

COMBATING SMUGGLING AND TRAFFICKING IN HUMAN BEINGS IN THE KYRGYZ REPUBLIC

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I. TRAFFICKING AND SMUGGLING PROFILE

Smuggling and trafficking in human beings is one of the most profitable criminal businesses in the world. Unfortunately, the Kyrgyz Republic has become vulnerable to this type of crime. As observed over the past years, the Kyrgyz Republic is a source, transit, and destination country for men, women, and children subjected to forced labour, and for women subjected to sex trafficking. Adult male labour migrants working abroad are reportedly at the highest risk of trafficking.

Due to its domestic political objectives and socio-economic factors, the Kyrgyz Republic is a provider of human resources not only for ex-soviet countries (Kazakhstan, Uzbekistan, Russia), but also for those further afield (South Korea, UAE, Turkey, India, etc.). The International Organization for Migration says that about 15,000 Kyrgyz citizens became victims of human trafficking in foreign countries in 2017.¹ Organized crime in the Kyrgyz Republic, which occupies a rather strong position not only in the region but in the whole post-soviet space, plays an important role in this process. Kyrgyzstan criminals have coalesced into separate independent groups (e.g. in Moscow) and given that they do not pose to be powerful forces in Russia, the main focus of their activities is placed on their own compatriots.²

Kyrgyz men, women, and children are subjected to forced labour in Russia and Kazakhstan, and to a lesser extent in Turkey, 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 labour in agricultural services, the selling and distribution of drugs within the country, and hauling cargo both in the Kyrgyz Republic and neighbouring 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. Women and underage teenaged girls from Uzbekistan increasingly are 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, the UAE, and Turkey, where they may be subjected to sex and labour trafficking. In addition, international and national law-enforcement agencies 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.

As trafficking in persons generally occurs as a result of large labour migration outflows, very often Kyrgyz citizens are ill-informed about their labour rights and migration laws. According to experts, in 2017-2018 there were more than 750,000 migrants from Kyrgyzstan who work in Russia, Kazakhstan, South Korea, and other countries. To combat human trafficking more effectively, as well as to provide better assistance to the victims, government elaborated guidelines on victim identification, followed by a package of amendments to the Law on Prevention and Combating of Trafficking in Persons.

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¹ International Organization of Migration. "IOM Bishkek: Counter-Trafficking and Assistance to Migrants in Central Asia." 2012. Accessed January 20, 2017. http://iom.kg/en/?page_id=116.

² Delo. "Кто Кошмарит Кыргызов В Москве?" [Who is the nightmare of Kyrgyz in Moscow?]. delo.kg, 2013. <http://delo.kg/index.php/2011-08-04-18-06-33/6216-kto-koshmarit-kyrgyzov-v-moskve>.

II. PROSECUTION

The government-maintained law enforcement efforts by Article 124 of the Criminal Code, entitled "*Trafficking in Persons*", criminalizes both sex and labour trafficking of adults and children and covers a non-trafficking offence, "*child adoption for commercial purposes*". It is also in compliance with international standards: article 124 requires the prosecutor to prove the offender used force, blackmail, fraud, deception, or abduction for cases of sex trafficking regardless of whether the victim is a child or adult. Article 124 prescribes penalties of five to 20 years' imprisonment, which is sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.

In the framework of combating of smuggling and trafficking in human beings, since independence, the Kyrgyz Republic has accordingly ratified several international conventions:

- Slavery Convention, 1926;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949;
- Convention on the Elimination of All Forms of Discrimination against Women, 1979;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;
- Convention on the Rights of the Child, 1989;
- The United Nations Convention against Transnational Organized Crime, 2000, with supplemental protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants by Land, Sea and Air, 2003.

According to the actual conditions of the Kyrgyz Republic, smuggling of people and related illegal actions have become more hidden and well prepared in advance. This fact encourages the criminals involved in people smuggling to commit their crimes. Therefore, the engagement and cooperation of state authorities, international organizations and civil society in this situation is very crucial and valuable in countering this type of transnational organized crime.

In recent years, the Kyrgyz Republic and other Central Asian countries have conducted ongoing measures against human trafficking and smuggling of people through the elaboration of strategies and national action plans, the development of legal bases, the enhancement of international and regional cooperation and coordination of law-enforcement activities.

The main frontline actor in combating these types of crimes, especially efficiently preventing crime, is the national law-enforcement agency, the Ministry of Internal Affairs. Taking the crime situation in the country into consideration, and in order to urgently and effectively counteract people smuggling, the Ministry of Internal Affairs created the Department of Combating of Human Smuggling and Trafficking within the Criminal Police Service in 2017.

In the framework ensuring conformity between national laws and international norms in countering people smuggling, and based on experience of practitioners in Central Asia regarding the identification of victims of people smuggling, this police unit performed analysis and monitoring of Kyrgyz Law, the "*Prevention and Combating Trafficking in Human Beings*" from 2005. According this analysis, the Kyrgyz Law "*Prevention and Combating Trafficking in Human Beings*" Nb.2 was adopted in 2018. Also, the Kyrgyz Government established a State Programme against Trafficking in Persons 2017-2020 in compliance with the "*Prevention and Combating Trafficking in Human Beings*" law that aims to effectively prevent, identify and stop trafficking in human beings, providing protection and support to victims.

The Criminal Police Service of the Ministry of Internal Affairs interacts with other national government bodies and international organizations, such as the IOM, ILO, OSCE, UNODC and NGOs, to establish national mechanisms of reorientation of victims of trafficking and smuggling in the Kyrgyz Republic. Actually, the Criminal Police Service initiates the preparation of instructions to the national mechanism of reorientation of victims from human smuggling. These instructions seek to strengthen cooperation among government authorities, NGOs and specialized departments on providing assistance and protection to victims. Therefore, the effective measures in combating trafficking in human beings are performed in building and enhancing the relevant institutes at the national and regional levels.

III. PREVENTION

The government increased efforts to prevent trafficking of human beings. The Criminal Police Service with the IOM established the criteria of identification of victims. These criteria conform with the requirements of the protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants by Land, Sea and Air, amended to the United Nations Convention against Transnational Organized Crime, that was an accepted commitment of the Kyrgyz Republic.

The process of victim identification applies the rules of classification of a victim to a given category of victims. The criteria create a unified standard for all actors of combating the system of smuggling of people on victim identification and the granting of victim status to corresponding persons. In this case, the identification of victims protects their rights and interests and provides them with social assistance and protection under the Kyrgyz law on “Prevention and Combating Trafficking in Human Beings”.

The Criminal Police Service jointly with the IOM in the Kyrgyz Republic created the training modules for national law-enforcement agencies in combating the smuggling of persons, which consist of methodological training materials, cases, instructions and practical recommendations for law-enforcement officials. These training modules are supported by a theoretical basis and exercises enhancing the level of knowledge on international and national legal norms in the area of countering the smuggling of people. From a practical point of view, these training materials help trainees from law-enforcement agencies in conducting the investigations of criminal cases based on the elements of the crime established in article 124 of the Criminal Code of the Kyrgyz Republic.

The Criminal Police Service also created a lecture on “Organizational-legal and tactical basis of prevention and combating trafficking in human beings”. Furthermore, for the purpose of prevention of human smuggling, the Criminal Police Service of the Ministry of Internal Affairs is permanently engaged in the following activities:

- Prevention, interdiction and crime detection related to smuggling and trafficking in human beings.
- Identification and processing of persons who provoke an operational interest, or there is operational information about their involvement, in smuggling and trafficking in human beings.
- Identification of persons and organized criminal groups specialized in human smuggling and trafficking, as well as persons who invite women for work abroad for the purpose of sex trafficking.
- Identification and elimination of causes and conditions that promote the smuggling and trafficking in human beings.

The Criminal Police Service of the Kyrgyz Republic is systematically carrying out operative investigations to reveal and interdict export channels of Kyrgyz citizens to foreign countries with the purpose of illegal labour and sexual exploitation. Over the course of seven years (2011-2017), the quantity of crimes under article 124, Kyrgyz Criminal Code is presented in the following statistics:

- 2011 – 9
- 2012 – 6
- 2013 – 12
- 2014 – 18
- 2015 – 10
- 2016 – 7
- 2017 – 4

**Criminal cases of human smuggling and trafficking considered by Kyrgyz courts
(article 124, Criminal Code)**

Year	Cases	Convicted persons	Convicted Women	Acquitted persons	Acquitted Women	Persons, against whom the case are discontinued	Returned cases for completing investigation gaps
2013	9	13	7	-	-	3	-
2014	20	15	8	2	1	5	-
2015	14	11	11	5	4	-	-
2016	6	6	6	-	-	2	5

According to the Plan of the Intergovernmental Programme on Joint Measures of Combating Crime for 2014-2018 of the Ministries of Internal Affairs of the Common Independent States (CIS) and by schedule of conducting the accorded preventive operational investigation actions and special operations for 2014-2018, in March 2018 on the territory of the Kyrgyz Republic, the raid activities were held under the code names "Trafficking in Human Beings" and "Kidnapping People". In these operations, the Criminal Police Service of the Kyrgyz Republic and other territorial subdivisions of national police used 1,493 officials.

On a permanent basis, the Kyrgyz Ministry of Internal Affairs enhances cooperation with law enforcement agencies of foreign countries with a view to establishing working contacts on information exchanges and identification and interdiction of channels of human trafficking. These measures were accorded by the Intergovernmental Programme of Joint Actions against Crimes for 2014-2018, adopted by the Council of Heads of CIS in October 2013 and the Programme of Cooperation of CIS Member Countries in Combating the Trafficking in Human Beings for 2014-2018.

IV. RECOMMENDATIONS

Based on experience, the following general and specific recommendations could be useful and promoted to enhance common action against crimes related to human trafficking:

- To create a unified automatic database about information related to criminals, organized crime groups, entities involved in illegal human trafficking (with data on methods, channels, ways, purposes, origin/destination/transit countries) with monthly distribution of this information to partners. This database should be operationally available to contact officers of departments involved in combating human trafficking and targeted to interaction of other authorities and NGOs.
- To consider the possibilities of unification of laws on combating human trafficking by: identification criteria of victims and a national mechanism of reorientation of victims while considering national and international laws.
- To activate inter-ministerial and international cooperation on stopping the financing of crimes related to illegal human trafficking.
- To conduct an analysis of ICPO-INTERPOL regulations on smuggling and trafficking in human beings concerning compliance with international norms of victim immunity from criminal and administrative prosecution for the actions committed being a victim of human trafficking.
- To get access to general information received during workshops, seminars on countering human trafficking, as well as to publish it on websites of authorities and brochures.
- To recommend the preparation of printed material for representatives in Kyrgyz embassies and consulates in foreign countries on victim identification and transferring the information to the national law-enforcement agencies for verification of facts.

- To create a unified database of government authorities, international agencies, NGOs, civil society, etc. who provide any assistance to victims of human trafficking.
- To elaborate the methodical recommendations on providing legal and judicial support for victims of human trafficking.
- To raise public awareness through sending SMS messages about helpline contacts.
- To raise public awareness via television spots in airports, railway stations, national and international channels.
- To create unified international standards for identifying victims suffering from human trafficking.