

Kyrgyzstan: Civil Society Report by the Central Asian Research Institute on Corruption and Money Laundering

An input to the UNCAC Implementation Review Mechanism:
Third year of review of UNCAC Chapters II and V

14 November 2023

This is the executive summary of a civil society parallel report from February 2023 reviewing Kyrgyzstan’s implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Kyrgyzstan covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

The Kyrgyz Republic (KR) 2020 Constitution increased the executive’s powers to shape the KR’s anti-corruption policy. The Prosecutor General's Office is the main anti-corruption body supervising the implementation of anti-corruption legislation. The persecution and criminal prosecution of ‘dissident’ journalists and bloggers has intensified.² Kyrgyzstan’s anti-corruption legal framework contains virtually no recommendations from the Financial Action Task Force on Money Laundering (FATF), and there is a lack of political will to return stolen assets.

Assessment of the Review Process

Has the government disclosed information about the country focal point?	Yes	The Prosecutor General Office indicated in their response to a FOI request that they are the coordinating body.
Was the review schedule published somewhere?	No	
Was civil society consulted in the preparation of the self-assessment checklist?	No	
Was the self-assessment checklist published online or	No	

¹ The report was published on the UNCAC Coalition website in February 2023:

<https://uncaccoalition.org/uncacparallelreportkyrgyzstan/>.

² <https://www.hrw.org/news/2022/10/28/kyrgyzstan-authorities-renew-attack-media>.

made available to civil society?		
Did the government agree to a visit to the country?	Unknown	
Was a country visit undertaken?	Unknown	
Was civil society invited to provide input to the official reviewers?	Unknown	
Was the private sector invited to provide input to official examiners?	Unknown	
Has the government committed to publishing the full country report?	Unknown	

Main Findings and Recommendations (R)

Preventive Anti-Corruption Policies and Practices

Previous anti-corruption strategies increased civil society and stakeholder participation in the implementation of policies and detection corruption risk detection. However, the draft Law on Countering Corruption was developed without stakeholder input, whilst the draft Anti-Corruption Strategy was developed with the participation of stakeholders via the Anti-Corruption Business Council, meetings with citizens and civil society organizations, but lacks essential components including an action plan.

R: Develop the Anti-Corruption Strategy on the basis of research conducted with the participation of state bodies, think tanks, academia, CSOs and business associations and include a detailed action plan, monitoring and evaluation mechanisms, as well as an annual review mechanism.

Anti-Corruption Bodies

Preventive anti-corruption functions are dispersed among state bodies, including the Office of the Prosecutor General and the Security Council Working Group (although some of its powers have been transferred to the Anti-Corruption Business Council). The Anti-Corruption Business Council has consultative status, but performs the functions of a state body including the development of the draft anti-corruption strategy. The creation of the Council by Presidential decree caused uncertainty as to its status, powers and responsibilities.

R: Establish a corruption prevention body. Conduct an assessment of the anti-corruption functions and powers of the respective state bodies compliance with the UNCAC, including assessing expertise and resources in accordance with international standards.

Public Sector Employment

All appointments in the civil and municipal service are made from the state body and local self-government personnel reserve. Under the law 'On the state civil service and municipal service', the civil service model has become closed.

R: Introduce open, merit-based competitions for entering the civil service, introduce and enforce clear rules on promotions.

Codes of Conduct and Asset Declarations

Codes of conduct for civil servants, judges, prosecutors, and parliamentarians, and ethics commissions in state bodies fail to ensure integrity. The law on conflicts of interest lacks decision-making rules concerning the potential involvement of relatives and what constitutes a conflict of interest.

R: Provide an effective mechanism for monitoring compliance with conflict-of-interest provisions by verifying the requirement to declare personal interests and strengthening the role of management in monitoring. Introduce sanctions for failure to file declarations on property and income, or knowingly providing false or incomplete information. Establish a body to collect, publish and verify declarations, with the necessary guarantees of independence and resources.

Political Financing

There are legislative limits on campaign spending. The Central Election Commission (CEC) publishes estimates of campaign costs on its website, and reports on the use of funds for elections,³ and there is open access to data including financial details on candidates and political parties. Nevertheless, this information is not adequate and the independence of political financing monitoring bodies is not ensured.

R: Ensure transparency in the movement of political party finances. Introduce state funding for election campaigns.

Public Procurement

The law on public procurement was developed with the active participation of multiple stakeholders involving public discussions and the support of international organizations excluded state and municipal enterprises, and joint-stock companies, where 50% or more of the share in authorized capital belongs to the state, including their subsidiaries.

R: Cancel direct contracts for all procurement procedures, except for routine contracts serving the day-to-day activities of a government agency. The public procurement web portal should be strengthened based on consultations with IT experts, and the portal's navigation should be improved in terms of user-friendliness. Information should be provided in machine-readable format.

Public Finances

³ <https://shailoo.gov.kg/media/alai/2022/03/22/28112021-18032022.pdf>.

Legal provisions for recording, storing and ensuring the integrity of accounting books, records, financial statements and other relevant documents are poorly implemented. In 2020, the Council of the Accounts Chamber compliance audit discovered serious financial violations.⁴

R: Ensure verification and validation of the expenditure part of civil servant declarations.

Reporting Mechanisms and Whistleblower Protection

The Law 'On the Protection of Persons Who Reported Corruption Offenses' has not been implemented in practice. Reporting persons are likely to either be dismissed or fired from their job, forced to flee the country, or in some cases are killed.

R: Ensure the implementation of whistleblower protection mechanisms, increase financing for the whistleblower protection program and amend the law on protection of persons who provide information on corruption by indicating detailed whistleblower protection procedures.

Access to Information & Civil Society Participation

Under the access to information legal framework, courts often make decisions based on by-laws allowing classification of information. Government bodies and agencies often fail to follow timelines for responding to public requests, the quality of responses is often low, and sanctions for failure to provide information are non-existent. Persecution of independent media is increasing, with the intensification of criminal prosecution and liquidation of media outlets.

R: Strengthen the role of civil society in developing and implementing anti-corruption policies. Respect the right of access to information, and increase efforts prioritize the right over the protected interests of the state based on harm and public interest tests. Stop persecution and harassment of journalists and others investigating and sharing information about corruption.

Judiciary and Prosecution Services

Constitutionally and legally, interference in the administration of justice is prohibited. However, in practice, the judicial system lacks independence. New technologies and information systems have the potential to increase the transparency of the judicial system, however, real progress remains to be seen.

R: Ensure the judiciary's independence from political involvement: decrease the executive's power over these bodies.

Private Sector Transparency

Private sector transparency is ensured by publicly accessible registries such as the registry of legal entities, which is user-friendly and comprehensive. The beneficial ownership registry

⁴ https://www.esep.kg/index.php?option=com_content&view=article&id=2129:za-2020-god-v-ministerstve-selskogo-khozyajstva-kr-vyvavleny-finansovye-narusheniya-na-summu-17-6-mln-somov&catid=49&lang=ru&Itemid=170.

was recently introduced, however, there information is still lacking in the registry of legal entities, and the registry of beneficial owners is not yet publicly accessible.

R: Provide full access to information in the registry of legal entities. Provide public access to the registry of beneficial owners, publish the disclosed beneficial owners by companies in the extractive industries on the state body webpage, as required by law.

Anti-Money Laundering

Authorities provide mutual legal assistance and extradition in a timely manner in investigations, prosecutions and other procedures related to money laundering, terrorist financing and predicate offenses. However, law enforcement agencies are poorly equipped in preventing, detecting and investigating money-laundering/terrorist financing crimes. There are few money laundering investigations and convictions, parallel financial investigations are sporadic, and there is no comprehensive national strategy to identify and confiscate proceeds of crime.

R: Provide detailed regulations on the process for the return of stolen assets, including rules for handling requests for mutual legal assistance, and which authority should be held accountable. Provide detailed procedures for the recovery process, ensuring complete transparency.

International Cooperation for Purposes of Confiscation

An interdepartmental working group has been established under the leadership of the Prosecutor General's Office to search for and return stolen assets. Kyrgyzstan is a member of the Interagency Network for Asset Recovery in Western and Central Asia. Trainings and interregional meetings are held on a regular basis on issues of asset tracing, freezing and confiscation.

R: Strengthen legislation in compliance with the UNCAC and its implementation in the area of asset recovery, providing training to personnel in state bodies responsible for the enforcement of asset recovery provisions. International asset recovery in corruption cases should be prioritized.