

---

## USING PEER REVIEWS TO PROMOTE ENVIRONMENTAL IMPROVEMENTS AND GOOD GOVERNANCE: THE CASE OF THE KYRGYZ REPUBLIC

BULARGA, ANGELA,<sup>1</sup> and MICHALAK, KRZYSZTOF<sup>2</sup>

<sup>1</sup> Project Manager, Environment Directorate, Non-Member Countries Division, Organisation for Economic Cooperation and Development (OECD), [angela.bularga@oecd.org](mailto:angela.bularga@oecd.org)

<sup>2</sup> Administrator, Non-Member Countries Division, Environment Directorate, OECD, [krzysztof.michalak@oecd.org](mailto:krzysztof.michalak@oecd.org)

OECD, 2 Rue Andre-Pascal, 75775 Paris Cedex 16, France

### SUMMARY

The Kiev Conference of the Ministers of Environment (May 2003) recommended that countries of Eastern Europe, Caucasus, and Central Asia (EECCA) implement the “Guiding Principles for the Reform of Environmental Enforcement Authorities in Transition Economies”. The Guiding Principles, which build on good governance practices, provide a reference model for an effective and efficient system of environmental compliance assurance. To help countries of the region to implement the Guiding Principles a Peer Review programme has been launched in the framework of EECCA REPIN Network. The current article presents the experience of the first pilot application of a Peer Review Scheme in Kyrgyzstan.

### 1 INTRODUCTION

The members of the Regulatory Environmental Programme Implementation Network (REPIN) agreed, at their 5th annual meeting in October 2003 in Kiev, to launch a pilot Peer Review Scheme intended to facilitate reforms of compliance assurance in Eastern Europe, Caucasus, and Central Asia (EECCA). REPIN endorsed the objectives and methodology of peer reviews and welcomed the initiative of the Kyrgyz Republic to be the first country subject to this mechanism of inter-governmental dialogue and support. The “Guiding Principles for the Reform of Environmental Enforcement Authorities in Transition Economies of EECCA”, recommended for implementation by the Kiev Minister-

ial Declaration (May 2003), provided a reference framework for the review.

The benefits and high policy profile of peer reviews have been demonstrated due to a vast practical experience, including regular (economic, regulatory, and environmental performance) reviews undertaken by the OECD, Environmental performance reviews carried out in the EECCA region by the United Nations Economic Commission for Europe (UNECE), as well as the reviews of environmental funds carried out by the Task Force for the Implementation of Environmental Action Programme (EAP Task Force) in Central Europe and lately in EECCA. The IMPEL Review Initiative, established in 2001 by the Member Countries of the European Union (EU), provided another example of a

successful application of the peer review concept.

### **BOX 1: PEER REVIEWS AT OECD**

A peer review involves a systematic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed country adopt best practices and comply with established standards and principles.

The peer review mechanism is free of any threat of non-compliance sanctions arising from the findings of the review: its impact relies on the influence and persuasion exercised by “peers” (equal partners in the review process). The Peer Review Scheme serves the following purposes:

- To provide international peer support for institutional reform.
- To enhance government's transparency, accountability, and visibility, at national and international level.
- To extend opportunities for inter-government policy dialogue and support capacity building.

## **2 THE PRACTICAL APPLICATION OF THE SCHEME IN KYRGYZSTAN**

The review was carried out at the request of the Ministry of Ecology and Emergency Situations (Ministry) of the Kyrgyz Republic by an international team of experts. The preparatory phase of the Kyrgyz Peer Review consisted of preliminary analysis carried out in the period November 2003 to February 2004. The analysis was based on available background reports, national policy and legal framework, and a self-assessment report prepared by Kyrgyz counterparts. Prior to the review mission, the Ministry disseminated the Guiding Principles among all stakeholders at the national level, which contributed to a better

understanding of the reference framework for the review among stakeholders.

The review mission was carried out from 15-20 March 2004 by a team of seven experts from OECD, Central European and EECCA countries, and the OECD Secretariat. The mission included a series of interviews with political leaders, managers and experts representing the Ministry's headquarters and regional departments, other governmental organisations, as well as NGOs and the regulated community. In total, more than 70 people were consulted during these meetings. At the end of their mission, the review team members presented and discussed initial findings at a meeting with Ministry staff. A press conference was held jointly by the Secretariat and high-level officials from the Ministry on the objectives, outcomes, and follow-up of the review mission.

Subsequently, the draft review report was prepared by the Secretariat. This report was discussed during the REPIN annual meeting in Yerevan (26-29 September 2004). The final set of conclusions and recommendations were adopted by consensus.

A round-table with key stakeholders was conducted on the outcomes of the review of environmental enforcement system in Kyrgyzstan (9 February 2005, Bishkek). More than 50 people attended the round-table, including representatives of the Council of Ministers, Ministry of Economy and Industry, Ministry of Finance, Ministry of Health, the NGO community, major industrial enterprises, as well as national and regional level officials and staff members of the Ministry.

The participants of the round-table concluded that the peer review revealed “real” problems and challenges of the environmental enforcement system in Kyrgyzstan. The Ministry will work to reform the environmental enforcement system following the review recommendations, and all partner organisations (including the Ministry of Finance) agreed to provide support to the reform process. The participant from the Ministry of Health pointed out that the recommendations were also valid for their

inspection unit (Sanitary Epidemiological Service) and these would be taken on board during the reform of that service.

### **3 OUTCOMES OF THE PEER REVIEW IN KYRGYZSTAN**

#### **3.1 Country Context**

Since achieving independence in 1991, the Kyrgyz Republic has implemented broad reforms aimed at attaining macro-economic stability, improving the regulatory system and creating the foundations of a democratic society and market economy. The economy of Kyrgyzstan is relatively open: The country was the first former Soviet republic to be accepted in 1998 into the World Trade Organization.

Market reforms have not yet been completed. This includes unfinished public sector reforms and a lack of favourable framework conditions for private entrepreneurship and the promotion of investment activity. The domestic situation has been exacerbated by external obstacles to growth, of which the main ones are remoteness from – and dependence upon – major international commodity and financial markets, as well difficulties in preserving traditional economic relations with the neighbouring countries. Although economic recession has been stopped and production is recovering the past few years, Kyrgyzstan remains among the poorest in the world and 44% of the population still lives below the poverty line .

Strategic priorities of Kyrgyzstan have been outlined in the Comprehensive Development Framework, adopted in 2000 for the ten years to 2010. The overall development goal is the political, social and economic well being of the people of the Kyrgyz Republic, with freedom, human dignity and equal opportunity for all. This has been broken down into three basic goals:

- Effective and transparent governance system;
- A fair and secure society to ensure that all members of society share equitably in the nation's political, social and economic development

- Sustainable economic growth and development.

Although the adverse impact on the environment decreasing over the last decade because of the generally depressed situation in industrial and agricultural production, this trend was compensated by environmentally malign practices and resource-intensive processes used to attain short-term economic goals. There is an overall degradation of environmental infrastructure, accompanied by a reduced spending for environment protection needs. This resulted in considerable threats to human health: more than 16% of the total number of diseases in Kyrgyzstan are caused by air pollution, 10% – from polluted water, 9% – from the contaminated soil.

#### **3.2 Environmental Management System in a Nutshell**

The Republic of Kyrgyzstan has developed an extensive environmental management system with particular instruments, working methods, institutions, and communication interfaces in place to implement environmental policy objectives. Command-and-control instruments, including permitting, compliance monitoring and non-compliance response, were introduced in the late 1970s. In the mid-1990s, they were complemented by economic instruments. These were mainly pollution charges, and to a lesser extent non-regulatory, information-based instruments, such as environmental information provision and awareness-raising activities.

It is important to mention that the country's economic and social context is not favourable for better environmental management, although the Country Development Framework targets more effective state governance and secure conditions of life for all members of society. Unfortunately, the political support for environmental improvements was so far largely declarative. The government emphasised the economic recovery of the country without taking due account of external environmental costs imposed by current production pat-

terns. For instance, the air permit system has been suppressed for some time as part of a wider process to encourage entrepreneurship and foreign investment. A very low percentage of the Gross Domestic Product is devoted to environmental purposes: in the Kyrgyz Republic, only 0.03% of the Gross Domestic Product is allocated to the environment compared with one to 1.5% in OECD countries.

### 3.3 Institutional Capacity for Environmental Enforcement

The main environmental authority was established in 1989 and went through several structural reforms, particularly frequent after 1999. Presently, the Ministry has full executive authority in Environmental protection. The Ministry is the successor of the former Ministry of Environment Protection but, unfortunately, has so far been unable to keep as high an institutional profile for environmental protection as it has for emergency response.

Compliance with, and administrative enforcement of, regulatory requirements is ensured by 185 environmental inspectors employed by the Ministry and its regional branches. Their scope of activity covers mainly industrial pollution control with around 2,200 large installations under national and sub-national jurisdiction. Other members of the regulated community are not yet well identified, especially among Small and Medium-sized Enterprises, whose number has now reached 30 thousand. Given the absence of Small and Medium-sized Enterprises in the centrally planned economy, this is rather an impressive growth of the regulated community.

Over the last few years the attention of environmental inspectors has been placed primarily on enforcing the payments of pollution charges as the way to compensate for the limited funding of Environmental authorities. This focus has reached the point of distorting the very mission and integrity of compliance assurance system and eroding the self-confidence and public credibility of enforcement officers.

There are other serious problems in the design and operation of the environmental compliance assurance system in the Kyrgyz Republic. Inter alia, these include:

- A regulatory framework that favours companies' short-term interests, while disregarding potential negative environmental impacts and the costs of environmental pollution to society, for example, the suppression of air permit systems and restrictions on inspectors' authority to conduct on-site visits;
- Frequent reforms of the organisational structure of the environmental authority without a clear vision of how these reforms will help achieve priority environmental objectives. Similarly, working methods are currently applied that lead to inefficient use of resources;
- Confrontational relations with the regulated community due to lack of dialogue between stakeholders, low understanding of compliance problems, unfeasible regulatory requirements, and outdated instruments of compliance assurance and promotion;
- Limited human, financial, and material resources to carry out inspections. In particular, very low operational budgets and no capital investment for monitoring and inspection facilities.

### 3.4 Key Recommendations of the Review

The major challenge for environmental enforcement authorities in the Kyrgyz Republic is to shift their operation away from pursuing revenue-raising goals towards focusing on ensuring compliance with environmental requirements in order to achieve environmental results. Preventative actions should be used more systematically and frequently and the regulated community should be treated with consistency, in a transparent and proportionate manner.

The credibility of enforcement actions should be ensured by establishing feasible and enforceable compliance

objectives and working in a transparent, accountable manner. Also the value of the enforcement authorities will be elevated if policy makers and the general public are better acquainted with the potential benefits of a fair and firm enforcement, including decreased social and economic costs of environmental pollution and degradation, enhanced rule of law and a guaranteed level playing field for industry.

The review concluded that fulfilment of the core mission of the enforcement authority in the Kyrgyz Republic which is to ensure compliance thus protecting the environment and human health will require:

- improving the environmental regulatory framework;
- Acquiring adequate powers and raise the institutional status of the enforcement agency;
- Adopting risk-based and performance-oriented working methods;
- Embracing higher professional standards and foster international co-operation;
- Interacting with stakeholders openly and constructively.

Specific recommendations were provided under each of these objectives. Also the review suggests a number of short- and longer-term steps for reform of domestic compliance assurance instruments, strategies, and institutions in light of

good international practice. These steps are closely linked with, and support, the implementation of the country's strategic development objective of adopting a good governance system.

#### **4 CONCLUSIONS**

The peer review process confirmed to be an effective mechanism for distilling achievements and bottlenecks in environmental enforcement, identifying direction for reform and concrete actions. It helps also to build in-country partnerships for improving the effectiveness of environmental compliance assurance. The OECD/EAP Task Force Secretariat will continue using this mechanism in EECCA: Armenia is the next country to be reviewed under the scheme.

#### **5 BIBLIOGRAPHY**

“Guiding Principles for the Reform of Environmental Enforcement Authorities in Transition Economies” available at [www.oecd.org/env/eap](http://www.oecd.org/env/eap)

“Peer Review: an OECD Tool for Co-operation and Change” available at [www.oecd.org/dataoecd/33/16/1955285.pdf](http://www.oecd.org/dataoecd/33/16/1955285.pdf)

“Environmental Enforcement in the Kyrgyz Republic: Promoting Environmental Improvements and Enhancing Good Governance” at [www.oecd.org/env/eap](http://www.oecd.org/env/eap)