

# LEGAL FRAMEWORK ANALYSIS

within the ICA-EU Partnership

## National Report – Kyrgyzstan

### I. INTRODUCTION

The project “Cooperative legal framework analysis” has the task of analyzing the legislation of the Kyrgyz Republic regulating the activities of cooperatives. The objectives of the project are to improve the legislation of cooperatives in the Kyrgyz Republic by developing recommendations and proposals to increase the attractiveness of the cooperative movement and the further development of agricultural cooperatives. The project aims to describe the current situation of cooperatives in the country, the specific norms laid down in the laws and other official documents of the country, which directly or indirectly relate to the activities of cooperatives. As a result of the analysis, specific problems or obstacles in legislation that hinder the development of cooperatives should be identified.

This National report was prepared by the Cooperatives Union of Kyrgyzstan, which is the apex institute of Kyrgyzstan cooperatives. **Cooperatives Union of Kyrgyzstan (CUK)** was established in 2007 by the General Assembly of Kyrgyz cooperatives, with the technical support of the German Technical Centre (GIZ).

The purpose of the CUK is the creation of a stable and sustainable system of cooperatives of Kyrgyzstan, which will help to improve the welfare of the rural population and contribute to the poverty reduction in rural areas. CUK provides consultations to its members in establishing and maintaining cooperative principles, lobbying their interests at the regional and national levels and working to raise awareness of the importance of cooperation.

The objectives of the CUK are:

- Protection and lobbying members of the Union at the governmental level;
- Training and capacity building of cooperatives;
- External audit;
- Advice on legal, administrative, financial and other matters;
- Promoting cooperative organizations in the Kyrgyz Republic;
- Networking with international partners and the cooperative movement in the world;
- Initiation and implementation of projects aimed at the development of cooperatives;
- Participation in the drafting of government programs, strategic documents for the development of cooperatives and others.

To date, it established an extensive network of cooperatives in the Kyrgyz Republic, linking the interests of the cooperative members at all levels. CUK organizes and conducts various seminars and round tables with the participation of the Parliament of the Kyrgyz Government,



non-governmental organizations, credit institutions, international organizations and others. CUK conducts regular training on following topics:

- Organic farming;
- Effective management of cooperatives and bookkeeping;
- Basics of administration of accounting;
- Marketing of agricultural products and the drawing up of a business plan;
- Financial management and others.

### **CUK Major achievements**

- In 2008, CUK helped with a financial support to the members of the Union by establishing a microcredit company "Cooperative Credit", which collaborates with the state rural bank "AyilBank" to lend to the cooperatives' members without collateral with low interest rates.
- In 2011, the Republican Central Cooperative (RCC) was established to address marketing needs of the cooperatives on domestic and foreign markets, to attract potential business partners, procurement and supply cooperatives industrial materials. In 2012, from February to April RCC supplied mineral fertilizers at low prices.
- In 2012 CUK successfully initiated amendments to the law on cooperatives in order to make an exemption from social security contributions of cooperatives 17.25%.
- With the assistance of the CUK agricultural commodity and service cooperatives were exempted from the sales tax, VAT and income tax, subject to the implementation of cooperatives 75% of the cooperative activities with the participants.
- CUK established a Fund for the supply of potato seeds to the cooperatives.
- CUK holds annually Cooperatives' Forum, which has become a platform for the discussion of topical issues of the development of cooperatives. The first forum was held in 2013 on the theme "Perspectives for the development of a cooperative bank in the Kyrgyz Republic" with participation of co-operative banks of Canada, Japan, France and other European countries.
- In 2014, the CUK started negotiation about the membership of the International Cooperative Alliance, which has the highest consultative status with the Economic and Social Council of the UN. Membership intensified relationship with the EU and other co-operative movement in the world to implement joint scientific and practical initiatives.
- In 2015-2016 CUK collaborates with international partners to implement joint projects on capacity building of managers and members of cooperatives cooperative organizations management. Currently there are a number of continuing training courses for cooperatives in all regions of the country, thanks to the support of GIZ (Batken, Osh, Issyk-Kul oblast.); JICA (Chui, Talas, Jalal-Abad oblast.); Friend Asia-Korea (Issyk-Kul, Naryn., Chui region).
- With the support of the European Union is currently the CUK, together with ACTED, is implementing a project on the development of Ala-Buka District by supporting agricultural cooperatives to increase the export of prunes and apples.
- In 2016, as a result of CUK initiative, the Prime minister's office has established a Working group to elaborate the Program of Agricultural Cooperatives Development
- In 2016, the CUK has signed an MoU with the the International Centre for the Development of Green and Sustainable Jobs (Switzerland) to work together in the field of agro-tourism.

- Following the initiative of the Cooperatives Union, the Government of the Kyrgyz Republic has established an inter-agency working group to elaborate a state Program on developing agricultural cooperatives for 2017-2021.

### **Coop products**

CUK members are mainly agricultural producers and nowadays they produce following types of products: dairy products, handicrafts (traditional felt carpets), dried apricots and fresh fruits (apples, pears, cherries, berries), beans, mountain honey, quinoa, medicinal herbs (camomile, marigold, etc.), potatoes from imported seeds from Holland that are grown in the high altitude conditions and sold to local farmers.

### **Current situation of cooperatives in Kyrgyzstan**

At present, a full understanding of the need to develop the cooperative movement has emerged in Kyrgyzstan. The need for the development of cooperation laid in almost all strategic documents of the country. However, the development of agricultural cooperatives in the Kyrgyz Republic is still at the initial stage of its development and there are no practical actions and effective measures that stimulate their further development.

At present, good conditions for taxation and social insurance have been created for the development of cooperation, programs for preferential loans have been created. Nevertheless, it can be said that at present, cooperative organizations are not developing fully.

Moreover, according to the data of the National Statistical Committee of the Kyrgyz Republic (NSC KR), the number of existing agricultural cooperatives compared to 2006 decreased by 3 times. If, in 2006, 1240 cooperatives were registered, in 2016, only 360 registered. At the same time, about 417 195 people are employed in agriculture sector.

According to the NSC KR, about 65% of the population live in rural areas, but employment in the agricultural sector continues to decline (45.3% in 2000, 29.2% in 2017, WB, 2017). The share of agriculture in the GDP structure also decreases in the last time (43.9% in 1996, 14.8% in 2016). The share of products produced by collective farms (which include agricultural cooperatives, joint stock companies, all types of partnerships, associations, associations and collective and peasant farms, agro companies and subsidiary farms of enterprises and organizations) is negligible in the structure of production of basic agricultural products small - only about 4.5%. Thus, we observe low activity on association in cooperatives.

In Kyrgyzstan today, farmers only exploit a small area of the entire potential of cooperation, using agricultural equipment together, purchasing fertilizers and seeds. Storage, logistics, processing, marketing, sales, etc. provides an actively developing market of intermediaries, which brings little economic benefit to the producers themselves. The role of cooperatives is becoming critical in the context of this deteriorating state of the agricultural sector due to the inability of private farms to supply the quantities and quality of agricultural and processed products necessary for the market.

Many cooperatives are functioning in a sleeping mode, expecting assistance from the state or grants, available loans, and improvement of the terms of trade.



The main problems on the way of their development arise from a number of external factors, such as:

- lack of state support, training system for cooperation and accessible information about the benefits and nature of cooperation;
- difficulties in marketing products;
- lack of machinery and equipment, marketing;
- lack of financial resources, low income;
- overproduction of certain types of culture;
- difficulties in producing large volumes and lack of storage, etc.;
- imperfection of the legislation.

Also one of the main problems of the lack of dynamics in the development of cooperation is the lack of knowledge and understanding of cooperation, principles of cooperation. These indicators signal the need to take tough and immediate measures to support cooperatives, because cooperation plays an important role in strengthening the economy, competitiveness, improving business conditions and creating incentives for the growth of marketable products.

In the development of cooperation, it is necessary to achieve several goals:

- elimination of barriers in the legislation (improvement of legislation, monitoring and improvement of government regulations in terms of land use, lending, etc.);
- improving the understanding of the principles and essence of cooperation, mechanisms for introducing new knowledge, methods and their application;
- improved statistics. In statistics, there are no clear methodologies for assessing the situation of the development of cooperatives. It is necessary to introduce methodologies for analyzing the ownership of cooperatives, land, contributions to trade, agricultural cooperative production, market entry, etc.
- improvement of the sales situation. The potential of product sales cooperatives should be improved, the possibility of our cooperatives entering the EAEU market should be considered, but for this, our cooperatives must ensure the quality, volumes and frequency of deliveries, must have appropriate certificates, documents, compliance with HACCP systems, etc. as required by law EEU.

In this regard, it is necessary to improve the implementation of public policy instruments that promote the unification of farmers, and other measures to stimulate the development of cooperatives. In the future, cooperatives should occupy an important place in the decision.

## Cooperatives legislation

In the Kyrgyz Republic (hereinafter - the KR) there are special laws regulating the activities of various types of cooperatives. Legal acts (hereinafter - LA), which are special laws regulating the activities of cooperatives, include the following, and they are located below in accordance with the LA hierarchy:

1. *Civil Code of the Kyrgyz Republic* of May 8, 1996 No. 15 (last modified on August 6, 2018 No. 88).

The concept of a cooperative and the basis for the formation of cooperatives are provided for in articles 152, 153.



2. *Law of the Kyrgyz Republic “On cooperatives”* dated June 11, 2004 No. 70 (last modified on 07/26/2018 No. 70).

The Law of the Kyrgyz Republic “On Cooperatives” is a special Law regulating the activities of cooperatives. The law defines the legal and economic foundations of the formation and activities of cooperatives of the Kyrgyz Republic and their unions. According to this Law, cooperatives can be created as commercial cooperatives, if the main purpose of their activity is profit extraction (agricultural cooperative, financial cooperative and others), or as non-profit cooperatives that carry out activities in the interests of their members, for whom profit extraction is not the main objective of the activity. (housing cooperative, housing maintenance cooperative and others, provided by law).

3. *Tax Code of the Kyrgyz Republic* of October 17, 2008 No. 230 (last modified on August 6, 2018 No. 88). The Tax Code defines the basic principles for the taxation of cooperatives. Tax issues are provided for only in the tax code, it is prohibited to include taxes in other laws.

4. *The Land Code of the Kyrgyz Republic* of June 2, 1999 No. 45 (last modified: January 12, 2018 N 12). regulates issues of land use, land allocation, the right of cooperatives to lease state land, provides for the concept of garden and garden cooperatives.

5. *The Law of the Kyrgyz Republic “On the Tariffs of Insurance Contributions for the State Social Insurance”* of January 24, 2004 N 8 (latest update on July 15, 2017 No. 125). This law establishes and determines the rates of insurance premiums for state social insurance.

6. *The “Concept of the development of the agricultural cooperative system in the Kyrgyz Republic for 2017-2021”*, approved by the Government of the Kyrgyz Republic on April 21, 2017 No. 237. The concept defines the main directions of development and the necessary measures to be taken by the state bodies and all participants of the cooperative movement for the further development of agricultural cooperatives.

In the Kyrgyz Republic, only the Law on Cooperatives is in force, which regulates the activities of all types of cooperatives, except for financial cooperatives. The law defines the legal and economic foundations of the formation and activities of cooperatives of the Kyrgyz Republic and their unions.

The legal status of financial cooperatives (credit unions) is established by legislation on credit unions. The Cooperatives Act does not regulate the activities of financial cooperatives.

As for housing cooperatives, several LA are acting in relation to such cooperatives, for example, the Civil Code, the Housing Code, and the Law of the Kyrgyz Republic “On partnerships of owners of residential and non-residential premises of apartment buildings”. The Law “On Cooperatives” in relation to housing and housing-building cooperatives operates in terms of their creation and implementation of activities, and the right of members of such cooperatives to receive residential premises is already regulated by the Housing Code. The principles for allocating land plots to housing co-operatives, as well as the conditions for its members, are already governed by the Regulations on the organization of housing co-

operatives and the provision of land plots to them, approved by the Decree of the Jogorku Kenesh of the Kyrgyz Republic of April 17, 2008 N 326-IV.

However, the Law “On Cooperatives” contains only the definition of the term “consumer cooperative” but does not regulate its activities. It should be noted that in other Laws the activity of consumer cooperatives is not regulated yet.

There are no other special laws on cooperatives of workers, youth, educational organizations, women or others. In Kyrgyzstan, the creation of such cooperatives is not prohibited and such cooperatives can be created in accordance with the Law on Cooperatives, since this law establishes universal norms suitable for creating any kinds of cooperatives.

As for cooperative banks, in Kyrgyzstan there are no laws on cooperative banks and their creation cannot be regulated by the Law on Cooperatives. The question of the need to create legislation on cooperative banks has been raised for several years now, but an understanding of the essence of cooperative banks and the principles of their activities has not yet been formed. The creation of legislation on cooperative banks requires the assistance of international experts.

Thus, the creation and management of a cooperative is mainly regulated by the Law on Cooperatives, but the activity of a cooperative is regulated by various LAs depending on the type of activity and the resulting legal relations.

According to the Tax Code "Agricultural Cooperative" is a cooperative whose members are agricultural producers and whose activities are aimed at selling goods, providing services, performing work for cooperative members and agricultural producers, as well as selling agricultural products and agricultural products produced by them. At the same time according to the Tax Code "Agricultural producers" - an organization or an individual producing agricultural products, as well as agricultural products of own production, except for excisable goods, provided that the proceeds from the sale of these products amount to at least 75 percent of the total sales of goods and works , services during the calendar year.

### **Comparison with JSC**

The main legal characteristics distinguishing a cooperative from other legal types of commercial organizations, in particular, joint-stock companies:

The capital of a cooperative consists of shares of members of the cooperative, funds created, and retained earnings. A mutual fund is created by compulsory and additional shares contributed by members of the cooperative.

The charter of a cooperative may establish that a certain part of the property of a cooperative constitutes an indivisible fund of a cooperative used for the purposes defined by the charter.

For additional shares dividends are paid in the amount determined by the charter of the cooperative. The cooperative is liable for its obligations with all property belonging to it on the right of ownership and is not liable for the obligations of its members.

Members of a cooperative are not liable for its obligations and bear the risk of losses associated with the activities of the cooperative, to the extent of the value of paid contributions.

Cooperative members who have not fully paid the mandatory share contributions are jointly and severally liable for the obligations of the cooperative to the extent of the cost of the unpaid part of the mandatory contribution (share) of each of the members of the cooperative.

A joint-stock company is another common legal form of a legal entity, since shareholders are not liable for its obligations and bear the risk of losses associated with the company's activities, to the extent of the value of their shares.

A joint-stock company (hereinafter referred to as the company) is a legal entity that carries out its activities for the purpose of making a profit and attracting funds by issuing and placing shares. The Company is obliged to issue shares, the value of which is expressed in the national currency of the Kyrgyz Republic, regardless of the form of contribution. In addition to shares, a joint stock company in order to attract working capital in the prescribed manner has the right to issue other securities (for example, bonds).

- The company is liable for its obligations with all property belonging to it.
- The company is not liable for the obligations of its shareholders.
- Management, distribution of profits, dividends and property is carried out in proportion to the number of shares owned by the founders.
- In accordance with the legislation of the Kyrgyz Republic, in the event that the founder's legal entity consists of one participant / shareholder, it cannot be the sole founder / shareholder of the joint-stock company.
- The authorized capital of the joint-stock company cannot be less than 100 thousand soms (which is approximately 1450 US dollars as of 2019). At the time of incorporation, the share capital must be fully paid and distributed among the founders.

In the Kyrgyz Republic there are two types of joint stock companies - open and closed.

### Comparison table

	Joint stock company	Cooperative
Taxation	Pay profit tax, sales tax, VAT (except export), other taxes depending on type of activity	exempted from taxes
Social fund	Organization is paying 17,25%, employee: 10% Total: 27,25%	Organization 2%, employee 10% Total 12%
Chartered capital	Not less then 100000 soms, apr. 1450 USD	Depends on decision of members

Advantages	not observed	<p>a) The investment of the shares gives the members active participation in the management and control of the cooperative and the activities of the cooperative (quality, volume, etc.) i.e. product quality improvement.</p> <p>c) Small-scale production, diversity of production and a variety of products are solved.</p> <p>d) There are no intermediary structures.</p> <p>e) The commercial margin remains in the co-op i.e thanks to the cooperative principles, the members of the cooperative from the production and commercial activities of the cooperative receive an equal distribution of profits.</p>
------------	--------------	---

In general, the legal framework in Kyrgyzstan that regulates the activities of cooperatives is friendly. But the process of improving and shaping the most favorable climate for the development of cooperatives is not complete and there is a need to refine and make changes in other legal acts. Only by harmonizing the details described in the above-mentioned acts under the “nature” of cooperation, it is possible to increase the degree of relevance and “friendliness”.

The lack of experience in the development of cooperation requires the help of more experienced and competent experts.

## II. NATIONAL COOPERATIVE LAW: KYRGYZ REPUBLIC

### Cooperative principles

Legislation as a whole contains norms that directly or indirectly reflect established cooperative principles. However, in practice these principles can be applied or used with various features.

Article 2 of the Law on Cooperatives establishes that a cooperative is formed and operates on the basis of the following principles:

- voluntary membership in a cooperative and unhindered withdrawal from it in the manner prescribed by the charter of the cooperative;
- mutual assistance and ensuring economic benefits for cooperative members involved in its business activities;
- management of the cooperative on a democratic basis;
- the purpose of the cooperative to best meet the economic needs of its members;
- preservation of economic and economic independence of members of the cooperative;

- creating conditions for improving the educational level of members of the cooperative;
- availability of information on the activities of the cooperative and its financial status for its members, in the manner prescribed by the charter of the cooperative.

## Definition of cooperative

The legislation of the Kyrgyz Republic gives a clear definition of the concept of cooperatives, and the definition is given at once in several LAs.

Article 152 of the Civil Code of the Kyrgyz Republic defines the concept of a co-operative as a voluntary association of citizens and legal entities on the basis of membership in order to satisfy their material and other needs by organizing on a democratic basis joint economic and other activities stipulated by the statute and uniting its members with share contributions.

Cooperatives are created by individuals and/or legal entities on a voluntary basis to carry out joint activities for the production, processing, procurement and marketing of products, agro-technical service, transportation, storage, construction, household and other services, mining and other natural resources, conducting research, design, insurance, lending and other activities not prohibited by the legislation of the Kyrgyz Republic.

Cooperatives are legal entities and can be created in the form of commercial or non-profit organizations. If a cooperative specifies profit extraction as the main goal of its activity, then such a cooperative is a commercial cooperative, if the main goal is not profit extraction, and the cooperative does not distribute the profit gained among the participants, then such a cooperative is a non-profit cooperative. Non-profit cooperatives may engage in entrepreneurial activity only insofar as it is necessary for their statutory purposes.

Cooperatives are legal entities in respect of which their members have rights of obligation, as well as other economic partnerships and companies.

The Law of the Kyrgyz Republic “On Cooperatives” defines the concept of a cooperative as a voluntary association of individuals and legal entities on the basis of membership in order to meet their economic and other needs.

Thus, the main elements of the concept of "cooperative" are:

- voluntary association of individuals and legal entities;
- membership in order to meet their material and other needs;
- management of the cooperative on democratic principles (1 member-1 vote);
- unification by its members of share contributions.

**The objective of cooperatives** in accordance with applicable law is to carry out joint economic activities, mutual assistance and ensure economic benefits for members of the cooperative, as well as creating conditions for improving the educational level of members of the cooperative. Relations of the cooperative with its members related to the implementation of their economic activities are built on a contractual basis in accordance with the requirements

of the legislation of the Kyrgyz Republic and the charter of cooperation. One of the principles of the formation and activities of the cooperative is the purpose of the cooperative to best meet the economic needs of its members.

However, the Law lacks any mechanisms, obligations of a cooperative to increase the potential of a member of a cooperative, its educational level.

### **Establishment**

Cooperatives must be registered with the judiciary. A cooperative is considered to be created as a legal entity from the moment of its state registration. The number of members of a cooperative must be at least seven, unless otherwise specified in the legislation, based on the specialized activities of the cooperatives. Legislation does not contain norms that will happen if the number of members is less than 7 members in the course of its activities.

The process of creating a cooperative is not complicated. It is necessary to develop the Charter of the cooperative, to hold a constituent assembly. To register, you must submit the relevant documents to the judiciary.

The founders have the right to establish the size of admission fees in order to cover the organizational costs of the formation of a cooperative and are obliged to report on their use at the general meeting of members of the cooperative. Constituent assembly of cooperative members:

- 1) decides on the formation of a cooperative and the admission to membership of a cooperative;
- 2) compile a register of cooperative members indicating: for individuals - last name, first name, patronymic, year of birth, address, for legal entities - their name and legal address, number of share contributions submitted and made by each member, signatures of cooperative members;
- 3) determines the value of one share;
- 4) approves the charter of the cooperative;
- 5) elect the governing bodies of the cooperative.

Admission to membership of a cooperative and withdrawal from membership is declarative and voluntary. Third parties may be accepted as members of the cooperative, and the decision is made by the general meeting of the members of the cooperative. A member of a cooperative may, at his request, withdraw from membership in a cooperative and the law does not contain any prohibitions.

### **The procedure for admission to membership.**

1. Individuals or legal entities that have expressed a desire to join the cooperative after its state registration submit a written application to the cooperative's board for membership in the cooperative. The application must include the obligation to fulfill the requirements of the charter and other internal documents of the cooperative, as well as the obligation to make the stated share contribution. The Board decides on admission within 4 weeks from the date of the application. The decision on admission is approved at the next general meeting of members of the cooperative.
2. Each member of the cooperative is issued a membership book, which indicates:

- a. surname, name, patronymic and address, date of birth, date of entry into the cooperative;
  - b. the number of declared and paid shares and the date of their introduction;
  - c. the number of additional shares and the date of their deposit;
  - d. the amount of cooperative payments, including those credited to the share contribution, and the dates of their crediting;
  - e. the amount of payments from the cost of share contributions and the date of these payments;
  - f. the amount of dividends paid and the date of their payment.
3. The order of registration of documentation for admission to membership of a cooperative, termination of membership, exclusion from members of a cooperative and other conditions on membership issues are determined by the charter of the cooperative.

### **Register of members of the cooperative**

1. A cooperative shall be obliged to independently maintain and keep a register of members of a cooperative.
2. Amendments to the register of members of a cooperative shall be maintained by the executive body of the cooperative.
3. At the request of a member of a cooperative, the executive body of a cooperative is obliged to confirm his right to shares by issuing an extract from the register of members of a cooperative to own shares at the time of their discharge.

### **The procedure for termination of membership in the cooperative**

The law also determines the procedure for termination of membership.

1. Membership in a cooperative is terminated in the following cases:
  - 1) voluntary withdrawal from the cooperative;
  - 2) the death of a member of the cooperative;
  - 3) exclusion from the cooperative;
  - 4) liquidation of a legal entity that is a member of a cooperative.
2. A member of a cooperative shall have the right, at his own discretion, to leave the cooperative by submitting an application in writing to the board of the cooperative no later than 12 months before his leaving.
3. The transfer of the share contribution of a member of a cooperative who has ceased his membership to individuals and legal entities is allowed only with the consent of the cooperative in the manner prescribed by the charter of the cooperative. In this case, members of the cooperative enjoy the preemptive right to purchase such a share. A member of a cooperative who transfers his share contribution to another member of the cooperative has the right to terminate his membership before the expiration of the 12-month period from the moment of filing the application.
4. In the event of the death of a member of a cooperative, his heirs may be admitted to the cooperative in accordance with the requirements of Articles 11 and 12 of this Law within 2 months from the date of death of the member of the cooperative.

5. The heirs of a deceased member of a cooperative who are not accepted as members of a cooperative shall be paid the value of the share contribution of the deceased member of the cooperative, and other payments shall be made in accordance with Article 16 of this Law.

**The rights of a member** of a cooperative are spelled out in the Law itself, and may also be provided for in the Charter of a cooperative.

Members of a cooperative have the rights and obligations provided by the Law, as well as the charter of the cooperative, in particular the members of the cooperative have the right to:

- receive part of the profit to be distributed among members in the manner prescribed by the charter of the cooperative;
- participate in the management of the cooperative, elect and be elected to the governing bodies and control of the cooperative in accordance with the charter of the cooperative, make proposals related to the activities of the cooperative;
- enjoy the benefits and advantages defined by the charter of the cooperative for its members;
- get acquainted with the documentation of the financial and economic activities of the cooperative in the manner prescribed by the charter of the cooperative;

**Members of the cooperative must:**

- make the entrance and share contributions in the amount and manner prescribed by the charter of the cooperative;
- comply with the legislation of the Kyrgyz Republic, the charter and other internal acts of the cooperative.

If the cooperative attracts employees, then such a relationship must be formalized by an employment contract. The law does not prescribe the obligation of cooperative members to work in a cooperative, but does not prohibit such obligations may be prescribed in the Charter.

A cooperative has the right to sell, buy, attract employees who are not members of a cooperative on a contractual basis. If the transaction is commercial in nature, then taxation can be made in a general manner. Individuals and legal entities may be members of several cooperatives at the same time, unless otherwise provided by the charters of these cooperatives. Cooperatives, independently or jointly with other legal entities, in order to coordinate their activities, as well as to represent and protect common interests, ensure and provide information services, organize training and advanced training for members and workers of cooperatives and other activities, can create cooperatives unions by agreement .

Cooperatives may engage in other activities not prohibited by the legislation of the Kyrgyz Republic. The cooperative charter must contain the subject and purpose of the cooperative.

Cooperatives may at their discretion prescribe social goals in the Charter, but the legislation does not contain such concepts as “social cooperative”.

In practice, housing cooperatives are created, as one of the types of organizations created for the joint construction and purchase of housing, which essentially pursues social goals.

Also, the legislation contains some restrictions. For example, an insurance organization, commercial banks, investment funds can only be created in the form of a joint stock company.

### **Exclusion from co-op members**

1. A member of a cooperative may be excluded from the members of a cooperative on the grounds provided for in the charter of the cooperative in the following cases:

- a) if he does not fulfill the obligations stipulated by this Law and the charter of the cooperative;
- b) if as a result of his actions (or inaction) the cooperative suffered damage.

2. The cooperative council has the right to decide on exclusion from the members of the cooperative, which is subject to approval at the next general meeting of the members of the cooperative. The members of the cooperative council, members of the cooperative board may be excluded from the members of the cooperative only by decision of the general meeting of members of the cooperative.

3. The board of the cooperative must notify the member of the cooperative in writing of the consideration of the question of its exclusion.

4. The decision on exclusion from the cooperative must be communicated to the excluded person in writing by the board of the cooperative no later than 2 weeks after the decision has been taken. Membership in a cooperative shall cease upon the approval by the council of the cooperative of the decision to exclude a person from the members of the cooperative.

5. A person excluded from the members of a cooperative shall have the right to appeal the decision of the general meeting to a court in the manner established by the legislation of the Kyrgyz Republic.

Voting at the general meeting of members of a cooperative is carried out according to the principle: one member of a cooperative - one vote.

If the cooperative share is in the common share ownership of several persons, the powers to vote at the general meeting of the cooperative members are exercised at their discretion by one of the common share ownership participants or their common representative. Each member of the cooperative has the right to attend the meeting in person or through a representative who has a power of attorney. Moreover, if a cooperative has up to 20 members, one representative cannot represent the interests of more than one member, if there is more than 20 members in the cooperative, one representative cannot represent the interests of more than 3 members of the cooperative. A representative can only be a member of a cooperative.

### **Governance**

The cooperative is managed by the general meeting of the members of the cooperative, the council of the cooperative (created in the cooperative without fail if the number of members of the cooperative is not less than 50) and the executive body (board).

The charter of a cooperative in which the number of members is less than 50 may provide for activities without the formation of a council, in which case its powers are transferred to the general meeting of members of the cooperative.

Chairman and members of the board can be not only members of a cooperative.

Competence of the general meeting of members of a cooperative

1. The general meeting of members of a cooperative is the supreme governing body of a cooperative and is entitled to resolve any issues related to the activities of the cooperative, including approving or revoking decisions of the council and board of the cooperative.

2. The exclusive competence of the general meeting of members of a cooperative includes:

- 1) approval of the charter of the cooperative and the introduction of changes to it;
- 2) election and recall of members of the board of the cooperative, hearing reports on their activities and the termination of their powers;
- 3) the formation and recall of the executive body of the cooperative;
- 4) election of the cooperative's audit commission;
- 5) approval of the cooperative development programs, annual reports and balance sheets, income distribution and consideration of issues related to the cooperative's losses;
- 6) determining the composition, amount and procedure for making contributions and other payments by members of a cooperative;
- 7) approval of the amount and procedure for the provision of monetary funds to the members of the cooperative;
- 8) consideration of issues related to the alienation of real estate of a cooperative at a cost that exceeds the value determined by the charter of the cooperative;
- 9) the formation of cooperative funds, the definition of their types, size and conditions of their education;
- 10) reorganization and liquidation of the cooperative;
- 11) the entry of the cooperative into other cooperatives, economic partnerships and companies, unions, associations, and also withdrawal from them;
- 12) the creation and liquidation of representative offices and branches of a cooperative;
- 13) the final decision on the admission or exclusion of members of the cooperative;
- 14) other issues determined by the charter of the cooperative that do not contradict this Law.

3. The general meeting of members of a cooperative shall be deemed eligible if at least two thirds of the members of the cooperative are represented at it. If the required number of members of the cooperative was not presented at the general meeting, it shall be convened again no later than within 30 days from the date of the originally convened meeting. A reconvened general meeting is considered eligible if at least half of the total number of members of the cooperative is represented.

4. Voting at a general meeting of members of a cooperative is carried out according to the principle: one member of a cooperative - one vote.

5. Decisions on matters relating to the exclusive competence of the general meeting of members of a cooperative shall be taken by a simple majority of the number of members of a cooperative or their authorized representatives present at the general meeting with the right to vote, unless otherwise provided by the charter of the cooperative.

6. Decisions on the issues listed in subparagraphs 1, 8, 10 of paragraph 2 of this article shall be taken by two thirds of the votes of the members of the cooperative or their authorized representatives present at the general meeting.

7. To count the votes in a vote, the general meeting of members of a cooperative elects a counting commission from among members of a cooperative.

8. In the event that the cooperative's share is in the common shared ownership of several persons, the powers to vote at the general meeting of the members of the cooperative shall be exercised at their discretion by one of the participants in the common shared ownership or their common representative. The powers of each of these persons must be properly executed.

9. The next general meeting of members of a cooperative is convened by the board of the cooperative and is held annually within the terms established by the charter of the cooperative or its other internal acts, but no later than 3 months after the end of the financial year.

10. An extraordinary general meeting of members of a cooperative shall be convened:

- the board (chairman) of the cooperative on its own initiative;
- by decision of the board of the cooperative;
- at the request of the audit commission of the cooperative;
- at the request of at least 10 percent of the total number of members of the cooperative.

11. The convocation of an extraordinary general meeting of members of a cooperative must be carried out by the board (chair) of the cooperative within 20 days from the date when such a request was made, or from the day the decision of the cooperative council was received.

Otherwise, the board of the cooperative, the audit commission of the cooperative or members of the cooperative, who have filed such a request, have the right to convene an extraordinary general meeting of the members of the cooperative independently.

12. All members of a cooperative shall be notified, no later than 15 days before the date of the general meeting of members of a cooperative, about the forthcoming consideration of matters falling within the exclusive competence of the general meeting of members of a cooperative.

In case of violation of this requirement, the decision of the general meeting of members of the cooperative is considered illegal.

13. Each member of the cooperative has the right to attend the meeting in person or through a representative who has a power of attorney. Moreover, if a cooperative has up to 20 members, one representative cannot represent the interests of more than one member, if there is more than 20 members in the cooperative, one representative cannot represent the interests of more than 3 members of the cooperative. A representative can only be a member of a cooperative.

14. The decision of the general meeting of members of a cooperative, made in violation of the legislation of the Kyrgyz Republic, as well as the charter of the cooperative, may be appealed in court in the manner prescribed by the legislation of the Kyrgyz Republic.

### **Council of the cooperative**

1. The council of a cooperative shall consist of at least three members elected by the general meeting from among the members of the cooperative. The procedure for making decisions by the council, the term of its authority shall be established by the charter of the cooperative or other internal acts of the cooperative.
2. The powers of the members of the cooperative council may be terminated by decision of the general meeting and before the expiration of the term for which they were elected. To make such a decision, no less than two thirds of the votes of the members of the cooperative present at the general meeting are required.
3. The cooperative council shall monitor the activities of the executive body of the cooperative.
4. Meetings of the cooperative council shall be held as necessary, but not less than once every 3 months, and are competent to make decisions if there are at least two thirds of its members, unless otherwise provided by the charter of the cooperative.
5. Decisions at a meeting of the council shall be taken by a majority of votes, with the exception of the issues listed in subparagraph 3 of paragraph 6 of this article, where decisions are made by at least two thirds of the votes of the members of the council present at the meeting.
6. The competence of the council of a cooperative includes consideration and decision-making on the following issues, unless otherwise provided by the charter:
  - 1) approval of the monetary valuation of share contributions;
  - 2) giving opinions on applications for admission to members of the cooperative and withdrawal from members of the cooperative;
  - 3) approval of transactions relating to the real estate of the cooperative (pledge, lease, trust management, etc.), the value of which exceeds the amount established by the charter of the cooperative.
7. Members of a cooperative's council are prohibited from receiving any remuneration for the exercise of their powers within the framework of the cooperative's activity, unless otherwise provided in the articles of association. Expenses not provided for by the budget, incurred by them in the performance of their duties, shall be reimbursed on the basis of the decision of the general meeting of members of the cooperative.
8. A member of the board of a cooperative may not simultaneously be a member of the board, chairman of the board or a member of the audit committee. The charter of the cooperative may contain additional grounds for limiting membership in these bodies.
9. The members of the board of the cooperative who have expressed a desire to leave its membership may not be elected to the board of the cooperative until the general meeting of the members of the cooperative decides to terminate their powers.

10. When elections of members of a cooperative board are held at a general meeting of members of a cooperative, the chairman of the board and members of the board shall not have the right to make proposals on such candidates.

#### Competence Council Co-op

1. The cooperative council has the right to demand from the executive body of the cooperative a report on its activities, as well as familiarize itself with the cooperative's documentation, check the status of the cooperative's cash register, take an inventory, as well as exercise other powers specified in the charter or internal acts of the cooperative.
2. The cooperative council is responsible for checking the balance sheet, the annual report, the conclusion on proposals for the distribution of the cooperative's annual profit or measures to cover the annual deficit. The board of the cooperative is obliged to report the results of the audit to the general meeting of the members of the cooperative before the balance sheet is approved at the general meeting of the members of the cooperative.
3. The cooperative council shall have the right to make a decision on conducting an audit of the activities of the cooperative.
4. Members of a cooperative council shall not be entitled to transfer their powers to other persons.
5. In the event that a cooperative presents claims to members of the council, the interests of the cooperative may be represented by a person authorized by the general meeting of members of the cooperative.
6. In cases stipulated by the cooperative charter, the cooperative council has the right temporarily, until a decision of the general meeting of the cooperative members convened as soon as possible, to suspend the powers of the cooperative board members and take over the exercise of their powers for a period determined by the relevant decision.
7. Losses caused to the cooperative by members of the council due to non-fulfillment or improper performance of their duties, unlawful transactions, as well as in cases of violation of the charter and legislation of the Kyrgyz Republic by them, are reimbursed by them in court.
8. Issues within the competence of the board of the cooperative may not be transferred to them for the decision of the executive body of the cooperative.

#### Cooperative executive body

1. The board of the cooperative is the executive body of the cooperative, carrying out current activities and representing the cooperative in business and other respects.  
The Board is accountable to the council of the cooperative and to the general meeting of the members of the cooperative.
2. The formation and recall of the executive body of the cooperative shall be carried out by the general meeting of the members of the cooperative. In cooperatives with up to 50 members, the number of board members must be at least three, in cooperatives with more than 50 members, at least seven.
3. The members of the board of the cooperative may at any time be suspended from the performance of their duties by the general meeting of the members of the cooperative or the council, subject to the requirements of paragraph 2 of this article.
4. The Board is headed by the Chairman of the Board of the cooperative.
5. The chairman and members of the management board may not only be members of a cooperative.

6. Issues of the operational management of the cooperative, the procedure for electing (appointing) and dismissing the members of the board of the cooperative and (or) its chairman, changing the composition of the board, powers, the term for which it is elected, the duties of the board members and its chairman are determined by the charter of the cooperative and his internal acts.
7. In the event that a cooperative lays claims on members of the board, the interests of the cooperative may be represented by a person authorized by the general meeting of members of the cooperative.

#### Responsibility of members of the board of the cooperative

1. The members of the board of the cooperative shall act in the interests of the cooperative, in good faith and reasonably. They must take measures to ensure the confidentiality of information constituting the official and commercial secret of the cooperative, which has become known to them in connection with the exercise of their powers.
2. Losses incurred by a cooperative as a result of the unscrupulous performance of its duties by members of the cooperative's board, making a transaction as a result of which unjust enrichment was obtained by board members, as well as in cases of their violation of the legislation of the Kyrgyz Republic and the cooperative charter, shall be reimbursed to the cooperative in court.

#### Control over the activities of the cooperative

1. In order to exercise control over the financial and economic activities of a cooperative, the general meeting of members of a cooperative shall elect an audit commission consisting of at least two members of a cooperative. The members of the cooperative's audit commission may not be members of the council and the executive body of the cooperative. Persons who have not removed (or not canceled) in the manner prescribed by law, can not be part of the audit committee of the cooperative, as well as occupy other positions in the board and council of the cooperative related to financial responsibility.
2. The audit commission checks the financial and economic activities of the cooperative in order to prevent possible violations leading to infringement of the interests of the cooperative members, deterioration of the cooperative's activities or bankruptcy, as well as checking all the cooperative's activities for compliance with this Law and other regulatory acts. The audit commission has the right to involve a qualified specialist in inspections.
3. The audit commission of the cooperative checks the financial status of the cooperative following the results of the financial year, checks the financial and economic activities of the cooperative on behalf of the general meeting of members of the cooperative, the council of the cooperative or at the request of at least 10 percent of the members of the cooperative, as well as on its own initiative.
4. The members of the cooperative's audit commission shall have the right to demand that the council and the board of the cooperative provide any documents necessary for verification.
5. The audit commission of the cooperative on the results of the audit shall submit in writing the conclusion to the board of the cooperative and the council of the cooperative.
6. The results of the audit of the cooperative's activities are discussed at a joint meeting of the board of the cooperative and the board of the cooperative for a period of 7 days, then are reviewed at the next or extraordinary general meeting of the cooperative members.
7. The activities of the cooperative may be subject to external audit.

## **Cooperative financial structure**

The capital of a cooperative consists of shares of members of the cooperative, funds created, and retained earnings. The law does not prescribe the size of share contributions, the cooperative independently determines the size of share contributions.

A mutual fund is created by compulsory and additional shares contributed by members of the cooperative.

Cooperative funds are formed from the profits of the cooperative. The order of formation and expenditure of funds and retained earnings is determined by the charter of the cooperative. The cost of capital of a cooperative is determined on the basis of accounting data as the difference between the real value of the assets and liabilities of the cooperative. If according to the results of the fiscal year, the cooperative incurs losses that cannot be covered from the funds, then the general meeting of the cooperative is obliged to make a decision to reduce the cost of compulsory and additional shares. The size of the compulsory share is established at the general meeting of members of the cooperative.

Mandatory shares are set in equal sizes. Members of the cooperative may contribute additional shares, the terms of which are provided for by the charter of the cooperative. Accounting of shares is maintained by the cooperative in monetary terms. In the case of the contribution of property by a person who joined the cooperative, the monetary assessment of the contribution is made by the board of the cooperative and approved by the council of the cooperative.

A part of the assessed value of a share that exceeds the amount of the obligatory share is transferred with the consent of the member of the cooperative to his additional share. A member of a cooperative must contribute at least 25 percent of the compulsory share by the time of state registration of the cooperative or by the time of joining the cooperative, the rest of the compulsory share - within a year from the date of state registration of the cooperative or from the date of joining the cooperative. An increase in the value of a mutual fund is carried out by making additional shares or by increasing the value of shares due to cooperative payments.

## **Return of a share to a member of a cooperative who has terminated membership**

1. A member of a cooperative who has ceased his membership must be paid the value of his contribution or property must be issued that corresponds to his share contribution, as well as other payments due to him in the amounts, in terms and conditions provided by the charter of the cooperative, but not later than 3 months after the end of the fiscal year during which the termination of his membership in the cooperative took place. At the same time, a member of a cooperative who has ceased membership shall not have the right to demand the release of exactly that property object, which was contributed by him as a share contribution, unless otherwise provided by the charter of the cooperative.

2. Compulsory and additional shares or their part, formed at the expense of the distributed profit of a cooperative, shall be paid to the member of the cooperative upon his termination of membership in the cooperative in the manner prescribed by this Law, unless otherwise provided by the charter of the cooperative.

3. A cooperative shall, when making settlements with a person who has ceased membership in a cooperative, deduct the debts of this person from the payment due to him to the cooperative itself.

### **Co-op liquidation.**

The law does not define the procedure for the return of share contributions of members of a cooperative in the event of the liquidation of a cooperative, and the procedure for liquidating a legal entity is reflected in the Civil Code.

Members of a cooperative have the right to receive part of the profit to be distributed among members in the manner prescribed by the charter of the cooperative. The charter of a cooperative shall contain information on the procedure for the distribution of profits and losses of the cooperative.

The distribution of profits of the cooperative must be proposed by the executive body and approved at the annual general meeting of the cooperative members within 3 months after the end of the fiscal year.

The profit of the cooperative, determined by the balance sheet, is distributed as follows:

- 1) to the emergency fund and other funds provided for by the charter of the cooperative;
- 2) for payment of dividends due on additional shares of members of a cooperative in the amount determined by the charter of the cooperative.

In accordance with the Law, a mutual fund and a fund for emergency situations must be created in the cooperative, a reserve fund, an indivisible fund can be created.

The formation of the funds of the cooperative, the determination of their types, size and conditions of their education is the exclusive competence of the general meeting of the members of the cooperative.

Cooperative funds are formed from the profits of the cooperative. The order of formation and expenditure of funds and retained earnings is determined by the charter of the cooperative. The charter of a cooperative may establish that a certain part of the property of a cooperative constitutes an indivisible fund of a cooperative used for the purposes defined by the charter of the cooperative. The decision to form an indivisible fund of a cooperative shall be taken at a general meeting of members of a cooperative by at least two-thirds of the votes of the members of a cooperative present at a general meeting, unless otherwise provided by the charter of the cooperative.

According to the Law "On Cooperatives":

A dividend is a part of the cooperative's net profit, paid in shares of cooperative members in the manner established by the Law "On Cooperatives" and the charter of the cooperative. However, the law "On Cooperatives" does not provide for the payment of dividends.

"Cooperative payments" is a part of the income of a cooperative distributed among its members in proportion to their participation in the economic activity of the cooperative, under the conditions stipulated by the charter.

Participation in the economic activity of a cooperative means - the supply by members of a cooperative of products, raw materials, the purchase of goods by them in a cooperative, the use of the services of a cooperative or other participation in the economic activity of a cooperative, as provided for in its charter.

However, the Tax Code of the Kyrgyz Republic defines cooperative payments as a dividend, which is part of the profits of the organization.

The law defines “Cooperative payments”, however, this concept is not disclosed in the text of the law and is not provided for. The law does not provide for the possibility of a cooperative issuing financial instruments, as well as admitting “members-investors” to membership. Previously, legislation included the concept of “associate member of a cooperative,” which in essence was a cooperative investor, but did not participate in the management of a cooperative. Such a rule was excluded.

The Law “On Cooperatives” does not contain specific rules on the procedure for issuing loans to members. However, there are norms regulating and granting the right to the general meeting of members of a cooperative to approve the amount and procedure for lending money to members of a cooperative as a financial instrument.

The law does not contain specific rules on the allocation of capital and assets in the event of liquidation by a decision of the general meeting or the transformation of a cooperative into another organizational-legal form. The conditions and procedure for reorganization, transformations can be provided for in the Charter of the cooperative.

The activities of cooperatives are not controlled by the state. Check the activities of cooperatives may carry out tax authorities. Other inspection bodies may check fire safety, technical safety in case there are buildings and structures on the balance of the cooperative and if any complaints have been received.

### **State and cooperatives**

1. The Kyrgyz Republic guarantees respect for the rights and legitimate interests of cooperatives and their members. Government agencies and local governments contribute to the development and strengthening of cooperatives, and contribute to the provision of efficient credit services to cooperatives by financial and credit institutions.
2. State authorities and local governments do not have the right to interfere in economic activities and conduct an audit of the financial activities of cooperatives, with the exception of cases stipulated by the legislation of the Kyrgyz Republic.
3. Losses caused to a cooperative as a result of unlawful actions (inaction) of state and other bodies or their officials who violated the rights of the cooperative, as well as as a result of improper fulfillment by such bodies or their officials of the obligations stipulated by the legislation of the Kyrgyz Republic these bodies. Disputes about the reimbursement of such damages are considered by the court.

The legislation of the Kyrgyz Republic provides for the possibility of uniting cooperatives into unions of cooperatives, and such an organization is a non-profit organization. The legislation

of the Kyrgyz Republic allows for the association of cooperatives into cooperatives, but such norms are not directly provided for.

Cooperatives, independently or jointly with other legal entities, in order to coordinate their activities, as well as to represent and protect common interests, ensure and provide information services, organize training and advanced training for members and workers of cooperatives and other activities, may establish alliances by agreement among themselves.

Members of the union retain their independence and the rights of a legal entity.

The constituent documents of the union are the constituent agreement, signed by its members, and the charter approved by them. A member of the union has the discretion to withdraw from the union at the end of the fiscal year. At the same time, he must inform in writing about his intention to the executive body of the union no later than 12 months before the release. In this case, he bears subsidiary liability for the obligations of the union, which arose before its withdrawal, in proportion to its contribution within 2 years from the moment of leaving the union.

A member of the union may be excluded from it by decision of the remaining members in cases and in the manner established by the charter of the union. Regarding the liability of an excluded member of the union, the rules relating to the voluntary withdrawal from the union apply.

Admission to the union of new members is carried out in the manner prescribed by the charter of the union.

Special forms or rules for secondary cooperatives are not provided for in detail in the legislation of the Kyrgyz Republic.

### **Cooperative taxation**

In contrast to other economic entities, agricultural cooperatives in accordance with the Tax Code of the Kyrgyz Republic are provided with a number of preferences.

Cooperatives are exempt from taxes: sales taxes, profit tax, VAT. Import of assets are also exempted from VAT.

Income Tax. The agricultural cooperative and the agricultural trade and logistics center, as tax agents, withhold and pay a fixed amount of income tax for each employee, calculated on the basis of the minimum estimated income. The minimum estimated monthly income for the next calendar year is determined by districts and cities of the Kyrgyz Republic at the rate of 40 percent of the average monthly wage of workers for the previous year based on data from the state statistical body in the manner established by the Government of the Kyrgyz Republic. The average amount of minimum estimated income can be appr. 3000 soms (43\$). The rate of income tax is equal 10%.

The supply by the agricultural cooperative of agricultural products of its own production, as well as its products, is a supply exempt from VAT.

The supply of agricultural products and processed products by an agricultural cooperative received from agricultural producers who are members of a cooperative is a supply exempt from VAT.

The supply of goods, works, services by an agricultural cooperative to members of this cooperative is a supply exempt from VAT.

Dividends received by a resident individual of the Kyrgyz Republic from participation in domestic organizations are non-taxable income.

According to the Tax Code of the Kyrgyz Republic, the dividend is a part of the taxpayer's profit, including cooperative payments to members of agricultural cooperatives. However, the Law “On Cooperatives” distinguishes the concept of “dividend” from the concept of “cooperative payments”, which should be noted about the inconsistency of the two regulatory legal acts to each other.

Social insurance. According to the LA “On the pricing of insurance premiums in the state social insurance” the insurance premium rates for agricultural cooperatives are set:

- a) for employers, regardless of the type of ownership of the employer and the type of registration with the tax authorities of the Kyrgyz Republic, including foreign citizens and stateless persons permanently residing in the Kyrgyz Republic, every month from all types of payments accrued in favor of hired employees employed on permanent or temporary work - in the amount of **2 percent**;
- b) for employees hired for permanent or temporary work, regardless of the type of ownership of the employer and the type of registration with the tax authorities of the Kyrgyz Republic, workers, including foreign citizens and stateless persons permanently residing in the Kyrgyz Republic, with the exception of retired employees, monthly from all types of payments accrued in their favor, regardless of sources of financing - in the amount of **10 percent**. Members of cooperative pay for social insurance depending on their own land square.

### III. Degree of “cooperative friendliness” of the national legislation

In general, it can be considered that Kyrgyz legislation is ‘quite cooperative friendly’ for the functioning of cooperatives. However, there are ongoing discussions about the nature and understanding of cooperatives. In particular, the issue of identifying and regulating commercial and non-profit cooperatives has not been resolved.

There are facts of registration of cooperatives as a non-profit, despite the fact that the nature of their type of activity pursues the goal of making a profit. As a result, the resulting statistics are distorted and do not reflect the real picture.

There are also non-commercial cooperatives (financial, agricultural, and housing). In practice, people often face a situation where a cooperative is registered as a non-profit cooperative, but taxation and regulation is carried out as a commercial organization by government bodies.

In general, the state actively promotes the development of cooperation in the country, which is reflected in many strategic documents and main acts.

However, inconsistencies and inaccuracies in legal acts, as well as insufficient attention and indecisive actions lead to the fact that cooperatives, for all the importance of their development, do not receive sufficient support.

Also, the legislation does not contain specific rules on the issue of the distribution of capital and assets in the event of liquidation by a decision of the general meeting or the transformation of a cooperative into another organizational and legal form. The conditions and procedure for reorganization, transformation can be provided for in the Charter of the cooperative. but, the financial side is not spelled out.

In addition, the legislation does not contain rules or regulations for secondary cooperatives. Currently, work is underway to study and amend the legislation on secondary cooperatives.

#### **IV. Recommendations for the improvement of the national legal framework**

To further improve the national legal framework governing the activities of cooperatives, it is necessary to synchronize and harmonize various legal acts and eliminate inconsistencies in them, make additions reflecting aspects and details not covered in legal acts that are more extensively covered in the questionnaire.

Provisions on the law of cooperation of cooperative unions, representative bodies of cooperatives with cooperatives of foreign countries and international cooperative organizations should be introduced into the legislation governing cooperative activities.

It is necessary to disclose in the legislation the concepts and order of organization of activities of agricultural cooperatives, consumer cooperatives, primary, secondary levels of cooperatives.

Barriers and obstacles to the development of cooperatives at the legislative level include:

Cooperatives are not identified in the priority of the loan. This resolution stipulates that commercial banks and financial and credit organizations have the right to use group lending mechanisms for members of farms, peasant farms and cooperatives. However, the simplified mechanism for lending to cooperatives by the state is not regulated, which creates barriers to access to financial resources.

- The Law of the Kyrgyz Republic “On Local Self-Government” does not include issues of promoting agricultural development, including agricultural cooperatives, of local importance. The passivity of local governments in supporting the creation and operation of agricultural cooperatives. In order to encourage officials to engage in this work, it is necessary to include in the criteria for evaluating the effectiveness of the work of local government bodies indicators of agricultural production growth, including the development of agricultural cooperation.

- lack of legislation in the field of public procurement, in terms of ensuring access of agricultural cooperatives to public procurement.
- the inability to distribute profits in agricultural cooperatives created in the form of non-profit organizations have not been developed mechanisms.
- inconsistencies and inaccuracies in the regulatory legal acts governing cooperatives, there are two industry-wide codes (Civil Code, Tax Code) and two specialized laws (On Cooperatives, On Credit Unions).
- Non-transparency of the activities of cooperatives, distrust of members of the cooperative to each other as a risk of fraud, that is, at the legislative level, appropriate mechanisms have not been developed.
- Problems of eradicating small-scale commodities, due to the reform in the agro-industrial complex in the past, as a result of which, agricultural land was divided into small areas and transferred for temporary use.

In order to stimulate the activities of cooperatives, it is necessary:

- to include in the Law on State Procurement in terms of the provision by the procuring entity in evaluating tender bids, benefits for the proposed price of up to 40 percent for goods produced by an agricultural cooperative in the Kyrgyz Republic, and also for jobs up to 40 percent for offers of agricultural cooperatives compared to with the offers of foreign firms, provided that domestic contractors use at least 70 percent of local labor resources, as well as at least 30 percent of local raw materials and mate episodes. As well as the procurement of goods from cooperatives by the method of direct conclusion of the contract.
- make changes to the regulatory legal acts in the provision of pastures, in terms of granting priority rights to agricultural cooperatives the right to receive the use of pastures;
- it is necessary to make the law “On cooperatives” in terms of determining the number and types of subjects for the formation of cooperatives, clarifying the concepts of dividends, cooperative payments, types of shares, the procedure for including and excluding members and so forth.

In the legislation governing cooperative activities, it is necessary to introduce norms on the law of cooperation of cooperative unions, representative bodies of cooperatives with cooperatives of foreign countries and international cooperative organizations.

It is necessary to disclose in the legislation the concepts and order of organization of the activities of agricultural cooperatives, consumer cooperatives, primary, secondary levels of cooperatives.

## V. Conclusions

In general, the legal framework in Kyrgyzstan (based on Roman-German standards) regulating the activities of cooperatives is friendly, however, the existing disharmony of legal norms reflected in various acts complicates the process of conducting activities and makes it attractive as a legal form of organization.

The process of improving and shaping the most favorable climate for the development of cooperatives is not complete and there is a need to refine and make changes in other legal acts, since the definition of cooperation and its use as a tool goes beyond the previously established framework of the sectoral nature.

The lack of experience in the development of cooperation requires the help of more experienced and competent experts.

**Published: September 2020**

*The legal frameworks analysis is a tool developed under the ICA-EU Partnership #coops4dev. It is an overview of the national legal frameworks at the time of writing. The views expressed within this report are not necessarily those of the ICA, nor does a reference to any specific content constitute an explicit endorsement or recommendation by the ICA.*

---

