in cash without any official records, so it is

impossible to audit and assess their abilities.

**References:**

Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | **25** | 0

**Comments:**

There is no such an agency. The Central Election Commission can initiate investigations during election campaigns upon request of other candidates or their representatives. But these investigations identify only inconsistency or absence of financial records.

Reports are available at the Central Election Commissions Web site.

**References:**

CEC Web site at [www.shailoo.gov.kg](http://www.shailoo.gov.kg)

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The Central Election Commission's penalties are related mostly to buying votes, illegal advertising and other non-financial offences. For example, the Commission's investigation into the financing of two candidates for by-election to the parliament in Kurshab presinct #39 found only minor defects in both candidates' financial records. These findings will not lead to any penalties to either candidate.

**References:**

The Central Electoral Commission's data on receipt and expenditure of money resources of election funds of candidates.

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Party finances are not audited. Candidates' finance audits are ineffective, since they will not identify illegal cashflow. Election commission investigations will cover documented financial transactions, which are, in fact, only part of parties' and candidates' expenditures.

**References:**

The Central Electoral Commission's data on receipt and expenditure of money resources of election funds of candidates. Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

## 20. Can citizens access records related to political financing?

0

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

Information on parties' funds is not available, since funding is considered a commercial secret. Candidates' funds are audited by the election commissions, but they only publish totals—there is no specific information published regarding donation amounts and donors.

### References:

The Central Electoral Commission's data on receipt and expenditure of money resources of election funds of candidates. Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | 0

### References:

The law on political parties. Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

20c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

The law on political parties.

The election code.

Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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Category III. Government Accountability

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III-1. <sup>64</sup>Executive Accountability

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21. In law, can citizens sue the government for infringement of their civil rights?

100

21. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

**References:**

The constitution.

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**NO:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

---

## 22. Can the chief executive be held accountable for his/her actions?

50

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | **50** | 25 | 0

**Comments:**

The president, who is de facto chief executive in the Kyrgyz Republic, gives reasons from time to time. However, he is not obligated to explain his decisions, especially when he fires or hires political civil servants, such as the prime minister, ministers, court chairs, members of the accounts chamber and other bodies under his control.

**References:**

The constitution, the chapter III.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

22b. In law, the judiciary can review the actions of the executive.

YES | NO

**Comments:**

The Supreme Court of the Kyrgyz Republic shall be the highest body of the judicial power in regard to civil, criminal and administrative judicial proceedings, as well as in regard to commercial disputes and other matters as the law may envisage.

The Constitutional Court shall be the highest body of the judicial power for the protection of the Constitution of the Kyrgyz Republic.

**References:**

The Constitution.

**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**Comments:**

There are many cases when the Constitutional Court or other courts disregard the illegal actions of the executives. Examples are available in an online database of court decisions.

**References:**

bdsa.toktom.kg

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Constitution, the president shall establish or abolish executive bodies that are not parts of the government (the Cabinet of Ministers).

This leads to the establishment of a parallel executive, such as the National Security Service, National Agency for the Prevention of Corruption, etc., which are not accountable to parliament and less transparent than normal executive bodies.

**References:**

The Constitution, Article 46.  
[www.president.kg](http://www.president.kg)

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

---

## 23. Is the executive leadership subject to criminal proceedings?

50

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

**Comments:**

The president (head of state) and all former presidents of the Kyrgyz Republic are granted immunity. They shall not be brought to court for criminal or administrative offenses because of their action or inaction during their presidency. Exception is made for presidents discharged from the office as a result of impeachment.

**References:**

The Constitution, articles 49, 53, 51.

**YES:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

**YES** | NO

**Comments:**

The prime minister (which is a nominal position), ministers, and other high officials might be prosecuted for crimes they commit.

**References:**

The law on civil service

The law on the government

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

---

## 24. Are there regulations governing conflicts of interest by the executive branch?

50

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

**YES** | NO

**Comments:**

There is a law on declaring information on income and assets, liabilities and property of political and other special state appointees and their immediate family members. According to this law, the president, the prime minister, ministers, governors, prosecutors and other political appointees shall submit their declarations on incomes and other assets to the authorized state body.

The latter is the Agency for Civil Service Affairs.

**References:**

There is a law on declaring information on income and assets, liabilities and property of political and other special state appointees and their immediate family members.

**YES:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

**NO:** A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

**References:**

There is a law on declaring information on income and assets, liabilities and property of political and other special state appointees and their immediate family members.

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

**Comments:**

There is a very general rule in the law on civil service, which restricts receiving gifts, money or services for action or inaction in relation to discharge of official duty.

**References:**

The law on civil service.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

**Comments:**

The law on declaration of income and assets stipulates the Agency on Civil Service Affairs as a body is responsible for auditing declarations of civil servants, including high officials. But this is not an independent body, because the head of the agency is a president's appointee. The agency shall examine the data presented in declaration, but there is no such a procedure, and the agency's staff are not certified auditors or appraisers.

**References:**

The law on civil service.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

**Comments:**

The law on civil service restricts relationships with the private sector only while civil servants are in service and one year after leaving the office.

**References:**

The law on civil service, article 11.

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

To be an employee or the owner of a private company that is closely related to or regulated by a former head of state's former ministry/agency is a normal practice in Kyrgyzstan.

In March 2005 Daniyar Usenov was appointed acting vice-prime minister of the government. When the parliament did not approve his appointment, he took a position as chairman of the board of commercial bank Ineximbank (October 2005). In June 2006 he was appointed as a first vice-prime minister of the Kyrgyz Government.

**References:**

www.gov.kg March, 2005.

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no specific regulations governing gifts and hospitality to members of the executive branch. The law on civil service and the law on the fight against corruption stipulate that a civil servant shall not accept gifts in connection with fulfilment of his/her duties. But it is unclear who will judge whether a gift is related to the fulfilment of official duties or not.

**References:**

The law on civil service, the law on the fight against corruption.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no special body to perform an audit of asset disclosers. There is no auditing procedure, and the agency's staff is composed of professional auditors.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

The Law on Civil Service

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 25. Can citizens access the asset disclosure records of the heads of state and government?

100

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

**Comments:**

All records are available online. However, the records are of no value, since there is no independent auditing of the information provided.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**YES:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available online.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 26. In practice, is the ruling party distinct from the state?

25

26. In practice, is the ruling party distinct from the state?

100 | 75 | 50 | 25 | 0

### Comments:

There is no such notion as a ruling party in the Kyrgyz Republic. All civil service posts are occupied by people loyal to the current president, no matter what party they represent. Civil servants have to formally suspend their membership in any party while in service. However, there is no mechanism to control this rule.

There is only one precedent: Minister of Industry, Trade and Tourism Atambaev resigned from his post after President Bakiev requested he stop all activities of the minister in his Social-Democratic party.

### References:

Interview with Svetlana Sorokina, specialist in political parties and elections.

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## III-2. Legislative Accountability

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### 27. Can members of the legislature be held accountable for their actions?

50

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

**Comments:**

The Constitutional Court shall disregard any legal act which it regards as unconstitutional.

**References:**

The constitution, article 82.

**YES:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

There are few examples of the Constitutional Court disregarding laws passed by the parliament.

The Constitutional Court disregarded a number of articles of the criminal process code, adopted by the parliament, because they contradicted the constitution. The last case took place in January 2006.

Usually, the court has in a process two to three cases per year, rarely related to laws passed by the parliament.

**References:**

January 13, 2006 decision of the Constitutional Court of the Kyrgyz Republic, on the recognition of unconstitutional and contradictory item 3 of clause 83 of the constitution of the Kyrgyz Republic, and part of 8 clauses 374 and item 7, part of 1 clause 383 to the criminal procedure code of the Kyrgyz Republic.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | **NO**

**Comments:**

The Members of the Kyrgyz Parliament (Jogorku Kenesh, literally, the Supreme Council") are granted the right of immunity. A deputy shall not be detained or arrested, subject to search or personal examination, except for cases when he or she has been caught red-handed at the scene of a crime.

**References:**

The constitution.

**YES:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**NO:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

---

## 28. Are there regulations governing conflicts of interest by members of the national legislature?

14

28a. In law, members of the national legislature are required to file an asset disclosure form.

**YES** | NO

**Comments:**

Members of parliament are subject to the law on the declaration of income and assets, because deputies are considered a special group of civil servants while in office.

**References:**

The law on declaration of information on income and assets, liabilities and property of political and other special state appointees and their immediate family members.

**YES:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

**Comments:**

Deputies are political civil servants who are not restricted by the law on civil service.

**References:**

The law on civil service.

**YES:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | **NO**

**Comments:**

Restrictions have to do with administrative civil servants only.

**References:**

The law on status of the Jogorku Kenesh deputy.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

**Comments:**

The Agency on Civil Service Affairs collects and examines declarations of civil servants, but it cannot perform audits of asset disclosers: There is no procedure and the agency's staff is not composed of professional auditors.

**References:**

The law on the declaration of information on income and assets, liabilities and property of political and other special state

appointees and their immediate family members.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**References:**

The Law on the status of the Jogorku Kenesh deputy.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**References:**

The Law on the status of the Jogorku Kenesh deputy.

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

28g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Assets of parliamentarians are also subject to the examination by the Agency on Civil Service Affairs, but this is not an audit.

**References:**

The law on the declaration of information on income and assets, liabilities and property of political and other special state appointees and their immediate family members.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

---

## 29. Can citizens access the asset disclosure records of members of the national legislature?

100

29a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

**Comments:**

All records are available on the agency's Web site.

**References:**  
[www.csa.gov.kg](http://www.csa.gov.kg)

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**  
All records are available on the agency's Web site.

**References:**  
[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**  
All records are available on the agency's Web site.

**References:**  
[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

---

### 30. Can citizens access legislative processes and documents?

58

30a. In law, citizens can access records of legislative processes and documents.

YES | NO

**Comments:**

According to legislation, all draft laws related to citizens' and legal entities' rights and interests, business shall be published at Web sites or published in the press. Discussion of draft laws in parliament's committees are open and mass media can participate in it.

**References:**

The law on normative legal acts.  
The regulation of the jogorku kenesh.

**YES:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**NO:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records take time to get for technical reasons: there are stenographic notes which must be decoded and printed out.

Most debates are available on state TV stations, and there are no restriction on journalists coming to the debate and making notes, video and audio recordings.

The content of the parliament's Web site is very poor..

**References:**

Interview with Sheradil Baktygulov, independent consultant, a former expert on parliament's committees.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

Records are accessible at a reasonable cost, but it takes time and they are not available in rural regions.

**References:**

Interview with Sheradil Baktygulov, independent consultant, a former expert on parliament's committees. August, 2006.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

31a. In practice, there is a transparent procedure for selecting national-level judges.

YES | NO

**Comments:**

National level judges are approved by parliament upon the president's proposal.

**References:**

The constitution, article 80.

**YES:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

**NO:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

**Comments:**

There are strong selection criteria for national level judges, such as a minimum of 10 years of professional law experience and a law degree.

But judges are concerned with the political influence the executives and the parliament have on national level court appointments.

**References:**

Interview with member of the supreme court, Aijamal Ajibraimova, in Slovo Kyrgyzstana newspaper, #92, Sept. 13 2005.

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

**Comments:**

National level judicial nominees shall be selected by the National Council on Justice Affairs, which is composed of representatives of the government, the president's administration, the supreme court, academics and the professional associations of lawyers.

**References:**

The president's decree on the National Council on Justice Affairs.

**YES:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

**NO:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

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### 32. Can members of the judiciary be held accountable for their actions?

75

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

**References:**

The law on the Supreme Court.  
The law on the Constitutional Court.

**YES:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**NO:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | **50** | 25 | 0

**Comments:**

Judges are formally required to explain their judgments in detail, but there are lots of exceptions. In 2005, more than 6,000 cases were lost in Kyrgyz courts without any decision—the courts cannot report on what has happened regarding all these cases.

**References:**

President Bakiyev's address to the Conference of Judges on July 8, 2006.

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.

YES | NO

**Comments:**

The ombudsman of the Kyrgyz Republic shall control any branch of power in respect to cases where final decisions have already been made. He also has the power to study criminal and civil cases in the court, as well as cases of administrative violations, in respect to decisions of the court that have already been made and become effective, as well as cases and materials, rejected by the court.

**References:**

The law on ombudsman of the Kyrgyz Republic, article 8.

**YES:** A YES score is earned if there is a ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO:** A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

YES | NO

**References:**

The Law on ombudsman of the Kyrgyz Republic.

**YES:** A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

**NO:** A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

100 | 75 | **50** | 25 | 0

**References:**

The Law on ombudsman of the Kyrgyz Republic.  
The reports of the ombudsman.

**100:** The ombudsman aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

**75:**

**50:** The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The ombudsman rarely investigates on its own or cooperates in other agencies' investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**Comments:**

The ombudsman cannot penalize offenders; he/she can only pressure related state agencies to react to an offense.

**References:**

The law on ombudsman of the Kyrgyz Republic.

**100:** When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

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## III-4. Budget Processes

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### 33. Can the legislature provide input to the national budget?

83

33a. In law, the legislature can amend the budget.

YES | NO

**Comments:**

However, the parliament shall not make amendments to a law on a republican budget without an official statement of no objection” by the government.

**References:**

The main principles of budget law, article 15.  
The constitution, article 65.

**YES:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**NO:** A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Asia Taranchieva, a former head of the department of the Ministry of Finance.

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

Legislators have a limited staff to monitor the budget process, which is why they tend to rely on the reports of the Accounts Chamber.

**References:**

Interview with a consultant to a member of the Budget and Finance Committee of the parliament (confidential source).

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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### 34. Can citizens access the national budgetary process?

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**Comments:**

Independent experts say that legislators and the general public can only obtain information released by the Ministry of Finance. The ministry tends to hide revenue forecasts and proposed changes to taxes and excises.

However, NGOs, experts and international donors support work that increases budget transparency.

**References:**

[www.budget.kg](http://www.budget.kg)

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Budget hearings took place in 21 out of 25 Kyrgyzstan towns. Budget hearings are supported by donors' organizations like USAID, Soros Foundation and UNDP, but has no legal status. Public hearings on the budget may influence local levels only.

**References:**

[www.ui.kg](http://www.ui.kg)

**100:** Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

34c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

**Comments:**

The budget of the Kyrgyz Republic is input-based and budget lines are very broad. For example, all of the president's expenditures including his salary, security, accomodation, travel etc. go under one line: state services of general purposes.

**References:**

[www.minfin.kg](http://www.minfin.kg)

**100:** Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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35. In law, is there a separate legislative committee which provides oversight of public funds?

100

35. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

**Comments:**

There is a budget and finance committee in the parliament that is responsible for controlling all public revenue and expenditure issues.

**References:**

The structure of the parliament committees.

**YES:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**NO:** A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

## 36. Is the legislative committee overseeing the expenditure of public funds effective?

25

36a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

### Comments:

The reports on budget implementation are submitted to the central treasury of the Ministry of Finance. The parliament's committee can request a report of particular ministry/agency, but this is not a formal and regular report.

### References:

Interview with A. Taranchieva, private consultant, a former deputy minister of justice and a former head of the Department of the Ministry of Finance in August, 2006.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

### Comments:

There is no clear distinction between the opposition and the ruling party. That is why some representatives of the opposition" often are members of budget committees. In the current committee, there are people close to former president Akaev and one of the leaders of active opposition to the president Bakiyev: Temir Sariev.

**References:**

Interview with an assistant to a member of parliament (confidential source).

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

36c. In practice, this committee is protected from political interference.

100 | 75 | **50** | 25 | 0

**References:**

Interview with an assistant to a member of parliament (confidential source).

**100:** This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

**75:**

**50:** This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

**25:**

**0:** This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

36d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | **0**

**Comments:**

The committee has no capacity to investigate financial irregularities or violations. Parliamentary investigation teams usually are included members of different committees.

**References:**

Interview with an assistant to a member of parliament (confidential source).

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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Category IV. Administration and Civil Service

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IV-1. <sup>56</sup> Civil Service Regulations

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37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES

NO

**Comments:**

The law stipulates that the civil service in Kyrgyzstan performs its functions on the basis of professionalism, competence, initiative and integrity.

**References:**

The law on civil service, article 4.

**YES:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**NO:** A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

**References:**

The law on civil service, article 11.

**YES:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**NO:** A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

**Comments:**

Civil servants can apply to the Agency for Civil Service Affairs for appeals against disciplinary decisions, or to a court for both disciplinary issues and labor disputes.

**References:**

The law on civil service, articles 39, 43.

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

**Comments:**

Civil servants convicted of corruption shall be deprived of the right to occupy certain positions or engage in certain activities for a period up to three years.

**References:**

The criminal code of the Kyrgyz Republic, article 303.

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist.

---

### 38. Is the law governing the administration and civil service effective?

44

38a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

As stated an Agency for Civil Service Affairs report, 63 percent of all civil servants terminated their service for personal reasons” (as of June 2006).

It could be understood that these civil servants cannot work with their new bosses.

**References:**

The Agency for Civil Service Affairs Report, June 2006.

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Agency on Civil Service Affairs, 15 percent of all appointments in June 2006 were made without any competition, although this is strongly prohibited by the law.

**References:**

The Agency for Civil Service Affairs Report, June 2006.

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**Comments:**

It is common within the Kyrgyz civil service to appoint relatives to civil service posts. There is a cultural background of nepotism and cronyism in Kyrgyz Civil Service.

The problem is that the Kyrgyz Republic is a so-called closed nation," in which aliens can not be introduced: Every man knows (or at least should know) his tribe and his ancestors seven generations back. Relatives know and help each other, so they usually keep in touch, at least formally.

Family names were introduced in the Soviet period, and most people were named after their fathers or grandfathers. Cousins are considered close relatives.

It is also traditional for cousins to share a surname even though they are not brothers and sisters. As a result, it is difficult to recognize close relatives based on family names.

**References:**

Interview with a former prime minister's office official (confidential source).

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100 | 75 | **50** | 25 | 0

**Comments:**

Civil servants' duties and responsibilities are described as so-called functional responsibilities." These responsibilities are not similar to the job descriptions of modern civil service organizations found in developed countries.

Functional responsibilities often differ from ministry/agency to ministry/agency, even if the position is the same. For instance, the head of an office in one ministries is responsible for paperwork, management and support functions (legal, personnel, budget and finance), but in another, a civil servant in this position is responsible for business activities such as heating, housing etc.

The most discouraging thing is that the firing and hiring process is not based on a civil servants' performance, so it does not matter how well (or poorly) they do their job.

**References:**

Interview with a former prime minister's office official (confidential source).

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

38e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | **25** | 0

**Comments:**

Civil servants may have bonuses that can amount up to 100 percent of their basic salary. These include: 50 percent bonuses for

irregular working hours, bonuses for civil service rank, Four quarterly bonuses per year, a two-month's salary bonus for annual leave and a one-month's salary bonus as a material aid.

All bonuses are included in a ministry/agency's annual budget under the Salary" section.

**References:**

President's Decree #196 as of 2000.

Civil servants' salaries are confidential.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0

**Comments:**

The Agency for Civil Service Affairs regularly publishes information on available civil service vacancies. According to the legislation, all state bodies have to make vacancy announcements in newspapers.

Nevertheless, 15 percent of all recent appointments were made without open competition, thus no information about these vacancies was available to the public.

**References:**

The Agency for Civil Service Affairs report, June 2006.

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The Agency for Civil Service Affairs makes investigations, but its powers are usually too limited to complete investigations effectively. For the sake of fairness, the agency began its work last year, so it has no experience in redress, yet.

**References:**

Interview with Almaz Karabalaev, a department head in the Agency on Civil Service Affairs.

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

38h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

There may be some delay in payment, but civil servants' salaries are a protected budget item in the state budget.

**References:**

Interview with Ernis Abdurazakov, department head in the Ministry of Finance.

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

38i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such a system. None of the ministries, with the exception of the Ministry of Finance and a few others, have rudimentary computerized personnel and payroll databases.

This makes it impossible to track the bad records of civil servants.

**References:**

Interview with a former official from the prime minister's office (confidential source).

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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### 39. Are there regulations addressing conflicts of interest for civil servants?

58

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

**Comments:**

A civil servant who is aware of conflicts of interest shall take measures to prevent it.

**References:**

The law on civil service, Article 9.

The law on the fight against corruption, Article 11.

**YES:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**NO:** A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

**YES** | NO

**Comments:**

The civil service law restricts relationships with the private sector only while civil servants are in service, and one year after they leave the office. But these restrictions are for administrative civil servants only.

**References:**

The law on civil service of the Kyrgyz Republic, Article 11.

**YES:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

**YES** | NO

**Comments:**

According to legislation, administrative civil servants shall not accept any gifts or hospitality in connection with the fulfilment of their official duties.

**References:**

The law on civil service.

The law on the fight against corruption.

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | **50** | 25 | 0

**Comments:**

Current guidelines are very generic. There is no set procedure and no staff to control such a provision.

The cooling-off period is one year.

**References:**

The law on civil service, Article 11.

The law on the fight against corruption, Article 11.

Interview with a former prime minister's office official.

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations are not effective, since they do not provide civil servants or their management with a clear definitions of gifts, hospitality or other benefits. There are no regulations on how a civil servant should act if he/she is approached with a gift or other illegal proposal.

**References:**

Interview with a former prime minister's office official.

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their

decisions.

39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The recusal requirements are ignored, because there are no mechanisms in place to control conflicts of interest.

**References:**

Interview with a former prime minister's office official.

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

---

#### 40. Can citizens access the asset disclosure records of senior civil servants?

100

40a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

**Comments:**

All the records are available online.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

All the records are available online.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

All the records are available online.

**References:**

[www.csa.gov.kg](http://www.csa.gov.kg)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## IV-2. Whistle-blowing Measures

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41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

25

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**Comments:**

Civil servants who report on illegal actions are protected from recrimination. The recipient of a bribe shall have immunity if he or she voluntarily reports a bribe to law enforcement bodies.

**References:**

The law on civil service, Article 8.  
The law on fight against corruption, Article 9.  
Criminal procedure code, article 314 9 (note).

**YES:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no witness protection system of any sort.

**References:**

Interview with a former prime minister's office official.

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

**Comments:**

The criminal code recognizes corruption in the private sector, which include abuse of office or power, commercial bribery and so forth. But there are no specific regulations on private sector employees who reported about these and other corruption offences. A private sector employee who reports corruption asks for the same protection as any other witnesses.

**References:**

Criminal code, Chapter 23.

**YES:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | **0**

**Comments:**

There is no witness protection system of any sort, including protection of private sector employees.

**References:**

Criminal procedure code, article 314 9 (note).

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

---

42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

0

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Hotlines and contact phone numbers, where someone can report corruption or harassment, exist in most ministries/agencies, but there are neither regulations nor special staff to serve them. A hotline for the Prosecutor's General Office and some other law enforcement agencies are more or less effective, since they have to react to citizens complaints anyway, according to legislation.

**References:**

Interview with a former prime minister's office official (confidential source).

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no budget for internal reporting mechanisms.

**References:**

Interview with a former prime minister's office official (confidential source).

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Complaints received through internal reporting mechanisms have no priority, and they are dealt with in a manner that is as effective and timely as any other business would be treated.

**References:**

There is no budget for internal reporting mechanisms.

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

**Comments:**

It depends on the political sensitivity of a matter. Issues that involve relatives, friends and others affiliated with the ruling party will not be investigated.

**References:**

Interview with a former prime minister's office official (confidential source).

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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## 13 IV-3. Procurement

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### 43. Is the public procurement process effective?

60

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

**YES** | NO

**Comments:**

By law, procurement officials are not considered a special group within the civil service. Civil servants shall not participate in a bid if there is a conflict of interest. There are restrictions regarding deal making between public procurement officials and the organizations where they work and organizations where they have relatives, shares or other interests.

**References:**

The law on state procurements, Article 5.

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

**NO:** A NO score is earned if no such rules exist.

43b. In law, there is mandatory professional training for public procurement officials.

YES | **NO**

**Comments:**

There is no provision for training, although at least one member of the bidding commission has to be a certified procurement specialist. From time to time, training is provided by the regional training center of the State Procurements Agency.

**References:**

The law on state procurements, Article 13.

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | **0**

**Comments:**

Conflicts of interest cannot be identified and monitored since there is neither procedure, staff nor database to enforce them.

**References:**

Interview with A. Taranchieva, private consultant, a former deputy minister of justice and a former head of the Department of the Ministry of Finance.

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

**Comments:**

Incomes and assets of procurement specialists might be monitored by the Agency for Civil Service Affairs.

**References:**

The law on civil service.

**YES:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**NO:** A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

YES | NO

**Comments:**

The minimum amount for procurement of goods and services for governmental bodies is 100,000 KGS (about US\$2600) with the maximum amount being 700,000 KGS (US\$18,200); for renovation, construction, and earthwork procurement the minimum and maximum amounts are 150,000 KGS and 1,000,000 KGS respectively. For a sum equal to or exceeding the maximum amount, a tender announcement must be published in the mass media and the government procurement bulletin.

**References:**

Government regulation No. 440 (16 September 2005).

**YES:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**NO:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

**Comments:**

The law stipulates terms and conditions for a sole source procurement.

**References:**

The law on state procurements, Article 38.

**YES:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

**YES** | NO

**Comments:**

Tender participants may file a complaint to a purchase organization or to the authorized state body—the Government Procurement Commission—before the tender commission makes a final decision.

**References:**

The law on state procurements, Articles 63, 65.

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

**YES** | NO

**Comments:**

Purchasing organization decisions, as well as disputes arising in the process of procurement, are settled in court.

**References:**

The law on state procurements, Article 67.

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | **NO**

**Comments:**

There is no corporate criminal responsibility in the Kyrgyz criminal code. Therefore, it is difficult to identify and record companies convicted of corruption. The Istanbul Anti-corruption Action Plan for Kyrgyzstan and other CIS countries has been recommended to introduce criminal responsibility of legal entities, but it has not yet been implemented.

**References:**

OECD country review for the Kyrgyz Republic, 2005.

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | **0**

**Comments:**

There is no such system.

**References:**

The law on state procurements.  
Government regulations on procurement.

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

---

44. Can citizens access the public procurement process?

44a. In law, citizens can access public procurement regulations.

**YES** | NO

**Comments:**

General rules of procurement are available to the public.

**References:**

[www.goszakupki.gov.kg](http://www.goszakupki.gov.kg)

The law on state procurements.

Government regulations on procurement.

**YES:** A YES score is earned if procurement rules are, by law, open to the public.

**NO:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

**YES** | NO

**Comments:**

Purchasing organizations have to announce results of bids in the state procurement bulletin.

**References:**

The law on state procurements, Article 30.

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

**100** | 75 | 50 | 25 | 0

**Comments:**

Regulations are available online.

**References:**

<http://www.goszakupki.gov.kg>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Public procurement regulations are available online.

**References:**

<http://www.goszakupki.gov.kg>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44e. In practice, major public procurements are widely advertised.

**Comments:**

Most purchasing organizations ignore Article 30 of the law on state procurements and purchase goods and services without making the mandatory announcement in the state procurement bulletin.

The State Procurement Agency has neither leverage nor mechanisms to control and impose sanctions.

**References:**

Letter of the director of the State Procurement Agency–June 8, 2006 #2582.

**100:** There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

**Comments:**

There have been cases when state agencies ignored the law and did not publish the results of a bid.

**References:**

Results of investigations by the state agency on state procurement and material reserves are available online (<http://www.goszakupki.gov.kg>).

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

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## IV-4. Privatization

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### 45. Is the privatization process effective?

83

45a. In law, all businesses are eligible to compete for privatized state assets.

**YES** | NO

**Comments:**

Business entities with more than 25 percent of government participation cannot compete for privatized state property.

**References:**

The law on privatization of state property, article 8.

**YES:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**NO:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

**YES** | NO

**Comments:**

There are no regulations specific to the procurement process. Public officials involved in privatization are considered as any other civil servants. Article 5 of the Law on State Procurements declares that civil servants are prohibited to be involved in bids where they have a conflict of interest, but it specifies that penalties for misconduct in public procurement shall be executed according to other existing national laws, which in this case are the civil service regulations.

**References:**

The Law on Civil Service.

The Law on De-Nationalization and Privatization of State Property.

**YES:** A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

**NO:** A NO score is earned if there are no such formal regulations.

---

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Conflict of interest regulations exist in general for all civil servants. Government officials responsible for privatization are subject to the law on civil service and law on the fight against corruption.

**References:**

Law on civil service.  
The law on the fight against corruption.

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

---

## 46. Can citizens access the terms and conditions of privatization bids?

50

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

**Comments:**

According to legislation, only participants of privatization bids will be provided with all the information. The general public must be provided with information regarding the date, place, time and contact phone numbers of privatization authorities.

After completion of a bid, the the final deal must be published. All this information must be announced in the local press. The Concept of Privatization, approved by the parliament and the Program of Privatization, includes a list of state property set for privatization in the next two to three years. The Concept of Privatization provides general recommendations on how privatization should be implemented. It is available to the public. The most recent program will be in effect until 2007.

**References:**

The regulation on conditions and order of de-nationalization and privatization of state property in the Kyrgyz Republic.

**YES:** A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

**NO:** A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

**Comments:**

Results of privatization bids (auctions) are to be announced in the local press within 15 days after completion.

**References:**

The Regulation on conditions and order of de-nationalization and privatization of state property in the Kyrgyz Republic.

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Privatization officials cannot conceal all the information, but an ordinary citizen needs to make a lot of effort to get this information. Citizens may go to a local office of the state property fund to obtain information needed.

**References:**

The regulation on conditions and order of de-nationalization and privatization of state property.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available in principle, but it takes a lot of time to obtain them.

**References:**

The regulation on conditions and order of de-nationalization and privatization of state property.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## Category V. Oversight and Regulation

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### V-1. <sup>78</sup>National Ombudsman

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47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

**Comments:**

The ombudsman of the Kyrgyz Republic who exerts control over the execution of the constitutional, human and civil rights and freedoms on the territory of the Kyrgyz Republic.

**References:**

The law on the ombudsman of the Kyrgyz Republic.

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

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#### 48. Is the national ombudsman effective?

73

48a. In law, the ombudsman is protected from political interference.

YES | NO

**Comments:**

The ombudsman has immunity and is elected by the parliament. No state body is allowed to interfere with the ombudsman.

**References:**

The law on ombudsman, Articles 4, 6.

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman is typically independent, but he is influenced by presidential policy. Thus, the Kyrgyz government limits foreign support to NGO's.

The ombudsman wrote a letter to the government suggesting amendments to Article 4 of the law of the Kyrgyz Republic regarding non-commercial organizations. He suggested including new legislation restricting non-governmental organizations (NGOs). The proposed legislation would prohibit the creation of new NGOs and limit the activities of existing NGOs which are financed by foreign governments, foreign political parties or other entities from foreign countries.

**References:**

Joint statement of the World Alliance for Citizen Participation and the Association of Civil Society Support Centers in Kyrgyzstan, available online ([www.civicus.org](http://www.civicus.org)).

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Early removal of the ombudsman is a very complicated process. The ombudsman has immunity and the law clearly defines instances when he/she can be removed.

**References:**

The law on ombudsman, Article 7.

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Ombudsman's office has as much financing as the office of the prosecutor general.

**References:**

The republican budget for 2005-2006.

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

It seems that appointments in the office of the ombudsman are based on politics. In June of 2006, a representative of the ombudsman in the Kochkor district (a rural area) filed a lawsuit against a district newspaper for its critical coverage of his work. The ombudsman's representative was convinced that the newspaper (morally) damaged his reputation. The court obligated the newspaper to pay about US\$500 to the representative. This kind of conduct does not engender public trust in the ombudsman's staff.

**References:**

Center for Journalism in Extreme Situations, monthly bulletin "Dangerous Profession," June 2006

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Republican budget for 2005-2006.

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman's reports are available at his Web site.

**References:**

[www.ombudsman.kg](http://www.ombudsman.kg)

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Ombudsman makes investigation upon citizens request or its own initiative. But Ombudsman's effectiveness is limited by law, since he cannot make direct actions or sanctions to offenders.

**References:**

The Ombudsman's Special Report on facts of resistancy to his activities

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman cooperates with other agencies who penalize offenders.

**References:**

The ombudsman's reports.

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

48j. In practice, the government acts on the findings of the agency (or agencies).

100 | 75 | 50 | **25** | 0

**Comments:**

The ombudsman cannot deal directly with offenders. Sometimes state bodies do not cooperate with the ombudsman, or they create impediments to his activities.

In the fall of 2005, the Ministry of Justice, a responsible institution that regulates the penitentiary system of the Kyrgyz Republic, did not allow the ombudsman to visit prisons where prisoners protested against bad conditions and corruption of prison administration. Eventually prisoners killed members of the parliamentary commission and officers who visited the prison to investigate the situation.

The ombudsman said that this tragedy could have been avoided had he been involved as a mediator between prisoners and the administration from the very beginning.

**References:**

The ombudsman's speech at the American University in Central Asia, Bishkek, December 14, 2005.

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | **75** | 50 | 25 | 0

**Comments:**

The ombudsman (Akyikatchy) informs the state body, official or a legal entity whose actions have been subject to a complaint, requesting that they submit a written report within 15 days. Usually state bodies respond on time. The ombudsman reported that every third complaint received by his office was addressed successfully.

**References:**

Ombudsman's annual reports to the parliament.

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

---

## 49. Can citizens access the reports of the ombudsman?

100

49a. In law, citizens can access reports of the ombudsman(s).

YES | NO

### References:

The law on ombudsman.

**YES:** A YES score is earned if all ombudsman reports are publicly available.

**NO:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

### References:

[www.ombudsman.kg](http://www.ombudsman.kg)

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

[www.ombudsman.kg](http://www.ombudsman.kg)

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## V-2. Supreme Audit Institution

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50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

**Comments:**

There is the Accounts Chamber of the Kyrgyz Republic, a state supreme audit institution.

**References:**

The Law on the Accounts Chamber of the Kyrgyz Republic.

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

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## 51. Is the supreme audit institution effective?

78

51a. In law, the supreme audit institution is protected from political interference.

YES | NO

**Comments:**

The Accounts Chamber is legally independent, but in practice the president has a very strong influence on its staff.

**References:**

The law on the accounts chamber of the Kyrgyz Republic.

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Most of the Accounts Chamber heads were removed before the end of their term.

**References:**

Historical data of the Accounts Chamber.

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The chamber is composed of the chairman and 14 auditors.

**References:**

[www.ach.gov.kg](http://www.ach.gov.kg)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the new law on the Accounts Chamber, effective since September 2004, all of its auditors have to have international certificates in audit and accounting.

This provision will take effect on January 1, 2009, since most of the current auditors don't have a certificate. Most auditors are experienced in the old accounting system, although commercial and governmental accounts have been transformed according to

international accounting standards. The law was developed with the assistance of the United Kingdom Department for International Development (DFID) in order to fulfill a competence gap in state audit.

**References:**

The law on the accounts chamber  
Mission reports of DFID (UK)  
Support to Governance Structural Adjustment Credit (GSAC) project

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Yes, the Accounting Chamber has regular funding.

**References:**

The Republican Budget for 2004-2005.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The Accounts Chamber makes regular reports to the parliament and the president. These reports are deemed to be public information. According to the law, all reports provided to the parliament have to be published within one month after submission. Reports on the chamber's Web site are out of date. However, they are available to the public through journalists, but not directly.

**References:**

www.ach.gov.kg,  
The law on Accounts Chamber, article 62

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

In most cases, the government acts upon the recommendations and the directions of the Accounts Chamber. But the absence of a regular monitoring system negates the effectiveness of the chamber.

**References:**

Reports of the Accounts Chamber.

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The Chamber makes investigations according to its annual and operational plans, which have to be approved by the Council of the Chamber (the council is composed of all auditors and the chairman). The plans include the duties of the president and parliament. The chairman can start non-planned investigations which then need to be approved by the council.

**References:**

The law on the Accounts Chamber

Report on the functional review of the Accounts Chamber undertaken by the UNDP-DFID project

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 52. Can citizens access reports of the supreme audit institution?

83

52a. In law, citizens can access reports of the agency.

YES | NO

**References:**

The law on Accounts Chamber, article 62.

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports take some time to obtain. Annual reports of the Accounting Chamber are approved by the parliament. After that, the report is available in the parliament or online.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Not all reports are available online, since the Accounting Chamber has to publish them. Retrieving hard copies may require a visit to the parliament or the offices of the chamber.

**References:**

Interview with Jyldyz Kuvatova, researcher in public relations and media.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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87  
V-3. Taxes and Customs

---

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES | NO

**Comments:**

Yes, the State Tax Inspection—an authorized government agency for tax collection.

**References:**

The tax code of the Kyrgyz Republic.

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

54. Is the tax collection agency effective?

75

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The State Tax Inspection has enough staff, but its capacity is very low.

**References:**

The report on functional review of the Revenue Committee under the Ministry of Finance of the Kyrgyz Republic, UNDP-DFID joint project, Bishkek, 2004.  
Investment Climate Assessment, Kyrgyz Republic, the World Bank, 2005.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

54b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The state budget covers salaries of the staff and public utilities of the State Tax Inspection, as well as other state bodies in the Kyrgyz Republic. All other expenditures are covered by special accounts in which the inspection accumulates part of collected taxes, penalties, incomes from selling documentary stamps, tax returns etc.

In this regard, the tax inspection is one of the rich<sup>st</sup> agencies in Kyrgyzstan. The special accounts are part of the budget of all ministries/agencies and they exist despite the government's efforts to abolish them.

**References:**

The republican budget for 2004-2005.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

**55. In practice, are tax laws enforced uniformly and without discrimination?**

50

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

Tax laws are enforced without discrimination, but there is a group of businesses that do not pay taxes, or pay a small portion of taxes. They comprise a shadow economy.” According to the National Statistic Committee, the shadow economy is equal to 25 percent of GDP.

**References:**

The Investment Climate Assessment, National Statistic Committee.

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

---

## 56. In law, is there a national customs and excise agency?

100

56. In law, is there a national customs and excise agency?

YES | NO

**Comments:**

The State Customs Inspection is responsible for export and import control.

**References:**

the customs code of the Kyrgyz Republic.

**YES:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

## 57. Is the customs and excise agency effective?

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

The functional review report of the Revenue Committee.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The customs inspection is funded as regularly as other state bodies. However, the majority of its expenses are covered by special accounts.

**References:**

The Republican Budget for 2004-2005.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

0

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

Bribes related to customs or imports have decreased in the Kyrgyz Republic since 2002, according to regular research of the business and investment climate. This is based on reliable and regular investigations made into tax and customs corruption in Kyrgyzstan.

**References:**

Anti-corruption in transition (ACT3)  
The World Bank report, BEEPS, 2005

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## V-4. Financial Sector Regulation

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59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

**Comments:**

The State Agency for Financial Oversight and Accounting under the Government (the Cabinet of Ministers).

**References:**

Regulation of the State Agency for Financial Oversight and Accounting.

**YES:** A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

**NO:** A NO score is earned if this function is spread over several agencies or does not exist.

---

## 60. Is the financial regulatory agency effective?

65

60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

**Comments:**

The agency is not independent because it is directly subordinate to the government. This happened when the State Commission for Securities was abolished and its functions were transferred to the new State Agency for Financial Oversight and Accounting under the Government.

**References:**

Regulation of the State Agency for Financial Oversight and Accounting under the Government.

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency is under constant reformation, so the institutional capacity of its staff is not clear at the moment. There is no problem with staffing.

**References:**

the agency's Web site at [www.fsa.kg](http://www.fsa.kg)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency is fully funded by the state budget and has also extra budget funds from special accounts. For example, the agency collects registration fees from issuers.

**References:**

The Republican budget for 2005.

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency has the right to recall or suspend licenses, impose penalties, request an extraordinary meeting of public companies' shareholders and other administrative actions. However, its dependency on the government negates these administrative powers.

**References:**

The reports of the agency  
The Regulation of the Agency

**100:** When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**Comments:**

The agency suspends licenses, imposes penalties and publishes results of its actions.

**References:**

[www.fsa.kg](http://www.fsa.kg)

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan.

61a. In law, citizens can access the financial records of publicly listed companies.

**YES** | NO

**References:**

The law on securities,  
The law on joint-stock companies  
Rules of listing and delisting of the Kyrgyz Stock Exchange

**YES:** A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

**NO:** A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

**100** | 75 | 50 | 25 | 0

**Comments:**

The law on joint-stock companies stipulates that a joint-stock company with 500 or more shareholders and has made a public listing must publish its annual financial records in the mass media. In practice, almost all companies meet this requirement.

**References:**

Interview with Talant Mamytov, professional in the securities market.

**100:** Publicly traded companies always disclose financial data, which is generally accurate and up to date.

**75:**

**50:** Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

**25:**

**0:** Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

**Comments:**

Publicly listed companies should be audited according to international standards. International Standards of Auditing of 2001 (ISA) have been the auditing standards for the Kyrgyz Republic since 2003. However, according to independent auditors, there are some cases of deceptive audit by unfair specialists.

**References:**

Interview with certified independent auditor (confidential source).

**100:** Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

**Comments:**

Publicly listed companies are obligated to provide information on all records for listing on a stock exchange. The stock exchange provides the records to any interested party .

**References:**

Rules of listing and delisting of the Kyrgyz Stock Exchange.

**100:** These records are freely available to all citizens through a formal official process.

**75:**

**50:** These records are available to all citizens, with some exceptions.

**25:**

**0:** These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available in hard copies. It takes time to locate and get them.

**References:**

Interview with Talant Mamytov, professional in the securities market.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Getting records is not expensive. Usually they are available at special offices upon official request.

**References:**

Interview with Talant Mamytov, professional in the securities market.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

62. Are business licenses available to all citizens?

69

62a. In law, anyone may apply for a business license.

YES | NO

**Comments:**

The law on licensing has no discriminative norms.

**References:**

Law on licensing of the Kyrgyz Republic, Article 3.

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

**Comments:**

License denials can be appealed in a court.

**References:**

The law on licensing, Article 18.

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

It depends on the type of license needed. For example, some business activities require a special license (construction, alcohol production, notary, medicine etc.) In these cases, obtaining a license will take more than three months.

**References:**

Regulation on licensing of separate types of business activities.

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months.

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The official costs of licenses are not high.

**References:**

The law on licensing  
Investment Climate Assessment, 2005, ACT3, 2006

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

63. Do businesses receive equitable regulatory treatment from the government?

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | NO

**Comments:**

The law on the basics of technical regulation establishes a standard and transparent system of technical regulations aimed at health, safety, protection of the environment and consumers' rights.

**References:**

The law on technical regulation of the Kyrgyz Republic, Article 5.

**YES:** A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**Comments:**

In day-to-day practice, proven by many of independent surveys, business inspections are performed mainly for the purpose of extorting bribes and other illegal benefits.

**References:**

ACT3, 2006  
BEEPS, 2005

**100:** Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

VI-1. <sup>57</sup>Anti-Corruption Law

---

64. Is there legislation criminalizing corruption?

78

64a. In law, attempted corruption is illegal.

**YES** | NO

**Comments:**

Most corruption related crimes are defined as grave crimes in the criminal code. Attempted grave crimes have to be punished as completed crimes with references to Article 27, "Criminal preparation," and Article 28, "Criminal attempt," of the code.

**References:**

The criminal code, Articles 27, 28, 303

**YES:** A YES score is earned if corruption laws include attempted acts.

**NO:** A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

**YES** | NO

**Comments:**

Extortion is one of the grave crimes in the criminal code.

**References:**

The criminal code, Article 170.

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | **NO**

**Comments:**

Offering and/or promising a bribe is not a crime in the Kyrgyz Republic, although these actions could be considered an attempt to give a bribe (which is a crime). Since an "attempt" is considered a criminal "act," it is criminalized whereas an offer or promise is not considered an "act" per se (since it may only be a verbal promise never acted upon).

**References:**

Istanbul Anti-Corruption Action Plan of the Anti-Corruption Network for Transition Economies (ACN).

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

**YES** | NO

**Comments:**

A number of types of bribery are criminalized in the Kyrgyz Republic.

**References:**

The criminal code, Articles 310-312.

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

**Comments:**

Kyrgyz legislation covers corrupt activities of national officials only.

**References:**

The law on the fight against corruption.

**YES:** A YES score is earned if bribing a foreign official is illegal.

**NO:** A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

**Comments:**

Public resources include transportation and communication means, property, money and other things provided to exercise public officials' duties. Misuse of budgetary (i.e., public) funds by public officials and inflicting damage on public or governmental interest is also criminalized in the criminal code (Article 308).

**References:**

The Law on the fight against corruption,  
Criminal code, Article 308.

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO

**Comments:**

Using information that is not subject to public dissemination and obtained while exercising official duties for personal or group interest is a corruption offense.

**References:**

The law on the fight against corruption, Article 13.

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

**YES** | NO

**Comments:**

The law on counteracting terrorism financing and money laundering was adopted in the summer of 2006.

**References:**

The law on counteracting terrorism financing and money laundering.

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**YES** | NO

**Comments:**

Organized crime is defined in Part 4 of Article 31 of the criminal code. An organized criminal group is defined as a stable group of people aimed to commit a crime.

**References:**

The criminal code, Article 31.

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

---

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

**Comments:**

The National Agency on the Prevention of Corruption was established in November 2006, but it is still recruiting its staff. The effectiveness of the agency is undermined by the absence of political support from the parliament.

After amendments were made to the law on the fight against corruption, plans were made to establish an independent state body to fight against corruption. All draft legislation to make this happen was prepared with the support of OSCE Center in Bishkek.

However, the executive made little effort to gain parliament's support. Eventually, the anti-corruption agency was established according to the president's decree as an executive body, which is not a part of the government (the Cabinet of Ministers). Because of this, the anti-corruption agency has the reputation of being a purely presidential structure with no strong ground in the legislation, no support from the parliament and no public trust.

**References:**

The president's decree on urgent measures to combat corruption #476, 21.10.05.

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

66. Is the anti-corruption agency effective?

11

66a. In law, the agency (or agencies) is protected from political interference.

YES | NO

**Comments:**

The agency has a steering board, the National Council on the Fight Against Corruption, which is composed of representatives of state bodies and CSOs. It approves the appointment of the agency's head (the commissioner). The Commissioner can only be dismissed with approval of the council.

**References:**

Regulations of the anti-corruption agency and the National Council on the Fight Against Corruption.

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The agency does not operate to date. It announced open competition for vacancies with a deadline of August 10, 2006. The agency does not have its own Web hosting and is using the Web site of the Secretariat for Good Governance (SGG)—a consultative body which created a feasibility study on the establishment of an anti-corruption body. SGG was abolished after the creation of the anti-corruption agency, but the latter did not take over anti-corruption and good governance activities of the secretariat yet.

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

66e. In practice, the agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

66f. In practice, the agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66g. In practice, the agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

66h. In practice, the agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

[www.sgg.kg](http://www.sgg.kg)

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

## 67. Can citizens access the anti-corruption agency?

0

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

### References:

[www.sgg.kg](http://www.sgg.kg)

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

### References:

[www.sgg.kg](http://www.sgg.kg)

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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37  
VI-3. Rule of Law

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68. Is there an appeals mechanism for challenging criminal judgments?

75

68a. In law, there is a general right of appeal.

YES | NO

**Comments:**

The right to appeal is guaranteed by the constitution.

**References:**

The constitution, Articles 85,88.

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**NO:** A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with a Jugde Maksimbekova, Slovo Kyrgyzstana newspaper, N32, 2006.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Interview with a lawyer (confidential source).

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

---

69. In practice, do judgments in the criminal system follow written law?

25

69. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

Bribery and corruption are common in courts.

**References:**

ACT3, 2006

President Bakiev's address to the Conference of Judges, July 2006.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

---

## 70. In practice, are judicial decisions enforced by the state?

50

70. In practice, are judicial decisions enforced by the state?

100 | 75 | **50** | 25 | 0

### Comments:

Enforcement of judicial decisions is problematic in the Kyrgyz Republic, especially regarding commercial issues. For instance, according to the Doing Business survey, enforcement of rights after a court's decision takes 46 procedures and 492 days. The marshals of the court are ineffective and, in most cases, need the support of police officers to enforce an ordinary administrative case. The marshals are part of the Court Department, which is a subordinate body of the Ministry of Justice. As a result, judges need to ask representatives of the executives to enforce their decisions.

### References:

Doing Business 2005,  
ACT3, 2006.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

---

## 71. Is the judiciary able to act independently?

56

71a. In law, the independence of the judiciary is guaranteed.

YES | NO

**Comments:**

The constitution guarantees the independence of the courts.

**References:**

The constitution, article 80.

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts ).

**NO:** A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

National level judges depend on major political forces in the country: The president and the parliament. This becomes clear in crisis situations like election campaigns. OSCE observed that courts, including the Supreme Court, didn't appear to take a fully balanced and consistent approach toward at least two candidates during the last presidential elections in July, 2005. In addition, the Supreme Court was occupied by a mob for several weeks in June 2005, and the courts decisions were affected to some extent by the threat of violence to its members.

**References:**

OSCE/ODIHR Final Report, Kyrgyz Republic, presidential election, July 2005.

**100:** National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

**Comments:**

The deputy chairman of the Supreme Court distributes cases among judges, according the law.

**References:**

The law on the Supreme Court.

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

**Comments:**

Members of the Constitutional Court and the Supreme Court shall not be removed unless the president proposes removal and parliament approves the removal proposal.

**References:**

The constitution.

**YES:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**NO:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

---

## 72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

**References:**

Interview with Shamara Maichev, media representative.

**YES:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

**NO:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

**References:**

Interview with Shamara Maichev, media representative.

**YES:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

**NO:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

---

### 73. Do citizens have equal access to the justice system?

58

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, decisions depend more on corruption, rather than ethnic or racial harassment, but some exceptions are possible.

**References:**

Interview with a lawyer (confidential source).

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | **50** | 25 | 0

**Comments:**

There was no documented evidence or studies on unwillingness of women to appeal to a court. Access to justice depends more on social status, rather than gender. Some women are unwilling to report sexual harassment, violence and bride abduction, but this has more to do with culture and education.

**References:**

Working group on the National Report of the Kyrgyz Republic on implementation of UN convention on elimination of all forms of discrimination against women (CEDAW).

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | **75** | 50 | 25 | 0

**Comments:**

According to the law, the state provides legal aid in criminal cases. Lawyers usually serve as public defenders by rotation. Of

course, because the job is mandatory, they have no incentive to provide quality.

**References:**

Interview with Guliya Osmonbaeva, independent lawyer.

**100:** State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

**References:**

Interview with a lawyer (confidential source).

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits.

73e. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

**References:**

Interview with a lawyer (confidential source).

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits.

73f. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

**References:**

Interview with a lawyer (confidential source).

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

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## VI-4. Law Enforcement

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74. Is the law enforcement agency (i.e. the police) effective?

33

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The police (called the militia<sup>9</sup> in Kyrgyzstan) is a main part of the Ministry of Interior of the Kyrgyz Republic. The ministry is composed of law enforcement, investigation, traffic safety, passport, registration and public order functions inherited from the Soviet militia.

Entry criteria for police are very low (secondary school education and good health is enough for the average executive). The officers have to have a high education in law, but these requirements are rarely enforced. Individuals are appointed to officer positions without any required education or qualifications. Conflicts of interest due to family relationships are common in law enforcement agencies. Thus, Prosecutor General Kambaraly Kongantiev and the Head of Bishkek City Police Department Moldomusa Kongantiev are brothers. A son of the Prosecutor General, also a prosecutor, works in the prosecutor general's office.

**References:**

Prosecutors briefing in Bishkek, July 31, 2006 available online ([www.24.kg](http://www.24.kg)).

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The state budget only funds salaries and facilities (housing, heating etc.) of law enforcement agencies. All operational expenditures of these agencies are covered by special accounts. Police officers work as security guards in commercial firms, banks, exchange offices. The Ministry of Interior Affairs accumulates income from these activities. These are legal operations and all incomes have to be documented and go through the treasury. But this budget is not sufficient for police.

For example, in 2005, the central office of the Ministry of the Interior has no budget for clothing (all staff have to be in police officer's uniform) while the central office of the Revenue Committee (transformed later into the Tax and Customs Inspection) has more than 6,000,000 KGS under the same budget line (about US\$150,000).

**References:**

Republican Budget of the Kyrgyz Republic, 2005 fiscal year.

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

74c. In practice, the agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

It is difficult to find documented cases of police involvement in politics, but there are a few examples.

On June 23, 2005, police searched two campaign offices of Bakir Uulu in Osh oblast, allegedly for evidence of ties between the candidate and the radical Islamic group Hizb ut-Tahrir. Mr. Bakir Uulu's campaign staff officially protested that the searches might have an adverse effect on his campaign and reputation.

**References:**

OSCE/ODIHR Final Report on the Presidential Election, July 2005.

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 75. Can law enforcement officials be held accountable for their actions?

75

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

**Comments:**

Citizens can complain to the ombudsman if policemen infringed their rights.

**References:**

The law on ombudsman.

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

**NO:** A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

The ombudsman may not have enough time and staff to consider complaints and grievances in time. A good number of complaints involve the abuse of power by the police.

**References:**

Ombudsman's reports.

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

**YES** | NO

**Comments:**

Every law enforcement agency has an internal investigations unit, which deals with corruption and other malfeasances of its staff. Usually these types of units are subordinate to the head of an agency. There is also a special department that combats malfeasance in the Ministry of Interior Affairs, but it is a part of the regular police department.

**References:**

Review of legal and institutional Framework for Fighting Corruption in the Kyrgyz Republic, Bishkek, 2005 by K. Omuraliev, V. Menshov.

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

**NO:** A NO score is earned if no such agency/entity exists.

75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | **50** | 25 | 0

**Comments:**

Internal investigations units start investigations, but are usually slow to act.

**References:**

Interview with a police officer (confidential source).

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

**YES** | NO

**Comments:**

There is no such immunity in law.

**References:**

Criminal Code

Law on organs of internal affairs

**YES:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**NO:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | **50** | 25 | 0

**Comments:**

Law enforcement is subject to criminal investigations, but investigative bodies may act reluctantly during the criminal process and the courts will likely keep penalties light.

**References:**

Ombudsman's special reports on resistance to his activities.

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.