

# ◀ PRESIDENTIAL ELECTIONS & POWER STRUCTURE CHANGES IN KYRGYZSTAN

## Risk assessment & strategies for foreign investors

**January 2020**

On 10 January, Kyrgyzstan held early presidential elections in conjunction with a referendum on the form of governance (*transferring from the parliamentary to the presidential model*). The controversial elections followed on from October's much-criticised parliamentary elections and amidst ongoing political turmoil that has reigned ever since.

The official vote count gave Sadyr Japarov an overwhelming victory with 79% of the vote, from a turnout of almost 40%. In a large field of 17 candidates, none of the alternative candidates registered more than 2%. Observers from the CIS, SCO, the OSCE's Office for Democratic Institutions and Human Rights<sup>1</sup>, as well as the US Embassy to Russia, and other countries, have recognised the elections. The results have now been certified and Sadyr Japarov will be inaugurated within a month.<sup>2</sup> At the referendum, the voters also supported (by a majority of more than 80%) the transfer from a parliamentary republic to a presidential system.

The next referendum, due to be held in February this year, will be of tremendous significance for international investors into Kyrgyzstan, given a [new draft constitution](#) may be approved, further enshrining the expanded powers of the President.

Should these powers be approved:

- › the office of Prime Minister will be eliminated,
- › the President will head the Government,
- › Parliament will lose the power to appoint government members,
- › some decisions on the most crucial issues will be referred to the people's assembly, the Kurultai (currently, it is an advisory body with vaguely defined powers).

Additionally, new elections to parliament (Jogorku Kenesh) and elections to local government bodies (keneshes), delayed by the pandemic, are to be held no later than 1 June 2021.

---

<sup>1</sup> At the same time, ODIHR noted that the candidates faced an uneven playing field in their campaigns and that misuse of administrative resources may have occurred.

<sup>2</sup> The President is elected for a six-year term and may not be re-elected for a second term.

## The current situation

Sadyr Japarov's election to the office of President has ended the acute stage in the political crisis that started in early October 2020<sup>3</sup> following parliamentary elections. Against a backdrop of mass protests, the October election results (*not a single opposition party was elected to the Jogorku Kenesh*) were declared invalid. First the Prime Minister and then President Sooronbay Jeenbekov resigned.

In the immediate aftermath of the disputed election, supporters of Sadyr Japarov secured his release from prison, where he was serving 10 years for involvement in the kidnapping of a regional Governor (see below). Parliament then appointed him Prime Minister and, when the previous head of state resigned, on 16 October Japarov was appointed Acting President.

Shortly afterwards, Mr Japarov delegated his authority to a range of allies (*presidential authority went to Talant Mamytov, Speaker of Parliament, while Senior Deputy Prime Minister Artyom Novikov<sup>4</sup> assumed the Prime Minister's authority*) in order to participate in the forthcoming presidential elections.

### Information about Sadyr Japarov

- ◇ Japarov was born in the north of Kyrgyzstan in the Issyk-Kul Region; he is considered to be a representative of the “northern clans.”
- ◇ In 2005, he became a Jogorku Kenesh deputy. During the first Kyrgyz revolution in 2005, he supported former President Kurmanbek Bakiyev, who later fled the country. Japarov worked as Bakiyev's advisor and also headed the Agency for Prevention of Corruption.
- ◇ In 2010, Japarov was again elected to Parliament. Following Bakiyev's overthrow in 2010, he took part in the inter-ethnic clashes in the south of Kyrgyzstan (*clashes between Kyrgyz and Uzbeks in the cities of Osh and Jalal-Abad in the Ferghana Valley*).
- ◇ Since 2012, Japarov has advocated for the nationalisation of Kumtor, a gold-mining company (*it controls one of the largest gold deposits in Central Asia*).
- ◇ In 2017, he was arrested on charges of hostage-taking, including the kidnapping of the Governor of the Issyk-Kul Region during the 2013 rallies. Japarov was sentenced to 11.5 years in prison (*subsequently commuted to 10 years*).

The Presidential elections have made it possible to resolve several pressing issues:

- Neutralising the mass protests that had, for several months, virtually paralysed the key authorities, such as the Parliament, the Government and the President's Executive Office;
- Eliminating the power vacuum and several emerging decision-making centres (self-appointments) at key offices, including law enforcement;
- Overcoming the power paralysis has put an end to the seizures of enterprises and property that occurred during the protests.<sup>5</sup>

At the same time, the positive effect of these Presidential elections may prove temporary, given the persistent underlying contradictions inherent in the Kyrgyz political system and reflected in the legitimacy and governance crisis.

---

<sup>3</sup> Please see [here](#) for Kesarev's October memo on the crisis around the parliamentary elections.

<sup>4</sup> Sadyr Japarov suspended his prime minister's powers, though this does not imply resignation. Until his Presidential inauguration, therefore, Mr Japarov will officially remain Prime Minister. Under the Constitution, resignation by the Prime Minister automatically triggers the resignation of the entire cabinet of ministers.

<sup>5</sup> During the mass protests, most big mining enterprises, including Russia's Alliance Altyn, Kazakhstan's Kaz Mineral Bozymchak, etc., had to suspend their operations.

## LEGITIMACY CRISIS

Sadyr Japarov's opponents criticise the circumstances under which he came to power, holding the following, in particular, against him:

- › An outstanding conviction when he took up the office of Acting President. On October 19, 2020, Japarov was acquitted of charges related to an alleged attempt to seize power in 2012 (regarding the events during the rallies around the nationalization of the Kumtor company). The 2013 hostage-taking verdict remains in effect, but also awaits revision;
- › Questions surrounding the legitimacy of the procedure for appointing him Prime Minister (*the voting was held outside of the parliament building and is believed to have been held under pressure from Japarov's supporters*);
- › Similar questions around the legitimacy of the procedure for calling the Presidential elections (*by the Central Electoral Committee instead of the Jogorku Kenesh*);
- › The circumstances under which the governance referendum was called. Parliament passed the Referendum law on 10 December, even though the term of the current convocation had expired on 5 October 2020. Repeat elections were to be held in early November 2020 but the deputies decided to delay them (*possibly with procedural violations*) until 2021;
- › Additionally, the question may arise about electing a president with a specific set of powers that are later to be expanded significantly by implementing a constitutional reform (*including in relation to possible re-election to office, which is prohibited under the current constitution*). This legal conflict could theoretically require a further presidential election.

These and other circumstances could, already in the very near future, serve as formal prerequisites for escalation of domestic tension and trigger yet another “revolution” and power transfer in Kyrgyzstan. Such escalation is possible if a new governability crisis breaks out and the Sadyr Japarov team's attempts to consolidate power fail.

## GOVERNABILITY CRISIS

The Presidential elections and the referendum did not eliminate the underlying causes for the growing discontent in Kyrgyz society<sup>6</sup>:

### Economic causes

- › In 2020, according to National Statistic Committee, Kyrgyzstan's GDP fell by 8,6% in 2020. This is more than in other Central Asian states and in the states of the Eurasian Economic Union (EAEU), of which Kyrgyzstan is a member. [Projected by IMF](#) Kyrgyzstan's GDP decrease in 2021 is 12%.
- › The country's foreign debt exceeded 60% of GDP (*as regards servicing the debt, it is considered to be at the critical limit for developing states*).
- › Over the first nine months of 2020, foreign investment fell by 30.1% (*the 12-month drop is preliminarily estimated at 40%*). The mining and geological exploration sector, an important one for Kyrgyzstan, was among those hardest-hit; Chinese, Canadian, Russian and Kazakhstani investors curtailed their activities in this sector.
- › Against the backdrop of the coronavirus pandemic, unemployment rose significantly. A third of Kyrgyzstan's GDP consists of bank transfers from abroad. Many labour migrants work in Russia and other states with restricted entry. The average wage in Kyrgyzstan itself is just over USD 200 per month.

---

<sup>6</sup> In August 2020, the USA's International Republican Institute conducted a poll [recording](#) people's general discontent with the situation in the country at 53%.

## Political causes

- › Kyrgyzstan's political system is characterised by confrontation between northern and southern clans. Given the economic crisis, attempts to consolidate power in the hands of the President risk exacerbating further inter-clan conflict.
- › Given the specifics of Kyrgyz politics, parliamentary governance, on the one hand, was conducive to generating chaos in the decision-making process but on the other, it made it possible to take account of the interests of various influence groups. Replacing flexible but unstable governance with rigid, yet fragile governance is a controversial solution to the crisis in Kyrgyzstan.
- › Mr Japarov is believed to have connections with former president Kurmanbek Bakiyev, with the Matraimov clan (*the head of the clan is Raiymbek Matraimov, a prominent businessman and former deputy head of the customs service*<sup>7</sup>) and with some criminal figures.

## Social causes

- › Mr Japarov is believed to be a representative of the northern clans, whose nationalist rhetoric could exacerbate inter-ethnic tensions since many Uzbeks, Kyrgyzstan's biggest ethnic minority, live in the south of the country (the Osh and Jalal-Abad Regions).
- › Mr Japarov's populist rhetoric (*fighting corruption, bringing labour migrants back to Kyrgyzstan, etc.*) could backfire unless he makes progress in resolving the pressing economic and social problems in the first years of his rule.

# Consequences and risks for foreign business

## Impact on the government relations system

- › As regards doing business, Kyrgyzstan has traditionally been counted among high-risk states and these elections have increased these risks even further. Tellingly, many offices of big international companies working in Central Asia are headquartered outside Kyrgyzstan (including Kazakhstan, Russia and other states), and this trend remains unchanged.
- › If the February referendum is successful, two scenarios are possible:
  1. The situation stabilises, and the regime and structure of government authorities undergo a significant transformation. Essentially, this scenario entails a possible attempt to establish the model practised in other Central Asian states: strong presidential power, weak parliament, government dependent on the President, and a limited circle of special interest groups that could be reduced to the President's inner circle (Uzbekistan model) and/or his family (Tajikistan model), and a significantly weaker role of NGOs (business associations, public associations).

If this model settles and stabilises the situation, corporate GR systems will have to reorganise their activities: curtail relations with parliamentary parties and deputies, focus more on relations with the President's office and on routine and regular government relations.
  2. Attempts to consolidate Presidential powers may trigger an even deeper political crisis (discontent among the affected clans given their waning influence) up to a scenario of a civil war with an unpredictable outcome ranging from entrenching the previous model (the parliamentary system) to total or partial loss of sovereignty (for instance, some Kyrgyzstan territories transferred to the control of Kazakhstan, Uzbekistan, China).

---

<sup>7</sup> In December 2020, the US put Raiymbek Matraimov and his wife Uulkan Turgunova on the Global Magnitsky sanctions list (human rights violations and corruption).

## Short-term risks

- › There are still significant risks to the political situation in Kyrgyzstan destabilising and protests breaking out again in the next six months.
- › The factors conducive to these developments include the announced constitutional reform, parliamentary elections, local elections delayed by the pandemic (elections to the keneshes should have been held in the spring of 2020).
- › An escalation of tension might translate into a full-blown crisis; in the worst-case scenario, it could bring about anarchy, civil war and the disintegration of territories.

## Medium-term risks

- › There is a high probability of previous arrangements being cancelled/revised, and of the rules of engagement being changed for individual sectors and businesses. The budget deficit and the need to pay foreign debts could produce an increased tax burden for businesses.
- › The practice of using law enforcement to put pressure on foreign business could be expanded. Previously, these instances have not been infrequent in Kyrgyzstan:
  - › in 2020, there was a high-profile corruption scandal around the sale of radio frequencies to the Russian brand Beeline (controlled by the VEON international group), which caused the Government's resignation in June last year;
  - › in 2018, the General Director of KAZ Minerals Bozymchak, a mining company controlled by Kazakhstan investors, was arrested on charges of tax evasion;
  - › it is considered standard practice in Kyrgyzstan to detain freight at the border and during transit across the country in order to extort a bribe on some pretext.
- › The fight against corruption announced by Mr Japarov may indirectly affect foreign investors working in Kyrgyzstan. They could become hostage to attempts at resolving inter-clan contradictions.
- › Previously, Kyrgyzstan's National Bank used to restrict bank transfers abroad: in some circumstances, these restrictions might be reinstated fully or selectively.
- › Given the low standard of law enforcement and the court system, turf wars may result in a higher "corruption tax."
- › The risks described above are more likely to materialize, given the ongoing downturn in the Kyrgyz economy.

## First steps and statements by the President-elect

### First statements

- › Mr Japarov has confirmed the commitment to Eurasian integration and further development of the Eurasian Economic Union (Kyrgyzstan is a member of the EAEU), as well as to strategic partnership with Russia.
- › At the same time, President-elect Japarov is expected to make his first foreign visit to Kazakhstan, which together with Russia and China is a vital economic and political partner of Kyrgyzstan.
- › Mr Japarov has promised to audit mining enterprises, including in relation to environmental safety. This audit could serve as a pretext for increasing the burden on individual businesses in some form.
- › Finally, Mr Japarov has promised to pay off / significantly reduce the foreign debt (USD 4.8 bn as of September 2020), including the debt to China (China's Export-Import Bank accounts for 43% of Kyrgyzstan's foreign debt). Previously, Bishkek had unsuccessfully asked China to restructure the debt.

## First appointments

As Acting President, Mr Japarov made several appointments to key offices, including:

- › Ravshan Sabirov to the office of Deputy Prime Minister. Previously, Mr Sabirov headed the Ministry for Social Development. In 2012, he was charged with extorting a large bribe.
- › Baktybek Amanbayev to the office of acting head of the President's Executive Office. Previously, Amanbayev served as Ombudsman and as Deputy Mayor of Osh (in the south of Kyrgyzstan).
- › Kamchybek Tashiev to the office of Head of the National Security Committee (previously leader of the Ata-Jurt political party, former head of Kyrgyzstan's Ministry for Emergencies).
- › Ulan Niyazbekov to the office of Minister of the Interior. Niyazbekov is believed to have connections with Raiymbek Matraimov (see footnote 7, page 4 above).

Generally, Mr Japarov's first appointments show that, prior to reformatting the power structure in the country, he is shaping his inner circle with those people loyal to him.

## Announced reforms

- › The draft constitution envisions bolstering the President's authority (new powers, the right to be elected twice in a row, etc.).
- › The draft constitution also provides for a mixed system for electing members of parliament (single-member constituencies and party lists), cutting the number of Jogorku Kenesh members from 120 to 90.
- › Reducing the number of civil servants, cleansing the ranks of power, and putting through a major reshuffle of law enforcement.
- › Decriminalising "minor" offences (fines instead of incarceration).

# Recommendations for corporate government relations systems

Given the fluidity and risks associated with the current situation, we recommend the following strategic approaches for corporations operational within or considering investment into Kyrgyzstan:

- › Observing the situation for the next six months, during which resumption of the political crisis is most likely. Where possible, a suspension of investment decisions for this period.
- › Simultaneously setting up communications with the reshuffled Presidential Executive Office and the Government as the key state stakeholders, and with the Kurultai, a new body in the power system. While thus engaged, it is important to focus the contacts of GR specialists in order to avoid finding oneself caught in the crossfire of the confrontation between different influence groups attached to particular Kyrgyz clans.
- › If this has not yet been done, the model for developing business in Kyrgyzstan should account for the probability of worsening regulatory terms, including higher taxes and levies, and that of non-fiscal pressure being applied to businesses (*law enforcement intervention, transit and freight safety, employee entry and safety, etc.*).
- › Developing a crisis contingency plan for the risks listed above materialising. This plan should include an option for prompt recourse to government authorities, business associations, etc. in the countries of origin/presence of the business; given Kyrgyzstan's increased dependence on foreign players, such recourse might prove an effective problem-solving tool.

Further afield, there is some concern that the developments in Kyrgyzstan could also affect neighbouring states, primarily Kazakhstan (the power transit issue) and Uzbekistan (the situation on the border, growing inter-ethnic tensions), as well as the EAEU's prospects. Currently, the key foreign players (Russia, Kazakhstan, China) have called for the stabilization of Kyrgyzstan's political situation but have yet to become directly involved.

*For further discussion on the subject of this paper, please contact: Natalia Malyarchuk, Senior Counsel and Head of Kesarev office in Central Asia, [n.malyarchuk@kesarev.com](mailto:n.malyarchuk@kesarev.com)*



## Kesarev

Kesarev is the leading independent public affairs and government relations consultancy in Central & Eastern Europe, Ukraine, Russia, the post-Soviet area, Turkey and Israel, covering 25 countries and specializing in government and corporate affairs, risk management and corporate reputation services.

Since 2014, Kesarev consultants have been ranked by The Best Lawyers in the areas of Government Relations, Government and Regulatory Practice, including the "Best Lawyer of the Year" award. Kesarev partners were recognized among the Top-20 communications managers by the TOP-COMM rating in 2020 and 2019 and within the Top 1000 Managers of Russia rating in 2017, 2015 and 2014.

[www.kesarev.com](http://www.kesarev.com)