

ISTANBUL ANTI-CORRUPTION ACTION PLAN
THIRD ROUND MONITORING

KYRGYZSTAN

PROGRESS UPDATE

[Translation from [Russian](#)]

Report for the third round monitoring of Kyrgyzstan as part of the Istanbul Anti-Corruption Action Plan was adopted in March 2015. This document contains a progress report on implementation of recommendations of the report on Kyrgyzstan's third round monitoring, presented at the Istanbul Anti-Corruption Action Plan Plenary Meeting on **October 7-9, 2015**

SUMMARY

16th Meeting, October 7-9, 2015: Progress report on implementation of recommendations of the third round monitoring of the Kyrgyz Republic was presented by the National Coordinator for Kyrgyzstan, the General Prosecutor's Office of the Kyrgyz Republic. The information was reviewed by the monitoring team: Mr. Vladimir Georgiev (the Former Yugoslav Republic of Macedonia); Ms. Antonina Prudko (OECD Secretariat) and Mrs. Rusudan Mikhelidze (OECD Secretariat).

The progress report was discussed and approved at the Istanbul Action Plan monitoring meeting of OECD Network on October 7-9, 2015. Of 25 recommendations given to Kyrgyzstan following the results of the third round monitoring, progress had been achieved with regard to 15 recommendations, whereas there was no progress in implementation of the ten remaining recommendations.

Summary Table

Recommendation	Progress assessment
	October 7-9, 2015
Recommendation 1	Progress
Recommendation 2	Progress
Recommendation 3	Progress
Recommendation 4	Progress
Recommendation 5	Progress
Recommendation 6	Progress
Recommendation 7	No progress
Recommendation 8	No progress
Recommendation 9	No progress
Recommendation 10	No progress
Recommendation 11	No progress
Recommendation 12	No progress
Recommendation 13	Progress
Recommendation 14	Progress
Recommendation 15	No progress
Recommendation 16	Progress
Recommendation 17	Progress
Recommendation 18	No progress
Recommendation 19	Progress
Recommendation 20	Progress
Recommendation 21	Progress
Recommendation 22	No progress
Recommendation 23	Progress
Recommendation 24	No progress
Recommendation 25	Progress

Part 1: Anti-Corruption Policy

Recommendation 1

- Estimate the financial needs for the implementation of the specific measures/activities, when developing action plans, to enable appropriate budgetary allocations to the implementing institutions, as well as grounded requests for technical support from the international community.
- Ensure active participation of the civil society in the forthcoming development of the action plans for implementation of the State Strategy on Anti-Corruption Policy.
- Conduct regular monitoring and assessment of the implementation of the State Strategy on Anti-Corruption Policy with appropriate inclusion of NGOs, international community and experts in these processes.
- Ensure wide publication of the reports on implementation of the State Strategy in general and action plans in particular.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

1) The Action Plan of government agencies of the Kyrgyz Republic for the implementation of the *State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017* was developed by a working group consisting of government officers representing executive agencies, the Supreme Court, the Office of the Prosecutor General, the Secretariat of the Defense Council, etc., and representatives of civil society institutions and business associations and subsequently approved by the Resolution of the Government of the Kyrgyz Republic of 30 March, 2015, no. 170. The Action Plan was also the subject of public hearings. These activities were implemented with financial support from the OSCE Mission to Kyrgyzstan.

2) In pursuance of the Presidential Decree of the Kyrgyz Republic *On Measures to Eliminate the Causes of Political and Systemic Corruption in Government Agencies* of 12 November, 2013, no. 215, expert groups of the Secretariat of the Defense Council of the Kyrgyz Republic in partnership with officers of the Anti-Corruption Service of the State National Security Committee, the State Service for Combating Economic Crime, and the Ministry of the Interior, independent experts, and representatives of civic associations furthered their efforts to develop step-by-step action plans to eliminate the causes of and factors contributing to corrupt practices in a number of government agencies. Corrupt schemes were detected and stopped in five government agencies and step-by-step action plans to dismantle corrupt schemes were approved.

3) Every government agency issued departmental orders to approve intradepartmental anti-corruption plans for 2015 that were subsequently catalogued by the department for anti-corruption policy of the Office of the Government of the Kyrgyz Republic. Considering that the Public Councils for Government Agencies replacing the former Public Supervisory Boards were established after departmental anti-corruption plans had been approved, the Government of the Kyrgyz Republic suggested that government agencies discuss the plans with newly established Public Councils. These activities are in their completion stage.

Starting June 2015, the functions of monitoring and assessment of the implementation of the State Strategy for Anti-Corruption Policy were transferred from the Ministry of Economy to the Department of Anti-Corruption Policy reestablished under the Office of the Government of the Kyrgyz Republic. Government agencies of the Kyrgyz Republic submit progress reports on the implementation of anti-corruption measures on a quarterly basis to the Government Office which subsequently compiles and publishes them on the official website of the Ministry of Economy as long as the Government's anti-

corruption website is under construction. The progress made in the implementation of anti-corruption measures by government agencies of the Kyrgyz Republic in the first semester of 2015 was discussed twice during the meetings of the Government of the Kyrgyz Republic and the Prime Minister of the Kyrgyz Republic on July 24, 2015 and August 28, 2015.

The monitoring process includes compiling and organizing as well as assessing/verifying the following:

- the Action Plan of government agencies of the Kyrgyz Republic for the implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017;
- step-by-step action plans to eliminate the causes of and factors contributing to corrupt practices and dismantle corrupt schemes;
- intradepartmental anti-corruption plans;
- information provided by relevant committees of the Jogorku Kengesh (the Parliament of the Kyrgyz Republic);
- information provided by non-governmental organizations, the international community and experts as well as publications in mass media and social networks.

All final reports prepared by the Government of the Kyrgyz Republic, including any explanatory statements and analytical reports, are also discussed with non-governmental organizations and business associations on discussion platforms such as the joint Anti-Corruption Council of the Government of the Kyrgyz Republic and civil society and the Anti-Corruption Forum of government agencies and business associations as well as published on the website of the Ministry of Economy. On a positive note, sessions of the Government of the Kyrgyz Republic and discussions of certain achievements and shortcomings pointed out in published reports are broadcast on TV and social networks. Also, employees of the Government Office, the Academy of Public Administration under the President of the Kyrgyz Republic, and the Ministry of Economy hold field meetings at the regional level, in higher education institutions, and at the events hosted by business associations, etc. focusing on the progress made in combating anti-corruption.

The final report on the implementation of anti-corruption measures by government agencies of the Kyrgyz Republic in the first semester of 2015 was published in late July 2015. (http://mineconom.gov.kg/index.php?option=com_content&view=article&id=3957&Itemid=982&lang=ru)

In line with the methodology developed by the OECD for civil society representatives, a presentation was made on *Main Approaches to Preparation of an Alternative Report by Civil Society Representatives*. Currently, alternative reports are prepared only by the Anti-Corruption Business Council and a few members of the Anti-Corruption Council.

The Office of the Government of the Kyrgyz Republic encourages and is willing to engage in cooperation with all willing representatives of civil society and is ready to provide all interested NGOs access to the process of preparation of alternative reports.

By the end of the current year, provided that the Public Councils for Government Agencies are fully formed, one member from each Public Council will have completed the training necessary to conduct independent monitoring of the implementation of anti-corruption measures by select ministries and agencies at both national and local levels.

A system of assessment/verification of anti-corruption measures has been implemented in Kyrgyzstan. The methodology for anti-corruption monitoring and assessment was approved by the order of the Government of the Kyrgyz Republic of February 12, 2014, no. 44-p. With a view to implementing it, the *Guidelines for Conducting Comprehensive Efficiency Assessment of the Implementation of Anti-Corruption Measures by Government Agencies of the Kyrgyz Republic* were approved by the same order in September 2015.

Government agencies are selected for assessment/verification visits of working groups from the list of government agencies published by the National Statistics Committee of the Kyrgyz Republic that, according to public opinion polls, ranked the lowest in the *Index of Perceived Level of Corruption in Executive and Local Self-Government Agencies* in the first semester of 2015. (<http://www.stat.kg/ru/indeks-doveriya-naseleniya/>)

Progress assessment

Progress

Action Plan of Government Agencies of the Kyrgyz Republic for the Implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017 was approved prior to the adoption of the third round monitoring report. After that, step-by-step action plans were approved at five government agencies. On May 28, 2015, the order of the Prosecutor General approved the document called *Mechanisms to Ensure Implementation of the Tasks Set by the Action Plan of the Kyrgyz Republic Government for Implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017*. In order to implement the activities listed in the order of May 28, 2015, working groups were also established.

Information on assessment of the necessary funding has not been provided.

Kyrgyzstan further reports that anti-corruption departmental plans are being developed with participation of the public councils working with government agencies. At the agencies where plans had been developed prior to the establishment of public councils the approval of such plans with the newly established Public Councils is in its completion stage.

In June 2015, the **Department of Anti-Corruption Policy** was established under the Office of the Government of the Kyrgyz Republic, adopting the functions of monitoring and assessment of the implementation of the State Strategy for Anti-Corruption Policy that was previously the competence of the Ministry of Economy.

The monitoring is conducted on a regular basis in line with the methodology for anti-corruption assessment. In September 2015, the *Guidelines for Conducting Comprehensive Efficiency Assessment of the Implementation of Anti-Corruption Measures by Government Agencies of the Kyrgyz Republic* were approved. Following the order of the Head of the Office of the Government, working groups were established to assess the efficiency of implementation of anti-corruption measures by government agencies and the assessment schedule. Reports are published on the website of the Ministry of Economy and discussed at the dialogue sites. Government agencies support the NGOs activities as regards alternative reports, arrange topical presentations and plan training of the public council members to improve the quality of independent monitoring.

Recommendation 2

- **Conduct regularly and based on comparative methodology studies and opinion polls on corruption issues, as well as on public trust of government institutions and disseminate such reports**
- **Ensure that part of anti-corruption researches are commissioned on a competitive basis to non-governmental institutions**
- **Use findings and recommendations of corruption studies in development and monitoring of anti-corruption strategies and programmes.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

1) With financial support from the OSCE Center in Bishkek, the SIAR research & consulting agency (Kyrgyzstan) and the INDEM Foundation (Russia) have jointly conducted a survey and opinion polls on corruption, '*Society and Corruption in Kyrgyzstan*.' The two companies were selected from among other non-governmental organizations on a competitive basis. The document which can be found at this link (<http://www.osce.org/ru/bishkek/140511?download=true>) contains the findings of the survey conducted to assess the scale of the problem of corruption, its causes and implications, as well as to assess the extent of corruption in the delivery of public and municipal services to businesses by government agencies. The research paper identified the factors determining the level of corruption and possible ways to combat corruption. The paper also contains recommendations regarding implementation of anti-corruption policy that were developed based on the findings of the research.

2) The *Public Confidence Index* as approved by the Resolution of the Government of the Kyrgyz Republic *On Performance Assessment of Executive and Local Self-Government Agencies of the Kyrgyz Republic* of February 17, 2012, no. 105, now additionally includes the *Index of Perceived Level of Corruption in Executive and Local Self-Government Agencies* which aims to assess and identify the level of corruption in the Kyrgyz Republic (<http://www.stat.kg/ru/indeks-doveriya-naseleniya>). This, based on opinion surveys, is the source of information about the level of corruption in the society in general and specific government agencies in particular. The questionnaire was developed using the Global Corruption Barometer questionnaire by Transparency International as the template.

3) At the initiative of business associations of the Kyrgyz Republic, in May 2015 the Analytical Center *BIZEXPERT* completed a research study entitled '*The Incidence of Corruption in Business and Government Relations*' which focused on identifying and assessing the extent of corruption in the interaction between business entities and government agencies. The findings of this research study were presented during the opening ceremony of the first meeting of the Anti-Corruption Forum of Government Agencies and Business Associations on July 29, 2015. (Analytical Center *BIZEXPERT*, 2-11 Orozbekov Str., Bishkek, Kyrgyz Republic, phone: +996 312 93 55 81, e-mail: office@bizexpert.kg)

4) In July, 2015, the State Service for Combating Economic Crime under the Government of the Kyrgyz Republic conducted an anonymous public opinion poll among the visitors to territorial units of the State Service for Combating Economic Crime (financial police) as well as an anonymous online survey on the department's website at www.finpok.gov.kg on their perception of the Service's performance as well as of officials of the State Service for Combating Economic Crime. The work of the State Service for Combating Economic Crime is widely publicized in mass media. During the first semester of the current year, a series of two anti-corruption social advertising videos were produced in partnership with OSCE and are now broadcast on public TV and social networks.

Progress assessment

Progress

Kyrgyzstan reports on conducting various surveys on the subject, some of which were held prior to the adoption of the third round monitoring report. The *Index of Public Confidence* in executive agencies is regularly assessed (by the National Statistics Committee), the results of which are analyzed by the National Institute for Strategic Studies of the Kyrgyz Republic. Kyrgyzstan reports that the results are used in monitoring of anti-corruption measures: for instance, the schedule of working group visits for assessment of government agencies is based on the survey results.

In May 2015, a study entitled *'The Incidence of Corruption in Business - Government Relations'* was completed, focusing on identification of the extent of corruption in the interaction between business entities and government agencies, and assessment of its parameters.

A public opinion poll was also conducted in the reporting period by means of an anonymous polling of the visitors to the territorial branches of the State Service for Combating Economic Crime (financial police) as well as by an anonymous online survey at the departmental level on perception of the performance of the Service and its officers.

Kyrgyzstan continues therefore the good practice of conducting surveys and developing its anti-corruption policies based on the results of such surveys, which is assessed positively.

Recommendation 3

- **Ensure more efficient co-operation between civil society and public institutions in fighting corruption and conduct joint practical anti-corruption activities, for example, in the area of research or training**
- **Further involve the public at large in developing policies, laws and in assessing anti-corruption measures, including through public consultations and hearings, publication of draft policy documents, using and on-line comments and similar tools easily accessible for the public.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

1) With a view to implementing the National Sustainable Development Strategy of the Kyrgyz Republic for 2013-2017 and the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic through effective dialogue between government agencies and civil society on countering corruption, the Government of the Kyrgyz Republic established the Anti-Corruption Council under the Government of the Kyrgyz Republic.

2) The Anti-Corruption Forum of Government Agencies and Business Associations was established on the basis of the former Anti-Corruption Forum of Government Agencies and Civil Society Institutions under the Ministry of Economy. The first meeting of the Forum was held on July 29, 2015.

3) Pursuant to the Presidential Decree of March 29, 2010, the Coordination Council for Countering Corruption under the Office of the Prosecutor General as well as Public Councils (formerly Public Supervisory Boards) were established and continue to operate to this day. In December 2012, the Coordination Board for Public Councils was established. The Law *On Public Councils* was adopted on May 24, 2014. In pursuance of this law, public councils have been established and operate now in 36 government agencies. Council members include members of the academic community, business associations, professional and trade organizations, and experts representing 187 non-governmental organizations overall.

Pursuant to Articles 22 and 23 of the Law of the Kyrgyz Republic *On Laws and Regulations of the Kyrgyz Republic* and paragraph 62 of the Rules and Regulations of the Government of the Kyrgyz Republic as approved by the Resolution of the Government of the Kyrgyz Republic of June 10, 2013, no. 341, holding public hearings on draft laws and regulations that directly affect the interests of individuals and legal entities as well as draft laws and regulations that govern business activities is mandatory.

Progress assessment

Progress

Kyrgyzstan reports that there is an ongoing practice of integrating NGOs in the process of anti-corruption policy development and monitoring its implementation, as well as legal drafting at various platforms and Public Councils working with 36 government agencies. An *Anti-Corruption Forum of Government Agencies and Business Associations* was established and had its first meeting on July 29, 2015. Coordination meetings are regularly held at the Office of the Prosecutor General. Public Councils are functioning. Draft laws affecting the interests of individuals and legal entities or regulating business activities are publicly discussed.

Recommendation 4

- **Assign an institution to develop targeted and practical awareness-raising and public education activities (about practical solutions, rights and duties of citizens when facing corruption) and to coordinate their implementation**
- **Evaluate the outcomes and impact of public anti-corruption awareness-raising and education activities and use in subsequent activities.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

1) The agency responsible for development of comprehensive anti-corruption awareness raising and training approaches and activities as well as coordination of implementation of such activities including performance and impact assessment of anti-corruption awareness-raising and training activities is the Anti-Corruption Policy Division of the Office of the Government of the Kyrgyz Republic. Performance and impact assessment/verification of anti-corruption awareness raising and training activities is done by the Government of the Kyrgyz Republic in line with the *Anti-Corruption Monitoring and Assessment Methodology* and the *Guidelines on Comprehensive Performance Assessment of Implementation of Anti-Corruption Measures by Government Agencies of the Kyrgyz Republic* as approved by the Resolution of the Government of the Kyrgyz Republic of February 12, 2014, no. 44-p.

2) Pursuant to Article 6 of the Law of the Kyrgyz Republic *On Countering Corruption*, the Prosecutor General of the Kyrgyz Republic and prosecutors authorized by the Prosecutor General coordinate, within the scope of their powers, operations of law-enforcement, fiscal and other government agencies of the Kyrgyz Republic, public administration agencies, and local self-government agencies for countering corruption, collect and analyze information about the level of corruption within the public administration and local self-government system, assess the efficiency of the measures taken, the degree of threat from corruption to national security, make necessary suggestions to the Secretariat of the Defence Council of the Kyrgyz Republic, and perform other functions related to countering corruption as established by the laws of the Kyrgyz Republic.

3) In line with the concept of informational and legal awareness-raising campaigning as approved by the order of the Minister of Justice of the Kyrgyz Republic, the Ministry of Justice of the Kyrgyz Republic via mass media or online resources runs legal awareness-raising and knowledge dissemination campaigns among the general public on prevention of corruption.

Progress assessment

Progress

An Anti-Corruption Policy Division of the Office of the Government of the Kyrgyz Republic has been established, with responsibilities for the development of comprehensive anti-corruption awareness campaigns and training.

Performance and impact assessment of anti-corruption awareness and training programs is done by the Government of the Kyrgyz Republic in line with the *Anti-Corruption Monitoring and Assessment Methodology and the Guidelines on Comprehensive Performance Assessment of Implementation of Anti-Corruption Measures by Government Agencies of the Kyrgyz Republic* (as approved by the Resolution of the Government of the Kyrgyz Republic of February 12, 2014, No. 44-p.). Anti-corruption training activities are part of the anti-corruption strategy. An anti-corruption summer school was held.

During bilateral discussions Kyrgyzstan provided additional information on 34 conducted seminars, developed videos, posters and other materials. Materials were also presented at the OECD meeting. Results of the seminars and other activities are evaluated and used to plan further activities.

Following the order of the Government of the Kyrgyz Republic dd. September 18, 2015, an Anti-Corruption Council was established under the Government of the Kyrgyz Republic. The Council is to coordinate government agencies on anti-corruption matters, ensure dialogue and an effective social partnership between the government and civil society.

Recommendation 5

- **Assess the adequacy and effectiveness of anti-corruption functions performed by different existing state institutions and consider if these institutions have the necessary independence resources and specialisation as required by international standards**
- **Enhance the capacity of the body (bodies) responsible for development and control of implementation of national anti-corruption policy and programme and action plan on countering corruption by the government; provide sufficient budgetary resources, increase specialised staff and trainings, as well as ensure necessary independence to effectively and free from any undue influence carry out such functions.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

In the short period of time, cataloging was successfully completed of the main instruments and approaches to the implementation of comprehensive anti-corruption measures aiming to improve the legislative framework, assess and manage corruption risks, detect and manage conflicts of interest, raise anti-corruption awareness, improve the system of monitoring and assessment, cooperation between government agencies and civil society institutions, and information awareness of civil society.

This required upgrading the measures for prevention of corruption to a new level. To that end and in pursuance of the order of the Prime Minister of the Kyrgyz Republic, by the end of May 2015, a new department for anti-corruption policy was established within the Office of the Government of the Kyrgyz Republic making full use of the human resources and institutional memory available to the Ministry of Economy of the Kyrgyz Republic.

The purposes of assessment are as follows:

- assessing the system for prevention of corruption within a government agency;
- assessing the appropriateness and efficiency of implementation of anti-corruption measures;
- assessing the implementation of recommendations made by a competent government agency responsible for development and implementation of anti-corruption policy and based on the findings of monitoring and assessment conducted by the Secretariat of the Defense Council of the Kyrgyz Republic as well as recommendations developed as part of international assessments;

- assessing whether the information provided reflects the actual anti-corruption measures taken in a government agency and providing assistance in developing and implementing measures for prevention of corruption.

The focus of efficiency assessment of implementation of anti-corruption measures is on the degree of implementation of anti-corruption objectives of a government agency as well as of intradepartmental measures for countering corruption.

Efficiency criteria and indicators for implementation of anti-corruption measures are established based on the following requirements:

- efficiency criteria should be differentiated by areas such as prevention and countering of corruption, combating corruption, and managing the consequences of corruption offenses;
- special criteria and indicators should be established for each type of anti-corruption measures to assess efficiency and effectiveness of their implementation;
- efficiency indicators for implementation of anti-corruption measures should not be confused with the number of measures taken;
- efficiency/effectiveness criteria and indicators must be verifiable not only by the data reported by government agencies but also by independent information sources, opinion surveys, expert opinions, and public opinion;
- when possible, efficiency criteria for implementation of anti-corruption measures should reflect the trends over a certain period of implementation of anti-corruption policy;
- efficiency/effectiveness criteria should also reflect the quality of implementation and the degree to which the measures taken meet the objectives and deadlines except if a government agency requests to extend the deadline twice or more.

Progress assessment

Progress

By the end of May 2015, in pursuance of the order of the Prime Minister of the Kyrgyz Republic a new department for anti-corruption policy was established within the Office of the Government of the Kyrgyz Republic that used the human resources and institutional memory developed by the Ministry of Economy of the Kyrgyz Republic. These changes should be assessed positively since they indicate that the anti-corruption policy has risen to a higher level, that of the Government of Kyrgyzstan. Performance of this unit should be assessed in the future, but the government believes that the present resources are sufficient and no additional employees are needed as the unit at the Ministry of Economy continues to work. There are six employees working at the new unit at present. The department is also responsible for donor coordination.

Kyrgyzstan additionally reports on conducting an assessment of its anti-corruption system and efficiency of implementation of activities based on the standard methodology. The report provides no information on specialization and training of employees responsible for anti-corruption policies and monitoring.

Part 2. Criminalisation of corruption

Recommendation 6

- **Harmonize the Criminal Code, the Law on Countering Corruption, the Code of Administrative Offences and other legislative acts in the anti-corruption area on the basis of their detailed comparative analysis.**
- **Revise the Law on Countering Corruption by regulating its provisions and ensuring the possibility of its implementation and consistency with other laws.**
- **Establish criminal liability for all the elements of corruption-related crimes (both in the public and private sector) in accordance with the international standards, including for offering and promise, demand for and acceptance of offering or promise of bribe, use of intermediaries, obtaining of advantages by third parties, undue advantage in an intangible form, an autonomous and integral notion of “public official”.**
- **Provide for, with the Criminal Code, liability for trade in influence, revise the wording of offences related to malfeasance (abuse) in office to ensure that they are not overly broad in violation of the legal certainty requirements, and abrogate liability for “corruption”.**
- **Incorporate in law liability of legal entities for corruption offences, with proportional sanctions, and ensure their implementation.**
- **Revise provisions on effective regret to ensure their consistency with the international standards.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

As far as improving criminal law on corruption and bringing it in line with the provisions of the UN Convention against Corruption are concerned, the Kyrgyz Republic has introduced significant amendments to the Criminal Code of the Kyrgyz Republic which reflect many of the provisions of the UN Convention against Corruption.

Specifically, amendments were introduced to the Criminal Code of the Kyrgyz Republic by the Law of the Kyrgyz Republic of August 10, 2012, no. 164, including Article 194-1 *‘Insider Trading in the Stock Market’* and Article 194-2 *‘Price Manipulations in the Stock Market.’*

Articles 310 (*Gifts*), 311 (*Bribes*) and 312 (*Job Promotion*) of the Criminal Code of the Kyrgyz Republic were deemed to have lost force. Pursuant to the Law of the Kyrgyz Republic *‘On Amendments’* of August 10, 2012, a new legal concept was introduced by Article 313 of the Criminal Code of the Kyrgyz Republic, i.e. *‘Extortion,’* as well as new articles on bribe solicitation, i.e. Article 313-1 *‘Passive Bribery.’* Additionally, a new Article 308-1, *‘Unjust Enrichment,’* was introduced to the Criminal Code of the Kyrgyz Republic.

Articles 313 (*Extortion*), 313-1 (*Passive Bribery*), 313-2 (*Mediation in Bribery*) and 314 (*Active Bribery*) of the Criminal Code of the Kyrgyz Republic now provide for criminal liability of foreign officials.

Pursuant to the Law of the Kyrgyz Republic *‘On Amendments to Certain Legislative Acts of the Kyrgyz Republic’* of March 10, 2015, no. 53, Article 128 (*Insult*) of the Criminal Code of the Kyrgyz Republic was deemed to have lost its legal force.

In August 2012, amendments were introduced to the Criminal Procedure Code of the Kyrgyz Republic pursuant to which criminal cases on charges of malfeasance in office except negligence may not be terminated if it is believed to no longer pose a social danger or upon reconciliation of parties.

To ensure that a person with immunity can still be held criminally liable when the investigation of a case is suspended, on April 29, 2013, Article 67 of the Criminal Code of the Kyrgyz Republic was amended by adding paragraph 4-1 pursuant to which if criminal proceedings against a person with immunity are suspended due to the immunity, the period of limitation for criminal liability is also suspended.

A number of other important amendments to the Criminal Code of the Republic of Kyrgyz were adopted by the Jogorku Kengesh of the Kyrgyz Republic in March 2014. Particularly, Article 67.6 of the Criminal Code of the Kyrgyz Republic was amended by adding a provision pursuant to which no limitation periods apply to persons charged with crimes punishable under Article 303 (*Corruption*) and Article 304.4 (*Abuse of Public Office by an Official Holding a Responsible Position*).

Currently, there is a new draft Criminal Code of the Kyrgyz Republic which passed its first reading in the Jogorku Kengesh of the Kyrgyz Republic on June 26, 2015. This particular draft Code covers corruption and other offenses against public and municipal services.

With a view to establishing the court procedure for administrative and public law disputes as well as procedural principles and rules of consideration and resolution of such disputes in court, the draft Administrative Procedure Code of the Kyrgyz Republic was also developed and passed its first reading in the Jogorku Kengesh of the Kyrgyz Republic on June 26, 2015.

Additionally, a number of draft laws were developed, particularly the Criminal Procedure Code of the Kyrgyz Republic, the Criminal Penal Code, the Civil Procedure Code, the Code of Minor Offenses of the Kyrgyz Republic, the Code of Misdemeanors of the Kyrgyz Republic, etc.

According to Article 26 of the UN Convention against Corruption on liability of legal persons, each State Party must adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with the Convention. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offenses. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this Article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Pursuant to Article 17 of the Criminal Code of the Kyrgyz Republic, only a criminally sane natural person who has committed a crime and has reached the age of majority as established by the Code may be held criminally liable. Also, pursuant to Article 22 of the Criminal Code, a person may only be found guilty of a crime if he/she has committed a socially dangerous act, either intentionally or through negligence. Based on these principles as laid out in the Criminal Code of the Kyrgyz Republic, legal persons may not be held criminally liable for involvement in corruption offenses.

The legislation of the Kyrgyz Republic provides for the following types of liability that may apply to legal persons for their involvement in corruption offenses:

1) Civil liability:

- Pursuant to Article 91.1 of the Civil Code, legal persons except those financed by institution owners are liable to the full extent of their assets.
- Pursuant to Article 96.2 of the Civil Code, legal persons may be dissolved by court order for engaging in activities prohibited by law or other repeated or grave violations of the law, or in the case of revocation of licenses of banking or financial/credit organizations or institutions.

Government agencies, including prosecutor's offices of the Kyrgyz Republic, may file a claim to court requesting dissolution of a legal person for involvement in corruption offenses.

2) Criminal liability:

Pursuant to Article 55 and Chapter 16 of the Criminal Procedure Code of the Kyrgyz Republic, legal persons shall bear financial liability for damages caused through an offense or action punishable under the Criminal Code of the Kyrgyz Republic that was committed by a criminally insane person.

On the other hand, the draft Criminal Code introduces liability of legal persons. Pursuant to Chapter 20 of the draft Criminal Code, enforcement action may be applied against a legal person if an offense is committed by a natural person on behalf or through the agency of the legal person and for the benefit the legal person regardless of whether the natural person is held criminally liable. Such action may be applied against legal persons without prejudice to the criminal liability of the natural person for the same offense.

Types of enforcement actions applicable to legal persons include fines, restriction of rights, and dissolution of a legal person. Such actions may be applied against legal persons in the case of one of the following offenses: creation of dummy corporations, legitimization of proceeds of crime/money laundering, abuse of office held in a commercial or other organization, commercial bribery, illegal remuneration of civil servants, illegal involvement of a public official in business activities, mediation in bribery, active bribery, etc.

Pursuant to the Law of the Kyrgyz Republic *On Amendments to Certain Legislative Acts of the Kyrgyz Republic* of July 28, 2015, no. 200, amendments were made to the Code of the Kyrgyz Republic on Administrative Liability, specifically Chapter 35-3 was added entitled *Administrative offenses against the laws in the area of countering legitimization of proceeds of crime/money laundering and financing of terrorist or extremist activities including liability of a legal person for engaging in legitimization of proceeds of crime/money laundering and financing of terrorist or extremist activities* (Article 505-22 of the Code).

Regarding amendments to the criminal legislation criminalizing promise and offer as well as solicitation and acceptance of promises or offers of bribes or other rewards such as undue preferences by including them in the subject of corruption offenses in public and private sectors, it should be pointed out that solicitation, active or passive bribery, and mediation in bribery are criminally punishable under the existing Criminal Code currently in force. The same types of criminal offenses are also reflected in the new draft Criminal Code.

Regarding inclusion of non-material benefits in the subject of corruption offenses in the private sector, it needs to be pointed out that Article 170 of the Criminal Code of the Kyrgyz Republic establishes criminal liability for solicitation and Article 225 of the Criminal Code of the Kyrgyz Republic establishes criminal liability for illegal receipt of a major material reward or benefit by a civil servant who is not an official of a government agency, company, organization, public association, or civic self-governance agency for performing or refraining from performing certain actions for the benefit of a bribe giver that a civil servant was otherwise obliged to or in a position to perform by right of office.

Progress assessment

Progress

Kyrgyzstan reports on the adoption of the draft Criminal Code and Administrative Procedure Code by the Parliament of the Kyrgyz Republic on March 26, 2015 in the first reading. Chapter 20 of the draft Criminal Code introduces liability of legal persons. Next, on July 28, 2015 the Law of the Kyrgyz Republic *On Amendments to Certain Legislative Acts of the Kyrgyz Republic* No. 200 was adopted introducing amendments to the Code of the Kyrgyz Republic on Administrative Liability, i.e. adding Chapter 35-3 entitled *Administrative offenses against the laws in the area of countering legitimization of proceeds of*

crime (money laundering) and financing of terrorist or extremist activities including liability of legal persons involved in legitimization of proceeds of crime (money laundering) or in corruption offences (Article 505-22 of the Code).

Recommendation 7

- **Collect and analyse statistics on application of sanctions for corruption offences to assess their effectiveness in practice.**
- **Revise sanctions for corruption offences to ensure their efficiency, proportionality and dissuasiveness and eliminate corruption risks.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The Supreme Court of the Kyrgyz Republic continuously organizes case law of local courts of the Kyrgyz Republic in criminal cases involving corruption offenses.

Similarly, prosecutor's offices also conduct relevant analysis. Particularly, in May 2015, the Office of the Prosecutor General reviewed and organized the case law in criminal cases involving malfeasance in office and corruption offenses from 2014 года through the first quarter of 2015. The findings were the subject of discussion during the meeting of the Board of the Office of the Prosecutor General of the Kyrgyz Republic on July 3, 2015.

As was noted above, the new draft Criminal Code and Criminal Procedure Code of the Kyrgyz Republic were developed and passed their first reading in the Jogorku Kengesh of the Kyrgyz Republic on June 26, 2015. The draft Criminal Code contains improved provisions on criminal liability, including for corruption offenses.

Progress assessment

No progress

Kyrgyzstan informs that the Supreme Court of the Kyrgyz Republic issues regular legal comments on criminal cases involving corruption offenses. The Office of the Prosecutor General conducted an inspection, in May 2015, studying criminal cases involving abuse of office and corruption offenses that were prosecuted between 2014 and the first quarter of 2015. The findings were discussed at the meeting of the Board of the Office of the Prosecutor General of the Kyrgyz Republic on July 3, 2015. However, nothing has been said on the application of sanctions and analysis of their practical effect in order to revise the system of sanctions for corruption offenses. The report additionally mentions that the draft has improved provisions on criminal liability, specifically for corruption offences, yet it is unclear how this information corresponds to the essence of this recommendation. The expert group has concluded that there is no progress with regard to this recommendation.

Recommendation 8

- **Introduce amendments to the procedure of confiscation of property and income received as a result of corruption offences to allow application of confiscation in all corruption crimes irrespective of their gravity.**
- **Consider introducing the possibility of reversal of the burden of proof in the proceedings of confiscation; Ensure enforcement of illicit enrichment in practice.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Significant amendments were introduced to the criminal legislation in relation to confiscation and reparation for losses which now include a convict's assets previously transferred to another person as well as legitimized proceeds of crime. The issue of reparations for losses to a legal owner was also addressed by the Law of the Kyrgyz Republic of August 10, 2012, no. 164.

Additionally, pursuant to paragraph 7 of the Resolution of the Plenary Assembly of the Supreme Court of the Kyrgyz Republic of February 7, 2014, no. 1, *On the Performance of the Judicial Board for Criminal and Administrative Cases of the Supreme Court of the Kyrgyz Republic in 2013, 'Damages for material losses caused by malfeasance in office as well as by crimes committed by an organized crime group in other criminal cases that are subject to reparation, and illegally gained money and other valuables that are subject to forfeiture are to be transferred to the state.'*

The procedures for search and seizure of proceeds of crime are laid down in the following laws and regulations of the Kyrgyz Republic:

1) The legal grounds for law-enforcement and other competent agencies to take adequate action to identify and search assets that are subject to forfeiture are established by Articles 142 and 248 of the Criminal Procedure Code pursuant to which investigative agencies, investigators, prosecutors and courts are obliged to take necessary action to forfeit assets as prescribed by law.

2) Pursuant to paragraph 9 of the Regulations on the State Financial Intelligence Service under the Government of the Kyrgyz Republic as approved by the Resolution of the Government of the Kyrgyz Republic of February 20, 2012, no. 130, Financial Intelligence officers are entitled to request, under the established procedure, and obtain, free of charge, any information or documents such as quotes, copies, etc. including those identified as bank, trade, or other secrets, from whistleblowers, government and local self-government agencies, the National Bank of the Kyrgyz Republic, and other organizations irrespective of form of ownership. They are also entitled to request from foreign competent agencies any information as necessary for pursuing their objectives in the area of anti-money laundering/combating the financing of terrorism in pursuance of international agreements of the Kyrgyz Republic and based on the principles of mutuality.

3) Pursuant to the Law of the Kyrgyz Republic of July 11, 2013, no. 129, amendments were made to the Criminal Procedure Code and the Law of the Kyrgyz Republic *On Field Investigation Activities* that govern the scope of powers of law-enforcement agencies of the Kyrgyz Republic for wire tapping and recording of conversations of suspects, defendants and other persons during investigation of criminal cases. In that regard, on the legislative level, law-enforcement and other competent agencies are provided with sufficient powers to identify and track assets that are or may become subject to forfeiture or are suspected of being illegally gained.

Progress assessment

No progress

The information provided is an interpretation of the situation which remains unchanged after the third round monitoring.

Recommendation 9

Ensure that immunities of the officials do not impede effective investigation and prosecution of corruption offences, in particular:

- Introduce functional immunities for all relevant officials subject to immunities under the current legislation;
- Abolish the immunity of the former President;
- Streamline procedures for lifting immunity of deputies of the parliament, Prosecutor General and Ombudsman.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

In pursuance of the Presidential Decree of the Kyrgyz Republic *On the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic and Anti-Corruption Measures* of February 2, 2012, no. 26, and to further strengthen anti-corruption institutions, streamline the efforts to eliminate the root causes of corruption, and to consolidate anti-corruption efforts of government agencies, local self-government agencies, civil society institutions, and the general public in 2015-2017, the Resolution of the Government of the Kyrgyz Republic of March 30, 2015, no. 170, was adopted by which the Action Plan of government agencies of the Kyrgyz Republic for the implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017 was approved. Paragraph 5 of the Action Plan provides for revision of the provisions on immunities of public officials to ensure that they do not impede effective investigation and criminal prosecution of corruption offenses. The implementation deadline was set for December 2015 and later extended to 2016.

In turn, the Prosecutor General of the Kyrgyz Republic issued the orders of May 28, 2015, no. 35-п, and of June 22, 2015, no. 39-п, to approve the Mechanisms for ensuring implementation of the tasks set by the abovementioned Action Plan of government agencies of the Kyrgyz Republic and to set up working groups for the implementation of the Action Plan.

Progress assessment

No progress

Kyrgyzstan reports that the Action Plan of government agencies of the Kyrgyz Republic for the implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017 covers the issue of immunity. The provision on immunity of public officials should be revised ensuring that they do not impede effective investigation and criminal prosecution of corruption offenses. The implementation deadline is set for December 2015 (extended to 2016). Following the orders of the Prosecutor General of the Kyrgyz Republic dd. May 28, 2015 No. 35-п and June 22, 2015 No. 39-п, the *Mechanisms for ensuring implementation of the tasks set by the abovementioned Action Plan of government agencies of the Kyrgyz Republic* were approved and working groups for implementation of these activities were established. Thus, the issue is yet at the planning stage.

Recommendation 10

- To amend legislation in order to allow effective access of law enforcement officials to bank secrets, tax and customs information, including before formal institution of a criminal case, while ensuring that proper protection of personal data is safeguarded. To reconcile provisions on access to bank data in the Law on Bank Secrecy and the Criminal Procedure Code.
- To ensure that the FIU work closely with the law enforcement authorities in order to identify patterns of possible corruption and establish effective exchange of information and feedback on the action taken based on STRs. To remove legal obstacles to allow that the STRs directed to law enforcement agencies be used as evidence, insofar as they relate to domestic information.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Pursuant to the Regulations on the State Financial Intelligence Service under the Government of the Kyrgyz Republic as approved by the Resolution of the Government of the Kyrgyz Republic of February 20, 2012, no. 130, financial intelligence officers are entitled to request, under the established procedure, and obtain, free of charge, any information or documents such as quotes, copies, etc. including those identified as bank, trade, or other secrets, from whistleblowers, government and local self-government agencies, the National Bank of the Kyrgyz Republic, and other organizations irrespective of form of ownership.

Pursuant to Article 5 of the Law of the Kyrgyz Republic *On Countering the Financing of Terrorism and Legitimization of Proceeds of Crime/Money Laundering*, the State Financial Intelligence Service under the Government of the Kyrgyz Republic must provide a court/judge, prosecutor, and investigation and detective agencies with a summary of materials related to the financing of terrorism/extremism and legitimization of proceeds of crime/money laundering that were obtained upon official written inquiries related to the criminal proceedings in compliance with the laws of the Kyrgyz Republic.

Competent government agencies may provide relevant information as specified above to law-enforcement agencies and courts at their own discretion provided there is sufficient evidence that a transaction involves financing of terrorisms/extremism or legitimization of proceeds of crime/money laundering. A summary of all relevant materials must be submitted to a competent law-enforcement agency.

Law-enforcement agencies and the State Financial Intelligence Service under the Government of the Kyrgyz Republic have close cooperation and information exchange mechanisms established in the area of investigation of criminal cases involving corruption offenses.

Progress assessment

No progress

The information provided is an interpretation of the situation which remains unchanged after the third round monitoring.

Recommendation 11

- **Increase the prevention potential of the investigators of the law enforcement and prosecution service, to increase their level of willing to take the initiative, in particular, by a broader use of analytical methods,**
- **Besides operative information collected by the law enforcement bodies, it is necessary to use other methods of investigative departments, including more thorough analysis of the grounds for initiation of investigations, mass media reports, information from other jurisdictions, information from the tax authorities, auditors and the Pension Funds, as well as complaints received through the governmental web-site and hotlines, reports from embassies and information received through other channels of filing complaints.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Pursuant to the Resolution of the Government of the Kyrgyz Republic *On Incentives for Law-Enforcement Agencies of the Kyrgyz Republic to Enhance Recovery of Damages for Losses Caused to the State* of October 2, 2008, no. 551, the Office of the Prosecutor General of the Kyrgyz Republic, the State National Security Committee of the Kyrgyz Republic, the Ministry of the Interior of the Kyrgyz Republic, the State Financial Police Service under the Government of the Kyrgyz Republic, and the State Customs Service under the Government of the Kyrgyz Republic are allowed to transfer up to 30 per cent of the money paid in damages to the state by persons convicted of economic crime or malfeasance in office to special accounts of relevant government agencies. However, on June 28, 2012, amendments were made to the Law of the Kyrgyz Republic *On Main Principles of the Budget Law of the Kyrgyz Republic* (Article 19-1), pursuant to which, damages paid for losses caused by an offense as well as from sale of forfeited goods, instruments of crime and other products may not be transferred to special accounts. As a result, the abovementioned provisions are no longer able to offer incentives for law-enforcement officers from the damages paid to the State.

To provide incentives for law-enforcement agencies to enhance recovery of damages for losses caused to the state, on June 19, 2015, the Government of the Kyrgyz Republic issued the Resolution no. 383 on amendments to the abovementioned Government Resolution pursuant to which, upon orders of investigators/prosecutors of law-enforcement agencies of the Kyrgyz Republic, legal acts of prosecutors, court rulings in cases investigated by relevant law-enforcement agencies that have taken effect, including in criminal cases involving material losses caused to the state, the proceeds received during criminal proceedings must be reflected as both budget revenues and expenditures of relevant agencies and may be used as incentives for officers of law-enforcement agencies of the Kyrgyz Republic.

Currently, there is a variety of available options for reporting corruption offenses to competent agencies that are widely used including the following:

- petitions and complaints boxes,
- phone and SMS hotlines,
- written petitions, and
- online petitions via official websites of the Office of the Prosecutor General of the Kyrgyz

Republic, the Ministry of the Interior of the Kyrgyz Republic, the State National Security Committee of the Kyrgyz Republic, the State Service for Combating Economic Crime under the Government of the Kyrgyz Republic, and the State Customs Service under the Government of the Kyrgyz Republic.

Progress assessment

No progress

The information provided does not correspond to the content of the recommendation. No information has been provided on building the capacity of investigators of law enforcement and public prosecution agencies to make them more proactive, particularly by means of a wider use of analytic methods. With regard to the second part of the recommendation, to assess progress it is necessary to obtain statistics on exposing corruption based on the methods described in the second part of the recommendation.

The expert group believes that the information provided is not sufficient for evaluation of progress in the implementation of this recommendation.

Recommendation 12

- **Ensure that law enforcement agencies dealing with corruption cases be operationally and structurally independent to be able to effectively target high-level corruption. Ensure effective specialisation in investigation of corruption crimes in line with international standards.**

- **Organise regular training on enforcement of anti-corruption legislation for law enforcement officials, prosecutors and judges, including regular joint trainings.**
- **Take measures to ensure a uniform court practice regarding possibility of using the results of special investigative measures as evidence in corruption trials and, if necessary, amend legislation. Introduce in the law regulation of the simulated bribery and establish clear guidelines for law enforcement officers in line with human rights standards.**
- **Secure funding for implementation of witness protection programmes.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Pursuant to the requirements of Article 163 of the Criminal Procedure Code of the Kyrgyz Republic, investigation of criminal cases involving corruption offenses and malfeasance in office (Articles 303 through 316 of the Criminal Code of the Kyrgyz Republic) is conducted by investigators of prosecutor's offices and national security agencies of the Kyrgyz Republic.

To ensure government protection of witnesses, victims and other parties to criminal proceedings and in pursuance of the Law of the Kyrgyz Republic *On Protection of the Rights of Witnesses, Victims and Other Parties to Criminal Proceedings*, on January 10, 2014, the Government of the Kyrgyz Republic adopted the Resolution no. 12 by which it approved the State Program for Ensuring Protection of Witnesses, Victims and Other Parties to Criminal Proceedings for 2014-2016. Pursuant to the Program, the Ministry of the Interior of the Kyrgyz Republic, the State National Security Committee of the Kyrgyz Republic, the State Drug Control Service under the Government of the Kyrgyz Republic, the State Service for Combating Economic Crime under the Government of the Kyrgyz Republic (financial police), the State Customs Service under the Government of the Kyrgyz Republic, the State Penitentiary Service under the Government of the Kyrgyz Republic, and the Ministry of Social Development of the Kyrgyz Republic in consultation with the Ministry of Finance of the Kyrgyz Republic and the Ministry of Economy of the Kyrgyz Republic are tasked to make necessary annual provisions for implementation of measures under the State Program when planning the State Budget for the next fiscal year.

All necessary provisions required for such protection were included in the State Budget-2015. Additionally, the State Budget also includes necessary provisions for other ministries and departments involved in implementation of measures under the State Program. Also, to strengthen the financial and technical position of the newly established division and provide advanced training to its staff, a cooperation agreement was reached with partners of the OSCE Center in Bishkek who are technical assistance recipients.

Within the system of agencies of the Interior of the Kyrgyz Republic, a special unit for government protection of parties to criminal proceedings was established within the Main Criminal Investigation Department of the Ministry of the Interior of the Kyrgyz Republic on June 24, 2014. The newly established unit is tasked with ensuring security of persons who, under the established procedure, were placed under government protection as well as detecting, removing and eliminating any threats to them.

On May 25, 2015, the unit was reorganized into the Government Protection Department of the Ministry of the Interior of the Kyrgyz Department.

The draft Law of the Kyrgyz Republic *On the Ratification of the Treaty on Protection of Parties to Criminal Proceedings in the C.I.S. Member States as Signed on November 28, 2006* was developed and subsequently approved by the Resolution of the Kyrgyz Republic of June 25, 2015, no. 413, and referred to the Jogorku Kengesh of the Kyrgyz Republic.

Progress assessment

No progress

The report provided no information on specialization of law enforcement agencies dealing with corruption, unified case law on detective work, regulation of bribery imitation and other elements of the recommendation.

With regard to the last part of the recommendation covering protection of witnesses, Kyrgyzstan reports that a special unit to provide protection of parties to criminal proceedings within the Main Criminal Investigation Department of the Ministry of the Interior of the Kyrgyz Republic was reorganized into the Government Protection Department of the Ministry of the Interior of the Kyrgyz Republic on May 25, 2015. The draft Law of the Kyrgyz Republic *On Ratification of the Treaty on Protection of Parties to Criminal Proceedings in the CIS Member States as Signed on November 28, 2006* was developed, subsequently approved by the Resolution of the Government of the Kyrgyz Republic on June 25, 2015, No. 413, and referred to the Jogorku Kengesh of the Kyrgyz Republic.

The expert group believes that the information provided is not sufficient for evaluation of progress in the implementation of this recommendation.

Recommendation 13

Amend methodology for gathering and processing statistics on corruption-related offences to ensure collecting of comprehensive data which should be made public and allow appropriate monitoring and evaluation of criminal justice system operations by governmental and non-governmental institutions.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

With a view to creating a unified informational database of criminal cases initiated by investigation agencies on charges of corruption offenses as well as improving the quality and promptness of informational and analytical support of law-enforcement agencies in countering corruption as well as ensuring proper oversight over investigations of corruption offenses, the Office of the Prosecutor General developed the Automated Corruption Offenses Informational System in compliance with the provisions of the Criminal Procedure Code and the Criminal Code of the Kyrgyz Republic as well as the provisions of the UN Convention against Corruption. The system is intended to allow automated registering and recording of offenses. It is designed for maintaining, storing, and processing digital records of offenses as well as keeping a record of offenses, defendants, investigation findings and progress in criminal cases, defendants and results of criminal court cases, placing additional informational resources and services aiming to secure the public's right of access to information in accordance with the existing legislation, maintaining offense records, and developing standard and freeform reporting templates.

The draft Manual on the Automated Corruption Offenses Information System has been developed to facilitate the use of the system (*AISdelo*).

The *AISdelo* software can be found online at aisdelo.kg (for testing purposes, the username is *admin1*, and the password is *admin1*).

Pursuant to the Order of the Supreme Court of the Kyrgyz Republic of May 23, 2014, no. 60, a new form was introduced for courts of first and second instances to report cases of malfeasance in office. This new

reporting form is designed to reflect detailed information on each criminal case involving corruption including the charges, the amount of damages claimed, etc.

Progress assessment

Progress

During the third round monitoring, Kyrgyzstan was in the process of developing an electronic information system for registration and recording of offenses, including corruption cases. The draft *Manual on the Automated Information System of Registration and Recording of Corruption Offenses* (AISdelo) was developed. The AISdelo software can be found online at aisdelo.kg (for testing purposes, the username is admin1, and the password is admin1). Pursuant to the Order of the Supreme Court of the Kyrgyz Republic of May 23, 2014, No. 60, a new form was introduced for the courts of first and second instances to report cases of office abuse. This new reporting form is designed to reflect detailed information (including the charges, the amount of damages claimed etc.) on each criminal case involving corruption.

The aforementioned facts show progress in the implementing of this recommendation.

Part III. Prevention of Corruption

Recommendation 14

- Clarify the definitions of political and administrative officials, as well as the regulations which are applicable to the political officials. Prevent further politisation of civil service by limiting the number of political posts and ensuring the stability of professional civil service and the continuity of the institution of State Secretaries.
- Strengthen recruitment process for high-level positions by applying different recruitment procedures and evaluating not only knowledge of applicants but also abilities and competencies.
- Increase transparency and impartiality of competitions by limiting the number of the commission members and including external experts to examine special knowledge, skills and competencies of the applicants.
- Increase attraction of civil service by developing a promotion system which will motivate civil servants, create merit-related criteria for civil servants promotion to higher positions.
- Reconsider the necessity of internal and national reserves, and either develop its proper implementation, or reject it as not useful element in the recruitment system.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The State Personnel Service has developed the draft Law of the Kyrgyz Republic *On Civil Service and Municipal Service* which provides for establishing a new corporate organization system distinguishing between political, special, administrative, and patronage positions. Notably, the term '*political position*' is interpreted as the one associated with policy-making decisions and responsibilities for their implementation. This is expected to help reduce the number of political positions and strengthen the capacity of professional civil service which is crucial in a parliamentary system. The draft law passed its first reading in the Jogorku Kengesh of the Kyrgyz Republic on May 28, 2015.

The draft Law of the Kyrgyz Republic *On Civil Service and Municipal Service* seeks to strengthen the role of HR management departments in government and local self-government agencies, particularly in the areas of staff training, performance assessment, and career planning.

It closely links together staff training, performance assessment, actual achievements, career growth, and financial and non-financial incentives.

The concept of career planning is introduced which implies the presence of a stable system of job promotion based on personal contribution, level of professionalism, and achievements.

Pursuant to the *Interim Regulations on Competitive Procedures for Filling Vacant Administrative Positions in the Civil Service of the Kyrgyz Republic* as approved by the Resolution of the Government of the Kyrgyz Republic of November 29, 2011, no. 741, selection procedures and criteria for candidates to a higher administrative civil service position of a state secretary of a government agency are established by the Civil Service Council upon recommendation from a competent government agency.

To qualify for the job interview, candidates to a position of a state secretary of a government agency must score no less than the threshold value on computer tests and in practical problem solving tasks as established by the Civil Service Council upon recommendation from a competent government agency.

The competitive procedure for filling a higher administrative civil service position of a state secretary includes a test of general knowledge of the legislation of the Kyrgyz Republic, a test of special knowledge, a practical problem solving task, a polygraph test, and an interview.

The structure and composition of the Boards of Certification and Examination are governed by paragraph 19 of the *Interim Regulations on Competitive Procedures for Filling Vacant Administrative Positions in the Civil Service of the Kyrgyz Republic* as approved by the Resolution of the Government of the Kyrgyz Republic of November 29, 2011, no. 741. the Boards of Certification and Examination are composed of the following:

- chairman of the Board of Certification and Examination / state secretary (head of office),
- secretary of the Board of Certification and Examination / civil servant of a government agency,
- members of the Boards of Certification and Examination which include the following:
 - representative of a competent government agency,
 - chairman of the ethics standards board of a government agency,
 - representatives of civil society institutions or the expert community and business associations in the relevant field,
 - heads/officers of HR management and legal departments, and
 - heads/officers of other structural units of a government agency.

In addition to civil servants, members of the Boards of Certification and Examination also include representatives of civil society institutions or expert community and business associations in the relevant field.

During job interviews, the Boards of Certification and Examination base their judgment on professional knowledge, skills and abilities of candidates as shown by their test results.

Personal ethical and professional qualities of candidates are another important factor.

Decisions of the Boards of Certification and Examination are made by a simple majority vote of the members attending the meeting.

Pursuant to paragraph 6 of the Presidential Decree of the Kyrgyz Republic *On Strengthening the Role and Responsibilities of State Secretaries in the Area of Civil Service* of August 23, 2010, no. 143, to promote transparency of competitive procedures for selection of candidates to vacant civil service positions, the Boards of Certification and Examination of government agencies must now include representatives of civil society institutions or expert community and business associations in relevant fields. The provisions of the Presidential Decree and the Interim Regulations are binding on all government agencies. All members of the Boards of Certification and Examination, including representatives of civil society institutions, have equal rights, including voting rights, under the competitive selection procedures.

The draft Law of the Kyrgyz Republic *On Civil Service and Municipal Service* seeks to strengthen the capacities of HR management departments of government and local self-government agencies, particularly in the areas of staff training, performance assessment, and career planning.

It closely links together staff training, performance assessment, actual achievements, career growth, and financial and non-financial motivation.

The concept of career planning is introduced which implies the presence of a stable system of job promotion based on personal contribution, level of professionalism, and achievements.

A special provision is introduced pursuant to which training is a prerequisite for career promotion and must take place either prior to appointment or within three months following appointment to a position.

The provision on performance assessment of civil servants is introduced on a legislative level which defines target performance levels in relation to the tasks and objectives of a government or local self-government agency.

The provision on incentives for civil servants is also introduced which distinguishes both material and non-material incentives.

To improve the system of merit-based recruitment and job promotion of civil servants and reduce the chance of arbitrariness, the draft Law of the Kyrgyz Republic *On Civil Service and Municipal Service* establishes a new procedure for building both national and internal staff pools.

Progress assessment

Progress

Kyrgyzstan has provided information on the adoption, in the first reading on May 28, 2015, of the draft Law of the Kyrgyz Republic *On Civil Service and Municipal Service* developed by the State Human Resource Service. The draft law is in line with many elements of this recommendation. Details of the draft law are presented above in the report of Kyrgyzstan. As part of the next round of monitoring, it is yet to study the extent to which the law complies with the requirements of the recommendation. However, the information provided allows us to note progress with the implementation of this recommendation.

Recommendation 15

- **Perform comparative study of the salaries in civil service in different public institutions and as compared to those in the private sector; as well as the study of the relative shares of fixed and variable parts of the salaries.**
- **Based on the findings, review remuneration system to ensure decent salaries for civil servants as well as transparency and equality of remuneration for similar jobs across the civil service.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

A special working group consisting of officers of the Ministry of Finance, the Ministry of Employment, Migration and Youth, and the State Personnel Service has conducted an analysis of remuneration schemes of public servants and municipal officers in the Kyrgyz Republic. Based on the findings of the analysis as well as other conclusions of the working group, a number of laws and regulations were adopted seeking to improve remuneration schemes of public servants and municipal officers in the Kyrgyz Republic including the following:

- the Presidential Decree of the Kyrgyz Republic *On Approval of the Registry of Civil service Positions of the Kyrgyz Republic and the Registry of Municipal Service Positions of the Kyrgyz Republic*,
- the Resolution of the Government of the Kyrgyz Republic of June 28, 2013, no. 383, *On Measures to Improve Remuneration Schemes of Civil Servants and Municipal Officers in the Kyrgyz Republic for 2013-2020*, and
- the Resolution of the Government of the Kyrgyz Republic of June 28, 2013, no. 384, *On Terms of Remuneration of Civil Servants and Municipal Officers in the Kyrgyz Republic*.

Progress assessment

No progress

Following the adoption of the report, no progress has been made. Kyrgyz authorities report that a special working group comprising officials of the Ministry of Finance, Ministry of Employment, Migration and Youth, and the State Human Resource Service has researched the remuneration schemes for public servants and municipal officers in the Kyrgyz Republic. Following the research and conclusions of the working group, a number of laws and regulations were adopted to improve remuneration schemes for public servants and municipal officers in the Kyrgyz Republic. However, these documents were adopted prior to the third round monitoring.

The third round report indicates that according to the information provided during the visit, the remuneration system was reformed at 15 ministries (the pay increase merely covered the inflation). Some information on salaries and allowances is available, yet in some agencies it is confidential. The overall reform of remuneration in public sector is scheduled for 2017.

The information provided is an interpretation of the situation which remains unchanged after the third round monitoring.

Recommendation 16

- **Further improve the definition of the conflict of interest established in the Law on Civil Service. Create effective mechanism for the management and control of implementation of the conflict of interests' regulations by introducing a requirement to declare public and personal interests and by strengthening the role of managers and heads of the institutions in their control.**
- **Reform the asset declarations system by:**
 - **Introducing effective sanctions for failure to submit asset declarations or for providing false or incomplete information.**
 - **Considering establishment of a mechanism for the verification of the information provided in the declarations.**
 - **Streamlining the rules related to disclosure of asset declarations, introducing the same requirements on disclosure and exemptions from disclosure of information with mandatory publication of data from declarations of political officials and persons holding special offices, as well as higher administrative officials on the web-site of the State Personnel Service.**
 - **Creating clear mechanisms for sharing of information contained in asset declarations with law enforcement agencies.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

With a view to promoting and having a public discussion of the draft Law of the Kyrgyz Republic On *Conflict of Interest* as well as developing the skills required to detect conflict of interest in civil service, on June 4-5, 2015, the Ministry of Economy of the Kyrgyz Republic arranged and hosted learning seminars for competent government and local self-government agencies for prevention of corruption (hereinafter referred to as *competent agencies*). On June 18, 2015, a round table was arranged and held to discuss the draft Law of the Kyrgyz Republic On *Conflict of Interest* with representatives of government agencies, civil society institutions, and businesses.

After the work on the draft Law of the Kyrgyz Republic On *Conflict of Interest* had been completed, it was submitted to the Jogorku Kengesh of the Kyrgyz Republic under the established procedure pursuant to the Resolution of the Government of the Kyrgyz Republic of July 22, 2015, no. 518. The draft law was registered in the Jogorku Kengesh of the Kyrgyz Republic on July 30, 2015.

1. Sanctions for violation of income reporting laws are provided for in the existing legislation, particularly the following:

1) The Law of the Kyrgyz Republic *On Civil Service* of August 11, 2004, no. 114, Article 31.6-1 (Termination of Service in a Government Agency Initiated by the Administration of a Government Agency) specifically mentions:

- loss of confidence due to one of the following:
- failure to provide a statement of assets and income or intentionally providing invalid or incomplete information,
- failure to provide a statement of assets and income as required by the Law, intentional understatement of assets and income, or intentionally providing invalid information.

2. The Code of Administrative Liability of the Kyrgyz Republic:

Article 400-3. Failure of civil servants or municipal officers to provide statements of assets and income or misrepresentation of statement data.

Failure of a civil servant or municipal officer to provide a statement of assets and income in due time is punishable by an administrative fine of twenty units of account.

Providing invalid or incomplete information about assets and income of a civil servant or municipal officer is punishable by an administrative fine of fifty units of account.

Repeated offense as specified by paragraphs 1 and 2 of this Article or failure to rectify the violation after administrative sanctions have been applied is punishable by an administrative fine of one hundred units of account.

The rules of disclosure of statement data and universal requirement for data that is or is not subject to disclosure are laid down in the *Regulations on the Procedures for Reporting and Disclosure of Data on Income, Assets and Liabilities of Civil Servants and Their Close Family Members* as approved by the Resolution of the Government of the Kyrgyz Republic of December 25, 2012, no. 855.

Pursuant to Article 7 of the Law of the Kyrgyz Republic *On Reporting and Disclosure of Aggregate Data on Income, Liabilities and Assets of Persons Holding Political or Other Special Public Offices As Well As of Their Close Family Members*, aggregate data provided in statements of assets and income of persons holding political civil service positions, special civil service positions, and higher administrative civil service positions must be published on the website of the State Personnel Service of the Kyrgyz Republic.

In pursuance of the above Resolution of the Government of the Kyrgyz Republic, the Interdepartmental Commission was set up by the Order of the State Personnel Service of the Kyrgyz Republic of February 22, 2013, no. 28. The Commission consists of representative of the State Personnel Service, the Ministry of Justice, the Office of the Prosecutor General, the Ministry of the Interior, the State Tax Service, the State Customs Service, the State Service for Regulation and Oversight of the Financial Market, the State Financial Intelligence Service, the National Bank, and the Public Asset Management Fund.

To ensure proper verification of data on income and assets of persons whose statements are subject to comprehensive analysis, in 2013, the Interdepartmental Commission developed the Interdepartmental Order seeking to establish the procedure of information exchange between competent government agencies. The Order was signed by managers of all agencies that delegated their representatives to the Commission.

In April 2015, the Interdepartmental Commission made a decision to implement a new format for analyzing the full scope of statement data. The decision was made based on the experience of 2013-2014 which revealed a number of major problems such as the lack of one automated public registry database of income, assets and liabilities, involvement of a large number of officers of registration agencies with

analysis functions falling outside the scope of their official duties, the lack of required resources, the lack of identification codes assigned to persons, etc.

The new format will involve integrating data provided by a registration agency for every person filing a statement. After completing data integration, the State Personnel Service and members of the working group under the Interdepartmental Commission can proceed with collation of all data.

Considering the data gaps due to the lack of personal identification codes, data will be subject to additional verification by certain government agencies that are members of the Interdepartmental Commission to prevent inaccuracy.

The results of 2015 will also be analyzed and given due consideration for 2016.

In pursuance of the Presidential Decree of the Kyrgyz Republic *On Measures to Eliminate the Causes of Political and Systemic Corruption in Government Agencies* of November 12, 2013, no. 215, the draft Law was developed entitled *On Amendments to the Law of the Kyrgyz Republic 'On Reporting and Disclosure of Data on Income, Liabilities and Assets of Persons Holding Political and Other Special Civil Service Positions and Their Close Family Members,'* no. 117. The draft Law introduced a provision on mandatory reporting of asset purchases, including those abroad. It was subsequently adopted on July 20, 2015.

The amendments to the Law included a new provision on a standard expenditure rate, particularly the inclusion in a statement form of a new section on one-off expenditures exceeding 3,000 units of account as established by the legislation of the Kyrgyz Republic, as well as a new section for aggregate data on income, expenditures, liabilities and assets.

Considering that expenditures data are integral for comprehensive analysis, it is suggested that this rate is introduced for a reporting period from January 1 to December 31, 2016, i.e. the full reporting period.

Upon completion of income and assets reporting campaigns of 2016 and 2017, analytical findings will be compiled for use in the following reporting periods.

The legislation on income and assets reporting in civil service clearly outlines provision of data on request.

Pursuant to paragraph 17 of the *Regulations on the Procedures for Reporting and Disclosure of Data on Income, Assets and Liabilities of Civil Servants and Their Close Family Members* (hereinafter referred to as the *Regulations*) as approved by the Resolution of the Government of the Kyrgyz Republic of December 25, 2012, no. 855, competent government agencies must, upon request from legal and natural persons, provide aggregate data on income, assets and liabilities as indicated in income and assets statements of civil servants.

Confidential information as specified by the legislation on income and assets reporting in civil service, may not be disclosed, including upon request, except in the following cases as specified by paragraph 23 of the abovementioned Regulations:

- 1) with a notarized consent of a person who filed a statement,
 - 2) upon a written request of a law-enforcement agency for the purposes of criminal investigation,
- or
- 3) upon court order for the purposes of court proceedings to the extent related to the merits of a dispute where the person who filed a statement is a party to the dispute.

The mechanism that is being developed involves coordination of oversight of compliance with the legislation on income and assets reporting in civil service as well as the procedures for coordination when conducting a comprehensive analysis of reported data on income, assets and liabilities of civil servants as provided in statements.

In relation to this, in June 2015, a letter was sent the Prosecutor General of the Kyrgyz Republic claiming the need to jointly coordinate efforts and develop coordination mechanisms such as a mechanism for reporting violations of deadlines for submission of statements and a mechanism for reporting statements of income, assets and liabilities that contain incomplete or invalid data.

This issue will be reviewed by the working group under the Interdepartmental Commission that will submit its proposals to the Interdepartmental Commission.

Progress assessment

Progress

Kyrgyzstan has reported finalizing the draft Law of the Kyrgyz Republic *On Conflict of Interests* registered in the Jogorku Kengesh of the Kyrgyz Republic on July 22, 2015.

The draft law *On Reporting and Disclosure of Aggregate Data on Income, Liabilities and Assets of Persons Holding Political or Other Special Public Offices As Well As of Their Close Family Members* providing for mandatory reporting of asset purchases, including those abroad, was adopted on July 20, 2015.

Recommendation 17

- **Publish income and asset declarations of the high-ranking officials (Internet or mass media)**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The rules of disclosure of data provided in statements as well as universal requirements for data that are or are not subject to disclosure, are laid down in the *Regulations on the Procedures for Reporting and Disclosure of Data on Income, Assets and Liabilities of Civil Servants and Their Close Family Members* as approved by the Resolution of the Government of the Kyrgyz Republic of December 25, 2012, no. 855.

Pursuant to Article 7 of the Law of the Kyrgyz Republic *On Reporting and Disclosure of Aggregate Data on Income, Liabilities and Assets of Persons Holding Political or Other Special Civil Service Positions and Their Close Family Members*, aggregate data provided in statements of assets and income of persons holding political civil service positions, special civil service positions, and higher administrative civil service positions must be published on the website of the State Personnel Service of the Kyrgyz Republic.

Progress assessment

Progress

Kyrgyzstan has provided information on the legal requirements for disclosure of declarations, according to which aggregate data provided in declarations of assets and income of persons holding political positions, special positions, and administrative civil service positions must be published on the website of the State Human Resource Service of the Kyrgyz Republic. During the bilateral interview, Kyrgyzstan representatives additionally presented amendments to the Law of the Kyrgyz Republic *On Reporting and Disclosure of Aggregate Data on Income, Liabilities and Assets of Persons Holding Political or Other Special Civil Service Positions and Their Close Family Members*. Pursuant to the amendments, the State Human Resource Services shall publish the declaration form, and classifiers of income, expenses, assets and liabilities on the official website. The range of declarants has been expanded. However, according to the present legislation, the persons whose declarations are to be published are not clearly defined as the new wording of Article 1 (Scope of Law) mentions public and municipal positions, whereas Article 6 refers to political, special and administrative positions. Article 7 suggests publishing of the aggregate

data contained in the declarations of the persons referred to in Article 1.

The expert group could see that such documents were indeed available on the website of the State Human Resource Service <http://www.mkk.gov.kg/>. Aggregate data on revenues and assets of quite a large number of high-ranking public officials has been published (heads and deputy heads of government agencies, judicial bodies and public prosecution offices).

A more thorough study of the system for disclosure of statements of high-ranking public officials is to be conducted during the next round of monitoring of the Kyrgyz Republic.

Recommendation 18

Introduce effective protection of whistle-blowers from arbitrary dismissal and harassment.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

1) The Law of the Kyrgyz Republic *On Protection of the Rights of Witnesses, Victims and Other Parties to Criminal Proceedings* provides a number of comprehensive measures for government protection of witnesses, victims and other parties to criminal proceedings including measures for ensuring safety and social protection of such persons. The law also lays down eligible grounds and procedures for application of such measures. Pursuant to Article 2.2 of the Law, government protection measures may also be applied to a plaintiff, witness, victim or other persons assisting in prevention or investigation of a crime before the commencement of criminal proceedings.

Pursuant to Articles 9 and 10 of the Law of the Kyrgyz Republic *On Countering Corruption*, civil servants or municipal officers must report in writing to an employer's representative, a prosecutor's office, a competent national security agency or other government agency about any offers from other persons to engage in corruption practices.

Reporting any offers to engage in corruption practices is an official duty of civil servants and municipal officers unless the cases concerned are being or have already been reviewed.

Failure of a civil servant or municipal officer to comply with an official duty specified by paragraph 1 of this Article is considered an offense punishable by removal from civil or municipal service, or otherwise punishable under the legislation of the Kyrgyz Republic.

Civil servants or municipal officers who report to an employer's representative, a prosecutor's office, a competent national security agency or other government agency about any offers from other persons to engage in corruption practices, involvement of other civil servants or municipal officers in corrupt practices, or failure to provide or intentional provision of invalid or incomplete data on income, liabilities and assets are eligible for government protection pursuant to the legislation of the Kyrgyz Republic.

The information about a person assisting in combating corruption is state secret and may only be disclosed on written requests of competent government agencies for combating corruption or by court order under the procedures established by the legislation of the Kyrgyz Republic.

In view of the above, we believe that the existing provisions of the laws referred to above provide for sufficiently effective protection of whistleblowers. In this regard, the main focus should be on ensuring compliance with the existing legislation.

2) In pursuance of the Resolution of the Government of the Kyrgyz Republic of January 10, 2014, no. 12, *On Approval of the State Program for Ensuring Protection of Witnesses, Victims and Other Parties to*

Criminal Proceedings, and the decision of the Board of the Ministry of the Interior of the Kyrgyz Republic of June 24, 2014, the Department for Protection of Witnesses consisting of eleven staff members was established within the Ministry of the Interior of the Kyrgyz Republic pursuant to the Order of the Ministry of the Interior of the Kyrgyz Republic of June 24, 2014, no. 478. Pursuant to the Orders of the Ministry of the Interior of the Kyrgyz Republic of February 27, 2015, no. 204, May 12, 2015, no. 486, and June 8, 2015, no. 590, the membership of the Department for Protection of Witnesses was increased by additional eight staff members as a result of staff reallocation. The number of technical and support staff was also increased.

The Department for Protection of Witnesses was subsequently renamed the Department of Government Protection. The Regulations of the Department of Government Protection was approved by the Order of the Ministry of the Interior of the Kyrgyz Republic of May 24, 2015, no. 05.

Progress assessment

No progress

The third round monitoring report states that the Action Plan of government agencies of the Kyrgyz Republic for the implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017 (version of January 1, 2015) provides for adoption of the law on protection of the rights of whistle-blowers and identification of an agency responsible for implementation of this law. However, this Action Plan has not been adopted yet and there is no information on whether any measures in this direction have been undertaken.

Recommendation 19

- **Finalize the reform of the anti-corruption expertise of legal acts and ensure its practical implementation.**
- **Ensure proper regulatory impact assessment before adopting the new legislation (at least the major laws - specify categories in the regulations).**
- **Ensure regular publication of the results of the anti-corruption screening and regulatory impact assessment.**
- **Ensure maximum possible stability of legislation to the benefit of the business environment.**
- **Introduce modern e-government tools aimed at decreasing the contact with the government bureaucracy and reducing the risks of corruption.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

To improve expert anti-corruption assessment of draft laws and regulations, new procedures are being introduced for expert anti-corruption assessment of existing laws and regulations and draft laws and regulations under development.

In pursuance of this objective, the Ministry of Justice developed and, under the established procedure, submitted by letter of April 14, 2015, no. 02-7/3941, the draft Law *On Amendments to Certain Legislative Acts* for consideration by the Office of the Government. The draft law introduces amendments to the

Laws of the Kyrgyz Republic *On Laws and Regulations of the Kyrgyz Republic, On Countering Corruption, and On Prosecutor's Offices of the Kyrgyz Republic*.

Particularly, this draft Law amends Article 20 of the Law *On Laws and Regulations of the Kyrgyz Republic* by adding paragraph 1-1 that provides for expert human rights compliance and anti-corruption assessment of draft laws and regulations. Such expert assessments will be conducted in line with the Standard Methodology as approved by the Government. Also, relevant legislative agencies or officials may develop their own methodology for such expert assessments based on the Standard Methodology.

Additionally, the draft Law adds a new article to the Law of the Kyrgyz Republic *On Prosecutor's Offices of the Kyrgyz Republic* and the Law of the Kyrgyz Republic *On Countering Corruption* pursuant to which prosecutor's offices will conduct expert anti-corruption assessment of existing laws and regulations of the Kyrgyz Republic. If expert anti-corruption assessment reveals any corruption-prone provisions, such provisions must be removed by a relevant legislative agency.

The Resolution of the Government of the Kyrgyz Republic of January 12, 2015, no. 4, gave a start to the regulatory reform called *Systemic Regulation Analysis* that seeks to identify the barriers to doing business in Kyrgyzstan and, consequently, the country's economic development.

The 34 participating government agencies have issued orders to establish departmental working groups responsible for the implementation of the *Systemic Regulation Analysis* project. Training seminars were held for members of the working groups entitled *Systemic Regulation Analysis and Using the e-Guillotine Software*.

On April 8, 2015, the first meeting of the Council for the Regulation Reform was held under the chairmanship of the Vice Prime Minister of the Kyrgyz Republic. During the meeting, the Council approved the 2015 Action Plan of Government Agencies for the Implementation of the Resolution of the Government of the Kyrgyz Republic *On the Implementation of the Regulation Reform Project Entitled 'Systemic Regulation Analysis'* of January 12, 2015, no. 4.

Working groups of government agencies have completed cataloging of laws and regulations in relevant areas as approved by departmental orders.

On May 19, 2015, a round table on the *Regulation Reform in the Kyrgyz Republic* was held with representatives of the business community participating. During the meeting, a list of the laws and regulations governing business operations was presented for review and discussion. Following the discussion, additional lists of laws and regulations were presented to business associations.

On June 23, 2015, the second meeting of the Council for Regulation Reform took place, this time under the chairmanship of the Prime Minister of the Kyrgyz Republic. During the meeting, the Minister of Economy of the Kyrgyz Republic presented the results of the first phase of the *Systemic Regulation Analysis* reform to the Council members.

The following documents were approved during the Council meeting:

- the final list of 3,344 laws and regulations of the Kyrgyz Republic governing business operations that are subject to assessment,
- assessment criteria for laws and regulations entered into the e-Guillotine database, and
- the list of areas for prospective reforms with potential to yield immediate results.

Considering that the reform process is a relatively long one, *'Rapid Reforms'* will be simultaneously implemented to demonstrate the benefits for the country and society.

With a view to implementing the reform, focus group meetings and consultations were held with representatives of twenty business associations.

Based on the fifty recommendations made, the following areas of action were selected:

- Implementing the principle of implied consent when liquidating legal persons or stopping self-employment.
- Improving the procedure for registration of patented self-employed individuals.
- Streamlining the procedure for sourcing skilled staff from abroad.
- Improving the performance of the *one-stop shop* informational system.

The goal of *rapid reforms* is to achieve immediate results that would help reduce the regulatory burden on businesses.

Currently, the reform is in its second phase, *Analysis and Assessment of the Council-Approved Laws and Regulations*.

Of the total number of the Council-approved laws and regulations on the regulation reform, the analysis of 1,206, or 36 percent, of the laws and regulations has been completed.

According to the *e-Guillotine* database, as of August 28, 2015, of the 34 participating government agencies:

- 16 government agencies had completed analysis and assessment of 40 percent of the laws and regulations,
- 6 government agencies had completed analysis and assessment of 30 to 40 percent of the laws and regulations;
- 7 government agencies had completed analysis and assessment of 20 to 30 percent of the laws and regulations, and
- 5 government agencies had completed analysis and assessment of 0 to 20 percent of the laws and regulations.

The Ministry suggested that the government agencies participating in the implementation of the *Systemic Regulation Analysis* project complete analysis and assessment of 70 percent of the laws and regulations by October 1, 2015.

By November 1 of the current year, the second phase, i.e. analysis and assessment of the Council-approved laws and regulations, should be completed.

Progress assessment

Progress

The information provided refers to the first and second parts of the recommendation.

With regard to the expert anti-corruption assessment of laws and regulations, Kyrgyzstan reports on having developed and submitted for consideration of the Office of the Government a draft law amending Article 20 of the Law *On Laws and Regulations of the Kyrgyz Republic* by adding paragraph 1-1 that suggests introduction of provisions on human rights and anti-corruption expert assessment of draft laws and regulations. Such expert assessments will be conducted in line with the Standard Methodology as approved by the Government. Moreover, public prosecution agencies will conduct expert anti-corruption assessment of existing laws and regulations.

With respect to regulation assessment, Kyrgyzstan reports on holding meetings of the Council for the Regulation Reform under the chairmanship of the Vice Prime Minister of the Kyrgyz Republic, as part of which the government has approved the 2015 Action Plan of Government Agencies for the Implementation of the Resolution of the Government of the Kyrgyz Republic *On the Implementation of the Regulation Reform Project Entitled 'Systemic Regulation Analysis'* dd. January 12, 2015, No. 4., the list of laws and regulations (3,344) of the Kyrgyz Republic that are subject to assessment, assessment criteria and the list of the so-called 'rapid reforms'. Currently, the reform is in its second phase, *Analysis and Assessment of Laws and Regulations*. In this respect the Plenary Meeting has established progress in implementation of this recommendation.

Recommendation 20

- **Continue practical trainings on standards, principles and methods of conducting of the internal audit, including for the directorship of the authorities.**
- **Improve the methodology as regards the control of quality of internal audit, including foresee an evaluation of activities of internal audit units in addressing corruption risks in their public institutions, including providing recommendations on this issue.**
- **Strengthen the role of the Audit Chamber in detection and prevention of corruption risks. Continue practical trainings.**
- **Broaden cooperation between the internal audit and the Audit Chamber.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Pursuant to Article 10 of the Law of the Kyrgyz Republic *On Internal Audit*, a competent government agency for internal audit is responsible for developing internal audit standards and recommended internal audit methodology as well as coordinating training and professional development of internal auditors.

As far as strengthening the capacity of the Accounting Chamber for identifying and preventing corruption risks is concerned, the Accounting Chamber provides assistance to government and local self-government agencies in identifying and preventing corruption risks within the scope of the existing powers as established by the Law of the Kyrgyz Republic *On the Accounting Chamber of the Kyrgyz Republic*.

Particularly, when corruption-prone practices are revealed during anti-corruption activities, the Accounting Chamber issues instructions to the audited agencies to remove the violations as well as inconsistencies between laws and regulations by developing and adopting laws and regulations that would be compliant with the existing legal requirements.

When any elements of violations are revealed during an audit, all relevant audit materials must be referred to law-enforcement agencies for compliance review and taking necessary action.

On request of law-enforcement agencies, the Accounting Chamber conducts audits in criminal cases initiated on charges of corruption offenses.

At the same time, efforts are made to improve cooperation between the Accounting Chamber and law-enforcement agencies. To that end, on March 26, 2015, the Accounting Chamber and the law-enforcement signed the Agreement of Cooperation between the Accounting Chamber and Law-Enforcement Agencies.

Cooperation between the Accounting Chamber and internal audit agencies is governed by Article 42 of the Law of the Kyrgyz Republic *On the Accounting Chamber of the Kyrgyz Republic*.

Pursuant to the Resolution of the Government of the Kyrgyz Republic *On Issues Related to the Ministry of Finance of the Kyrgyz Republic* of February 20, 2012, no. 114, the Ministry of Finance of the Kyrgyz Republic was appointed as a competent government agency for internal audit (hereinafter referred to as the *competent internal audit agency*.) Pursuant to Article 10.7 of the Law of the Kyrgyz Republic *On Internal Audit*, the Ministry coordinates training and professional development of internal auditors.

In that regard, in 2015, the Ministry of Finance of the Kyrgyz Republic undertook the following activities under the Multi-Donor Trust Fund project entitled *Capacity Building in Public Finance Management*:

From January 26 to January 29, 2015, under the supervision of an international advisor, trainings were held for officers of internal audit departments of ministries and agencies of the Kyrgyz Republic entitled *Risk-Oriented Strategic and Annual Planning*. The trainings were attended by 90 persons.

From January 19 to March 4, 2015, the international advisor on behalf of the Ministry of Finance of the Kyrgyz Republic conducted pilot audits and provided methodological support to internal audit departments of eight ministries and agencies of the Kyrgyz Republic on practical application of the Internal Audit Guidelines.

From January 30 to March 12, 2015, the international advisor provided methodological support to internal audit departments of nineteen ministries and agencies of the Kyrgyz Republic on risk-oriented strategic and annual audit planning.

From April 28 to April 30, 2015, trainings were held for 46 internal audit officers from 19 ministries and agencies entitled *The Main Principles of Application of Internal Audit Legislation and Methodology*.

In pursuance of the Resolution of the Government of the Kyrgyz Republic *On Approval of the Letter of Agreement between the Government of the Kyrgyz Republic and the International Bank for Reconstruction and Development (World Bank) for the International Development Association (IDA) grant no. TF012781 for capacity building under the internal audit project for the public sector* (hereinafter referred to as the *IAPPS*), a contract was signed with an international advisor, the Institute of Internal Auditors of Ukraine, in May 2015.

Under the *IAPPS*, the international advisor is expected to develop a methodology for assessing the quality of internal auditing that will include both external and internal assessment of the internal audit function.

These tasks of the international advisor are scheduled for September-November 2015.

In July 2014, the Ministry of Finance of the Kyrgyz Republic as a competent internal audit agency and the Accounting Chamber of the Kyrgyz Republic signed the Agreement between the Ministry of Finance of the Kyrgyz Republic and the Accounting Chamber of the Kyrgyz Republic on Cooperation in the Area of Public Audit (hereinafter referred to as the *Agreement*).

In pursuance of the Agreement, the Internal Audit and Accounting Methodology Department has developed and approved the Action Plan for the Implementation of the Agreement between the Ministry of Finance of the Kyrgyz Republic and the Accounting Chamber of the Kyrgyz Republic on Cooperation in the Area of Public Audit for 2015 (hereinafter referred to as the *Action Plan*).

Pursuant to paragraph 1 of the approved Action Plan for the Implementation of the Agreement between the Ministry of Finance of the Kyrgyz Republic and the Accounting Chamber of the Kyrgyz Republic, joint action is taken to ensure compliance with the principle of independence of internal audit departments of ministries and agencies of the Kyrgyz Republic including audit of the Accounting Chamber of the Kyrgyz Republic.

Other activities include introducing the Accounting Chamber officers to the internal audit reforms taking place in Kyrgyzstan and foreign countries through their participation in the work of PEMPAL related to auditing.

Particularly, in pursuance of paragraph 3 of the Action Plan, the Chief Public Inspector of the Accounting Chamber of the Kyrgyz Republic took part in the topical meeting of PEMPAL on internal auditing that was hosted in Bishkek on June 10-12, 2015.

Progress assessment

Progress

Kyrgyzstan reports that between April 28 and April 30, 2015, as part of the project entitled *Capacity Building in Public Finance Management*, the Ministry of Finance of the Kyrgyz Republic held trainings for 46 internal audit officers from 19 ministries and agencies entitled *The Main Principles of Application of Internal Audit Legislation and Methodology*. Also, the Chief Public Inspector of the Accounting Chamber of the Kyrgyz Republic took part in the meeting of PEMPAL on internal auditing conducted in Bishkek on June 10-12, 2015.

In May 2015, a contract with the international advisor, the Institute of Internal Auditors of Ukraine, was concluded to develop a methodology for assessing the quality of internal auditing that will include both external and internal assessment of the internal audit function.

As regards cooperation of internal audit with the Accounting Chamber, Kyrgyzstan informs that on March 26, 2015 the Accounting Chamber and law enforcement agencies signed the Agreement on Cooperation between the Accounting Chamber and law enforcement agencies. The Action Plan for the Implementation of the Agreement *On Cooperation in the Area of Public Audit between the Ministry of Finance of the Kyrgyz Republic and the Accounting Chamber of the Kyrgyz Republic* for 2015 was approved.

Recommendation 21

- **Finalize and adopt a full set of required implementing legislation in the area of public procurement and without further delay start its implementation.**
- **Improve institutional framework and the capacity of the Public Procurement Department.**
- **Establish functional independent complaint review commission and publish results of review of such complaints.**
- **Implement electronic public procurement to ensure 90% of all tenders for purchasing goods, works and services are conducted electronically by December 2017.**
- **Improve statistical data collection system including performed procurement, complaints and results of their review and its analysis; publish annual public procurement performance reports.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

To bring bylaws on public procurement into compliance with the Law of the Kyrgyz Republic *On Public Procurement*, the Public Procurement Department of the Ministry of Finance of the Kyrgyz Republic has developed the draft Order *On Approval of Laws and Regulations on Public Procurement* which was subsequently approved by ministries and agencies of the Kyrgyz Republic. As soon as the Ministry of Justice of the Kyrgyz Republic signs off the routing form, the draft will be approved under the established procedure.

The Public Procurement Department of the Ministry of Finance of the Kyrgyz Republic was established on February 3, 2014, by the Resolution of the Government of the Kyrgyz Republic.

The duties of the Public Procurement Department include enhancing cost effectiveness, efficiency and transparency in public procurement, expanding participation of suppliers/contractors in public procurement procedures and promoting competition, ensuring fair, equal and unbiased treatment of all suppliers/contractors, and providing methodological support and advice to purchasing organizations.

The functions include developing proposals on improving the public procurement system, including procurement procedures, awarding of contracts, and contract payment terms, and submitting them to the Ministry of Finance of the Kyrgyz Republic (hereinafter referred to as the *Ministry*), coordinating and regulating purchases of goods, works, services, and advisory services using public funds without being involved in the public procurement process, assisting purchasing organizations in making purchases of goods, works, services, and advisory services by training their staff on procurement procedures and using the public procurement web portal (hereinafter referred to as the *web portal*) and providing advice on public procurement, forming a database of domestic and foreign suppliers/contractors as well as a database of bad-faith/unreliable suppliers/contractors, collection and analysis of monthly, quarterly and annual reporting data from purchasing organizations on public procurement, conducting quarterly and annual monitoring of the use of public funds for procurement of goods, works, services and advisory services, collection and dissemination of information about public procurement on the web portal, maintenance, improving and enhancing the functionality of the web portal, reviewing and adjudicating on complaints under the procedure established by the legislation of the Kyrgyz Republic in the area of public procurement and within the scope of its competence, monitoring compliance with the provisions of the Law of the Kyrgyz Republic *On Public Procurement* and other laws and regulations of the Kyrgyz Republic that govern public procurement procedures, and officially responding to petitions from purchasing organizations and suppliers/contractors on the issues related to public procurement.

The revised Law On Public Procurement, no. 72, was adopted on April 3, 2015, and entered into force on May 14, 2015. Upon the Law's entry into force, all purchasing organizations and suppliers/contractors switched to the official *Public eProcurement* web portal of the Kyrgyz Republic.

The Procedures for Centralized Procurement were approved by the Resolution of the Government of the Kyrgyz Republic of August 12, 2015, no. 568.

With a view to improving the legislation on public procurement, the Law of the Kyrgyz Republic *On Public Procurement* of April 3, 2015, no. 72, introduced the Independent Intradepartmental Commission which is a new agency responsible for reviewing complaints and appeals and maintaining the database of unreliable suppliers.

In view of that and to bring the laws and regulations on public procurement into compliance with the above Law, the Public Procurement Department of the Ministry of Finance of the Kyrgyz Republic developed draft laws and regulations in the area of public procurement regulation that were subsequently submitted for review to ministries and agencies including the draft Regulations *On Operating Procedures of the Commission for Reviewing Complaints against Actions or Omissions of Purchasing Organizations and Inclusions into the Database of Unreliable Suppliers*.

On May 26, 2015, the Public Procurement Department of the Ministry of Finance of the Kyrgyz Republic sent the letter to ministries and agencies, no. 20-3-2/690, asking to nominate candidates for the Independent Intradepartmental Commission. As of now, the membership of the Commission is pending approval and finalization.

Also, to prevent disruption of public procurement, on June 22, 2015, the letter no. 20-3-2/868 was sent to the Office of the Government of the Kyrgyz Republic stating the need for complaints and appeals to be reviewed by the commission established by the Order of the Ministry of Finance of the Kyrgyz Republic of

September 4, 2014, no. 149-n, *On Establishing the Commission for Reviewing Complaints and Appeals and Proposals for Inclusions into the Database of Unreliable Suppliers*, before the relevant laws and regulations are adopted and the membership of the intradepartmental commission for reviewing complaints and appeals is approved and finalized.

Currently, complaints, appeals and petitions are received and reviewed via the public procurement portal and results of review are communicated to all parties concerned.

As of today, the official public procurement portal has been developed and put into operation (<https://zakupki.gov.kg>).

After the Law of the Kyrgyz Republic On Public Procurement of April 3, 2015, no. 72, had come into force, the developers, in record-breaking short time, brought the public eProcurement system into compliance with the new legislation. Specifically, four new procurement methods for purchasing goods, services and works were introduced in addition to the previously developed and implemented twenty one system modules, specifically single-step, fast-track, reverse auction, and direct contracting. Also, improvements were made to other modules such as submission and evaluation of tender bids, automatic extension of a deadline for bidding, and many others.

Due to the improvements made to modules and functions, all user manuals were updated as well. A number of support documents pertaining to the operation of the system were developed including the following:

- Rules and Regulations on System Access Management.
- Password Protection Policy.
- Data Backup and Recovery Policy.
- Rules of Portal Operation and Use.
- System Installation Manual.

As of September 8, 2015, the official public procurement portal had 1,579 registered purchasing organizations of which 1,471 placed multiple bidding announcements. The number of registered suppliers was 5,466 of which 4,943 actively participate in bidding for contracts.

In the first semester of 2015, 3,240 bidding announcements were placed on the official public procurement portal of the Kyrgyz Republic for contracts worth a total of KGS 19,306,528,787.77. The system's statistical reporting forms were revised and the expanded main data is now displayed on the main page of the official public procurement portal. New report forms that specify form of ownership of purchasing organizations and country of origin of suppliers were added to the list of periodic reports and the list of output report forms was modified to enable sorting of data by date, month, general classification of public procurement, etc. Also, purchasing organizations and suppliers are now able to file their complaints via the portal.

Progress assessment

Progress

The revised Law *On Public Procurement*, No. 72, was adopted on April 3, 2015, and entered into force on May 14, 2015. Kyrgyzstan reports that upon the Law's entry into force, all purchasing organizations and suppliers switched to the official *Public eProcurement* web-portal of the Kyrgyz Republic.

Various bylaws have been adopted, specifically: the Procedures for Centralized Procurement were approved by the Resolution of the Government of the Kyrgyz Republic (August 12, 2015, No. 568) and draft laws and regulations were initiated, including the draft *Regulations On Operating Procedures of the Commission for Reviewing Complaints against Actions or Omissions of Purchasing Organizations and*

Inclusions into the Database of Unreliable Suppliers.

The new law introduced the *Independent Intradepartmental Commission*, a new agency for reviewing complaints. As of now, the membership of the Commission is pending approval. Currently, complaints, appeals and petitions are received and reviewed via the public procurement portal, and the results of review are communicated to all the parties concerned and published.

Four new procurement methods for purchasing goods, services and works were added to the system, specifically single-step, fast-track, reverse auction, and direct contracting. Improvements were introduced to the modules for submission and evaluation of tender bids, automatic extension of bidding deadlines, and many others.

The Government is working on the institutional capacity buildup of the Public Procurement Department. The number of the Department's employees increased from 12 to 25. Functional descriptions were developed for each employee. The Commission for Reviewing Complaints receives and reviews complaints. The results of such review are published on the web-portal www.zakupki.gov.kg.

As regards e-procurement, implementation of the recommendations is under way. The official public procurement portal has 1,579 registered purchasing organizations of which 1,471 have placed multiple bidding announcements. The number of registered suppliers is 5,466 of which 4,943 actively participate in bidding for contracts.

As to improvement of statistical data it is reported that all necessary information is published on the website. The system's statistical reporting forms have been revised and the expanded main data is now displayed on the main page of the official public procurement portal.

Recommendation 22

- **Reform the legislation on access to information in line with the international standards by consolidating relevant provisions in one law and aligning other legislative acts (first of all the law on state secrets) with the access to information law.**
- **Ensure efficient oversight of enforcement of the right to access to information by the state bodies, including proactive publication of information of high public interest.**
- **Increase public awareness of the right to access of information.**
- **Explore the possibility of establishing a unified portal for proactive publication of public information for all public agencies.**
- **Ensure designation of persons responsible for access to information in government agencies as required by legislation and their regular training.**
- **Abolish duty of the Prosecutor General to protect honour and dignity of the President.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

To ensure compliance with and protection of the right of access to information held by government and local self-government agencies as well as to promote maximum openness and transparency of government and local self-government agencies, on December 28, 2006, the Law of the Kyrgyz Republic *On Access to Information Held by Government and Local Self-Government Agencies of the Kyrgyz Republic*,

no. 213, was adopted. Pursuant to the Law, all government and local self-government agencies are required to provide the information.

The State secures the right of every person to seek, obtain, research, produce, transfer and disseminate information. Access to or dissemination of information may only be restricted by law.

Pursuant to the requirements of Articles 33 and 34 of the Law, government and local self-government agencies must set up structural units and appoint officials in charge of providing information directly to the public. There is an ongoing awareness campaign in mass media explaining to the public the procedures for obtaining information as established by the Law.

There is also the Law of the Kyrgyz Republic On Guarantees and Freedom of Access to Information of December 5, 1997, no. 89, currently in force, that governs relations arising from the exercise of the right of every person to seek, obtain, research, produce, transfer and disseminate information, freely and without restriction.

Additionally, government agencies, including courts, currently have their own web portals/websites where they publish updates on their activities. The websites also offer the general public an option of filing their petitions online.

Formerly, an insult to honor and dignity of an individual, particularly made in a public speech, publicly displayed text, or in mass media, was criminally punishable under Article 128 of the Criminal Code of the Kyrgyz. Pursuant to the Law of the Kyrgyz Republic *On Amendments to Certain Legislative Acts of the Kyrgyz Republic* of March 10, 2015, no. 53, Article 128 (*Insult*) of the Criminal Code of the Kyrgyz Republic was deemed to have lost force.

In pursuance of the Presidential Decree of the Kyrgyz Republic *On the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic and Measures to Counter Corruption* of February 2, 2012, no. 26, and to further the strengthening of anti-corruption institutions, streamlining the efforts to eliminate the root causes, and consolidate anti-corruption efforts of government and local self-government agencies, civil society institutions and the general public in 2015-2017, the Government of the Kyrgyz Republic adopted the Resolution of March 30, 2015, no. 170, by which the Action Plan of government agencies of the Kyrgyz Republic for the implementation of the State Strategy on Anti-Corruption Policy of the Kyrgyz Republic for 2015-2017 was approved.

In turn, the Prosecutor General of the Kyrgyz Republic issued the orders of May 28, 2015, no. 35-n, and of June 22, 2015, no. 39-n, to approve the Mechanisms for ensuring implementation of the tasks set by the abovementioned Action Plan of government agencies of the Kyrgyz Republic and to set up working groups for the implementation of the Action Plan.

Assessment of Progress

Lack of progress

Provided information is not related to the developments after the adoption of the report of the third monitoring round and does not contain the information regarding the measures taken aimed at implementation of this recommendation.

Recommendation 23

- **Improve the system of reporting of the political parties on the financing of their current activities, including introduction of obligation to publish financial reports.**

- Ensure more careful monitoring of receiving and using of funds by the political parties for financing of participation in election campaigns.
- Consider a possibility of adoption of the Codes of Ethics for the Deputies of Zhogorku Kenesh and for members of the Government of the Kyrgyz Republic.

16-ое заседание 7-9 октября 2015 г.

Меры, предприняты для осуществления данной рекомендации - информация предоставлена национальным координатором

The Government of the Kyrgyz Republic developed the Draft Law of the Kyrgyz Republic *On Amendments to the Law of the Kyrgyz Republic 'On Political Parties.'* As of now, the draft Law is under consideration by the Jogorku Kengesh of the Kyrgyz Republic and passed its first reading on April 15, 2015. The draft Law provides the following:

'The sum total of annual donations received by a political party from the same legal person in the Kyrgyz Republic may not exceed five thousand units of account. The sum total of annual donations received by a political party from the same natural person may not exceed five hundred units of account. This restriction shall not apply to membership fees paid by members of the political party under the Party's Charter.'

When making monetary donations to a political party, legal and natural persons shall send the money to the bank account of the political party in accordance with the bank transfer rules.

If the amount of money donated by a legal or natural person to a political party exceeds the amounts specified in paragraphs 1 and 2 of this Article, the banking or other credit and financial institution must, on court order, transfer the money to the State Budget of the Kyrgyz Republic.

An aggregate financial statement of income and expenditures of a political party shall be published biannually in the printed media of the Kyrgyz Republic and on the official website of the government agency responsible for arranging and managing of elections and referenda in the Kyrgyz Republic.

Political parties shall be subject to mandatory annual audit in accordance with the legislation on auditing.'

In addition, Article 42 of the Constitutional Law of the Kyrgyz Republic *On Elections of the President of the Kyrgyz Republic and Members of the Jogorku Kengesh of the Kyrgyz Republic* establishes the procedures for monitoring of income and expenditures of political parties to finance election campaigns:

1. Control over fund-raising and spending of election campaign funds by candidates and political parties shall be carried out by election committees.
2. Control over proper use of funds allocated to election committees from the State Budget of the Kyrgyz Republic for arranging and managing the elections as well as control over the funding sources and proper accounting and use of election campaign funds by candidates and political parties, and verification of financial statements of candidates and political parties shall be carried out by a special control and review group under the Central Election Committee consisting of up to seven members. The organization and operation procedures of the control and review groups shall be established by the Central Election Committee.

Progress assessment

Progress

The key development upon approval of the third round monitoring report of Kyrgyzstan consists in the adoption, in the first reading on April 15, 2015, of the Draft Law of the Kyrgyz Republic *On Amendments*

to the Law of the Kyrgyz Republic 'On Political Parties,' which to some extent complies with the requirements of the first and second parts of the recommendation. In this respect the Plenary Meeting has established progress in implementation of this recommendation.

Recommendation 24

- Take all necessary measures aimed at prohibition of ex parte communication with the judges and implement the respective provisions in practice.
- Consider possibility of abolishing the probation period for judges, alternatively if the probation period is maintained, ensure objective and transparent procedure for evaluation and appointment of judges after the termination of the probation period.
- Revoke the Presidential powers related to the career of judges, including their dismissal and other powers, that may have negative impact on the judicial independence.
- Revise the Code of Ethics of judges to covers incompatibilities, conflicts of interests, gifts, and other related provisions and ensure its practical implementation.
- Ensure that the training of judges includes the issues of ethics, fight against corruption and integrity, for both initial and continuous trainings for judges.
- Insure financial autonomy of judiciary in law and in practice. Salary, any payment to judges and their social guarantees should be defined by law.
- As a matter of urgency ensure practical implementation of the automated case assignment.

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

Within the framework of the approved Program and Action Plan for countering corruption in the judiciary of the Kyrgyz Republic, efforts are made to prevent any contacts between judges and parties to court proceedings outside the proceedings before the start of court hearings in the case.

Pursuant to the Law of the Kyrgyz republic *On Promulgation of the Constitution of the Kyrgyz Republic* of June 27, 2010, all judges of the Kyrgyz Republic must be reappointed through an open competition held by the specially established constitutional agency, the Council for Selection of Judges of the Kyrgyz Republic consisting of representatives of the judiciary and civil society and subject to approval by the Jogorku Kengesh of the Kyrgyz Republic. In turn, on June 13, 2011, the Jogorku Kengesh of the Kyrgyz Republic adopted the Law of the Kyrgyz Republic *On the Council for Selection of Judges of the Kyrgyz Republic* which entered into force on June 17, 2011. The main tasks of the Council are selecting candidates for the positions of judges of the Supreme Court of the Kyrgyz Republic, the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic, and local courts, and nominating and transferring/rotating judges of local courts where candidates for judges are subject to an assessment procedure. It should be pointed out that the Council is under continuous scrutiny and control of nongovernmental and civic organizations as well as the Jogorku Kengesh of the Kyrgyz Republic. Competitions for judges are open to every person willing to participate subject to the requirements for filling the vacancy of judge. All relevant information about selection of judges is available to the general public.

Recently, the draft Code of Judicial Conduct of the Kyrgyz Republic was developed based on the Bangalore Principles. The draft Code was developed by the joint working group for improving the Judicial Code of

Honor of the Kyrgyz Republic under the fourth phase of the *Increasing Integrity in Management* project implemented by the Association of Lawyers of Kyrgyzstan Ltd. with financial support of the U.K. Department for International Development (UKAID) and under the supervision of the international nongovernmental organization Integrity Action. On October 2012, a working group was set up consisting of Judges of the Supreme Court Kamil Osmonaliyev and Margarita Melnikova, judges of local courts, representatives of higher education institutions, independent expert, and experts of the Association of Lawyers of Kyrgyzstan. On March 27, 2013, the Association of Lawyers of Kyrgyzstan Ltd. jointly with the Judicial Board of the Kyrgyz Republic hosted a round table on *Improving the Judicial Code of Honor of the Kyrgyz Republic* during which they presented the draft Code of Judicial Conduct of the Kyrgyz Republic. Following the Round Table, the draft Code was further revised to incorporate the recommendations of judges of the Constitutional Chamber of the Supreme Court, the Supreme Court, and the Judicial Board and subsequently submitted to the Judicial Board for review.

Training and advanced training of judges and court staff as well as training of prospective candidates to fill the vacancies of judges of local courts is the responsibility of the Judicial Training Center under the Supreme Court. The Center's capacities are also directly used to counter corruption in the judiciary. Particularly, the Training Center has hosted seminars and trainings on subjects such as *Modern Management Techniques to Ensure Efficiency of Justice* and *Bangalore Principles of Judicial Conduct* under the *Increasing Integrity in Management* project during which judges and court presidents could learn the skills needed to counter corrupt practices in the judiciary and improve judicial efficiency including by ensuring transparency in court proceedings. In pursuance of the most recent Presidential Decrees and decisions of the Defense Council of the Kyrgyz Republic seeking to counter systemic and political corruption in government agencies, changes were made to the previously approved Work Plan of the Judicial Training Center and anti-corruption activities were held for court presidents, judges, court clerks, court officers and staff of the Judicial Department.

Pursuant to Article 98 of the Constitution of the Kyrgyz Republic, the State is responsible for financing and making all necessary provisions for the operation of courts and judges. Court operations are funded from the State Budget of the Kyrgyz Republic in the amount necessary for complete and independent administration of justice. Pursuant to Article 43 of the Law *On Main Principles of the Budget Law of the Kyrgyz Republic*, control over courts' budget planning and execution is the responsibility of the Judicial Board as well as other agencies in accordance with the legislation of the Kyrgyz Republic. Budget estimates of judicial agencies are subject to approval by the Judicial Board of the Kyrgyz Republic, consolidated and submitted as an aggregate budget estimate for approval by the Government of the Kyrgyz Republic and consideration by the Jogorku Kengesh of the Kyrgyz Republic. The budget of courts of the Kyrgyz Republic is executed by the Government of the Kyrgyz Republic in accordance with the State Budget of the Kyrgyz Republic as approved by the Jogorku Kengesh of the Kyrgyz Republic.

Currently, the Supreme Court of the Kyrgyz Republic in partnership with the IDLO Program for Reinforcement of the Judiciary in Kyrgyzstan is implementing the software for automated case distribution in the Civil Chamber of the Supreme Court of the Kyrgyz Republic. This software is designed to automatically distribute cases, select members of panels of judges, and schedule court sessions. This module is scheduled for approbation and testing before the end of the current year. It is expected to discipline court clerks responsible for entering the information on the progress in court proceedings into the module. Promptness in updating the information is required for proportionate case distribution by the module. Besides, automated case distribution eliminates human factor and is strictly determined by preset parameters. This will also help significantly reduce the time between opening a case and its assignment to a judge which will have a positive effect on the efficiency of courts and the length of court proceedings. The module will allow for easy monitoring of the status of court cases, i.e. who is the judge hearing the case, what stage the proceedings are in, and for how long. Court presidents will have significantly more free time otherwise spent distributing cases and maintaining a log book of court cases.

Assessment of Progress

Lack of progress

Provided information represents the explanation of situation which in principle remains unchanged since the third monitoring round.

Recommendation 25

- **Strengthen dialogue with the business sector with the aim to increase its awareness about risks of corruption and about practical measures to address corruption in private sector, including through promotion and application of compliance programmes with due attention to international standards and practice.**

16th ACN Istanbul Action Plan Monitoring Meeting, 7-9 October, 2015

Measures taken to implement the recommendation as reported by the Government

The Anti-Corruption Forum of Government Agencies and Business Associations was established under the auspices of the Ministry of Economy. Its first meeting was held on July 29, 2015. Business associations are currently in the process of signing the *Businesses of Kyrgyzstan Against Corruption* Charter that aims to counter corruption and is expected to become the business community's contribution to the nation's fight against corruption.

As far as the setting up of the Business Ombudsman is concerned, determining the place of this institution within the public administration system has been the subject of discussion with representatives of the business community, the Secretariat of the Council for Business Development and Investment under the Government, the Office of the Ombudsman, the Ministry of Economy, the Ministry of Justice and other government agencies concerned.

Progress assessment

Progress

The information provided by Kyrgyzstan points to the measures aimed at strengthening dialogue with business. These measures include the establishment of the Anti-Corruption Council under the Ministry of Economy, holding of the first meeting of this Council on July 29, 2015, signing of the Charter by business associations, as well as actions seeking to set up the Business Ombudsman.