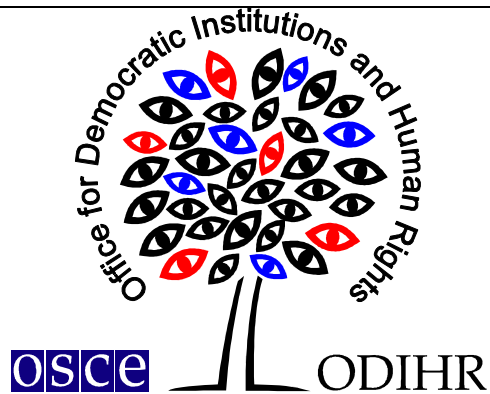


Warsaw, 22 November 2012

Opinion-Nr.: FOM-KYR/213/2012 (AT)

www.legislationline.org



OPINION

ON THE DRAFT LAW OF THE KYRGYZ REPUBLIC ON THE STATE POPULATION REGISTER AND DRAFT AMENDMENTS TO RELATED LEGISLATION

Based on unofficial English translations of the draft Law and draft Amendments

This Opinion has benefited from contributions made by Mr. Kestutis Buciskas, Population Registration Expert, Lithuania

TABLE OF CONTENTS

I.	INTRODUCTION
II.	SCOPE OF REVIEW
III.	EXECUTIVE SUMMARY
IV.	ANALYSIS AND RECOMMENDATIONS
1.	International Standards and Commitments
2.	The Draft Law on the State Population Register
	<i>2.1 General Provisions</i>
	<i>2.2 Personal Data, Storage and Processing</i>
	<i>2.2.1 Personal Data and Storage</i>
	<i>2.2.2 Processing and Use of Personal Data</i>
	<i>2.3 Bodies Responsible for Implementing the Law</i>
	<i>2.4. Responsibility and Liabilities</i>
3.	Draft Amendments to Other Legislation
	<i>3.1. Draft Amendments to the Law on Internal Migration</i>
	<i>3.2. Draft Amendments to Other Relevant Legislation</i>
Annex 1:	Draft Law of the Kyrgyz Republic on the State Population Register
Annex 2:	Draft Law of the Kyrgyz Republic on Introduction of Amendments and Addenda to the Law of the Kyrgyz Republic on Internal Migration
Annex 3:	Draft Law of the Kyrgyz Republic on Amendments and Addenda to the Law of the Kyrgyz Republic on Acts of Civil Status

I. INTRODUCTION

1. *Based on Article 22 of the Law of the Kyrgyz Republic on Internal Migration of 2002¹, the Government of the Kyrgyz Republic is obliged to found a Population Register. Since it was established in 2010, the State Registration Service under the Government of the Kyrgyz Republic (hereinafter “the State Registration Service”) has been working on developing a concept for a unified state population register.² Since September 2010, OSCE/ODIHR has been supporting these efforts by providing expert advice in developing a strategy for a population register by highlighting the need for determining modalities of the technical implementation of the population register and the development of the legal framework regulating its functioning.*
2. *On 14 June 2012, upon request of the Deputy Chairman of the State Registration Service, the OSCE/ODIHR issued an Opinion on the Legal Framework Regulating Population Registration in the Kyrgyz Republic. Also in June 2012, the OSCE/ODIHR presented and discussed key recommendations of the Opinion with members of the Working Group tasked to draft a legal basis for the functioning of the state population register in the Kyrgyz Republic.*
3. *In mid-September, the Working Group completed the draft Law on the State Population Register, as well as other draft Laws amending existing legislation to ensure consistency with this new legislation on the State Population Register, namely the draft Law on the Introduction of Amendments and Addenda to the Law on Internal Migration, the draft Law on the Introduction of the Addendum to the Law on External Migration³, the draft Law on Amendments and Addenda to the Law on Acts of Civil Status⁴, and the draft Law on the Introduction of Addenda to the Law on Personal Information⁵.*
4. *By letter of 30 October 2012, the Chairman of the State Registration Service under the Government of the Kyrgyz Republic asked the OSCE/ODIHR to review these draft Laws for their compliance with international standards and OSCE commitments. This Opinion is provided in response to this request.*

¹ The Law on Internal Migration, adopted by the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic on 28 June 2002.

² In this context, it should be noted that reforms to the national registration system and the establishment of a reliable, efficient system of civil registration were recommended in Final Reports of OSCE/ODIHR Election Observation Missions to the Kyrgyz Republic, see e.g. the OSCE/ODHR Election Observation Mission Final Report on the Parliamentary Elections of 10 October 2011, issued on 20 December 2011 (A. Priority Recommendations, p. 24), and the OSCE/ODIHR Election Observation Mission Final Report on the Presidential Elections of 23 July 2009, issued on 22 October 2009 (C. [Recommendations on] Election Administration, p. 24).

³ The Law on External Migration, adopted on 23 June 2000.

⁴ The Law on Acts of Civil Status, adopted in 2005.

⁵ The Law on Personal Information, law no. 58, adopted on 14 April 2008.

II. SCOPE OF REVIEW

5. The scope of the Opinion covers the draft Law on the State Population Register, and the draft Amendments to the above-mentioned legislation of the Kyrgyz Republic, namely to the Law on Internal Migration, the Law on External Migration, and the Law on Acts of Civil Status respectively. Thus limited, the Opinion does not constitute a full and comprehensive review of all legislation related to population registration in the Kyrgyz Republic.
6. The Opinion raises key issues of concern. The ensuing recommendations are based on OSCE commitments, and other international human rights standards and good practices related to, in particular, the freedom of movement, the right to protection of private life and private data, freedom of information and other related rights, as found in the international agreements and commitments ratified and entered into by the Kyrgyz Republic.
7. This Opinion is based on unofficial translations of the above draft legislation, primarily the draft Law on the State Population Register, the draft Amendments to the Law on Internal Migration, and the draft Amendments to the Law on Acts of Civil Status, as well as other relevant legislation. Errors from translation may result. All three above-mentioned draft laws are attached to the Opinion as Annexes 1, 2 and 3 respectively.
8. In view of the above, the OSCE/ODIHR would like to make mention that this Opinion is without prejudice to any written or oral recommendations and comments to this or other legislation related to population registration, freedom of movement, access to information, data protection or other pertinent matters that the OSCE/ODIHR may make in the future.

III. EXECUTIVE SUMMARY

9. In order to ensure that the draft Law on the State Population Register and the draft amendments to related legislation will be fully compliant with international standards and commitments, it is recommended as follows:

1. Key Recommendations

- A. to amend Article 1 par 2 of the draft Law to reflect the aim of the Law to establish and maintain the State Population Register, and related procedures and rights, as well as the Register's nature as the sole source of legally valid personal information on citizenship, vital life events, civil status and residency; [pars 16 and 18]
- B. to include in the draft Law a general provision on the rights of the individual whose data is managed by the State Population Register; [par 29]
- C. to reflect in the draft Law the principle that only such information on the individual shall be registered and stored as is absolutely necessary for the identification of the individual and the provision of state services; [par 35]
- D. to substantially amend Chapters 4 and 5 of the draft Law and replace them with pertinent references to relevant provisions of the Law on Personal Information; [par 56]

- E. to clearly outline in Chapter 3 of the draft Law the separation of powers between data holders, data users, operators and the responsible authority for processing personal data; [par 58]
- F. to introduce more detailed information on liability, ensuing procedures, and complaint and appeals procedures to the draft Law and, as relevant, to the Law on Personal Information; [pars 65-67]
- G. to take into account relevant provisions of the Regulation on the Rules of Registration and Deregistration of the Citizens at the Place of Residence, and the Place of Stay (hereinafter the “Registration Regulation), which outline facilitated registration procedures for certain categories of persons; [par 76]

2. Additional Recommendations

- H. to clarify or delete Article 2 on the legal basis for regulating the State Population Register; [par 19]
- I. to amend Article 3 as follows:
 - 1) specify in the definition of the State Population Register what the Register does and how it collects and uploads information; [par 21]
 - 2) outline in the definition of the State Population Register that it shall also include persons with temporary residence, and persons residing in the State under subsidiary or temporary protection; [pars 22 and 49]
 - 3) indicate that the State Population Register shall also include information on foreign spouses residing abroad, provided the marriage certificate was issued in the Kyrgyz Republic; [par 23]
 - 4) review and possibly delete the definition of personal data; [par 24]
 - 5) specify, in the definition of the identification number, how this alphanumeric sequence is created, and that it is intended to identify persons and to ensure the inter-operability of state registration and information systems; [par 25]
 - 6) clarify which number should be used as identification number, and ensure that agreement on this matter is reached following a wider consultation process and based on public consensus; [par 26]
- J. to amend Article 4 as follows:
 - 1) rephrase the part referring to “continuity of the Register” to reflect the permanent nature of the Register; [par 27]
 - 2) replace the principle of “free access of individuals to their private data” with the principle that every person has the right to access, know about, and obtain public documents containing his/her own data, data of children and wards, and information on

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

which authority has access to this information, and for which purpose; [par 28]

K. to change Article 5 as follows:

- 1) reinforce this provision by including the obligation of the state to always ensure sufficient funding allowing the State Population Register to function properly; [par 30]
- 2) make it clear that generally, the provision of information and data shall be free of charge, and that in exceptional cases, costs should cover but not exceed actual administration costs for providing such information; certain categories of people should also be excluded from paying such costs; [par 30]

L. to amend Article 6 as follows:

- 1) include information on marital status, and on parents, spouses, children, legal guardians, and trustees; [par 33]
- 2) specify that both current and previous information is included in the Register; [par 34]
- 3) delete pars 1.7 and 1.8 on storing digital photographs and biometric data of individuals; [par 36]
- 4) change pars 1.11 and 4 to ensure that documentation attesting to a person's lack of capacity is not stored in the Register; [par 37]
- 5) clarify in par 2.2 that information on both acquisition and termination of citizenship is included in the Register; [par 38]
- 6) ensure that information on registration and place of residence under par 3 includes the address and locality of the relevant administrative subdivision; [par 39]

M. to outline in Article 7 that in cases where documentation is issued by authorities of other states, the respective document registration code and issuing authority shall be indicated in the Register; [par 40]

N. to make the following changes to Article 8:

- 1) limit this provision to more general information on the State Registration Service, including its responsibilities, and include more detailed provisions in a relevant by-law, taking into account the existing contents of the Registration Regulation and the Law on Acts of Civil Status; [pars 41 and 43]
- 2) ensure that the registration of citizens abroad is done by the national residency registration authorities; [par 42]
- 3) where civil status and residence registration are done by local self-government authorities, to specify that registration acts need to be transferred to the relevant civil status or residence registration authorities under the State Registration Service; [par 44]

O. to amend Article 9 as follows:

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

- 1) clarify whether the electronic digital signature required under this provision is necessary and relevant; [par 45]
 - 2) revise par 2 to describe access of authorities in a general manner, and regulate detailed proceedings in a relevant by-law, or existing legislation on residence registration and civil registration respectively; [par 46]
- P. to merge Articles 9 and 10 of the draft Law; [par 47]
- Q. to delete Article 11 par 1 allowing for the removal of personal data under certain circumstances; [par 48]
- R. to introduce the following changes to Article 12:
- 1) see to it that foreign names are recorded as written in travel documents; [par 50]
 - 2) amend the modalities of the backup system under par 2 to indicate an electronic backup system at a secure location, that will be automatically synchronized with the actual Register on a regular basis; in this case, Article 13 should be deleted as redundant; [par 51]
- S. to revise Article 15 as follows:
- 1) specify the rights and duties of the Register Manager; [par 59]
 - 2) clarify which categories of individuals would require methodical management and control of record systems, and why; [par 60]
- T. to include information on the nature of the “public authority in the sphere of population registration” under Article 16, and if necessary, merge Articles 16 and 17; [par 61]
- U. to change Article 28 so that the implementation of the law is monitored by a more independent body; [par 62]
- V. to enhance the actions that employees of the registration authority will be held liable for under Article 26 par 2; [par 64]
- W. to clarify under Article 31 which articles of the Law on Internal Migration shall be declared null and void; [par 70]
- X. to include all proposed amendments to the Law on Internal Migration in one draft Law; [par 71]
- Y. to ensure that all provisions on registration are transferred from the Law on Internal Migration to the draft Law; [par 72]
- Z. to debate whether temporary residence should be registered, and if so, whether to prolong the time period after which temporary residence must be registered by law; [par 73]
- AA. to add amendments to the simplification of registration procedures to the Registration Regulation; [par 74]
- BB. to ensure that, to the extent possible, the provisions of the Law on Migration also apply to non-citizens; [par 75]

- CC. to consider introducing to the draft Law and the Law on Acts of Civil Status a provision stating that all personal information registered will be introduced to the Register, instead of making more substantial changes to the existing legislation; [par 78] and
- DD. to ensure that the proposed amendment to Article 35 of the Law on External Migration also refers to information on temporary residence permits.[par 79]

IV. ANALYSIS AND RECOMMENDATIONS

1. International Standards and Commitments

- 10. It is common practice in many OSCE participating States to oblige citizens to register their place of residence and vital life events with the relevant state authorities, who will then use the information to provide the population with relevant state services. A population registration system⁶ should meet a society's need for basic information on its citizens and other inhabitants to efficiently and effectively guarantee civil rights and provide core social services such as healthcare, schooling, etc. Population records may likewise be used to create the voter register to be used in elections, as well as for statistics and taxation.
- 11. While the legal and administrative frameworks for population registration are not directly regulated in relevant international human rights instruments and commitments, they should be drafted and implemented in such a way as to maintain and safeguard important human rights of the population, and not inhibit the enjoyment of such rights. More precisely, population registration is an important tool that should provide for the creation of conditions whereby everyone may enjoy his civil and political rights, a requirement that was already included in the Preamble of the International Covenant on Civil and Political Rights⁷. Other potentially affected rights protected by the ICCPR include the right to liberty of movement and freedom to choose one's residence (Article 12 par 1), the right to privacy, home, family and the integrity of honour and reputation (Article 17 par 1), the freedom to seek, receive and impart information (Article 19 par 2), and right to vote and be elected by "universal and equal suffrage" (Article 25 (b)).
- 12. Similarly, numerous OSCE commitments attest to the relevance of, e.g. the freedom of movement and residence⁸, free voting procedures and universal

⁶ Population registration should not be confused with civil registration – while it includes some or all of the tasks of civil registration, e.g., the registration of births, marriages, divorce, adoption and name changes, it goes beyond the mere collection of civil documents and statistics.

⁷ See the full text of the third paragraph of the Preamble of the International Covenant on Civil and Political Rights (ICCPR): "Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights [...]". The ICCPR was adopted by UN General Assembly resolution 2200A (XXI) on 16 December 1966, and acceded to by the Kyrgyz Republic on 7 October 1994.

⁸ See the Concluding Document of Vienna – The Third Follow-up Meeting, Vienna, 15 January 1989, Questions Relating to Security in Europe: Principles, par 20.

and equal suffrage⁹, the right to privacy and protection of correspondence¹⁰, and the right to information in general¹¹. The OSCE/ODIHR's Guidelines on Population Registration reflect these commitments, and outline criteria for the development of efficient population registration systems that correspond to the legitimate needs of the participating States and their citizens.

2. The Draft Law on the State Population Register

13. The draft Law on the State Population Register (hereinafter “the draft Law”) regulates all matters pertaining to the work of the State Population Register created by it. The seven chapters of the draft Law include general provisions, procedural matters, management of the register, provision, use and protection of data, as well as control, oversight and responsibility of state officials.

2.1 General Provisions

14. The first chapter of the draft Law on “General Provisions” covers the aim and scope of the draft Law, definitions, basic principles and funding.
15. Article 1 of the draft Law outlines the subject and aim of this piece of legislation. According to par 2 of this provision, the draft Law aims at “protecting rights and freedoms of individuals and creating a single information space in the Kyrgyz Republic by uniting the providers of information on individuals into a single information system of population registration with centralized storage and regular (real time) updating of the main registration data”.
16. While the protection of the rights and freedoms of individuals on the one hand, and the creation of a single information space on the other are indeed important issues, the main aim of the draft Law would first and foremost appear to be the establishment and maintenance of a State Population Register for the purpose of electronic collection, storage, processing and updating of personal information as defined by law. At the same time, the draft Law should also determine the procedures for using these data, the fundamental rights, duties and responsibilities of the Register management bodies, data providers/suppliers and the persons whose data is recorded in the Register. This should be specifically mentioned in Article 1.
17. The protection of rights and freedoms is rather a principle that should be taken into account when implementing the law, as rightly stated in Article 4 of the draft Law on basic principles. The creation of a single information space appears to be a consequence of the establishment of a single unified State Population Register.
18. While the unity and centralization of this “single information space” is mentioned in Article 1 par 2, it is important to specify in the draft Law that the new State Population Register is the sole source of legally valid personal

⁹ See the Copenhagen Document, pars 5.1 and 7.1.

¹⁰ See the 1991 Concluding Document of the Moscow Meeting, par 24, which also protects electronic communications.

¹¹ See, among others, the Concluding Document of Vienna, Co-operation in Humanitarian and Other Fields, par 34.

information on citizenship, vital life events, civil status and residency for the use of individuals and public institutions in the Kyrgyz Republic. Article 23 par 1 already mentions that the Register is the official source of personal data of the population of the Kyrgyz Republic, but it would be helpful to make reference to its unique position in terms of valid documentation. This is important, as it reiterates that the State Population Register is not one of several registers that, due to possibly conflicting information stored, may become redundant. To demonstrate the importance of this principle, it should be included as a stand-alone provision within the Chapter on General Provisions.

19. Article 2 of the draft Law specifies the legal basis for regulating the State Population Register as being not only the draft Law, but also the Constitution, international treaties, other laws and normative legal acts. Presumably, this provision aims to clarify that next to the draft Law, principles and provisions from other legislation may regulate matters pertaining to the running of the State Population Register. It is doubtful, however, whether the vague formulation of this provision, which merely specifies that “other laws and normative acts” also help form the legal basis for the State Population Register, meets this aim. This provision will only be able to provide information on the legal basis for the State Population Register if it clearly specifies which other legislation is part of such legal basis, and whether, and if so in which cases, this other legislation takes precedence over the draft Law, which is, after all, the main piece of legislation regulating the State Population Register. In particular, the relation between the draft Law and the Law on Personal Information, which also deals with data collection, storage and processing, should be clarified and, to the extent possible, these laws should be consistent. The mention of the Constitution and international treaties also would not appear to be necessary, as it is clear that constitutional provisions apply to all legislation of the Kyrgyz Republic. It is recommended to amend Article 2 accordingly, or else to delete it.
20. Definitions of main terms used in the draft Law are laid down in Article 3, including of the State Population Register, the Register Manager, personal data of individuals, identification number, and protection of personal data. The State Population Register is defined as “an automated national centralized information system based on the personal database of Kyrgyz citizens, foreign citizens, stateless persons with the right of permanent residence in the Kyrgyz Republic”.
21. While this definition states the nature of the State Population Register, it does not specify what this information system does. It would be preferable if the definition under Article 3 would clarify that the State Population Register will be a computer-based system that stores personal information as defined by the law and based on the official registration act, in electronic format, and which authority is responsible for its establishment. Also, it would be good to outline how information in the register is collected and updated, namely that this is done electronically based on the registration act issued by the authority responsible for registration of personal information.
22. At the same time, state population registers usually contain personal data on citizens, and all other persons legally residing in a country, both on a

permanent and on a temporary basis. While the personal database mentioned in Article 3 covers foreign citizens and stateless persons with the right of permanent residence in the Kyrgyz Republic, this provision does not speak of temporary residence, nor does it refer to persons residing in the State under systems of subsidiary or temporary protection. Contrary to refugees, the latter often do not have a clear legal status in their host country, but should nevertheless be registered. It is advised to amend Article 3 to include these categories of persons temporarily residing in the Kyrgyz Republic – either specifically, or by stating, as mentioned above, that the Register contains personal data on all persons legally residing in the country, both on a permanent and on a longer-term temporary basis (this should then also be defined in the draft Law). In this way, Article 3 would also be consistent with Article 6 on the types of personal data processed by the State Population Register, as Article 6 speaks of both permanent and temporary registration. At the same time, it should be debated whether, and at which point, persons residing at a location temporarily should register (see par 73 *infra*).

23. Furthermore, when Kyrgyz citizens marry foreigners residing abroad, and the marriage is registered in the Kyrgyz Republic, then the State Population Register in the Kyrgyz Republic should contain all necessary information on the foreign spouse. The same should apply where such “mixed couples” register other civil events, e.g. birth of a child, adoption, etc. Such cases should also be included under Article 3 of the draft Law.
24. As for the definition of personal data under Article 3, it is questionable whether this definition is needed at all, given that Article 6 outlines in detail which kind of personal data is processed by the State Population Register. It is thus recommended to review and possibly delete the definition of personal data as redundant. Should it nevertheless be considered necessary to define personal data in this draft Law, then Article 3 should specify that this definition is only for the purposes of this law, to explain the difference in terminology to the Law on Personal Information, which in its Article 3 contains a much wider definition of personal data (which would be too wide for the purposes of the draft Law).
25. Under Article 3, the term identification number refers to an alphanumeric sequence, which constitutes the “main identifier of an individual in the process of recording his/her personal data in the Register, updating, removal, storage, recovery, provision, use and protection”. It would, however, be helpful if the definition would also specify how this alphanumeric sequence is created (that it is assigned by the register manager), and that it is intended for the identification of a person, as well as to ensure the inter-operability of state registers and information systems.
26. Additionally, it should be clarified which number should be used, as the Law on Internal Migration also provides for a personal identification number, and there is also the Social Fund identification number, which is widely used in the Kyrgyz Republic. The State Registration Service could, on the other hand, create a new identification number, which could perhaps help enhance the protection of confidential data. The decision on which number to use for this purpose may have a significant impact on the work of public administration in general; thus, it is essential that such a decision is taken following wider

consultations, and, as much as possible, based on a consensus decision of all relevant stakeholders.

27. The basic principles for the creation and management of the State Population Register are listed in Article 4 of the draft Law, and also include the “continuity of the Register”. It is recommended to rephrase this, to demonstrate with greater clarity the permanent nature of the Register.
28. At the end of Article 4, “free access of individuals to their private data” is included as a basic principle. This formulation is perhaps misleading, as it may imply that individuals have direct access to their own data at all times, even though in reality, they first need to contact the State Registration Service to obtain access to such data. It would thus perhaps be more accurate to replace this principle with one outlining with more clarity the principle that every person has the right to access, know about and obtain public documents containing his/her own data¹², the data of his/her minor children and adopted children, as well as data about persons under his/her guardianship or custodianship. This includes the right to know about which authority has accessed his/her information, and for which purpose. This is one of the main rights of a person whose data is stored and managed by a population register.
29. In general, it is essential that the draft Law contains a more general provision outlining the rights of the individual whose data is managed in the Register, which would include access to his/her own data, knowledge on how it is used and who accesses it, confidentiality of personal data, and the right to non-discriminatory treatment. The draft Law should also include in such a provision information on the right to complain against wrongdoing, the right to request correction of information that is inaccurate, or which was not stored based on an official registration act, as well as the right to appeal against decisions of the Register Manager (see pars 66 *infra*). These rights should extend to information relating to the complainant/appellant him- or herself, or to his/her minor children, adopted children, or other persons placed under his/her guardianship or custodianship.
30. Article 5 of the draft Law specifies that the creation and operation of the State Population Register shall be funded by the state and local budgets, as well as special funds stipulated by law, including income derived from the provision of services. This article is welcome, and could perhaps be formulated in a stronger way, stating that the State is obliged to ensure that the Register receives sufficient funding to function properly. As for income derived from the provision of services, it should be noted at this point that generally, the provision of information or data from the State Population Register shall always be free of charge, to avoid situations where some persons do not register for financial reasons. The provision of registered information may exceptionally be subject to certain costs, e.g. in cases where large amounts of data are requested, or where data is requested very frequently. Such costs should cover, but not exceed, the actual administrative costs incurred.¹³ Certain categories of people, such as e.g. persons relying on social welfare should, however, be excluded from this obligation.

¹² This is again related to the right to privacy under the 1991 Moscow Document, par 24.

¹³ See the OSCE/ODIHR Guidelines on Population Registration, p. 43

2.2 Personal Data, Storage and Processing

2.2.1 Personal Data and Storage

31. Chapter 2 of the draft Law focuses on the procedure for managing the State Population Register. Article 6 outlines the types of personal data processed by this Register.
32. Generally, the data stored in a population register needs to be relevant for the identity, life events and place of residence of the population, and shall include data necessary to guarantee individuals' human rights, civil rights and social benefits. This usually means personal data about individuals, including data concerning one's identity, residence and vital life events such as birth, marriage, or death. To ensure the relevance of the data at all times, the existing data shall be updated on a regular basis.
33. While Article 6 par 1 generally mentions the main types of data habitually stored in state registers (e.g. names, gender, residence, citizenship, and dates of birth and death), it does not list other types of data, such as marital status (including date and place of marriage and, if applicable, divorce), or information on parents, spouses and children. While these types of personal data are mentioned in Article 8 on sources of data acquisition, they should also be included in the list of data under Article 6, as this is the primary provision outlining the data processed by the State Population Register. Article 6 should specify that children should also include adopted children. Legal guardians or trustees should also be included in the list of personal data included in the Register under Article 6 par 1 – so far, they are only mentioned in Article 6 par 4. Given that each person is allocated an identification number, the Register could merely list the identification number of the respective parents, spouses, children or guardians/trustees.
34. Generally, the draft Law should specify that both current information, and all previous information should be stored. Article 6 of the draft Law and other relevant provisions should be amended to reflect this.
35. It is essential that only such information on individuals is registered and stored that is absolutely necessary for the identification of individuals and the provision of state services.¹⁴ The more information is contained in the population registry, the more difficult it is to maintain, update and protect. For this reason, a population registry should maintain the minimum information necessary to perform its functions within the society that it serves.¹⁵ The information necessary for identification, and for the provision of state services, is already part of the registration processes before the civil status authorities and residence registration authorities respectively (in the case of the Kyrgyz

¹⁴ See the 1991 Moscow Document, par 24, which outlines the right to privacy. See also, as a good practice example, the Proposal for a Directive of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM(2012) 10 final, of 25 January 2012. Article 8 of this Proposal prohibits the processing of personal data revealing race and ethnic origin, political opinions, religion or beliefs, trade-union membership, of genetic data or of data concerning health or sex life.

¹⁵ See the OSCE/ODIHR Guidelines on Population Registration, p. 18

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

Republic, both are under the State Registration Service). This should be reflected in the draft Law.

36. In this context, it should be noted that under Article 6 pars 1.7 and 1.8, a digital photograph and biometric data of each individual shall be stored in the State Population Register. This would not appear to be necessary or appropriate, as biometric data and digital photographs should generally be stored in the state database on ID and travel documents. It should also be borne in mind that for infants and younger children, the value of digital photographs will in any case be doubtful, given that the appearance of such minors changes constantly. This part of Article 6 should thus be deleted.
37. Under Article 6 par 1.11 and par 4, information on a person's death, and on documents declaring him/her to be missing, or partially or fully "incapable" shall also be stored in the Register. It is presumed that the term "incapable" refers mainly to persons who are mentally and/or physically incapacitated (this is not specified in the respective provision). While such information will in any case be part of any data on guardians or trustees, it is questionable whether documentation on any such incapacitation should actually be stored in a population register, given that it is sensitive, and usually confidential, as it also forms part of a person's medical files. It is recommended to amend these provisions to ensure that such documentation is not included in the Register.
38. Article 6 par 2.2 states that data on citizenship should include information on the date of acquisition or termination of citizenship. This should be amended, as the data on citizenship should include both dates, if applicable – acquisition *and* termination. Possibly, this misconception is due to inaccurate translation – if not, then this provision should be amended.
39. When speaking about the place of residence and registration under Article 6 par 3, the draft Law should specify that this should include the address and locality based on the respective administrative subdivision.
40. According to Article 7 of the draft Law, next to the actual personal data, the State Population Register shall also contain document entries confirming the authenticity of the registered data. Next to entries concerning documentation issued by authorities of the Kyrgyz Republic, documentation from other States may also be added. Article 7 should specify that for those cases, the document registration code and issuing authority from the respective State should also be included in the Register.
41. Article 8 of the draft Law specifies the sources of personal data acquisition in the State Population Register, namely which department or office shall register which type of information. This provision appears to be quite detailed for a law; given that the citizenship records are kept by the State Registration Service while both civil status and residence registration are part of the State Registration Service, and local authorities conduct their registration services on behalf of this Service, this means that in part, Article 8 describes an inter-service distribution of tasks. This could just as well be dealt with in a sub-legal norm, or in an internal administrative order. At the same time, it should be borne in mind that the current Regulation on the Rules of Registration and De-registration of the Citizens at the Place of Residence, and the Place of Stay (hereinafter "the Registration Regulation") and the Law on Acts of Civil

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

Status already define which authorities are responsible for the registration of different types of personal data, and have already been amended to reflect the mandate of the State Registration Service.

42. As for the tasks of the Ministry of Foreign Affairs (Article 8 par 2.3), the registration of citizens living abroad should not be done by a separate Ministry, but rather by the national residency registration authorities, in other words also the State Registration Service. In any case, anybody changing his/her residence permanently will probably de-register; during this process, the new address abroad can also be entered into the Register.
43. Instead of its current contents, Article 8 should rather stipulate that the State Registration Service maintains the State Population Register, and outline the State Registration Service's responsibilities in this field. More specifically, this provision should state that these responsibilities include ensuring the integrity of the data registered, maintaining permanent electronic communication with registration branches in local communities, seeing to it that staff of the State Registration Service is properly and regularly trained, and that data processing takes place in an environment with due respect for legislation on data protection, in particular the Law on Personal Information. Furthermore, the State Registration Service should take care that relevant parts of public administration have access only to such data as defined in the law.
44. In cases where civil status and residence registration are done by local self-government authorities, Article 8 should specify that registration acts need to be transferred to the relevant civil status or residence registration office under the State Registration Service, where the information will be entered electronically into the State Population Register.
45. The recording of data is specified in Article 9 of the draft Law, which states that personal data to be recorded shall be certified by the electronic digital signature of the authorized officer of the state or local body recording the data. The head of this body is also responsible for the integrity, validity and actuality of this specific data. The electronic digital signature of the competent officer doing the recording may well not be necessary, as the system of the State Population Register should be designed in such a way as to ensure that every officer is already identified by the password used to enter the system. As for the digital signature, it should be noted that the Law on the Electronic Digital Signature does not define such digital signature as a data protection mechanism as well. Rather, it is an identification tool equal to a traditional signature.
46. Par 2 of Article 9 describes the characteristics of a record in general – this would appear to be too detailed for this law, and should, if it is not already, be included in the relevant by-law/legislation on residence registration and the Law on Civil Status respectively. Instead, Article 9 could merely, in a general way, state that authorities will have access to the system of the State Population Register only to introduce to the Register and update the personal data which, under the law, they are responsible for registering.
47. Article 10 of the draft Law on updating personal data contains largely the same information as Article 9, except for par 4, which states that new personal data shall be entered without deleting the previous data. It is thus

recommended to merge both provisions into one, while bearing in mind the recommendations made with regard to Article 9 in pars 45 and 46 *supra*.

48. The removal of personal data from the Register is regulated in Article 11 of the draft Law. Under par 1 of this provision, such removal will take place in case of violation of the legally established procedure of entering personal data into the Register, and also for the purpose of ensuring national security, and human rights and freedoms of others. The rationale for this provision is not clear – surely incorrect or incomplete data can be removed from the Register, or replaced with correct data, but it is not apparent how data in the Register, which merely reflects real actions that have already taken place, could pose such a danger to national security or rights and freedoms of others to justify its removal. It is strongly recommended to delete this provision.
49. Under Article 12 of the draft Law, the storage of personal data is outlined; according to par 1 of this provision, surnames and names of foreign citizens, stateless persons and refugees shall be stored in the Latin transcription according to the international requirements of transliteration of surnames and names. As stated earlier in par 22 *supra*, this list of non-citizens should also include persons residing in the Kyrgyz Republic under subsidiary or temporary state protection.
50. As for the transcription of foreign names, these should be stored in the same way as they are written in travel documents. Such documents usually already have a machine readable zone where such data is already transcribed into the Latin alphabet.
51. Pars 2 of Article 12 outlines that storage of electronic copies of personal data shall be ensured outside the office, and updated no less than once a year; pars 3 and 4 outline the situations and procedure for transferring personal data for storage. Such a system is in practice difficult to maintain, as it requires much back and forth of data, and essentially creates a second backup register that is outside the office and will usually not be up to date. It would be easier if an electronic backup of the State Population Register is established at a secure location, which will then be automatically synchronized with the actual Register regularly. Indeed, one of the assets of an electronic population register is that archiving of digital information is no longer necessary; even where individuals are deceased, or have left the country, their records remain in the database permanently (inactive records). Article 13 on data recovery would thus also appear redundant, as data can always be recovered at all times from the electronic backup of the Register. It is recommended to amend Article 12 accordingly, and to delete Article 13. While the law should define the requirement of maintaining a digital backup, the manner of maintaining such back up should be a subject of internal regulation of the Register Manager/holder.

2.2.2 Processing and Use of Personal Data

52. The procedure and terms of processing personal data are laid down in Chapter 4 of the draft Law, while Chapter 5 deals with the use and protection of personal data.
53. This part of the draft Law would appear to be overly detailed and complicated, given that the procedure of providing access to information, and requirements for the use and protection of personal data are already laid down in the Law on Personal Information.
54. Generally, a request for access to information on personal data by public institutions should be made to an independent body, here the authorized public administration body established under Article 29 of the Law on Personal Information. Depending on the requesting party, and on the information concerned, this independent body will then decide whether access should be granted or not. Access may be granted permanently (e.g. to health institutions), periodically (e.g. in the case of voter lists prior to elections), or on a one-time basis. If access is granted, the independent body will instruct the State Registration Service to ensure such access (viewing rights only) to the information that it has determined that the respective public institution is eligible to see under the law. Access to individuals is provided by this Law, in compliance with the Law on Personal Information, following a direct application to the State Registration Service.
55. The independent oversight body should monitor the proper implementation of its order to the State Registration Service As stated in Articles 16, 18 par 2 and 30 of the Law on Personal Information, all holders of personal information need to register and submit all necessary information to this authorized public administration body. A register of all data holders is then published annually (Article 30 par 4 of the Law on Personal Information). Following the general principle mentioned in par 28 *supra*, individuals shall at all times be entitled to access their own personal information.
56. Thus, the draft Law need only contain general mention of the procedure outlined above, with relevant references to the existing provisions in the Law on Personal Information. It is proposed to amend the current Chapters 4 and 5 substantially to reflect this.

2.3 Bodies Responsible for Implementing the Law

57. Chapter 3 of the draft Law outlines the management of the State Population Register and the functions of other state bodies ensuring the operation of the Register.
58. At the outset, it is noted that structurally, the chapter on bodies responsible for implementing the law should be located earlier in the text of the draft Law, ideally right after the chapter on general provisions. At the same time, this chapter should clearly outline the separation of powers between data holders, data users, operators and the responsible authority for processing personal data. The draft Law should also be consistent with the Law on Personal Information in this respect.

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

59. Article 14 states that the State Population Register shall be managed by the Register Manager, which in the Kyrgyz Republic is the State Registration Service. Article 15 outlines the functions of the Register Manager, but does not specify the rights and duties of this body. It is recommended to include this aspect in Article 15.
60. Under Article 15, one of the functions of the Register Manager is the methodical management and control of record systems of certain categories of individuals, created by state and local self-government bodies. It is not clear which categories of individuals this provision would cover, nor why they would require specific “methodical management and control”. This part of Article 15 should be clarified.
61. Article 16 lists the functions of the “public authority in the sphere of population registration”. The nature of this public authority, as opposed to the Register Manager (State Registration Service) is not clear. Should Article 16 not mean a specific body, but rather merely all state bodies that are somehow involved in recording personal data, then this should be specified in the wording of this provision. Also, Article 16 and 17 could then be merged, as they would simply be speaking of the competences of all other data providers in this area of public service.

2.4 Responsibilities and Liabilities

62. The control, oversight and responsibility related to the running of the State Population Register are laid out in Chapter 6 of the draft Law. Under Article 28, the oversight of accurate and uniform observance of the law is the responsibility of the Prosecutor General’s Office. While the Prosecutor General appears to monitor the implementation of numerous pieces of legislation in the Kyrgyz Republic, it is questionable whether this body, which is essentially a law enforcement body, and part of the executive to body (as is the State Registration Service), is really the most appropriate body to monitor implementation of the law. Ideally, the implementation of the Law on a State Population Register should be monitored by a more independent body, ideally the bodies mentioned under the Law on Personal Information (Article 22), though this provision could also be clarified in this respect.
63. Under Article 29 of the draft Law, the violation of requirements of the Law shall entail liability in accordance with the legislation of the Kyrgyz Republic.
64. Generally, the employees working for the registration authority should be bound by secrecy and should not be allowed to collect, disclose, process, or use the register’s data without proper legal justification or permission. This is in part already laid down in Article 26 par 2 of the draft Law, which states that authorized officials shall be “made responsible for” illegal transfer or the disclosure of personal data known to them. However, the illegal collection, or use of personal data by staff of the Register Manager, or by other State bodies, should entail liability, as should the negligent storage of such data.
65. Overall, Article 29 is not very specific with regard to liability for violating the law (the same applies to Article 26 par 2). It does not outline which action, taken by individuals or by state authorities, will constitute a violation of the law, nor does it explain which type of violation will lead to which legal

consequences, following which procedure and leading to which outcome. In the interests of clarity and foreseeability of legal provisions, such information should be included in the draft Law. Should the competent lawmakers not wish to include such procedural provisions in the law, then the law should at least include specific references to other legislation outlining the procedure and potential sanctions that may follow out of such procedures.

66. Moreover, in order to enforce the responsibilities that public officials are under, the current legal system should provide individuals with a right to object or complain against certain actions/procedures conducted in relation to the operation and maintenance of the State Population Register. Such a complaints system, along with the pertinent control mechanism, would depend on the administrative structure in the Kyrgyz Republic. Article 18 of the draft Law already provides for administrative and court appeals against the Register Manager's refusal to provide data upon request, but there does not appear to be a complaints system for other types of violations. This right to complain should be expanded for all aspects of data collection and population registration in general, in particular in relation to violations of persons' privacy rights. Article 13 of the Law on Personal Information provides the right for individuals to go to court in case of "illegal activities [...] committed in relation to [...] personal data", but does not specify what type of court procedures this would entail, nor whether this is preceded by any type of administrative procedure.
67. To avoid inconsistencies and lack of clarity in this field, the draft Law should set out the proper procedures for all complaints related to the collecting, storing and processing of personal data, and should specify which body will be responsible for dealing with such complaints. The possibility to appeal against decisions rejecting complaints should also be specified, as should the appeals body and procedures. Ideally, the draft Law should specify the hierarchy of appeals by stating that appeals to courts shall only be permissible once administrative remedies have been exhausted; in Article 18 of the draft Law, this is currently not clear, as it merely states that the court appeal shall happen after the administrative appeal, without specifying that the court appeal is only possible against a decision rejecting an administrative appeal.

3. Draft Amendments to Other Relevant Legislation

68. Next to the draft Law on the State Population Register, the competent Working Group has likewise prepared, *inter alia*, draft amendments to the following legislation: the Law on Internal Migration, the Law on External Migration, the Law on Acts of Civil Status.

3.1 Draft Amendments to the Law on Internal Migration

69. In the OSCE/ODIHR's June 2012 Opinion on the Legal Framework Regulating Population Registration in the Kyrgyz Republic (hereinafter "ODIHR's Opinion on the Legal Framework"), one of the main recommendations was to incorporate Chapters 3 and 4 of the Law on Internal Migration in a new law on population register, and discuss the need to retain the remainder of the Law on Migration.

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

70. It is welcome that according to Article 31 par 2 of the draft Law on harmonization of legal acts in compliance with the law, Chapter 4 on the unified state register of population shall be declared null and void. According to this same provision, “Article 3 item 1, sub-items 5 and 7-9” of the Law on Internal Migration shall likewise be declared null and void. As Article 3 par 1 of the Law on Internal Migration deals with the principle of human rights, and does not contain any sub-items, it is not clear which provision of the Law on Internal Migration Article 31 par 2 is referring to. This part of Article 31 of the draft Law should thus be reviewed and amended.
71. It is further noted that in addition to Article 31 of the draft Law, the competent Working Group has prepared a draft Law on the Introduction of Amendments and Addenda to the Law on Internal Migration (hereinafter “draft Amendments to the Law on Internal Migration”). It would be preferable to have all amendments to a specific law in one draft Law – thus, it is recommended to transfer the amendments currently outlined in Article 31 of the draft Law to the draft Amendments to the Law on Internal Migration.
72. The draft Amendments to the Law on Internal Migration foresee the removal of all references to the State Population Register in the Law on Internal Migration, which is necessary to avoid duplication in this field. At the same time, many provisions on registration (primarily the entire Chapter 3 on permanent and temporary registration) are still part of the Law on Internal Migration. As outlined in ODIHR’s Opinion on the Legal Framework, it would be more appropriate to have those provisions that need to be part of a law included in the Law on the State Population Register. More detailed provisions on registration are already included in the Registration Regulation. As indicated in par 69 *supra*, this would then also entail a discussion on the need to retain the Law on Internal Migration as a separate law.
73. Point 5 of the draft Amendments to the Law on Internal Migration outlines changes to Article 13 par 3, which deals with registration of temporary residence. Previously, such registration was obligatory if individuals left their permanent place of residence to stay at another locality for a period exceeding 45 calendar days. This period has now been extended to 90 days. As already outlined in ODIHR’s Opinion on the Legal Framework, it would be worthwhile to debate whether persons should be obliged to register their temporary places of residence at all, and whether this would not pose a disproportionate burden on both the individuals and the competent administrative offices. At least, the obligation to register in case of temporary residence exceeding 90 days would appear to be overly burdensome.
74. At the same time, it is welcomed that the registration process as outlined by Point 6 of the draft Amendments to the Law on Internal Migration has now been much facilitated and de-formalized. However, where the draft Amendments to the Law on Internal Migration introduce simplification of registration procedures, this could also be introduced to the existing Registration Regulation; indeed, some of them may already have been included therein.
75. According to Point 10 of the draft Amendments to the Law on Internal Migration, some parts shall be added to Article 16 par 1 of this Law, which shall specify that citizens are not obliged to produce the document permitting

them to move into a new habitation if (any) bodies of public administration have at their disposal information contained in the document. In such cases, the registering bodies shall request the corresponding document, or information contained in it, from the respective state or local government bodies. It is noted that this provision, as most provisions in the Law on Internal Migration, refer only to citizens – as stated in ODIHR’s Opinion on the Legal Framework, provisions relating to registration should apply to all individuals residing in the Kyrgyz Republic, not only citizens. This principle has already been applied in the draft Law, but should also be extended to the Law on Migration.

76. The above changes to the registration procedure are conducive to registration procedures, as it alleviates the burden on citizens to always submit said document. At the same time, there may still be many cases where under the Law on Internal Migration individuals have difficulties applying for lack of identification documents, or where they will depend on third persons, such as landlords, to provide documentation that they are legally residing in a certain location. In the case of “informal settlements”, it is also questionable whether public administration is in the possession of documentation stating who lives where. However, it is noted that in order to resolve such issues, Article 8 of the Registration Regulation has foreseen alternative procedures whereby individuals may also register at the dwelling of spouses, parents/guardians, children, siblings, or former dwellings. Further, Article 14 states that persons without fixed abode shall be registered with the relevant local self-government authorities on the territories where they reside. Articles 22 and 23 provide facilitated registration of students enrolled in education institutions, and labourers based on their labour contract. These rules could be of assistance in the Kyrgyz authorities’ attempt to ensure that everybody may register their residence.

3.2 Draft Amendments to Other Relevant Legislation

77. The Law on Amendments and Addenda to the Law on Acts of Civil Status contains numerous changes to the above law, which reflect the fact that following the establishment of the State Population Register, the Register is the unified centralized registration system responsible for all matters pertaining to civil registration. Also, the changes to the law demonstrate the “automated”, in other words the electronic nature of the Register.
78. These changes to legislation may not even be necessary; changing numerous parts of the current law could be avoided by simply adding one provision to the Law on Acts of Civil Status that would acknowledge the existence of the State Population Register. Such a provision would specify that personal information registered under the Law on Acts of Civil Status would, following the establishment of the Register, be introduced into the Register for electronic storage and further processing. This could, however, be phrased in a more general way in the draft Law, which is, after all, the primary law on the State Population Register.
79. With regard to the draft Law on the Introduction of Addenda to the Law on External Migration, it is noted that the proposed amendment to Article 35 only

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

speaks of processing information on permanent residence permits. Should it be decided to retain the obligation to register for temporary residence, ideally only in case this is relatively long term (see par 73 *supra*), then this provision should be amended to also include temporary residence permits.

[END OF TEXT]

Annex 1:

Draft

**LAW OF THE KYRGYZ REPUBLIC
ON THE STATE POPULATION REGISTER**

- Chapter 1 General Provisions**
- Chapter 2 State Population Register Management Procedure**
- Chapter 3 Register Management. Functions of the State Bodies and Local Self-Government Bodies Ensuring the State Register Operation**
- Chapter 4 Provision of Personal Data by the State Register**
- Chapter 5 Use and Protection of Personal Data Stored in the State Register**
- Chapter 6 Control, Oversight and Responsibility in the Sphere of the State Register Operation**
- Chapter 7 Final Provisions**

CHAPTER 1 GENERAL PROVISIONS

Article 1. Subject and Aim of the Law Regulation

1. This Law regulates the relationships arising in the course of recording (registering) personal data of individuals in the State Population Register (hereinafter the Register) and in the process of updating, storage, recovery, use and protection in accordance with the legally established procedure.

2. The Law aims at protecting rights and freedoms of individuals and creating a single information space in the Kyrgyz Republic by uniting the providers of information on individuals into a single information system of population registration with centralized storage and regular (real-time) updating of the main registration data.

Article 2. The Law on the Register

1. The Law of the Kyrgyz Republic on the Register is based on the Constitution of the Kyrgyz Republic, legally enacted international treaties of the Kyrgyz Republic, this Law, other laws and normative legal acts.

Article 3. Definition of Main Terms

For the purposes of this law, the following terms and their definitions shall apply:

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

State Population Register (hereinafter the Register) – an automated national centralized information system based on the personal database of Kyrgyz citizens, foreign citizens, stateless persons with the right of permanent residence in the Kyrgyz Republic and persons having the refugee status in the Kyrgyz Republic (hereinafter Individuals);

Register Manager – the State body operating and managing the Register;

Personal data of individuals (hereinafter Personal Data) – a set of main and additional personal data, also data on document entries confirming the main and additional data of concrete individuals;

Entry in the Register – personal data and relevant records in the register;

Identification number – alphanumeric sequence, which is the main identifier of an individual in the process of recording his/her personal data in the Register, updating, removal, storage, recovery, provision, use and protection;

Updating of personal data – replacement of personal data stored in the Register with actual personal data;

Protection of personal data stored in the Register – Register Manager’s efforts aimed at preventing unsanctioned intervention in the process of Register operation, including attempts to illegally access, block, copy, transfer, distribute, corrupt, eliminate to personal data stored in the Register or commit other illegal actions in relation to the data.

Article 4. Basic Principles of the State Register Creation and Management

The basic principles of the State Register creation and management are as follows:

- Legality;
- Observation of human rights and freedoms;
- Register unification and operation;
- Continuity of Register management;
- Use of a single format while recording data in and providing personal data from the Register;
- Protection of personal data stored in the Register;
- Free access of individuals to their personal data.

Article 5 State Register Funding

Creation and operation of the State Register shall be funded from the republican and local budgets, as well as special funds stipulated by the law, including incomes derived from provision of services.

CHAPTER 2 STATE POPULATION REGISTER MANAGEMENT PROCEDURE

Article 6. Personal Data Processing in the State Register

1. The State Register processes the following personal data of individuals:
 - 1.1. Personal identification number;
 - 1.2. Surname, name, patronymic;
 - 1.3. Previous surname, name, patronymic (if changed);
 - 1.4. Sex;
 - 1.5. Day, month, year (hereinafter the Date) of birth;
 - 1.6. Place of birth;
 - 1.7. Digital photo;
 - 1.8. Biometric data;
 - 1.9. Citizenship data;
 - 1.10. Data on registration at the place of residence and (or) temporary residence;
 - 1.11. Data on individual's death or pronouncement as dead, missing, incapable, limitedly capable.

2. The citizenship data are as follows:
 - 2.1. Citizenship;
 - 2.2. Date of acquisition or termination of citizenship of the Kyrgyz Republic.

3. Data on registration at the place of residence and (or) temporary residence are as follows:
 - 3.1. Place of residence and (or) temporary residence;
 - 3.2. Date of registration at the place of residence and (or) temporary residence.

4. Data on individual's death or pronouncement as dead, missing, incapable, limitedly capable are:
 - 4.1. Date and place of death;
 - 4.2. Date of individual's pronouncement as dead or missing, date of reversal of the corresponding decision;
 - 4.3. Date of individual's pronouncement as incapable, limitedly capable, date of reversal of the corresponding decision;
 - 4.4. Date of establishment of guardianship, trusteeship;
 - 4.5. Date of termination of guardianship, trusteeship;
 - 4.6. Date of dismissal of guardians, trustees from their duties.

Article 7. Data on Document Entries Confirming Personal Data

Alongside with the main personal data, Registry entries contain data on document entries confirming the mentioned personal data. These are:

Document name;
Series;
Number;
Date of issue;
Term;
Issuing authority.

Article 8. Sources of Personal Data Acquisition in the State Register

1. State bodies and local self-government bodies shall conduct the Register forming and consequent update of personal data stored in it according to the personal identification number and the procedure established by this article and articles 12 and 13 of this Law.

2. Personal data to be entered in the Register:

2.1. By departments registering acts of civil status:

- Personal identification number;
- Surname, name, patronymic;
- Sex;
- Date of birth;
- Place of birth;
- Surname, name, patronymic, date, place of birth and personal identification number of a father;
- Surname, name, patronymic, date, place of birth and personal identification number of a mother;
- Surname, name, patronymic, date, place of birth and personal identification number of a spouse;
- Surname, name, patronymic, date, place of birth and personal identification number of a child (children);
- Date and place of marriage registration, divorce;
- Date, place and cause of death.

2.2. By the public authority of the Kyrgyz Republic in the sphere of population registration:

- Digital photo;
- Biometric data;
- on citizenship;
- on registration at the place of residence and (or) temporary residence.

2.3. By the public authority of the Kyrgyz Republic in the sphere of foreign policy:

- on registration of Kyrgyz citizens permanently or temporarily residing abroad .

2.4. By local self-government bodies:

- Registration at the place of residence, temporary residence;
- Registration of acts of civil status;
- Date of establishment of guardianship, trusteeship;
- Surname, name, patronymic, date, place of birth and personal identification number of a guardian, trustee;
- Date of termination of guardianship;
- Date of dismissal of guardians, trustees from their duties.

3. Personal data, mentioned in the paragraphs 2-6, subitem 2.1, item 2 of this article shall be entered in the Register by the public authority of the Kyrgyz Republic in the sphere of population registration:

- in relation to Kyrgyz citizens – while issuing Kyrgyz passports;

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

- in relation to foreign citizens or stateless persons with the right of permanent residence in the Kyrgyz Republic and their underage children – while issuing permanent residence;

- while granting or terminating citizenship of the Kyrgyz Republic.

Personal data, mentioned in the paragraphs 2-6, subitem 2.1, item 2 of this article shall be entered in the register by departments registering acts of civil status:

- in relation to Kyrgyz citizens, foreign citizens, stateless persons with the right of permanent residence in the Kyrgyz Republic and persons having the refugee status in the Kyrgyz Republic – while registering birth;

Article 9. Personal Data Recording in the State Register

1. Recording of personal data in the register shall be conducted continuously, chronologically, in the real-time mode through the system of communication channels of the State bodies and local self-government bodies recording the data in accordance with Article 9 of this law.

2. Personal data to be recorded shall be certified by the electronic digital signature of the authorized officer of the State body, local self-government body recording the data. In accordance with the Kyrgyz legislation, the head of the State body, local self-government body recording the data shall be responsible for their integrity, validity and actuality.

3. Every record entered in the Register shall have a serial number and the following notes:

3.1. Date and time of entering personal data;

3.2. Name of the State body, local self-government body entering personal data in the register.

Article 10. Updating of Personal Data

1. Updating of personal data shall be conducted continuously in the real-time mode through the system of information channels of the State bodies recording the data in the register in accordance with Article 9 of this law.

2. Actual personal data being recorded in the register shall be verified by the electronic digital signature of an authorized officer of the Register Manager, entering them.

3. While updating personal data the register record shall have the following notes:

3.1. Date and time of the personal data update;

3.2. Name of the State body updating the personal data in the register.

4. New personal data shall be entered without deleting the previous data.

5. In case of detection of personal data inaccuracy, the Register Manager shall request the body that entered the data in the register for checking their validity and entering actual personal data in the register.

Article 11. Removal of Personal Data from the State Register

1. Personal data shall be removed from the Register by the Register Manager in case of violation of the legally established procedure of entering personal data in the register, and also for the purpose of ensuring national security, human rights and freedoms of individuals.
2. In case of removal of personal data from the Register, the following notes shall be made in the corresponding record:
 - 2.1. Date and time of removal of personal data;
 - 2.2. Reason for removal of personal data;
 - 2.3. Surname, name, patronymic and electronic digital signature of the authorized officer or a civilian staff (hereinafter Authorized Officer) of the Register Manager, who removed the personal data.
3. Personal data removed from the register shall not be deleted and shall be available for the Register Manager.

Article 12. Storage of Personal Data

1. Personal data shall be stored in the Register in the State and official languages. Surnames and names of foreign citizens, stateless persons and refugees shall be stored in the Latin transcription according to the international requirements of transliteration of surnames and names.
2. Personal data shall be stored in the register permanently. The Register Manager shall ensure storage of electronic copies of the Register outside the office of the public authority and updating of the copies no less than once a year.
3. Personal data shall be transferred for storage to the electronic archive in the following cases:
 - 3.1. Individual's death or pronouncement as dead;
 - 3.2. Renunciation or loss of citizenship of the Kyrgyz Republic by Kyrgyz citizens permanently residing abroad;
 - 3.3. Resettlement of foreign citizens, stateless persons or refugees from the Kyrgyz Republic abroad for permanent residence;
 - 3.4. Cancellation of the permanent residence in the Kyrgyz Republic.
4. In case of transfer of personal data to the electronic archive, the following notes shall be made:
 - 4.1. Date and time of transfer of personal data to the electronic archive;
 - 4.2. Surname, name, patronymic and electronic digital signature of the authorized officer of the Register Manager, who transferred the data to the electronic archive.

Article 13. Personal Data Recovery

1. The Register Manager shall recover personal data in the Register in case of their corruption or deletion.
2. Personal data can be recovered completely or partially on the basis of personal data, entered by the State bodies and local self-government bodies in accordance with Article 9 of this law.

3. In case of personal data recovery, the following notes shall be made in the Register:

3.1. Date and time of personal data recovery;

3.2. Name of the State body, self-government body that entered the personal data in the register;

3.3. Surname, name, patronymic and electronic digital signature of the authorized officer of the Register Manager, who recovered the personal data in the Register.

CHAPTER 3 REGISTER MANAGEMENT; FUNCTIONS OF STATE BODIES AND LOCAL SELF-GOVERNMENT BODIES ENSURING STATE REGISTER OPERATION

Article 14. The State Register Management

The State Register shall be managed by the Register Manager – the public authority of the Kyrgyz Republic in the sphere of population registration.

Article 15. Functions of the State Register Manager

The State Register Manager shall perform the following functions:

- development of technical regulations concerning the Register's work;
- establishment of templates of electronic documents for registration;
- establishment of procedures and depersonalization of personal data in accordance with Article 5 of this Law;
- protection of personal data stored in the Register;
- methodical management and control, within its terms of reference, of the record systems of certain categories of individuals, created by the State bodies, local self-government bodies and communication of the systems with the Register;
- contracting with State bodies and notaries on provision of personal data from the Register according to the procedure established by Article 24 of this Law;
- monitor the Register keeping and use of personal data stored in it;
- control, within its terms of reference, the process of recording of personal data in the Register by the State bodies and local self-government bodies as stipulated by Article 9 of this Law.

Article 16. Functions of the Public Authority of the Kyrgyz Republic in the Sphere of Population Registration

The public authority of the Kyrgyz Republic in the sphere of population registration shall perform the following functions:

- creation of conditions for continuous recording by the State bodies and local self-government bodies, mentioned in Article 9 of this Law, of personal data in the State Register, updating, removal, storage, and recovery according to the procedures established by this Law;
- provision of personal data, stored in the register, to the State bodies, notaries and individuals according to the procedure established by this Law;
- protection of personal data stored in the Register.

Article 17. Functions of Other State Bodies and Local Self-Government Bodies Ensuring the State Register Operation

1. State bodies and local self-government bodies, mentioned in Article 9 of this Law, shall perform the following functions within their terms of reference:

- 1.1. Creation of necessary infrastructure for recording personal data in the Register;
- 1.2. Recording of valid personal data in the Register and their updating according to the procedure, stipulated by Articles 11-14 of this Law;
- 1.3. Protection of personal data recorded in the Register.

2. To ensure information communication with the Register, while creating record systems of certain categories of individuals, the State bodies and local self-government bodies shall build the systems on the basis of the personal identification number, having preliminarily agreed projects of such systems with the State Communications Agency under the Government of the Kyrgyz Republic and the public authority of the Kyrgyz Republic in the sphere of population registration.

CHAPTER 4 PROVISION OF PERSONAL DATA FROM THE STATE REGISTER

Article 18. Provision of, Refusal to Provide Personal Data from the State Register

1. Personal data stored in the Register shall be provided to the State bodies, notaries and individuals in accordance with the procedure and terms specified in Articles 20-22 of this Law.

2. Violation of the procedure, stipulated by Articles 21 and 23 of this Law, is the reason for refusal to provide personal data from the Register.

Refusal to provide personal data from the Register can be appealed at the Register Manager.

Refusal to provide personal data from the Register can be appealed in court after it has been appeal at the Register Manager.

3. Provision of personal data, stored in the register, to foreign States, international or foreign organizations shall be in compliance with international treaties to which the Kyrgyz Republic is a party.

Article 19. Terms of Provision of Personal Data from the State Register to State Bodies and Notaries

1. Personal data shall be provided to the State bodies on their request within 10 calendar days from the day of request filing to the Register Manager or within the terms defined by the agreement on regular provision of personal data from the Register.

2. The term of provision of personal data from the Register on the State body's request can be extended up to one month by the head (deputy head) of the Register Manager if the request concerns a large volume of personal data that require selection.

3. The State body, requesting personal data from the Register, shall be notified in writing about the extension of data provision term and the reasons of the extension no later than three calendar days before the provision deadline according to the request.

4. Personal data shall be provided on notary's request no later than two weeks from

the day of request filing or shall be within the terms defined by the agreement on regular provision of personal data from the Register.

Article 20. Procedure of Providing Personal Data from the State Register to Individuals

1. Personal data shall be provided to individuals by the registering authority in the form of certificates (statements) and via the official website of the public authority **if the applicant uses personal electronic digital signature.**

2. The individual shall have the right to inquire and receive from the Register information concerning:

2.1. His/her personal data and personal data of individuals, whom he/she legally represents;

2.2. Personal data of other individuals, whom he/she does not represent legally, with written agreement of the individuals (their legal representatives), whose personal data have been inquired.

3. Individuals with limited legal ability shall participate in the mentioned relations via their legal representatives except if otherwise specified by the law of the Kyrgyz Republic.

4. The Register shall be issue the certificates (statements) by individual's written request or via the Internet. The individual willing to obtain a certificate (statement) from the Register shall not be obliged to reason his/her interest to the inquired personal data.

5. The form of the written request for provision of personal data from the Register shall be defined by the Register Manager.

6. Written consent of the individual (his/her legal representative), specified by subitem 2.2, item 2 of this article can be expressed by:

6.1. Drawing up of a notarized letter of attorney to obtain person data from the register;

6.2. Notarization of authenticity of the signature on the declaration of the individual (his/her legal representative) of his/her consent for acquisition of his/her personal data from the register.

Article 21. Terms of Data Provision from the State Register

1. The Register shall issue the certificate (statement) within three calendar days from the day of filing of the request for issuing the certificate (statement) to the Register Manager by the individual.

2. If the application is filed via the official website of the public authority by **an applicant using the personal electronic digital signature**, information shall be provided in the real-time mode.

Article 22. Records of Personal Data Provided (or Refused) from the State Register to State Bodies, Notaries and Individuals

1. All facts of provision of personal data from the Register shall be automatically recorded in the Register by the authorized officers of the Register Manager and (or) special software and technical means.
2. In case of provision of personal data from the Register to the State bodies, notaries, the following records shall be made in the Register:
 - 2.1. Data and time of provision of personal data;
 - 2.2. Name of the State body, form of notary's activity, surname, name and patronymic of the notary, who receives personal data from the Register;
 - 2.3. Grounds for provision of personal data (request for provision of person data, agreement on regular provision of personal data), date and registration index of the mentioned documents;
 - 2.4. Surname, name, patronymic and digital signature of the officer of the State body, who provided the personal data.
3. In case of issuance of a certificate (statement) from the Register to individuals, the following notes shall be made in the statement (statement) as well as in the Register entry:
 - 3.1. Date and time of issuance (drawing up) of the certificate (statement) from the Register and its registration index;
 - 3.2. Identification number of the individual requesting the certificate (statement) from the Register;
 - 3.3. Identification number of the individual, whose personal data are specified in the certificate (statement);
 - 3.4. Surname, name and patronymic of the individual, whose personal data are specified in the certificate (statement);
 - 3.5. Surname, name, patronymic and electronic digital signature of the registering authority officer, issued the certificate (statement).
4. In case of refusal to provide personal data from the register, reason of the refusal shall be indicated in the Register entry.
5. The notes, mentioned in the items 2-4 of this article shall be stored permanently.

CHAPTER 5 USE AND PROTECTION OF PERSONAL DATA STORED IN THE STATE REGISTER

Article 23. Use of Personal Data Stored in the State Register

1. The Register is the official source of personal data of the population of the Kyrgyz Republic.
2. Use of personal data, stored in the Register, implies actions of the State bodies, local self-government bodies and notaries receiving the personal data from the Register, on use of the personal data in their activities.
3. Personal data stored in the Register are intended for use by State bodies, local self-government bodies and notaries for:
 - 3.1. Improving performance based on the one stop shopping principle;
 - 3.2. Providing information support of activities of State bodies, self-government bodies and notaries within their terms of reference;
 - 3.3. Monitoring and planning of socioeconomic development of the State;

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

- 3.4. Efficient distribution of budget incomes between administrative-territorial units and the main economic development sectors of the State;
- 3.5. Planning and implementation of measures aimed at social protection and health care of individuals;
- 3.6. Ensuring registration of persons liable for military service;
- 3.7. Estimating the number of voters and compiling voters' list, other lists of separate categories of individuals;
- 3.8. Optimizing distribution of commercial organizations, public services, health care and educational institutions;
- 3.9. Ensuring the exercise of rights and freedoms of individuals;
- 3.10. Performing notary activities;
- 3.11. Keeping demographic statistics, conducting censuses and socio-demographic surveys of individuals;
- 3.12. For other purposes in accordance with the law of the Kyrgyz Republic.

Article 24. Depersonalization of Personal data

Depersonalization of personal data, stored in the Register, can be conducted for scientific, statistical, sociological, medical and other purposes by removing identification numbers, surnames, names and patronymics of the individual, his/her parents, guardians, trustees, spouse, child (children) and digital photos from the individual's personal data. Other personal data can be also removed during depersonalization in accordance with the procedure established by the Register Manager.

Article 25. Protection of Personal Data Stored in the State Register

1. Personal data and relevant notes stored in the Register are confidential. Confidentiality requirement does not spread to depersonalized data.
2. The procedure of protection of personal data, stored in the Register, shall be established by the Register Manager in accordance with this Law, other normative legal acts of the Kyrgyz Republic, including the State secret law.

Article 26. Ensuring Confidentiality of Personal Data and Relevant Notes Stored in the State Register

1. The authorized officials of the Register Manager shall have the right to remove, store, recover and transfer personal data, stored in the Register, in strict compliance with the procedure specified in this Law.
2. In accordance with the law of the Kyrgyz Republic, the authorized officials of the Register Manager shall be made responsible for illegal transfer or disclosure of personal data known to them in connection with their professional duties, including after cessation of the duties.

CHAPTER 6 CONTROL, OVERSIGHT AND RESPONSIBILITY IN THE SPHERE OF THE STATE REGISTER OPERATION

Article 27. Control of the State Register Operation and Use of Personal Data Stored in the State Register

The Register operation and use of personal data stored in it shall be the responsibility of the State Register Manager.

Article 28. Oversight of Accurate and Uniform Observance of the Law of the Kyrgyz Republic in the Sphere of the State Register Operation

Oversight of accurate and uniform observance of the law of the Kyrgyz Republic in the sphere of the State Register operation shall be the responsibility of the Prosecutor General's Office of the Kyrgyz Republic.

Article 29. Responsibility for Violating Requirements of this Law

Violation of requirements of this Law shall entail liability in accordance with the legislation of the Kyrgyz Republic.

CHAPTER 7. FINAL PROVISIONS

Article 30. Application of Norms of International Treaties of the Kyrgyz Republic

If norms of legally enacted international treaties, to which the Kyrgyz Republic is a party, conflict with the norms stipulated by this Law, the norms of the international treaties shall have priority over the norms of this Law.

Article 31. Harmonization of Normative Legal Acts of the Kyrgyz Republic in Compliance with this Law

1. The Government of the Kyrgyz Republic shall:
 - bring its normative legal acts in compliance with this Law;
 - adopt normative legal acts, ensuring implementation of this Law.
2. Recognize as void:
 - Subitems 5, 7-9, item 1 of Article 3 of the Law of the Kyrgyz Republic "On Internal Migration" of July 30, 2002, N 133
 - Chapter IV of the Law of the Kyrgyz Republic "On Internal Migration" of July 30, 2002, N133.

Article 32. Transitional Provisions

1. For the purpose of enacting the provisions of this Law, uniform national principles of building an integrated system of population registration of all State bodies, local self-government bodies, indicated in Article 9 and agreed in compliance with Article 18 (2) of this Law, shall be formulated within 6 months from the official publication of this Law.

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

2. Considering unequal software and technical capacities of different automated population registration systems in different State bodies and self-government bodies, the State Register forming shall be phased:

- Phase 1. Initial phase
- Phase 2. Second phase
- Phase 3. Third phase
- Phase 4. Final phase.

Article 34. Entry into Force of the Law

This law shall enter into force in 12 months after its official publication except for this Article and Article 32 that shall come into force on the official publication date.

President of the Kyrgyz Republic

A. Atambaev

Annex 2:

Draft

LAW OF THE KYRGYZ REPUBLIC

On Introduction of Amendments and Addenda to the Law of the Kyrgyz Republic

“On Internal Migration”

Article 1.

The following amendments and addenda shall be introduced into the Law of the Kyrgyz Republic “On Internal Migration” (the Bulletin of the Zhogorku Kenesh of the Kyrgyz Republic, 2002, N 10, p.434):

1. Paragraphs 5, 8-10 shall be removed from Article 1.
2. Paragraph 3 shall be removed from Article 2.
3. The words “and also regulation of internal migration” shall be removed from Article 9.
4. Article 13 (1) shall be removed.
5. Figure 45 shall be replaced with figure 90 in Article 13 (3).
6. Article 13 shall be supplemented with a new item following item 3: “Citizens shall have the right to inform the registering authority about their place of residence, time and place of temporary residence by mail or via the public electronic communication networks, including the Internet. A copy of the ID data page shall be attached to the document. Notification about the place of residence shall imply registration at the new address. The previous registration ends automatically and requires no actions on the part of the citizen”.
7. Article 14 shall be removed.
8. Article 15 (2) shall be worded as follows: “The registering authorities shall register citizens at the place of permanent and temporary residence by issuing a registration card according to the form, established by the public authority in the sphere of registration of citizens. The registering authorities shall transfer information on registration of citizens to the database of the State Population Register. The residence card shall be issued at the places of permanent and temporary residence for the period of commencement of the State Population Register.”
9. Paragraph 3 shall be removed from Article 16 (1).
10. Part 1 of Article 16 shall be supplemented with the following paragraph: “A citizen has the right not to produce the document allowing his/her moving into a dwelling (social rental agreement, state or municipal rental agreement, officially registered real estate agreement or another document pertaining to real estate transactions, certificate of official registration of abode ownership or any other document) if state bodies or local self-government bodies have at their disposal information contained in the document”. In this case the registering authority shall request a corresponding document (information it contains) from the state bodies,

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

self-government bodies, records from the corresponding registry or any other information in accordance with the Kyrgyz legislation.

An application for registration at the place of residence, according to the established form, as well as copies of the documents mentioned in this item can be sent in electronic form via the Internet.

Registration of underage persons under 16 years, who reside with their parents (adopters, guardians) at their place of residence, shall be based on documents proving identity of the parents (adopters) or documents proving the guardianship, as well as birth certificates of the underage by recording their data in the registration card.

11. Article 16 (3) shall be worded as follows: “The registering authority shall register a citizen at the place of residence, issue the registration card on the day of application and send the information to the State Population Register.”

12. Figure 45 shall be replaced with figure 90 in paragraph 2 of the first part of Article 17.

13. After the words “at the place of temporary residence”, the second part of Article 17 shall be supplemented with the words “by issuing the registration card according to the form established by the public authority in the sphere of registration of citizens” with consequent transfer of information on registration of citizens to the State Population Registry’s database. An application for registration at the place of temporary residence, according to the established form, as well as electronic copies of the documents can be sent via the Internet.

14. Third part shall be excluded from Article 17.

15. Article 17 shall be supplemented with a new part reading as follows: “Registration of underage persons under 16 years at the place of temporary residence shall be based on documents proving identity of their parents (adopters, guardians) or close relatives residing with them, as well as birth certificates of the underage with issuance of the card of registration at the place of temporary residence.”

16. Fourth part of Article 17 shall be reworded as follows: “Registration of homeless persons shall be conducted by territorial registering authorities according to the addresses of social services for homeless persons based on appropriate applications for registration at the places of temporary residence and documents proving identity with issuance of the card of registration at the place of temporary residence.

Registration of homeless persons at places of temporary residence shall be in force for the term mutually agreed by the person and the social service for homeless persons.

Citizens residing in unregistered abodes (unnumbered houses, apartments, cottages, etc.) shall be registered according to the legal address of their local self-government bodies or according to service areas of house committees, block committees or condominium partnerships with issuance of the card of registration at the place of temporary residence”.

17. Article 19 shall be removed.

18. The words “including simplified procedure of registration, also registration in the inhabited areas under special conditions” shall be removed from Article 20.

19. Chapter IV shall be removed.

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

20. Parts 2 and 6 of Article 49 shall be removed.

This Law shall take effect on the day of official publication.

President of the Kyrgyz Republic

A. Atambaev

Annex 3:

Draft

LAW OF THE KYRGYZ REPUBLIC

On Amendments and Addenda to the Law of the Kyrgyz Republic

“On Acts of Civil Status”

Article 1.

The following amendments and addenda shall be introduced in the Law of the Kyrgyz Republic “On Acts of Civil Status” (the Bulletin of the Zhogorku Kenesh of the Kyrgyz Republic, 2005, issue 7, p.501):

1. The words “offices for registration of acts of civil status” in Article 1 (1) of the Law shall be replaced with the words “Department for Registration of Acts of Civil Status under the State Registration Service of the Government of the Kyrgyz Republic and its structural units”;

Article 7 (2) of the Law shall be rewarded as follows “The record of the act of civil status shall be made in two identical copies and the information shall be included in the automated national centralized information system based on the personal database of Kyrgyz citizens”;

The words “data of the death record” in Article 12 (2) of the Law shall be amended by adding “included in the automated national centralized information system based on the personal database of Kyrgyz citizens”.

Article 17 of the Law shall be worded as follows:

“Father and mother, married to each other, shall be registered as parents in child’s birth record and in the automated national centralized information system based on the personal database of Kyrgyz citizens, by application of any of them”.

Information on the child’s mother shall be entered in the child’s birth record and the automated national centralized information system based on the personal database of Kyrgyz citizens by virtue of the documents, mentioned in article 14 of the Law, information on the child’s father – by virtue of the parents’ marriage certificate.

2. If the marriage between the child’s parents has been dissolved, cancelled by court or if any of the spouses has died and no more than 300 days have passed from the day of divorce, cancellation of the marriage or spouse’s death until the child’s birth,

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

information about the child's mother shall be included in the birth record and the automated national centralized information system based on the personal database of Kyrgyz citizens in compliance with the procedures, established by paragraph 1 of this article, information about the father – based on the parents' marriage certificate or another document certifying the fact of official registration of marriage and a document certifying the fact and time of divorce.

3. If the child's parents are not married to each other, information about the mother shall be entered in the child's birth record and the automated national centralized information system based on the personal database of Kyrgyz citizens in compliance with the procedure, established by Article 17 (1).

In this case information about the child's father shall be entered:

- by joint application of the child's father and mother or by father's application with the consent of the Department of Family and Child Support while terminating mother's parental rights and in the absence thereof, by court's decision;
- by virtue of paternity record, if paternity is being established or registered simultaneously with official registration of child's birth;
- by mother's application if paternity is unknown. The surname of the child's father shall be recorded by mother's surname, the first name and the patronymic of the child's father shall be recorded as indicated by the mother. The recorded data shall not be an obstacle for establishing paternity. It is allowable not to include information about the child's father in the birth record by mother's will".

Paragraph 2 of Article 18 (5) of the Law shall be worded as follows:

"If by will of the mother not married to the child's father, information about the father is not recorded in the automated national centralized information system based on the personal database of Kyrgyz citizens, the child's paternity shall be recorded as indicated by the mother".

Article 19 (5) shall be worded as follows:

"5. Information about the surname, name and patronymic of a found (abandoned) child shall be recorded in his/her birth certificate as indicated as well as in the automated national centralized information system based on the personal database of Kyrgyz citizens of the Department of Family and Child Support. Information about the found (abandoned) child's parents shall not be included in his/her birth record".

Article 22 of the Law shall be worded as follows:

"Article 22. Contents of the birth record and the personal databases of Kyrgyz citizens

1. The birth record and the automated national centralized information system, based on the personal database of Kyrgyz citizens, shall include the following information:

- child's surname, name, patronymic, sex, date and place of birth, stillborn, live-born,

weight;

- number of born children (one, two or more children);
- information about the document certifying the child's birth;
- surname, name, patronymic, date and place of birth, citizenship, nationality, place of residence of the parents (parent);
- information about document certifying paternity;
- surname, name, patronymic and place of residence of the applicant or name and legal address of the body or organization declaring the child's birth;
- the series and number of the issued birth certificate.

2. If two or more children are born simultaneously, birth records and records in the automated national centralized information system, based on the personal database of Kyrgyz citizens, shall be made separately in relation to each child with indication of their birth sequence.

3. In case of stillbirth, information about the child's name and patronymic shall not be included in the birth record».

Article 31 of the Law shall be worded as follows:

“Article 31. Content of the marriage certificate

1. The following information shall be included in the marriage record:

- surname (before and after the marriage), name, patronymic, date and place of birth, age, citizenship, nationality, place of residence of each of the marrying persons;
- information about the document certifying previous divorces if any;
- entries of the identity documents of the marrying persons;
- date and the number of the marriage record;
- name of the department for registration of acts of civil status that officially recorded the marriage;
- series and number of the issued marriage certificate.

2. Information about the marriage shall be recorded in the automated national centralized information system based on the personal database of Kyrgyz citizens in compliance with Article 8 of the Law of the Kyrgyz Republic “On the State Register of the Population”.

3. If a marriage was dissolved or cancelled, information about its dissolution or

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

cancellation shall be included in the marriage record. Such record shall be made by virtue of decree of dissolution or divorce record issued by the department for registration of acts of civil status or by virtue of the court's decision on marriage cancellation”.

Article 39 shall be supplemented with paragraph 3 following paragraph 2, which shall read as follows:

“Information about the dissolution of the marriage shall be recorded in the automated national centralized information system based on the personal database of Kyrgyz citizens in compliance with Article 8 of the Law of the Kyrgyz Republic “On the State Register of the Population”.

The words “and in the automated national centralized information system based on the personal database of Kyrgyz citizens” shall be added in Article 44 (1) after the words “In the adoption records” and so forth according to the text.

Article 46 (1) shall be amended by adding “and corresponding changes shall be also introduced in the automated national centralized information system based on the personal database of Kyrgyz citizens”.

Article 48 of the law shall be amended by adding “and in the automated national centralized information system based on the personal database of Kyrgyz citizens” following the words “and also information about the child's parents in the birth certificate”.

Article 51 (1) shall be amended by adding “and in the automated national centralized information system based on the personal database of Kyrgyz citizens” following the words “In the paternity records” and so forth as in the text.

Article 63 of the Law shall read as follows:

“The following information shall be included in the name change record and in the automated national centralized information system based on the personal database of Kyrgyz citizens:

- surname, name, patronymic, date and place of birth, citizenship, nationality, place of residence of the person prior to the name change;
- surname, name, patronymic of the person after the name change;
- date and number of the birth record and name of the department of registration of acts of civil status that officially registered the birth;
- series and number of the name change certificate”.

Article 65 (1) of the Law shall be amended by adding “an also corresponding changes in the automated national centralized information system based on the personal database of Kyrgyz citizens” after the words “earlier produced in relation to the person changing the name”, and so forth according to the text. Article 65 (2) shall be

OSCE/ODIHR Opinion on the Draft Law of the Kyrgyz Republic on the State Population Register and Draft Amendments to Related Legislation

also amended by adding “and also information stored in the automated national centralized information system based on the personal database of Kyrgyz citizens” following the words “who have not come of age”.

Paragraph 3 shall be added in Article 69 after paragraph 2, which shall read as follows:

“3. After the death record a corresponding record shall be made in the automated national centralized information system based on the personal database of Kyrgyz citizens”.

Article 73 shall be supplemented with paragraph 3 following paragraph 2, which shall read as follows:

“3. After the introduction of amendments and alterations in the record of acts of civil status, a corresponding record shall be included in the automated national centralized information system based on the personal database of Kyrgyz citizens”.

Article 75 (1) shall be worded as follows:

“1. The department of registration of acts of civil status shall introduce amendments or alterations in the act of civil status and the automated national centralized information system based on the personal database of Kyrgyz citizens in the place where the record to be amended or altered is being stored”.

Article 77 of the Law shall read as follows:

“Article 77. Annulment of the records of acts of civil status

The department of registration of acts of civil status shall annul the original or recovered record of the act of civil status in the place where the record to be annulled is being stored, based on legally effective court decision.

Personal data shall be removed from the automated national centralized information system based on the personal database of Kyrgyz citizens in accordance with Article 11 of the Law of the Kyrgyz Republic “On the State Population Register.”

Article 2.

This Law shall take effect on the day of official publication.

The Kyrgyz Government shall bring its normative acts in compliance with this Law.

President of the Kyrgyz Republic

A. Atambaev