

# Kyrgyzstan 2017



Total: 48.52

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## Political Freedom

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### Free and Fair Elections : 3.93

After years of slight improvement of electoral process in Kyrgyzstan, the country experienced certain setbacks due to environment in which the December 2016 constitutional referendum was held, together with municipal elections. Short period of time for public discussion on the constitutional amendments and for establishing of an international monitoring system, abuse of authorities and fraudulent activities on the voting day, pointed out at weaknesses of elections in the country. Turnout threshold for referendums has been 30%, thus the amendments were adopted regardless of the low turnout of 42%, further empowering the role of Prime Minister, while weakening the judicial branch. Due to disagreements among ruling coalition partners on the referendum, the Government was reshuffled, whereby the dominant Social Democratic Party of Kyrgyzstan built a new majority with Kyrgyzstan and Bir Bol parties. This was the second time in 2016 that Government changed its composition, since PM Temir Sariyev and his cabinet had resigned in April.

### Absence of Unconstitutional Veto Players : 3.33

Major obstacle to democratic governance and rule of law in Kyrgyzstan are elected officials and public authorities, due to their close ties to the business elite. The influence of unconstitutional veto players on decision making process in politics is deteriorating and it's rather contained to seeking joint personal benefits. Approved constitutional amendments as of end-2016 weakened the position of the judicial branch in the system of checks and balances in the country, giving more power to the executive. President Almazbek Atambayev remains the dominant figure in the political life of Kyrgyzstan, often using his power to undermine the anyway weak system for balance of power. Former Prime Minister Temir Sariyev resigned in the light of a high profile corruption scandal.

### Freedom of Press : 3.3

Despite constitutional guarantees for the freedom of the press, media outlets are operating in a surrounding which can't be declared as free. Weak system of checks and balances is unable to protect journalists from pressure and threats. Politicians are trying to directly or indirectly - through relations with owners - influence reporting. Feared of pressure and possible prosecutions for critical reporting, journalists commonly practice self-censorship, especially on some sensitive topics. Although defamation is not a criminal offense, "false accusations" of office holders are. Two

media outlets, Zanoza and Azattyk, have been prosecuted on this ground, accused of spreading false accusations about the President.

## Rule of Law

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### **Independence of the Judiciary : 4**

Kyrgyzstan saw a decrease in independence of its judiciary during the past year. The worst affair, itself with long-lasting effects, was failure of the Constitutional Chamber of the Supreme Court (in October 2016) to stop the unconstitutional procedure in which the country's constitution was changed (at the referendum on 11 December) and to prevent the amendments from subverting her international obligations. In another watershed case, Supreme Court refused to drop charges against a tortured ethnic-Uzbek activist Azimjon Askarov, of alleged murder during the ethnic violence in 2010, despite a recommendation by the UN Human Rights Committee to do so. New constitutional amendments allowed parliament to selectively apply international rulings on human rights. It could be comfortably assessed that the process of freeing the judiciary from political or other special interests, launched in 2010, is now in reverse. In Bertelsmann's BTI 2016 report, it read that judiciary remained the weakest and most corrupt part of the state.

### **Corruption : 2.8**

Corruption is widespread. The latest Transparency International's Corruption Perceptions Index, as of 2016, showed stagnation at a low level (of 28/100) and ranked Kyrgyzstan as 136 (of 176 monitored countries), together with Guatemala, Lebanon, Myanmar, Nigeria and Papua New Guinea. TI's Global Corruption Barometer 2016 found out that bribery rate in the country was as high as 38%. Anti-corruption bodies were for long being accused of putting graft charges only against local leaders from political parties which didn't participate in the national government, or against pre-2010 politicians. A few fresh and notable exceptions to the rule included a Prime Minister and two subsequent ministers of transportation, who were ousted between April and November 2016 over suspicions of bribe taking. As for petty corruption, judiciary is often cited as the worst part of the state. Portal GAN reckons that "corruption in the judicial system is a very high risk for companies" and that many court decisions are influenced by bribe or by political pressure. Freedom House warns that "corruption is rife among law enforcement agencies".

### **Protection of Human Rights : 4.49**

The situation is mottled. Human Rights Watch noted that there were "few meaningful improvements ... in 2016". Ethnic violence as of 2010 did not receive legal response, except prolonging of the disputed trials against minority activists such as Azimjon Askarov. Regarding NGOs, after the successful toppling of the "foreign agent law" (shaped over Russian one as role model) in May 2016, Parliament has adopted, in March 2017, a softer, yet also limiting Law on Social Procurement. Coupled with President's occasional verbal tirades against (foreign funded) CSOs, all those have increased the pressure on Kyrgyz civil society. However, the relevant legislation is still more permissive than in neighboring countries. In April 2017, after a long debate, a watershed law was adopted against domestic violence, providing for simplified reporting, more

protection of victims and a diversity of correctional measures for perpetrators. Concurrently, new law as of late 2016 has further limited legal loopholes for child marriages. The issue of presence of declared LGBTs in public life is still a taboo even for some human rights activists. Not even all activities “within the four walls”, such as running a private gay club, are tolerated by the authorities. Kyrgyzstan did not accept relevant UN declarations and there is no legal protection against discrimination of sexual minorities, while gender identity rights are seriously limited.

## Economic Freedom

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### **Security of Property Rights : 4.91**

Private property in Kyrgyzstan is not adequately secured. Courts are not independent in their dealings - political influence of government or interests of its associated groups could make courts serve as mere executors of outside will. The case of Kumtor Gold mining company - where officials had stormed the premises on, later dropped, accusations of financial irregularities, while the company was fined 100 million dollars for alleged environmental damages – showed how state institutions could be misused. Legal processes are long, costly and ineffective, especially on appeal, since the rules on overall time standards are not respected and there are no limitations to adjournments. Political elite can misuse government power in order to acquire property for their own personal, political or economic gains. Although private owners are reimbursed, the sum offered usually substantially differs from the perceived fair market price. Several high profile cases regarding private property expropriation (in mining and tourism industry) still remain to be resolved. There are no official limits on foreign control, but in certain specific areas regulation stipulates a high percentage of the local workforce or a minimum number of board seats for local nationals. Privatization procedures are not transparent and pose a serious possibility for high level corruption and political dealings. Land possession is limited, excluding foreign nationals from owning any agricultural land.

### **Size of Government: Expenditures, Taxes, and Enterprises : 7.45**

Government consumption in Kyrgyzstan reached 40% of GDP in 2016, comparable to many more developed transitional countries in Europe - a sharp increase from its pre-crisis level. Public debt, which saw a strong growth to 65% of GDP in 2015, fell in 2016, but it is expected to rise again. A fiscal consolidation program is under way, in order to put the deficit under control and slow down debt growth. Improvement of customs office efficiency in collecting revenues has been under way. Capital expenditures were lower than expected, due to the delays in investment projects. Economic growth prospects are sluggish, because of negative economic situation in partner economies (mainly in the Russian Federation) and to subdued consumption due to fall in remittances. The three-year arrangement program with the IMF is expected to improve fiscal situation and make ground for sustainable growth in future. Ambitious plans for public infrastructure investments were revised due to debt sustainability issues. State-owned enterprises (SOEs) are numerous, the most important ones operating in the fields of banking, mining, electricity, natural gas and transportation. Some of the companies are by and large inefficient and operate at financial losses, thus creating fiscal risks. However, the review of subsidies for this

sector has still not been made. There are deliberations regarding privatization of some big state companies, such as the telecommunication company Megacom, but three public auctions flopped, since there were no interested parties.

## **Regulation of Credit, Labour, and Business : 6.78**

Kyrgyzstan has more business-oriented environment than some other countries in the region. However, the issue is not mere regulatory quality, but implementation practices. Regulatory requirements are often contradictory, leading to a bureaucratic standstill or opening windows for corruption. Unequal implementation of the law also poses a problem. In 2016, several important regulatory bodies were dissolved in order to improve the situation in the monitored areas. Starting business is easy, quick and cheap, without a necessary paid-in minimum capital. Registering a property is one of the strong sides of the regulatory framework, with majority of land titles marked in the registry and with online services that lead to efficient procedures. On the other hand, the process of licensing and providing permits is not transparent and could easily be manipulated. The biggest problems for private enterprises are in the field of corruption, which is omnipresent, followed by policy instability and inefficient bureaucracy. All those are complicated and plagued by inconsistent regulation. Furthermore, getting electricity is inefficiently slow and expensive, mostly due to Severelektro public company. Tax regulations are also burdensome, with high number of payments and complicated procedures. Their actual implementation is also problematic due to low quality work of the tax authorities. Banking regulation is not in line with international standards, and while the new law on the central bank is envisaged to increase its independence from the government, it has been hard to break informal structures already in place. Labour regulations are mostly flexible: fixed-term contracts are not allowed for permanent tasks, but the maximum length of a fixed-term contract is relatively long. The mandated minimum wage is relatively low. Amendments attached to the Labour Code in January 2017 have strengthened the protection of young (under-18) working people.

## **Freedom to Trade Internationally : 7.53**

Kyrgyzstan was the first in the Commonwealth of Independent States (CIS) to have had joined the World Trade Organization (WTO), in 1998, which substantially lowered tariffs. They remain low as compared to the other countries of the region. Average MFN applied tariff is 6.9%. However, obtaining customs` certificates for import or export operations remains a lengthy and complicated procedure, e.g. with as much as 14 different documents necessary to export goods. Standardization requirements prove to be complicated and expensive due to underdeveloped or incomplete technical regulation; the recent Kyrgyzstan accession to the Eurasian Economic Union (EEU) in 2015 further aggravated the situation, since new technical, even more stringent rules had to be applied. Inconsistent enforcement and interpretation of regulation and weak enforcement of rules in the custom bodies create room for corruption. The bad state of infrastructure serves as an impediment to international trade, significantly increasing freight costs. The Chinese infrastructure investments are envisaged to alleviate at least some of those problems, especially the North - South motorway. Kyrgyzstan has recently ratified a Trade Facilitation Agreement of the WTO, which would in future further liberalize trade flows. Furthermore, the country has continued its involvement in the negotiations under the WTO framework for accession to Government Procurement Agreement (GPA), envisaged to liberalize procurement procedures and open them to more competition from international actors. Main trade partners of Kyrgyz Republic are Switzerland, Kazakhstan, Russia and China.