

Civil society participation in natural resource management in the Kyrgyz Republic and EITI:

Overview of current trends

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List of abbreviations

JK KR	Jogorku Kenesh of the Kyrgyz Republic
EITI	Extractive Industries Transparency Initiative
KR	Kyrgyz Republic
MSG	Multi-Stakeholder Group
MSU	Municipal local government
NKO	Non-commercial organization
NGO	Non-governmental organization
SB EITI	Supervisory Board for EITI Implementation
CSPP	Civil Society Participation Protocol
MM	Mass media

Introduction

The Extractive Industries Transparency Initiative (EITI) is essential to ensure transparency of revenues and payments, as well as to increase the accountability of governments and extractive companies in the industry. The EITI, which includes governments, extractive companies and the civil sector, is an important tool for dialogue and cooperation among all stakeholders in the extractive industry. It contributes to the creation of conditions for equal participation of all stakeholders in decision-making and policymaking regarding the extraction of natural resources, which, in turn, contributes to the sustainable development and prosperity of society as a whole.

By becoming members of the EITI, countries are committed to disclosure at all stages of the extractive industry value chain, from how mining rights are granted to how governments distribute revenues and how the public can benefit from those revenues. By participating in the EITI, countries agree to adhere to the EITI Standard, a common set of rules on what information must be disclosed and when.¹

The EITI Standard includes clear requirements for civil society participation, calling on governments to create favorable conditions for civil society in relevant laws, regulations, administrative rules, and in the practical implementation of the EITI. The fundamental rights of civil society representatives actively participating in the EITI process must be respected. In other words, the government is obligated to facilitate civil society participation in decision-making processes and ensure their involvement in various aspects of EITI implementation. Additionally, the EITI Standard also requires governments to take measures to eliminate any obstacles that may restrict civil society participation.²

This study aims to examine the environment for civil society participation in natural resource management processes and EITI in the Kyrgyz Republic through the analysis of legal and practical aspects that restrict or may restrict civil society's activities. Using desk research and respondent interviews, the study authors analyzed data on civil space and civil society participation in natural resource management processes, and provided recommendations for improving the civil environment and enhancing the effectiveness of EITI in the KR. The study utilized mechanisms and principles outlined in the 2019 EITI Standard, the Civil Society Participation Protocol³, the 2020 Validation Guide developed by the EITI International Secretariat, and the Guide to Providing Material⁴ for Validation on Requirement 1.3 developed by PWYP⁵ and ICNL⁶.

The study highlights the significant socio-political transformation that the Kyrgyz Republic has undergone since 2020, leading to restrictions on civil society's ability to exercise their constitutional rights to freedom of thought, expression, speech, and press. This situation underscores the crucial importance of ensuring active and unrestricted participation of civil

¹ <https://eiti.org/our-mission>

² EITI International Secretariat, EITI Standard, 2019 (Requirement 1.3 Civil Society Participation)

³ EITI International Secretariat, EITI Standard, 2019

⁴ Assessing civil society engagement in EITI process. A guide to providing validation inputs on EITI Requirement 1.3

⁵ Global movement "Publish what you pay" (Publish What You Pay), www.pwyp.org

⁶ International Center for Not-for-Profit Law, www.icnl.org

society in EITI processes and the management of natural resources. Without such participation, the essential objective of enhancing transparency and accountability in the field of resource extraction may remain elusive.

The research findings reinforce the importance of protecting the fundamental freedoms and rights of citizens and promoting their active participation in decision-making processes to foster an enabling environment for civil society and ensure the successful implementation of the EITI. It is evident from practical experiences that without such measures, the EITI process can face significant challenges and lose its effectiveness. However, recent actions taken by the government of the Kyrgyz Republic suggest the possibility of limiting civil liberties and participation in crucial public processes. This situation raises concerns not only among representatives of civil society but also among government officials at various levels, who are apprehensive about the potential consequences of expressing their views and engaging in discussions on certain issues.

This report focuses on the importance of implementing and adhering to the principles of the Extractive Industries Transparency Initiative with active involvement from civil society. Such participation is essential for establishing transparent and accountable governance of natural resources and promoting balanced and sustainable development. However, it is crucial to address any barriers that hinder the free and active participation of civil society and foster collaborative engagement among all stakeholders. By working together and respecting each other's perspectives, meaningful progress can be achieved in this critical area. The report underscores the significance of these efforts.

Methodology

The study is based on an integrated approach to collecting information to obtain the most objective picture of the issue under study. The methodology includes desk research and semi-structured interviews with representatives of the MSG, the National Secretariat, civil society organizations, government agencies, mining companies and experts. The desk study was focused on the review and analysis of legal acts of the Kyrgyz Republic - existing and under discussion, related to the participation of civil society in natural resource management and the EITI. In addition, additional information was collected from existing secondary sources, including the Validation Review of the EITI International Secretariat, publications from news outlets and government websites, and reports, studies, and documents from non-profit organizations. Secondary sources are used to supplement the results of the semi-structured interviews and provide a more complete understanding of the issue under investigation. The use of open-ended questions in the interviews provided a wide range of opinions and experiences from respondents to assess civil society participation in the extractive industry. The annex contains a list of questions grouped by category of respondents.

Interviews were conducted using a combination of face-to-face meetings and online platforms, ensuring the confidentiality of the respondents. The duration of each interview varied from 40 to 60 minutes, depending on the depth of the responses. The questionnaires and report followed the structure outlined in the CSPP, assessing the participation of civil society in natural resource management and the EITI process based on five criteria - Expression, Operation, Association, Engagement and Access to Public Decision Making.

The role of civil society in the EITI

Civil society plays a key role in the implementation of the EITI by ensuring transparency, accountability and public participation in the extractive industry. Civil society is involved in monitoring and evaluating the implementation of the EITI requirements. This includes the analysis of EITI reports, verification of the reliability of the data presented, as well as an assessment of the actions of the state and companies to comply with EITI standards. It also ensures that citizens are informed about the activities of extractive companies and their impact on society and the environment, helping to educate and raise citizens' awareness of the importance of transparency in the extractive sector.

The role of civil society is also essential as a platform for dialogue between various parties - the state, companies, and the public, which contributes to the discussion of issues related to the extractive industry and helps to develop consensus on contentious issues. At the same time, civil society is an important driver of innovation and reform within the EITI. It calls for improvements in EITI standards and the use of modern technology to improve transparency and accountability in the extractive sector.

During its nearly twenty-year participation in the Extractive Industries Transparency Initiative (EITI), the Kyrgyz Republic has achieved significant results in the initial stages of implementing the initiative. The country has published seven EITI reports, providing the public, the government, and other stakeholders with an objective and comprehensive understanding of the activities of extractive companies. These reports have served as a foundation for discussions on crucial matters such as the equitable distribution of extractive sector revenues, the environmental and social impact of mining, and the opportunities and challenges in managing the sector. The implementation of the EITI has also led to notable progress in the area of beneficial ownership, fostering dialogue between government entities, companies, and local communities through the involvement of civil society, and enhancing the capacity of stakeholders.

In 2011, considering the active efforts of the country, at the 5th Global Conference, the Kyrgyz Republic was awarded the special prize of the EITI Chair "For achieving significant progress in the implementation of the EITI in a difficult environment." In 2017, at the Global Conference dedicated to beneficial ownership, the Kyrgyz Republic was awarded the EITI award "Progress in the implementation of beneficial ownership"⁷.

In October 2019, the Kyrgyz Republic passed the second validation to assess progress in the implementation of the EITI Standards. As a result of the validation, the International Secretariat found that the Kyrgyz Republic has made significant progress in implementing the EITI Standards. In assessing progress on the 20 corrective actions established by the EITI Board since the first Validation in 2016, the EITI International Secretariat acknowledged that the Government and MSG members have fully resolved 12 of the 20 corrective actions and have made "satisfactory progress". In 2023, the EITI International Secretariat initiated the third validation, which will include an assessment of the implementation of the 12 corrective actions established by the EITI Board since the second validation in October 2019.

⁷ <https://keitiweb.wordpress.com/about/>

The active participation of civil society in the EITI process is a guarantee that that the transparency provided through the EITI process will lead to a higher level of accountability and resource management. However, over the past three years, the Kyrgyz Republic has faced several challenges related to the restriction of civil space and freedom of speech, which have had a negative impact on the country's position in international indexes assessing political and civil rights, as well as media freedom.

According to Freedom House's data for 2023, the Kyrgyz Republic has been classified as a "not free" country, with a score of 4/40 for political rights and 23/60 for civil rights.⁸ This represents a decline in the country's status compared to the previous two years when it was considered "partially free." In 2021, the main issues in the Kyrgyz Republic were related to difficulties in accessing and controlling internet resources by government bodies. However, in 2022-2023, more serious problems emerged, including the introduction of "anti-democratic" laws and amendments that restricted political and civil rights. Additionally, violations of the rights of journalists, opposition members, NGOs, activists, and bloggers were observed. These developments indicate a concerning trend towards increasing restrictions on democratic rights and freedoms in the country.⁹

In 2021, the CIVICUS Monitor, a global civil society alliance, conducted an analysis of the operating conditions for civil society in various countries, including the Kyrgyz Republic. The assessment focused on the implementation of laws, the exercise of rights and freedoms associated with association, peaceful assembly, and freedom of expression, as well as the level of protection of these rights by the state. The findings indicated that the governments of Central Asian countries, including the KR, persistently curtail the already limited space for civil society. Tactics employed often involve harassment and intimidation of journalists and human rights defenders, hindering their work and impeding the advancement of civil society initiatives.¹⁰

In 2023, the Kyrgyz Republic experienced a significant decline in the World Press Freedom Index rankings, dropping 50 positions to rank 122 out of 180 countries. This represents a departure from the country's previous performance, as it had consistently maintained a position above 100 in the rankings over the past decade. From 2005 to 2010, the Kyrgyz Republic was placed outside the top 100, and in 2010 it reached its lowest point, ranking 159th out of 178 countries.¹¹ The recent decline in press freedom highlights challenges and concerns regarding the state of media freedom and the protection of journalists' rights in the country.

Multiple international and national organizations dedicated to human rights and democracy promotion have expressed their concerns regarding the state of civil space in the Kyrgyz Republic. Human Rights Watch, for example, stated in November 2022 that proposed draft laws could potentially restrict freedom of association and create obstacles for the non-governmental

⁸ <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2023>

⁹ <https://freedomhouse.org/country/kyrgyzstan/freedom-world/2023>

¹⁰ <https://monitor.civicus.org/country/kyrgyzstan/>

¹¹ <https://rsf.org/en/index>

sector¹² The US Embassy in the Kyrgyz Republic condemned attacks on journalists¹³, obstruction of peaceful assemblies¹⁴, and the restriction of freedom of expression.¹⁵ They also expressed opposition to legislation concerning NGOs.¹⁶ The United Nations in Kyrgyzstan has called for open discussions on key issues related to human rights and fundamental freedoms. They have encouraged constructive interaction regarding the discussion of two draft laws: "On the Mass Media" and "On Non-Commercial Non-Governmental Organizations."¹⁷ These statements highlight the need for dialogue and attention to protect civil liberties and ensure respect for human rights in the country.

This section focuses on evaluating the involvement of civil society in the management of natural resources and the EITI process in the Kyrgyz Republic. It assesses their participation based on five criteria, considering ongoing legislative changes, political reforms, and historical processes. The purpose is to provide an analysis of the current state of civil society engagement and identify challenges and opportunities arising from these factors.

Criterion 1. Expression of opinions

To what extent are civil society representatives able to participate in public discussions on issues related to natural resource governance and the EITI process and express their opinions without restrictions, coercion or fear of reprisal?

In recent years, the Kyrgyz Republic has undergone significant legal transformations, including a comprehensive inventory of the legislative framework and the adoption of several laws that have generated significant public concern. According to civil society representatives and the media, some of these enacted laws and proposed bills, at the time of this study, have had a negative impact on freedom of expression to varying degrees. The development of this study considers the implications of these legal developments on civil society participation in natural resource management processes and the EITI.

In the summer of 2021, the Kyrgyz Republic enacted the Law "On Protection from Inaccurate (False) Information," which aims to combat disinformation on social networks, particularly information that defames individuals' honor and dignity.¹⁸ However, the law has faced significant criticism from civil society and international organizations during its consideration. Critics argue that the law infringes upon citizens' constitutional rights to freedom of speech and imposes state censorship on the internet. Lawyers have raised concerns about its potential

¹² <https://www.hrw.org/ru/news/2022/11/23/kyrgyzstan-draft-law-threatens-independent-groups>

¹³ <https://kg.usembassy.gov/ru/tag/%D1%81%D0%B2%D0%BE%D0%B1%D0%BE%D0%B4%D0%B0-%D1%81%D0%BB%D0%BE%D0%B2%D0%B0/>

¹⁴ <https://kg.usembassy.gov/ru/u-s-embassy-statement-on-recent-events-threatening-freedom-of-speech-and-regarding-gender-based-violence-ru/>

¹⁵ <https://kg.usembassy.gov/ru/%D0%B7%D0%B0%D1%8F%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%BE-%D1%81%D0%B2%D0%BE%D0%B1%D0%BE%D0%B4%D0%B5-%D1%81%D0%B0%D0%BC%D0%BE%D0%B2%D1%8B%D1%80%D0%B0%D0%B6%D0%B5%D0%BD%D0%B8%D1%8F-%D0%B2-%D0%BA/>

¹⁶ https://kg.usembassy.gov/ru/press_statement_on_ngo_ru/

¹⁷ [World Press Freedom Day: Introduction by Antje Grave, UN Resident Coordinator in the Kyrgyz Republic](https://www.un.org/ru/press/2021/07/21/072121-world-press-freedom-day-introduction-by-antje-grave-un-resident-coordinator-in-the-kyrgyz-republic)

¹⁸ Law of the Kyrgyz Republic "On protection from inaccurate (false) information"

impact on self-expression and freedom of speech, highlighting its potential violation of citizens' fundamental rights.¹⁹

One year after the implementation of the Law "On Protection from Inaccurate (False) Information" in the Kyrgyz Republic, a group of deputies from the Jogorku Kenesh recognized that the law discriminates against media representatives and takes a one-sided approach to website deletions, thereby negatively impacting democratic values in the country. In response, the deputies initiated amendments to the law and submitted a new draft version for public discussion. This move comes because of conflicts and instances of corruption in the enforcement of the law, which have violated citizens' rights to fair consideration of cases involving the removal of inaccurate (false) information. The aim of the amendments is to address these issues and create a more balanced and equitable law that considers the interests of all parties involved.²⁰

Since the enactment of the Law "On Protection from Inaccurate (False) Information," there have been several notable scandals in the Kyrgyz Republic. In the summer of 2022, the Ministry of Culture and Information, responsible for implementing the law, blocked three independent media outlets, namely the newspaper ResPublica²¹ and the news agencies "24.kg"²² and Azattyk Media (Kyrgyz branch of Radio Free Europe/Radio Liberty)²³, without any legal proceedings. Additionally, in February 2023, the Ministry of Culture and Information demanded that the Kloop news agency remove an article exposing the overestimation of costs for social facilities in the Batken region, threatening to block the news agency if the material was not taken down. However, due to significant public outcry, a conflict was avoided in this instance.²⁴ These incidents highlight the concerns regarding the implementation and potential misuse of the Law, leading to censorship and limitations on freedom of the press.

In the light of the above, one of the respondents noted that this Law was adopted with the "procedural violations" and therefore "it's hard to call it legitimate": *"The law was adopted with a serious violation of the procedures and regulations of the Jogorku Kenesh of the Kyrgyz Republic. JK KR at first attempt rejected the draft law in the third reading. However, a month later, JK KR voted again for the draft law and adopted the law without any amendments. But such a procedure for re-voting, especially after a month, is not provided for anywhere in the regulations or legislation. Accordingly, there is a serious violation of the procedure for passing the law, although two years have already passed, the law is working perfectly."*

The concerns raised by civil society, the media, and international organizations regarding the draft law "On the Mass Media", initiated in September 2022, highlight the potential threats to freedom of expression and the independence of the media in the Kyrgyz Republic. The criticism of the draft law's provisions, particularly those related to increased bureaucracy, state control, and mandatory registration of media sites, indicates a potential restriction on the free flow of

¹⁹ <https://adilet.kg/ky/tpost/o81jvrg141-obzor-soblyudeniya-grazhdanskih-i-politi>

²⁰ <http://kenesh.kg/ru/article/show/9527/anik-emes-zhalgan-maalimattan-korgoo-zhonundo-kirgiz-respublikasinin-miyzamina-ozgortuulordu-kirgizuu-zhonundo-miyzam-dolbooru-2022-zhildin-14-oktyabrinan-tartip-koomduk-talkuuga-koyulat>

²¹ https://24.kg/obschestvo/240343_sayt_gazetyi_ResPublica_zablokirovan_naterritorii_kyrgyzstana/

²² <https://rus.azattyk.org/a/32006740.html>

²³ <https://kloop.kg/blog/2022/10/26/srochno-minkultury-reshilo-zablokirovat-sajt-azattyka-na-dva-mesyatsa/>

²⁴ [Kloop is not threatened with blocking yet. ARIS withdrew its complaint \(kloop.kg\)](#)

information and the ability of media outlets to operate independently. The formation of a working group comprising civil society representatives to revise the bill demonstrates the recognition of the need for broader consultation and collaboration to address the concerns and ensure a more balanced and inclusive media regulatory framework. One of the respondents, a member of the working group on draft laws on the media and on NGOs, noted that *“Currently, the 4th version of the draft law on media is being considered. We see that the main efforts are aimed at strengthening the bureaucracy in the registration process, so that it is difficult to open the media, at increasing control by state bodies, regulating their activities in the Internet space and mandatory registration of all media sites.”*

The analysis reveals that the draft law raises valid concerns regarding the potential infringement on democratic freedoms. There is a real risk of significant limitations on the diversity of opinions, which is a vital aspect of any democratic society. Certain provisions of the law lack clarity and may result in arbitrary enforcement. Furthermore, certain articles of the law exhibit a discriminatory approach.

The bill includes provisions that seek to impose censorship and restrict freedom of speech. It classifies websites as mass media and subjects them to more stringent government regulation. The proposed ban on publicly disseminating information that may be deemed undesirable to those in positions of state power can potentially affect various forms of expression by individuals, bloggers, human rights defenders, activists, and others. Moreover, the bill introduces specific restrictions and prohibitions on media activities, some of which lack clarity and could potentially be abused by government officials.²⁵

Representatives of the working group and the journalistic community argue that *“The government ignored our proposals and recommendations on the initial versions of the bills, and in subsequent updated versions not only left the 'anti-democratic' articles, but also added new, even tougher ones.”* They also note that there were *“many violations of procedures, including the lack of article-by-article consideration of bills during meetings, as promised. The working groups will expire in May and June 2023 for the media and NGOs, respectively. The working group on the media held only two meetings, which dealt only with procedural issues, and not with the content of the bill. The working group on the law on NGOs held only one meeting. During the work of the working groups, the bills were changed repeatedly, without explaining the reasons for deleting or adding articles. For example, during the work of the working group on the media, four versions of the bill were presented, and the members of the group had to start all over again.”*

Respondents highlighted a concerning trend in the Kyrgyz Republic characterized by a tightening of state policies that restrict democratic space, particularly in relation to freedom of association and freedom of expression. They pointed out that various forms of dissent increasingly result in criminal prosecution and other forms of pressure. Journalists, human rights activists, and activists face pressure from both state authorities and non-state actors. They cited the example of the detentions in October of politicians and activists who formed the Committee for the Protection of Kempir-Abad, an informal association opposing government agreements with Uzbekistan regarding the Kempir-Abad reservoir. Despite the constitutional

²⁵ Legal Clinic "Adilet", Analysis of the Draft Law of the Kyrgyz Republic "On Mass Media" https://docs.google.com/document/d/1vdiQQ-6c_h3H3Eqx1Q-g2U1ZQfGyyRlX/edit

guarantee of freedom of thought, opinion, expression, speech, and press in the Kyrgyz Republic,²⁶ the events and legislative initiatives in the country suggest a contrary reality. Other respondent, lawyer, put it this way: *“Starting from 2021, clearly no positive mechanisms are being created. On the contrary, all the initiatives that come from the state are aimed at limiting the participation of citizens in decision-making processes, concentrating power in the hands of the executive branch of power.”*

However, according to some respondents from the public sector: *“The Kyrgyz Republic has created plenty of opportunities for expressing opinions and the participation of civil society in decision-making processes”*. The inclusion of representatives from the civil sector in working groups and the engagement of public discussions during the adoption of draft regulations signify opportunities for civil society to voice their opinions in diverse socio-political processes, including those related to natural resource management. These mechanisms allow for the expression of perspectives from the civil sector and contribute to a more inclusive decision-making process. By actively participating in these discussions, civil society can advocate for their interests, provide valuable input, and influence policy outcomes in the realm of natural resource management.

The availability of a feedback mechanism through the Single Portal for Public Discussion of Draft Regulatory Legal Acts of the Kyrgyz Republic enhances the effectiveness of civil society participation in the legislative process. This platform provides an avenue for individuals, organizations, and the public to provide their input, comments, and suggestions on draft regulatory legal acts. By utilizing this feedback mechanism, civil society can contribute to the refinement and improvement of proposed legislation, ensuring that diverse perspectives and concerns are taken into account. This inclusive approach strengthens the democratic nature of the legislative process and facilitates a more informed and comprehensive decision-making process. *“We have a portal for civil society participation, even the physical presence is not necessary in public hearings. It is enough to write comments to the bill through the portal, and you are already participating. In this regard, it is important that all incoming letters are reviewed by the President or the Government, depending on where they are sent. Therefore, the civil sector can play a very active role in various public life processes, including the EITI.”*- says one of respondents from expert community.

According to the representative of civil society, while civil activists and local residents are able to freely express their opinions and raise concerns regarding issues such as corruption and violations in the extractive industry, individuals associated with mining companies often hesitate to speak out due to the potential risks, including the fear of losing their jobs. This highlights a significant power dynamic and potential limitations on freedom of expression within the industry. Moreover, the lack of access to reliable information is another challenge faced by the local population. The example given, regarding the plans to construct a road through a protected natural area, indicates that the affected community may not have access to accurate and comprehensive information about such projects. This lack of information can hinder their ability to effectively participate in decision-making processes and voice their concerns regarding potential environmental impacts or other issues related to the project. These observations underscore the importance of ensuring that individuals and communities

²⁶ Constitution of the Kyrgyz Republic, Article 32

have access to reliable information, and that their voices are heard and respected in decision-making processes related to extractive industries and natural resource management. It is essential to create an environment where freedom of expression is protected, and individuals feel empowered to speak out without fear of reprisal or adverse consequences: *“We are concerned that the real reason for the authorities, in addition to establishing an interstate communication infrastructure, lies in providing access to gold deposits located along the highway. That is why the state cannot openly tell the local population about it».*

Criterion 2. Operation

To what extent do legal, regulatory, administrative and factual conditions affect the ability of civil society representatives to participate in natural resource management and EITI processes?

The changes made in 2021 to the current version of the Law of the Kyrgyz Republic "On non-profit organizations" are seen by experts as significantly restricting the fundamental principles and conditions for exercising freedom of association, peaceful assembly, and expression.²⁷ These amendments require all non-profit organizations to publicly disclose their work records, including accounting documents, financial statements, and organization's assets, as well as personal data of employees. Article 17, "Openness of a non-profit organization," is supplemented with obligations for NPOs to provide information to state bodies regarding the income structure and details about the organization's property. Moreover, the size and structure of income, as well as information about the organization's property, expenses, cannot be considered trade secrets.²⁸ Additionally, NPOs that receive free funds are required to annually publish summary information on the tax authority's website by April 1st, regarding the sources of fund formation, spending directions, and information on acquired, used, and disposed property.

It should be noted that the norms of the law regarding tax reporting are selective in nature, for example, excluding the obligation for annual tax reporting in relation to NPOs of state and municipal institutions.²⁹

The respondents interviewed in this study are confident that the "burdensome" legislative norms will lead to waves of layoffs in non-profit organizations and a decline in civic activity. They believe that this will have a negative impact on the efforts made in the Kyrgyz Republic to ensure transparency and accountability in natural resource management in a full, active, and effective manner.

One of the activists in the field of transparency in natural resource management shared his story about having to close his NGO due to administrative and legal reforms in the non-profit sector. He deliberates, *“The state's attempts to establish complete control over civil society organizations, the requirements for financial reporting, and the resulting challenges for the*

²⁷ [Legal clinic "Adilet" - Analysis of the draft law "On non-profit non-governmental organizations" - Opinions of AKIpress \(akipress.org\)](https://akipress.org)

²⁸ Law of the Kyrgyz Republic “On Amendments to Certain Legislative Acts of the Kyrgyz Republic (into the Laws of the Kyrgyz Republic “On Non-Commercial Organizations”, “On State Registration of Legal Entities, Branches (Representative Offices)”)” dated June 26, 2021 No. 78

²⁹ Law of the Kyrgyz Republic “On non-profit organizations”, article 17 “Openness of a non-profit organization”

continued functioning of non-governmental organizations compelled me to recently close our regional non-profit organization. For more than ten years, we successfully implemented initiatives and projects aimed at ensuring transparency and accountability in the field of natural resource utilization. These recent amendments to the legislation on non-profit organizations have expanded the authorities' capacity to exert pressure on inconvenient organizations. They have increased their influence and impact. Consequently, the pressure that was already exerted on my organization has intensified, this time through legalized means. Currently, the space for the civil sector is rapidly diminishing, and with the anticipated adoption of the widely debated Law on NGOs, I am confident that the situation will further deteriorate."

In November 2022, the Jogorku Kenesh of the Kyrgyz Republic introduced a draft law titled "On Amendments to Certain Legislative Acts of the Kyrgyz Republic (Law 'On Non-Commercial Organizations', Law 'On State Registration of Legal Entities, Branches (Representative Offices)', Criminal Code of the Kyrgyz Republic)". The text of this draft law is nearly identical to the "foreign agents" bill that sparked public outcry in 2014. The main difference is that the proposed bill replaces the term "agent" with the term "representative."³⁰

According to several human rights organizations, certain provisions of the draft law are vague, contradict the existing legislation of the Kyrgyz Republic, and violate the norms of the International Covenant on Civil and Political Rights, which the Kyrgyz Republic has been a party to since 1994.³¹ If the bill is adopted, it is expected to have a negative impact not only on "NGOs that advocate for specific interests or groups but also on all NGOs, including charitable and humanitarian organizations that provide social services to the population."³² It would also affect organizations promoting freedom of speech, civil rights, and political rights in the country.³³

The proposed bill increases control over the activities of NGOs and foreign organizations' representative offices, allowing for interference in their internal affairs. It grants the Ministry of Justice extensive new powers with virtually no administrative limitations. The Ministry of Justice and its divisions will have the authority to request and review the internal documents of NGOs, send their representatives to participate in any internal activities of NGOs, and determine at their own discretion whether the activities of NGOs align with their stated objectives, without any procedures in place to restrict the actions of the Ministry of Justice or protect the rights of NGOs.

Furthermore, the bill introduces the requirement for mandatory annual audits of NGOs and foreign organizations' representative offices, with the audit results being published in the media. Concerns have been raised about the financial burden of these audits, especially for small NGOs that may struggle to afford them, let alone publish the results. The bill also mandates that any associations that hold regular meetings must register with the Ministry of Justice and have official founding documents. Previously, associations could operate without registration or formal documentation, but now such activities would be considered illegal.

³⁰ ICNL, Analysis of the Draft Law of the Kyrgyz Republic "On Amendments to Certain Legislative Acts of the Kyrgyz Republic" (Draft Law "On Foreign Representatives"), 2022

³¹ Ibid

³² Ibid

³³ <https://deputat.kg/analiz-k-proektu-zakona-ob-inostrannyh-agentah/>

Additionally, the bill includes a provision for the mandatory re-registration of all NGOs and foreign organizations' representative offices with the Ministry of Justice. Failure to pass re-registration could result in their dissolution by the relevant state authority. This raises the risk that the government may refuse to register NGOs it disagrees with or views unfavorably.

Currently, even without the amendments coming into force, the non-profit organization sector in Kyrgyzstan is already subjected to stringent regulations under the existing Law "On Non-Profit Organizations." The proposed amendments, with their additional reporting requirements, would further increase the burden and create significant inconvenience for NPOs. Some respondents noted that *"our organization is under covert pressure in various ways, checking financial transactions that were carried out by the organization 15 years ago"* and expressed confusion about *"on what basis were these organizations selected for inspection, while the inspection staff could not give a clear answer to this question"*.

One of the interviewees highlighted that *"The proposed arrangements are very burdensome, as they require more staff, increased employment of the accountant, more frequent submission of reports, more documents, which can lead to omissions or late submission of reports. We submit three types of reports to the tax authorities, in addition, declarations and monthly reports to the Social Fund, we make payments transparently, all transfers are made in a non-cash form. Financial intelligence can always see how much we are getting, where the money is being spent and who we are paying. But still, all this is not enough. They want to make all this public, but it is not clear why. The main response from representatives of government agencies is that we are secretly doing something. By the way, we submit monthly reports to the Statistical Committee. Under such conditions, it is difficult to engage in illegal activities."*

The amendments made last year to the Law "On State Social Order" in Kyrgyzstan have further limited the ability of civil society to participate in discussions on socially significant issues. These changes removed the rules related to public discussion of draft programs, the procedure for holding information meetings, and the provision regarding the activities of the grant commission. These provisions previously allowed civil society to have a greater role in decision-making processes at the state level and ensured transparency in social contracting for the implementation of social programs funded by the government.³⁴

The draft law "On the Mass Media" includes several requirements for media outlets. During the registration process, the founder will need to provide additional information, such as sources of funding, main thematic interests, details about the founders, owners, editor-in-chief, publishers or distributors, territorial coverage, distribution format, frequency of release, maximum volume, and for online publications, the domain name of the website. If any of this information changes during the operation of the media outlet, the founder is required to notify the authorized state body in writing within one month.³⁵

Under the provisions of the draft law, individuals who are citizens of foreign states, foreign legal entities, or Kyrgyz legal entities with foreign participation exceeding 50% of the authorized capital are prohibited from acting as founders of television channels, radio channels, television, radio, video programs, or websites on the Internet. If the draft law is enacted, all media outlets

³⁴Law of the Kyrgyz Republic "On State Social Order"

³⁵ Draft Law of the Kyrgyz Republic "On Mass Media", <https://www.gov.kg/ru/npa/s/4126>

will be required to undergo re-registration in accordance with its requirements. Failure to do so within the specified timeframe will result in automatic liquidation. These administrative and legal measures will undoubtedly restrict the operating space for civil society and increase their dependence on the state.

Criterion 3. Association

To what extent are civil society representatives able to interact and collaborate with each other and stakeholders within the framework of natural resource management and the EITI process?

In the Kyrgyz Republic, the Multi-Stakeholder Group takes the form of a Supervisory Board, which was established in 2010.³⁶ The Supervisory Board serves as a consultative and advisory body responsible for providing general oversight, coordination, and advisory support in the implementation of the EITI in the country.³⁷ It consists of representatives from various ministries and government departments involved in subsoil use, economics, finance, statistics, tax, and customs services. Additionally, the Supervisory Board includes five representatives from civil society organizations and mining companies, as well as deputies from the JK KR (the national parliament). The composition of the Supervisory Board aims to ensure the active participation of relevant stakeholders and promote dialogue and cooperation between the government, civil society, and the private sector in EITI implementation and oversight.

The study conducted interviews with representatives of civil society, mining companies, and experts to gather their perspectives on the functioning of the Multi-Stakeholder Group in the Kyrgyz Republic. The MSG serves as a platform for engaging relevant stakeholders in the decision-making processes related to natural resource management. The interviews yielded diverse feedback on the effectiveness of the MSG's operations and the practical application of its capabilities as provided by national legislation. The range of opinions reflects differing views on the extent to which the MSG is fulfilling its intended role and achieving its objectives in promoting transparency and accountability in the extractive industries sector.

Most respondents have observed a decline in the activities of the current Multi-Stakeholder Group (MSG) that was elected in 2020. Various factors such as the coronavirus pandemic, political events in the country, and a comprehensive legislative inventory process have impacted the functioning of the platform. Consequently, according to the respondents, the Supervisory Board has become a *"passive structure."* One MSG member highlighted that *"during their three-year tenure, they only attended a single meeting, which occurred towards the end of 2022."*

The respondent highlighted that the Ministry of Natural Resources, Ecology, and Technical Supervision of the Kyrgyz Republic, which plays a coordinating role in implementing the EITI, does not have complete access to the necessary information for the initiative. This is because a significant portion of the relevant data is maintained by the Ministry of Economy and Commerce and the Ministry of Finance. The fragmented data management and lack of streamlined information sharing between different ministries can pose challenges to the

³⁶ EITI International Secretariat, EITI Standard 2019

³⁷ Decree of the Government of the Kyrgyz Republic "On improving the process of implementing the Extractive Industries Transparency Initiative in the Kyrgyz Republic" dated December 8, 2010, N 317

effective implementation of the EITI and hinder transparency and accountability in the extractive industries sector. Another respondent says that *“The activity of the National Secretariat has also dropped significantly, starting around 2019 due to the reorganization of the structure and the transfer of functions to the relevant ministry. Thus, entrusting the functions of the National Secretariat of the MSG to a state body does not justify itself, because the results of the last two years indicate passive interaction of stakeholders and poor communication with a wide audience”*.

According to some respondents, there is a perceived lack of commitment from the Government in effectively implementing the Extractive Industries Transparency Initiative. They have expressed concerns about the Government's lack of political will to fulfill the commitments made under the EITI. This suggests that there may be challenges or obstacles hindering the full and effective implementation of transparency and accountability measures in the extractive industries sector.

“The current decline in EITI activity is caused by the lack of interest on the part of stakeholders representing the Government and mining companies, their lack of understanding of the expected effects of the EITI, caused in large part by the frequent change of power and staff turnover.”

“I took part in the development of proposals for the draft “Mining Code”, initiated by Decree of the President of the Kyrgyz Republic dated January 29, 2021, UE No. 5 “On issues of reforming the mining industry of the Kyrgyz Republic”. However, it is still unknown about the current status of the draft code and to what extent the package of recommendations and proposals we provided was taken into account.”

In 2020, the project "Disclosure of interconnected data in the mining industry at the license level" was implemented as part of the Open Government Initiative. The main objective of this project was to ensure the systematic publication of interconnected data in the mining industry at the license level, accompanied by detailed explanations, on the central state electronic portal. The aim of this initiative is to enhance transparency and accessibility of information in the mining sector, enabling stakeholders to have a better understanding of the licensing process and related data. *“As far as I know, a special working group on transparency in the mining industry was created within the framework of the Open Government platform, an analysis was made of the data, documents, regulatory legal acts, international practice collected by the Government, a complete list of data was determined, as well as forms, methods and frequency their publication, a roadmap to ensure data disclosure has been developed and implemented, and a list of amendments to regulatory legal acts has been prepared and submitted for consideration to ensure legislative consolidation of detailed data disclosure requirements. Further steps to develop a unified state electronic data portal to date remain not yet implemented, “hung in the air.” Thus, this case can be cited as an example of the successful contribution of the civil sector to the process of ensuring transparency and transparency in the field of natural resource management”*.

Another respondent emphasized the lack of interest from the Jogorku Kenesh of the Kyrgyz Republic. According to this respondent, Members of Parliament do not demonstrate sufficient interest in the topic of EITI and do not prioritize it. The respondent believes that the active participation of the Parliament is crucial for the effective implementation of the EITI, and more

efforts should be made to engage Member of Parliament in this important topic. This suggests that there is a need for increased awareness, advocacy, and engagement to ensure that the EITI receives the necessary attention and support from the Parliament: *“Of course, the Government is not that interested in the EITI process. There are individuals in the Government who know about the EITI and they may be doing something. Over the past four years, it is our Parliament that has given little attention to the EITI processes. Therefore, it is necessary to carry out more information work among representatives of the relevant authorities. It is necessary to conduct more events, trainings and dialogue platforms, with the participation of MPs and representatives of state bodies, so that they have an idea about the EITI and see the work that is being done as part of the EITI process. And so over the past four years, not so much attention is paid to the EITI process in Kyrgyzstan.”*

According to a representative of the state body, the decline in the government's activity in the Extractive Industries Transparency Initiative can be attributed to changes in legislation and the restructuring of the government. These changes have had an impact on the implementation mechanisms and the roles of stakeholders involved in the EITI, resulting in reduced efficiency and engagement in the process. These factors have likely hindered the government's ability to effectively participate in and support the EITI, leading to a decrease in activity in this area. *“We have had many structural changes. Websites have been updated. Our database of subsoil users is undergoing an inventory, after which it is expected to be updated. There is already a term of reference for the development of a new database, and we are working on it.”*- he concluded.

Most respondents in the study link the accountable management of natural resources and the implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic to two key factors: stable funding and the active engagement of stakeholders, including high-ranking officials. They emphasize the importance of sufficient financial resources to support transparency initiatives and ensure their effective implementation. Additionally, the active involvement of stakeholders, particularly high-ranking officials, is seen as crucial in promoting transparency, combating corruption, and fostering responsible natural resource management practices. For example, respondent states: *“The trip of the former President of the Kyrgyz Republic Roza Otunbayeva to Paris led to several legislative changes aimed at developing the EITI in the country. This has increased the level of involvement of the Government and other stakeholders in the EITI process. If the funding is good, then even the President can attend international EITI events and initiate regulations and bills upon arrival. Now there is no such thing and few people know about the EITI. We need to work in this direction. It is necessary that the Government first of all be aware of the EITI, frequent interaction should be with the EITI International Secretariat.”*

Criterion 4. Engagement

To what extent are civil society representatives able to participate fully, actively and effectively in the development, implementation, monitoring and evaluation of the EITI process?

“For the period from 2008 to 2019 actively conducted educational and advocacy campaigns within the framework of the EITI, which ultimately resulted in a decrease in the conflict mood among local communities, increased responsibility of companies in terms of improving

environmental compliance and carrying out reclamation work, for example, planting green spaces in the Ak-Tam area”.

Another respondent highlighted the peacebuilding effect of the EITI. The respondent emphasized the importance of complementing the EITI with educational and informational efforts to raise awareness and promote understanding of the initiative's objectives and benefits among the general public, civil society, and relevant stakeholders: *“Educational, communication and informational aspects of civil interventions can be noted as successful examples, including also the activities implemented within the framework of the EITI, which, in my opinion, have even had an indirect, but positive effect on mitigating destructive conflict elements, which is very important for “explosive” Batken region”.*

A civil society activist reported that civil society in the country remains active despite political and regulatory restrictions: *“In my opinion, the involvement of civil society in the EITI process remains just as active, despite a number of restrictions in the political life of the country, a significant decline in the interest of the donor community to finance the field of transparency and accountability of the mining sector, including the implementation of the EITI, the lack of political will on the part of the current Government, disbandment of the National EITI Secretariat with the assignment of relevant functions to the relevant ministry”.*

A number of experts and representatives from the civil sector have highlighted the importance of developing post-reporting stages in the implementation of the EITI. While the EITI focuses on the disclosure of information related to the extractive industries, there is a need to go beyond mere reporting and ensure that the disclosed information leads to concrete actions and improvements in governance, accountability, and the management of natural resources: *“Starting from 2019, in my opinion, little is heard about the EITI in public circles, maybe if the initiative is being implemented, only among a narrow circle of people, primarily in the development of reporting, while this data is practically not used to improve the management of natural resources and do not reach the final audience - the local community, the media, experts, data analysts - for which they were supposed to be communicated. Based on this, the answer is obvious that there is no visible progress in this direction in comparison with the 2020 validation”.*

“There is a feeling that the EITI in Kyrgyzstan is being implemented for the sake of another tick in the context of the country’s international ratings, while the direct effect of the EITI implementation has really ceased to be felt in recent years, in particular, in the period after the 2020 pandemic”.

Criterion 5. Access to public decision-making

To what extent are civil society representatives free to express themselves on issues of transparency and natural resource management and ensure that the EITI contributes to public debate?

The proposed changes to the Law of the Kyrgyz Republic "On regulatory legal acts of the Kyrgyz Republic," which aim to reduce the period for public discussion of draft regulatory legal acts, have raised concerns. Currently, the minimum duration for public discussion is at least one month, but the proposed changes would shorten it to 15 calendar days. This reduction in the period of public discussion, which is an important stage in the legislative process involving

public participation in decision-making, could have negative consequences for the quality of legislation.³⁸ Shortening the public discussion period undermines the guaranteed right of citizens to participate in the discussion and adoption of laws.³⁹ It also goes against the principles of people's ownership of power, protection of human rights and freedoms, and free and real access to the management of state affairs and society.⁴⁰ By limiting the time available for public input, the proposed changes may compromise the transparency, accountability, and effectiveness of the legislative process.

There is a draft law in the Kyrgyz Republic that aims to repeal the Law "On Public Councils of State Bodies," which serves as institutions of civic participation in decision-making processes. The current law mandates the creation of public councils under ministries and state committees to enhance transparency in decision-making and implementation procedures.⁴¹ These councils consist of representatives from non-profit organizations, academia, business associations, professional unions, industry unions, and experts related to the activities of the respective state body. Council members actively participate in the development and public discussion of draft laws and management decisions, consider public initiatives, facilitate collaboration between state bodies and civil society, and monitor the transparency of decision-making and implementation processes in various areas, including natural resource management. However, the draft law proposes the abolition of public councils, with the government arguing that they are ineffective and that all draft regulatory legal acts are initiated and developed independently by state bodies, making the councils' role redundant.⁴² This proposal has raised concerns among those who view public councils as essential mechanisms for public participation, transparency, and accountability in the decision-making processes of state bodies. Critics argue that dismantling public councils could undermine the involvement of civil society in shaping legislation and policies and reduce the transparency and accountability of state bodies in their operations. The proposed repeal of the law has triggered public discussions and debates, as stakeholders evaluate the potential implications for civic participation and democratic governance in the Kyrgyz Republic.

The practice of collective voice, the organization of public discussions by civic activists, and the provision of public participation in the development of policy for the management of the extractive industries, often helped to overcome various restrictive measures and bureaucratic obstacles. As one respondent admitted, his commitment to transparency and accountability in the management of natural resources was once accompanied by a number of challenges and obstacles. *"There were repeated facts of intimidation by state law enforcement agencies, the spread of unfounded accusations of undermining the socio-political situation in the region, attempts to bring to justice, assigning me and my non-governmental organization a "label" of the so-called "foreign agent", acting in destructive for statehood purposes, with all the ensuing negative consequences. And only by joining the ranks of civil activists across the country, pursuing the same goals of raising the level of literacy of local communities, establishing multi-*

³⁸ [Legal clinic "Adilet", Analysis of the draft Law of the Kyrgyz Republic "On amendments to the Law of the Kyrgyz Republic "On regulatory legal acts of the Kyrgyz Republic"](#)

³⁹ Part 4 of Article 37 of the Constitution of the Kyrgyz Republic

⁴⁰ Part 2 of Article 2 of the Constitution of the Kyrgyz Republic

⁴¹ Law of the Kyrgyz Republic "On Public Councils of the Kyrgyz Republic"

⁴² <https://www.gov.kg/ru/npa/s/4370>

stakeholder dialogue, and creating conditions for transparency and accountability through EITI approaches, helped to save from the arbitrary actions taken at that time, and strengthen the position in this area".

In April 2019, the Kyrgyz Republic witnessed civil protests known as the "anti-uranium rallies," which centered around opposition to uranium mining and development. These protests highlighted the capacity of civil society to self-organize and demonstrated citizens' willingness to exercise their rights through various means, including peaceful demonstrations, public discussions, media engagement, and signing petitions. The mobilization potential of the Internet and social networks played a significant role in facilitating communication and coordination among the protesters. While the common cause that brought the protesters together was environmental concerns, it is important to recognize that the movement went beyond being solely an environmental movement. The protests can also be understood within the broader context of citizens' discontent with political corruption, lack of government accountability, low transparency in licensing processes, conflicting information, and inefficiencies in public administration. The April anti-uranium rallies served as an indication of the influence of public opinion on the political landscape, particularly in the realm of natural resource management. It demonstrated that citizens' voices and concerns regarding the governance of natural resources can significantly impact the political situation in the country. This event highlighted the importance of public engagement, transparency, and accountability in decision-making processes related to the extractive industries and underscored the need for responsive and responsible governance in managing natural resources.

During the reorganization of the legislative framework, the opportunities for civic participation and the preservation of individual freedoms are diminishing. However, civil society representatives acknowledge the effectiveness of the Extractive Industries Transparency Initiative in promoting public discussions and ensuring transparency and accountability in the extractive industry. Respondents highlight the year 2014 as a particularly productive period for EITI implementation. During this time, civil society, companies, and the government actively and effectively collaborated on different communication platforms. They organized joint events to enhance capacity, foster meaningful discussions, and address issues related to transparency and the management of natural resources. The collaborative efforts during this period are remembered as a successful example of promoting transparency in the extractive sector.

"EITI is a very reliable tool for effective natural resource management and civil oversight. Kyrgyzstan witnessed a period of active action led by key stakeholders with the active participation of the civil sector in the period after accession and until 2019. Thanks to EITI activities, it was possible to build communication between key players on the EITI matrix, which has shown effectiveness in the global space. This tripartite format of dialogue has a tangible effect in terms of transparency, accountability and peacebuilding. And the gender and environmental aspects of the EITI fit well with the realities of today and give tangible results for the formation of a transparent and responsible mining sector."

"Thanks to the joint efforts of civil society activists across the country, we have been able to take an organized approach to the issues of transparency and accountability, armed with the EITI methodology. We conducted whole cycles of educational events covering various categories of stakeholders involved in the EITI process, managed to increase their potential, organize a

dialogue process to reduce conflict potential in the region. Together with colleagues from the NGO Consortium, we repeatedly conducted focus group discussions, interviews and questionnaires in order to better track the effect of ongoing efforts and assess the needs for further interventions. He took part in the development of EITI reports and validations, in the formation of reporting data and their communication to local communities.”

The implementation of EITI Standards as well as joint interventions have led to several positive outcomes as highlighted by the respondents. One of the notable achievements is the establishment of a network of Public Reception Offices in specific regions of the Kyrgyz Republic. These offices were initiated by the NGO Consortium for promotion of EITI in Kyrgyzstan and serve as information and consulting centers for local communities and civil society representatives. The Public Reception Offices play a vital role in providing prompt responses to various subsoil use-related issues and EITI. They conduct information and explanatory campaigns to help interpret legislation, acting as a bridge between local communities, mining companies, government authorities, and local governments. This facilitates effective communication and engagement among stakeholders. These success stories demonstrate the practical impact of the EITI in promoting transparency, accountability, and improved dialogue between various actors involved in the extractive sector in the Kyrgyz Republic:

«To date, KAZ Minerals has been quite successful at the Bozymchak deposit, which, thanks to the assistance of local activists, our Public Reception and regular dialogue platforms, has managed to establish contact with stakeholders and the local population, ensuring relatively transparent and accountable work and providing reliable data for reports. EITI" (Ala-Buka district).

“In the context of the EITI implementation, using mechanisms to ensure transparency and accountability, we were able to take part in the processes of improving civic engagement in the Chon-Alai region, where, through interventions to increase the capacity of local activists, disclose the data of a gold mining company operating then in 2013 and create a dialogue platform with the inclusion of all interested parties, were able to resolve cases of illegal export of gold ore outside the district and ensure transparency in these matters” (Chon-Alai district).

“We managed to organize a regular communication platform with the participation of representatives of the company, the local civil sector, relevant ministries and departments of the Kyrgyz Republic, activists, a wide range of the local population, in order to contribute to the formation of previously non-existent norms of transparency and accountability. Periodically organized and conducted events to increase the capacity of local activists, the so-called “local lawyers”, trained the norms of legislation in the field of subsoil use and financial issues, which helped in advocating for improved governance and accountability in this area”(Batken region).

“Over the indicated period of time, strategic, organizational and structural transformations took place in the NGO Consortium for promotion EITI in Kyrgyzstan. It should be noted that this year we have developed strategic directions for the next three years in the context of transparency, accountability and environmental safety in the field of subsoil use, one of the reliable tools of which is the expertise gained over the years on the implementation of the EITI” (Talas region).

“Study tours, regional and global conferences for representatives of the civil sector both within the country and abroad. In this context, the support of international organizations and non-governmental organizations such as PWYP, EITI International Secretariat, NRG⁴³ etc. Such events for the exchange of experience have a positive effect on the harmonization and coordination of joint actions of activists from different countries to strengthen the voice of civil society. A series of educational, informational and communication activities implemented during the period of active implementation of the EITI (until approximately 2019) helped to significantly increase the potential of stakeholders and achieve very tangible results in terms of achieving transparency and accountability in subsoil use.” (city of Bishkek).

Some respondents have identified two distinct phases in the implementation of EITI in the Kyrgyz Republic:

- 2010-2015 - the phase of active implementation of the EITI in the Kyrgyz Republic (*“regular reporting, civic engagement, effective interaction of stakeholders, transparent and updated databases, networking opportunities, trainings, seminars”*).
- 2016 - present – the phase of decline in activity in the implementation of the EITI in the Kyrgyz Republic (*“the prevalence of more formal data focused on “retaining” the country as part of the Initiative, rather than focusing on actionable results, the MSG’s passivity, a significant decrease in the interest of key stakeholders in promoting the EITI, their lack of understanding of the ultimate goals of the EITI, aimed at transparency and accountability”*).

At the same time, it is noted that *“there is a need to revise the EITI approaches in the formation of reports with a focus on the results that are really needed for stakeholders. First, expanding the scope of the analyzed companies in the course of the next reports, since the limited number of companies that fell into the focus of the EITI study within a certain reporting period does not reflect the full picture of the situation throughout the country. Secondly, periodic updating and publication of data on online resources, including a database of license agreements”*.

Some respondents emphasized the lack of any progress *“between current and previous validation steps”*. While adding that *“maybe even if there are some developments, little is known about this in the regions, although I am not sure that there is significant work being done at the country level. A significant part of the restrictions rests on the lack of funding for the implementation of certain projects, even despite the efforts made by the civil sector for fundraising”*.

Another group of respondents said that *“the experience of implementing the EITI in the Kyrgyz Republic shows that the chain of implementation actions of the Initiative is not fully implemented, breaking off at the stage of developing and publishing reports. Whereas the greatest effect depends on further analysis of the identified reporting data and their timely and accessible communication to consumers of information. Consequently, the effect of the implementation of the EITI is not felt in relation to the creation of a more transparent, responsible and efficient governance system in the extractive industry, which would contribute to economic growth and sustainable development. Also, the state has not fully worked out the*

⁴³ Natural Resource Governance Institute, www.resourcegovernance.org

mechanisms of responsibility in relation to state and municipal structures for untimely, incomplete and inaccurate information within the framework of the EITI”.

Conclusion and key findings

Many representatives of civil society, experts, and government officials recognize the significant importance of the Extractive Industries Transparency Initiative in enhancing transparency and accountability in the extractive sector of the Kyrgyz Republic. However, they also acknowledge that recent political reforms, extensive regulatory changes, and limited funding for EITI activities have created challenges in its effective implementation. These factors have resulted in a reduced space for civil participation and hindered the optimal functioning of the EITI.

NGOs and the media play a crucial role in the Extractive Industries Transparency Initiative in the Kyrgyz Republic. They represent the interests of citizens and the public, facilitating their participation in public discussions and decision-making processes of national importance. The civil sector plays a vital role in promoting transparency, openness, and accountability in the activities of state bodies and institutions, acting as a watchdog. However, the recent changes in legislation may pose obstacles to the active participation of civil society in the EITI. Reflecting this, it is important to maintain and protect civic space, guarantee freedom of expression, freedom of assembly, freedom of association and participation in public debate.

- Between 2004 and 2019, the Kyrgyz Republic actively embraced the EITI and worked towards greater transparency and accountability in the extractive industries. This period saw significant involvement of stakeholders and was supported by funding from donors. However, since 2019, the momentum has slowed due to various factors including political and economic challenges, such as public administration reforms, regulatory framework changes, lack of interest from some stakeholders, COVID-19 restrictions, and insufficient funding for EITI activities. This slowdown has impacted the progress and effectiveness of EITI implementation in the country.
- The Government's lack of interest in the development of the EITI and the perceived imbalance in stakeholder activity within the MSG have been identified as key issues. However, it is worth noting that the Kyrgyz Republic has undergone significant changes in its government system, governmental structure, and the adoption of a new Constitutional Law within the past four years. These changes present an opportunity to reevaluate the approach to EITI implementation at the state level and establish a framework for centralized collection, processing, analysis, and dissemination of data. This could potentially address the existing challenges and pave the way for more effective and comprehensive transparency and accountability in the extractive industries.
- Respondents expressed a shared belief that civil space in the Kyrgyz Republic is gradually diminishing. They highlighted personal experiences of the adverse effects resulting from recent changes, which have directly impacted their activities. Additionally, some respondents shared accounts of persecution and harassment faced by individuals within the civil sector. These observations indicate a growing concern regarding the shrinking space for civil society and the potential threats to freedom of expression and association in the country.

- The discussed draft laws on "Non-Commercial Non-Governmental Organizations," "Protection against False Information," and "Mass Media" have the potential to significantly complicate the operations of non-profit organizations and the media. If adopted in their proposed forms, these laws could impose substantial restrictions on freedom of speech, the right to information, and the ability of NGOs to effectively advocate and exercise oversight. In this context, preserving an open civic space and protecting freedom of speech and association become critically important for ensuring public participation in natural resource management and the implementation of EITI principles.
- Adequate funding is a critical factor for the proper and sustainable implementation of EITI. The lack of financial resources currently poses a significant obstacle that hinders the development and practical implementation of EITI. This affects various aspects of EITI, including data collection, processing, and analysis, as well as the compilation of reports and the implementation of capacity-building programs and awareness-raising initiatives. Insufficient funding weakens the ability of NGOs and other stakeholders to actively participate in the process and carry out necessary advocacy and oversight. In this context, mobilizing sufficient and sustainable financial resources to support EITI is a key priority.
- Currently, the full implementation of EITI faces significant obstacles. While the development and publication of reports are important aspects of this process, the current practice is limited to these stages without expanding into deeper levels of analysis and accessibility of the presented data to a wider audience. This creates barriers to building a more transparent, accountable, and effective governance system in the extractive industries. It is important to understand that EITI goes beyond the mechanisms of data collection. It involves a deep analysis of data and its accessibility to all stakeholders, including civil society, academic circles, media, and the public, enabling informed decision-making that promotes sustainable development in the extractive sectors. The use of data should be a central part of the process, including active public participation in interpreting and utilizing information to enhance management practices and policies in the extractive sector.
- The study has revealed a significant gap in awareness among key actors, including government representatives, local communities, and the general public, regarding EITI, its implementation methods, and expected benefits. This indicates a substantial information barrier and a lack of understanding about the importance of transparency in the extractive industry. Reducing this information gap is a necessary step to ensure active public participation in EITI implementation, as public participation and transparency are key components for building a responsible and transparent extractive sector. This highlights the need for efforts to enhance awareness of EITI through education and information campaigns. It is important to consider the needs of different groups, for example, local communities require information to be presented in a more accessible and understandable format.

To strengthen civil society's participation in the EITI and foster justice and prosperity for all, it is necessary to continue efforts aimed at enhancing the capacity of civil society organizations,

promoting inclusive dialogue, and creating an enabling environment for their activities. This includes providing adequate resources, protecting the rights of individuals and organizations, and facilitating meaningful engagement between the government, civil society, and the public.

Recommendations

- To protect civic space in the Kyrgyz Republic, it is proposed to organize a series of international advocacy events. These events would aim to raise awareness and advocate for the preservation of civic space. They could include public campaigns, conferences, and seminars focused on promoting and protecting the rights of civil society. Additionally, collaboration with international partners can facilitate the exchange of experiences and best practices, enabling the Kyrgyz Republic to learn from successful approaches implemented in other countries. By engaging in such initiatives, the goal is to strengthen civil society and ensure the continued protection of civic space in the country.
- It is recommended to review the provisions of existing regulatory acts and proposed draft laws that restrict the enabling environment for civic participation. This includes examining the compliance of these laws, such as the draft laws on "Non-Profit Organizations," "Protection against Misinformation," and "Mass Media," with democratic principles, constitutional guarantees, and international obligations of the Kyrgyz Republic. The focus should be on strengthening freedom of thought, opinion, speech, and the press. By conducting this review, we ensure that the laws align with democratic principles and uphold the rights and freedoms of individuals as outlined in the constitution and international commitments.
- Organize and implement information campaigns at the national level on the mechanisms for realizing the constitutional rights of every individual to freedom of thought, opinion, freedom of expression, freedom of speech and the press, and the rights of everyone to freedom of association. These campaigns should involve active participation from civil society representatives as part of efforts to ensure transparency and accountability in the field of subsoil use.
- Organize and hold information and training events at the country level with a focus on mechanisms for ensuring the full, active, and effective participation of civil society in the EITI process, review, and analysis of the current and those under consideration and discussion of draft regulations in the field of civil liberties and subsoil use.
- Conduct an assessment of the effectiveness of EITI implementation in the Kyrgyz Republic over a period of approximately ten years. This assessment should identify trends and patterns that describe the impact of EITI on the level of transparency and accountability in the subsoil use sector. The findings of this assessment will inform further measures and actions aimed at improving the effective implementation of EITI in the country.
- Establish sustainable dialogue platforms at the local level based on the principles of the Multi-Stakeholder Group (MSG). These platforms will facilitate more effective interaction among regional stakeholders, including civil society organizations, and

enable prompt resolution of emerging issues related to subsoil use and natural resource management. The platforms will provide a space for open discussions, collaborative decision-making, and the implementation of joint initiatives aimed at improving transparency, accountability, and sustainable development in the respective regions.

- Strengthen collaboration with the media and data analysts to process, analyze, visualize, and communicate EITI data in a way that meets the information needs of local communities and civil society representatives. This collaboration will ensure that EITI data is effectively translated into meaningful and accessible information that can be used to advocate for transparency, accountability, and sustainable development in the extractive industry.
- The Supervisory Board for the implementation of the EITI in the Kyrgyz Republic and its working body, the Secretariat, are advised to strengthen their efforts in implementing the following actions as outlined in the Regulations on the Supervisory Board:⁴⁴
 - Develop and implement an updated public relations strategy to ensure widespread dissemination of EITI reports and minutes of Council meetings.
 - Establish and maintain the website of the EITI Secretariat, regularly updating its content and ensuring interactive features.
 - Conduct consultations on the EITI and foster partnerships with government agencies, extractive companies, public associations, media organizations, local self-government bodies, and other stakeholders to enhance understanding of the EITI principles.
- The Supervisory Board for the implementation of the EITI in the Kyrgyz Republic and the Secretariat are recommended to strengthen communication of the progress of the implementation of the EITI process to the public (information signs, updated databases, public reports, infographic handouts, etc.).
- It is recommended that the authorized state body for subsoil use strengthen its oversight of the implementation of legal provisions concerning social packages, with a focus on transparency, accountability, and increased involvement of the civil sector and local communities. The following actions are suggested:
 - Establish grant committees at the level of aiyl aimaks and districts, consisting of representatives from the civil sector and activists. These committees will be responsible for selecting project applications that align with regional development priorities. Selected projects should subsequently receive funding as part of the social package agreements.

⁴⁴ Regulations on the Supervisory Board for the implementation of the Extractive Industries Transparency Initiative in the Kyrgyz Republic, approved by the Decree of the Government of the Kyrgyz Republic "On improving the process of implementing the Extractive Industries Transparency Initiative in the Kyrgyz Republic" dated December 8, 2010 N 317

- Publish annual reports on the implementation of social packages on the authorized state body's website, as required by Article 30 of the Law of the Kyrgyz Republic "On Subsoil."
- Develop an interactive map showcasing the implementation of social packages throughout the Kyrgyz Republic. This map will provide accessible and up-to-date information to the public, ensuring transparency and facilitating public awareness of the projects and initiatives under the social packages.
- It is recommended that the authorized state body responsible for subsoil use enhance its oversight of the regular collection and publication of timely and comprehensive data on licenses, license agreements, reserves, production, exports, sales prices, agreements between companies and local authorities, as well as environmental impact assessments. This data should be made available on the website in a machine-readable format. By ensuring the availability of this data, it will be easier to analyze, visualize, and communicate relevant information to stakeholders, thereby promoting transparency and accountability in the subsoil use sector. Additionally, accessible and reliable data can help mitigate conflicts and tensions that may arise in the affected communities.
- District state administrations and local self-government bodies in regions where social packages between subsoil users and local self-government bodies are implemented are recommended to ensure access to social packages and annual reports on their implementation for civil society and the public, especially for the local population residing in the area where a nationally significant subsoil object is located. By providing information about the social packages and their implementation, the district state administrations and local self-government bodies can foster public awareness and engagement, allowing the local population to have a better understanding of the benefits and outcomes of these agreements.
- Development partners are encouraged to provide support to the NGO Consortium in implementing initiatives that aim to further enhance transparency and accountability in the extractive industry. This support can take various forms, such as financial assistance, technical expertise, and capacity-building programs. By collaborating with development partners, the NGO Consortium can strengthen dialogue platforms, build the capacity of stakeholders, facilitate public debate, and implement effective transparency and accountability measures.
- Efforts should be made to enhance the capacity of members within the NGO Consortium for promotion of EITI through the activation of capacity-building practices. This can include exchanging experiences with Civil Society Coalitions from other countries and encouraging the participation of activists in national, regional, and global events.

Annex: Key informant interview questions

The date of the:	
Start:	Completion:
Location:	
Moderator name:	
Code KII*	

**For example, KYR_Bishkek_CS/EC/G/P/E, Where KYR - the name of the country, Bishkek - the name of the locality, CS - civil society organization, EC - mining company, G - government structure, P - Supreme Council, AND - expert.*

This interview is aimed at assessing the potential of civil society in the Kyrgyz Republic in the field of ensuring transparency and accountability in the mining industry in the context of the next Validation⁴⁵ 2023.

As stated in the 2019 Extractive Industries Transparency Initiative (EITI) Standard, ensuring the full, active and effective participation of civil society in the EITI process and the enabling environment for this is a guarantee that the transparency provided through the EITI process will lead to a higher level of accountability and management of oil and gas and mineral resources⁴⁶.

The “EITI process” refers to:

- multi-stakeholder group (MSG) meetings;
- side-by-side meetings of a wider range of stakeholders representing civil society organizations (CSOs), including interaction with MSG representatives;
- preparation of EITI reports;
- preparing materials or conducting analysis for EITI Reports;
- expressing opinions on EITI activities;
- expressing opinions on natural resource management⁴⁷.

Interview questions for civil society representatives:

Participation of civil society in ensuring transparency and accountability in the field of subsoil use, including EITI processes:

⁴⁵ EITI Validation is the process of assessing whether an EITI participating country has met the core requirements and standards of the initiative. Validation measures how successfully a country is implementing measures to increase transparency and accountability in the extractive sector, which contributes to more efficient management and use of natural resources. Validation takes place regularly and the results are used to determine a participating country's status in the EITI, including recognition for success and identification of possible sanctions or measures to sustain progress in the event of non-compliance with the requirements of the initiative.

⁴⁶ EITI Standard 2019, Global Standard for the Effective Management of Oil, Gas and Mineral Resources, 15 October 2019

⁴⁷ Civil Society Participation Protocol

1. How would you describe your role in ensuring transparency and accountability in the area of subsoil use, including the EITI process in Kyrgyzstan?
2. What impact has/is the EITI process having on promoting transparency and accountability in the extractive industries in Kyrgyzstan?
3. Can you provide examples of successful civil society involvement in ensuring transparency and accountability in the area of subsoil use, including the EITI process in Kyrgyzstan?
4. How would you rate the current level of civil society engagement in the EITI process compared to 2020, when the previous validation took place? Do you see any changes?
5. What challenges do you/your organization face when participating in the EITI process in Kyrgyzstan? Are there any new challenges compared to a few years ago? Which?
6. How have you/your organization used EITI data to advocate for improved governance and accountability in the extractive industries? Was there such a case?
7. What tools or approaches could be used to increase the participation of civil society in ensuring transparency and accountability in the extractive industries in the country?

Assessment of the environment and the impact of legislative reforms

8. Has the Government created/is creating an enabling environment for civil society participation in the extractive industry governance sector, including the EITI process? Do you observe any positive or negative changes in the state of this environment in recent years?
9. In your opinion, how do you think the proposed bills in Kyrgyzstan on non-profit organizations and the media, as well as amendments to tax laws, could affect the ability of civil society organizations to participate in efforts to ensure transparency in the extractive sector?

Freedom of Expression in the Extractive Sector and Natural Resource Management

10. Are there any topics related to EITI and natural resource management that you (or your colleagues) are hesitant to talk about (verbally or in writing)? For example: private interests of government officials (or their families) in the extractive sector, instances of corruption, certain extractive companies, certain extractive contracts or projects, state-owned companies, etc.
11. Have you or your colleagues been asked to refrain from publicly voicing any concerns about natural resource management, or to remove or refute any of your publications or statements?
12. Do you know of members of civil society or journalists who have faced criminal or administrative consequences or have been harassed, threatened and/or attacked for expressing an opinion on issues related to the extractive sector?
13. Do you and your organization experience a systematic reluctance on the part of the media to cover activities related to natural resource management?

Additional questions, if the answer is "yes" to one or more of the questions #11, 12, 13:

- When did this happen?
- Who was involved? What exactly happened?
- How did the situation develop? What is the situation now?

Interview questions for Government/Parliament representatives:

1. How would you describe government involvement in the EITI process in Kyrgyzstan?
2. How, in your opinion, has the EITI process influenced the promotion of transparency and accountability in the extractive industry in Kyrgyzstan?
3. What significant challenges does the government face in implementing the EITI in Kyrgyzstan?
4. Can you give examples of successful government involvement in the EITI process in Kyrgyzstan?
5. How has the government used EITI data and MSG recommendations to inform policy decisions, change legislation, improve industry governance and/or increase accountability of the extractive industry?
6. What role do you think the government should play in shaping the future of the EITI process in Kyrgyzstan?
7. What other approaches or strategies could be used to increase government involvement in the management of the extractive industry, including the EITI process in Kyrgyzstan?
8. How would you compare the level of government engagement and participation in the EITI process between the period since the last validation in 2020 and previous years? Do you see any trends or changes, positive or negative, in terms of results and impact over this period?
9. How do you think the EITI process can be improved to better engage government, mining companies and civil society and promote transparency and accountability in the extractive industries?
10. Has the government created an enabling environment for civil society participation in the extractive industry governance sector, including the EITI process? Have you observed any positive or negative changes in the state of this environment in recent years?
11. How do you think the proposed non-profit and media laws and amendments to tax and extractive industry laws might affect the ability of civil society organizations to participate in extractive sector transparency efforts?

Interview questions for representatives of mining companies:

1. How would you describe your role in ensuring transparency and accountability in the area of subsoil use, including the EITI process in Kyrgyzstan?
2. What impact has/is the EITI process having on promoting transparency and accountability in the extractive industries in Kyrgyzstan?
3. Can you give examples of the successful involvement of extractive companies in ensuring transparency and accountability in the field of subsoil use, including the EITI process in Kyrgyzstan?
4. In your opinion, how important is transparency and accountability in the extractive industry, and how has your company contributed to achieving these goals in Kyrgyzstan?
5. What challenges and/or problems do extractive companies face when participating in the EITI process in Kyrgyzstan, and how do you plan to resolve them?
6. How are mining companies using/applied EITI data to improve governance and accountability in their operations in Kyrgyzstan?
7. What alternative tools or approaches can be applied to increase transparency and accountability in the extractive industry in Kyrgyzstan?
8. In your opinion, how effective has the government been in creating an enabling environment for transparency and accountability in the extractive industry in Kyrgyzstan?
9. Could you tell us about any changes or trends that you see in the extractive industry sector of Kyrgyzstan over the past few years in terms of transparency and accountability?
10. How does extractive companies interact with civil society organizations and other stakeholders in Kyrgyzstan in the area of transparency and accountability in the extractive industry?