

COUNTRY REPORT: KYRGYZSTAN

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I. INTRODUCTION

As is known, corruption is a social phenomenon which is often expressed in the form of a real offence, but which, as a whole, cannot be captured by definitions of criminal law. Corruption includes bribery or any other behaviour of persons to which performance of certain State or private sector duties have been assigned, and which leads to the infringement of the duties and limits assigned to them, and which aims to obtain illegal benefits for the persons involved.

According to previous Transparency International (TI) research regarding the prevalence of corruption across nations, in 2005 the Kyrgyz Republic was ranked 130th of the more than 150 countries which participated in the research. The position of the most corrupted countries is presented in the following table:

Index of perception of corruption (IPC) in Kyrgyzstan in 2003-2005 (estimation of TI):

The Country	Country Rating			IPC		
	2003	2004	2005	2003	2004	2005
Armenia	78	82	88	3,0	3,1	2,9
Russia	87	96	126	2,7	2,8	2,4
Kazakhstan	101	125	107	2,4	2,2	2,6
Kyrgyzstan	118	126	130	2,1	2,2	2,3
Ukraine	111	129	107	2,3	2,2	2,6
Georgia	127	136	130	1,8	2,0	2,3
Tajikistan	128	138	144	1,8	2,0	2,1
Azerbaijan	125	140	137	1,8	1,9	2,2
All of the countries	133	146	159			

II. THE EFFECTS OF CORRUPTION IN KYRGYZSTAN

As research conducted during recent years has shown, the corruption situation in Kyrgyzstan has worsened, and that has negatively affected processes of social and economic development and the struggle against poverty. It has also considerably undermined the trust of the citizens of Kyrgyzstan in the institutions of the democratic State.

A. Informal Payments

One of most widespread kinds of corruption in the Kyrgyz Republic is informal payments in various sectors of the economic and social sphere, which today have reached pandemic scale. For example, in the sector of public health services during one year the size of informal payments reached about US\$25,000,000 which is comparable to the annual total of State financing for all branches of public health services (for comparison: the annual budget of the Kyrgyz Republic is about US\$300,000,000).

B. Public Consciousness

In terms of corrupt activity, the size of informal payments is not the worst factor. This distinction belongs to the fact that at present in the Kyrgyz Republic, corruption pervades the consciousness of its citizens. According to research led by the World Bank in 2005, the percentage of businesspeople in Kyrgyzstan who consider payment of bribes necessary are as follows:

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- for a decision regarding tax services: 75%;
- for granting of a licence or a permit: 58%;
- for a positive response to a question regarding fire or building services: 52%;
- for a decision related to environmental protection inspection: 48%;
- for a positive decision by judicial bodies: 41%;
- for granting of orders by customs bodies regarding the import of goods: 38%.

1. Administrative Barriers

Such a situation reveals mass corruption in the public sector of the Kyrgyz Republic. The basic source of present mass corruption is artificial, created by administrative barriers, which represent formally obligatory rules for conducting commercial activity. Administrative barriers are present in Kyrgyzstan in the following cases:

1. Accessing resources and the property rights to them;
2. Getting a licence to conduct commercial activity;
3. Conducting commercial activity.

For example, under the law of the Kyrgyz Republic, the State registration of legal entities is a declarative procedure. In fact, however, businesspeople are compelled to pass through layers of authority to collect a package of necessary documents, and that allows the bureaucratic character of the system to remain in place.

Research by independent experts reveals that the average duration of registration of a legal entity in the Kyrgyz Republic takes 33 days (compare: Moldova: 22 days; Poland: 17 days; Uzbekistan: 15 days; and Tajikistan: 13 days). Some of these barriers are the need for licensing, registration of goods, and the certification of goods and services, etc.

2. Attitudes of Public Officials

(i) Licensing of the Tourist Industry

A concrete problem is the issue of licensing tourist activity, which has been discussed for some years owing to the efforts of associations of tour operators. Government officials suggested reintroducing the licensing of tourist activity with a view to maintaining State control over this industry. Representatives of travel companies believe it is not expedient to introduce licensing as, actually, no control of the State over tourist activity existed or is present (note: some years ago, tourist activity in Kyrgyzstan could be conducted only on the basis of State granted licence and it was used by government officials only for extraction of personal benefit as the licence was given out only by one criterion - for a bribe).

A separate problem is the uncertainty of the term 'licence'. On the basis of internal State acts, permission (and not a licence) should be issued for certain kind of activities.

(ii) Selective Punishment

Corruption is also promoted in Kyrgyzstan by the 'fork of punishments' (double standard punishments) especially for administrative offences, for example: for a certain offence the fine ranges from KGS100 (Kyrgyzstan Soms) to KGS300. As of November 2007 US\$1 = KGS34.9. This allows officials to approach offenders selectively and to impose fines on the basis of the benefits taken for themselves.

C. Consequences of Corruption

Today, one of basic priorities of the Government of the Kyrgyz Republic is the dismantling of the corruption system. High level corruption in particular is observed in fiscal and customs bodies, the judicial system and law-enforcement structures. This has serious consequences for the people and economy of the Kyrgyz Republic.

1. Social Consequences of Corruption

The result of corruption in the Kyrgyz Republic is aggravated social inequality because the poor have limited opportunities to access basic social services (free education, public health services and provision of pensions) and as a result personal potential has sharply worsened.

2. Economic Consequences

As a result of the deep corruption in public and private sectors in Kyrgyzstan, there is the acute issue of the shadow economy. Results obtained by international experts indicate the shadow economy in Kyrgyzstan is 25% of the official National Product, and 50% of the unofficial National Product. There are other serious economic consequences:

- (i) The competitive environment has deteriorated as the more successful enterprises are not those which in the best way satisfy demand, but those who have high level patrons;
- (ii) The budget of the State has ceased to be a tool of management, and has instead become a distributive mechanism for financial streams of corruption;
- (iii) The prices for goods and services have increased, as vendors are compelled to factor the cost of informal payments into the purchase price. The cumulative effect of these problems is the practical non-growth of the national income in comparison with its potential.

3. Political Consequences

The political consequences of corruption are increasing distrust of the population in public officials, and a similar decrease in the trust of investors.

III. RECENT EFFORTS TO COMBAT CORRUPTION

A. **Legislation**

With a view to increasing the efficiency of the struggle against corruption among civil servants, the Parliament of the Kyrgyz Republic enacted the Law On Public Service (11 August 2004) and the Law On the Declaration and Publication of Incomes, Obligations and Property of a Person Replacing Political and other Special State Posts, and also their Close Relatives (7 August 2004). However, so far it has not been possible to attain one hundred percent compliance by State officials with declarations on incomes. The figures for 2005 show that out of 1,448 State officials, only 1,165 handed over their declarations on incomes. It is necessary to note, that among those who have not handed over the declaration, there are officials in senior State posts.

With regards to the above, the leadership of the Kyrgyz Republic, together with international organizations, has concluded that development and implementation of anti-corruption policy is necessary for an effective struggle against corruption across the nation, and should consolidate the efforts of the State bodies and civil society.

B. **National Strategy**

With a view to this struggle against corruption, on 21 June 2005, the decision of the President of the Kyrgyz Republic approved the State Strategy for Combating Corruption in the Kyrgyz Republic. This Strategy has defined principles and mechanisms for its practical realization. It is based on the analysis of the condition and characteristics of corruption in Kyrgyz society and was prepared in view of the available resources and opportunities for its realization in practice.

1. Some Problems in Implementing the Strategy

- Definition of a uniform, staged and long-term programme of struggle against corruption.
- Designation of priorities in the direction of the struggle against corruption.
- Definition of actions and resources for achievement of priorities and also the responsible structures and terms of execution.
- Establishment of a system for tracking the realization of anti-corruption actions.
- Estimation of anti-corruption measures carried out before.
- Creation of the mechanism of co-ordination of anti-corruption efforts of the State bodies and institutes.
- Establishment of criteria for an estimation of conditions of corruption in the country.

2. The Basic Approaches in the Struggle against Corruption

- Liquidation of sources of occurrence of corruption.
- Attraction of the public to decision-making.
- Openness and transparency.

- Anti-corruption body.
- Prosecution of corruption crimes.

It is necessary to note, that till now, there was no similar sort of document in the Kyrgyz Republic, defining directions of work on the struggle against corruption. Earlier plans existed and reached decisions frequently but carried only declarative character and did not achieve real results.

At present, the Strategy is the basis for uniting all anti-corruption actions and it allows us to increase their efficiency. Upon its realization, a plan of action and a complex of measures which specify unequivocal actions of the Government of the Kyrgyz Republic, will build on the efforts of the Strategy. The plan of action and the complex of measures are constantly updated documents which will adapt to the process of realization and the development of the situation on the ground. The Strategy aims to eliminate the factors that generate corruption.

C. National Agency

On 21 October 2005 by the Decree of the President of the Kyrgyz Republic “On Immediate Measures on the Struggle against Corruption”, the National Agency of the Kyrgyz Republic for Prevention of Corruption (hereinafter ‘the Agency’) was formed, as well as its observant body which provides independence for the Agency: the National Council on the Struggle against Corruption (hereinafter ‘the Council’). The Council has admitted representatives of both the government and civil society, with the latter constituting the majority of members. This was arranged with a view to preventing any pressure from the government on decisions made by the Council.

The Agency is a State body, but is not a part of the Government of the Kyrgyz Republic. It implements State policy in the field of the prevention of corruption and is empowered to act on revealing, eliminating and preventing the occurrences of conditions promoting corruption.

The purpose of Agency is to decrease the level of corruption in the country by means of developing, monitoring and realizing the measures against corruption.

1. Responsibilities of the Agency

- Development of a State policy, and also forms and methods to combat corruption;
- Realization of co-ordination, monitoring and an estimation of realization of a State policy to combat corruption.
- Development and realization of the actions directed at the elimination and prevention of conditions generating, provoking and supporting corruption.
- Promotion of societal intolerance of displays of corruption and self-organizing in the struggle against corruption.

2. Functions of the Agency

- To demand accountability from legal entities carrying out public functions and issuing certificates, orders and other documents.
- To give obligatory instructions to such entities on implementing changes in management procedures, structural transformations and institutional transformations.
- To advise, on the basis of its anti-corruption research, the President, Parliament (*Jogorku Kenesh*) and Government of the Kyrgyz Republic, in modifying existing legislation and adding to the body of legislation with new instruments, and advising on the drafting thereof.
- To conduct anti-corruption examinations.
- To consult the President, Parliament, Government or General Public Prosecutor, or other heads of State and municipal bodies regarding the dismissal of appointed officials who are not executing their duties in accordance with the legislation of the Kyrgyz Republic in the field of the struggle against corruption.
- To present materials evidencing violations of the law, uncovered during the analysis process, to the President, Parliament, Government, Council and law machinery for the taking of adequate measures.

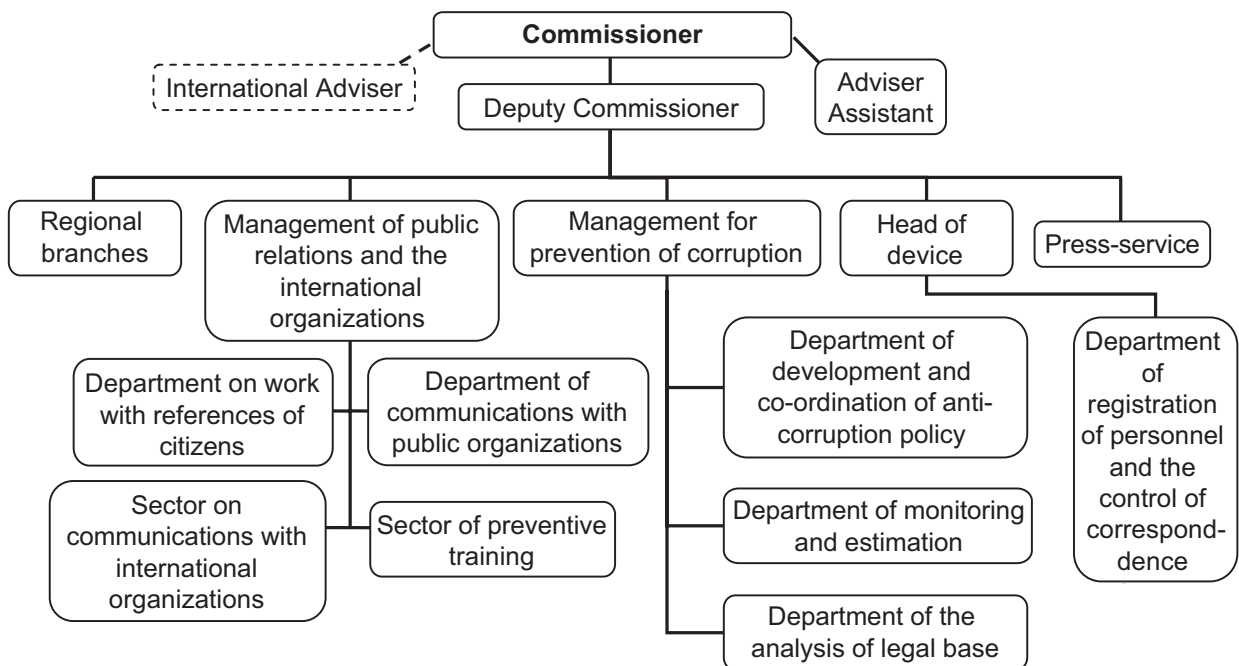
3. Changing Public Perceptions

The Agency has a wide range of work, and in addition, is responsible for communicating with the public and receiving their comments and queries. To this end, the Agency runs a telephone hotline on which citizens can contact its employees. In particular, work has begun on consideration of complaints and applications of citizens against displays of corruption. The Agency accepts complaints and applications from the public, forwards them to the competent bodies and controls their execution. One of the activities of the Agency is rendering of legal consultation to citizens because, as is obvious, legal illiteracy of citizens significantly promotes opportunity for corruption. The Agency exposes, through mass media, public opinion of offences of corruption. It also engages in monitoring the activity of law-enforcement and other State bodies; with the results of this monitoring, the Agency delivers to the Government corresponding recommendations on the improvement of their work processes. Regarding its analysis of the current legislation of the Kyrgyz Republic, this is undertaken with a view to revealing in it factors promoting corruption. Officers recruited to this work are representatives from business circles, public associations and civil society. The aim is to create conditions in which corruption becomes unprofitable.

4. Work with Transparency International

With TI Kyrgyzstan, the Agency prepares the draft of methodology in the research of conditions of corruption in the Kyrgyz Republic. On the basis of this methodology, the Agency plans to involve in the process of research and estimation of corruption in Kyrgyzstan not only the civic sector, but also the State. While all this is occurring, the basic purpose, which is gathering objective information on the conditions of corruption in Kyrgyzstan, will be pursued. Also analysed will be conscientiousness of research work and an estimation of corruption from the State bodies.

5. Current Structural Divisions at the Agency



However, investment of the Agency with the status of a law enforcement body, with creation in its structure of an investigatory division for investigation of corruption crimes and with transfer of corresponding powers from other law enforcement bodies of the Kyrgyz Republic, is stipulated in the long term.

IV. CONCLUSION

With a view to decreasing corruption in the Kyrgyz Republic, first of all it is necessary to provide as much transparency in the activity of the State bodies as is possible. It is also necessary for the fulfillment of the Agency's official duties and to gather data about persons who have committed malfeasances. In the latter case, it is necessary to introduce a specially created database which would be used by State bodies for special checking of candidates for employment in State posts.

Participation by the public in the struggle against corruption is important. Involving the civil sector in this process, maintaining publicity of revealed instances of corruption and informing civil society on anti-corruption processes will strengthen the intolerance of the population to this wrongdoing. For the achievement of the above-stated purposes the Agency has been established as the co-ordinating body for anti-corruption policy in the Kyrgyz Republic.