



# **Targeted Surveys on application of core labour standards Kyrgyzstan**

**Written by Ergon Associates  
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**EUROPEAN COMMISSION**

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# Targeted Surveys on application of core labour standards, Kyrgyzstan

This report has been developed to provide a picture of the application of core labour standards in Kyrgyzstan. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

## Progress

- Improved judicial capacity and procedures
- Ongoing efforts to tackle gender-based discrimination in employment
- Ongoing efforts to combat child labour in its worst forms
- Efforts to raise awareness of trafficking risk among Kyrgyz migrants

## Challenges

- Weak labour standards enforcement capacity, particularly the inspectorate (SETSI)
- Trade unions are weak and may be subject to undue influence from government
- Official approval required for legal strike action
- Weak tripartite and bipartite dialogue
- Official complicity in human trafficking
- Inconsistent enforcement of forced / child labour laws
- Weak government capacity for reporting

## Key context

Kyrgyzstan has made a rapid transition to a market economy since the 1990s and, despite some instability, it has enjoyed comfortable economic growth in recent years. Nevertheless, incomes remain low, particularly in the large agricultural sector, and almost a quarter of the population is in poverty. A significant barrier to the effective application of labour standards in Kyrgyzstan is the scale of informal employment, affecting some 70% of the employed population: informal workers are outside the oversight of labour inspection services and terms and conditions of employment are generally poor.

Kyrgyzstan is a country heavily-shaped by its high rate of outward migration and is reportedly the most remittance-dependent country in the world. This emigration has some significant implications for the labour market and the application of core labour standards. The labour market remains underdeveloped, and families of migrants face specific socio-economic challenges, including increased vulnerability to child labour. Kyrgyz migrants are exposed to risks of trafficking and forced labour in their destination countries.

Corruption remains a major constraint on law enforcement, including in the police and judiciary. Nevertheless, stakeholders are optimistic about reforms pushed through in recent years with the aim to improve the court system.

Despite some legal gaps, there are few significant concerns about extant legislation. Rather, stakeholders' concern centre on enforcement, particularly the weak capacity of

the labour inspection services and the Ministry of Labour and Social Development. There are particular concerns about the effectiveness of labour inspection. Restructuring in 2012 saw the labour compliance function assigned to the State Inspectorate for Ecological and Technical Safety (SETSI), and there are questions raised about capacity, resources, and a lack of unannounced access to enterprises. Moreover, the legal basis for the interaction between the restructured SETSI and the continued parallel trade union inspection system remains unclear.

There are positive assessments of government efforts to address certain issues, particularly gender-related employment discrimination and child labour in its worst forms. Efforts to raise awareness of trafficking risks among Kyrgyz migrants are also acknowledged. By contrast, enforcement of forced labour and anti-trafficking provisions are considered ineffective and there are some concerns about failures to tackle official complicity in these issues. Furthermore, tripartite dialogue is reported to be increasingly limited. There are few discernible improvements in trade union rights.

## **Freedom of association and collective bargaining**

The legal framework is considered mostly adequate in its provisions on freedom of association and collective bargaining. Remaining legislative concerns relate primarily to obstacles to the right to strike and ensuring established unions with fewer than 50% membership in an enterprise are not side-lined in collective bargaining.

Observers report that, for the most part, the government respects and enforces freedom of association and collective bargaining. Nevertheless, in practice, stakeholders acknowledge that trade unions remain weak, particularly in the private sector, where collective bargaining is uncommon. Unions may be influenced by employers and have limited experience of functioning independently and wholly representing the interests of workers. Stakeholders recognise that tripartite dialogue is limited, with some indicating that the quality of social dialogue is deteriorating, owing to the limited convening and promotional capacity of the Ministry of Labour (which has itself been subject to manifold re-structuring in the wake of political shifts). Widespread informality also remains a marked constraint to effective worker organisation and representation.

## **Forced labour**

National legislation provides protections against slavery, trafficking in persons, and forced labour. There are some gaps with ILO conventions, including in relation to compulsory military service, and the potential for prison sentences involving compulsory labour as a penalty for insulting a public official. Legislation is weak in its definition of forced labour and in its provision of victim identification criteria.

Kyrgyzstan is predominately a source rather than a destination country for victims of trafficking and forced labour, and Kyrgyz migrants are at significant risk abroad. However, forced labour is reported to occur within Kyrgyzstan, particularly in the agriculture, construction, forestry, and textiles sectors, as well as in domestic work. The government has recently committed to review forced labour legislation, develop victim identification and referral mechanisms, and to implement initiatives to promote safe migration and raise awareness of trafficking. Nevertheless, there remain significant concerns about weak enforcement of relevant laws, limited funding for ambitious government programmes, and official complicity in human trafficking.

## Child labour

There are few significant concerns about the scope of child labour legislation. However, there are some outstanding issues concerning the definition of light work and the need to revise the hazardous work list. In practice, child labour remains widespread in Kyrgyzstan, particularly in agriculture. Although figures show a marked decline in the overall incidence of child labour between surveys in 2007 and 2014, the worst forms of child labour grew to account for a larger share of child labour (ILO, 2016).

There have been several recent initiatives in Kyrgyzstan to eliminate the worst forms of child labour. A specific 'Worst Forms' Action Plan was adopted in 2016 and several social protection programmes to reach vulnerable children and their families are now in place. The government is also reviewing the hazardous work list. However, stakeholders remain critical of weak enforcement, highlighting that most working children are not in formal employment relationships and thus beyond the scope of current legislative protection and enforcement efforts. Insufficient data and monitoring are also significant barriers to more effective intervention.

## Discrimination

Kyrgyzstan's legal framework on non-discrimination is considered broadly compatible with international standards. However, there remain some gaps in national legislation, including restrictions on women's work and the principle of equal remuneration for work of equal value. Nevertheless, most stakeholder concerns relate to the inadequate enforcement and implementation of the law.

Discrimination in employment against women and ethnic Uzbeks is most commonly reported. Initiatives and commitments to address gender inequality and sexual harassment in employment have been welcomed and some positive advancements regarding women's participation in managerial and profession roles have been observed. Major socio-cultural barriers remain to Kyrgyz women's economic empowerment, however. Stakeholders have not identified any current initiatives to address discrimination in employment on grounds other than gender.

## Status of ratification and reporting

Kyrgyzstan has ratified all fundamental (core) conventions and three out of four governance (priority) conventions, excepting C129. However, Kyrgyzstan has serious shortcomings in its reporting to the ILO supervisory machinery, including issues relating to regularity and quality. As a result, the majority of recent CEACR comments on fundamental conventions repeat previous observations / direct requests.

		<b>Application issues - latest ILO CEACR observations and direct requests on core conventions</b>
<b>Freedom of association &amp; collective bargaining</b>	C87	(2018): Repeated request for government to reduce high proportion of workers required to agree a strike; requested government specify in which sectors minimum services should be maintained during strike; and suggested government establish minimum services rather than prohibit strikes in some services.
	C98	(2018): Repeated request for government to amend law to ensure

		representative unions with less than 50% of workforce are not undermined by elected representatives in collective bargaining.
<b>Forced labour</b>	C29	(2017): Repeated request for government to amend Constitution to ensure compulsory military service is purely of military character; and to indicate emergency cases in which forced labour may be used. Also requested information on conditions of prison labour.
	C105	(2018): Requested government amend Criminal Code provision that orders punishment, with obligation to work, for insulting a public official. Also requested information on application of punishment with obligation to work in cases of negligence by public officials.
<b>Child Labour</b>	C138	(2018): Repeated request for government to ensure self-employed children, children in informal economy and children working for family benefit from protection laid down in the convention; requested the government ensure light work legislation is enforced and a list of specific light work activities be drafted.  Repeated request for violations, particularly of hazardous work, legislation to be adequately punished; requested the government indicate measures envisaged to require employers to keep registers of employees and dates of birth.
	C182	(2017): Expressed concern at the lack of data on the prevalence of child trafficking and sexual exploitation in Kyrgyzstan. Requested the government to continue enforcement efforts against worst forms, including hazardous agricultural work, and provide reporting on such. Also requested that government provide information on rehabilitation.  Repeated request for the government to continue efforts to tackle worst forms of child labour; protect street children; improve access to education; identify vulnerable children; and report on progress under the Child Labour Monitoring System.
<b>Discrimination</b>	C100	(2018): Repeated request for the government to amend Law on Gender Equality to give full expression of C100 and indicate if it applies in both public and private sectors. Also requested statistics and enforcement information.
	C111	Repeated request for the government to ensure that any measures limiting women's access to work are strictly limited to maternity protection. Also made several repeat requests for information on various issues pertaining to non-discrimination protections, vulnerable groups and harassment.

## References

ILO CEACR, [Observations and Direct Requests for Kyrgyzstan](#)

International Labour Organization (ILO), 2016, [Working children in the Kyrgyz Republic: Child Labour Survey 2014–2015](#)