



Increasing the Effectiveness  
of Cooperation between  
Civil Society Organizations  
and State Governance Bodies  
of the Kyrgyz Republic  
in the Law-making Process

Bishkek • Bratislava • 2009



Social  
Research  
Center



**Social Research Center  
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of Public Administration in Central and Eastern Europe**

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**II 42** Increasing the effectiveness of cooperation between civil society organizations and state governance bodies of the Kyrgyz Republic in the law-making process

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***List of abbreviations used:***

JK KR – Jogorku Kenesh of the Kyrgyz Republic (Parliament)

KR – Kyrgyz Republic

Coll. – Collection of Laws

RA Law – Law on regulatory Acts of the Kyrgyz Republic

NC SR – National Council of the Slovak Republic – Slovak Parliament

CSO – civil society organization

NCO – non-commercial organization

NGO – non-governmental organization

## 1. EXECUTIVE SUMMARY

The participation of CSOs in government policy making, which does not yet happen in the Kyrgyz Republic, is an important part of democratic governance. Taking this into account, the “Sustainability and Effectiveness of civil society organizations in the Kyrgyz Republic” Project was elaborated by the NISPAcee – The Network of Institutes and Schools of Public Administration in Central and Eastern Europe (as the recipient of the grant) together with the Social Research Center of the American University in Central Asia – to create better conditions to enable Kyrgyz CSOs to actively participate in policy-making processes. The project was approved in September 2008 as part of Slovak Official Development Assistance funded by the Department of Development Cooperation and Humanitarian Aid of the Ministry of Foreign Affairs of the Slovak Republic. The Slovak Republic implements bilateral development assistance in accordance with two documents: the intermediate strategy of official development assistance and the national programme of official development assistance, which have been approved by the Government of the Slovak Republic for the established time period.

In order for the non-governmental sector in the Kyrgyz Republic, especially CSOs, to exist democratically, it is very important how they can participate in and how many chances they have to support their interests in the law-making process. The project’s goal is to make CSOs in the Kyrgyz Republic (KR) sustainable and effective, leading to their participation in the policy making processes. The positive experience of the Slovak Republic in this area shows how best this can be achieved, so the project is focused on improving the opportunities and conditions under which Kyrgyz CSOs can participate in the legislative (law-making) process and its primary beneficiaries are legislators from the Kyrgyz Government and Parliament and Kyrgyz CSOs.

The project began in November 2008 and its final document – Policy recommendations – has to be drawn up in November 2009. The project teams

from both sides consist of legislative and legal experts and experts from the various CSOs. Government officials and other relevant persons from the third sector had the opportunity to work with the project through the project research tools (interviews, questionnaires). **The wide range of project participants** ensures that all the final recommendations are based on actual situations and reflect the most acute problems in this area and legislative gaps.

The project carried out various project activities, mainly:

- ◆ Reviewing and analysing relevant Kyrgyz legislation in these areas: legal principles and conditions of CSO activities, legislative procedure for their participation in law-making at Parliamentary and government levels and public access to information;
- ◆ Field research in the Kyrgyz Republic by the Kyrgyz project team in the form of 350 questionnaires distributed to selected CSOs and 55 interviews;
- ◆ Organizing a roundtable for 25 participants, including representatives of the Kyrgyz parliament, government and Kyrgyz CSOs;
- ◆ **Elaborating Slovak best legal practice prepared by the Slovak project team;**
- ◆ Study tour by Kyrgyz representatives to Slovakia. The programme included a workshop during which the Kyrgyz and Slovak project teams jointly analyzed their findings and drew up a list of possible policy recommendations and study visits to relevant Slovak institutions.
- ◆ Drafting policy recommendations developed by the Kyrgyz and Slovak project teams.
- ◆ A National Workshop to discuss the developed policy recommendations was held in September 2009 in the Kyrgyz Republic, attended by about 50 senior government representatives, CSOs, Members of Parliament (MPs), media and other relevant organizations. The final recommendations were generally supported by the workshop's participants.
- ◆ Developing policy recommendations proposing changes to improve the Kyrgyz legislation and making the law-making process more transparent, open and accessible for CSOs and the public, based on Slovak experience, including ways they can be implemented in practice. The possibility of these recommendations being adopted depends on decisions made by state bodies of the Kyrgyz Republic.



The recommendations have been published in English, Russian and Kyrgyz and distributed to government institutions, the Parliament, CSOs and the mass media.

The recommendations are divided into two groups:

1. Recommendations aimed directly at improving cooperation between the Jogorku Kenesh, Government, ministries and agencies of the Kyrgyz Republic with CSOs in the law-making process;
2. Recommendations aimed at increasing the sustainability of NGOs and improving access to legal information

### ***1<sup>st</sup> group of recommendations***

1. Ensure public access to information during the law-making process via Internet portals.
2. Set up an integrated state portal of regulatory acts (RA).
3. Set up a central state advisory body.
4. Create conditions for regular dialogue between the state and NCOs at central level.
5. Give citizens the right to submit to the initiators of legislation proposals to terminate the drafting or consideration of draft legislation.
6. Public participation in the expert appraisal of draft legislation.
7. Public discussions during the law-making process of the executive branch.
8. Parliamentary hearings and public access to legislation being drafted by the Jogorku Kenesh of the Kyrgyz Republic.
9. Timelines and principles for inviting people to participate in parliamentary hearings.
10. Consider public proposals.
11. Discuss the results of hearings in the Jogorku Kenesh of the Kyrgyz Republic.
12. Public oversight of parliamentary procedures of the Jogorku Kenesh of the Kyrgyz Republic.

### ***2<sup>nd</sup> group of recommendations***

1. Allocate 1% of income tax to NCOs.
2. Free copy of the Kyrgyz Collection of Laws to be sent to each municipality.
3. A copy of every book by experts published in Kyrgyzstan should be given to the Parliamentary Library.

## 2. INTRODUCTION

According to official data of the Ministry of Justice of the Kyrgyz Republic, as of 1 April 2006 there were 14,173 NCOs registered in Kyrgyzstan<sup>1</sup>.

Experts believe that in 2004, NCOs employed more than 20 thousand full time workers, up to 10 thousand part-time workers (experts, consultants) and 8 thousand volunteers. Based on other assessments, the NCO sector employs up to 100 thousand people or 5% of the working population of the country<sup>2</sup>.

Despite the big difference in assessments, experts and observers are unanimous in the opinion that pro-active citizens and experienced experts of the country are concentrated in the NCO sector. In the light of initiatives of the President of the Kyrgyz Republic, in particular, of those set out in the Country's Rejuvenation Course in March 2009, the main issue on today's agenda is to develop measures for establishing successful cooperation between state and self-governance bodies on the one hand and civil society organizations on the other. This is necessary in order to use NCOs' capacity to effectively and rationally develop the country and society.

Examples of successful cooperation between the NCO sector and state and self-governance bodies, show that such cooperation is possible if there are clearly set goals, objectives and desirable results in health, education, and social protection and improving the social and economic situation at local level.

The Kyrgyz legislation provides an opportunity to involve CSOs in the development and determination of strategies and development plans for

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<sup>1</sup> V. Bogatyrev. The status of formal political institutions and their relations with informal political structures in Kyrgyzstan. Compilation of works "Democracy and informal politics in Kyrgyzstan" of the Public Policy Institute

<sup>2</sup> <http://www.slovakaid.sk/index.php/article/frontpage/1>

the county, sector or region. However, the NCO sector does not participate in this process on a systematic basis. Normally, the involvement of CSOs in the decision-making process depends on the willingness of ministers and heads of agencies.

**The purpose of the project** is to develop recommendations to improve cooperation between the Jogorku Kenesh, Government and ministries and agencies of the Kyrgyz Republic and CSOs in the law-making process.

For the purposes of this survey the Slovak Republic was chosen as a **model** for cooperation between the state and NCOs. Slovakia had background conditions similar to Kyrgyzstan after the collapse of the system of socialist republics and Slovakia and Kyrgyzstan share experience in public life during the transition to a market economy, restructuring of state bodies and creating new relations between state bodies and citizens.

Since 1989, Slovakia has taken several important steps to reform the participation of citizens in public life – strengthening the rule of law, respect for human rights, public administration reform, creating a legal environment for the proper functioning of CSOs etc. Since 2004, Slovakia has been a member state of the European Union, which is another important factor in developing democracy. In order to join the European Union a country must, in its pre-accession period, meet conditions known as the “Copenhagen Criteria” and one of these is to be a stable democracy respecting human rights. So, when applying for membership of the European Union, Slovakia was strictly controlled and gained great experience in the field of democracy.

The new, modern non-governmental sector in Slovakia began to function after 1989, when Czechoslovakia rejected communism and became a democracy. This helped the non-governmental sector develop and some of the first legislation regulating NGOs was adopted. For the government, the priority was, of course, to prepare new regulations of the first (state) sector and the second (business) sector. The third (non-profit) sector was not a priority of the Slovak government and therefore legislation covering its development came about very slowly. On the other hand, from the point of activities and number of organizations, the 3<sup>rd</sup> sector in Slovakia developed very quickly. The result of all of these things is, that Slovakia has legislation regulating all legal forms of non-profit organizations (although it requires some changes), and some financial sources, but on the other hand, lacks some basic definitions, such

as Volunteerism or Public Benefit (but draft laws are being drawn up and discussions are being held in Slovakia to develop them).

Despite similar problems in the economic and public spheres, Slovakia and Kyrgyzstan still differ. Slovakia is a European Parliamentary Republic, whilst Kyrgyzstan is a Presidential Republic located in Central Asia. In this respect, the experience of a Parliamentary Republic in the area of ensuring the sustainability and effectiveness of NCO activities in the course of their participation in the decision-making process was studied. Based on the studied Slovak experience, the best approaches for the state and NGO sector that could be successfully applied to the conditions of a Presidential Republic were developed.

Taking into account the difference in the governance of Kyrgyzstan and Slovakia, this report describes some areas that, if they were improved, could increase the effectiveness of relations between state bodies and civil society organizations in Kyrgyzstan. In the course of the project research, not only issues of effective cooperation between state institutions and NCOs, but also issues relating to improving the conditions necessary to ensure the sustainability of NCOs and expanding public access to legal information, have been considered. As a result, the developed recommendations have been split into two groups. The first group includes areas regulating the activities of CSOs whilst participating in the decision-making process, which was the main focus of the project. The second group includes areas to create the conditions necessary to ensure the sustainability of CSOs and expand public access to legal information. The areas in the second group were partly proposed by JK KR Deputies and partly by the Slovak project experts, during the study tour to Slovakia and agreed by the Deputies.

Overall the report contains 39 (thirty-nine) recommendations in the first group and 9 (nine) in the second that ensure the conditions to increase the sustainability and effectiveness of NCOs in the KR. Some recommendations do not require additional or substantial financial resources for their implementation.

The positive experience of Slovakia has been studied from the point of its possible application in Kyrgyzstan. This initiative is supported by SlovakAid (Slovak Agency for International Development and Cooperation)<sup>1</sup> and NISPAce (The Network of Institutes and Schools of

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<sup>1</sup> [http://www.nispa.sk/\\_portal/homepage.php](http://www.nispa.sk/_portal/homepage.php)

Public Administration in Central and Eastern Europe), which are focused on helping and developing democracy, and good governance.

To achieve the main goal of the project research, the following tasks have been defined:

- ◆ Analyse legislation regulating the decision-making process in the KR;
- ◆ Analyse legislation on civil society organizations in the Kyrgyz Republic;
- ◆ Study and analyse Slovak experience in involving CSOs in the decision-making process;
- ◆ Determine mechanisms and other norms from Slovak experience that could be adapted and used in the KR.
- ◆ Develop recommendations to improve cooperation between the JK KR, Government, ministries and agencies of the KR and public and non-commercial organizations for further democracy-building in the country.

### **3. TERMINOLOGY**

In the course of studying the documents regulating CSO operations and their involvement in the decision-making process in Kyrgyzstan, the researchers identified that the legislation lacks a number of definitions, such as “civil society”, “NCO sector”, “non-commercial organizations (NCOs)” and other terms widely used in the country. In this connection, this study uses the terms “non-commercial organization/s” and “NCO sector” to mean organizations whose operations are regulated by the Law of the Kyrgyz Republic “On non-commercial organizations” dated 1st October 1999.

In Slovakia, each type of civil society organization (political party, labour unions, funds, associations, institutions, etc.) is regulated by separate laws. The objective of this work was to analyze the participation of CSOs in the decision-making process. In this respect, the term “CSO” is equivalent to “NCO.”

This report uses the terms “parliamentary hearings”, “public hearings” and “public discussions”. The terms “parliamentary hearings” and “public discussions” have the same meaning as prescribed by the laws “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” and “On

Regulatory Acts of the Kyrgyz Republic” accordingly. Parliamentary hearings are public gatherings for discussing draft laws and international treaties submitted for ratification, state funded projects and reports on their implementation and other issues of domestic and foreign policy. Public discussions mean public consideration of draft laws via their publication and registration and considering comments that are submitted on these draft laws. This report understands “public hearings” to be public gatherings and meetings initiated and organized by state bodies during the law-making process.

#### **4. SURVEY METHODS**

The following survey methods were used: “desk research”, “questionnaire”, “in-depth” interviews and “roundtable”.

The survey took place in two stages. The first stage was about learning and analyzing the situation (November 2008 – March 2009). The second stage involved developing and discussing the recommendations (March 2009 – September 2009).

In November and December 2008, the legal frameworks regulating CSO involvement in the decision-making process in Kyrgyzstan and Slovakia were studied, including the following KR laws:

- ◆ On Non-Commercial Organizations dated 1st October 1999,
- ◆ On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic dated 3rd January 2005,
- ◆ On Regulatory Acts of the Kyrgyz Republic dated 1st July 1996,
- ◆ The Constitutional Law of the Government of the Kyrgyz Republic dated 19th October 2005,
- ◆ On Access To Information Within The Purview Of State Bodies And Local Self-Governance Bodies of the Kyrgyz Republic dated 28th December 2006,
- ◆ The part of the Civil Code of the Kyrgyz Republic dated 8th May 1996 relating to non-commercial organizations was also studied.

Other normative and legal acts regulating the operations of CSOs were also considered.

A general questionnaire was compiled based on preliminary information of the Kyrgyz legislation review. A structured questionnaire was used when interviewing parliamentarians of the KR and

representatives of the Government Office, ministries and non-commercial organizations. The purpose was to identify trends in the decision-making process at Government and Parliamentary level in the context of CSOs' involvement in this process. The objectives of the interviews, among other things, included identifying problem areas in the decision-making process involving CSOs that needed to be rectified. The respondents were selected based on the principle of their involvement in cooperation between governmental and non-governmental structures. 25 interviews were held with representatives of state authorities and 30 with NGO sector representatives.

After an initial analysis of the obtained information, a study tour agenda to Slovakia was arranged. From 14–22 March 2009 representatives of the JK KR, Government Office, NGOs and experts of Kyrgyzstan, learnt about practical cooperation between public administration and governance bodies and non-commercial organizations that included the following:

- ◆ Legislative procedure;
- ◆ E-governance in Slovakia;
- ◆ Slovak experience in the area of protecting CSOs' interests;
- ◆ Activities of the National Council (the Parliament) of the Slovak Republic;
- ◆ Activities of the Council on matters of non-governmental and non-commercial organizations under the Government of Slovakia;
- ◆ Activities of the Public Administration Unit of the Ministry of Interior of the Slovak Republic responsible for NGOs' registration;
- ◆ Activities of social enterprises in Slovakia.

There was also a series of roundtable discussions involving Slovak and Kyrgyz project experts and study tour participants.

The second stage began at the end of March 2009. After the study tour had finished, a comparative analysis of Slovak and Kyrgyz experience of CSOs' involvement in the decision-making process, was made. Based on the Slovak experience, several recommendations were developed that could be applicable in Kyrgyzstan. These recommendations are part of this report.

A questionnaire was developed for NGOs to study their participation in the decision-making process at state level and to get their opinion regarding the developed recommendations. From mid-May till mid-June 2009 the questionnaire was sent to 350 NGOs throughout the country

by e-mail, fax and personal visits and 62 NCOs representing different provinces of Kyrgyzstan returned completed questionnaires during this period.

Policy recommendations arising from this project were widely discussed with the participants of the National Workshop in Bishkek in the second half of September 2009. The final set of recommendations was generally supported by the participants.

## **5. RECOMMENDATIONS FOR INCREASING THE EFFECTIVENESS OF COOPERATION BETWEEN CIVIL SOCIETY ORGANIZATIONS AND STATE GOVERNANCE BODIES OF THE KYRGYZ REPUBLIC IN THE LAW-MAKING PROCESS**

The results of reviewing the Kyrgyz legislation, comparing it with successful Slovak legal and practical experience, the results of interviews and filling out of questionnaires and roundtables held in the KR, identified that the most relevant areas for increasing and improving cooperation between Kyrgyz state bodies and NCOs, can be reflected in these enumerated recommendations that cover and give a step-by-step approach to finding shortfalls in the following areas:

- ◆ in the full legislative procedure and in its all stages, including the Jogorku Kenesh and Government of the country
- ◆ in the area of legally ensuring the right to information/free access to information.

The proposed recommendations include ways how this can be achieved.

### ***Recommendations***

1. Ensure public access to information in the law-making process via Internet portals.
2. Set up an integrated state portal of regulatory acts.
3. Set up a central state advisory body.
4. Create the conditions for regular dialogue between the state and NCOs at central level.



5. Give people the right to submit to the initiators of legislation proposals to stop or reconsider draft legislation.
6. Ensure public participation in expert appraisals of legislation
7. The authorities should hold public discussions during the law-making process.
8. Hold Parliamentary hearings and grant public access to legislation being drafted by the Jogorku Kenesh of the Kyrgyz Republic.
9. Timelines and principles for inviting the public to participate in parliamentary hearings should be drawn up.
10. Consider public proposals.
11. Discuss the results of hearings in the Jogorku Kenesh of the Kyrgyz Republic.
12. There should be public oversight of parliamentary procedures of the Jogorku Kenesh of the Kyrgyz Republic.

### ***5.1. Ensuring public access to information in the law-making process via Internet portals***

#### ***Slovak successful experience and legal basis***

There is a social requirement to ensure that CSOs and the public can participate in legislative and law-making processes, so first there is a need to ensure free access to information about the legislative procedure involving each draft law. This is also the most important task of e-governance – to ensure easy access to legislative information (sources of law) for the public and also ensure the possibility of expressing proposed changes to the legislation.

In the Slovak Republic, this is done through the ‘Law on Free Access to Information’. According to Slovak legal procedure, the public can find on the Internet (through the “Portal of regulatory acts please see the next recommendation for more details) all material relating to the law-making process of a draft law from its initial drafting at inter-ministerial level to adoption of the law in Parliament.

Access to electronic information influences the level of public awareness and the quality of E-governance. In this area the Slovak Republic is obliged to fulfill its commitments made by various relevant documents of the European Union and also the United Nations through

World Telecommunication Development Conferences (which take place every 4 years). The Slovak Republic has taken some very important, necessary steps in this direction:

- ◆ In the field of organizational setup – in 2007 the Slovak Government created (by Government Decree) the Government Office for An Informed Society, as a standing advisory body headed by a government representative. Its main objective is to coordinate the performance of tasks in the area of an informed society. It is obvious that other relevant central state bodies also fulfill other obligations in this area, especially the Ministry of Transport, Post and Telecommunications.
- ◆ The second necessary element was a strong legal basis for the right to free access to information and its implementation.

Involving CSOs in the legislation-drafting process should increase the effectiveness of the adopted regulatory acts. CSOs can ensure that the most cost- and time-effective options for addressing problems are developed. Involving CSOs in this process should also be guaranteed by free access to information about draft legislation in an electronic format whilst it is being drafted.

### *Description of the situation in Kyrgyzstan*

On 28th December 2006, the Kyrgyz Republic adopted the Law “On access to information within the purview of state and self-governance bodies of the Kyrgyz Republic”. The law lays down the conditions under which citizens can implement their rights to obtain information. However, how this law is implemented and consequently how the rights of citizens and civil society organizations to access information in practice are observed, leave much to be desired.

This Law states that state bodies, including the Jogorku Kenesh of the Kyrgyz Republic, must ensure access to electronic copies of documents. However, in practice, the system of free access to information concerning the progress of draft legislation, is very limited, e.g., the official JK KR site ([www.kenesh.kg](http://www.kenesh.kg))

“Sometimes it is difficult to find a draft law that is soon to be discussed in the Jogorku Kenesh of the KR. Due to the lack of an electronic version of the draft law on the JK KR site we have to ask the Deputies or their assistants personally in order to find out about the contents of the draft law in question”.

NCO respondent

does not contain all the draft laws that are being considered or have been considered; nor does it contain the accompanying material (such as justification notes) or adopted laws. This is substantiated by the interviews held with NCO representatives in December 2008.

The interview results are supported by studies of the JK KR website in spring and summer 2009. For example, the Law “On regulatory acts” was adopted in May 2009 however, even two months after the Law had been adopted it was not possible to get the text from the JK KR official website. A similar situation exists in relation to the Law on the Youth Policy Frameworks that was adopted by the JK KR in June 2009. It was not possible to access this document via the Internet and in order to read the text, youth organizations that took part in drafting the law, had to ask for the text from the JK KR and this took additional time.

CSO representatives also spoke of the difficulties in learning about weekly plans for drafting legislation of the JK KR; the reason being the lack of timely and complete information on the receipt and progress of draft laws inside the Parliament.

The parliamentary website, among other things, contains information about monthly plans of the JK KR. However, the information, which is placed there is sometimes incomplete and late. It should be noted that the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” does not describe any procedures for accessing electronic copies of a number of documents. It is possible that this is the reason for the unclear and uncoordinated provision of information on the JK KR website. Moreover, the timelines for placing the documents on the official parliamentary site are not defined. Representatives from a number of state bodies pointed out that there is no need to establish a timeframe for placing the documents on the website. However, the authors of the report believe that establishing definite timeframes will ensure timely public access to information and more precise control of state bodies in the area of providing information to citizens.

Overall, CSO representatives noted that when requesting information they are more likely to refer to the Law “On access to information within the purview of state and self-governance bodies of the Kyrgyz Republic”.

At the end of this study, it became known that the Kyrgyz President had approved a new law “On regulatory Acts of the Kyrgyz Republic”. Article 22 of this law (“Public Discussions”) stipulates that draft laws be

posted on the websites of the government agencies initiating the laws. This requirement has been introduced to ensure access to the text of bills for the public and organization of public discussions of these bills.

### ***Recommendations***

1. Introduce amendments to the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic”.

Two Articles of the Law contain the norms about public disclosure of official information on internet sites. In particular, Article 78 establishes that transcripts and minutes of meetings of the Jogorku Kenesh, its Committees and ad hoc committees, as well as individual meetings of groups of Deputies shall be published on the official website of the Jogorku Kenesh. Article 89 lays down that the Office of the Jogorku Kenesh shall keep minutes and transcripts of parliamentary hearings with the recommendation that open parliamentary hearings be published in the printed mass media. However, these norms do not regulate public and NCO access to other official JK KR information, namely adopted laws, agendas of plenary meetings, committee meetings and monthly diaries by placing these documents on the official parliamentary internet site.

In connection with the above-mentioned, the following has to be done:

- a) Amend the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” by adding a new article stating: “The Office of the Jogorku Kenesh of the Kyrgyz Republic shall ensure access to the texts of adopted laws, agendas of plenary meetings and committee meetings and monthly diaries by placing electronic versions of these documents on the official parliamentary website”.
- b) Establish clear deadlines for placing material on the official site of the Jogorku Kenesh of the Kyrgyz Republic. It is suggested that the following timelines be established:
  - ◆ 3 (three) working days for posting all draft laws submitted to the JK KR, including the accompanying material;
  - ◆ 5 (five) working days for posting the texts of laws adopted by the JK KR and sent to the President of the KR;
  - ◆ 3 (three) working days for rejected draft laws;
  - ◆ 3 (three) working days before the start of a calendar week place a list of issues on the agendas of committees and plenary meetings.

2. The updated KR RA Law should establish the timeframe for publicizing documents pertaining to the subject matter of public discussions (justification note, expert opinion reports, results of public hearings, etc.) by having to place them on the official website of the drafting agency, if such a website exists.

## ***5.2. Setting up an integrated state portal of regulatory acts***

### ***Slovak successful experience and legal basis***

Electronic access to draft laws is a necessary tool in the world of quick legislative changes. It is also an expression of the principle of public participation in administration and decision-making in public affairs.

In the Slovak Republic, the “Internet portal of regulatory acts” is a free public electronic internet database set up by the Government. The portal gives free access to information about legislation and laws and also gives the public an important possibility to participate in the policy making process. The system has been functioning since June 1<sup>st</sup> 2008 as a component of the state integrated information system set up by the government. The Ministry of the Justice of the Slovak Republic is the system administrator and operator.

The main function of the legislation portal is to ensure internal and external monitoring of the legislative process and the involvement of people and CSOs in developing sector policies. The portal operates in two ways.

The first way gives *passive entrance* to the system, meaning that the portal has an informative function. The portal archives and searches all legislative documents throughout the law-making process from ministerial level to approval by the Government (e.g. government decrees) or by the Parliament (e.g. acts). So the portal ensures that people can find information about legislation more easily. The same applies to non-legislative material of state bodies that have to be published on the portal. This year (2009) the portal should be expanded to include an *electronic collection of generally binding legal acts* since the year 1945. So the public will be able to find on the one website not only draft legislation, but also all current and past acts, together with the full version of these acts with all amendments and changes.

The second way gives *active entrance* to the portal, meaning that firstly state agencies (relevant ministries), the Government and Parliament

(as a sponsor) draw up draft laws by having to place them on the portal and also change them throughout the whole law-making process to reflect all amendments to the documents placed on the portal. Secondly, state agencies, legal entities and private persons (the public) can comment on the draft law only through the portal at the inter-ministerial level of the law-making process. Anybody can see all the comments on the portal and also see how the draft laws' sponsors respond to each comment.

The legislation portal combines the entire law-making process regardless of who the sponsors are (which state agency, the Government, or an MP). So the portal makes it possible for the public to easily and actively participate in the entire inter-ministerial law-making process.

### *Description of the situation in Kyrgyzstan*

Kyrgyzstan lacks a single state internet portal containing all draft laws being initiated, considered and discussed by state bodies, including draft laws of the JK KR and also a list of adopted laws.

The Kyrgyz public can only find draft laws on the Internet, if they have been placed there by their sponsors. Moreover, the provision of feedback to the public and CSOs by state agencies in the process of developing and discussing draft laws was determined by CSO representatives to be one of the problems raised during the interviews.

According to the survey by Brown University<sup>1</sup>, USA, in 2007 the development of e-governance index for Kyrgyzstan was 22.4 and South Korea's index (the highest) was 60.3 while the lowest was Kiribati at 12. According to a survey conducted in Kyrgyzstan in 2006<sup>2</sup>, the aggregated G2C (government to citizens) index was 0.46 where the highest was the index of the number of state websites for the number of state bodies (0.75) but the index of on-line access to considered draft laws and the possibility of discussing them was one of the lowest (0.25).

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<sup>1</sup> Darrel M. West. Electronic Government in different countries of the world. 2007. Public Policy Center of Brown University, [www.insidepolitics.org/egovt07int.pdf](http://www.insidepolitics.org/egovt07int.pdf)

<sup>2</sup> Kyrgyzstan's ICT Sector Review – 2005. – Bishkek: 2006. [www.pic.gov.kg/.../Obzor\\_Sostoiania\\_Sectora\\_ICT%20-2005.pdf](http://www.pic.gov.kg/.../Obzor_Sostoiania_Sectora_ICT%20-2005.pdf)

This problem applies to all state bodies initiating draft laws. The lack of a physical way to provide feedback about the received comments on the websites of state bodies is yet another impediment to effective communication.

For example, the official site of the Ministry of Justice of the KR ([www.minjust.gov.kg](http://www.minjust.gov.kg)) contains a wide range of information related to law-making: the list of draft laws initiated by the KR executive branch; the legislative database of the KR; the annual law-making plan of the KR Government. However, on the MoJ of the KR website it is impossible to comment on discussed draft laws and provide feedback on the received proposals. The website of the MoJ of the KR recommends that suggestions and comments on draft legislation be made to the bodies that developed them. The MoJ of the KR website politely asks people to send suggestions and comments on the draft legislation to the body that initially developed it.

### ***Recommendations***

Creating a single state Internet system of legal information (a unified portal of legislation) could channel cooperation between the state and civil society in a business-like and constructive way in Kyrgyzstan. Such a portal, containing electronic versions of all material pertaining to a draft law, including its design, discussion and approval by Parliament, could serve as a single internet site for the legislative and executive authorities.

Creating this portal will give each citizen the right to access information at central state level and also his/her right to participate in governance.

The public will be able to comment on each draft law via this portal and the sponsor will be obliged to respond to each comment, including public comment, via this portal.

1. Set up an official legal information internet portal containing the texts of all adopted laws and also the texts of all draft legislation, which will ensure that the public can participate in discussing draft laws from their inception.
2. Make it possible for the public to comment on every draft law via the portal, thus giving the public his/her right to get information and the right to participate in governance.
3. Introduce the practice of draft law authors replying to the submitted comments via the website.

4. Integrate the available electronic databases of these laws and draft laws into a single government electronic system.
5. Place the texts of by-laws on the websites of ministries and state agencies.

It is necessary to mention a number of factors pertaining to the implementation of this recommendation that are seen in Slovak practice:

- ◆ implementation of this recommendation mainly depends on sufficient state funding being made available;
- ◆ there also has to be a political decision that the founder of this system will be a state body and that this body must possess all necessary powers to oblige all central executive and legislative bodies to place all material relevant to draft laws on the portal;
- ◆ the first important technical step is to select a contractor to set up this system (an ICT company), then decide who is going to operate, manage and maintain it;
- ◆ Technical and legal aspects of using the system should be set out in detailed guidelines with the main obligations of state bodies, the government and parliament (e.g. obligations to consider every comment) being stipulated in relevant laws;
- ◆ Each state body must have trained, approved staff and relevant software.

### ***5.3. Setting up the central state advisory body***

#### ***Slovak successful experience and legal basis***

The existence of a system of advisory bodies at central state level is an important democratic element in the decision-making process at central level that also symbolizes the goodwill of the Government to communicate with independent experts and consult with them in relation to the anticipated legal changes and their impact on the public at large. State advisory bodies make it possible to express apolitical professional views in the law-making process and also give an opportunity to change draft laws directly.

In the Slovak Republic, the Government has set up a large system of government advisory bodies – at present there are 26 various standing advisory bodies, which consist mainly of independent experts and representatives of state or self-governance bodies. The regulations covering and lists of members of these bodies are published on the government



internet website, along with their agendas and additional material. The advisory bodies perform their designated tasks according to a government mandate and represent the independent expert element in the government law-making process.

The Government Council for non-governmental non-profit organizations, which was set up by the government, is very important in defending CSOs' interests among the other advisory bodies. This Council supports the activities of the third sector, mainly in the area of humanitarian assistance, welfare, child assistance, youth and sport, education, protection of human rights, healthcare, culture, environmental protection and regional development. The Chair of the Council is the Deputy Prime-Minister for a Knowledge-Based Society, European Affairs, Human Rights and Minorities. The Council consists of representatives of state agencies (16 members) and important and influential non-governmental, non-profit organizations or associations covering various areas of activity (20 members), meaning that its composition is both political and non-political. The Council's main competences are:

- ◆ elaborating and appraising conceptual material for government decisions concerning support for the activities of the third sector,
- ◆ elaborating and appraising draft laws covering the state of the third sector,
- ◆ setting up working groups of experts to deal with especially complicated problems occurring in the third sector.

The Government Council has the right to discuss each draft law that may affect the third sector and can suggest any changes the government might need to make to such draft laws. The Government discusses the draft laws after they have been amended by all competent government advisory bodies, including this Council, when the government takes into consideration all their points of view and comments.

Government advisory bodies in the Slovak Republic don't claim high expenses or additional organizational costs because they are run by the existing Government Office department and its employees and they use government premises for their meetings.

### *Description of the situation in Kyrgyzstan*

In Kyrgyzstan, in line with Presidential Decree #426 dated 1st December 2008, a Public Chamber has been set up, a draft law "On the Public Chamber" has been drawn up and a Council of Experts has been set

up under the Speaker of the Parliament along with a Committee of groups of experts, including independent experts. Public councils consisting of representatives of NCOs have been set up under ministries and there is “An open agreement about cooperation between the authorities and civil society organizations in the Kyrgyz Republic” signed by the Head of the Kyrgyz Presidential Secretariat and a number of large NGOs on 5<sup>th</sup> May 2009. On September 1st 2009, the President of the KR proposed an initiative to establish a “Kurultai of Consent” and a Presidential Council as forms of civil society participation in the process of discussing and drawing up decisions that are considered by the President. Nevertheless, there is no council or body, which represents the interests of CSOs in the law-making process.

### ***Recommendation***

Set up, under the President of the KR’s Administration, the Secretariat of the President of the KR or under the Office of the Government of the KR, an advisory council representing the interests of civil society in the law-making process. It is necessary to make sure that the council cooperates directly with the above-mentioned bodies in the decision-making process. This standing body of experts will also enforce the interests of the third sector in their written positions and directly influence the government during the law-making process. The Charter and By-laws of this advisory body (published on the Internet website) will regulate the procedures and ways in which its members (CSO representatives) participate in drafting decisions via this body. Implementation of this recommendation will entail additional research, including a review of the activities of all existing, similar councils.

### ***5.4. Creating the conditions for regular dialogue between the state and CSOs at central state level***

#### ***Slovak successful experience and legal basis***

Communication is a very important way of ensuring results are obtained and targets met in each field. Communication between the third sector and state bodies should be both formal and informal. The

formal way is presented in another recommendation – by setting up a government standing expert advisory body. One of the informal ways is by holding regular informal roundtables with representatives of CSOs and the Government or other state bodies (state agencies or Parliament). The goal is to freely and openly discuss opinions on various mutual issues and draw up the results for other formal discussions.

This informal way could be very helpful for each participant and can help prevent various misunderstandings and solve differences of opinion before the formal legislative process begins. These informal meetings should be held monthly or bi-monthly basis or on an ad hoc basis.

Another formal communication tool could be a special division or special coordination office for CSOs, which should be set up within the proper state agencies. Croatia has such a special office and this could be an inspiration for communication between NCOs and state institutions [/http://www.uzuvrh.hr/defaulteng.aspx/](http://www.uzuvrh.hr/defaulteng.aspx/).

A few years ago, NGOs in Slovakia usually only reacted to government (ministerial) legislative proposals concerning NGOs (e.g. proposed changes in the 2% levy mechanism in 2005 and 2006, or the new Act on Associations in 2007–2008) and when they couldn't agree, they resorted to using 'power' activities to stop them (e.g. public campaigns, running articles in the press, lobbying political parties, national conferences etc.). This did not suit either side (the government or NGOs), because it didn't create anything positive and sometimes it just created bad feelings between both sides, therefore the NGOs and the Slovak government agreed, that all (if possible) legislative proposals would be discussed with the NGOs in advance (at meetings with NGOs or through the Government Council for NGOs). No agreement (on the proposal) has to be reached, but at least the NGOs would be informed and would have discussed it. This way really helped the CSOs change the 2% mechanism and create new sources of finance for NGOs (charity lotteries and advertisements), when CSOs had more than 6 months to discuss issues and find solutions before the legislative process started.

### ***Description of the situation in Kyrgyzstan***

The country lacks such an informal, permanent, communication tool giving access to ready-made decisions and so we propose to study the need to create such a mechanism. In the event it is approved or

it is decided to revamp existing mechanisms, the following steps are proposed:

### ***Recommendations***

1. Set up a special coordination office for CSOs under the Government or other state body.
2. Work out a cooperation mechanism depending on whether communication will be formal or informal, by answering such questions as the organizational structure, membership, communication methods, etc.
3. Develop a set of criteria for communication tools.
4. Select participants depending on the chosen way of communication.
5. Develop a mechanism for daily communication to reduce the number of differences of opinion between the parties to this dialogue.

### ***5.5. Giving the public the right to submit proposals to the initiators of legislation to terminate drafting or considering draft laws***

#### ***Slovak successful experience and legal basis***

The right to petition state bodies, including Parliament, means the freedom of individuals and groups to petition their Government to rectify or put right some form of injustice. Many other civil liberties are enforceable against the government just by exercising this basic right. The right to petition is a fundamental right in both representative (to protect public participation) and liberal democracies.

The Slovak legal system has a separate Law No. 85/1990 Coll. On the right to petition, that, in accordance with the Slovak Constitution, guarantees the right to petition. Everyone has the right to submit petitions, proposals and complaints either individually or in association with others to state bodies and local self-administration bodies on matters of public interest or of other common interest. No petition can call for the infringement of fundamental rights and freedoms or interfere with the independence of the courts.

When a petition is submitted to the National Council (Parliament) of the Slovak Republic, the President of the National Council (Speaker)

**Constitution of the Slovak Republic**

**Article 27**

(1) The right of petition is guaranteed. Everyone has the right, alone or with others, to submit requests, proposals and complaints to state bodies and area self-administration bodies in matters of public or other common interest.

(2) A petition may not call for the violation of basic rights and freedoms.

(3) A petition must not interfere with the independence of the courts

must send it to the main committee for it to be considered and commented upon. Where a petition falls under the auspices of more than one committee, the appropriate committee shall be responsible for coordinating and managing their activities. Where the petition relates to matters outside the powers of the National Council, the Chancellery of the National Council shall refer it to the appropriate Ministry or

another central government authority. A petition signed by not less than 100,000 citizens (Law on the Rules of Procedure of the National Council of the Slovak Republic No. 350/1996 Coll.) (over 18) shall be considered by the National Council.

***Description of the situation in Kyrgyzstan***

Article 64 of the Kyrgyz Constitution guarantees citizens the right to initiate a draft law if it is signed by 30,000 people. However, the KR legislation does not provide for the right of citizens to ask that draft laws be scrapped or considered, neither does it provide for a mechanism to fulfill this right.

We believe that formalizing the right of citizens to scrap or consider draft laws will improve the quality of decisions made. This provision, amongst other things, is a tool to protect the rights and freedoms of citizens and one element in a system of checks and balances for the interests of different groups.

The availability of the right of citizens to jointly request that a draft law be scrapped or considered could become another tool in improving the quality of decision-making. Such **appeals are an indication of a problem needing to be addressed. The availability of this tool requiring an immediate response does not mean the immediate scrapping of a draft law.** The final decision on approving or overturning a draft law is vested only in an authorized body (Parliament, the Government, ministries).

## ***Recommendations***

1. An item should be added to the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” allowing a joint request by citizens to scrap a draft law.
2. If a request has been signed by 10,000 citizens then the relevant Committee of the JK KR should consider it.
3. If a request has been signed by 30,000 citizens, then the JK KR suspends consideration of a draft law in order to study the proposals submitted by the signatories. After it has been studied, the relevant Committee decides whether or not to revise the draft law in the light of the proposals received from 30,000 citizens or to continue considering the draft law without any changes.

### ***5.6. Ensure public participation in drafting legislation***

Participation of the public in managing public life and in decision-making procedures is the basic principle of democracy. Drafting legislation is one of the ways of managing public life and decision-making procedures, so the principle of public participation should be applied.

### ***Description of the situation in Kyrgyzstan***

In Kyrgyzstan, public access to developing legislation is stipulated by the country’s legislative norms on expert opinions and on organizing parliamentary and public hearings. These norms are regulated by the legislation, the Law “On the Procedures of the JK KR” and also by the Parliamentary Resolution “On the Standards for individual types of specialized expert opinions on draft laws in the JK KR” approved on 18<sup>th</sup> January 2008. Public involvement in drafting legislation shall be through the following:

- ◆ Making a professional expert opinion of draft normative acts;
- ◆ participating in discussions about draft legislation being drawn up by the executive agencies;
- ◆ participating in parliamentary hearings organized by the JK KR.

The Law of the KR “On regulatory acts of the Kyrgyz Republic” dated July 20th 2009 (No 241) describes expert opinions. Article 20 of this Law stipulates the following:

“Draft laws concerning constitutional rights, freedoms and obligations of citizens; legal status of public associations, mass media; state budget and tax system; environmental security; fighting crime; introducing new types of state regulations of business activities are subjected to legal, human rights, gender, environmental, anti-corruption and any other scientific expert opinion (depending on the area of concern of a legal draft)”.

The standards of expert opinions were developed and enacted by the JK KR Resolution № 75-IV dated 18th January 2008 “On adopting the Standards for individual types of specialized expert opinions of draft laws in the JK of the Kyrgyz Republic”. Paragraph 3 of this Resolution states that, “subjects initiating legislation have to adhere strictly to the Standards when sending draft laws to the Jogorku Kenesh of the Kyrgyz Republic”.

However, legal expert opinion is the only one carried out. Developers and initiators of draft laws rarely involve external experts, including those from non-commercial organizations, in such expert opinions. It should be noted that an expert opinion may be made by “external persons or a group of persons” (the Standards for individual types of specialized expert opinions on draft laws in the JK KR approved on 18<sup>th</sup> January 2008). The RA Law (Article 20) also stipulates that “organizations and persons who did not participate in drafting a law can be used as experts”.

As such, the Law of the Kyrgyz Republic “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic”, the RA Law dated 5<sup>th</sup> June 1996 and JK KR Resolution № 75-IV dated 18<sup>th</sup> January 2008 “On adopting the Standards for individual types of specialized expert opinions on draft laws in the JK KR” contain the norms allowing representatives of civil society to participate in discussing and giving expert opinions on draft normative and legal acts.

However there are no financial, structural and functional mechanisms for making specialized and other types of expert opinions, a sustainable practice. It is also necessary to review the procedures for involving external experts and organizations for the purposes of appraising, developing and discussing RAs.

### ***Recommendations***

1. Develop and introduce procedures and criteria for selecting experts to carry out expert opinions of draft legislation
2. Create and post the database of experts on the JK KR website.
3. Place information about completed expert opinions on draft laws in the draft legislation section of the JK KR website.
4. Set up an Expert Opinion Institute under the Ministry of Justice based on the Legislation Drafting Centre under the Government of the Kyrgyz Republic.
5. Make scientific, legal and other specialized expert opinions in the Ministry of Justice before submitting legislation to be considered by the Jogorku Kenesh.
6. The JK KR must assess anti-corruption, gender, environmental and other aspects of a specific draft law.
7. Train staff of the Jogorku Kenesh, ministries, agencies and CSOs in how to conduct specialized expert opinions.
8. Create a separate budget line for funding external experts in the budgets of state bodies and make sure there is a mechanism for providing such funding.

### ***5.7. Public discussions during the process of drafting legislation by the executive branch***

Slovak successful experience and legal basis

Participation of the public in the administration of public life and in the decision-making process is the basic principle of democracy and drafting legislation is one of the main ways this can be achieved.

The right of the public to comment on each piece of draft legislation is enshrined in the Law-making Rules of the Government of the Slovak Republic. The comments of each subject (state agencies, self-governance bodies or the public) can be general (re the content of the draft legislation) or specific (changes that should be made to a specific part of the draft legislation). Each comment has to be in writing and accompanied by a justification, so anybody can submit comments on any draft legislation via the internet portal.



Rules for involving the public in the decision-making process at parliamentary level are laid down in Section 68 paragraph 5 of the Rules of Procedure of the NC of the SR: If draft legislation has been publicly discussed before it was submitted, the sponsor must submit an evaluation thereof.

During these meetings, CSO representatives or citizens have, with the consent of the committee, an opportunity to express their opinion directly but in practice the public are always allowed to speak.

During the inter-ministerial law-making procedure in Slovakia all ministries and other relevant state bodies or other institutions (self governing bodies and interest groups) and of course the public, can comment on the draft legislation. The sponsor (relevant ministry, which draws up the draft legislation):

- ◆ publishes the bill on its internet website (portal of legal acts) to receive comments,
- ◆ informs all relevant authorities about this fact and
- ◆ informs the relevant authorities about the date, by which they can send their comments to the sponsor. This period is usually 15 working days from the date it is posted on the internet portal. Shorter periods can be set only for specific reasons, but cannot be less than 7 working days.

Every entity that submits a comment has the right to say, that their comment is of cardinal importance.

The sponsor has to evaluate each comment submitted through the legislative portal. If the sponsor doesn't agree with this cardinal comment, it could become subject to litigation. If it was public comment, the sponsor can discuss it with a representative of the public. Whenever a public cardinal comment has been signed by at least 500 people or legal entities (collective comment), the sponsor has to discuss this comment. The sponsor arranges a hearing about the contradictory cardinal comment between its author and a ministry clerk, permanent secretary or minister. If the issue raised by a cardinal comment can't be solved between the sponsor and the representative, the draft legislation is submitted to the government with this contradiction and the government has to decide.

### ***Description of the situation in Kyrgyzstan***

The Law “On Regulatory Acts of the Kyrgyz Republic” (RA Law) and “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” provide for public hearings to be held. The Law on JK Procedures lays down how parliamentary hearings should be conducted.

Article 22 of the RA Law stipulates that

“Public discussions of draft legislation are conducted by the relevant state agency by

- ◆ ensuring access to the text of the draft
- ◆ registering, considering and summarizing suggestions coming from those taking part in public discussions
- ◆ submitting information about suggestions with reasons why they should or should not be adopted in the draft legislation, based on the results of public discussions. The final information appears in the documents supporting the draft legislation

The new version of the law on RA is more detailed (unlike the previous version) in regulating how public discussions should be conducted, but it does not envision the possibility of hearings during discussions and thus reduces the opportunity to provide feedback whilst drafting the legislation. There could be a problem of subjectivity by those elaborating draft laws when reviewing submitted recommendations if there are no officially approved review criteria.

### ***Recommendations***

1. Make it possible to hold hearings during public discussions
2. Make it possible to initiate mandatory public discussions about draft legislation involving parliamentarians and ministry representatives in the event there is a request from the public supported by 500 signatures.
3. Develop a format, approved by the Government, for submitting proposals for draft legislation.
4. Set deadlines for publishing material about issues discussed, submitting suggestions and inviting people to hearings.
5. Develop and introduce criteria for using the proposals from civil society organizations when finalizing draft legislation.

### ***5.8. Parliamentary hearings and public access to drafting legislation in the Jogorku Kenesh of the Kyrgyz Republic***

It is essential that in each democratic society parliamentary meetings be as open as possible. The principle of public meetings of Parliament and its bodies should apply as a general rule. Meetings of the Parliament and its bodies (committees) should only be closed on the grounds of state, official or commercial secrets and state security. All other **debates of the plenum or committees** should be public.

#### ***Slovak successful experience and legal basis***

Principles of open parliamentary meetings are also laid down by the Slovak Law on the Rules of Procedure of the National Council (Parliament) of the Slovak Republic (Law No. 350/1996 Coll.).

Committee meetings in the Slovak Parliament are the most important formal and legal way for interest groups to participate on in parliamentary legislative procedure. During these meetings CSO representatives can express their opinion directly or to submit precise amendments to the draft legislation via MPs. The representatives can speak in the meeting only with the consent of the MPs, but in Slovak practice this consent is a given.

#### ***Description of the situation in Kyrgyzstan***

The main law regulating the operations of the JK KR stipulating the involvement of the public in these activities is the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic”. Overall, the Law is positive about the public’s involvement in the law-making process, including in Parliament and parliamentary hearings however, the provisions of the Law give Parliament discretion to define the need for and format and extent of public involvement.

The provisions of the Law stipulate that the right to initiate parliamentary hearings belongs to committees, commissions, and groups of Deputies and also discuss that hearings are held on an ad hoc basis.

However, the Law does not stipulate in which cases hearings should be held. The list of initiators of parliamentary hearings is limited by parliamentary structures. Active public participation in parliamentary hearings is part of the process of drafting legislation enshrined in the

Constitution of the KR (Article 64) and stipulated in the Law “On the Procedures of the JK KR” (Article 94). The circle of parliamentary hearings initiators should be expanded to include the public and their associations, if they are able to gather the required number of signatures.

Legislative norms on parliamentary hearings should define when mandatory parliamentary hearings should be held. The RA Law, describing when a specialized expert opinion on draft legislation is mandatory, could be used as the basis for this. The same principle could be used to determine the list of issues subject to mandatory parliamentary hearings, e.g. on matters of constitutional rights, freedoms and obligations of citizens; legal status of public associations and the mass media; state budget and taxation system; environmental security; fighting crime and introducing new types of state regulations affecting the business sector.

### ***Recommendations***

1. In Article 80 of the Law on the Procedures of the JK KR, after the words “committees and ad hoc commissions of the Jogorku Kenesh on relevant matters and also groups of Deputies” add the words “and citizens and their associations (if an initiative is signed by not less than 500 citizens)”.
2. In Article 80 of the same Law, after the words “parliamentary hearings are held as needed” add “hearings on matters of constitutional rights, freedoms and obligations of citizens; legal status of public associations and the mass media; state budget and taxation system; environmental security; fighting crime, introducing new types of state regulations affecting the business sector should be mandatory.

In order to ensure the public have greater access, the JK KR may also hold hearings outside Parliament”.

### ***5.9. Timelines and principles for inviting the public to attend parliamentary hearings***

#### ***Description of the situation in Kyrgyzstan***

The legislation stipulates that the organizers of parliamentary hearings invite the public to participate in them providing at least 10 days notice

has been given of the date and venue. The current wording gives hearing organisers discretion as to to who can be invited to them, a situation, which may lead to subjective selection and does not motivate those invited to make proposals that could add to the discussions.

Just announcing hearings is irrelevant if people are not invited to attend and are not told who can attend, the date, time and venue.

Asking the general public rather than inviting selected people to attend hearings ensures more fruitful cooperation between Parliament and the public, resulting in useful proposals to make helpful changes to the matter under discussion. Besides, a clearer definition of the times, and activities at each stage of parliamentary hearings will increase the effectiveness and usefulness of these hearings. Choosing who should be allowed to attend hearings should be based on the principle of interest supported by an appropriately documented proposal/s on the matter under discussion. Participation in hearings should only be limited by the availability of seats in the room where the discussions are held. In the event there are more people than seats, then those wishing to attend should decide between themselves who should be admitted (preference should be given to those proposals submitted by a group of organizations and not to individual applications). Formats need to be drawn up for the public and their associations to submit proposals on the topics under discussion.

### ***Recommendations***

It is recommended to word Article 82 of the Law “On the Procedures of the Jogorku Kenesh of the KR” as follows:

“Parliamentary hearings shall be held by committees, ad hoc commissions and groups of Deputies of the JK KR”.

Choosing who should be allowed to attend hearings should be based on the principle of interest supported by an appropriately documented proposal/s on the matter under discussion. Participation in hearings should only be limited by the availability of seats in the room where the discussions are held. In the event there are more people than seats, then those wishing to attend should decide between themselves who should be admitted (preference should be given to those proposals submitted by a group of organizations and not to individual applications).

Those wishing to participate in hearings should submit their proposals on the matter under discussion according to the established formats approved

by a JK KR Resolution. Proposals submitted that are not in the prescribed format will not be considered. Organizers should also invite representatives of the interested state agencies, mass media and others to the hearings.

The hearings should be advertised in the mass media or on the official website of the JK KR no later than 20 days prior to the date of the hearings. Material about the matter under consideration should be posted on the official website of Parliament no later than 20 days before the hearings.

Citizens and their associations should, no later than 10 days before the hearings, submit their written expression of interest to participate in the hearings with the appropriately documented proposal on the matter under discussion.

A committee, ad hoc commission or group of Deputies initiating the hearings should, no later than 5 days before the hearings, notify an interested person about the status of his/her request”.

### ***5.10. Considering public proposals***

#### ***Slovak successful experience and legal basis***

According to Slovak law, if draft legislation has been preceded by public discussion, the sponsor of the draft law shall submit an expert opinion thereof. During these meetings CSO representatives or citizens have an opportunity to express their opinion directly with the consent of the committee, but the practice is always to let the public have their say. Due to the respect politicians pay to comments by the public, these provisions provide an adequate platform for public participation in the law-making process in Slovakia.

#### ***Description of the situation in Kyrgyzstan***

The country’s legislation stipulates that the format for hearings is decided by a simple majority of Deputies present. If the main objective of hearings is to discuss and adopt (or dismiss) submitted proposals, then this article does not regulate this process.

Moving away from formal hearings to using inputs from civil society will save Deputies time and improve the quality of decisions made by Parliament. To achieve this, it is necessary to regulate the law-making

process, taking into account all submitted proposals and a compulsory written response from hearing organizers if a proposal has been rejected (or partially accepted) with a justification of the rejection (partial acceptance).

### ***Recommendation***

Article 88 of the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” should read as follows:

“Proposals received and submitted for parliamentary hearings should be considered and taken into account.

The final acceptance of a proposal should be made by authorized JK KR bodies (committees, commissions, groups of Deputies). In the event a proposal is rejected (or partially accepted) the authors of such proposals are sent a written response giving the reasons for rejection (partial acceptance).”

### ***5.11. Discussing the results of hearings in JK KR meetings***

#### ***Slovak successful experience and legal basis***

On the website of the Parliament of the Slovak Republic is information concerning the timetable and results of hearings. According to Section 55 of the Rules of Procedure of the National Council (Parliament) of the Slovak Republic (Law No. 350/1996 Coll.) the proceedings of a committee should be recorded in the minutes. The minutes and resolutions should be signed by the committee secretary and then by the Chair of the committee or his/her stand in [Section 48 paragraph (1)].

Section 78 stipulates: The Committee shall submit to the National Council the results of the discussion of a draft law during the second reading in a written report containing the opinion of the committee with a recommendation to the National Council as to whether to pass the draft law or not; when the committee resolves to make amendments, the report shall contain their exact wording. These amendments should be precisely formulated and justified. A written report for the National Council including the opinion of the committee should be passed by the committee as a resolution.

### ***Description of the situation in Kyrgyzstan***

Hearings are held by individual committees, commissions or groups of Deputies meaning that not all of the Deputies are aware of the results of hearings. The country's legislation contains a list of documents required for presenting a draft law for consideration by Parliament. In the list of accompanying documents there is no requirement for information about public hearings held, including parliamentary hearings.

Should information about parliamentary hearings held be included in the list of documents necessary for submitting a draft law for Parliament's consideration, it would improve the quality of parliamentary hearings themselves. In submitting this information it is necessary to mention the proposals submitted for the hearings and also, which of those were accepted or rejected.

### ***Recommendation***

In Article 92 of the Law "On the Procedures of the JK KR" after the words "(6) financial and economic justification (in the case of a draft law requiring additional material and other expenses) put ";" instead of "." and continue with the following: "(7) information about parliamentary hearings held (if any) on the draft law under discussion mentioning the proposals submitted and which of them were and were not taken into account".

### ***5.12. Public oversight of parliamentary procedures of the Jogorku Kenesh of the Kyrgyz Republic***

Implementation of laws and other normative and legal acts is the basis of any law-based state, and this, in the first instance, is related to the activities of the lawmakers themselves. The Jogorku Kenesh of the KR is guided by the Constitution of the KR and such laws as the Law "On the Procedures of the JK KR", the RA Law and other RA issued by the Parliament itself regulating the performance of law-making and supervisory functions by the JK KR.

However, sometimes the procedures established by law are not fully and appropriately implemented, for example, the standards for individual types of specialized expert opinions, approved by the JK KR



Resolution of 18<sup>th</sup> January 2008. In practice, only a legal expert opinion is made.

At the same time, the Law of the KR “On supervisory functions of the JK KR” (dated 31st July 2007) establishes that “...oversight of the implementation of the laws of the Kyrgyz Republic shall be made no later than one year after the enactment of a relevant law and oversight of the implementation of decisions adopted by the JK KR within its mandate in the forms of resolutions should be made no earlier than the date mentioned in such decision...”. The Law also mentions that “...persons responsible for the execution of JK KR resolutions must, on a quarterly basis or on the date mentioned in the resolution, inform the JK KR about the progress of their implementation”. (Article 2)

The Law “On the Procedures of the JK KR” mentions that the Speaker of the Parliament “shall supervise the Deputy Speaker and Committee Chairs in their performance of their vested duties”, and “shall control the execution of resolutions adopted by the JK KR”. (Article 6)

In cases when the system of internal controls over the execution of procedures does not work, there should be an opportunity for external control on behalf of the public. For example, there is a Parliamentary Ombudsman overseeing the law-making process. This person is independent of Parliament.

The formal grounds for addressing violations could be a procedure for receiving complaints and appeals from citizens (e.g. the Law of the KR “On procedures to consider appeals from citizens” dated 28th February 2008). However, in practical terms this norm does not work when talking about following all procedural norms regulating the work of the JK KR.

### ***Recommendations***

1. Clearly define the responsibilities of Deputies and public officials (Speaker, Deputy Speakers, Committee Chairs and their Deputies) of the JK of the KR for observing the procedures stipulated in the legislation;
2. Clarify the procedures on how Deputies and public officials (Speaker, Deputy Speakers, Committee Chairs and their Deputies) work together in observing/not observing parliamentary procedures;
3. Introduce a norm according to which an authorized person must suspend the law-making process and return the document for

additional work on it, when a complaint of a breach of parliamentary procedures supported by appropriate arguments and the signatures of no less than 100 citizens, has been received.

4. In Article 2 of the Law “On supervisory functions of the JK KR” in the sentence “...supervision of the implementation of decisions adopted by the JK KR within its mandate in the form of resolutions shall be carried out no earlier than the date mentioned in such decision...” to replace “no earlier” with “no later”.

## **6. ADDITIONAL RECOMMENDATIONS TO ENSURE NGO SUSTAINABILITY AND IMPROVE ACCESS TO LEGAL INFORMATION**

In the course of project implementation and, in particular, during the study tour to Slovakia for Deputies of the Jogorku Kenesh, representatives of CSOs and the Government Office, additional issues in the area of ensuring the sustainability of CSOs, improved access of citizens to legal information through local self-governance bodies and also improved awareness of Deputies, were studied.

Below is a description of Slovak experience in these areas and relevant recommendations:

1. Allocation of 1% of income tax to NGOs
2. Free copy of the Kyrgyz Collection of laws to each municipality
3. Every book written by an expert/s published in Kyrgyzstan be given to the Parliamentary library

### ***6.1. Allocation of 1% of income tax to NGOs***

The third non-political non-profit sector is one of the integral parts of the every democratic society. The state should try to secure fair conditions for the proper functioning of all organizations, which belong to this group and the state financial support system should be considered one of these main conditions. CSOs’ ability to earn/raise their own money is legally restricted and limited because they are non-profit and mainly provide public services and voluntary activities. In this case it is advisable, that

the state has its own financial support system (direct and indirect) just for the third sector. On the other hand, CSOs provide services for the general public, so it is reasoned that the general public also has to be somehow involved in this support system and can decide, which CSO will be financially supported and at what level. The practice of many states confirms that this can be achieved via income tax allocation.

For example Slovakia, Hungary, Lithuania, Poland and Romania (in Central and Eastern Europe) are states where the system of income tax allocation has been an effective way of supporting CSOs for many years. Each year private individuals can allocate a specified percentage of their income tax to selected CSOs quite legally. Such a system is completely unknown in Central Asian countries and Kyrgyz parliamentary representatives confirmed the Kyrgyz Republic aims to be a leader in implementing this system in the region.

### *Slovak successful experience and legal basis*

The tax allocation system in the Slovak Republic has been running since 2003 **when amendments to Law No. 595/2003 Coll. on Income Tax** made it possible for Slovak citizens to allocate 1% of their income tax to their chosen CSO and in 2004 this was extended to legal entities. The level has just been raised from 1% to 2%.

A CSO wanting to take advantage of this system has to meet some legal requirements (§ 50 Law No. 595/2003 Coll. on Income Tax):

- ◆ the CSO has to provide services in given areas (such as humanitarian assistance, charity, childcare, youth and sport, education, protection of human rights, healthcare, culture and environmental protection),
- ◆ the CSO has to legally exist (such as a foundation, civil association, non-profit organization providing welfare services, non-investment funds, religious association, Slovak Red Cross),
- ◆ the NGO is on the special notarized list of recipients,
- ◆ the NGO has no social fund debts.

Taxpayers also have to meet some special legal requirements, but they are only administrative and the tax allocation system is very simple. The Slovak regional tax offices transfer the allocated sum to the bank account of each chosen CSO.

In the Slovak system for funding CSOs, a taxpayer's right to allocate 2% of their income tax is very important and useful. This type

of funding represents the only real money Slovak CSOs can count on and is a legal way of enabling them to continue and develop their activities. In 2008, Slovak taxpayers allocated 44,851,390 euro to their chosen CSOs, compared to 42,125, 074 euro in 2007, an increase of 2,726,316 euro.

This system of allocation is an important democratic element in society – a legal tool of direct democracy, through which taxpayers can decide directly how the allocated taxes will be used and by which non-profit organization.

### ***Recommendations***

The Kyrgyz legal system does not have the same or similar financial support system for NCOs yet and to establish such a system the following legal and practical steps need to be taken:

1. An in-depth analysis of the financial impact of such a system on the economic and budgetary situation of the state should be made;
2. The main principles of the system should be determined (the percentage of income tax allocated for this purpose, which taxpayers have the right to allocate this tax, which NCOs should be registered to receive such funding, etc.);
3. Work out how the system should be implemented (including who/what/where/how e.g. number of staff in tax offices);
4. Develop and draw up an amendment to the relevant law – Kyrgyz Tax Code – which will set up the new system and all necessary legal amendments to the Code and other laws. Amendments should give legal entities and individuals the right to pay 1% of their income tax to NCOs, which they will select on a voluntary basis. There should also be special clauses in the Tax Code establishing eligibility criteria for NCOs to be entitled to 1% of income tax;
5. A tax filing system should be set up to govern the transfer of money to recipient NCOs;
6. The system should be transparent and precise (for example, trained tax office or other responsible bodies' staff);
7. It is important to introduce this system via information, advocacy and training campaigns during which the general public and experts from the third sector will be informed about the aim of the new system and will be able to discuss the proposed bill and submit proposals.

## ***6.2. Free copy of the Collection of Laws to each municipality***

### ***Slovak successful experience and legal basis***

Collection of Laws of the Slovak Republic is the official source of generally binding legislation.

The Collection of Laws contains the Slovak Constitution, constitutional acts, acts, governmental decrees, state agencies' bylaws and decrees; some decisions of the Constitutional court, proposals adopted by referenda and also approved international treaties.

It is presumed that everybody knows all the published legislation. The public availability of the Collection of Laws is a very important part of this presumption. Everyone can easily buy each section of the Collection of Laws very cheaply and can access the free website of the Collection of Laws. A copy of each section of the Collection is sent free to all municipalities by law (Law No. 1/2003 Coll. on the Collection of Laws of the Slovak Republic) and each municipality should ensure that each citizen has free access to this copy.

### ***Recommendations***

Provide citizens with free access to laws by means of distributing a copy of the Collection of Laws to all local self-governance bodies where citizens can study the texts of the laws.

## ***6.3. All material published by experts in Kyrgyzstan must be sent to the Parliamentary Library***

### ***Slovak successful experience and legal basis***

The Parliamentary Library of the Slovak Parliament is a special part (department) of the Parliamentary Institute, which was set up in 1991. It is not a public library and provides services only for MPs, Chancellery employees and selected clients (for example state bodies). It cooperates with the biggest libraries and information institutions in Slovakia, chosen institutions in the European Union and foreign parliamentary libraries. The library has been a member of the International Federation

of Library Associations since 1992. The library fund consists of 55,000 publications in the area of law, policy, parliamentarianism, statistics, economics, information technologies, social sciences, encyclopedias, dictionaries etc. It has a specialized fund of parliamentary material and Collections of Laws and it has the right to receive statutory copies of all Slovak publications (Law No. 212/1997 Coll. on statutory copies of non-periodical publications and magazines). The magazine fund has over 1,000 national and 50 foreign titles. The CD Rom databases are also part of the library fund.

The experience of the Slovak Parliament has shown that for MPs and professional staff of the Slovak Parliament, the availability of books and magazines is of great value. The decision-making process in each Parliament of the world should be based on adequate information. Publications in each country reflect life inside the country, its problems and successes, scientific findings or experiences of other countries. The availability of a good quality parliamentary library is one of the conditions for ensuring that parliamentarians are aware of what is going on around them.

### ***Recommendation***

Make it mandatory to submit one copy of each book published by experts in Kyrgyzstan to the Parliamentary library.

## **7. CONCLUSIONS**

The Constitution of the Kyrgyz Republic stipulates the main directions and development goals of the country. Regulatory acts are being designed and adopted in order to achieve these goals and achieve constitutional aspirations. The Main Law of the country, being the Law of Direct Application, guarantees the rights of citizens to partake in state governance, directly or indirectly. However, the available formats and procedures for cooperation between the state and citizens are not effective and, as a result, do not help improve the quality of decisions.

While the country's Constitution is the strategy for the state's organization and development, the adopted RAs are the tactics for achieving strategic goals and addressing the identified tasks.

The rationality and coherence of developed decisions, that form the basis for RAs being adopted, depend not only on the professionalism of the developers and initiators but also on the persons affected by the proposed decisions. Unification of professionals working in different areas but connected by how RAs are used, is a way of developing decisions reflecting the country's realities and meeting citizens' aspirations.

Many countries who have chosen this way have already achieved impressive results in different spheres of life and activities of the state and citizens. The study of available practices in the area of state-citizen cooperation and their adaptation to Kyrgyz conditions is one way to ensure the state meets its constitutional guarantees to its citizens.

The Kyrgyz legislation stipulates the involvement of citizens in the process of considering draft legislation. The initial expert opinion on draft legislation is performed through parliamentary and public hearings, participation of citizens in which is specifically established by the KR RA Law.

The RA Law says that draft laws “on matters of constitutional rights, freedoms and duties of citizens; legal status of public associations and mass media; state budget and taxation system; environmental security; fighting crime, introducing new types of the state regulations for the business sector shall be subjected to scientific, legal and other specialized expert opinions (depending on the area covered by the draft legislation)”.

The RA Law also stipulates the norms according to which “draft laws submitted for consideration by the JK KR and sent for independent scientific expert opinion should be considered by a meeting of the legislative body if there is an expert opinion on these drafts”.

Expert opinion standards are developed and approved in accordance with JK KR Resolution №75-IV dated 18th January 2008 “On approving the standards for holding individual types of specialized expert opinions on draft laws in the JK KR”. The Resolution states that “those who initiate legislation have to adhere strictly to the established standards when submitting draft legislation to the JK KR”.

As such, the country has a legal basis for successful and effective cooperation for the purposes of implementing the constitutional guarantees of the state. In order to introduce the norms into the practice of effective cooperation between the state and the citizens there is a need for more flexible formats and procedures to ensure exchanges of opinions and proposals.

## 8. FINAL RECOMMENDATIONS

This Section contains all the recommendations of this report offered for consideration by specific state governance bodies in a table.

### **First group of recommendations for increasing the effectiveness of cooperation between civil society organizations and state governance bodies of the Kyrgyz Republic in the law-making process**

<i>№</i>	<i>Recommendation</i>	<i>Recommended to</i>
<b>Ensuring public access to information in the law-making process via Internet portals</b>		
1.	Amend the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” by adding a new article as follows: “The Office of the Jogorku Kenesh of the Kyrgyz Republic shall ensure access to the texts of adopted laws, agendas of plenary meetings and committee meetings and monthly calendar plans by placing electronic versions of these documents on the official parliamentary website”.	JK KR
2.	Establish clear deadlines for placing material on the official site of Jogorku Kenesh of the Kyrgyz Republic. It is proposed to establish the following timelines: <ul style="list-style-type: none"> <li>◆ 3 (three) working days for posting all draft laws submitted to the JK KR, including accompanying material;</li> <li>◆ 5 (five) working days for posting the texts of laws adopted by the JK KR and sent to the President of the KR;</li> <li>◆ 3 (three) working days for defeated draft legislation;</li> <li>◆ 3 (three) working days before the start of a calendar week to place a list of issues included in the agendas of committees and plenary meetings.</li> </ul>	JK KR



3.	The updated KR RA Law should establish the timeframe for publicizing documents pertaining to the subject matter of public discussions (justification note, expert opinion reports, results of public hearings, etc.) through their mandatory placement on the official website of the drafting agency, if such a site is available.	JK KR
<b>Setting up an integrated state portal of regulatory acts</b>		
4.	Set up an official legal information internet portal containing the texts of all adopted laws and also the texts of all draft legislation that will ensure the required public participation in discussing draft legislation from its inception	Government's Office, Ministry of Transport and Communications of the KR, Ministry of Justice of the KR
5.	Provide the public with an opportunity to submit comments on all draft legislation via the portal. As such, the portal will help each citizen implement his/her right to get information and participate in governance	Government's Office Ministry of Transport and Communications of the KR, Ministry of Justice of the KR
6.	Introduce the practice of authors of draft legislation responding to submitted comments via the website	Government's Office, Ministry of Transport and Communications of the KR, Ministry of Justice of the KR

7.	Integrate all available electronic databases of these and all other draft legislation into one government electronic system	Government's Office, Ministry of Justice of the KR JK KR
8.	Place the texts of by-laws on the websites of ministries and state agencies	Government's Office Ministry of Justice of the KR
<b>Set up a central state advisory body</b>		
9.	Set up, under the Kyrgyz President's Administration, Kyrgyz President's Secretariat or Kyrgyz Government Office, an advisory council representing the interests of civil society in the legal drafting process. It is necessary to make sure that the council cooperates directly with the above-mentioned bodies in the decision-making process	Institute of the President of the KR  Government's Office
<b>Create the conditions for a regular dialogue between the state and CSOs at central state level</b>		
10.	Set up a special coordination office for CSOs within the Government or other state body	Government's Office
11.	Establish the cooperation mechanism depending on the chosen method of communication, by answering such questions as organizational structure, membership, communication methods, etc.	Government's Office
12.	Develop a set of criteria for communication tools	Government's Office JK KR

13.	Select participants depending on the chosen communication tool	Government's Office JK KR CSO
14.	Develop a mechanism for daily communication to decrease the number of differences of opinion between the parties to this dialogue	Government's Office JK KR CSO
<b>Giving citizens the right to submit proposals to cease drafting or considering draft legislation to the initiators of such draft legislation</b>		
15.	To the Law "On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic" should be added an article about groups of citizens making joint appeals to cease designing or considering draft legislation	JK KR
16.	Enshrine in law that if a petition has 10,000 bona fide signatures, the relevant Committee of the JK KR should consider it	JK KR
17.	Enshrine in law that if a petition has 30,000 bona fide signatures, then the JK KR suspends consideration of the draft legislation in order to study it, after which, the relevant Committee decide whether or not to revise the draft legislation in light of the proposals received from 30,000 citizens or to continue considering the draft without any changes.	JK KR
<b>Ensure public participation in law-making</b>		
18.	Develop and introduce procedures and criteria for selecting experts to carry out expert opinions of draft RA	JK KR Government's Office
19.	Create and post the database of experts on the JK KR website	JK KR

20.	Post information about conducted expert opinions on draft legislation in the legal drafts section of the JK KR website	JK KR
21.	Set up an Expert Opinion Institute under the Ministry of Justice based on the Legislation Drafting Centre under the Government of the Kyrgyz Republic.	Ministry of Justice of the KR
22.	Conduct in the Ministry of Justice scientific, legal and other specialized expert opinions before submitting draft legislation for consideration by the Jogorku Kenesh	Ministry of Justice of the KR Government's Office
23.	The JK KR should assess anti-corruption, gender, environmental and other aspects of a specific draft law	JK KR
24.	Train staff of the Jogorku Kenesh, ministries and agencies and civil society organizations on how to conduct specialized expert opinions	Government's Office JK KR
25.	Stipulate separate budget line funding of external experts in the budgets of state bodies and set up a mechanism for providing such funding	Ministry of Finance of the KR
<b>Public discussions during the law-making process by the executive authorities</b>		
26.	Make provision for hearings to be held during public discussions	Ministry of Justice of the KR
27.	Make provision for an opportunity to initiate mandatory public discussions of draft legislation involving parliamentarians and ministry representatives, in the event there is a request from citizens supported by 500 bona fide signatures	JK KR Government's Office

28.	Develop a format, approved by the Government, for submitting proposals for draft legislation	JK KR
29.	In the case of hearings, set deadlines for publishing material on the issues discussed and timelines for submitting suggestions and inviting people to the hearings	JK KR
30.	Develop and introduce criteria for using the proposals from civil society organizations when finalizing draft RA	JK KR
<b>Parliamentary hearings and public access to law-making in the Jogorku Kenesh of the Kyrgyz Republic</b>		
31.	In Article 80 of the Law on the Procedures of the JK KR after the words “committees and ad hoc commissions of the Jogorku Kenesh on relevant matters and also groups of Deputies” add “and citizens and their associations (if a petition bears not less than 500 bona fide signatures)	JK KR
32.	In Article 80 of the same Law, after the words “parliamentary hearings are held as needed” add “hearings on matters of constitutional rights, freedoms and duties of citizen; legal status of public associations and the mass media; state budget and taxation system; environmental security; fighting crime, introducing new types of state regulations in the business sector, shall be compulsory. In order to ensure better accessibility by the public, the JK KR may also hold hearings outside Parliament”.	JK KR

**Timelines and principles for inviting people to parliamentary hearings**

<p>33.</p>	<p>It is recommended to word Article 82 of the Law “On the Procedures of the Jogorku Kenesh of the KR” as follows:          “Parliamentary hearings shall be carried out by committees, ad hoc commissions and groups of Deputies of the Jogorku Kenesh.          Participants in hearings shall be selected based on the principle of expressed interest and the availability of appropriately documented proposals on the matter under discussion. The only limitation to hearings is the number of free seats in the room where the discussions are taking place. In the event the number of those willing to participate exceeds the number of seats, the criterion used for participation is the availability of proposals on the matter under discussion to be submitted by people-organizations as agreed amongst themselves (preference shall be given to the proposals submitted by a group of organizations, rather than individuals).          Those wishing to participate in hearings should submit their proposals on the matter under discussion according to the established formats approved by a JK KR Resolution and proposals not meeting these criteria will not be considered. Organizers should also invite representatives of the interested state agencies, mass media and other people to the hearings.          The hearings should be advertised in the mass media or on the official website of the JK KR no later than 20 days prior to the date of the hearings. Details of the matter to be considered should be posted on the official Parliamentary website of the Parliament no later than 20 days before the hearings.          Citizens and their associations shall, no later than 10 days before the hearings, submit their written expression of interest to participate in the hearings with the appropriately documented proposal on the matter under discussion.          A committee, ad hoc commission or a group of Deputies initiating the hearings shall, no later than 5 days before the hearings, notify interested parties about the status of his/her request”.</p>	<p>JK KR          Government’s          Office</p>
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<b>Considering public proposals</b>		
34.	<p>It is recommended that Article 88 of the Law “On the Procedures of the Jogorku Kenesh of the Kyrgyz Republic” be worded as follows:</p> <p>“Proposals received and submitted for parliamentary hearings shall be considered and taken into account.</p> <p>The final acceptance of a proposal shall be made by authorized JK KR bodies (committees, commissions, groups of Deputies). In the event that some proposals are rejected (or partially accepted), the authors of such proposals are sent a written response giving the reasons for rejection (partial acceptance).”</p>	JK KR Government’s Office
<b>Discussing the results of hearings in JK KR meetings</b>		
35.	<p>In Article 92 of the Law “On the Procedures of the JK KR” after the words “6) financial and economic justification (in the event a draft law requires additional material or other expenditure) put “;” instead of ” and continue with the following: “7) information about conducted parliamentary hearings (if any) on the draft law under discussion mentioning proposals received and which of them were and were not considered”.</p>	JK KR
<b>Public oversight of parliamentary procedures of the Jogorku Kenesh of the Kyrgyz Republic</b>		
36.	<p>Clearly define the responsibilities of Deputies and public officials (Speaker, Deputy Speakers, Committee Chairs and their Deputies) of the Jogorku Kenesh of the KR for observing the procedures stipulated by RA;</p>	JK KR
37.	<p>Clarify the procedures for cooperation between Deputies and public officials (Speaker, Deputy Speaker, Committee Chairs and their Deputies) for their observance/non-observance of parliamentary procedures;</p>	JK KR

38.	Introduce a norm according to which an authorized person must suspend the law-making process and return the document for additional work on it, upon receipt of an allegation of a violation of parliamentary procedures supported by appropriate arguments and the bona fide signatures of no less than 100 citizens.	JK KR
39.	In Article 2 of the Law “On supervisory functions of the JK KR” in the sentence “...supervision of the implementation of decisions adopted by the JK KR within its mandate in the forms of resolutions shall be done no earlier than the date mentioned in such decision...” to replace “no earlier” with “no later”.	JK KR
<b>Second group of recommendations to ensure NGO sustainability and improve access to legal information</b>		
<i>№</i>	<i>Recommendation</i>	<i>Recommended to</i>
<i>Allocation of 1% of income tax to NGOs</i>		
40.	An in-depth analysis should be made of the financial impact on the economic and budgetary situation of the state of allocating 1% of income tax to CSOs;	JK KR
41.	The main principles of the system should be determined (the percentage of income tax allocated for this purpose, which taxpayers have the right to allocate this tax, which NCOs should be registered to receive such funding, etc.);	JK KR
42.	Work out how the system should be implemented (including who/what/where/how e.g. number of staff in tax offices);	JK KR



43.	Develop and draw up an amendment to the relevant law – Kyrgyz Tax Code – which will set up the new system and all necessary legal amendments to the Code and other laws. Amendments should give legal entities and individuals the right to pay 1% of their income tax to NCOs, which they will select on a voluntary basis. There should also be special clauses in the Tax Code establishing eligibility criteria for NCOs to be entitled to 1% of income tax;	JK KR
44.	A tax filing system should be set up to govern the transfer of money to recipient NCOs;	State Tax Inspection Government's Office
45.	The system should be transparent and precise (for example, trained tax office or other responsible bodies' staff);	State Tax Inspection Government's Office
46.	It is important to introduce this system via information, advocacy and training campaigns during which the general public and experts from the third sector will be informed about the aim of the new system and will be able to discuss the proposed bill and submit proposals.	State Tax Inspection Government's Office
<b>Free copy of the Collection of Laws to each municipality</b>		
47.	Provide citizens with free access to laws by means of distributing a copy of Collection of Laws to all local self-governance bodies where citizens can study the texts of laws	National Book Chamber of the KR JK KR
48.	All materials published by experts in Kyrgyzstan must be sent to the Parliamentary Library. Make it mandatory to submit one copy of each book published by experts in Kyrgyzstan to the Parliamentary library	National Book Chamber of the KR JK KR

## ANNEX

### *Annex 1*

#### **Information about the experience of Slovakia in organizing and structuring Parliamentary administration staff**

As the legislative outputs of today touch every area of our life it is necessary to have an adequate number of specialized experts in every area of law-making. Only suitably specialized experts can provide lawmakers with adequate support.

The Slovak Parliament has, in accordance with the Law on the Rules of Procedure of the National Council (Parliament) of the Slovak Republic (Law No. 350/1996 Coll.), set up the Chancellery as a budgetary unit funded by public money. The Chancellery provides professional, organizational and technical services necessary for the operation of the National Council and its committees and also carries out the duties set out by other regulations, particularly in the area of employment relations, protection and administration of public property and the spending of public funds as the administrator of a separate Budget Article.

The Chancellery is under the control of, and represented by its Head, who is appointed or dismissed by the President of the National Council and shall also be responsible to him/her. Every staff member of the Chancellery shall have an employment contract concluded between themselves and the Chancellery, represented by its Head.

The Chancellery may require from the state, public and other authorities and corporations any material, information and explanations, which may be necessary for the operation and activities of the National Council and its committees. These authorities are obliged to supply whatever is needed. Authorized staff of the Chancellery may attend meetings of the National Council. At committee meetings they can make observations regarding draft legislation and other matters under consideration.

The Chancellery shall be responsible for filing and retaining all material, printed documents and dossiers, files sent to the National Council and its committees and material sent to the Chancellery so that it can exercise of its responsibilities.

The Chancellery is divided into several different specialized departments.

The Parliamentary Institute is a special part of the Chancellery that provides information and training services related to the activities of the National Council and its Deputies. The Parliamentary Institute is composed of professionals specializing in the economy, environment, social care, security policy and other problems of society.

A special department was also established to support the law-making process in the Parliament from the legislative point of view – Department of Legislation and Approximation of Law. Its main role is to provide professional support during the law-making process from the submission of draft legislation to the National Council to its publication in the Collection of Laws. The Department also provides various information about the Slovak legal procedure and European Union law and gives a legal opinion on each draft law and on questions of interpretation of mandatory binding RA addressed to the National Council or Chancellery. It also prepares draft standpoints on the position of the National Council in the cases pending before the Constitutional Court and deals with new legal problems arising from the Constitution, from the meetings of the National Council and its committees or from Slovak membership of the European Union. The Department also makes comments on the internal regulations of the Chancellery. There are 22 positions reserved for this Department, which include the Head of the Department, 13 legal advisors in the field of Slovak legal procedure, 6 legal advisors on European Union law and two secretaries. Each of these advisors has their own major area of law and draft legislation is assigned according to their specialization.

MPs, representatives of the public, cannot themselves master all the expert information, which they need at work and so each law-making body – Parliament needs adequate expert employees help cover their functions and competences. The main role of the Parliament is to control the government and to pass good laws, so the staff working for Parliament should be composed of law-making and other legal professionals. The existence of a professional parliamentary staff is one of the guarantees, that the Parliament can make good, sound decisions.

**Information about the experience of Slovakia and Croatia in ensuring ongoing communications between the state and NCOs**

*Slovak experience*

**By-laws of the Government Council approved by Slovak Government Resolution dated 20th June, 2007**

**Article 1**

By-laws of the Government Council of the Slovak Republic on Non-governmental Non-profit Organizations (hereinafter 'Council') defines the tasks of the Council, its structure and rules of procedure.

**Article 2**

The Council is a coordinating and advisory body of the Government of the Slovak Republic to support the activities of nongovernmental, non-profit organisations, especially civil associations, foundations and non-investment funds, associations of legal bodies, property associations and charitable and humanitarian facilities providing public services, especially in the fields of charity and humanitarian support, support to children and young people, developing sports, education, human rights protection, healthcare, culture, environmental protection and regional development.

**Article 3**

**Tasks of the Council**

1. The Council fulfills its tasks according to its own plan of activities that adheres to and concurs with the government activities and legislative tasks plans of the Government of the Slovak Republic.
2. Main competencies of the Council are:
  - a) Elaborating and appraising conceptual material and arranging Resolutions of the Government of the Slovak Republic concerning support to the activities of non-governmental, non-profit organizations,
  - b) Elaborating legislative proposals and opinions on legislative proposals concerning the terms of activities of non-governmental non-profit organizations

- c) Cooperating with central state administration bodies of the Slovak Republic under cooperation programmes of the state and non-governmental, non-profit organizations at all levels of public administration, in defining procedures and criteria of access of non-governmental, non-profit organizations to public resources, on the system of providing endowments for non-governmental, non-profit organizations from the state budget, and proposing adequate representation of non-governmental, non-profit organizations in decision-taking, monitoring and evaluation bodies,
- d) Supporting the publicly accessible information system with its databases on non-governmental, non-profit organizations and projects and programmes of the Government of the Slovak Republic, its resolutions and adopted tasks resulting from the needs of non-governmental non-profit organizations and the Government of the Slovak Republic.
- e) Setting up technical working groups dealing with particularly complex tasks

#### **Article 4**

##### **Structure of the Council**

1. The Council consists of the President, Vice-President, Secretary and other members of the Council.
2. The President of the Council is the Deputy Leader of the Slovak Government for a knowledge-based society, European affairs, human rights and minorities.
3. The Vice-President of the Council is the State Secretary of the Ministry of Finance of the Slovak Republic.
4. The President and Vice-President are appointed and dismissed by the Government of the Slovak Republic. The Secretary and other members of the Council are appointed and dismissed by the President of the Council.
5. The Secretary of the Council is the General Director of the Human Rights and Minorities Department of the Government Office.
6. Members of the Council are representatives of non-profit, non-governmental organizations, representatives of ministries and of other central state administration bodies whose terms of reference include non-governmental, non-profit organizations.
7. Members of the Council must be citizens of the Slovak Republic of unimpeachable character.

8. Council membership is honorary.
9. Absence from Council meetings is to be reported in advance to the Secretary of the Council.  
Council members have the right to nominate a stand in to attend a Council meeting
10. Council membership ceases on:
  - a) death
  - b) dismissal
  - c) written resignation

### **Article 5**

1. **The President of the Council**
  - a) runs the Council and reports to the Government Council of the Slovak Republic.
  - b) submits a plan of activities to the Council for approval
  - c) summons Council meetings
  - d) submits to the Government of the Slovak Republic initiatives and recommendations endorsed by the Council
  - e) appoints and dismisses the Vice President and Members of the council after agreeing the list of names with the Government of the Slovak
  - f) appoints and dismisses the Secretary of the Council
  - g) appoints members of technical groups approved by a Council decision, and invites representatives of other institutions to the Council meetings
  - h) fulfills tasks delegated to him/her by the Council
2. **The Vice-President of the Council**
  - a) stands in for the President of the Council in his/her absence subject to the rights and duties delegated to him/her by the President
  - b) participates in Council meetings with a right to vote
3. **The Secretary of the Council:**
  - a) prepares proposals for the plan of activities of the Council
  - b) organizes and runs Council meetings
  - c) is responsible for preparing positions, proposals and recommendations on material submitted to the Council proceedings
  - d) informs the Council about fulfillment of its resolutions
  - e) participates in Council meetings without the right to vote
  - f) takes minutes of Council meetings

4. Council members
  - a) take part in Council meetings with the right to vote
  - b) approve the plan of activities of the Council and the programme of Council meetings
  - c) adopt positions, proposals and recommendations on material discussed in Council meetings
  - d) submit initiatives and recommendations to the Council dealing with issues concerning non-governmental, non-profit organizations

#### **Article 6**

##### **Rules of Procedure of the Council**

1. Council meetings are convened and chaired by the President who also determines the Council's agenda
2. As a rule, the Council meets twice a year.
3. The quorum for the Council is if a simple majority of its members are present.
4. A decision of the Council is legal if a simple majority of members present have voted for the proposal. In the event of a tied vote, the Council President has the deciding vote.
5. The Council accepts positions submitted by the Council President as a member of the government in proceedings of the Government of the Slovak Republic according to the rules of procedure of the Government of the Slovak Republic.
6. As a rule, Council meetings are closed. The public is informed about the proceedings results by the Council.

#### **Article 7**

##### **Coming into effect**

This Committee's By-laws come into effect on the day they are approved by the Government of the Slovak Republic.

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**Rules of Procedure of the Government Council  
approved by a Resolution of the Government Council  
dated 27th February 2008**

**General Clause**

**Article 1**

1. Council activities are managed by the President, who accounts for the activities of the Council to the Government of the Slovak Republic (hereinafter „government“).
2. During the absence of the President, the Vice-President of the Council deputizes for him in accordance with the rights and duties delegated to him/her.

**Article 2**

1. The Council fulfills tasks according to its own plan of activities adhering to and in accordance with the work plan of the government and the plan of legislative tasks.
2. As a rule, the Council meets twice a year.
3. If requested in advance by no less than a simple majority of Council members and non-governmental, non-profit organization representatives, the President is obliged to convene a Council meeting not later than 15 days following receipt of a written request for a Council meeting to be convened.
4. To tackle particularly complex issues the Council establishes technical working groups.

**Preparation of Council Proceedings**

**Article 3**

1. Council meetings are convened and run by the President, who proposes the agenda of the Council meeting
2. Material for proceedings is submitted by an authorized person to the Council Secretary not later than 7 days prior to Council meetings.
3. Written invitations along with the draft agenda for Council meetings and written material to be discussed according to the draft agenda are to be sent to each Council member no later than 7 days prior to the Council meeting.



4. Council members are obliged to inform the Secretary of the Council of their absence from Council meetings in writing, in advance.
5. If a simple majority of non-governmental, non-profit organization members are absent from the Council meeting, the President of the Council, fixes an alternative date and informs Council members and other invited persons if necessary (in writing, by phone, by fax)
6. The agenda for Council meetings is proposed by the President of the Council based on the plan of activities of the Council and on proposals and recommendations of Council members concerning solving issues of non-governmental, non-profit organizations.
7. A document submitted to Council proceedings should contain
  - a) document title,
  - b) name of person submitting the document,
  - c) date the document was submitted,
  - d) reason/motive **why the document was submitted**
  - e) list of material to be reviewed
  - f) **draft conclusions and resolutions**

### **Council Proceedings**

#### **Article 4**

1. The Council proceeds and decides on the basis of written documents (draft reports, analyses) and oral information submitted by members of the Council.
2. In valid, urgent cases and with the consent of the majority of members present, the Council can consider an issue based on a written or oral proposal raised by a Council member during the meeting.

#### **Article 5**

1. The quorum of the Council is a simple majority of all its members.
2. A Council member can nominate an authorised stand in, in writing, if he/she is unable to attend a meeting
3. If there is no simple majority of non-governmental, non-profit organization members at the Council meeting, the President of the Council cancels the meeting and fixes the date of the next meeting of the Council; if appropriate, he designates it post facto and notifies Council members (in writing, by phone, by fax)
4. As a rule, Council meetings are closed and the Council informs the public about the results of the meetings.

5. The President of the Council can invite representatives of other institutions to discuss selected material and contribute to an objective assessment of the discussed matters.
6. Participants in Council meetings confirm their presence by signing the attendance list

### **Secretary of the Council**

#### **Article 6**

1. The Secretary of the Council is the General Director of the Human Rights and Minorities Department of the Government Office of the Slovak Republic.
2. The Secretary participates in Council meetings without a right to vote.
3. The Secretary of the Council writes the minutes of Council meetings and is responsible for all organizational and administrative tasks related to Council activities.

### **Council Proceedings**

#### **Article 7**

1. The President of the Council controls Council proceedings.
2. At the beginning of each meeting the Council discusses the draft agenda and the President puts its approval to the vote.
3. Whilst discussing the draft agenda Council members can add, modify or reject items to be discussed.
4. Material included in the Council meeting agenda is presented by the person submitting it and in his/her introductory remarks he/she briefly justifies why it has been submitted. Introductory remarks need not necessarily be made.

#### **Article 8**

1. Members of the Council can express their opinion and make suggestions and proposals about individual bargaining points at any time during the Council proceedings. Representatives of other institutions invited to the Council proceedings can express their opinion or explain meanings when asked by the Chair of the Council meeting or with his/her approval.
2. In his/her closing words, the proposer replies to standpoints raised during the discussions

3. Opinions, proposals and suggestions aimed to be adopted by a Council meeting resolution must be duly justified.

### **Adopting Resolutions**

#### **Article 9**

1. Findings are formulated by the President who takes into account opinions raised during the meeting.

#### **Article 10**

1. Decisions of Council meetings are adopted by an open vote.
2. Members of the Council participating in Council meetings each have one vote.
3. A decision of the Council is legal if a simple majority of members present have voted for the proposal. In the event of a tied vote, the Council President has the deciding vote.

#### **Article 11**

1. The Council adopts decisions in the form of a Council Resolution; its final wording is formulated by the President of the Council.
2. A Council Resolution contains:
  - a) date of adoption and Council resolution number
  - b) exact wording of the Council resolution
  - c) tasks, parties responsible for and term of their fulfillment
  - d) recommendations for other people.
3. A Resolution is part of the minutes of the Council meeting

### **Minutes of Council Meetings**

#### **Article 12**

1. Minutes of Council meetings are prepared.
2. Minutes of Council meetings include the date and venue of the Council meeting, names of those present, names of excused and unexcused persons, meeting agenda, proceedings and adopted decisions – resolutions. The attendance list and approved documents submitted at the Council meeting are attached.
3. A Council member is entitled to request that his/her objections to or different opinions about the negotiated material and/or to the Council resolution are included in the minutes of the Council meeting.

4. Minutes of the Council meeting are sent to all members of the Council.
5. An abstract from the minutes or written information about the Council meeting decisions are sent to invited persons or subjects who have been given some tasks during the meeting or are concerned with certain activities.
6. Minutes of the Council meeting are to be sent not later than 15 working days from the day after the Council meeting ended.
7. Minutes of the meetings and all relevant material are archived by the Secretary of the Council.

### **Amendments and Supplements**

#### **Article 13**

Amendments and Supplements to these rules of procedure are to be approved by the Council.

#### **Coming into effect**

#### **Article 14**

These rules of procedure come into effect on the day of their approval by the Council.

### *Croatian Experience*

#### **Government of the Republic of Croatia – Office for cooperation with NGOs**

The Government Office for Cooperation with NGOs was founded by the Regulation on the Government Office for Cooperation with NGOs in 1998 with the aim of performing expert work in the domain of the Croatian Government with regards to creating conditions for cooperation and partnership with the non-governmental, non-profit sector, especially with associations in the Republic of Croatia.

The Office has a wide scope of activities, from cooperation in creating and proposing new legislative frameworks for the activity of the non-governmental, non-profit sector in the Republic of Croatia, monitoring the implementation of the National Strategy for the Creation of an Enabling Environment for Civil Society Development and measures of the Operational Implementation Plan for the Strategy for forming a programme, standards and recommendations for financing the activity of civil society organizations from the state budget and other public funds, as well as pre-accession and structural funds of the European Union.

According to the existing Regulation on the Government Office for Cooperation with NGOs, the task of the Office is to coordinate the work of ministries, central state offices, Croatian Government offices and state administrative organizations, as well as administrative bodies at local level in connection with monitoring and improving cooperation with the non-governmental, non-profit sector in the Republic of Croatia.

The Office implements projects supporting civil society development funded by European Commission programmes and stipulated by the Central Finance and Contracting Unit of the Ministry of Finance. Except for the already initiated projects under the CARDS programme and those planned by PHARE and IPA, the Office shall also be responsible for the implementation of the **Europe for Citizens** Community programme, which will open up additional possibilities for financing projects by civil society organizations in Croatia from 2008 onwards.

Under the Code of Good Practice, Standards and Benchmarks for the Allocation of Funding for Programmes and Projects of NGOs adopted by the Parliament in February 2007, the Office is working on improving the standards for financing organizations' programmes from the state budget.

In the implementation of the mentioned tasks, the Office closely cooperates with the Council For the Development Of Civil Society to which it, at the same time, offers technical, administrative, professional and financial support in its work.

### **The Croatian Council for the Development of Civil Society**

The Council for the Development of Civil Society is an advisory and expert body of the Republic of Croatia whose job is to develop the implementation and efficiency of the Programme of Cooperation between the Croatian Government and the Non-governmental Non-profit sector, in the process of implementing the National Strategy for the Creation of an Enabling Environment for the Development of Civil Society, development of philanthropy, social capital, partnerships and cooperation between sectors.

The Council's tasks are the continuous monitoring and analysis of public politics, reports from the Croatian Government on draft regulations referring to civil society development and organizing the inclusion of civil society organizations in debates, cooperation in planning the priorities of national programmes for awarding grants from state budget funds to projects and programmes of civil society organizations, gathering and

analysing annual reports from state administrative bodies on awarded grants and cooperation in programming and establishing priorities in the use of EU pre-accession programmes and funds.

The Council has 23 members including: 10 representatives of relevant state administrative bodies and Croatian Government offices, 10 representatives of non-governmental, non-profit organizations and 3 civil society experts in the areas of international co-operation, cross-sectoral co-operation and the European integration accession process. The Council has a President elected from its members – representatives of NGOs, and other non-governmental, non-profit legal entities and civil society experts. The President and the members of the Council are nominated for 3 years with the possibility of re-election.

The Council's work is based on the Decision on Establishing the Council for the Development of Civil Society and the Appointment of the Chair and Members of the Council, adopted in 2002, and it is regulated by its Rules of Procedure. The Government Office for Cooperation with NGOs performs expert and administrative tasks of the Council. – <http://www.uzuvrh.hr/page.aspx?pageID=75>

*Annex 3*

**Proposals for the draft Law “On Regulatory Acts of the Kyrgyz Republic” (prepared by project experts during the public discussions of the given draft law)**

**General comments:**

The draft law is intended to improve the law-making process, based on four principles:

- ◆ respect for the rights, freedoms and lawful interests of citizens and legal entities;
- ◆ legality;
- ◆ justification;
- ◆ publicity.

The justification note focuses on the forms of the law-making process, while the draft law itself affects the quality of law-making, including the active involvement of civil society in the law-making process.

However, there are some drawbacks in terms of the effectiveness of such involvement. For example, the draft law does not contain the possibility for developing alternative drafts (the Law “On regulatory acts of the KR” in its previous wording contains such a possibility: Ch. IV Article 26 p.3 “the law-making body may entrust the development of alternative drafts ... ..”).

According to the Constitution of the Kyrgyz Republic, a law-making act may be initiated and proposed by citizens who have collected 30,000 (thirty thousand) signatures. But this draft law does not stipulate the procedure for examining the acts proposed by citizens (30,000).

### **Specific proposals**

*Comments on Art. 11:* The draft law establishes that a regulatory act is “an official document of the prescribed form ... containing generally binding rules of conduct designed to cover an indefinite range of persons and repeated use.” Also, the draft law sets out the types of regulatory acts and their hierarchy. (Constitution, Constitutional Law, Code, Law, Presidential Decree, resolutions by the Jogorku Kenesh of the KR, decisions by the Government, decisions by the Central Electoral Commission of the KR, decisions by local self-governance representative bodies (local keneshes)).

### **Conclusion**

There is uncertainty about the status of intra-departmental acts (orders, instructions) enshrined in the law “On regulatory acts of the Kyrgyz Republic”, issued by the President, Speaker of the Jogorku Kenesh of the KR, Prime-Minister, heads of ministries and departments, as well as local state administrations and local self-government executive bodies. These acts establish legal relations and the hierarchy of office within a public authority, a body of public administration and local self-governments (appointment, promotion, class ranking of state or municipal service, etc.)

### **Proposals**

1. The draft must have a reference rule on the acts taken in implementing regulatory acts (orders and instructions), and on consolidating their status in the regulations of a body of state power and the status of a governmental body or a local self-government body.

2. The four principles promoted by the draft law, namely the respect for the rights, freedoms and lawful interests of citizens and legal entities, legality, justification and publicity, should also be applied to bodies of state executive power and local self-government in the implementation of regulatory acts (RA).

***Comment on Art. 8 “Delegation of law-making powers”***

According to art. 8 of the draft law, the right of delegation of powers is confined to business. However, it is necessary to note the lack of fixing responsibility in such an important area as respect for the rights and freedoms of citizens.

***Conclusion***

1. Limiting powers only to the area of business reduces the priority of human rights and freedoms enshrined in the Constitution.

***Proposals***

1. The words “in the area” in Art. 8 should be replaced by the words “in the area of human rights and freedoms of citizens” and so forth.
2. In Art. 8 add a paragraph 5 “A rule-making body may delegate the development of alternative drafts to several organs, agencies, organizations, individuals, and announce a competition for the best draft”.

***Comments on Article 19 “Law-making and its stages”***

1. Under the draft law, a draft RA is submitted for public discussion. Proposals are accepted, reviewed and summarized. However, according to par.1 Art.26, the expert opinion, prepared as a result of expert opinion, is enclosed when necessary.
2. Also p.2. Art. 19 determines the stages of law-making. However, three important stages – expert opinions, consideration of alternative draft laws (proposals) and evaluation of submitted draft laws (proposals) – are not legislated for in the law-making cycle.
3. Par. 2. Article 19 presupposes as one of the stages “... publication... of a draft regulatory act”, and this provision is repeated in Art. 24 on the requirement for “ensuring access to the text of a draft regulatory act”. This general formulation leaves room for law-making bodies to guess what their minimum obligations under the forms of such action are.



### ***Conclusions***

1. The mechanism for considering and summarizing submitted proposals is not established. There are no criteria for decision-making on submitting the results of expert opinions. There are no parameters of the information on the results of a public hearing.
2. Public discussion should be conducted at the same time as legal or other necessary expert opinions.
3. There is no specification of mandatory forms of RA publication.

### ***Proposals***

1. After the word “publication” in Article 19, add the words “of a draft regulatory act by posting it on the official website of a rule-making body or in the media, and for representative bodies of local self-government – by posting it in public places.”  
After the words “public discussion of a draft regulatory act”, begin a new paragraph with the words “consideration and summarizing of the proposals received from participants in the public discussion.”  
Then begin a new paragraph with the words “taking into account the proposals for a draft regulatory act.”
2. In Art. 27 after the words “information on the results of a public hearing;”, the “;” should be replaced by a “,”. After the “,” add the words “indicating the number of proposals taken into account;”

### ***Comments on Article 21 “Regulatory Impact Analysis while developing the justification of a draft regulatory act”***

A Regulatory Impact Analysis (RIA) is a costly tool.

1. It will be necessary to seek funding for training the professionals, involved in developing RA, on the application of an RIA or setting up a specialized RIA institution. The methodology is being developed with the assistance of the World Bank; there are only 8-10 experts in Kyrgyzstan who know this methodology.
2. Developers of the draft say nothing about the cost of expert opinions of draft RAs. RIAs are regulated in foreign countries, for example, a RIA should be made if the projected impact of a draft law is at least 0.01% of GDP.
3. There is no justification for using RIA for all draft RAs. As a rule, RIA is used in the analysis of RAs that regulate cooperation between the private sector and the State and procedures and practices for adopting

those RAs, which affect the business environment. The private sector is involved in RIA. In this regard, is it necessary to add Article 24 “Organizing public discussion”? According to the RIA methodology, 2–3 months or at least 60 days are given for submitting comments.

4. In EU countries RIA is understood to be a policy-making tool, but not as a knowledge tool for decision-making, as set out in the draft.
5. In EU countries research was conducted into “Policy-making using Impact Assessments” (Ann-Katrin Вдcklund. Presented on April 6–9, 2008, at Humbolt University, Berlin.). The following weaknesses were revealed:
  - ◆ The RIA manual (in the EU they also use the term "impact analysis"- IA) contains information on administrative and communication procedures, instead of information on how to achieve sustainability.
  - ◆ Social and environmental impacts are not considered. RA costs (direct and indirect expenses) are not calculated and not qualified. Benefits and income/profits are not determined. Costs and benefits are not compared.
6. According to the members of the European Parliament and EU workers, the reported RIA problems are not objective, and most often they are written to justify EU Commission proposals.
7. The European Parliament has to “analyze the analysis (RIA)” submitted by the EU Commission.

### ***Conclusions***

1. RIA is a process for effectively balancing interests if it meets four criteria: *reliable* information, *useful* for decision-makers (the President, MPs, the Prime-Minister, ministers), *corresponding* to the current political process and *recognized as legitimate* by all political actors.
2. RIA methodology can be used in developing draft RAs, regulating interaction between the government and the private sector. In this regard, Article 21 on RIA is absorbed by paragraph 1 Article 22.
3. Paragraph 3 Article 21 stipulates that justification of a draft law is developed based on an RIA. In this context, presumably, RIA is offered as a tool for defining the problem and the need to resolve it by developing a draft RA. However, this provision is not stipulated in the draft Law “On regulatory acts”.

### ***Proposals***

1. In Article 21, extend the use of RIA only to those draft RAs that regulate business.
2. Include the requirement to use RIA as a type of examination in the Jogorku Kenesh Resolution on conducting expert opinions (five expert opinions).
3. Develop and adopt the draft Law “On appraising regulatory acts of the Kyrgyz Republic” to include the existing five types of expert opinions and RIA and synchronizing the time for public discussion and expert opinion of draft RAs.
4. In Art. 22 add paragraph 3 “The Jogorku Kenesh of the KR determines the types of necessary expert opinions on a draft regulatory act. An RA is appraised in accordance with the methodology approved by the Jogorku Kenesh”.

### ***Comments on Art. 24. “Organizing public discussion”***

This article does not define clear requirements for public discussions. Lack of clear requirements for organizing such discussions may lead to partial and limited consideration of the opinion of the parties concerned regarding the discussed issues, which could then lead to ineffective implementation of laws.

### ***Conclusions***

1. It is necessary to add reference rules on subordinate legislation, which would regulate the whole above-mentioned procedure with a sufficient degree of clarity and detail.
2. To ensure full consideration of the opinion of various parties it is necessary to develop clear criteria for how public hearings are organized. Moreover, to provide wide access to the discussions it is necessary to organize consideration of the views of citizens and organizations electronically via the Internet and e-mail. The latter suggestion is of greater relevance for those who do not live in major urban areas where public discussions are usually held.

### ***Recommendations***

1. In paragraph 2 Art. 24 set out the minimum number of organized discussions, namely, not less than three (3) public discussions on a proposed bill should be held.

2. In paragraph 1 of Art. 24 add subparagraphs ... by: “organizing mandatory public discussion, if a proposal with 500 signatures is received” and “providing feedback on the proposals received via the Internet”. Thus, paragraph 1 Art. 24 should read as follows:
 

“Public discussion, consideration and summarizing of proposals, received from participants in the public discussion, is organized by the person/entity developing the draft regulatory act by:

  - ◆ meeting the requirements of this Law when holding a public discussion;
  - ◆ organizing mandatory public discussion, if a proposal with 500 signatures is received;
  - ◆ ensuring access to the text of a draft regulatory act through its mandatory posting on the website of the developer of the draft.
  - ◆ accepting, considering and summarizing the proposals received from participants in the public discussions and providing feedback on the proposals received via the Internet.
  - ◆ collect the resultant information based on the results of the public discussions in order to include it in the justification note.”
3. In Art. 24 add paragraph 4: “Proposals may be submitted in writing, orally (during roundtables, parliamentary hearings, conferences, etc.) and electronically. The format for submitting proposals in written and electronic forms has been approved by the Government.
4. In Art. 24 add a new paragraph 5 in the following wording: “A draft regulatory act is posted on the website of the developer of the act, within three (3) working days of its finalization.”

***Comments on Art. 25 “The term of public hearings”***

The article states that the discussion period for a draft law is at least two months, and other draft RAs at least one month.

***Conclusion***

Given the RIA methodology, which provides for a discussion period of a draft RA by the private sector of at least 60 days, discussion will take at least four months for draft laws and at least three months for other draft RAs.

***Proposal***

1. Add to the art. 25 the words “participation of all stakeholders”

2. Public discussion should be held in the form of an expert opinion/analysis of a draft RA.

In general, to implement this draft law, it is necessary to develop formats and criteria for the registration and expert opinion of proposals and procedures for disseminating and receiving proposals via the Internet.

*Annex 4*

**The questionnaire to interview Deputies of Jogorku Kenesh, representatives of the Government Office, ministries, agencies and NCOs to identify stages of the decision-making process at Parliamentary and ministry level and also the practical participation of civil society organizations in this process (January 2009).**

*Express interview*

**The purpose of this interview** is to define current trends in the policy-making process at parliamentary and government level and CSOs' practical participation in this process. The interviews will identify specific problem areas in the policy-making process, which could be the subject of a new project.

**Interviewees:** representatives of CSOs (first group), the government (second group) and parliament (third group).

**Questions:**

1. Name of CSO/department/agency/parliamentary faction and sphere of activity.
2. Which criterion could measure the quality of a state decision?
3. Which criterion could measure the quality of the policy-making process?
4. Which are the main stages of the policy-making process in parliament/your ministry?
5. Do you think that this process is complete and comprehensive, and allows for qualitative decisions/policies?
6. If no, what should be changed or improved?
7. Which regulatory documents (laws, sublegal acts) regulate the policy-making process?

8. Which spheres lack regulatory acts, or need existing acts improved, to broaden the access of CSOs to the policy-making process?
9. What is the role of CSOs in the policy-making process, and in which ways do they participate in this process?
10. At which stages of the policy-making process is the participation of CSOs required?
11. At which stages of the policy-making process is the participation of CSOs undesirable?
12. Are there any other barriers, apart from legislation, that prevent the effective participation of CSOs in the policy-making process?
13. Can you suggest a real, practical outcome that could be the subject of a new project (Slovak Aid) for the purpose of improving the access of CSOs to the policy-making process?

*Annex 5*

**SUMMARY REPORT**  
**Interviews with representatives of Parliament, CSOs**  
**and executive government agencies on**  
***Access of CSOs to the Decision-Making Process***  
**(The Social Research Centre at**  
**the American University of Central Asia)**

**I. Purpose of interviews**

The purpose of the interviews was to understand the current stages of the decision-making process at the level of the Parliament and executive branch of the government, and determine the participation of the civil society organizations (CSOs) in this process. The interviews also aimed to identify barriers in the government decision-making process that hinder the access of CSOs to this process.

**II. Results of brief interview with government executive branch representatives**

**Interviewees**

1. Managers (advisors to Ministers and heads of departments) at ministerial level

## **General findings**

- ◆ All the interviewees mentioned the need to engage CSOs in public decision-making, justified mainly by the overall perception that it is a sign of democracy in Kyrgyzstan and it is also a sign of the government's transparency
- ◆ Some of the interviewees noted that CSO participation makes the decision-making process more effective, especially if CSOs can provide some meaningful, well-thought out alternatives on which decisions can be made
- ◆ Some of the interviewees said that it is important for CSOs to be engaged not only (and maybe not) in decisions to be made, but rather in the monitoring of decisions that had already been made, arguing that it is better to follow up on good decisions rather than waste energy and time on perfect decisions that are not implemented properly

## **Key notes on current practice**

- ◆ Instability of personnel in the state agencies, frequent rotation. It was noted in one interview that previously that was pertinent to higher level positions (ministers, their Deputies and some lower ranks), but now it encompasses mid-level staff as well
- ◆ It seems that providing alternative solutions for possible decisions is the dominant area of CSOs engagement as suggested by interviewees
- ◆ Another area of engagement is monitoring decisions that have been made and this is where the role of CSOs seems quite valuable, due to their being an independent evaluation source. Monitoring was seen as more important than participation in decisions per se.
- ◆ The need for CSOs to consolidate their opinions and to approach state agencies in a coordinated manner was stressed in one interview
- ◆ There is a lack of qualified civil servants and those currently working cannot even present and defend good decisions
- ◆ Sometimes there is a struggle among factions in the NGO sector and the government uses it to avoid engaging them in decision-making

### **Current regulatory environment:**

- ◆ The law on regulatory acts stipulating the way the government develops and adopts its RA, is quite detailed and serves as the basis for government decision-making. It presumes that state agencies can include CSOs in decision-making, but does not require them to do so. An interviewee from the Ministry of Justice said that there had not been a single case when the state agency had used this possibility to engage non-state actors in decision-making
- ◆ A Presidential Decree from May 2006 (on the need to develop public policy in the country) serves as political direction, but no more than that, and the fact that it was not followed up undermines its initial spirit. It was noted by one interviewee that it was all hot air and no substance.
- ◆ The law on analysing regulatory impact which requires that draft RAs be analyzed from the point of view their possible positive/negative impact.
- ◆ The law on access to information held by state agencies and local governments is a good tool for engaging CSOs in government decision-making
- ◆ Some noted that there is a need to develop RAs related to funding by the state of CSOs if they need to be contracted into the decision-making process
  - ✓ Funds must be secured in the budget
  - ✓ RAs that allow state agencies to spend this money need to be revised
  - ✓ RAs need to be developed that accredit the CSOs that would be contracted
  - ✓ Develop the format for contracting
- ◆ Accreditation of CSOs, which will be engaged in the decision-making process and monitoring was raised in two interviews
- ◆ In one interview it was noted that the current legislative framework does not prohibit CSOs engagement, but it needs to be facilitated by agency level (or government level) RAs.
- ◆ Procedures related to the concordance list and matrix of factions (which already exists) should be modified and enable CSOs to be part of them



- ◆ It was noted by one interviewee that it is possible to introduce changes in government decision-making related to including CSOs' opinions in the concordance list and matrix of factions by government decree without changing the law (since they provide some general regulations)
- ◆ As a side note – there were concerns that CSOs usually approach the government in an uncoordinated manner and they need to form issue based associations/coalitions through which they can channel multiple and diverse views and suggestions
- ◆ In relation to the presidential decree on public policy – it was suggested that there should be a new decree, which annuls the previous one and sets new timelines and maybe new tasks in the area of public policy development
- ◆ Whatever legislative changes will be related to CSOs' participation in decision-making there is a need to ensure that there will a state agency/structure or mechanism, which controls compliance with these norms

**Examples of positive practice:**

- ◆ Annual IT conferences, which were regularly held from 2004–2007 organized by the Ministry of communications and businesses and CSOs in the sector
- ◆ Public Council of the Ministry of Justice. It is a positive experience only to the extent of ensuring independence of opinions of CSOs who are members of the council and this independence is shaky in general (not related to this particular council) because the choice of members is in the hands of the ministry
- ◆ Recent successes by CSOs for Disabled People in promoting some changes in the laws on social security benefits for the disabled
- ◆ The Association of Family Doctors, which worked with the Ministry of Health on RAs enabling primary care reforms. The Association was an expert forum for the ministry. It was quite successful because USAID was behind the project, but later on it was on its own, especially when it came to defending the employment rights of its members.

### **III. Results of brief interviews with Members of Parliament (MPs)**

#### **Interviewees**

Members of Parliament from the two major opposing political parties of Ak-Jol (majority party) and the Social Democratic Party of Kyrgyzstan (second largest party)

#### **General findings**

- ◆ There were contrasting views among the interviewees regarding the participation of CSOs in the current law-making process. One group of MPs portrayed the access of CSOs to the existing law-making process as unrestricted, so was not really interested in bringing about changes in current regulatory practice. Meanwhile, a second group of interviewees underlined the limited access of CSOs and called for the existing legal procedures in Parliament to be revised.
- ◆ The majority of interviewees recommended avoiding proposing radical changes to RAs. Instead, they suggested focusing on incremental changes. This attitude is conditioned by the very conservative standpoint pursued by the ruling party (Ak-Jol) in Parliament. This party mostly supports concepts declared by their leaders and insiders and is not always open to ideas developed by external actors, including civil society organizations.
- ◆ Most interviewees appreciated contributions made by CSOs in diversifying policy options. Yet, concern was raised regarding the limited expertise of CSOs in many areas except such domains as gender, human rights and the environment. As a result, MPs lack relevant and timely information and advice from CSOs in order to adopt efficient policies.

#### **Key notes on current practice**

- ◆ The interviewees asserted that in some areas CSOs have a better understanding, expertise and solutions to attack problems. Yet, current law-making procedures do not oblige Parliament and its committees to involve CSOs in the law-making process. For example, Parliamentary Committees may or may not hold public

hearings when considering new draft laws or amendments to existing RAs. Although there is a Law on Access to Information that obliges all government agencies, including Parliament and its structures, to readily provide information to the public, CSOs still face restricted access to law-making.

- ◆ In December 2007, for the first time, Kyrgyz MPs were elected on the basis of a party system. The party system was ideally meant to provide CSOs with new access points to law-making through participation in meetings organized by political parties. Yet, not all meetings held by political parties are open to the public.
- ◆ Currently, all drafts laws must be reviewed by Parliament's Legal Department.
- ◆ Parliamentary Committees are recommended to post draft laws on Parliament's website for public scrutiny. However, this is not common practice for most of the committees.
- ◆ There was criticism expressed by the interviewees that CSOs are not unified in promoting their interests in Parliament; they lack an integrated approach. As a result, CSOs are not always successful in lobbying their proposals.
- ◆ Another criticism was related to the poor analytical skills of CSOs. It was stated that many CSOs are unable to present fact-based and well-grounded policy analysis. Consequently, CSOs are not persuasive in campaigning for their proposals.

### **Current regulatory environment**

- ◆ The key RA governing the law-making procedures in Parliament is the *Law on Regulations in Parliament*. It is a new law adopted in 2008. In December 2007, for the first time, Kyrgyz MPs were elected on a party basis. Consequently, new law-making rules and procedures were adopted in the same year to reflect this shift to a party system. The new procedures were formalized in this Law. However, the interviewees remarked that the Law was designed without any previous domestic experience of the party-ruling system. Therefore, they mentioned the need to revise this Law, including clauses related to the participation of CSOs in the law-making process.
- ◆ Another problem is that this Law is not well known to all CSOs.

- ◆ The next shortcoming of this law is that it only recommends, but does not compel parliamentary committees to invite CSOs to hearings. One of the interviewees mentioned that a lot depends on the Chair of a parliamentary committee as to whether or not to invite CSOs to hearings. This interviewee also stated that nowadays the Chairs of Committees are more inclined to hold public hearings.
- ◆ Due to the restrictive nature of the *Law on Regulations in Parliament*, CSOs mainly refer to the *Law on Access to Information* when they demand participation in Parliamentary hearings. There have been several cases when CSOs were banned from taking part in some emergency hearings in Parliament. Consequently, CSOs filed cases in local courts on violation of their rights to public information. Although the courts supported these cases, MPs continue referring to the *Law on Regulations in Parliament* when deciding whether or not to invite CSOs to their committee hearings.
- ◆ Each political party sitting in Parliament has their internal rules regulating access of CSOs to their meetings. Ak-Jol, the majority party in Parliament, is the party that mainly restrains CSOs from participating in various hearings.

### **Examples of positive practice**

- ◆ Each committee has a database of CSOs specializing in their specific areas. For example, the Parliamentary Committee on Security cooperates with CSOs monitoring the protection of human rights in prisons and detention centres. The Parliamentary Committee on Social Problems invites CSOs specializing in health, education and social safety net systems to their public hearings.
- ◆ Close dialogue between the executive branch, which mostly initiates new laws and amendments to existing legal acts, Parliament and CSOs results in consolidated and integrated laws being adopted. One example is the new Tax Code adopted in autumn 2008.
- ◆ Thanks to the efforts of the UNDP Democratic Governance Programme, the Parliament started organizing public hearings on strategic issues such as the Government Yearly Budgets. These public hearings are attended by key policy actors, including CSOs. It is believed that such practice will become a normative act at the Parliament.

## IV. Brief results of interviews with civil society organizations

### Interviewees

Public figures and managers of CSOs based in the capital city of Bishkek working on the protection of human rights, childcare, monitoring of elections, capacity-building of CSOs, gender and networking in the NGO sector.

### General findings

- ◆ Almost all the respondents noted that the decision-making process is impossible without taking into account the interests of civil society in Kyrgyzstan.
- ◆ While dealing with various social problems, on the one hand, provincial and local government decision-making agencies solve interrelated, but separate tasks. On the other hand, each of these agencies executes government tasks differently and moves from one format of actions to another. Therefore, the decision-making process should not be a rigid mechanism, but should be responsive and, at the same time, it should take into account the logic of the activities of various organizations.
- ◆ Enforceability of the decisions taken under the current circumstances.
- ◆ It is possible to determine exactly what the decision is aimed at (What changes will be achieved and HOW?)
- ◆ There is a lack of in-depth, quality analysis of the problems being attacked.
- ◆ The question of the key stages of decision-making process, existing in the current Parliament, caused difficulties among some representatives of CSOs. Even leading CSOs, which use Parliament as a lobbying tool in their work, unfortunately, do not always know the law-making procedure in Parliament.
- ◆ CSOs' poor knowledge of the decision-making stages can be explained by the lack of information, and secondly, by the closed nature of parliamentary institutions' work. For example, one respondent said: *"I can only very vaguely imagine the stages of decision-making in our Parliament. In the past, draft laws were discussed on live television. Important draft laws were published in the media and sent to the agencies concerned and CSOs. Now it is*

different. For example, our organization was looking for the draft law “On Freedom of Religion and Religious Organizations”, but never found it. The draft law was not published even on the website of the Jogorku Kenesh (Parliament). Therefore, the following question of the survey, “Which formal rules (law, regulations) regulate the decision-making process?” remained unanswered by several CSOs. Only one organization has given a detailed response. According to it, the decision-making process in the executive branch of the government (ministries and state agencies) is regulated by ministerial laws and regulations (instructions, decrees and regulations). A similar system exists at inter-ministerial level, where any inter-ministerial decree, statute, etc. goes through the procedure of inter-ministerial harmonization among all Ministries and departments.

- ◆ The respondents mentioned that existing laws allow our civil sector to actively participate in all the stages of policy-making, but those laws are poorly implemented both by the state agencies (not always interested in it) and by CSOs, many of which are project-oriented and cooperate with the state bodies in a totally disorganized way.
- ◆ Human rights CSOs stated that today there is a lack of RAs in such areas as human rights, health, privatization, public services and state guarantees and even the existing acts should be improved to expand CSOs’ access to the decision-making process.
- ◆ It can be concluded that today the power of civil society is not really noticeable. Civil society organizations can discuss and make policy recommendations and make recommendations if the Government’s actions do not conform to democratic norms and values. However, in most cases, they play a minor role in decision-making. For example, the results of the last national Parliamentary elections were so boldly falsified that people were outraged. *“The voice of civil society remains unheard” (quote of one of the respondents).*
- ◆ All respondents agreed that, despite the minor successes of civil society organizations in decision-making, each NGO must make more effort in this direction. Much depends on CSOs. As J. Habermas, a German sociologist, said: “Values, including those that can count on winning global recognition, do not float in mid-air. They are not goods that one may buy, distribute and export throughout the world. The only way they can be adopted in different social and cultural

spheres is a lengthy process of dialogue and discussion. Any other procedure imposes certain views and principles on all the others”.

- ◆ According to the respondents, participation of civil society organizations is important at the level of discussing conceptual ideas, strategies and policies that affect the development of the country. The participation of civil society organizations is also important at the level of monitoring and control of the implementation of decisions. Thus, the involvement of civil society organizations is necessary at all stages of the decision-making process.
- ◆ Among the obstacles hindering the effective participation of civil society organizations in decision-making, respondents mentioned the passivity of many CSOs, their incompetence and ignorance of laws and their very amateur way of working with Parliament and the executive branch. In many cases, the discussions and coordination processes between civil society organizations and the government are formal and as a result, recommendations from civil society organizations are not reflected in the final policy documents. Frequent changes among state officials also have a negative impact on cooperation with civil society organizations, because too much time is spent on networking and establishing new contacts. Another considerable obstacle is that the current government system is totally corrupt.
- ◆ To the question, “Which real, feasible subject could be a new project (Slovak Aid funded) to increase civil society access to decision-making?”, some respondents suggested an analysis and review of the law-making procedures in Parliament.

## **V. Conclusion**

Having analyzed and discussed the interview results with the project’s group of experts, it was decided to focus the project’s efforts on studying and revising the law-making procedures in Parliament. Firstly, because many Members of Parliament have stressed the need to change parliamentary procedures regulating the access of CSOs to the law-making process, secondly, some CSOs have also recommended focusing on this problem. Thirdly, the project resources (time and funds) are too limited to focus on intricate and complex mechanisms of policy-making at the executive branch of government level that involves a great number of Ministries, state agencies and provincial and local government bodies.

**Questionnaire for NCOs to study their practical participation  
in the decision-making process at state level**

*Dear colleagues,*

The Social Research Center (SRC) of the American University of Central Asia and a team of experts from the “Sustainability and Effectiveness of Civil Society Organizations in Kyrgyzstan” project are conducting a survey among NGOs of the Kyrgyz Republic to study NGO participation in decision-making at government level.

We believe that the results of the survey conducted with your help will be very useful and will contribute to the more effective participation of civil society in state government and social partnership development.

Your honest opinion is very important to us!

**1. Name of your NGO:**

**2. Postal address of your NGO:**

**3. # of telephone / fax:**

**4. Place of activity:**

◆ *Throughout the Kyrgyz Republic*

◆ *One oblast*

◆ *One region*

◆ *Several oblasts*

◆ *One city*

◆ *Other (please indicate) \_\_\_\_\_*

**5. Main direction of your NGO activity (Please choose one main direction):**

◆ *Social support*

◆ *Healthcare*



- ◆ *Physical culture and sport development*
- ◆ *Human rights protection*
- ◆ *Motherhood and childhood support*
- ◆ *Developing science and technologies*
- ◆ *Child movement and creative development*
- ◆ *Developing a youth movement*
- ◆ *Environmental and nature protection*
- ◆ *Mobilising civil society's participation in local government*
- ◆ *Raising legal awareness*
- ◆ *Civil society development*
- ◆ *Conducting research, analysis*
- ◆ *Other (please indicate) \_\_\_\_\_*

**6. Who usually initiates cooperation between your NGO and the government**

- ◆ *NGO*
- ◆ *Government*
- ◆ *Both sides*
- ◆ *Donors*
- ◆ *Others (Please indicate) \_\_\_\_\_*

**7. At what level is cooperation your NGO and state authorities most apparent and effective:**

- ◆ *Local self-governance body*
- ◆ *Ministries and agencies*
- ◆ *Jogorku Kenesh*

- ◆ *Government*
  - ◆ *President's administration*
8. In your view, which forms of cooperation between your NGO and state structures, encourage the active participation of CSOs in the decision-making process?
  9. Which events at decision-making level have been implemented by your NGO jointly with state structures from 2006-2009?
  10. What were the results of this joint work?
  11. Please, indicate what kind of difficulties your NGO often encounters in the decision-making process?
  12. What kind of legislative procedures for NGO participation in decision-making does your NGO know and use?
  13. Has your NGO participated in parliamentary hearings?
  14. What was the role of your NGO in this process?
    - ◆ *Participant*
    - ◆ *Co-organizer*
    - ◆ *Expert*
    - ◆ *(please, indicate)*\_\_\_\_\_
  15. What were the results of the parliamentary hearings in which your NGO participated or was a co-organizer?
  16. How would you rate the quality of parliamentary hearings of the Jogorku Kenesh of the KR?
    - ◆ *satisfactory*
    - ◆ *unsatisfactory*
    - ◆ *annot answer*
  17. What are your recommendations for improving how parliamentary hearings are held?
  18. Does your NGO hire an external expert when working on decision-making? How often does it happen and on what kind of issues?

**19. Do you agree that the state structures are interested in and ready and able to consider recommendations from NGOs and external experts?**

- ◆ *Interested*
  - Definitely yes*
  - Somewhat*
  - Not really*
  - Definitely not*
  - Cannot answer*

- ◆ *Ready and Able*
  - Definitely yes*
  - Somewhat*
  - Not really*
  - Definitely not*
  - Cannot answer*

**20. From your NGOs point of view, what is most important for the development of public participation in decision-making?**

**21. What suggestions can your NGO suggest to improve joint work with state structures on decision-making at state level?**

**22. In some countries individuals and legal entities can allocate 1% or 2% of thire income tax to support NGO activities of their choice. Do you think this could work in Kyrgyzstan?**

- ◆ *Yes*
- ◆ *No*

Thank you very much for taking the time to answer our questionnaire!

**Short Report**  
**about Kyrgyz NCOs filling out questionnaires on “Expanding**  
**NCOs’ access to the process of political decision-making at state**  
**(central) level” under the project “Sustainability and effectiveness of**  
**civil society organizations in Kyrgyzstan”**

*June 2009*

Public involvement in decision-making is a democratic principle, which will help citizens participate in solving the problems affecting their lives. Public involvement gives the executive and legislative branches an opportunity to take on board different opinions, to study the submitted information and make informed decisions. Wide public involvement will also help prevent various conflicts and misunderstanding and ensure public support in making decisions and their subsequent implementation.

On the one hand, the term “public involvement” is not new, but on the other hand, as confirmed by the questionnaires, it lacks a commonly recognized definition. This leads to confusion and violations of the rights of citizens as some other things, forms and mechanisms are being presented as “public involvement”. The filling out of questionnaires by NCOs of the Kyrgyz Republic was primarily aimed at studying the issue of public involvement, represented by NCOs in the decision-making process at state level.

**1. Goals and objectives of questionnaire**

The goal of the questionnaire is to analyze the involvement of non-commercial non-governmental organizations (NCOs) in the Kyrgyz Republic in the public decision-making process.

This goal can be achieved by achieving the following objectives:

- ◆ Determining the level where there is noticeable effective cooperation between NCOs and state authorities facilitating the pro-active involvement of CSOs in the decision-making process; law-making procedures used by Kyrgyz NCOs to get involved in the decision-making process;
- ◆ Quality assessment of parliamentary hearings of the Jogorku Kenesh of the Kyrgyz Republic from the point of view of NCOs; the level of

interest and capabilities of the authorities to take into consideration recommendations of NCOs and external experts;

- ◆ Identifying recommendations to improve parliamentary hearings as seen by NCOs and proposals to improve joint work with state authorities in the public decision-making process.

## **2. Methodology**

The AUCA SRC “Sustainability and effectiveness of civil society organizations in Kyrgyzstan” Project asked 62 NCOs of the Kyrgyz Republic to fill out Russian language questionnaires by e-mail.

The list of questions is attached.

## **3. The time line**

Preparations began in May 2009 when the goals and objectives of the research were identified and the questionnaire was developed and tested by a group of project experts, which disseminated it amongst Kyrgyz NCOs. During the first fortnight the questionnaires were disseminated amongst NCOs and in the second returned questionnaires were processed.

## **4. Questionnaire description**

The questionnaire was chosen by the “Expansion of NCOs’ access to the political decision-making process“ Project as a tool to collect information on the issue of NGO involvement in the public decision-making process in the Kyrgyz Republic.

Main information contained in the questionnaire:

- ◆ General data about **the organization**,
- ◆ NCO cooperation with the authorities in the public decision-making process;
- ◆ Legislative procedures used by NCOs for their involvement in the public decision-making process;
- ◆ Activities performed by NCOs jointly with state authorities from 2006–2009 at the public decision-making level and their results;
- ◆ Difficulties in the public decision-making process encountered by NCOs and legislative procedures used by NCOs to be involved in the decision-making process;
- ◆ The quality of parliamentary hearings of the Jogorku Kenesh of the Kyrgyz Republic from the point of view of NCOs;

- ◆ The level of interest and capabilities of the authorities to consider recommendations of NCOs and external experts;
- ◆ NCOs' recommendations to improve parliamentary hearings;
- ◆ Proposals to improve joint work with the authorities in the public decision-making process.

## 5. The target group and subject of the questionnaire

**The target group** of this questionnaire is NGOs active in the Kyrgyz Republic. According to official data of the Ministry of Justice of the Kyrgyz Republic as of 1 of April 2006 there were 14,173 officially registered NCOs in the Kyrgyz Republic. The results of the survey of the Association of Civil Society Support Centers<sup>1</sup> held in 2007, show that there are 514 active NCOs or 6% of the officially registered NGOs.

**The subject** of this questionnaire is the competence of NCOs in political decision-making and the system of cooperation between NCOs and the authorities in the political decision-making process.

Under the “Sustainability and effectiveness of civil society organizations in the Kyrgyz Republic” Project it was planned to ask 350 NCOs to fill out the questionnaire, so the project used the NCO database of the Social Research Center of AUCA and the largest networking organizations: the Association of Civil Society Support Centers, the Youth Programme of the Soros Foundation in Kyrgyzstan and networks of NCOs working to protect and promote the rights and interests of children and also *kelkel* and *birge* electronic lists. Moreover, the questionnaires were filled out by NCOs themselves and during some events, such as training.

To motivate NCOs to fill out the questionnaire and to inform them how the information provided by them will subsequently be used, the project executers promised that the results of this survey would be posted on the website of the Social Research Center [www.src.auca.kg](http://www.src.auca.kg), and also promised that they would be given other project-related material.

As a result 62 questionnaires, or 17% of the total, were received from NCOs representing different regions of Kyrgyzstan. The unexpectedly low returns by NCOs can be explained by various reasons. Firstly, it was not a very convenient time to fill out the questionnaire. Many NCOs commented on their high workloads concerning the upcoming presidential

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<sup>1</sup> «NGOs in Kyrgyzstan: yesterday, today and tomorrow». АИИГО. Б., 2006.

elections in July and thus lack of time for filling out the questionnaire. It is also important to note a certain level of passivity and apathy of NCOs to such surveys, especially in Bishkek. There was a reluctance to answer the questions and a lack of interest in the results of the project.

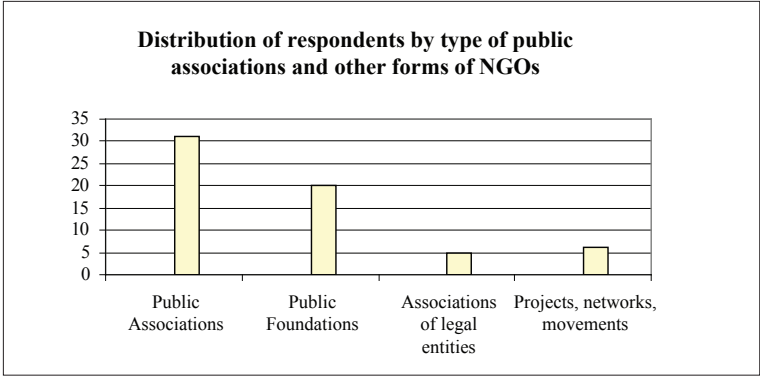
Getting NCOs to fill out the questionnaires included the following stages: developing, testing and brushing up the questionnaire, choosing NCOs and preparing to and actually disseminating, processing and analysing the questionnaires and writing this report.

### 6. Results

This paragraph briefly describes the results obtained from **62 completed questionnaires** – 46 of them from Bishkek and 16 from the regions.

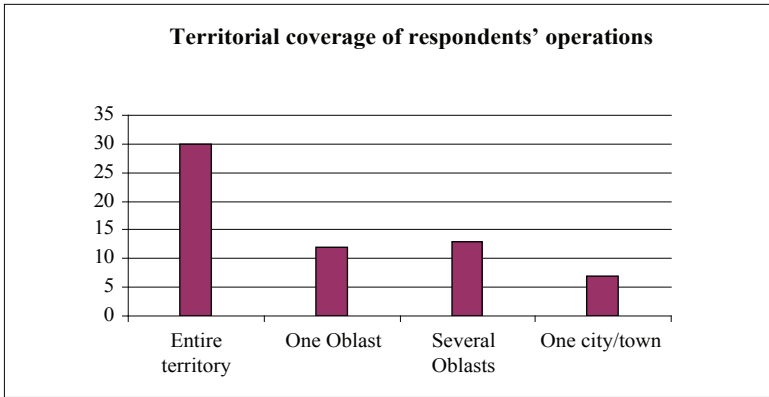
Most, (32) were filled out by public associations (31) followed by public foundations (20).

*Diagram 1*



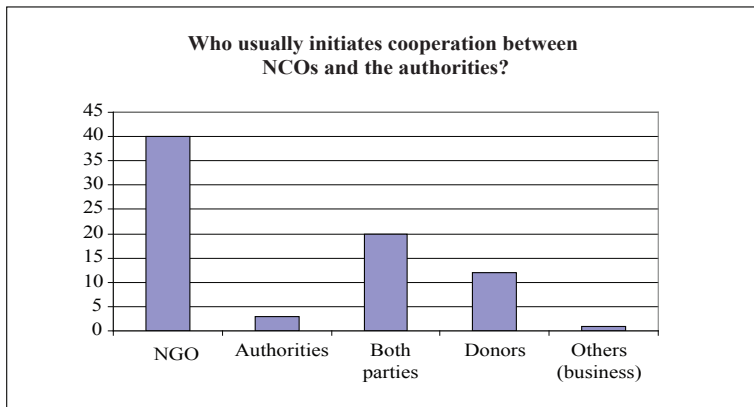
As regards the territorial coverage of respondents, the majority of them cover all of Kyrgyzstan, 13 cover several Oblasts and another 12 work in one Oblast. 7 respondents mentioned that their NCO encompasses only one city/town.

**Diagram 2**



Practical experience of the development of Kyrgyz NCOs shows that today there are different opinions about NGOs' cooperation with state bodies and the respondents were asked to choose one of several answers as to who usually initiates such interaction that best applied to them. Most (40 out of 62) said that NGOs initiate cooperation with state authorities, followed by the opinion that „cooperation is initiated by both parties“ (20) and “cooperation is initiated by donors” (12). Only 3 NGOs noted that it was initiated by the authorities and 1 NGO mentioned the business sector.

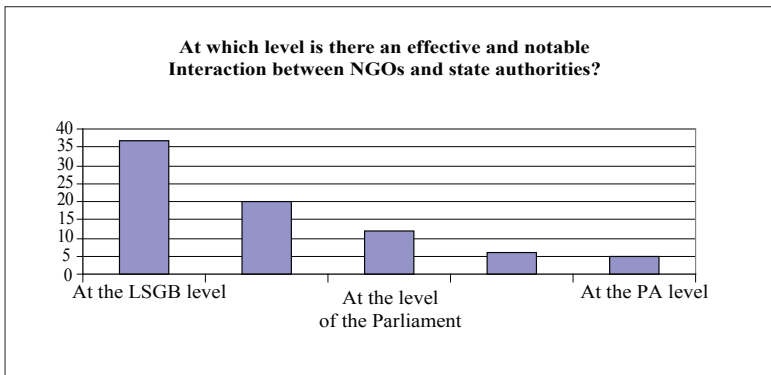
**Diagram 3**





The survey revealed that at local self-government level cooperation between NGOs and state authorities is more noticeable and effective according to 37 respondents, while another 20 believe that it is the case at the level of central ministries and agencies. However, only 12 NGOs noted cooperation at the JK KR level then there is a big gap to government level (6 respondents) and the Presidential Administration (5 respondents).

**Diagram 4**



According to the respondents, cooperation between NGOs and local self-governance bodies (LSGBs) is, as such, more important, noticeable and effective. This sort of interaction, according to one of the respondents, is more specific than that between NGOs and the Parliament and Presidential Administration. Firstly, the sphere of activities of both the NGOs and LSGBs is confined to local issues. Secondly, the nature of relations between NGOs and LSGBs is specific by type of municipal establishment.

As shown by the survey, the frequency of NGOs cooperating with the Parliament, Government and Presidential Administration is lower than the levels with LSGBs and ministries and agencies. The respondents noted that they get the least feedback and responses to civil initiatives from the above-mentioned higher authorities. Some other respondents noted the closed nature, lack of transparency, no real mechanisms for cooperation, and also bureaucratization of these institutions. NGOs pointed out that it is

much easier to work with LSGBs and certain ministries and agencies than with the Parliament and Presidential Administration. The existing oblast and local structures such as the Business Advisory Council under the Osh Oblast Governor or Public Councils under the Ministry of Interior, MLSP and Department for the Protection of children under the State Agency for Physical culture, sports, youth policy, gender and children, are more open and effective than similar structures at Government and Presidential Administration level, which is why different forms of cooperation exist between NGOs and LSGBs at local level. The following types of NGO and LSGB cooperation fostering NGOs' more active involvement in the decision-making process were most frequently mentioned by the respondents:

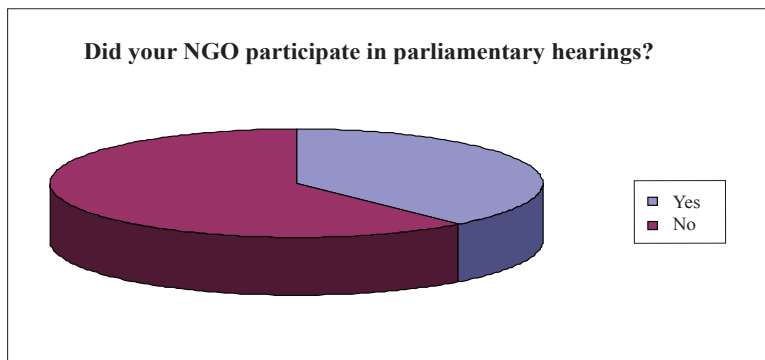
- ◆ Public hearings;
- ◆ Joint identification and discussion of problems (using PRA methodology);
- ◆ Village gatherings;
- ◆ Partnership projects and joint interventions (actions, roundtables, conferences and surveys);
- ◆ Setting up working groups, advisory bodies, consultative and expert councils;
- ◆ Developing and promoting draft laws, regulations and instructions.

Apart from these forms, one of the respondents mentioned a recent (dated 5th May 2009) open agreement with the Secretariat of the KR President on the basic elements of cooperation between the authorities and civil society institutions.

Other results obtained from the survey reinforce the hypothesis that only a small number of NGOs have a clear understanding of the actual stages of the decision-making process at state level and existing legal procedures to ensure NGOs' participation. For 57 respondents question #12 was not difficult, and they were able to name the legislative procedures for NGOs' involvement they knew of and also those that they normally use in their work with the authorities.

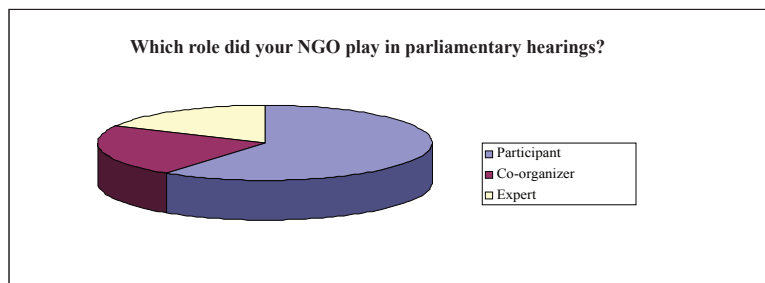
The results showed that the majority of surveyed NGOs did not participate in parliamentary hearings (38).

**Diagram 5**



Those who attended the hearings organized by Parliament were most often participants (24) rather than co-organizers (9) or experts (7).

**Diagram 6**



These indicators show that the NGOs of Kyrgyzstan are not aware of how parliamentary hearings work or their importance. This is the reason why the surveyed NGOs do not have recommendations on how to improve parliamentary hearings (question #17). Those respondents, who have participated in parliamentary hearings, playing different roles, provided the following recommendations:

- ◆ It is necessary to post the minutes of parliamentary hearings on the website of the Parliament;
- ◆ It is necessary to make prior public announcements about upcoming parliamentary hearings using various means of communication;

- ◆ Publish the results of hearings in the national mass media (electronic and printed) in Russian and Kyrgyz;
- ◆ Hold parliamentary hearings more often, for instance, twice a month (there are quite a lot of relevant topics for such hearings);
- ◆ Hold parliamentary hearings with the mandatory involvement of NGOs, the executive branch of government, business sector, mass media and international organizations (if necessary);
- ◆ Make it mandatory (stipulated in legislation) to hold parliamentary hearings involving civil society and initiate the drafting of a law on parliamentary hearings;
- ◆ Make the process of selecting participants, experts and observers of hearings more transparent;
- ◆ Increase the time for discussing the issues by establishing minimum and maximum standards for holding hearings (number of participants, experts, journalists, time for reports, debates, time for making recommendations, dissemination of information about hearings, summaries, outcomes and publication in the mass media);
- ◆ Increase the capacities of Deputies, their consultants and assistants and also the capacity of civil society representatives in how to organize and hold parliamentary hearings.

Questions #18 and #19 were devoted to the role of experts as mediators between NGOs and the authorities in the public decision-making process. The respondents were asked to answer whether or not they involve experts in their decision-making participation, how often, on which issues and also to evaluate the level of interest and capability of state authorities to consider the recommendations of NGOs and experts. Question #19 was a multiple choice question. The received answers do not give much room for optimism. According to 35 respondents, their organizations do not involve external experts when participating in the decision-making process. 19 NGOs pointed out that they use experts on a regular basis and 10 NGOs said that they do not do so very often.

Based on the answers of these organizations, experts were used in the following cases:

1. Promoting a draft law “On amending the Law on NCOs and the Law on Subsoil”;
2. Developing the draft KR Code “On children”;
3. Developing draft Regulations “On foster families”;
4. Developing drafts of the Tax Code, Code on Elections and Referendums and the draft law “On state social order”;

5. Developing a Youth Policy Concept;
6. Developing an Older Generation Concept.

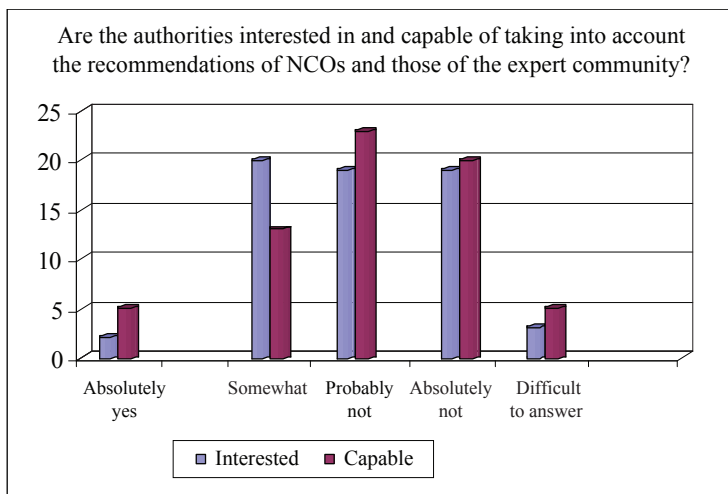
Apart from that, respondents also mentioned the participation of experts in developing their own overall strategy (1), availability of an external expert on the steering and advisory body of their organization (1), involvement of short-term experts to appraise and develop a training module (3), an international expert (1).

As regards the interest and capability of authorities to take into account the recommendations of NGOs and those of the expert community, the answers were as follows:

	Totally	Somewhat	Probably not	Absolutely not	Difficult to answer
<b>Interested</b>	2	20	19	19	3
<b>Capable</b>	5	13	23	20	5

According to the data presented in the Table, the majority of responding NGOs are sceptical about the authorities taking into account proposals and recommendations of NGOs and experts.

*Diagram 7*



Regardless of whether this assessment is right or wrong, it still inevitably shows the real picture of NGOs' involvement in the decision-making process at state level and their assessment of joint activities with the authorities. In fact, this Table reflects the real situation in relations between NGOs and the authorities.

It is worth noting the answers to question #20: "What, in your opinion, is the most important thing in developing the general public's involvement in the decision-making process?" The majority of respondents believe that the most important thing is to be pro-active in all stages of the decision-making process at state level. The second most popular answer is "access to information" and the third most popular answer is "providing advisory and training services for the general public".

According to the remaining respondents, promoting public involvement in the decision-making process is determined by the ability to state a position in a smart, professional and substantiated manner; better analytical skills; consideration of NGOs' proposals by the state; joint discussions of draft laws, proposals and programmes; openness and transparency of the authorities; mutual trust; implementation of laws; removal of red tape and barriers; creating a relevant democratic legal basis (e.g. the Law "On involving the public in the state decision-making process"); and political will.

The following were recommended by respondents to improve cooperation with the authorities in the decision-making process at state level:

- ◆ Involve NCOs in all stages of decision-making;
- ◆ Promote the creation of independent public councils (committees, groups, commissions) at different levels;
- ◆ Create a register of professional NCOs working in the law-making area;
- ◆ Conduct regular public monitoring of how the recommendations of civil society organizations, laws, etc. are being fulfilled;
- ◆ Develop partnerships with all branches of the authorities;
- ◆ Involve NCOs in making expert opinions of draft laws;
- ◆ Develop joint training (NCOs – state authorities).

## **7. Summary of results**

1. The questionnaires show that the lower the level of the authorities, the closer the problems are to community level. As a consequence NCOs are cooperating more closely with local authorities as they are

the ones who can meet local communities' needs. NCOs cooperating with local authorities are achieving the best results in the decision-making process.

2. The idea for cooperation between NCOs and the authorities comes more often from civil society organizations, than the state.
3. The majority of surveyed NCOs are not aware of their rights and opportunities in the decision-making process at state level and do not know about existing legislative procedures to ensure NCOs' participation in law-making.
4. The majority of surveyed respondents noted that they are virtually unaware of the actual stages of decision-making at state level and planned RAs.
5. Many local NCOs do not enjoy free access to law-making.
6. The system for obtaining information from state authorities is not very open and there is no forum for the authorities to answer questions posed by the public. Most frequently the public learns about decisions already made, but not always.
7. Many surveyed NCOs are sure that public participation in the decision-making process at state level is often perceived by the authorities as a useless and impractical procedure. This is the reason, according to NCOs, for frequent formal public discussions, refusal to provide access to information, etc.
8. The majority of NCOs do not take part in parliamentary hearings. Respondents who filled out the questionnaire noted that they are not aware of the procedures for holding parliamentary hearings and what role they could play in their community.
9. For responding NCOs it is crucial to stipulate clear forms, procedures and mechanisms for their involvement in the decision-making process at all stages of law-making and relevant RA.
10. Initiators of parliamentary hearings and developers of draft legislation very rarely use NCO experts to make legal expert opinions of these draft acts.
11. Many NCOs are not using external experts when they participate in the decision-making process at state level.
12. The respondents noted that inadequately developed executive and legislative institutions in the area of joint participation in the decision-making process are a major obstacle to involving the public in the decision-making process at central level.

13. According to the majority of NCOs, when involving the public in the decision-making process the responsible authorities try to minimize their actual participation, especially if it is against their interests. In practice there is often formal participation of the public by putting them on various councils without the right to vote, etc.
14. The majority of surveyed NCOs noted that neither NCOs nor state authorities of different levels have sufficient knowledge and skills to organize and achieve mutual communication in the decision-making process.

*Annex 8*

**A short report of the roundtable on the “Participation of civil society organizations in the decision-making process at legislative and executive levels of power”**

*March 12th 2009  
Bishkek, Kyrgyzstan*

On March 12th 2009, in the “oval” hall of the Jogorku Kenesh (parliament), a roundtable was held on “Participation of civil society organizations in the decision-making process at legislative and executive levels of power,” which was organized by the Social Research Center of AUCA, under the auspices of an SRC project, in partnership with the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee, Slovakia),<sup>1</sup> with financial support from the Slovak Agency for International Development Cooperation. Representatives of non-governmental organizations and the legislative and executive branches of the Government of the Kyrgyz Republic participated in the roundtable.

SRC Director **Aida Alymbaeva**, serving as the moderator of the roundtable, welcomed everyone and thanked the Committee for Ethics and Regulations of the Jogorku Kenesh, represented by Mr. Sabirov and Mrs.

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<sup>1</sup> NISPAcee is an organization representing educational institutions of Central and Eastern Europe, which are engaged in educational activities and research into public administration, as well as training specialists and working as practitioners, instructors, teachers or academic staff.



Moldosheva, for its support in organizing the roundtable. After that, the moderator spoke briefly on the background to the project. In particular, it was noted that, over the past two years, representatives of the government and of non-governmental organizations had participated in roundtables on various themes, and during those roundtables, both government officials and representatives of the non-governmental sector had shown a clear interest in improving the legislative framework regulating the decision-making process and the participation of civil society organizations (CSOs). This is how the idea for this project and then the project itself was developed and came to be supported by NISPAcee Slovakia. The idea behind the project was to examine the experience of Slovakia with regard to the participation of CSOs in the decision-making process. The speaker noted that the purpose of the roundtable was to make a presentation on the project in general and, in particular, on its initial results. The moderator then thanked the Committee on Ethics and Regulations of the Jogorku Kenesh again for its interest in the aims of the project and its constructive cooperation in implementing it. The moderator also introduced experts from the project and guest speaker Sakishev Talantbek, the head of the State Programmes Department of the Ministry of Economic Development and Trade of the Kyrgyz Republic. Then she gave the floor to Jogorku Kenesh Deputy **Alisher Sabirov**, the head of the Committee on Ethics and Regulations.

At the beginning of his speech, Sabirov welcomed all the roundtable participants and then focused on several points. Firstly, he explained the active participation of members of Parliament in this project by noting that the project ideas fully corresponded with the spirit of parliamentarism, the spirit of the highest representative body of the people. He also emphasized that the parliament in recent years had become an open structure, a change that, first and foremost, was due to a more active information and communications policy of Parliament. Secondly, regarding the regulations of the Jogorku Kenesh, Sabirov said they are the main procedural documents for all members and that at this stage it is very important to improve the process of participation and cooperation with civil society so that “every citizen could participate in law-making activities.” Then the Deputy said that every piece of draft legislation in parliament undergoes five types of examination – anti-corruption; environmental; human rights; gender; and legal – and that it appears necessary to introduce these standards both into regulations in the Jogorku Kenesh and the general

system of laws and regulations and thirdly, he spoke about a recently created body: the Public Chamber, which is another forum in which civil society can express its positions. It is important to note that, if the law on the “Public Chamber of the Kyrgyz Republic” is adopted, consideration by the Public Chamber of proposed changes and additions to draft legislation will become mandatory. Sabirov then spoke about the law “On Free Access to Information” and affirmed that it is necessary not only to openly give information to citizens, but also to get feedback from them. In conclusion, he once again thanked the SRC for the interesting project and expressed his hope that it would be fruitful.

Then the moderator gave the floor to a representative of the executive branch, **Talantbek Sakishev**, the head of the State Programmes Department of the Ministry of Economic Development and Trade (MEDT). Sakishev made a presentation on “Cooperation between MEDT and civil society in the decision-making process.” He focused on three points: first, the role of regulatory impact analysis (RIA) in the decision-making process; second, public-private partnership as a tool for cooperation between government and society during the decision-making process; and third, the participation of civil society in the development of strategic documents.

The presenter briefly explained the purpose of RIA, which is to assess the benefits that a bill may bring to society. He then gave a three-point definition of RIA:

- 1) RIA is the process of raising questions and discussing them, as broadly and transparently as possible, during debates on politics, economics and other subjects;
- 2) RIA is the process of systematically and consistently studying potential consequences of government action or inaction; and
- 3) RIA is the process for giving information to stakeholders and people in charge and making the best decisions.

The speaker said that, in order to legally introduce and enforce RIA, Presidential Decree No. 344, “On some measures to optimize the permissive-regulatory system in the Kyrgyz Republic,” was issued on 23rd July 2007. In addition to this decree, the Kyrgyz Government adopted Decision No. 603, “On the methods of regulatory impact analysis (RIA) of regulatory acts on the activities of business subjects,” dated 20th December 2007. In the future, according to the speaker, it will be necessary to do everything possible to ensure that all laws undergo RIA, as well as the examinations mentioned by Mr. Sabirov.

The second important factor in the MEDT's cooperation with civil society, the presenter noted, is public-private partnership (PPP). PPP is a good alternative to privatization programmes in that it allows the potential of private business initiatives to be used, on the one hand, whilst allowing the State to keep control of socially important sectors of the economy, on the other hand. This is where the MEDT plays a leading role by meeting with business associations, members of the business community, and civil society representatives in the course of implementing PPP. Here, Mr. Sakishev indicated the need to establish certain conditions for the implementation of PPP. These include: implementation of strategic reforms, construction of an institutional basis, risk management, and a legal framework. Concerning the latter condition, a bill "On public-private partnership in infrastructure development in the Kyrgyz Republic," recently prepared by MEDT, was given as an example.

The third aspect of MEDT's cooperation with civil society was reflected in the development of the Country's Development Strategy (CDS) for 2009–2011. The speaker noted that, starting from October 9th 2008, read-only access to the CDS monitoring and evaluation system was provided to the public at: <http://mes.in.kg>. In conclusion, Sakishev drew the attention of all those present at the roundtable to the fact that the MEDT is an open area for civil society in the decision-making process and asked CSOs to actively cooperate with it.

Then the floor was given to SRC expert **Sheradil Baktygulov**. In his presentation, he elaborated on the project. First he said a few words about the methodology, which included:

- ◆ interviewing Jogorku Kenesh Deputies, representatives of the Government Office, ministries, agencies and non-governmental organizations; and
- ◆ a brief review of the legal framework regulating the decision-making process and a study of the experience of Slovakia regarding the participation of CSOs in the decision-making process.

The speaker stressed that the experience of Slovakia might be useful for Kyrgyzstan, because the countries have similar population sizes and experienced similar conditions after the collapse of the socialist system of governance. Also, the parliaments of both countries are built on the principles of party affiliation.

According to Baktygulov, during his work on the project, he identified two big problems. Representatives of state structures do not have high

opinions of the expertise NGOs can offer, while NGOs themselves believe that they have high-level expertise, which remains un-used. The parties are ready to cooperate, but, due to a lack of a clearly developed set of procedures, such cooperation is not systematic and efficient.

Next, Baktygulov listed the laws, which were mentioned during the interviews. These included laws: on Regulatory Procedures in the Jogorku Kenesh of the KR; on the Government of the Kyrgyz Republic; on Regulations; on the Media; on Elections; on the Public Chamber; and on Lobbying. He also praised the Decision of the Jogorku Kenesh “On the standards of expertise,” spoke about the President’s Decree “On introducing formats and procedures for public policy into the work of state and local self-governance bodies.” He concluded by saying that these and other regulatory acts regulate the participation of civil society in the process of state decision-making.

During his presentation, Baktygulov drew the attention of the roundtable participants to specific cases of cooperation, such as:

- ◆ 2003 – NGOs initiated and submitted to the Jogorku Kenesh a draft law on domestic violence;
- ◆ 2004–2007 – MTK held annual ICT conferences;
- ◆ Community Councils in the Ministries;
- ◆ Councils of Experts under Jogorku Kenesh committees; and
- ◆ Public hearings.

The expert then identified the five stages of decision-making. The first stage is to analyse the situation and formulate the problem. The second stage is to develop various solutions. The third stage is to develop criteria for evaluating possible solutions. The fourth stage is implementing the chosen solution. The fifth stage is monitoring and evaluating the process of implementation.

The problem, the expert said, is that there is no approved procedure for the participation of civil society in the various stages of the decision-making process. In particular, he drew attention to such problems as the lack of a mechanism for implementing such principles as “comprehensive discussion” of a new act, lack of effective ways to attract external experts and a lack of standard formats for expert recommendations. He concluded his presentation with two recommendations: 1) based on the Order of the Jogorku Kenesh on expertise, develop and adopt a law on legal and other expert opinions; and 2) make the rules for civil society participation mandatory.

The second part of the roundtable was dedicated to comments and questions for the main speakers and to the project experts.

**Alisher Sabirov** commented on the speech by the SRC expert, noting that his presentation did not mention the procedure for popular discussion.

The moderator, **Aida Alymbaeva**, complemented the presentation made by Baktygulov and said that the decision of the project team to focus on improving the procedural aspects of decision-making had taken into account the limitations of the project budget and time constraints.

**Nookat Idrisov**, a lawyer from the International Centre for Non-Commercial Law, expressed his approval of the recommendation to make the participation of civil society mandatory and stressed the need to develop a clear mechanism for the implementation of such a rule. For example, legislation initiators or key committees of the Jogorku Kenesh must hold public hearings and, through the media, announce the time and place of the hearings one month prior to the consideration of the draft legislation in parliament.

**Alisher Sabirov** said that it is important to distinguish between “public hearings” and “parliamentary hearings,” because only hearings held by parliament involving the public can be called “parliamentary.”

**Nookat Idrisov**, observed that the term “parliamentary hearings” applied only to discussions by Deputies inside the walls of the parliament, while “public hearings” are all hearings involving the public and experts.

**Dinara Oshurahunova**, executive director of the NGO Coalition “For Democracy and Civil Society,” asked Baktygulov if public opinion is taken into account during the decision-making process in Slovakia or whether it depends on the willingness of the leader to do so, as in Kyrgyzstan.

**Sheradil Baktygulov** replied that, in Slovakia, participation is mandatory, and this is seen as a form of public relations in the Parliament of Slovakia. There are also criteria for appraising submitted proposals and, if a proposal is rejected, a written explanation of the reason for rejection is required and must be completed within 10 days of the date the proposal was rejected.

**Aida Alymbaeva** added that, in Slovakia, there are also advisory councils under the government, which must consider all proposals from CSOs.

**Dinara Oshurahunova** asked **Alisher Sabirov** a question: the public is always ready to come to “parliamentary hearings,” but are the Deputies and representatives of other state bodies ready to actively participate in “public hearings” organized by CSOs?

**Alisher Sabirov** replied that it is necessary to agree on the time of such public hearings with the Deputies. Also, it is necessary to encourage them to participate, because not every representative is ready to listen to public criticism.

**Dinara Oshurahunova**, on the topic of CSO participation in the discussion of important changes in such laws as, for example, the law “On Non-Profit Organizations,” recently initiated by a group of Deputies led by Deputy Masaliev, noted that, due to a lack of clear procedures, there is a fear that such changes in laws will be adopted without regard to public opinion. At this point, **Sheradil Baktygulov** said that, in Slovakia, there is a period of 7 working days for consideration in an emergency to ensure that CSOs could react to draft legislation, while the normal period is 15 working days.

**Aida Kurbanova**, a project manager from CSOCA, spoke about the project’s goals and commented on the primary results of the project’s research. In her view, it was good that the project focused on procedural issues of decision-making and participation of CSOs. For example, it was noted that it is necessary to remove the double standard that allows the relevant committees of the Jogorku Kenesh to say that they “can” or cannot arrange meetings with the public or hold or not hold public hearings. There is a need for clear procedures for participation, enshrined in the Jogorku Kenesh’s Regulations. Ms. Kurbanova noted that often, in practice, when NGOs submit numerous suggestions on draft laws, they have no opportunity to track “whether they were heard by parliamentarians or not.” Another important point, stressed by the speaker, was the issue of standards, i.e. common standards so that experts from the Jogorku Kenesh and from CSOs could speak “the same language.”

Another speaker was the head of CSOCA, **Aidar Mambetov**, who said that his organization was implementing a project similar to the project under discussion at the roundtable. The only difference is that CSOCA’s project focuses only on the parliament, without touching on the activities of the executive branch.

Continuing the topic of standards, **Dinara Oshurahunova** added that it would be great if the parliament classified proposals, i.e., it is

necessary to classify and maintain statistics on the number of complaints received from citizens and on how many specific recommendations have been submitted to amend draft legislation, indicating when they were submitted to Parliament. **Alisher Sabirov** supported this recommendation and noted that the head of the legal department of the Jogorku Kenesh was at the roundtable and perhaps she could answer this question in more detail.

**Svetlana Boldjurova**, the head of the parliamentarianism and law-making department of the legal section of the Office of the Jogorku Kenesh, joined the discussion and said that, soon her office was planning to set up a separate website for the legal section, via which many issues relating to the government's cooperation with civil society might be addressed.

**Aida Alymbaeva** concluded the roundtable, thanked all the participants and said that the experience of Slovakia would be studied further and the project results would be presented for discussion in the future.

*Annex 9*

## **List of participants**

### **Roundtable**

#### **“Increasing the effectiveness of cooperation between civil society organizations and state governance bodies of the Kyrgyz Republic in the decision-making process”**

*September 22, 2009  
Bishkek, Kyrgyzstan  
Park Hotel, Bishkek*

<b>№</b>	<b>Name</b>	<b>Organization</b>
<b>Representatives of State bodies</b>		
1	Dinara Moldosheva	Member of Parliament of the KR
2	Indira Arunova	Head of the Department for Developing and Monitoring State Programmes, Ministry of Economic Development and Trade of the KR

3	Svetlana Boldjurova	Head of the Department of Parliamentarianism and Law-making of the Parliament of the KR
4	Damira Bustanova	Senior Specialist of the Ministry of Labour and Social Development of the KR
5	Aida Salyanova	Secretary of State, Ministry of Justice of the KR
6	Aimaran Tabaldiev	Senior consultant of the Department of Parliamentarism and Legislation Legal Department of the Parliament of the KR
7	Kalysbek Shadyhanov	Head of the Department on Legal, Personnel and State Service, Ministry of Education and Science of the KR
<b>Representatives of NGOs and International Organizations</b>		
8	Almazbek Abdrapiev	Project Officer of the Civic Education Programme, Young People's Human Rights Group
9	Kazbek Abraliev	Projects Officer, INTRAC Central Asia Programme
10	Gulnara Aitbaeva	Chair of the Coordinating Council, Bishkek Women's Centre
11	Zamira Akbagysheva	Deputy Chair of the Public Chamber
12	Cholpon Akmatova	Project Officer, Danish Church Aid in Central Asia
13	Almaz Tajybai	Head, Peremena Centre of Innovative Education
14	Galina Davletova	Member of the Board of Management, Coalition for Democracy and Civil Society
15	Ulan Jumanaev	Civil Society Programme Officer, An Agency of the Aga Khan Development Network in Kyrgyzstan
16	Nookat Idrisov	Head of the International Centre for Non-Profit Law (ICNL)
17	Tatiana Kotova	Regional representative of Danish Church Aid in Central Asia
18	Asis Kudaibergenov	Projects Officer, U.S. Embassy Democracy Commission
19	Igor Litvinov	Head of the ADRA KYRGYZSTAN NGO
20	Ahmat Madeyuev	Head of the Public Policy Centre
21	Ainura Madraimova	Head of the Aiyl Demilgesi NGO
22	Aidar Mambetov	Executive Director of the Association of Civil Society Support Centres



23	Shirin Narynbaeva	Representative of the Legal Department, European Commission in Kyrgyzstan
24	Cholpon Nogoibaeva	President of the Institute of Policy Analysis and Research
25	Zamira Satueva	PR assistant, AUCA
<b>Project team</b>		
26	Elena Zakova	Project Manager NISPAcee, Slovakia
27	Milan Hodas	Project Consultant NISPAcee, Slovakia
28	Milan Andrejkovic	Project Consultant, NISPAcee, Slovakia
29	Aida ALymbaeva	Director, SRC, AUCA
30	Melis Junushakiev	Head of the Analytical Service of the President's Secretariat, Project Expert
31	Medet Tiulegenov	Project Expert, SRC, AUCA
32	Sheradiil Baktygulov	Project Expert, SRC, AUCA
33	Elena Voronina	Project Expert, SRC, AUCA
34	Chinara Esengul	Projects Coordinator, SRC, AUCA
35	Aida Konokbaeva	Financial/Administrative Coordinator, SRC, AUCA
<b>Simultaneous translation</b>		
36	Alexander Greshuk	Simultaneous interpreter
37	Larisa Yurasova	Simultaneous interpreter
<b>Media representatives</b>		
38	5 <sup>th</sup> TV Channel	Journalists
39	AUCA Public Relations Office	Reporter
<b>SRC volunteers</b>		
40	Eliza Damirbek Kyzy	AUCA student
41	Lilia Kim	AUCA student
42	Aisanat Saparbek Kyzy	AUCA student

**List of the study-tour participants Slovakia,  
March 14–22, 2009**

Mr. Alisher Sabirov, Parliament member  
Ms. Dinara Moldosheva, Parliament member  
Mr. Asanbek Baitikov, Parliament member  
Mr. Ziiadin Zhamaldinov, Parliament member

Mr. Akylbek Aidraliev, Head of the Department of Electronic  
Governance, the Prime-Minister's Office  
Mr. Aidar Mambetov, NGO representative  
Mr. Sheradil Baktygulov, Project Legal Expert 1  
Ms. Aida Alymbaeva, Project Consultant 1  
Ms. Esengul Chinara, Project Manager  
Ms. Aida Konokbaeva, Project Finance / Administrative Manager

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**Increasing the Effectiveness of Cooperation between  
Civil Society Organizations and State Governance Bodies  
of the Kyrgyz Republic in the Law-making Process**

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