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## **JOINT STAFF WORKING DOCUMENT**

**The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of the Kyrgyz Republic covering the period 2018 - 2019**

*Accompanying the document*

**Joint Report to the European Parliament and the Council**

**Report on the Generalised Scheme of Preferences covering the period 2018-2019**

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# Kyrgyz Republic

## Summary Assessment

Overall, the Kyrgyz Republic has made sustained efforts towards effective implementation of the GSP+ relevant Conventions, especially on human rights. During the 2018-2019 reporting period, the human rights and good governance situation in Kyrgyzstan saw several legislative improvements. The country is still facing important implementation issues, including in financing. Kyrgyzstan followed up on commitments related to environmental protection. Deficiencies in reporting on labour rights made an up-to-date assessment challenging. However, the introduction in parliament of a restrictive draft law on trade unions is a worrying development.

### Priorities

A GSP+ monitoring mission to Kyrgyzstan took place in June 2018. The EU and the Kyrgyz Republic, as well as representatives of non-governmental organisations (NGOs) and trade unions, had a constructive dialogue on key topics such as rule of law and good governance, reporting under International Labour Organisation (ILO) conventions, and handling of persistent organic pollutants. During the reporting period, EU engagement with Kyrgyzstan further focused on torture prevention; gender-based violence; anti-discrimination legislation; limitations to labour inspections and freedom of association; transparency of the criminal justice system and corruption in the private sphere.

### Human Rights

Several positive developments in the legal framework are noted. These include the introduction of a **new ‘humanised’ legal package**, the Human Rights Action Plan 2019-2021, an action plan on the implementation of 24 recommendations of the Convention on the Elimination of Racial Discrimination (CERD). Kyrgyzstan ratified the Convention on the Rights of People with Disabilities in 2019; authorities are drafting an implementation plan.

Concerns remain regarding Kyrgyzstan’s **National Preventive Mechanism**, the National Centre for Prevention of Torture (NCPT), and its capacity and full access to all places of detention. While this is enshrined in legislation, lack of knowledge among local authorities means access is restricted. With the entry into force of the new Criminal Code, obstructing the work of the NCPT is no longer a criminal offense. On gender-based violence, the criminalisation of **under-age** and **forced marriage** seems to have limited effect in terms of registered criminal cases.

There are no developments on a **stand-alone anti-discrimination law**. Since Kyrgyz authorities attribute the delay to the lack of local experts, international partners have engaged to form a working group to prepare the legislation. A coalition of NGOs hopes to have the draft introduced in Parliament by supportive MPs in the beginning of 2020. There are no developments on improving **inter-ethnic relations**, especially regarding the perceived lack of justice for 2010 events.

### Labour Rights

Serious failure in reporting obligations under ILO Conventions hindered an up to date, accurate assessment of implementation. However, in a welcome effort to address this, the Government has sent in all pending reports at the end of 2019.

An area of serious concern is the draft **Trade Union law**, which would drastically limit the independence of trade unions; it was approved at a second reading on 3 October 2019, after a rushed parliamentary procedure. The law, if finally adopted, would contravene ILO Conventions 87 and 98 on freedom of association and collective bargaining, which are part of Kyrgyzstan's GSP+ commitments and Kyrgyzstan's overall obligations towards the ILO. The Government has indicated its commitment to be compliant with its international obligations and intends to seek assistance should the amendments be adopted by the legislative assembly.

Serious limitations to the effective enforcement of labour laws remain. These relate to restrictions to **labour inspections** set in the law and are aggravated by a recent moratorium on labour inspections. A new **Labour Code** is still under development. Other identified shortcomings in national legislation regarding freedom of association and collective bargaining remain to be addressed.

On **child labour**, there is some progress, with an updated list of hazardous occupations, and in practice in the notable decline of children involved in hazardous work. However, important pieces are still missing from the legal framework, such as the definition of light work. Limitations to labour inspections continue to seriously hamper the control and sanction of violations to child labour legislation, especially in family undertakings.

Regarding **women's access to employment**, many concerns remain on the legal framework and its application in practice. A long due review of discriminatory legal provisions has still not taken effect, the government has not responded to the 2017 Ombudsman's recommendations to improve the application of women's labour rights. Discrimination and sexual harassment continue in practice. Steps are taken to increase female representation in decision-making bodies by ensuring the respect of the gender quota in practice; the 2020 parliamentary elections will be a test of their effectiveness.

## **Environment**

Kyrgyzstan has demonstrated a commitment to environmental standards through the reporting period. This includes the draft Action Plan on Biodiversity (2019-2023) and priorities for conservation up to 2030 and activities on listing and monitoring new and unintentional persistent organic pollutants (POPs) and **raising awareness on the negative effects of POPs** under the Stockholm Convention on Persistent Organic Pollutants.

## **Good Governance**

Widespread corruption remains a challenge for Kyrgyzstan. However, the government acknowledges the scale of the issue, as evident in its National Development Strategy (2019-2040). Authorities have taken several legislative steps and action plans towards good governance. Legislative changes include new laws on **conflict of interest** and the protection of **whistle-blowers**. Further work on the transparency of the criminal justice system includes the planned entry into force of **jury trials** and an **automatic system for distribution of cases**, as well as a new 2019 Code of Honour of Judges.

The **lack of a single body** responsible for anti-corruption policy coordination, implementation, and monitoring leaves institutional competencies fragmented and often ineffective. Weak social stigmatisation of bribery and a lack of legal and social accountability for corruption in all areas of society persist. The revelation in November 2019 by investigative journalists of a large-scale corruption, smuggling and money-laundering scheme

involving the customs service was met with popular and political outrage. The authorities will have to prove that they can take on this type of corruption.

## **Status of ratification and reporting**

During the reporting period, the Kyrgyz Republic maintained ratification of all Conventions relevant to GSP+, without reservations.

An overarching development was increasing **cooperation with UN mechanisms**. The authorities demonstrated willingness to reporting and cooperation in the area of human rights. The country's Coordination Council on Human Rights submitted previously delayed reports under the Convention Against Torture (CAT) and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and is working on reports on the International Covenant on Civil and Political Rights (ICCPR).

In the end of 2019, in a welcome effort, the Government sent all **outstanding reports to the International Labour Organisation**. Previously, due to failure in timely reporting, Kyrgyzstan was singled out as not answering to the requests and observations of ILO in the reports to the 2018 and 2019 International Labour Conference.

The country, however, fell short of its reporting obligations under environmental and climate change conventions, including CITES, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Stockholm Convention on Persistent Organic Pollutants, and the UN Framework Convention on Climate Change (UNFCCC). Despite these shortcomings, several reports were submitted in 2018 and 2019, including improved reporting under the Basel Convention, indicating increased reporting effort. Kyrgyzstan is compliant with its reporting obligations on good governance conventions.

## **Recent Developments**

The Kyrgyz Republic is the second poorest country in Central Asia. The country has a parliamentary system of governance and is known for its well functioning democracy. The political system is nominally pluralistic, with a number of political parties competing for influence among the electorate. Politics are centered on personalities and personal or business interests rather than ideology; parties show significant ideological proximity and opposition to the President is generally more symbolic than substantive. The last Presidential elections took place in 2017 and next Parliamentary elections will take place in 2020.

During its 27 years of independence, Kyrgyzstan has experienced two revolutions, in 2005 and 2010, which resulted in change of the country's leadership. The 2010 revolution was followed by violent clashes between the Kyrgyz and Uzbek communities in the South.

2015-2017 saw a shrinking space for human rights and civil activism with a controversial constitutional reform in 2016 and actions against political opposition, civil society, and media in the run up to the presidential elections. The elections on 15 October 2017 were an important test of Kyrgyz democracy. Although not without imperfections, peaceful and competitive elections contributed to the transparency of electoral process and to increased trust of voters. The elections were followed by a constitutional transition of power to the new President Sooronbay Jeenbekov.

Following the elections, a gradually deepening rift between the former President Almazbek Atambayev and President Jeenbekov marred the political climate. In August 2019, the former

President was arrested and charged with 14 offenses related to misdeeds during his term (2011-2017) and to the violence that took place during his arrest. The stripping of his immunity as ex-President by Parliament, validated by the Supreme Court, sets a precedent for authorities to go after their predecessors through legal means.

Kyrgyzstan is advanced in terms of respect to human rights and fundamental freedoms compared to its regional peers. The country enjoys a vibrant civil society and relatively free media. Citizens are generally free to exercise their rights. At the same time, Kyrgyzstan is facing numerous challenges and pressures. The country continues to suffer from weak governance, corruption, inefficient rule of law, and ethnic tensions. The international donor community, including the EU, has provided significant support for the process of democratic transition under the rule of law and commitment to human rights and fundamental freedoms, through the European Instrument for Democracy and Human Rights (EIDHR).

### **EU – Kyrgyzstan Bilateral Development Assistance**

EU bilateral assistance to Kyrgyzstan amounts to €174 million for the period 2014-2020. Sectors include rule of law, education, and integrated rural development. Additional regional and thematic funds help addressing regional challenges related to security, environment, and management of natural resources. The EU and the Member States will continue supporting Kyrgyzstan's efforts in consolidating the democratic and economic transition.

The EU provided assistance to Kyrgyzstan through **the Technical Assistance and Information Exchange instrument (TAIEX)**. Its aim is to increase GSP+ utilisation and attract additional EU exports to Kyrgyzstan. Activities have so far been conducted in Bishkek and Osh. New support is foreseen in Bishkek and Jalalabad. The main outcomes of the TAIEX activities include increased awareness of EU standards, procedures, and business models among government officials, exporters, and accreditation agencies.

Other EU programmes aim at boosting private sector development in the country. This includes the ongoing **Integrated Rural Development Program**, which supports rural income-generating activities to stimulate the economy and the **Value Chain Agro Finance** project, which aims to increase the competitiveness of Kyrgyz agro-food value chains.

The support provided by the EU has contributed to raise GSP+ utilisation from 53.3 % in 2016 to 60.7 % in 2018. The sector that benefited the most from support activities is textile.

Security threats mostly relate to the proximity of Afghanistan (potential instability, drug trafficking along the Northern Heroin Route, organised crime) and risk of radicalisation and potential return of foreign fighters. At the same time, porous and disputed borders between the Kyrgyz Republic and Tajikistan result in frequent clashes between the residents of the border areas of both countries and several deaths in 2019. The increasingly open regional policy of Uzbekistan brought new positive dynamics on sensitive bilateral issues and regional cooperation, with a historic land swap to advance the settlement of border delimitation disputes.

The European Union and the Kyrgyz Republic have been partners since the country's independence in 1991. The Partnership and Cooperation Agreement (PCA), in force since 1999, provides the legal framework for cooperation between the EU and the Kyrgyz Republic. In July 2019, the EU and Kyrgyzstan concluded negotiations on the new Enhanced PCA,

which will provide a modern legal basis for a stronger bilateral cooperation enhancing and broadening areas of cooperation. In addition, the new EU Central Asia Strategy, revised and adopted in 2019, sets the political framework for EU-Central Asia relations for the upcoming years.

## **EU – Kyrgyzstan trade and GSP**

The Kyrgyz Republic is a member of the WTO since 1998 and of the Eurasian Economic Union (EAEU) since 2015. Its main trading partners are China, Russia, and Kazakhstan. However, the economy of the country has been hampered by a number of structural problems: high dependence on remittances; a struggling private sector; an economy 70% constituted of informal revenues; a cumbersome business environment; and a general lack of national trade facilitation policies. At the same time Kyrgyzstan has maintained steady GDP growth over the last years (4-5% annually).

The levels of poverty and inequality remain challenging. In the region, Kyrgyzstan is still ranked as the poorest country after Tajikistan and its main political and economic partner is the Russian Federation. In this context, if the country's accession to the EAEU improved the labour conditions for Kyrgyz migrants living in Russia, the impact of the EAEU on the economy of the country is questioned. In recent years, China has surpassed Russia as Kyrgyzstan's main trading partner. The Chinese share in Kyrgyzstan external debt has grown in the last 5 years from 2 % to 44 %.

Bilateral trade relations between the EU and the Kyrgyz Republic are regulated by the Partnership and Cooperation Agreement (PCA) signed in 1995, in force since 1999. However, negotiations on the new Enhanced PCA text were concluded in July 2019. The EPCA is expected to strengthen the EU-Kyrgyzstan trade relations.

Total EU-Kyrgyz trade doubled in 2018 to reach € 917 million, mostly in relation to gold exports, but also thanks to the GSP+ status granted by the EU since 2016. This opened up new potential for economic relations between the two partners and offers opportunities for Kyrgyzstan to increase and diversify its exports and to strengthen its economy. Kyrgyzstan exports to the EU in 2018 reached € 632 million and its imports € 285 million. The EU was Kyrgyzstan's 1<sup>st</sup> export partner, representing 45% of Kyrgyz exports. Kyrgyz exports to the EU consisted predominantly of precious metals, and to a lesser extent base metals and vegetable products.

Figures 1-3 below describe Kyrgyzstan's utilisation of GSP+ in the context of the EU's overall imports from Kyrgyzstan<sup>1</sup>.

Since joining the GSP+ scheme on 1<sup>st</sup> January 2016, the Kyrgyz Republic has increasingly benefitted from preferences. GSP+ exports to the EU have seen 50% increase between 2016 and 2018 (from 3 million € to 6 million €), while utilisation rates have increased by 7 percent points (from 53% in 2016 to 60% in 2018). Furthermore, Kyrgyzstan has had a massive increase in total trade with the EU, with an almost nine-time increase in total EU imports from Kyrgyzstan between 2016 and 2018 (from 72 million € to 630 million €). The vast majority (98%) of these exports already benefit from MFN zero tariffs, and thus are not included in GSP+ statistics. EU imports from Kyrgyzstan under GSP+ continued to be concentrated on fruits and vegetables, though a significant minority (20%) of imports were of base metals.

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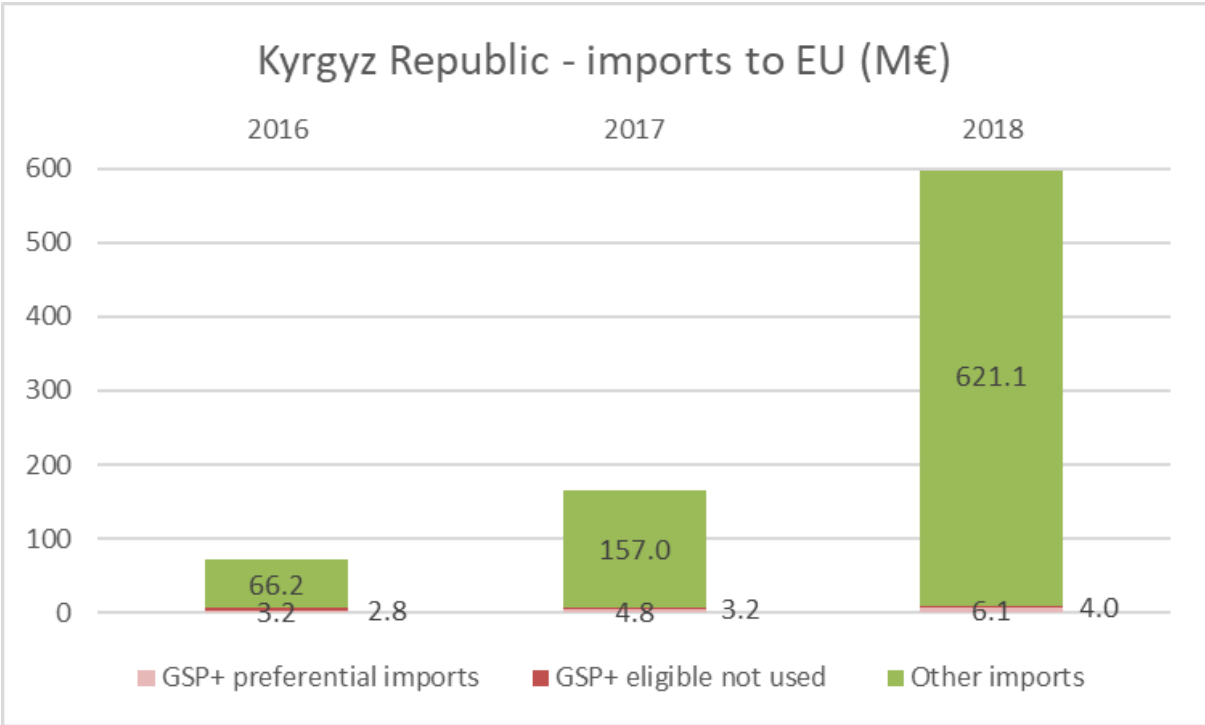
<sup>1</sup> GSP-statistics only cover goods imported in the EU market, i.e. goods released for free circulation in the EU. The GSP statistics do not cover other EU-imports, like goods imported for the customs inward processing procedure or re-imports after the customs outward processing procedure

Source for all statistics: Eurostat data as of September 2019.

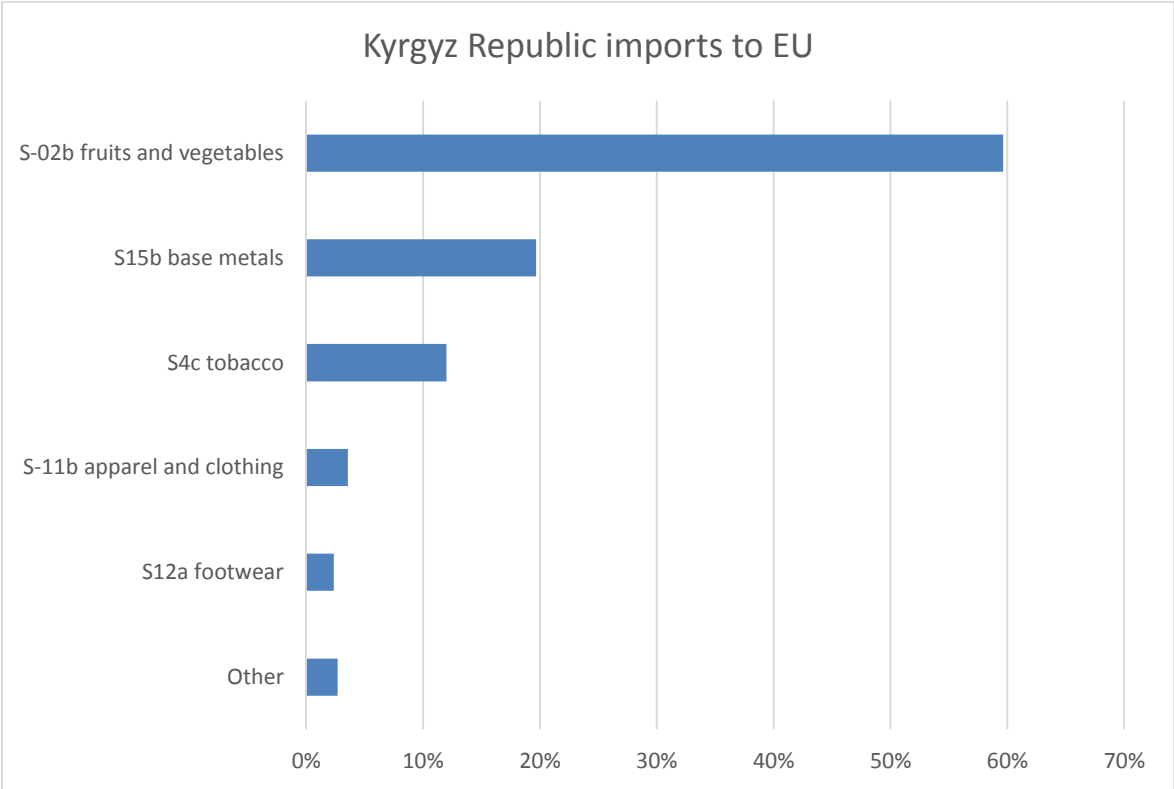
**Figure 1: Imports to the EU 2016-2018: utilization rate**

Kyrgyz Republic - imports to the EU 2016-2018 (M€)				
	2016	2017	2018	trend 2016-2018
<b>Total imports</b>	72.3	164.9	631.2	773.1%
<b>GSP+ eligible</b>	6.1	8.0	10.1	65.4%
<b>GSP+ preferential</b>	3.2	4.8	6.1	88.4%
<b>Utilisation rate</b>	53.3%	60.1%	60.7%	14.0%

**Figure 2: Imports to the EU 2016-2018 by regime**



**Figure 3: Product Diversification: GSP+ Preferential Imports, 2018**





## Compliance with GSP+ Obligations

### UN Human Rights Conventions

The Kyrgyz Republic allocated significant attention to the implementation of the core human rights conventions over the last years. The **legal framework** has been improved, in particular the National Action Plan on Gender Equality 2018-2020 (2018); National Action Plan on CERD implementation (January 2019); draft National Action Plan on Implementation of the Istanbul Protocol. In addition, the government approved the Action Plan on Human Rights for 2019-2021 in March 2019, to implement the recommendations by the UN Committees and Special Rapporteurs from 2013 to 2015. In May 2019, the State ratified the Convention on the Rights of People with Disabilities. An accompanying Action Plan, including a chapter on labour rights, is in draft. This should positively influence the implementation of other core conventions, in particular Convention on the Rights of the Child, and the Covenant on Economic Social and Cultural Rights.

An **opinion survey** conducted in May 2019 under the EU-funded project **Promoting Human and Labour Rights under GSP+** gives insight into Kyrgyz citizens' perception of human rights and GSP+. The survey showed relatively low level of awareness of GSP+ and international Human Rights obligations. However, respondents held generally positive opinions on the status of women's rights, ethnic equality, children's rights; but were less positive about and child labour, corruption in the judiciary, and the degree to which human rights are observed overall.

The first visit of the Subcommittee on the Prevention of Torture took place between 11 and 22 Sep 2018. The UN Special Rapporteur for the rights of minorities visited Kyrgyzstan in December 2019<sup>2</sup>.

#### *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*

The 2010 Constitution of the Kyrgyz Republic establishes state guarantees of equal rights and freedoms of a person and a citizen, regardless of gender, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, as well as other circumstances. However, there is **no stand-alone anti-discrimination legislation**. Kyrgyz authorities cite lack of experts as the reason for delay. International and local partners have formed a working group to draft the legislation, so far with limited engagement from the authorities. The High Commissioner on Human Rights regional office is supporting the process, including through involvement of local civil society representatives. A coalition of NGOs hopes to introduce a draft in Parliament in 2020 with the help of a handful of sympathetic MPs.

The new Criminal Code of 2019 introduced liability for crimes against humanity, as well as introducing Article 386 on Apartheid. Currently, the Office of the President of the Kyrgyz Republic is developing the **Concept of Civic Integration Kyrgyz Jarany**. The concept takes into account the National Strategy for Sustainable Development 2018-2040, and the main provisions of the Concept on the Unity of the People and Civic Identity.

The Kyrgyz Government has previously taken several measures to ensure peaceful coexistence between different ethnic groups. The State Agency for Local Self-Government

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<sup>2</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25422&LangID=E>

and Interethnic Relations monitors the developments at community level, through public offices in multi-ethnic areas. The authorities report that, as a result of the work and activities performed by the Agency, the number of inter-ethnic incidents has decreased by three times.

CERD published its concluding observations and recommendations to Kyrgyzstan in April 2018. The Committee recommended that Kyrgyzstan adopt a **comprehensive anti-discrimination legislation** to improve the situation of all ethnic minorities in Kyrgyzstan. This further included improving access to justice; an immediate end to ethnic profiling by the police; increase of representation of ethnic minorities in the state bodies; creation of a special program for improving and strengthening interethnic relations; and guarantee of the right to learn and receive education in native languages, including Uzbek. In early 2019, the Government approved the Interagency Plan of Measures for 2019-2022 to implement the 24 recommendations of CERD.

To target the underrepresentation of ethnic minorities in the civil service, Kyrgyzstan introduced 15% representation of ethnic minorities in the country's parliament and local assemblies. Currently, around 14% of Parliament deputies are from other ethnic communities; in local assemblies, the representation is around 13%.

The Government policy is to reinforce the national language. One of the measures in this regard is the mandatory requirement of national language proficiency for officials, which has caused concern. At the same time, the educational system promotes the model of multilingual schools with programmes in 28 schools with Uzbek and Tajik languages; ethnic minorities are encouraged to learn Kyrgyz. Since 2014, Uzbek language is excluded from the National Literacy Test required to enter universities. The number of Uzbek schools has declined from 133 in 2009 to 43 in June 2017. Many of these schools still teach Uzbek language, but Uzbek has lost its formal status due to the addition of other languages (usually Russian and Kyrgyz).

Tensions between Kyrgyz and Uzbeks culminated in the violent clashes of 2010. Issues of proper **reconciliation, justice, and accountability** for the 2010 events have not been sufficiently addressed and continue to cause grievances within society.

#### *International Covenant on Civil and Political Rights (ICCPR)*

The Constitution prohibits the death penalty, torture and other inhumane, cruel and degrading treatment or punishment and guarantees the right to compensation from the State for harm caused by illegal actions by authorities. Furthermore, the Act on National Security Agencies includes respect of human rights and freedoms, and proportionality of any restrictions. Government bodies responsible for implementation of this are the Human Rights Coordination Council; the National Centre for the Prevention of Torture (National Preventative Mechanism), and a special unit on human rights monitoring in the General Prosecutor's office.

In January 2019, the new **'humanised' criminal legislation** entered into force. It should have a positive impact on reducing the risk of petty corruption and inaction by law enforcement; on reducing the number of persons in custody through alternative to incarceration (probation) and reducing the prison term for several categories of crimes, while turning into administrative offences some minor offences previously treated as criminal; and on reducing the risk that prison conditions undermine human rights and security of citizens. It may also bring a positive effect on international and local observers' concerns regarding the prosecution of individuals over terrorism-related charges and the possession of extremist material.

A **reform of the judiciary** has been underway since 2012. The main objective of the reform is to develop an effective judicial system and to restore public confidence in it by ensuring the right to fair trial based on the rule of law and in accordance with international standards.

Members of specific **minority groups** in Kyrgyzstan disproportionately suffer harassment and rights violations by law enforcement and prosecution. Particularly vulnerable are **LGBTQI people**. Civil society organisations report<sup>3</sup> at least 35 cases of rights violations by the police recorded between 2016 and 2018 and have called for proper investigation and prosecution of these cases, as well as changes in the law enforcement academy training to include gender-sensitisation.

There have been a number of reports of community violence, religious based hatred, and mistreatment by the police against **minority religious groups**. The government has initiated several awareness raising campaigns and public dialogues to address discrimination and mistreatment related to religious issues and to ensure awareness of officials, law enforcement workers, and the public of the state policy in the area of religion and belief. A draft law on freedom of belief and religious organisations by the State Commission on Religious Affairs is currently under review by the government. It may put limitations on religious organisations by forbidding door-to-door visits and potentially all proselytism.

The general situation as regards freedom of assembly and freedom of association is satisfactory. The NGO sector is vibrant. The professional capacity of NGOs, including in the sphere of human rights, would need further development and support from the state. Media outlets operate relatively freely, but are vulnerable to economic pressure from sponsors due to severe lack of revenues. The negative trend of pressure on media in the run-up to the 2017 presidential elections seems to have been reverted. In the latest (2019) World Press Freedom Index Kyrgyzstan ranked 83 out of 180, up 15 ranks from the previous year. The publication of two high-quality investigative reports this year by local media Radio Azattyk and Kloop, unveiling cases of corruption involving powerful figures, shows the increased capacity and confidence of the media in the country.

#### *International Covenant on Economic, Social and Cultural Rights (CESCR)*

The **LGBTQI community** in Kyrgyzstan continues to face discrimination, harassment, and hate speech. Civil society organisations report that documented cases of discrimination, particularly against women, remain not fully investigated; and a continuation of incidences of hate crimes and hate speech, unaddressed by the prosecutor's office. There have further been reported moves by the National Security Service to prevent LGBTQI people from joining peaceful demonstrations, such as the 2018 Women's March. The draft bill that would criminalise 'positive attitude to unconventional sexual orientation' remains dormant in Parliament, after serious concerns expressed by the EU and other international organisations.

On the other hand, in 2017, the government adopted Guidelines on medical and social assistance to transgender, trans-sexual, and gender non-conforming people, including specialized medical and psychological assistance, a medical examination that serves as a basis for changing gender marker in identity documents, and assistance in social re-adaptation. According to official sources, in 2017, 12 Kyrgyz citizens officially changed their gender marker based on medical documents. However, social security numbers, which reflect gender, still cannot be modified, a fact that hampers transgender people's access to official work. According to the Interagency Action Plan for 2019-2022, the Ministry of Labour, the Ministry of Health, the Ministry of Interior, the State Service for Execution of Punishments are to take

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<sup>3</sup> ILGA Europe report

measures to combat various forms of discrimination faced by LGBTQI people, as well as women and children belonging to ethnic minorities.

Eight years after signature, Kyrgyzstan ratified the **Convention on Rights of People with Disabilities** (CRPD) on 16 May 2019. In order to implement the CPRD, the Government established an Interdepartmental Working Group chaired by the Deputy Prime Minister. The working group has drafted an implementation plan for the CRPD for 2019-2022, including actions grouped into nine key areas. The National Long-Term Programme Accessible State is to be adopted by the end of 2019.

### *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

In 2018, Kyrgyzstan ranked 86 out of 149 in the World Economic Forum Global Gender Gap Index with a global score of 0.691 (1 max; 0 min), including 78 for *economic participation and opportunity*, 79 for *educational attainment*, and 93 for *political empowerment*.

In addition to the lack of economic and social independence of women and the prevalence of poverty, young women in rural areas often face pressure to marry and domestic violence is widespread. **Forced marriage and bride kidnapping** are criminalised; however, prosecution rates appear low. The government reports one criminal case related to forced marriage and nine cases related to bride kidnapping in the first quarter of 2019. The maternal mortality rate in Kyrgyzstan is one of the highest in the Commonwealth of Independent States (CIS) countries.

Following the 2017 **domestic violence law**, the number of registered domestic violence reports remained relatively constant from 2017 to 2018. In 2018, 7,178 cases of domestic violence have been registered, including 4,135 cases of physical violence and 2,819 cases of psychological abuses. During this period, the internal affairs agencies of the country issued 7,114 protection orders. Recent figures suggest an increase in the use of criminal measures; 255 criminal cases related to domestic violence were already initiated in the first quarter of 2019.

**Participation of women in public life** is affected by traditional and patriarchal attitudes. Despite measures taken to advance women's leadership in Kyrgyzstan, the percentage of female MPs decreased to 15.8% in 2018 against 20% in 2015. Similarly, the percentage of women in local legislative bodies decreased from 19% in 2016 to 11% in 2018<sup>4</sup>. New electoral legislation aims to counter the practice of dropping female candidates from party lists after elections, which explains in part these low numbers, by posing that seats vacated by a woman must be filled by another woman. A 2018 draft law proposing a 30% quota for women in local councils also aims at reversing this trend.

Kyrgyzstan receives EU support on gender equality through an EIDHR (European Instrument for Democracy and Human Rights) project **Across Generation and Gender Borders: Communities Combatting Gender-Based Violence in Kyrgyzstan**. The project aims to reduce gender-based violence with a special focus on non-consensual marriage practices (bride kidnapping), by tackling the root causes of violence against women and girls, namely patriarchal attitudes, gender stereotypes and social norms. In addition, all EU funded projects mainstream gender issues and the objectives of the EU Gender Action Plan 2016-2020.

<sup>4</sup> Beijing +25: National level review of the Kyrgyz Republic (2019).

[https://www.undp.org/content/dam/unct/kyrgyzstan/docs/Library/Kgz\\_Beijing+25\\_Review\\_Eng\\_FINAL\\_with%20layout\\_16082019.pdf](https://www.undp.org/content/dam/unct/kyrgyzstan/docs/Library/Kgz_Beijing+25_Review_Eng_FINAL_with%20layout_16082019.pdf).

The Kyrgyz Republic is party to the Beijing Platform for Action and the Millennium Declaration. The legal framework on **gender equality** includes the Constitution, a dedicated Law on State Guarantees of Equal Rights and Opportunities, and the Act on Social and Legal Protection against Violence in the Family (2017). Under this domestic violence law, funding for specialised shelters has doubled over the last year.

The Country Action Plan on the Implementation of the CEDAW Committee Concluding Observations from 2016 has been in action since 2017. Kyrgyzstan submitted its latest implementation report in March 2019. Civil Society and Non-Governmental Organisations are drafting alternative reports to the UN Human Rights Committee. The List of Issues for the CEDAW upcoming review was adopted at the Committee's 76<sup>th</sup> Pre-Sessional Working Group on 15 November 2019.

### *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*

Despite an increasingly solid legal framework to prevent torture, implementation continues to be an issue. Although the government acknowledges the magnitude of the problem, torture and ill-treatment, as well as impunity, continue to be widely registered across Kyrgyzstan.

Main factors in the persistence of torture and ill-treatment are difficulties to medically document cases of torture, and poor conditions of temporary detention facilities. Furthermore, the unclear definition of 'detention' obscures the obligations of law enforcement to respect legal safeguards, including legal representation. The National Preventative Mechanism also reports detention periods over the legal limits.

Medical personnel in temporary or pre-trial detention centres often does not belong to the Ministry of Health but rather to the GKNB or the Ministry of Interior, which are at the centre of torture allegations. Thus, they are not bound by mandatory requirements to abide by the Istanbul Convention to document cases of torture. There are plans to bring such medical personnel under the Ministry of Health and to train them extensively on how to use medical forms in line with the Istanbul Convention.

The Constitution prohibits death penalty, torture and other inhuman, cruel and degrading treatment or punishment and guarantees the right to compensation from the State for harm caused by illegal actions by authorities. The Act on National Security Agencies includes respect of human rights and freedoms, and proportionality of any restrictions. Government bodies responsible for implementation of this are the Human Rights Coordination Council; the National Centre for the Prevention of Torture (National Preventative Mechanism); a special unit on human rights monitoring in the General Prosecutor's office; as well as the Ombudsman.

Authorities continue to improve the **legal framework on the prevention of torture**. A series of regulatory acts entered into force in 2019. As of January 2019, an online Unified Register of Crimes and Misdemeanours was established. The register allows the mandatory recording of all crimes, as defined by the new Codes,

**EIDHR projects** supported the **prevention of torture** by improving the work of the National Torture Prevention Centre, raising awareness at the Ministry of Interior, assisting the medical personnel of the Ministry of Health in places of detention to use the Istanbul Convention), and training prosecutors and judges to effectively carry out investigations of cases of torture. Moreover, **strengthening the rule of law** is one of the focal sectors of EU development cooperation in Kyrgyzstan. The EU contributes to the achievement of the above objective through its **Rule of Law Programmes** (€ 13.5 million for 2014-2018 and € 13 million for the follow-up phase 2018-2022).

introducing more transparency in the work of the law enforcement bodies. Section 2 of the National Human Rights Plan (2019-2021) focuses on fight against torture, notably improvement of the detention facilities, including temporary and pre-trial detention places, which are often in very poor conditions as documented by the National Preventive Mechanism in its monitoring visits. The Ministry of Interior is piloting torture prevention measures in some police stations with use of CCTV (circuit-closed television) cameras and glass rooms for interrogations of suspects.

The Supreme Court of the Kyrgyz Republic monitors the judicial practice in criminal cases regarding torture and cruel treatment. So far, very few perpetrators of torture, inhuman, degrading treatment and punishment have been sentenced through courts, due to poor medical documentation, delays in investigation, and the habit of qualifying alleged cases of torture by officials as ‘abuse of power’ or ‘negligence’. Reportedly, in 2018 the National Centre for Torture Prevention (NCTP) received 175 requests for allegations of use of torture or degrading treatment in places of detention; in 2017 such requests were 124 and 132 in 2016. As a result, five criminal cases were initiated in 2018 and one in January 2019<sup>5</sup>.

The **National Preventive Mechanism** continues to be under resourced and not all stakeholders aware of its rights to carry out unannounced monitoring visits. Visits to detention facilities are also conducted by the Ombudsman of the Kyrgyz Republic, in cooperation with the Organisation for Security and Cooperation in Europe (OSCE) and the International Committee of the Red Cross (ICRC).

Kyrgyzstan has received visits by the UN High Commissioner for Human Rights, the United Nations Subcommittee on Prevention of Torture and the UN Special Rapporteur on Torture in 2018 and the country has accepted their recommendations for implementation.

### *Convention on the Rights of the Child (CRC)*

The CRC has been incorporated into local legislation without exceptions or reservations since the adoption of the Children's Code of the Kyrgyz Republic in 2010 (most recently amended in 2017). Existing child protection mechanisms and awareness raising initiatives would need to be upgraded, however, in particular in the context of a rise in the number of officially registered child suicides, a high number of children (10%) who live without their biological parents due to labour migration, and widespread child poverty (1 in 3 children).

In 2018, Kyrgyzstan started working on a concept for the **new edition of the Children's Code**, with the EU's support. The concept defines the key approaches, methods, and framework for the development of regulations and norms to ensure and protect the rights of children and support vulnerable families, with a focus on children in difficult life situations, the circumstances leading to these situations, and concrete measures for the protection of children and alternative forms of care. The government is considering introducing measures specific to the problems of the children of labour migrants, such as a requirement for parents to leave a power of attorney to a trusted person.

An interministerial action plan on **child marriage** is in place since 2017, with particular emphasis on the role of the Ministry of Health, the Ministry of Interior, and the Ministry of Education. However, cross-sectoral coordination between social and law enforcement agencies is insufficient and should be enhanced in order to address the issue. While underage marriage is criminalised, relatively few cases have been prosecuted in 2018-2019. According to official statistics, in 2018, three criminal cases on coercing an under-age person into

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<sup>5</sup> 2018 Annual report by NCTP to the Parliament on 17 September 2019 (<http://npm.kg/ru/news/natsionalnyj-tsentr-po-preduprezhdeniyu-pytok-predstavil-ezhgodnyj-doklad-za-2018-god/>, in Russian language)

marriage (Art. 154 of the Criminal Code) and six cases on forcing or kidnapping a woman to marry (Art. 155) were initiated, as well as fifteen cases on participating in a wedding ceremony with a minor (Art. 155-1). However, longer-term trends seem to suggest a decrease in child marriage: the number of girls who got married at the age of 15-18 was 948 in 2014, decreasing to 408 in 2017.

The ratification of the **Convention on the Rights of Persons with Disabilities (CRPD)** of March 2019 opens up avenues for addressing discrimination against and segregation of children with disabilities, including in the education system, and for improving the policy framework and societal attitudes that hinder their development.

## **Conclusions and priorities**

*The authorities have been active in addressing core concerns of monitoring bodies of the UN human rights conventions. Relevant legislation and action plans have been created in support of human rights and fundamental freedoms. The main areas of improvement over the reporting period include the entry into force of a new, 'humanised' legal package; Action Plans for the implementation of CERD, and on Gender and Human Rights; and the ratification of the Convention on the Rights of People with Disabilities. Implementation and monitoring of the solid legal framework is, however, crucial.*

*The compliance with the law by all, particularly law enforcement agencies and judiciary, is critical. Judicial reforms envisaged to this end demonstrate the authorities' commitment and need to be fully implemented. At the same time, awareness raising on human rights among the public institutions and society in general; and mainstreaming of human rights concepts in all policy areas should be prioritised.*

*Reform of the criminal justice system continues to be high on the government's agenda with recently adopted new criminal legislation. Although well intended, the first months of implementation of the new legislation suggest a need to fine tune and ensure delivery to all relevant state bodies. The new legislation has a strong potential to humanise the legal code and improve transparency of the law enforcement bodies. However, the need to improve conditions in detention facilities remains. Further focus is needed on the implementation of the legal framework on torture prevention and the strengthening of preventive mechanisms.*

*Priorities for the future should include the adoption of a standalone anti-discrimination law and work on a new Child Code; and tackling implementation challenges in the areas of gender and other discrimination, impunity for torture, and impartiality and independence of the judiciary. More intense work is expected in addressing widespread domestic violence, child marriage, and bride kidnapping. Sexual, religious, and ethnic minorities are in need of further protection. Transitional justice after the events of 2010 should be addressed. Meanwhile, the positive step of adopting CRPD should be followed by implementation of its various elements, including in support of disabled children.*

## **ILO Labour Rights Conventions**

The serious setback in reporting obligations, along with the problematic quality of earlier reports, hampered an accurate assessment of the application of the conventions in law and practice. In general, information on the implementation in practice is lacking. In its latest comments, the ILO noted with concern that reports were due on six out of eight fundamental conventions. At the end of 2019, in a welcome step, the Government submitted all outstanding reports on ratified Conventions.

The newly introduced draft Trade Union Law would seriously undermine the level of compliance of Kyrgyzstan's legal framework with the fundamental ILO conventions, in particular Convention 87, 98, and 144, and its obligations as an ILO member. However, a series of other recent legislative amendments have already weakened labour rights protections and introduced potential discrepancies with the principles of ILO fundamental Conventions. The new Criminal Code, in force since January 2019, has significantly reduced the scope of criminal liability for the most serious violations of labour law. A revised Code on Misconduct (2017) and related Code on Violations (2017), which replaced the previous Code on Administrative Responsibility (1998), have reduced the scope of the administrative sanctions regime for labour related offences.

A recent moratorium on state-led labour inspections has exacerbated existing enforcement limitations rooted in the legislation and the weak capacity of the **labour inspectorate** and of the Ministry of Labour and Social Development (MLSD). In January 2019, the authorities introduced a moratorium on routine labour inspections of private enterprises, which will remain in force until 1 January 2021. The moratorium exempts inspections under a range of defined circumstances, but according to trade unions affects in practice all control and supervisory functions of the state labour inspectorate. The national Ombudsman's Office has appealed to the government to lift the moratorium.

The State Inspectorate for Ecological and Technical Safety (SETSI), part of the Department of Labour Protection and Labour Relations and under direct authority of the government, remains responsible for supervising the application of the labour code and other labour legislation. The government recognises that the inspectorates' staff is insufficient (27 staff members, 4.5 times less than recommended ILO ratio) to ensure effective inspections, notably on child labour. Moreover, legislation (Law No. 72 of May 2007, 'On the procedure for conducting inspections of business entities') contains limitations to inspections in contradiction with Convention 81, notably a ten days' prior notice. The Government is developing the Programme on Occupational Safety and Health for 2020-2023, but not committed to remove the limitations. There is no confirmation that the SETSI draft Strategy for 2018-2023 will address any of these issues either. The Federation of Trade Unions of Kyrgyzstan (FPK) is also entitled by law to conduct labour inspections. The legal framework governing its operations and cooperation with SETSI is, however, unclear.

### *Freedom of Association and Collective Bargaining (Conventions 87 and 98)*

A restrictive **draft law on Trade unions** was initiated by the Parliament in June 2019. Discussion was suspended before the summer in the face of international concern, including by the ILO and EU, and domestic resistance. In late September 2019, supporters of the law brought it back to the Parliament. The draft Law passed its second reading on October 3, 2019. Despite some dissenting voices in Parliament, adoption of the law looks very likely, although the process stalled thanks to mobilisation from the trade unions, ILOs, UN, EU Delegation and others. The possible impact on GSP+ status was mentioned by some MPs, civil society activists, and trade unions representatives. .



Adoption of the law as it currently stands would contravene ILO principles on Conventions 87 and 98 (as well as Convention 144 on tripartite social dialogue) and Kyrgyzstan's obligations under the GSP+ scheme and diminish the level of respect for human rights in the Kyrgyz Republic. Trade unions, with the support of international organisations, have mobilised against the draft law. The law would put the Federation of Trade Unions (FPK) at the top of a rigidly hierarchical system drastically limiting the unions' independence and ability to run their own affairs. It could even lead to the dismantling of those trade unions, which do not fall in line. This is seen as an attempt by the authorities to exert more control over the unions and their assets. The bill strengthens the powers of the Chairman of the FPK, a position currently held by the husband of an MP from the President's party, chairing the Committee, which submitted the draft to plenary vote.

Previously identified shortcomings in the legislative framework remain to be addressed, notably **restrictions on the right to strike and right to organize for civil servants**. Trade unions continue to play a weak role in **collective bargaining**. The legislation does not offer sufficient guarantees in that respect and the ILO has been requesting amendments to the Labour Code and the Act on Collective Agreements since 2014. The Government does not consider that there are any issues in this respect. Trade union representatives flagged further limitations of the workings of the tripartite commission in practice, due to frequent personnel changes on the government's side.

#### *Abolition of Forced Labour (Conventions 29 and 105)*

Forced labour and labour exploitation are closely linked to **trafficking in persons**. Kyrgyz labour migrants (over 1.1 million people, essentially in Russia (90%) and Kazakhstan (8%), according to the Government) are reportedly at high risk of trafficking and related labour exploitation. International and non-governmental organisations reported assisting 183 victims of trafficking in 2018, 171 of whom were subjected to forced labour.

Forced labour is also reported within the country, especially in agriculture (including forced child labour), construction, and textile industries, as well as in domestic service and forced childcare. Kyrgyz children also are subjected to forced labour in the distribution of drugs within the country<sup>6</sup>. In July 2018, the US Department of State, Treasury, and Homeland Security issued an advisory that listed countries where North Korean labourers are present, indicating heightened risk of forced labour; Kyrgyzstan was on the list. Kyrgyzstan still does not fully meet the minimum standards for the elimination of human trafficking. It was downgraded to the Tier 2 Watch List in the 2018 US Department of State Trafficking in Persons Report and maintained this classification in 2019.

Efforts continued on preventing trafficking and protecting victims, as well as on ensuring safer labour migration abroad, without significant progress so far. In September 2019, the government authorised the National Referral Mechanism for victims of human trafficking, as well as standard identification procedures drafted in 2017 after extensive consultations and designated the State Migration Service as the authorized government body on human trafficking in March 2019, replacing the Coordination Council on Migration. The 2017-2020 programme for Combating Trafficking in Human Beings and its Action Plan needs funding to ensure effective implementation.

Labour trafficking remains a crime under the Criminal Code. Amendments in January 2019 strengthened the provisions and penalties regarding sex trafficking. Implementation of the law

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<sup>6</sup> 2019 US State Department's Trafficking in Persons Report

On Preventing and Combating Human Trafficking was monitored and the results were used to amend it in January 2018 by introducing the definitions of ‘victim of trafficking’ and ‘national referral mechanism’. The number of cases detected as serious crime under the Criminal Code (four in 2017, one in 2018), however, largely under-represents the extent of human trafficking. Systemic corruption continues to undermine investigation and prosecution.

The government cooperated with international organizations and 38 local NGOs on a media action plan to raise awareness on trafficking in persons, particularly among youth; the campaign reached an estimated 10,000 people.

The government has taken measures to reduce the vulnerability of **Kyrgyz migrants** to forced labour. Information and services to potential labour migrants were maintained. Employment centers in Bishkek and Osh inform job seekers of licensed foreign labour recruitment agencies, and offer pre-departure orientation including trafficking prevention. Two publicly available databases of private employment agencies allow detecting those agencies subject to complaints. An NGO-run hotline provides legal advice and assistance on working abroad. In 2018, five trafficking victims were identified thanks to the hotline. A government supported mobile phone application provides Kyrgyz migrants with information on their rights and on anti-trafficking hotlines. Nevertheless, weak oversight of recruitment within Kyrgyzstan is reported to aggravate the risks of trafficking and forced labour abroad (e.g. by leaving a majority of Kyrgyz labour migrants without the required documentation to comply with migration rules in their country of destination).

Gaps identified by the ILO in the compliance of national legislation with the core conventions remain to be addressed. The Constitution prohibits forced labour, except in cases of war, natural disasters, and other emergencies. The ILO repeatedly requested information on guarantees that in such situations calling up **compulsory labour** is strictly limited. The definition of forced labour allows mandatory alternative (civilian) services during compulsory military service, which is not in line with ILO Convention 29. As for ILO Convention 105, concerns remain on the application of prison sentences entailing compulsory labour on persons for expressing political views, as well as penal sanctions applicable to officials in case of 'negligence'.

The Kyrgyz Government made progress towards ratification of the **Protocol of 2014** to the ILO Convention No 29 on Forced Labour. In September 2019, the Parliament Committee on Social Affairs approved the draft Law on Ratification of the ILO Protocol of 2014 for first reading. Further improvement of the legal framework on forced labour is needed to advance compliance with the international labour standards, including implementation of the Protocol, once ratified.

#### *Minimum Age for Work and Worst Forms of Child Labour (Conventions 138 and 182)*

The government acknowledges that **child labour persists** especially in agriculture (notably in tobacco, rice and cotton fields), street markets, the service sector, and construction sites. According to the authorities, more than a third of pupils in primary and secondary education combine study with hazardous labour. Working children are found mostly in family businesses, a widespread practice in agriculture. Kyrgyzstan features on the US Department of Labour's 2018 List of Goods Produced by Child Labour (for cotton and tobacco).

With regard to the two conventions on child labour, the Government has adopted several measures, which constitute progress in the policy framework. The line ministries and

Federation of Trade Unions have signed the Interagency Actions Plan to Eliminate and Prevent the Worst Forms of Child Labour for 2016-2018, with drafts of Government Action Plans for 2020-2024 currently being formalised. The Government has substantially revised the **List of hazardous types of works** prohibited for children under 18. A draft Government Resolution to approve the revised list is under discussion at the time of reporting.

The findings of the Multi-Cluster Indicator Survey (MICS) – 2018<sup>7</sup> have shown slow progress with reducing the total number of child labourers nationwide, although there has been notable progress in the **reduction of children involved into hazardous work** (15.2% in 2014 versus 11.7% in 2018), and girls in particular (11.8% and 6.8% accordingly). Trends, however, vary across the regions. There has been a marked decline of child labour incidences, including hazardous work, in regions targeted by international programmes and projects, namely in Osh region, Osh Municipality, Chui region, and Jalal-Abad region.

In terms of legislative changes, work on an improved definition of ‘light work’ and of the worst forms of child labour has not been completed yet. There is no information on the outcomes of the 2016-2018 Interdepartmental Plan to prevent the worst forms of child labour. Institutional arrangements were made to prepare a 2019-2022 Action Plan. Ensuring adequate funding to such programmes remains a challenge.

The State Labour Inspectorate continued its efforts to raise awareness of child labour legislation in particular in rural areas, where employers of children are often family members. Regular checks on the wellbeing of children as part of the monitoring of the UN Convention on the Rights of the Child under the Special Prosecutor General, with specific attention to women at risk, as well as cooperation between the social services and the authorities at local level, help detect children at risk and prevent child labour. However, restrictions to labour inspections in the legislation, as well as the limited capacity of the State Labour Inspectorate continue to impede an effective control of how child labour legislation is applied.

According to the government, in the first half of 2018, during supervision of the implementation of the legislation on the labour of minors, 236 violations were identified (illegal involvement of minors in work, involvement in night work or during school time, non-respect of working conditions etc.), for which 44 persons were brought to disciplinary responsibility. During the same period, 163 working children and 6 children involved in the worst forms of child labour were identified. In the first quarter of 2019, 76 working children and 3 children engaged in the worst forms of child labour were identified. All children benefitted from Individual Child Protection Plans (ICPF) that include removal from work and the provision of social services at rehabilitation centres.

#### *Equal Remuneration and Elimination of Discrimination (Conventions 100 and 111)*

The country's ranking on the Global Gender Gap Index remains stable with few changes in its performance (86<sup>th</sup> out of 149 in 2018). Women's **labour market participation** has not recovered from its sharp decline in the early 1990s' and stands at a low 40-45%. Women remain segregated in lower paid sectors and more junior positions and particularly exposed to unpaid work, especially in agriculture, which is still a major source of employment in Kyrgyzstan.

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<sup>7</sup> <https://www.unicef.org/kyrgyzstan/reports/multiple-indicator-cluster-survey-mics-situation-children-and-women-kyrgyzstan>

Principles of **equal remuneration** are embedded in national legislation, but the need remains for legislation to better reflect the principle of equal pay for equal work and define indirect gender-based discrimination through all stages of the employment process. Legislation on **non-discrimination** contains weak enforcement mechanisms and therefore is rarely used in practice. There was no progress on the review of discriminatory legal provisions to women's access to employment, such as a list of 400 occupations from which women are banned, announced in 2008. Concerns regarding the application of equal remuneration principles in practice remain, notably concerning payments in kind and additional payments. Action is needed to promote women's access to male dominated sectors and better value female dominated occupations. Enhancing **women's economic participation** is one of the priorities of the 2018-2020 **Action Plan for Achieving Gender Equality** approved in 2018.

A monitoring exercise conducted in 2016-2017 by the Ombudsman's Office<sup>8</sup> found that Kyrgyz women are disproportionately affected by a range of **labour law violations**, such as the absence of written employment contracts; compulsory work at weekends or on public holidays, and unpaid overtime; and non-compliance with OSH requirements. The Government is still expected to respond to the Ombudsman's recommendations. Workplace **sexual harassment** is reportedly widespread, particularly in the private sector. However, offences are rarely reported or prosecuted.

**Ethnic Uzbeks**, who make up approximately 15% of Kyrgyzstan's population, face discrimination in relation to employment<sup>9</sup> in particular during hiring. For example, ethnic Uzbeks who were dismissed from their jobs following interethnic violence in 2010 have difficulty in accessing employment.

## Conclusions and priorities

*Kyrgyzstan has to increase engagement on the key issues related to the reporting on and implementation of the fundamental ILO Conventions. At the 2019 ILC, reports were due on six of the eight conventions. While all reports were submitted at the end of 2019, Kyrgyzstan needs to sustain adequate reporting in the future.*

*Enforcement remains a key concern. Legislation restricting labour inspections remains unchanged and a recent moratorium on state-led labour inspections is a worrying signal. The government recognises that the State Labour Inspectorate lacks capacity, notably inspectors' staff, but there is no certainty that this is being addressed under the draft 2018-2023 Strategy for the Inspectorate.*

*A draft revised law on trade unions initiated by members of the parliament has not taken in consideration the ILO observations and recommendations. If passed, the law would substantively be in contradiction to ILO conventions on freedom of association and collective bargaining.*

*Recognising the persistence of child labour, the government has adopted several measures to improve the policy framework, including revising the list of hazardous work for those under 18 years old. However, the work on an improved definition of light work needs to be*

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<sup>8</sup> KRA, 2017

<sup>9</sup> Equal Rights Trust, 2018

*concluded. A specific effort is needed to control family undertakings. The government needs to ensure adequate funding to Action Plans.*

*The 2018-2020 Action Plan on Gender Equality is in place, focusing on enhancing women's economic participation. However, shortcomings identified by the ILO in the legislation remain to be addressed. A longstanding announced review of discriminatory legal provisions to women's access to employment has to take place. The government has yet to respond to more recent Ombudsman's recommendations to improve the application of women's labour rights. Discrimination and sexual harassment continue in practice.*

*Steps taken to address Kyrgyz migrants' exposure to labour exploitation abroad are welcome and should continue, in order to reduce the risk of human trafficking and forced labour in destination countries. More efforts are needed on the prevention and prosecution of trafficking and on the oversight of recruitment of potential labour migrants. Like in other areas, funding is insufficient for an effective implementation of existing Action Plans against trafficking. The legislation still allows for compulsory labour in contradiction with the ILO conventions.*

## **UN Conventions on Environmental Protection and Climate Change**

The Kyrgyz Republic has demonstrated great interest in measures tackling environmental protection and climate change, considering itself a country highly affected by the detrimental consequences of climate change and ecological damages.

### *Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)*

Although CITES legislation is enacted and the Kyrgyz Republic adopted a number of regulatory legislative acts for its implementation in the 2000s and 2010s, Kyrgyzstan's national legislation is currently ranked as **Category 2**, meaning that it does not meet all requirements for the implementation of CITES.

Following an EU-funded workshop on the strengthening of national frameworks for the effective implementation of CITES in Central Asia in May 2018, Kyrgyz authorities are revising their national legislation to bring it in line with CITES and qualify for Category 1<sup>10</sup>. The CITES Secretariat noted progress from Kyrgyzstan's side in their October 2018 report.

### *Basel Convention*

The national body responsible for the implementation of the Convention is the State Agency on Environment Protection and Forestry. Since ratification in 1999, the Kyrgyz Republic has progressively adopted comprehensive legislation responding to its commitments under the Basel Convention, the latest of which, the Resolution on the Approval of Lists of Exported and Imported Specific Goods Subject to Licensing Organizations, Experts and Licensors, was developed in 2015. No further significant progress has been made over the reporting period.

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<sup>10</sup> <https://cites.org/sites/default/files/projects/NLP/E-SC70-25.pdf>

### *Convention on Biological Diversity (CBD)*

Kyrgyzstan faces loss of biodiversity at ecosystem level; significant number of species in the country are endangered. The main pressures on biodiversity include overgrazing of natural grasslands, poaching and overfishing; the increasing size of mining industry threatens mountain ecosystems.

The Kyrgyz Republic has adopted documents and measures for the implementation of its CBD commitments: a revised National Biodiversity Strategy and Action Plan in 2016, as well as an Action Plan for Priorities in Conservation of Biological Diversity in the Kyrgyz Republic for 2014-2020. A draft resolution of the government on Approving the Priorities of Biodiversity Conservation up to 2030 and related Action Plan for the Implementation of the Priorities of Biodiversity Conservation for 2019-2023 are up for public discussion and are being considered by relevant ministries and agencies. The State Agency for Environmental Protection and Forestry (SAEPF) established an interdepartmental working group responsible for coordination and implementation of the Convention.

### *Stockholm Convention on Persistent Organic Pollutants*

Although persistent organic pollutants (POPs) are not currently in use in Kyrgyzstan, the country faces challenges in the disposal of older waste products, with obsolete pesticides (OPs) being a particular issue along with **improper storage** a potential source of unintentional POP emission. POP-storage is not centralised but instead largely privatized, and an imperfect regulatory framework fails to ensure the compliance of private actors with storage standards. Appropriate **disposal facilities** do not exist within the borders of the Kyrgyz Republic. Meanwhile, export to the EU for processing is prevented by the prohibitive cost of air transport and neighbours Kazakhstan and Russia's ban on the transit of POPs through their territory. The SAEPF is not competent to appoint a responsible body for the management of hazardous chemical waste. Kyrgyz authorities plan to develop proposals to analyse the regulatory and institutional framework on chemical safety and elaborate recommendations in order to improve the management of chemical waste in the country.

National infrastructure includes the Coordinating Committee to Promote Sound Management of Chemicals, established in 2012, the public health service, which has a monitoring function; and 49 disease prevention and sanitary inspection centres, 14 of which are ISO/IEC 17025 accredited.

Authorities have invested in the monitoring and control of POPs, in particular acquiring **new equipment and training** relevant staff to detect polychlorinated biphenyls (PCBs) in food, water and transformer oils. Kyrgyzstan has received funding and cooperated extensively to this end through the Global Environment Facility (GEF) in joint projects with UNDP, UNEP and FAO. Still, better equipped laboratories with experienced personnel and additional funding for the analysis of samples are necessary to ensure proper monitoring. Soil remediation initiatives are also needed. Overall, financial and technical capacities remain insufficient to adequately address the problems posed by POPs. Additionally, lack of available funding means that no research is being carried out on the health impacts of substances containing POPs. A strategy for medical waste management, including POPs,

The **Critical Ecosystem Partnership Fund (CEPF)** provides small grants for civil society conservation action in biodiversity hotspots and offers opportunities for improvement in the Kyrgyz Republic. The provision of grants is guided by priorities identified through a process and document known as an ecosystem profile. CEPF funded the preparation of the first ecosystem profile for the mountains of Central Asia hotspot and expects to provide grants in the region and in Kyrgyzstan in the future.

has been in the works for the past couple years within the framework of a GEF-UNDP project. The document has yet to be finalized and adopted, and further efforts are thus needed in this area.

Authorities are engaged in public awareness raising efforts, distributing relevant information to mass media and on the official websites of SAEPF and the Centre of State Regulation of Environmental Protection and Safety, as well as organising seminars and meetings.

### *Cartagena Protocol on Biosafety*

The Kyrgyz Republic is a party to the Cartagena Protocol since 2005. However, it still does not count amongst the signatories of the 2010 Nagoya-Kuala Lumpur Supplementary Protocol. Several ministries and national institutions are involved in the implementation of the Protocol and other related work, under the authority of SAEPF. Genetically modified organisms are monitored in food products, with responsibility for the task falling to two laboratories of the Department for Disease Prevention and State Sanitary and Epidemiological Surveillance of the Ministry of Health.

The Kyrgyz Republic has been developing the relevant legal framework since 2005 and the adoption of the Law on the Protection of the Health of Citizens in the Kyrgyz Republic. A comprehensive Law on Biosafety was drafted, but has yet to be adopted.

### *Conventions on Climate Change*

Since its ratification of the Montreal Protocol in 2000, the Kyrgyz Republic has made good progress, in cooperation with international partners, in fulfilling requirements and addressing violations; it does not currently exhibit any major shortcomings.

While the Kyrgyz Republic has no quantitative obligations on greenhouse gas according to **the Kyoto Protocol**, the government acknowledges the necessity to undertake efforts in this regard and has set ambitious aims to reduce greenhouse gas emissions, and developed national plans and strategies to this effect<sup>11</sup>.

The overall responsibility for the development, management, and coordination of environmental and climate change policies lies with SAEPF, which serves as the focal point for the United Nations Framework Convention on Climate Change (UNFCCC) and as the National Designated Authority (NDA) for the Green Climate Fund (GCF). To respond specifically to challenges of climate change, the government established the Climate Change Coordination Commission (CCCC) in 2012 to coordinate activities related to climate change.

Kyrgyzstan is one of only 11 member countries to inform the Ozone Secretariat that they do not wish to receive products or equipment containing or relying on hydrochlorofluorocarbons since 2016. The Kyrgyz Parliament ratified the Paris Agreement, following a public discussion in March 2019. The law on the ratification is now awaiting signature by the President to enter into force. The Kyrgyz government is yet to ratify the **Kigali amendment**, adopted in 2016.

Additionally, a **National Strategy for Sustainable Development (NSSD) 2018-2040** was elaborated and calls for the development of climate change adaptation strategies to reduce vulnerability and improve resilience. Coincidentally, the Government has submitted a request for Green Climate Fund (GCF) Readiness and Preparatory Support for the initiation of its NAP with the objective to establish a national adaptation planning process.

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<sup>11</sup> For details, please refer to the biennial report for 2016-2017, SWD(2018) 32 final of 19.1.2018

## Conclusions and priorities

*The Kyrgyz Government continues to demonstrate commitment to the UN conventions on environmental protection and climate change. Environment protection is clearly targeted in the National Development Strategy of Kyrgyzstan for 2018-2040 as an important priority with measures to be taken to prevent the melting of glaciers, ensure the conservation of rare animal, and the growth of plants and forests.*

*The Government is considering a list of priorities and action plan on biodiversity and is aware of the necessary next steps for the future: tightening the environmental legislation, intensifying efforts against illegal poaching and wildlife trade, and reducing greenhouse gas emissions.*

*Regarding the Stockholm Convention, the Kyrgyz Republic faces a difficult situation for the disposal of POPs as it lacks the funds and technical equipment required. Still, progress has been made in cooperation with international partners. Further efforts are needed, for example regarding the adoption of a strategy on medical waste.*

## UN Conventions on Good Governance

### *International Drug Control Conventions*

The Kyrgyz Republic is a **transit country** used by international drug traffickers on the so-called 'Northern Route', with no evidence of manufacturing on the territory of the country. Physical control of the transits is difficult, especially as the preferred routes often go through mountain trails. The volume of drug trafficking from Afghanistan, which still accounts for the largest area globally under illicit opium poppy cultivation in 2018, has risen in recent years and as a result, consumption figures in Kyrgyzstan have increased. Some residents are involved in criminal acts associated with drug trafficking. The trend of decreasing numbers of registered drug users in 2016-2017 reversed somewhat in 2018 with a 0.9% increase. Conversely, the number of registered drug crimes decreased by over 9% in 2018 compared to 2017, while the number of seizures of narcotic substances increased by 11.5%.

The National Coordinating Committee on the Control of Narcotic Drugs, Psychotropic Substances and Precursors has been active since 2017. Activities on drug control are under the Ministry of Interior since 2016.

### **Bilateral and multilateral cooperation on international drug control**

Kyrgyzstan is part of EU regional projects of the **Central Asia Drug Action Programme (CADAP)**. The current phase (2015–2019) of the programme includes sharing best practice on developing national antidrug strategies, action plans, and legislation, and data collection; and support for the implementation of drug prevention and treatment programmes.

Kyrgyzstan also benefits from the **EU against Organised Crime (EU ACT)** programme, launched in 2017, focusing on combatting organised crime and trafficking from Afghanistan. The next phase of the EU's programme **Border Management in Central Asia (BOMCA)** includes Afghanistan. This programme has also helped the Kyrgyz exporters to better reap the benefits of GSP+. Further projects on border management are conducted in cooperation with the UN Office on Drugs and Crime (UNODC).



In 2018, the Kyrgyz Republic became a member of the **Commission on Narcotic Drugs** (CND). In this regard, the Kyrgyz Republic jointly with CADAP and EU ACT presented the latest achievements in the various areas of drug control at the latest sessions of the CND in March 2019.

### *UN Convention against Corruption (UNCAC)*

The authorities acknowledge the problem of corruption and fighting corruption stands high on the agenda of the government. The recently adopted National Development Strategy 2019-2040 emphasises fight against corruption as a **crosscutting priority** of the State. Over the recent years, the President, Parliament, and Government office have adopted numerous legal acts and haven taken measures to enhance both prevention and prosecution of corruption crimes. Kyrgyzstan has established a **multi-layered anti-corruption framework** at the policy and institutional level. There is an Anti-Corruption Service in the State Committee of National Security. In terms of coordination of prevention and fight against corruption, the Security Council leads ad hoc working groups with the participation of Prime Minister's office, General Prosecutor's Office, State Personnel office, and civil society representatives. A plan to combat corruption in the judicial system of the Kyrgyz Republic for 2018-2020 was approved in 2018. The plan includes quarterly updates on the implementation of anti-corruption measures in the judicial system.

The EU assists the Kyrgyz authorities in fighting against corruption through its **Rule of Law Programme**. The EU has supported the improvement of the anti-corruption legislation, contributing to the recent adoption of the law on conflict of interests and protection of whistle blowers. The Programme contributed to establishing the online register of crimes and misdemeanours at the prosecutors' offices and e-justice at three pilot courts. It also helped in training of prosecutors, lawyers, and judges on ethics and need to fight corruption.

The regulatory environment and institutions for **public procurement**, which are highly prone to corrupt practices, have recently improved. Public procurement plans within the Government administration have been public since 2014, and a broad use of purchases through the electronic portal significantly minimises corruption risks. Investigations related to corruption are overseen by the General Prosecutor's office and conducted by the Financial Police and the Anticorruption Service since 2016.

The latest legislative basis includes a law on asset declaration on **conflict of interest**, and on the protection of **whistle blowers** signed by the President in January 2019. All executive agencies have an appointed key person on the fight against corruption.

In 2017, Kyrgyzstan was the first Central Asian state to join the **Open Government Partnership** (OGP). This opens up an avenue for engaging with public institutions and civil society to promote better access to Information. A 2-year national action plan (NAP) was adopted in October 2018. The NAP was developed jointly by the Government and civil society and includes 18 ambitious commitments to strengthen the government's accountability and combat corruption.

The Government has made efforts to engage with the public and create a system of **anti-corruption education for the population**, in particular through the concept for Enhancing the Legal Culture of the Population for 2016-2020. However, the lack of systematic approach and dedicated funding limits the success of such measures<sup>12</sup>.

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<sup>12</sup> <https://www.oecd.org/corruption/acn/OECD-ACN-Kyrgyzstan-4th-Round-Monitoring-Report-2018-ENG.pdf>

Despite these measures, corruption remains a serious challenge. The level of **perceived corruption** by society and business remains high – 95% of respondents to a nationwide poll think corruption is a ‘very big’ or ‘big’ problem, and a majority see the need for reform<sup>13</sup>. Institutional measures have limited impact on the level of corruption, and there is a **lack of legal and social accountability** for corruption at all levels of society, as well as weak social stigmatisation associated with the paying or taking of bribes. Corruption is widespread among the judiciary, the public sector in general, and in business environments. The **independence of the judiciary** from political bodies is not ensured, especially in procedures for appointment and dismissal. Kyrgyzstan ranked 132 in the 2018 Transparency International *Corruption Perceptions Index*, with a score of 29, thus making a gradual albeit limited progress from 2012 when the score was 24<sup>14</sup>.

At institutional level, the competencies to fight corruption are fragmented. There is still **no single body** responsible for anti-corruption policy coordination, implementation, and monitoring. Challenges relating to implementation, including of the new laws on conflict of interest and whistle blowers will remain. The latest UNCAC implementation review from 2017 points to some deficiencies, which were only partially addressed in the new revised Criminal Code (2019)<sup>15</sup>.

In relation to the fight against **money laundering and terrorist financing**, some important weaknesses remain to be addressed. These concern notably the preventative measures relating to Politically Exposed Persons, as well as the effectiveness of Kyrgyzstan’s regime on anti-money laundering and terrorist financing. The revelation by investigative journalists in November 2019 of a wide-spread smuggling, corruption and money-laundering scheme will be a test for the authorities. According to the report, thanks to an organised system of bribery in the state customs service at least USD 647 million were funnelled out of the country (representing approximately 8% of the Kyrgyz GDP). An investigation was launched to respond to discontent from the population and Parliament on the case.

## Conclusions and monitoring priorities

*The authorities are active in the fight against drugs. A solid national system for fighting drugs has been established and the government works closely with a number of international partners, including the EU, on national and regional projects. The main challenges are related to the transit of drugs coming from Afghanistan. To this end, ensuring proper control of the goods passing through the border is essential.*

*Over the last years, authorities have worked intensely to develop and implement anti-corruption policies, especially in preparing national and departmental anti-corruption plans. Fighting corruption is also enshrined in the National Development Strategy 2019-2040 and high on the agenda of the country's leadership. Kyrgyzstan's membership in the OGP, as well as the national digitalisation agenda, aim to bring more transparency and accountability of the State. During the reporting period, Kyrgyzstan enacted new laws on conflict of interest, declaration of public assets, and protection of whistle blowers.*

<sup>13</sup> [https://www.iri.org/sites/default/files/february\\_2019\\_kyrgyzstan\\_poll.pdf](https://www.iri.org/sites/default/files/february_2019_kyrgyzstan_poll.pdf)

<sup>14</sup> 0 stands for highly corrupt and 100 very clean.

<sup>15</sup> <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1702230e.pdf>

*However, the organisational system for fighting corruption remains largely fragmented and ineffective in the absence of a single coordinating anticorruption body; further work needs to be done to improve the legal framework. It is also necessary to reinforce the regime for fighting money laundering and countering terrorist financing, which show important deficiencies. A significant general challenge is the lack of legal and social accountability for corruption at all levels of society.*

# ANNEX

## Kyrgyzstan – Treaty Ratification and Reporting

Convention	Status of ratification / reservations <sup>16</sup>	Compliance with reporting obligations to monitoring bodies
1. Convention on the Prevention and Punishment of the Crime of Genocide	Accession: 05.09.1997 No reservations	<b>No reporting obligations</b>
2. International Convention on the Elimination of All Forms of Racial Discrimination	Accession: 05.09.1997 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 16.01.2016. Latest concluding observations published on 30.05.2018. Next report due on 05.10.2022.
3. International Covenant on Civil and Political Rights	Accession: 07.10.1994 No reservations	<b>Lack of compliance with reporting obligations</b> Last report submitted on 03.04.2012. Last concluding observations from 22.04.2014. Last follow-up state party report submitted on 31.10.2016. Latest national report was due on 28.03.2018.
4. International Covenant on Economic, Social and Cultural Rights	Accession: 07.10.1994 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 03.04.2012. Latest monitoring report submitted on 06.07.2015. Next national report due on 30.06.2020.
5. Convention on the Elimination of All Forms of Discrimination against Women	Accession: 10.02.1997 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 18.03.2019. Last concluding observations from 10.03.2015. Latest follow-up state party report submitted on 17.01.2018.
6. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Accession: 05.09.1997 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 31.01.2019. Last concluding observations from 19.12.2013. Latest follow-up state party report was due on 22.11.2014.
7. Convention on the Rights of the Child	Accession: 07.10.1994 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 16.08.2010. Last concluding observations from 06.07.2014. Next report due by 06.11.2019.
8. Convention concerning Forced or Compulsory Labour, No. 29	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEARC comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next Regular Report due in 2021.

<sup>16</sup> Reservations do not apply in the ILO system, so no relevance to providing information on reservations

9. Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next regular report due in 2020.
10. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next regular report due in 2020.
11. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next regular report due in 2022.
12. Convention concerning the Abolition of Forced Labour, No. 105	Ratification: 1999	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next regular report due in 2021.
13. Convention concerning Discrimination in Respect of Employment and Occupation, No. 111	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request 2018. Last report (out of cycle) received in 2019. Next regular report due in 2022.
14. Convention concerning Minimum Age for Admission to Employment, No. 138	Ratification: 1992	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request, Observation 2018. Last report (out of cycle) received in 2019. Next regular report due in 2021.
15. Convention concerning Minimum Age for Admission to Employment, No. 182	Ratification: 2004	<b>Compliant with reporting obligations</b> Latest CEACR comments: Direct Request, Observation 2018. Last report (out of cycle) received in 2019. Next regular report due in 2021.
16. CITES	Accession: 04.06.2007 No reservations	<b>Lack of compliance with reporting obligations</b> Latest Annual Report (2017) submitted on 01.04.2019. Next (2018) Annual Report due 31.10.2019 Annual Report for 2015 was due 31.10.2016. Latest Biennial Report (2015-2017) submitted on 02.11.2018. All other Biennial Reports since 2007 are due. <sup>17</sup> All Annual Illegal Trade report for 2017 due. <sup>18</sup>

<sup>17</sup> Reporting mandatory, but not subject to compliance procedure.

<sup>18</sup> As above.

17. Montreal Protocol	Accession: 31.05.2000 No reservations	<b>Compliant with reporting obligations</b>  Most recent annual data for 2016 was submitted.  No more recent reporting data is available.
18. Basel Convention	Accession: 13.08.1996 No reservations	<b>Lack of compliance with reporting obligation</b>  Latest (2017) National Report submitted on 05.01.2019.  National reports for 2015 submitted on 05.01.2019.  National report for 2014 submitted on 16.06.2018.  Next (2018) Annual National Report due in 2019.  National Reports for 2002, 2005, 2006, 2007, 2008 are due.
19. Convention on Biological Diversity	Accession: 04.11.1996 No reservations	<b>Compliant with reporting obligations</b>  Latest (Sixth) Report submitted on 19.03.2019.  Revised National Biodiversity Strategy and Action Plan submitted on 18.01.2016.
20. UN Framework Convention on Climate Change	Accession: 29.07.1994 No reservations	<b>Lack of compliance with reporting obligations</b>  Last (Third) National Communication submitted on 24.01.2017.  Biennial Update Reports for 2014, 2016, and 2018 are due.
21. Cartagena Protocol on Biosafety	Accession: 03.01.2006 No reservations	<b>Compliant with reporting obligations</b>  Last (Third) National Report submitted on 09.12.2015.  Next (Fourth) National report due on 01.09.2019.  First National Report not submitted.
22. Stockholm Convention	Ratification: 04.10.2006 No reservations	<b>Lack of compliance with reporting obligations</b>  Latest (Fourth) National report submitted 01.11.2018.  Third National Report submitted 18.01.2018.  First and Second National reports due.  National Implementation Plan submitted on 02.04.2009.
23. Kyoto Protocol	Accession: 16.02.2005 No reservations	<b>No reporting obligations</b>
24. UN Single Convention on Narcotic Drugs	Accession: 07.10.1994 No reservations	<b>Reviewing is fulfilled by the International Narcotics Control Board (INCB).</b>  See report of the INCB for 2018.
25. UN Convention on Psychotropic Substances	Accession: 07.10.1994 No reservations	
26. UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Accession: 07.10.1994 No reservations	
27. UN Convention against Corruption	Ratification: 16.09.2005 No reservations	<b>Reviewing is fulfilled by the UN Office on Drugs and Crime (UNODC).</b>  Latest UNODC review executive summary was published on 11.04.2017.