

KYRGYZ Republic: Tier 2 Watch List

The Government of the Kyrgyz Republic (or Kyrgyzstan) does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated significant efforts during the reporting period by adopting a new national action plan for 2017-2020 and developing and piloting victim identification criteria, including measures to prevent unfair criminalization of victims. However, the government did not demonstrate increasing efforts compared to the previous reporting period. The government did not investigate credible reports of serious and endemic corruption that contributed to trafficking or official complicity in detaining and exploiting victims. The government did not report any prosecutions of alleged traffickers. The government did not allocate additional funding for the implementation of its national action plan, and undertook limited victim identification efforts. Therefore Kyrgyz Republic was downgraded to Tier 2 Watch List.

RECOMMENDATIONS FOR KYRGYZ REPUBLIC

Vigorously investigate and prosecute suspected trafficking crimes, including government officials allegedly complicit in trafficking or who abuse and exploit trafficking victims, and convict and punish trafficking offenders, ensuring the majority of those convicted serve time in prison; increase efforts to proactively identify trafficking victims, particularly among vulnerable groups such as persons in prostitution, and refer victims to protection services; approve and implement guidelines on victim identification and train officials on their use; implement child-sensitive investigation and prosecution procedures for cases in which children may be human trafficking victims; consistent with amendments to the national trafficking law, adopt and implement a national referral mechanism to better identify, assist, and protect potential victims; enact legislation consistent with international law to ensure prosecuting the prostitution of minors does not require proof of force, fraud, or coercion; increase trafficking-specific training for law enforcement, including through contributing to efforts by international organizations to train police, prosecutors, and judges; ensure identified trafficking victims are exempt from punishment for unlawful acts committed as a direct result of being subjected to trafficking; and continue to contribute to NGOs providing assistance to victims.

PROSECUTION

The government decreased law enforcement efforts and did not address a serious 2013 allegation of official complicity. Article 124 of the criminal code criminalized all forms of labor trafficking and some forms of sex trafficking. Inconsistent with international law, the law required a demonstration of force, fraud, or coercion to constitute a child sex trafficking offense, and therefore did not criminalize all forms of child sex trafficking. The law also defined trafficking broadly to include “child adoption for commercial purposes.” While the president signed into law an update to the existing criminal code to bring article 124 in line with international standards and address these deficiencies during the previous reporting period, the updated criminal code was not projected for implementation until 2019. Article 124 prescribed penalties of house arrest for up to five years or five to eight years imprisonment, which were sufficiently stringent. However, with respect to sex trafficking, by allowing for house arrest in lieu of imprisonment, these penalties were not commensurate with those prescribed for other serious crimes, such as rape. Prosecutors could also charge traffickers using article 260 for engaging a person in prostitution through the use of force or the threat of force or fraud, which was punishable by a fine or imprisonment of three to five years if the victim was an adult, five to 10 years imprisonment if the victim was 14-17 years old, and 10 to 15 years imprisonment if the victim was younger than 14 years old.

The government initiated four trafficking investigations under article 124 in calendar year 2017, including two cases of child trafficking; the government provided no additional information about these cases, such as how many involved sex or labor trafficking. In comparison, the government conducted eight trafficking investigations in 2016. The government did not report the number of suspects prosecuted, contrasted with the prosecution of five defendants in 2016. Public data indicated that Kyrgyz courts convicted seven individuals under article 124, compared with convictions of 10 traffickers in 2016. The government did not provide information on sentencing.

In 2017, the Ministry of Internal Affairs (MVD) moved the Trafficking in Persons Police Unit from the Criminal Investigations Unit to the MVD’s Criminal Militia Service. The unit was the central coordinator for trafficking investigations across the entire country. Experts believed the move raised the profile of trafficking issues within the MVD, and would serve to improve coordination on irregular migration, but some observers expressed concern that the unit focused on tackling organized prostitution or operation of brothels as prohibited under law, rather than identifying victims and investigating trafficking cases. Advocates for victims reported there

was a general lack of proactive investigation, especially if victims did not make a specific, well-supported complaint. Civil society actors reported the need for systemic training for law enforcement, prosecutors, and judges, particularly on how to identify victims and work with them as witnesses. The MVD conducted training for the Customs Service on pilot identification procedures. Authorities cooperated with civil society and foreign partners to train police, prosecutors, and judges; based on a 2016 MOU, an international organization and the government collaborated on training 97 judges, 77 prosecutors, and 33 police officers in 2017.

The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses; however, corruption and official complicity in trafficking cases remained significant concerns, inhibiting law enforcement actions during the year. NGOs and international organizations reported law enforcement officials accepted bribes to drop cases and sometimes warned suspects prior to raids. Traffickers were reportedly also able to avoid punishment by offering victims payment to drop cases. The UN special rapporteur on the sale of children, child sex trafficking, and child pornography documented allegations of law enforcement officials' complicity in human trafficking in a 2013 report; police officers allegedly threatened, extorted, and raped child sex trafficking victims. However, the government has never investigated the allegations from this report, citing a lack of specific or actionable information.

PROTECTION

The government maintained efforts to protect trafficking victims. In January 2018, the government amended the trafficking law and authorized the creation and use of standard identification procedures and a national referral mechanism; experts have cited these gaps as an impediment to identifying and assisting victims. In 2017, the government, working with an international organization, developed procedures to identify trafficking victims and piloted the standards with law enforcement; the government did not formally adopt these procedures by the end of the reporting period. International organizations and NGOs reported assisting 112 victims in 2017, 89 of whom were subjected to forced labor, 16 to sex trafficking, and three to both labor and sex trafficking; two of the victims were children and 67 victims were male. The government identified and referred two of the 112 victims, compared with one identified victim referred to care by the government in the previous reporting period. Local governments in Osh and Bishkek continued to provide rent-free facilities used by three NGO-run shelters that provided services

for trafficking victims. Consular officials assisted an unknown number of victims abroad by providing no-cost travel documents, but the government did not report providing financial or in-kind support for their repatriation. The government did not report identifying or assisting any foreign victims in 2017; shelters reported that they could accommodate foreign victims.

Police did not use child-sensitive procedures when dealing with child victims during case investigation and courts did not provide safeguards to ensure children's privacy and protection; the draft referral mechanism would address the treatment and proper provision of assistance to children, but it was not finalized or implemented during the reporting period. Although experts reported that victims were highly vulnerable to pressure from traffickers to withdraw their complaint or settle informally, for the second consecutive year, MVD's witness protection unit did not report assisting any trafficking victims. Although the law provided for the proper treatment of witnesses, authorities rarely followed it. The government required witnesses to attend multiple public hearings and sit next to their alleged traffickers at trial, which deterred victims from cooperating with police.

Government-provided attorneys reportedly lacked knowledge on handling trafficking cases. While the law provided the opportunity to seize traffickers' assets and compensate victims, authorities did not report granting such restitution. According to the 2013 UN special rapporteur report, police officers allegedly detained child sex trafficking victims, releasing them only after they performed sexual acts; the government has not yet responded to the report's allegations.

Police allegedly extorted bribes from child sex trafficking victims through threats of arrest for commercial sex, even though commercial sex was neither illegal nor an administrative offense. The police's increased interaction with international and local trafficking experts has reportedly led to officers' increased sensitivity toward children found in brothels. However, the continued lack of formal written procedures for the identification and protection of potential sex trafficking victims increased victims' vulnerability to arrest and penalization during brothel raids.

There were no reports officials fined, detained, or penalized trafficking victims for unlawful acts committed as a result of being subjected to trafficking; due to the lack of formal victim identification procedures, however, some victims may have remained unidentified in the law enforcement system.

PREVENTION

The government increased efforts to prevent trafficking. The Coordination Council on Migration continued to coordinate government efforts on migration issues,

including combating trafficking in persons. During the reporting period, the Council devoted one session to trafficking in persons and met twice. The Prime Minister issued a decree in November 2017 approving a 2017-2020 national action plan to combat trafficking in persons, the culmination of a draft process that included input from 18 government agencies and NGOs and international organizations. Experts described the 38-objective plan as comprehensive but were concerned that its broad scope may be overly ambitious. The action plan did not include additional government resources to implement the activities, which was indicative of continued reliance on international funding. The government completed 66 percent of the previous national action plan (2013-2016), which included 32 objectives. Several projects related to the previous plan remained in progress. For the first time, the government developed a media action plan to raise awareness on trafficking in persons, but did not provide information on the implementation. The government, in coordination with an international organization, held awareness-raising events in all seven regions of the country during a 100 Days to Prevent Trafficking Campaign.

The government, with the support of an international organization, continued to operate two employment centers in Bishkek and Osh that in 2017 provided an unknown number of people information on employment services, vacancy advertisements, licensed foreign labor recruitment agencies, and offered pre-departure orientation (which included trafficking prevention) for job-seekers to ensure safer migration and employment. The government also maintained two publicly available databases of private employment agencies: one contained “government licensed” agencies, and the other a list of agencies about which the government received complaints. In 2017, the government revoked a labor recruitment agency’s license due to labor recruitment fraud. The government also continued to provide a national toll-free telephone line and office space to an NGO-run hotline that provided legal advice and assistance regarding working abroad; the hotline received 2,909 calls in 2017 and January 2018, which resulted in the identification of four victims. The government continued to provide support for a mobile phone application that provided Kyrgyz migrants with information on the rights of migrant workers and contact telephone numbers including anti-trafficking hotlines and local Kyrgyz embassies. The government did not report providing anti-trafficking guidance for its diplomatic personnel or making efforts to reduce the demand for commercial sex acts or forced labor.

TRAFFICKING PROFILE

As reported over the past five years, the Kyrgyz Republic is a source, transit, and destination country for men, women, and children subjected to forced labor, and for women and children subjected to sex trafficking. Adult male labor migrants working abroad are reportedly at the highest risk of trafficking. Kyrgyz men, women, and children are subjected to forced labor in Russia and Kazakhstan, and to a lesser extent in Turkey and other European countries, as well as within the Kyrgyz Republic, specifically in the agricultural, construction, and textile industries and in domestic service and forced childcare. Kyrgyz children also are subjected to forced labor in the selling and distribution of drugs within the country, and hauling cargo both in the Kyrgyz Republic and neighboring countries.

Women and girls are subjected to sex trafficking abroad, reportedly in Turkey, the United Arab Emirates (UAE), India, Russia, Kazakhstan, South Korea, and within the country. Kyrgyz police officers allegedly exploit female trafficking victims, including some younger than age 18, for sex both in saunas and on the street. Concerns persist about police misconduct and corruption, including allegations that police threaten and extort sex trafficking victims, including minors, and reports that police accept bribes from alleged traffickers to drop cases. Street children who engage in begging and children engaged in domestic work (often in the homes of extended family members) are vulnerable to human trafficking. Women and underage teenaged girls from Uzbekistan may be subjected to sex trafficking in the southern region of the Kyrgyz Republic. Some men and women from Uzbekistan, Tajikistan, and Turkmenistan transit the country as they migrate to Russia and Kazakhstan, the UAE, and Turkey, where they may be subjected to sex and labor trafficking. International organizations and NGOs reported some Kyrgyz individuals who join extremist fighters in Syria are forced to remain against their will and recruiters may deceive others, including minors, promising jobs in Turkey, before extremist groups force them to fight, work, or suffer sexual servitude in Syria.