

Media Influence

Matrix:



Kyrgyzstan

Government, Politics and Regulation

Author: Gulnura Toralieva

Editor: Marius Dragomir

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About the authors

Gulnura Toralieva is a blogger, media activist, the CEO of "Data Lab". Head of the Bishkek School of Public Relations and a Partner at Promotank Consulting Company, with over 10 years of practical experience in media, governance and civil society development. She worked as an Adviser to the Prime Minister of the Kyrgyz Republic in 2017-2018 and coordinated the Open Government Partnership (OGP) program as well as the Open Data Initiative. In 2015, she was the Director of the OSCE Academy in Bishkek. Previously she led the media and communications team at the Prime Minister's office in the Kyrgyz Republic. Gulnura also worked as an adviser for USAID's strategic communications. From 2010 to 2012, she headed the Department of Journalism and Mass Communications at the American University of Central Asia. Gulnura has a Bachelor's degree in International Relations from the Kyrgyz-Russian Slavonic University, a Master's degree in Science Journalism from the City University London, and a Ph.D. in Journalism from the Academy of Sciences of the Russian Federation.

Marius Dragomir is the Director of the Center for Media, Data and Society. He previously worked for the Open Society Foundations (OSF) for over a decade. Since 2007, he has managed the research and policy portfolio of the Program on Independent Journalism (PIJ), formerly the Network Media Program (NMP), in London. He has also been one of the main editors for PIJ's flagship research and advocacy project, Mapping Digital Media, which covered 56 countries worldwide, and he was the main writer and editor of OSF's Television Across Europe, a comparative study of broadcast policies in 20 European countries.



Hungary, 1051 Budapest, Nador u. 9. Tel: +36 1 327 3000 / 2609 Fax: +36 1 235 6168 E-mail: cmds@ceu.edu The Media Influence Matrix Project is run collaboratively by the Media & Power Research Consortium, which consists of local as well as regional and international organizations. The consortium members are academic institutions (universities and research centers), NGOs, journalism networks and private foundations.

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GOVERNMENT, POLITICS AND REGULATION

Legal Overview	
Regulatory Authorities	6
Operational Aspects	7
Broadcast Media and Frequency Spectrum	7
Print Media Regulators	8
Internet Regulators	8
Data Protection Regulators	9
Other Institutions with Regulatory Powers	9
Decision-Making	10
Key Decision-Makers	10
Transparency of Decision-Making in Media Regulation	11
Impact of Regulators on News Media and Journalism	11
Influencers	12
Local Influencers	12
Civil Society	13
External Influencers	14

LEGAL OVERVIEW

In general, media legislation allows journalists in Kyrgyzstan to work freely and new amendments are not needed, according to experts interviewed for this report. They argue that new legislative initiatives can worsen the environment in which media operate.

The Constitution of the Kyrgyz Republic, passed by a referendum in 2010 when it replaced an older one, serves as a foundation for media regulation in Kyrgyzstan. The Constitution guarantees basic human rights and freedoms for citizens, having the highest legal power and impact in the country's legal environment. The Constitution establishes people's right to freedom of thought and opinion[1], freedom of expression, speech and press[2], and freedom to seek, receive, keep, use and disseminate information orally, in writing or in other ways.[3]

The Constitution guarantees the right to receive information about the activity of the state institutions as well as local governments and agencies financed from both the central and local budgets,[4] guaranteeing access to information held by state institutions, local authorities and their officials.[5] Moreover, the Constitution guarantees the freedom of literary, artistic and other forms of creativity,[6] prohibiting at the same time propaganda of national, ethnic, racial and religious hatred, gender and other forms of social superiority, or calling for discrimination, hostility and violence.[7]

A recent study[8] showed that the 2010 version of the Constitution incorporated a set of norms that create an enabling environment for mass media, including the introduction of openness/transparency as a fundamental principle in exercising power by the state, proper provisions on proportionality of restrictions, clear definitions of prohibition of right restriction, and the prohibition to adopt by-laws related to human rights and freedoms. Only the Constitution and laws adopted by Parliament can tackle human rights. The mass media law is the main legal act directly regulating the activity of the mass media.

The Civil Procedure Code is another important piece of legislation for media as it puts forward provisions about blocking websites. In 2017, the Code was amended and a new section (number 251) was introduced allowing authorities to block websites that promote extremism or terrorism. According to the newly introduced provisions, the prosecutor can ask Internet Service Providers (ISPs) to restrict access to websites that are suspected of having an extremist or terrorist profile until a court decision is issued.

The television and radio broadcasting law was also amended in 2017 to introduce new legal provisions nailing down the criteria used for the issuance by the State Committee for Information Technology and Communications, the broadcast and electronic communication regulator, of a technical permit that television and radio channels need in order to operate. Although it might look like a form of censorship, this is rather a formal requirement that allows the regulator to keep track of the broadcast operations in the country.

^[1] Constitution of the Kyrgyz Republic, Art. 31, para 1

^[2] Constitution, cit., Art. 31, para 2

^[3] Constitution, cit., Art. 33, para 1 [4] Constitution, cit., Art. 33, para 3

^[5] Constitution, cit., Art. 33, para 4

^[6] Constitution, cit., Art. 49, para 1

^[7] Constitution, cit., Art. 31, para 4

^[8] Alisheva N.I., Golovanov D.A., Usenova B.D., Развитие медиа права в Кыргызской Республике (Development of media rights in the Kyrgyz Republic), Media Policy Institute, Bishkek, 2015, available online at http://www.media.kg/wp content/uploads/2016/03/Развитие-медии-права-в-KP1.pdf (accessed on 14 June 2019).

The reach of the foreign broadcasters into the Kyrgyz territory is a serious problem for the local television industry and hard to solve as it is impossible to set boundaries on frequencies. Kazakh and Uzbek television channels, for example, are watched in the northern and southern part of Kyrgyzstan. For local television channels, that is a major problem because it leads to loss of viewers who find the foreign content more attractive. Moreover, foreign channels carry ads of international brands that are also consumed in Kyrgyzstan, which negatively affects the Kyrgyz advertising market as advertising money is spent across the border for products and campaigns that reach viewers inside Kyrgyzstan. Russian channels reaching out to Kyrgyz viewers also pose serious competition. Kyrgyz channels can't compete with international channels primarily because they lack the professional workforce and the financing to train their staff as well as technical equipment to produce high-quality programming that would give them a competitive edge. Hence, some of the international channels are occasionally blocked in Kyrgyzstan as a way to protect the revenues, mostly from ad sales, of the local television channels.

Some experts also believe that foreign television channels bring a direct threat to Kyrgyzstan's national security as they spread ideology supported by neighboring states. Kyrgyz authorities have been planning to deploy technology to systematically block television signals coming in from neighboring states, but this requires a relatively large investment.

The adoption of the Budget Code in 2016 affected the media as well because it changed the way in which the revenues that state media generate through advertising are collected: they first have to be collected by the finance ministry and only then transferred to the broadcaster. Until then, ad revenues were directly transferred to the broadcaster, which could use the money immediately. The new legal provisions hinder the operation of the state media, limiting their access to resources needed for development as the finance ministry constantly delays the transfer of funds. Only 30% to 40% of the state media's expenses are covered by the state budget, with the remainder being generated through sale of airtime to local commercial companies and advertising revenue.

The amendment of the public procurement law in 2016 has had a negative impact on video production that is commissioned through public tenders mostly because it introduced the price as a fundamental criterion. Thus, state institutions organizing tenders to commission video productions must choose the lowest bid, which runs counter to the industry's standards that consider the quality of audiovisual productions to be the main priority.

REGULATORY AUTHORITIES

Freedom of speech in Kyrgyzstan is one of the key issues at the heart of the country's development. Following the victory of Sooronbay Jeenbekov in the presidential elections of 2017, experts and observers noted that pressures on the media from the Government and politicians have abated. The current political context is extremely different from the regime of the former President Almazbek Atambaev who lodged expensive lawsuits against journalists and media companies. (In the end, he withdrew the financial claims.) One recent isolated incident involved the State Service for Combating Economic Crimes, an anti-corruption agency known as financial police, set up by Mr Atambaev, which in February 2019 ordered the newspaper Super Info to undergo a tax audit for all the years starting in 2013. The agency suspected that Super Info failed to pay the right amount of taxes. The newspaper's senior management described the agency's order as a "pursuit of raiders' interests." A local court later annulled the decision of the financial police.

But in spite of all these improvements, many media in Kyrgyzstan maintain their fealty to the President's Office and the Government, closely following the government's editorial policy and rhetoric. Journalists interviewed for this report noted that authorities traditionally do not exert pressures on media in the first two years of their mandate, waiting first to cement their positions of power. Thus, they expect Mr Jeenbekov to start putting pressures on media and human rights defenders later during his term. Self-censorship is also rife in the media, a result of which is the sheer lack of critical coverage of the authorities. Many journalists and experts interviewed for this report admit that following their experience with the previous President, they don't want to face more problems. Some of them say that not knowing what to expect from the newly elected authorities, they choose to tread gingerly.

In 2005 and 2008, the Government attempted to assess the level of information security in Kyrgyzstan, but its strategic concept papers on information security were not approved. A new draft of the "Concept of Information Security of the Kyrgyz Republic for 2019-2023" is out for public discussion. Part of the country's Concept of National Security, the information security document identifies the national interests in the field of information security as well as the external and internal threats, and proposes measures to bolster information security in Kyrgyzstan.

Legislation aimed at protecting information security is in place, but its implementation is sloppy. For example, in 2014, the Kyrgyz government adopted a law on biometric registration requiring all citizens of the country to provide their biometric data (fingerprints) and other personal data, those failing to do so being forbidden to vote. However, implementation of the law was marked by incidents such as the loss of computers and of a memory stick filled with biometric data, officials admitted.

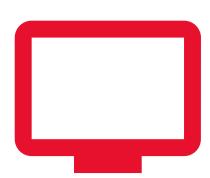
Media law doesn't distinguish between state and non-state media, all rules applying equally to all of them. According to the mass media law, state institutions can establish their own media outlets, but can't establish a media outlet in partnership with a private company or citizens.

Operational aspects

Broadcast Media and Frequency Spectrum

Remit and Tasks

The State Committee for Information Technology and Communications is the main regulatory body in charge of broadcast regulation in Kyrgyzstan. The committee was created in summer 2016 by merging two regulators, the State Communications Agency and the Center for Electronic Governance, under the Government's management.



The State Committee for Information Technology and Communications is in charge of developing and implementing policies in areas such as informatization, electronic governance

and electronic government, postal communications, and radio and television broadcasting. Within the Committee, the State Communications Agency is technically in charge of broadcast regulation.

Television operators must get a permit to use a radio frequency spectrum from the State Committee of Informational Technologies and Communications.

Board Composition

The Committee does not have a board.

Currently the management of the State Committee of Information Technology and Communications consists of the Chairman Dogoev Dastan Davletovich and the Vice-chairman Shatemirov Kubanych Taalaibekovich, as well as the State Secretary Sagymbaev Abdisamat Akimovich.

The management of the State Communications Agency consists of a director and a deputy director who at the time of writing were Smanov Nurlan Marsovich and Mambetaliev Zamirbek Sayakbaevich, respectively.

Funding

The State Committee for Information Technology and Communications operates with a budget that the finance ministry allocates yearly to the committee. In 2019, the institution operated with some KGS 1.5bn (US\$ 21.8m), which was nearly double compared to the previous year, and a massive jump from 2017, the first fully operational year of the committee.

Finances of the broadcast regulator

The budget of the State Committee for Information Technology and Communications, 2017-2019

Year	KGS '000	US\$ '000
2017	186,744.70	2,714
2018	742,985.80	10,799
2019	1,522,815.50	21,816

Note: average exchange rate of the National Bank of the Kyrgyz Republic was used. Source: Legal documents[9]

Print Media Regulators

The mass media law puts forward regulations for the print media. All print media in Kyrgyzstan have to register with the Justice Ministry. (See Other Institutions with Regulatory Powers in this chapter) However, there is no regulator fully dedicated to print media.

Internet Regulators



The mass media law doesn't include online media in the list of mass media legally allowed to operate in Kyrgyzstan. According to the law, online portals are not a mass medium although many of them are registered as such. The need to amend the law to include online media in its provisions is an issue regularly raised by MPs, but civil society opposes such legal provisions.[10] Journalists and media specialists think that the inclusion of the internet in the law is an attempt to restrict freedom of speech that could have negative consequences even for ordinary citizens as it will be hard (if not

impossible) to determine what online platforms and sources can be considered a mass-medium.[11]

Although registered online publications generally try to comply with the media law and meet minimum ethical standards embraced by the profession, the number of unregistered online portals, including those specialized in distributing fake information, has increased in the country in recent years. Many of them do not even have their own website, being active only on pages created on

[9] The law on the national budget of Kyrgyz Republic for 2019 and forecast for 2020-2021, Art.17, available online at http://cbd.minjust.gov.kg/act/view/ru-ru/111855?cl=ru-ru

[10] "Кыргызская свобода слова: как власти вмешиваются в работу СМИ" (Freedom of speech in Kyrgyzstan: how authorities interfere the work of mass-media), Kaktus Media, 19 October 2016, available online at https://kaktus.media/doc/346037_kyrgyzskaia_svoboda_slova:_kak_vlasti_vmeshivautsia_v_raboty_smi.html (accessed on

15 June 2019).

[11] "Мнения: Поправки в закон о СМИ - это имитация законотворческой деятельности" (Opinions: Amendments in the mass media law – this is an imitation of legislative activity), Kaktus Media, 16 June 2016, available online at https://kaktus.media/doc/340179_mneniia:_popravki_v_zakon_o_smi_eto_imitaciia_zakonotvorcheskoy_deiatelnosti.html (accessed on 15 June 2019).

Facebook and Instagram. But because the internet is not regulated, it is not possible to make these portals accountable for their content. In most cases, it's impossible to find data about the organizations running these websites and the authors of the articles they publish.

For many years, it was difficult to accredit online publications and news agencies to cover the election campaigns because, according to the Kyrgyz legislation, they are not considered media. Some of them, though, signed an agreement with the Central Election Commission, Kyrgyzstan's election watchdog, consisting of terms and conditions for accreditation including grounds for accreditation's withdrawal, rights, responsibilities and liability of the parties.[12] A similar agreement was concluded during the parliamentary elections in 2015.[13] In these agreements, internet publications were defined to include "e-editions, internet sites, internet portals, news sites, and so on." Although these agreements had no legal basis, they allowed online media to carry electoral ads, helping them generate income, which is vital for their operations.

Data Protection Regulators

There is no regulatory authority for data protection in Kyrgyzstan.

Other Institutions with Regulatory Powers

Ministry of Culture, Information and Tourism (MoCIT) of the Kyrgyz Republic[14] is in charge of implementing the country's public information policy. Its responsibility includes drafting and submission of proposals to create enabling conditions for the development of the media and measures to support projects in the media that are highly valuable for society. The MoCIT is also tasked to write regular analysis of the media sector and coordinate activities of state media and news agencies. The ministry has to support, promote and protect the interests of the Kyrgyz media abroad.

In practice, though, in most cases the MoCIT is only an executor of decrees released by the Presidential Office, which cover a wide range of issues including the appointment of the heads of state-controlled mass-media companies, issuance of broadcast permits[15] to television and radio operators and drafting the list of must-carry channels to be included in the so-called Social Package. MoCIT has the power to decide which channels are going to be included in this package, which makes them available free of charge. However, this decision has to be agreed upon with the Office of the President.

[12] "Центризбирком КР подписал меморандум о сотрудничестве с Интернет-сайтами" (The Central Election Commission of the Kyrgyz Republic has signed the Memorandum on Cooperation with the Internet sites), The Press Service of the Central Election Commission, 22 October 2012, available online at https://shailoo.gov.kg/ru/news/393/ (accessed on 20 May 2019). [13] Gulyza Chudubaeva, "ЦИК КР заключит меморандум о сотрудничестве с интернет-изданиями" (CEC KR will conclude a memorandum on cooperation with the internet portals), KNews, 28 July 2015, available online at https://knews.kg/2015/07/28/tsik-kr-zaklyuchit-memorandum-o-sotrudnichestve-s-internet-izdaniyami (accessed on 20 May 2010)

[14] The Regulation on the Ministry of Culture, Information and Tourism of the Kyrgyz Republic is available online at http://cbd.minjust.gov.kg/act/view/ru-ru/94938 (accessed on 20 May 2019).

[15] The Regulation on the Department of Information and Mass Communications under the Ministry of Culture, Information and Tourism of the Kyrgyz Republic, p. 10, available online at http://www.minculture.gov.kg/ru/documents/4/ (accessed on 20 May 2019).

The Office of the President has a leading role in adopting the country's information policy. However, the country does not have any policy or strategy on information policy. Many attempts to discuss a strategy concept with civil society have thus far failed as Kyrgyz authorities are reluctant to cease state control of the media and stop using state media as propaganda tools. Although civil society periodically raises these issues and some government leaders expressed political will to reform the media, the issue remains unsolved as the majority of local authorities and MPs consciously sabotage all the reformist élan. Many of them are doing so also because they want to protect the jobs of their supporters working for these media outlets.

All media must register with the **Ministry of Justice** in Kyrgyzstan before launching operations. This task is also performed by the regional justice departments if the media outlet is located in the respective area. In general, most media meet the legal requirements for registration. Over 1,500 media outlets are registered with the ministry; however, most of them are not in operation primarily because they lack financing. Roughly 200 publishers are active in Kyrgyzstan, a number that changes rapidly as new outlets are launched while others are folded.

Decision-Making

Key Decision-Makers

Tolgonai Stamalieva, and the brother of the President, Asylbek Jeenbekov, are the key figures influencing the mass-media agenda in Kyrgyzstan today. According to a survey conducted for this study, only these three people have the decisive power over key staff appointments at the Public Broadcasting Corporation of the Kyrgyz Republic (Кыргыз Республикасынын Коомдук телерадиоберуу корпорациясы, KTRK), the country's largest media organization, including the hiring of the company's head and members of its Supervisory Board. The three have a big say in the news agenda of the broadcaster and the tone of the coverage in the state media and KTRK.

Using large informal groups of bloggers and trolls, these key decision-making actors work to promote the positive image of the President and his decisions on social networks and controlled online media. Often, these three people call various publications with "requests" to either remove various pieces of news or present them "in another form." They also decide which events will be attended by the President and whom he will meet, and are in charge of organizing special media events where the President defines the media agenda through speeches prepared by his staff.



Source: Wikimedia Common

Dosaly Esenaliev was a deputy head of the President's Office during the presidency of Kurmanbek Saliyevich Bakiyev between 2005 and 2010. After Bakiyev fled the country in the aftermath of a series of bloody riots during the spring of 2010, Esenaliev became the head of the Executive Committee at the now defunct political party Respublica, which was founded by Ömürbek Babanov, a politician who at a moment in time had a wealth upwards of US\$ 1.5bn, according to the Kyrgyz Committee for Human Rights, a local NGO. Later on, Esenaliev was appointed to head a

similar committee at the political party Bir Bol, known for its pro-Russian sympathies, which has now a presence in parliament.

Tolgonay Stamalieva, the President's press secretary, is also in charge of managing the Information Policy Department in the President's Office. She also worked in the election campaign for Sooronbay Jeenbekov. Prior to that, Stamalieva was head of the Parliament's press service at the time when Asylbek Jeenbekov was the Speaker. She also worked in the press service of the President during the presidencies of Askar Akaev and Bakiyev. Stamalieva was also head of the Information Department at Central Election Committee.



Source: Facebook



Source: UN Photo/J. Carrier

Asylbek Jeenbekov is an MP appointed on behalf of the Social Democratic Party of Kyrgyzstan (SDPK) whose membership is drawn mainly from the country's entrepreneurs. When SDPK moved into opposition, Jeenbekov said that he was going to leave the party, but would continue working as MP.

Transparency of Decision-Making in Media Regulation

No research has been conducted to date to assess the level of transparency in Kyrgyzstan's media policymaking. However, in practice, it is observed that state institutions are often reluctant to provide information to the public. It's not always possible to effortlessly get information from the authorities, which runs athwart legal provisions on access to information although state authorities have to provide such information to the public.

Impact of Regulators on News Media and Journalism

In the old days of the analog broadcasting, television and radio organizations had to get a broadcast license to be able to operate in Kyrgyzstan. During those times, regulatory decisions inflicting damages on broadcasters were rife as in many cases state authorities made claims that the applicants for a broadcast license failed to meet the license conditions. Many of these disputes ended up in court.

However, following the transition to digital broadcasting, which was successfully completed by 2017, the situation has markedly improved. That is because now, thanks to the technological capacity of the new distribution platforms to carry many more channels than during the analog times, licensing of television and radio operations is not needed anymore, making broadcasters less vulnerable to regulatory abuses.

INFLUENCERS

Local Influencers

Religious influencers



Source: YouTube

Religious leaders are increasingly powerful in the media in a context of enhanced religiosity among Kyrgyz people. Like in other societies with an unstable socio-economic situation, religion has a great influence on the public in Kyrgyzstan. Interest in religious themes has been on the rise both in the media as well as on social networks. **Chubak azhy Zhalilov**, the exmufti of Kyrgyzstan is a remarkable influencer who achieved outstanding popularity in recent years. In 2017, Zhalilov was awarded the Silver Play Button on YouTube that rewarded the popularity of his videos on the

platform. The award is given to users with more than 100,000 subscribers. Zhalilov's channel Naasat Media on YouTube is followed by more than 440,000 subscribers and some of his videos have close to 900,000 viewings. According to a project monitoring prisons in Kyrgyzstan conducted by Olga Korzhova and Indira Aslanova of the Bishkek Office of the United Nations Office on Drugs and Crime (UNODC), Chubak azhy Zhalilov exerts more authority among prisoners than the prophet.

Legislators

Dastan Bekeshev, formerly an MP, supported in the past years the inclusion of the internet in the category of mass-media. His proposal was rejected following criticism from the media community. Media Policy Institute, a local think tank, called on the Justice Ministry to bin the legal proposal because of several shortcomings. One of them was the lack of clarity about how the term "web sites" was defined, which raised concerns about the types of internet sites that would be included in the list of mass-media and, as a result, be held responsible. Later, Bekeshev initiated legal



Source: Wikimedia Commons

amendments that required bloggers with a large audience on social media to check everything that is published on their page, and avoid profanity, insult and libel risking fines for failure to do so promptly.

Progressive voices

Another MP, Janar Akaev is known for his open support for journalists and media. He upbraided the supporters of a law proposal aimed to prohibit foreigners to found mass-media in Kyrgyzstan and to cap foreign financing in the media to 20%. Akaev claimed that this legal provisions damage the democratic achievements and image of the country. He also supported journalists during parliamentary sessions and was against judging only journalists in defamation cases, arguing that journalists, since they base their articles on sources of information, which sometime can be politicians,



Source: Twitter

should not take sole responsibility for what they write alone, but their source should also be held accountable. In other words, if politicians tell journalists lies or give them incorrect information, they should also be held accountable.

Aida Kasymalieva, another MP, is also known in the media community as a supporter of journalists. In the past, she worked as a journalist. In one of the Parliament sessions, she encouraged other MPs to support journalists who cover corruption. Recently, Kasymalieva supported the journalist Ydyrys Isakov who wrote about corruption activities of a local entrepreneur who sued the journalist asking for damages worth KGS 50m (US\$ 715,000), an immense sum for a media outlet or for a journalist in Kyrgyzstan. Later, the entrepreneur dropped the lawsuit. Kasymalieva also initiated the law on



Source: Twitter

public broadcasting whose aim was to secure the independence of the country's main state broadcaster. However, most of the media experts say that she was not supportive of some journalists and human rights activists when President Almazbek Atambayev took cases against them in 2017.

Civil Society

Civil society organizations have a great influence on high-level decision-makers. Authorities are very responsive to criticism from civil society, actively reacting to statements, comments and criticism published on social networks or other media. Key NGOs working on media issues include:

- Media Policy Institute (specializing in initiatives aimed at media reform, self-regulation, legal protection of news media, training and monitoring projects)[16]
- Media Support Center (focused on promotion of freedom of speech, it runs its own newspaper printing house and implements projects on media literacy)[17]
- Public Association Journalists (focused on protection of journalists and advocacy on media laws)[18]
- Media Development Center (an NGO offering support for freedom of access and dissemination of information, specializing in drafting laws and regulations of information as well as media monitoring)[19]
- Independent Union of Journalists (specialized in promotion of freedom of speech and protection of journalists)
- Legal Clinic Adilet (NGO working on protection of the rights of independent journalists, bloggers and social media users as well as civil society activists and human rights defenders, enhancing the legal capacity of journalists, media lawyers and experts, and monitoring laws affecting freedom of speech and expression)[20]

^[16] The organization's website is www.media.kg (accessed on 28 May 2019).

^[17] The organization's website is www.msc.kg (accessed on 28 May 2019).

^[18] The organization's website is www.journalist.kg (accessed on 28 May 2019).

^[19] The organization's website is www.medialaw.kg (accessed on 28 May 2019).

^[20] The organization's website is www.adilet.kg (accessed on 28 May 2019).

External Influencers

Foreign donors play a significant role in influencing media in Kyrgyzstan. Their funding is essential for media as the state doesn't have the resources to support a vibrant media market. Assistance comes mostly from the United States Agency for International Development (USAID), the Swiss Agency for Development and Cooperation (SDC), Internews, a global media development organization, the Soros Foundation-Kyrgyzstan, a donor organization funded by investor George Soros[21], the Institute for War and Peace Reporting (IWPR), a non-profit NGO, the U.S. Congressfunded NGO Freedom House, United Nations Development Program (UNDP) and the Organization for Security and Co-operation in Europe (OSCE), a security-focused intergovernmental organization. The assistance of these groups is large-scale and effective. (See Funding Journalism: Kyrgyzstan in the Media Influence Matrix for more details about the levels of philanthropy funding in Kyrgyzstan)

Donor organizations also influence the media agenda through the support they give for specific journalism formats. They have recently focused more on interactive, investigative and data journalism, and on promoting certain topics such as human rights, gender-sensitive journalism, urbanism and the environment. Most of the projects supported by donors during the past two years have been aimed at improving media literacy, combating fake news, developing data journalism and supporting investigative journalism. The Soros Foundation-Kyrgyzstan provided significant support to the country in the process of the transition to digital broadcasting.

Over the past few years, Internews distinguished itself by implementing a series of projects to provide institutional support and strengthen the media capacity. In 2017, they launched Media-K, a three-year project aimed at the development of independent media to provide citizens with diverse and balanced information. The Soros Foundation-Kyrgyzstan also pays special attention to supporting data journalism and other data-based media projects.

A major influence from abroad in Kyrgyz media comes from broadcasters based in neighboring countries, Kazakhstan, Uzbekistan and Tajikistan, in particular. They mostly reach out to households in border regions. For example, Kazakh channels such as Elarna, Khaba and KTK are available in the Chui region, in northern Kyrgyzstan, and in the capital city of Bishkek. In the Leylek region in southern Kyrgyzstan, people prefer channels airing from Tajikistan and Uzbekistan to local Kyrgyz television broadcasters. (See more about foreign channels in Kyrgyzstan in the section Influential News Media in the Funding Journalism chapter of Media Influence Matrix: Kyrgyzstan)

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Tel: +36 1 327 3000 / 2609
Fax: +36 1 235 6168
E-mail: cmds@ceu.edu
cmds.ceu.edu
Postal address:
Center for Media, Data and Society
Central European University
Nador u. 9
1051 Budapest
Hungary



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