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ALTERNATIVE REPORT

A HUMAN RIGHTS MONITORING REPORT SUBMITTED TO THE EUROPEAN UNION'S GSP+ TRADE PROGRAMME

WOMEN AND THE RIGHT TO WORK IN THE KYRGYZ REPUBLIC

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1. EXECUTIVE SUMMARY

This report assesses the current state of women's employment rights vis-à-vis international standards and is submitted pursuant to the European Union's Generalized System of Preferences Plus Programme (GSP+). The main areas of concern are unequal pay, limited access to certain sectors due to gender stereotypes and a government-issued list of occupations from which women are barred, and discrimination against gay and transgender women.

State policy for the protection of women's rights in Kyrgyzstan is based on international commitments and on legislative and political measures adopted since independence. Kyrgyzstan has ratified all of the GSP+ conventions, and laws which relate to women in the labour force include the Labour Code, the Law On State Guarantees of Equal Rights and Equal Opportunities for Men and Women, and the Law On the Prevention and Suppression of Trafficking in Persons. However, there is no comprehensive anti-discrimination legislation in Kyrgyzstan. The Labour Code contains a general prohibition against discrimination in employment, but does not clearly define discrimination or its forms. It does include a list of prohibited grounds for discrimination, including 'gender', but grounds such as health status, sexual orientation, gender identity, and gender expression are not included. The open list may not make it possible to clearly understand which signs or situations fall under its effect and may have negative consequences for the correct and consistent application of the Law.

The Constitution and the Labour Code set out a standard on equal pay for work, but in practice there is a significant gap in pay between men and women both in general and in individual sectors. As a rule, women receive lower wages than men for equal work, and the types of work available to women tend to be in sectors with lower wages. According to a May 2019 Survey of the Coalition for Democracy and Civil Society, many do not consider this a violation of equality.¹

Despite the legislative framework and the existence of various programs, Kyrgyzstan has largely failed to achieve the goals set out for women's equality in the work force. According to the Akyikatchy Institute (Ombudsman) and human rights organizations, monitoring the protection of women's rights in employment², discrimination in practice is quite common and manifested in various forms and relates to various aspects of work from hiring and dismissal to remuneration.

¹<http://coalition.kg/2019/09/13/это-должен-знать-каждый-пять-вопросов/>.

²The focus group of NGO representatives, public authorities (department for families and children support) dated 04.10.2019, venue: Bishkek, Park Hotel; Special report "Respect for the labour rights of women and children in the Kyrgyz Republic: Monitoring results. Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2017. - <http://www.ombudsman.kg>.

2. LEGAL, REGULATORY AND POLICY FRAMEWORKS

2.1. International standards

Kyrgyzstan has ratified all of the 27 human and labour rights treaties included in GSP+. The right to work is recognized in many of them,³ but the International Covenant on Economic, Social and Cultural Rights (ICESCR) outlines the right most broadly. Under the ICESCR, member states recognize “the right to work, which includes the right of everyone to receive the opportunity to gain their living by work that he freely chooses or to which he freely agrees, and will take appropriate steps to ensure this right.”⁴

The Convention also:

recognizes the right of everyone to fair and favorable terms of work, including, in particular:

- a) remuneration providing at least to all workers:
 - i) fair salary and equal remuneration for work of equal value without any distinction, and, in particular, women should be guaranteed working conditions no worse than those enjoyed by men, with equal pay for equal work;
 - ii) a satisfactory existence for themselves and their families in accordance with the provisions of this Covenant;
- b) safe and healthy working conditions;
- c) the equal opportunity for everyone to promotion in work to the corresponding higher levels solely on the basis of seniority and competence;
- d) rest, leisure and a reasonable restriction of working time and paid periodic leave, as well as holidays compensation.⁵

The ICESCR also recognizes the right of each person to establish and join labour unions of their choice, as well as the right of labour unions to function freely.⁶ Unfortunately, Kyrgyzstan has not ratified the Optional Protocol, which would allow individuals to submit complaints for violation of their (labour) rights.⁷

A significant contribution to the codification of international legal norms in the field of human rights is made by specialized agencies of the United Nations, such as the International Labour Organization (ILO). The ILO has promulgated more than 180 conventions in the field of employment, occupational health, and labor rights. The Kyrgyz Republic joined ILO on March 31, 1992 and assumed obligations for all of the ILO conventions that had been ratified by the USSR. Since joining, during the ILO existence, 189 conventions and 200 recommendations have been adopted. Kyrgyzstan has ratified 53 conventions, including conventions inherited from the USSR.⁸

Kyrgyzstan is a state party to eight out of nine UN core human rights treaties, except the Convention for the Protection of All Persons from Enforced Disappearance, and six out of

³For example, International Covenant on Civil and Political Rights, art. (8)(3)(a); International Convention on the Elimination of All Forms of Racial Discrimination, art. (5)(e)(i); Convention on the Elimination of All Forms of Discrimination Against Women, art. 11(1)(a); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 11, 25, 26, 40, 52, and 54.

⁴ICESCR, art. (6)(1).

⁵ICESCR, art. 7.

⁶ICESCR, art. 8.

⁷<https://www.ohchr.org/RU/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>.

⁸https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103529

https://ombudsman.kg/index.php?option=com_content&view=category&layout=blog&id=116&Itemid=302&lang=ru.

nine optional protocols thereto. Ratifying international human rights treaties, governments commit themselves to implementing measures and enacting legislation at the national level consistent with their treaty obligations and commitments. For example, through ICESCR ratification, the states agree to take steps to implement the rights specified in the Covenant: the right to work, which supports livelihood; the right to safe and healthy working conditions; the right to organize; the right to receive medical care; and etc. The Constitution contains a provision that international treaties that entered into force in the manner prescribed by law, to which Kyrgyzstan is a party, as well as generally recognized principles and norms of international law, are an integral part of the legal system of the Kyrgyz Republic. It has also generally submitted periodic reports on implementation of those treaties, including a report to the UN Committee on the Elimination of All Forms of Discrimination against Women⁹.

2.2. Constitutional principles and national legislation

Equality of labour rights is regulated by the Constitution and legislation. Article 16(2) of the Constitution says:

The Kyrgyz Republic respects and provides all persons within its territory and under its jurisdiction with human rights and freedoms. No one may be subject to discrimination based on gender, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, or other circumstances. Special measures established by law and aimed at ensuring equal opportunities for various social groups in accordance with international obligations are not discrimination.

Article 42 of the Constitution sets out initial principles for the legal regulation of labour relations:

1. Everyone has the right to own, use and dispose of his property, the results of his activities.
2. Everyone has the right to economic freedom, free use of his abilities and his property for any economic activity not prohibited by law.
3. Everyone has the right to freedom of labour, to dispose of his abilities to work, to choose a profession and occupation, protection and working conditions that meet the safe and healthy requirements, as well as the right to receive salaries not lower than the minimum subsistence level established by law.

Each person is entitled to these constitutional rights and freedoms, regardless of occupation. One should note that the rights and freedoms outlined in Article 42 are not all that a person is endowed with in employment; they are only the core ones. Kyrgyzstan has an extensive legislative framework governing labour rights which is intended to develop these constitutional principles and establish a system of guarantees concerning the labour rights of workers.¹⁰

⁹Kyrgyzstan: Fourth periodic reports of States parties due in 2012 - <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/431/60/PDF/G1343160.pdf?OpenElement>

¹⁰This legislative framework includes the Labour Code, the Law on Labor Protection; the Law on Labour Unions; the Law on Social Partnership in Labor Relations; the Law on Promotion of Employment; the Law on the Minimum Wage; the Law on Ensuring the Timely Issuance of Wages, Pensions, Benefits and Other Social Benefits; the Law on State Civil Service and Municipal Service; the Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women; Regulation 136 on the State Inspectorate for Environmental and Technical Safety; and others.

Article 9 of the Labour Code prohibits discrimination in employment. When considering an individual for employment, employers may only take into account the applicant's professional qualities. The Labour Code does not specify the concept of discrimination or outline the forms of discrimination it covers. Although the list of bases for discrimination is open, it does not contain some such as special health needs, sexual orientation, and gender identity.¹¹ This may result in those who apply the law and those who seek protection through the law not clearly understanding what signs or situations fall under its action. It may also have negative consequences for the correct and consistent application of the law.

Gender equality and the prohibition of gender discrimination are important components of democracy; therefore, their achievement is one of the priority political and social tasks in all countries. In 2008, the Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women was adopted, which prohibits gender discrimination and guarantees the creation of equal opportunities for people of different genders to participate in government. This Law does not contain a definition of the concept of discrimination, nor does it define the concepts of "direct" and "indirect" discrimination.¹²

Although many parts of the country's national legislation prohibit discrimination, there is no single law in Kyrgyzstan which directly addresses, specifies and defines the illegality of discrimination. In April 2018, the UN Committee on the Elimination of Racial Discrimination, when considering the combined eighth to tenth periodic reports of Kyrgyzstan, in its concluding remarks recommended that the state adopt comprehensive anti-discrimination legislation that would give a definition of direct and indirect discrimination, cover all signs of discrimination and prohibit all forms of racial discrimination.¹³ Over the past years, the Coalition for Equality in Kyrgyzstan has advocated for the adoption of an anti-discrimination law.¹⁴

In June 2018, a draft law on Ensuring Equality was prepared by deputies of the Zhogorku Kenesh (Parliament of the Kyrgyz Republic) and submitted for public discussion.¹⁵ The draft was developed in accordance with international standards and recommendations in the field of protecting the human and civil rights and freedoms, in order to ensure equality by preventing, suppressing and eliminating all forms of discrimination by public authorities, local self-governments, legal entities, and individuals. The draft law defines the bodies with the authority to prevent, suppress, and eliminate all forms of discrimination and to ensure equality. It defines "discrimination," includes an expanded list of forms of discrimination, and includes a list of social groups protected by law. Unfortunately, today there is no additional information on further promotion of the draft law on the website of the Zhogorku Kenesh.

¹¹<http://cbd.minjust.gov.kg/act/view/ru-ru/1505>.

¹²<http://cbd.minjust.gov.kg/act/view/ru-ru/202398>.

¹³https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/KGZ/CO/8-10&Lang=Ru.

¹⁴The Coalition for Equality in Kyrgyzstan - <https://www.facebook.com/equalityinkg>.

¹⁵Read: <http://www.kenesh.kg/ru/article/show/4046/na-obshtestvennoe-obsuzhdenie-s-28-iyunya-2018-goda-vinositsya-proekt-zakona-kirgizskoy-respubliki-ob-obespechenii-ravenstva>.

On March 24, 2000, through Decree No. 158, the Government approved a list of 446 productions, works, professions, and positions deemed to harmful or dangerous for women and prohibited women from working in those areas. This issue is considered in more detail below in the report as a violation of women's rights in employment.

Criminal legislation provides for liability for violations of human rights, namely direct or indirect restriction of rights or the establishment of direct or indirect privileges depending on gender, race, nationality, language, age, disability, ethnicity, religion, political or other beliefs, education, origin, property, or other situation which, due to negligence, caused significant harm.¹⁶ But, according to the Kloop news website, in the material prepared together with the Coalition for Equality, "According to information from the judicial department, during period from 2013 to 2017 in the courts of Kyrgyzstan, there were only six cases [filed] under the article on violation of equality. There was only one verdict out of those six cases—a person was convicted."¹⁷

In accordance with the Labour Code, labour rights monitoring is entrusted to the prosecutorial authorities, the Occupational Safety and Health Administration, and local self-government bodies, the city mayor's office, and local administrations.¹⁸ But, unfortunately, this system does not have a clear mechanism for regular monitoring of the implementation of these legal norms. Moreover, regarding the provision of resources for the currently operating Occupational Safety and Health Administration, and taking into account the complex duties of labour inspectors, it could be argued that the actual provision of resources for the Occupational Safety and Health Administration is insufficient and thus fails to comply with international standards. Specifically, Article 10 of ILO Convention No. 81 on labour inspection in industry and trade, according to which the number of labor inspectors must be sufficient to ensure the effective implementation of the functions of the Inspection Service, taking into account the importance of inspectors' tasks, the physical resources provided to inspectors, and the necessary conditions for site visits to be effective. Additionally, Article 14 of the ILO Convention on labour inspection in agriculture requires parties to take measures to ensure a sufficient number of labour inspectors in agriculture in order to effectively carry out the functions of the Inspection Service.

Three entities have jurisdiction over labour disputes under the Labour Code: the commission on labour disputes, the State Inspectorate for Environmental and Technical Safety, and the courts.¹⁹ The procedure of the State Inspectorate for Environmental and Technical Safety, including labour inspections, is governed by the Law on the Inspection

¹⁶Art. 185, Criminal Code.

¹⁷<https://kloop.kg/blog/2019/03/04/>.

¹⁸Section IX "Protection of the labour rights of workers. Settlement of labour disputes. Liability for violation of labour legislation" - <http://cbd.minjust.gov.kg/act/view/ru-ru/1505>.

¹⁹See Art. IX, Protection of the labour rights of workers. Settlement of labour disputes. Liability for violation of labour legislation, <http://cbd.minjust.gov.kg/act/view/ru-ru/1505/>.

More information regarding the State Inspection for Environmental and Technical Safety can be found here: <http://www.geti.gov.kg>. In accordance with Decree No. 12 on the Public Authorities under the Government and Other Organizations under the Jurisdiction of the Government of the Kyrgyz Republic (12 Jan. 2012) and Resolution No. 1452-V of the Zhogorku Kenesh on the Structure of the Government of the Kyrgyz Republic (23 Dec. 2011), and also in connection with the reform of the executive authorities, the State Inspection for Environmental and Technical Safety was established and entrusted with inspection and supervision functions held by the former State Labour Inspectorate under the Ministry of Labour, Employment and Migration.

Procedure of Business Entities. According to Art. 6(8) of the Law, scheduled inspections of newly-established business entities shall not be performed within three years from the date of state registration as a legal entity or individual entrepreneur. This legislative norm should not apply to inspections in the field of occupational labour and employment, since this norm can protect against inspections of “one-day companies”, in which there are often a large number of violations specifically in employment.

Further, in order to create favorable conditions for business development, improve the investment climate, support the economic activities of business entities, ensure their legal protection, eliminate unreasonable and unnecessary interference of authorized bodies in the activities of business entities, the government decreed that from 1 January 2019 to 1 January 2021 there is to be a ban on inspections of business entities²⁰ conducted by authorized bodies having the right to conduct inspections of business entities, according to the List approved by the Resolution of the Zhogorku Kenesh of the Kyrgyz Republic “On approval of the list of the authorized bodies entitled to conduct inspections of businesses” dated 10.11.16. No. 1057-VI, with the exception of checks carried out:

- 1) in the framework of criminal and civil proceedings;
- 2) upon applications of business entities in accordance with the legislation of the Kyrgyz Republic;
- 3) at the request of state authorities of other countries;
- 4) according to statements of individuals and legal entities on facts that pose a threat to the life and health of the population and the environment;
- 5) in cases of violation of the antimonopoly legislation of the Kyrgyz Republic;
- 6) on environmental and technical safety of business entities of the energy sector included in the List of Strategic Objects of the Kyrgyz Republic, approved by Decree of the Government of the Kyrgyz Republic dated February 17, 2014 No. 99, and business entities engaged in the study and development of mineral resources;
- 7) on compliance with laws in the field of the fuel and energy complex, in terms of the formation and application of tariffs for electric and thermal energy, and natural gas.²¹

The above legal norm indicates that the ban (moratorium) on inspections also applies to inspections conducted in the field of labour protection and labour relations.

Under Art. 14(2) of the Law on the Inspection Procedure of Business Entities, access to inspectors to businesses during off-hours is not allowed. However, these procedural restrictions on labour inspections of businesses do not meet the requirements of Article 12 of ILO Convention No. 81, which stipulates that labor inspectors, provided with documents proving their authority, are entitled: a) to have unrestricted access without prior notice and at any time of the day to any the enterprise covered by the inspection control; b) to enter in the daytime in all buildings that they have sufficient reasons to consider falling under the control of the inspection; c) to carry out any inspections, controls and investigations that they may consider necessary to ensure that the legal provisions are effectively enforced.

²⁰Decree No. 586, Government of the Kyrgyz Republic (17 Dec. 2018).

²¹<http://cbd.minjust.gov.kg/act/view/ru-ru/12797>

2.3. Policies, strategies to support women in employment

In 2012, Kyrgyzstan adopted a National Strategy for Achieving Gender Equality by 2020, prioritizing women in the economy, education for girls and women, access to justice, and political equality. Subsequently, the Ministry of Labour and Social Development created the National Action Plan for Achieving Gender Equality for 2018-2020, approved by the Decree of the Government of the Kyrgyz Republic dated November 19, 2018, No. 537.²² Nevertheless, despite the legislative framework and the existence of various programs, Kyrgyzstan has failed to achieve the goals outlined in these documents.

According to the Akyikatchy Institute (Ombudsman) and human rights organizations monitoring women's rights in employment, discrimination in employment is quite common, and it manifests itself in various forms and concerns various aspects of work from hiring and dismissal to remuneration.²³ In 2019, the Legal Clinic Adilet Public Foundation, within the framework of the project "Protecting and Promoting the Right to Equality in Kyrgyzstan," analyzed the labour legislation and judicial practice of the Kyrgyz Republic for compliance with the principle of the prohibition of discrimination in the world of work. Based on the results of the analysis, it was concluded that the nature of the occurrence of most cases of discrimination on one or another basis lies not in the presence of bad laws, but in law enforcement practice.

Labour disputes in the courts of Kyrgyzstan 2015-2016-2017

Courts of first instance

➤ Civil cases adjudicated:

2015 – 43 824 cases (with claim full satisfaction - 39 986 cases - 91,2%)

2016 – 43 212 cases (with claim full satisfaction - 38 033 cases - 88%)

2017 – full data not available

➤ Number of total civil cases addressing labour relations:

2015–562 cases, 0,9% (including employment reinstatement – 344)

2016–668 cases, 1% (including employment reinstatement – 401)

2017 – full data not available

²²According to clause 2 of the Decree of the Government of the Kyrgyz Republic dated June 27, 2012 No. 443 (as amended on November 19, 2018 No. 537), state executive bodies and city halls of the cities of Bishkek and Osh (as agreed) are prescribed at the end of each half year, no later than the 5th day of the month, following the reporting period, submit to the Ministry of Labour and Social Development of the Kyrgyz Republic information on the implementation of the National Action Plan in the form approved by this ministry. To date, there are publicly available: (1) Beijing + 25: National Review of the Kyrgyz Republic on the implementation of the Beijing Declaration and the Beijing Platform for Action. Progress and challenges - https://www.unece.org/fileadmin/DAM/Gender/Kgz_Beijing_25_Review_Rus_Final.pdf; (2) an interim report of the Ministry of Emergency Situations of the Kyrgyz Republic on the implementation of the National Plan of Action for Achieving Gender Equality in the Kyrgyz Republic for 2018-2020, as of 20.10.2019 - <http://ru.mes.kg/wp-content/uploads/2018/02/za-10-2019r.pdf>.

²³Focus group of NGO representatives, public authorities (department for the families and children support) dated 04.10.2019, venue: Bishkek, Park Hotel; Special report "Respect for the labour rights of women and children in the Kyrgyz Republic: Monitoring results. Akyikatchy Institute (Ombudsman) of the Kyrgyz Republic, 2017 - <http://www.ombudsman.kg>.

Cases heard by the Supreme Court relating to the exercise of supervisory functions:

2015 – 247 (12.8%) on labour relations, including 182 on employment reinstatement
2016 – 188 (12.3%) on labour relations, including 143 on employment reinstatement
2017 – 228 (9.7%) on labour relations, including 170 on employment reinstatement
Note: Data published in the Bulletin of the Supreme Court of the Kyrgyz Republic is not disaggregated by gender.²⁴

3. Women in the work force

3.1. Overall situation

International standard	National legislation
<p>Universal Declaration of Human Rights</p> <p>Article 1 All persons are born free and equal in dignity and rights.</p> <p>Article 7 All persons are equal before the law and have the right, without any distinction, to equal protection. All persons have the right to equal protection against any discrimination that violates this Declaration and against any incitement to such discrimination.</p> <p>Article 23 1. Every person has the right to work, to free choice of work, to fair and favorable working conditions and to protection against unemployment.</p> <p>International Covenant on Civil and Political Rights</p> <p>Article 3 The States-Members to this Covenant shall guarantee the equal right of men and women to the use of all civil and political rights provided for in this Covenant.</p> <p>Article 26. All persons are equal before the law and are entitled without any discrimination to equal protection of the law ...</p>	<p>KR Constitution</p> <p>Article 16 1. Human rights and freedoms are inalienable and belong to everyone by birth. 3. In the Kyrgyz Republic, everyone is equal before the law and the court. 4. In the Kyrgyz Republic, men and women have equal rights and freedoms, equal opportunities for their implementation.</p> <p>Article 23 1. Slavery and human trafficking are not allowed in the Kyrgyz Republic. 3. Forced labour is prohibited, except in cases of war, the elimination of natural disasters and other emergency circumstances, as well as in the execution of a court decision. ...</p> <p>Article 42 3. Everyone has the right to freedom of labour, to dispose his abilities to work, to choose a profession and occupation, protection and working conditions that meet the requirements of safety and hygiene, ...</p> <p>KR Labour Code</p> <p>Article 2 The main principles of legal regulation of labour and relations directly related to</p>

²⁴Read: Bulletin of the Supreme Court of the Kyrgyz Republic No. 1 (64) 2017, No. 1 (66) 2018 - <http://sot.kg/post/byul-leten-verhovnogo-suda-kyrgyzskoj-respubliki-1-66-ot-2018-goda>.

ILO Convention No. 29 concerning Forced or Compulsory Labor

Article 1

1. Each ILO Member that ratifies this Convention undertakes to abolish the use of forced or compulsory labour in all its forms as soon as possible.

Article 2

1. For the purposes of this Convention, the term "forced or compulsory labour" means any work or service required of a person under the threat of any punishment for which the person has not offered his services voluntarily.

Article 25

Unlawful engagement in forced or compulsory labour is prosecuted, and each Member ratifying this Convention is required to ensure the true effectiveness and strict compliance with the sanctions prescribed by law.

ILO Convention 105 on the Abolition of Forced Labour

Article 1

Each ILO Member ratifying this Convention undertakes to abolish forced or compulsory labour and not to resort to any form thereof:

- a) as a means of political influence or education, or as a measure of punishment for the presence or expression of political views or ideological beliefs that are contrary to the established political, social or economic system;
- b) as a method of mobilizing and using labour for the needs of economic development;
- c) as a means of maintaining labour discipline;
- d) as a means of punishment for participating in strikes;
- e) as a measure of discrimination on signs of racial, social and national origin or religion.

Convention on the Elimination of All Forms of Discrimination against Women

them are recognized:

- the right to work that every citizen freely chooses or freely agrees to, including the right to dispose of his abilities to work and choose a profession and occupation;
- freedom to work;
- prohibition of forced labour and discrimination in the field of labour relations;

Article 9

Everyone has equal opportunities to exercise their labour rights and freedoms.

Article 10

Forced labour, that is, coercion to perform work under the threat of any coercive force, is prohibited, except in cases:

- performance of work, which is stipulated by the legislation on military duty and military service or replacing alternative service;
- performance of work in emergency situations, that is, in cases of declaring a state of emergency or martial law, distress or threat of disaster (fires, floods, famines, earthquakes, severe epidemics or epizootics), as well as in other cases that threaten life or normal living conditions all or part of the population;
- performance of work as a result of a court verdict which has become enforceable under the supervision of state bodies responsible for compliance with the law in the execution of court verdicts.

Law of the Kyrgyz Republic on the Prevention and Suppression of Human Trafficking

Article 1

forced labour - the performance of any work or the provision of services under threat of punishment, to the performance of which the person voluntarily did not give consent; ...

Article 11

1. States-Members shall take all appropriate measures to eliminate discrimination against women in employment in order to ensure equal rights based on equality between men and women, in particular:

- a) the right to work as an inalienable right of all people;
- b) the right to the same employment opportunities, including the application of the same selection criteria for employment;
- c) the right to a free choice of a profession or occupation, to promotion and guarantee of employment, as well as to enjoy all the benefits and working conditions, to receive vocational training and retraining, including apprenticeship, advanced training and regular retraining; ...

In 2018, 59.8 percent of the Kyrgyzstan population aged 15 and over was included in some level of economic activity.²⁵ Men are more active in the labour market, at 75.4 percent, compared to women at 45.1 percent.²⁶ According to the National Statistical Committee, the distribution of men and women in various fields of work is as follows:

Women dominate the **services sector**, with 88 percent of the real estate, 83 percent in healthcare and social services, 80 percent in education, and 55 percent in hotels and restaurants (55%).²⁷

Women prevail in the group of employees engaged in the preparation of information, **paperwork, accounting, financial and information services** (66.7%), specialists requiring **higher and middle qualification** levels (66.9% and 63.1), service workers, housing utilities, and trade (47.7%).²⁸

A high share of women work in positions requiring **higher and secondary specialized education**. However, their relative share in **management positions** is small. While women make up 41.9% of the total employed population, they are 37.8% of managers at all levels.²⁹

²⁵An economically active population is a part of the population that provides during the period under review the supply of labour for the production of goods and services. The economically active population includes all those employed in the economy and the unemployed. – Read: Kyrgyzstan in numbers, 2019. Bishkek, 2019. - National Statistical Committee of the Kyrgyz Republic - <http://www.stat.kg/media/publicationarchive/ad9b72f1-e155-4455-b7fd-5dd6a3df354b.pdf>.

²⁶Read: Kyrgyzstan in numbers, 2019 Bishkek, 2019.- National Statistical Committee of the Kyrgyz Republic - <http://www.stat.kg/ru/publications/sbornik-kyrgyzstan-v-cifrah/>

²⁷Read: Women and men of the Kyrgyz Republic, 2014-2018. Bishkek,2019. - National Statistical Committee of the Kyrgyz Republic, UNFPA. - <http://www.stat.kg/ru/publications/sbornik-zhenshiny-i-muzhchiny-kyrgyzskoj-respubliki/>.

²⁸Read: Women and men of the Kyrgyz Republic, 2014-2018. Bishkek,2019. - National Statistical Committee of the Kyrgyz Republic, UNFPA. - <http://www.stat.kg/ru/publications/sbornik-zhenshiny-i-muzhchiny-kyrgyzskoj-respubliki/>.

²⁹Read: Women and men of the Kyrgyz Republic, 2014-2018. Bishkek,2019. - National Statistical Committee of the Kyrgyz Republic, UNFPA. - <http://www.stat.kg/ru/publications/sbornik-zhenshiny-i-muzhchiny-kyrgyzskoj-respubliki/>; Kyrgyzstan in numbers, 2019 Bishkek, 2019.- National Statistical Committee of the Kyrgyz Republic - <http://www.stat.kg/ru/publications/sbornik-kyrgyzstan-v-cifrah/>.

The share of women who are **unpaid family workers** is more than 2.5 times higher than the share of men (72.6% and 27.4%, respectively).³⁰

3.2. Pay

International standard	National legislation
<p>International Covenant on Economic, Social and Cultural Rights</p> <p>Article 7 The States-Members to the present Covenant recognize the right of everyone to fair and favorable conditions of work, including in particular: a) remuneration providing at least to all workers:</p> <p style="padding-left: 40px;">i) fair wage and equal remuneration for work of equal value without any distinction, and, in particular, women should be guaranteed working conditions no worse than those used by men, with equal pay for equal work;</p> <p>Convention on the Elimination of All Forms of Discrimination against Women</p> <p>Article 11 1. States-Members shall take all appropriate measures to eliminate discrimination against women in employment in order to ensure equal rights based on equality between men and women, in particular:</p> <p style="padding-left: 40px;">d) the right to equal remuneration, including benefits, to equal conditions in respect of work of equal value, as well as to an equal approach to assessing the quality of work;</p> <p>ILO Convention No. 100 on Equal Remuneration for Men and Women for Work of Equal Value</p> <p>Article 1 b) the term “equal remuneration of men and women for work of equal value” refers to remuneration rates determined without gender-based discrimination.</p> <p>Article 2 1. Each Member of the Organization, using means consistent with current methods of setting remuneration rates, encourages and, insofar as it is compatible with these methods, ensures the application of the principle of equal remuneration of men and women for work of equal value to all workers.</p>	<p>KR Constitution</p> <p>Article 16 4. In the Kyrgyz Republic, men and women have equal rights and freedoms, equal opportunities for their implementation.</p> <p>Article 42 3. Everyone has the right to freedom of labor, to dispose his abilities to work, to choose a profession and occupation, protection and working conditions that meet the requirements of occupational safety and health, as well as the right to receive wages not lower than the minimum subsistence level established by law</p> <p>KR Labour Code</p> <p>Article 9 Unequal pay for equal work is not allowed.</p> <p>Law of the Kyrgyz Republic On state guarantees of equal rights and equal opportunities for men and women</p> <p>Article 19 Persons of different genders compete on equal terms and have equal pay with the same qualifications of the worker and the same working conditions. Reducing pay or worsening working conditions based on gender is not allowed and is considered as a manifestation of gender discrimination.</p>

³⁰Read: Women and men of the Kyrgyz Republic, 2014-2018. Bishkek,2019. - National Statistical Committee of the Kyrgyz Republic, UNFPA. - <http://www.stat.kg/ru/publications/sbornik-zhenshiny-i-muzhchiny-kyrgyzskoj-respubliki/>; Kyrgyzstan in numbers, 2019 Bishkek, 2019.- National Statistical Committee of the Kyrgyz Republic - <http://www.stat.kg/ru/publications/sbornik-kyrgyzstan-v-cifrah/>.

One of the most important indicators characterizing living standards and the labour market is wages. According to the National Statistics Committee, in 2018 the average monthly rated wage per employee amounted to 16,427 KGS (or about 200 Euro³¹).³² As for women, two problems were identified: (1) women as a rule receive lower wages than men for equal work, and (2) the types of work available to women pay lower salaries.

Despite the fact that the Constitution and the Labour Code of the Kyrgyz Republic enshrine the rule of equal pay for work of equal value, there is a significant gap in practice in pay between men and women both overall and in different economic sectors. Women's wages in 2018 amounted to only 71.6% of men's wages.³³

Percentage of women's wages compared to men, by region and year³⁴

Territory	Percentage ratio		
	2016	2017	2018
Kyrgyz Republic	75,3	72,5	71,6
Batken region	82,0	75,2	78,3
Jalal-Abad region	64,6	61,1	60,7
Issyk-Kul region	86,1	76,5	86,7
Naryn region	82,8	87,7	81,1
Osh region	82,7	90,9	82,8
Talas region	81,0	73,1	63,0
Chui region	75,9	71,6	70,1
Bishkek	79,7	75,9	76,2
Osh	81,9	79,1	80,8

In its 2015 assessment of Kyrgyzstan, the UN Committee on the Elimination of All Forms of Discrimination against Women recommended the adoption and effective application of legislation guaranteeing compliance with the principle of equal pay for work of equal value in order to close the pay gap between men and women, and regularly review wages in sectors in which women mostly work.³⁵ The Government approved an action plan to implement the CEDAW committee's recommendations, including an activity to analyze existing remuneration practices in sectors where women are concentrated and

³¹Here and after: Euro to som exchange rate (average, 1 euro = 82 som) for 2018, https://www.nbkr.kg/index1.jsp?item=1562&lang=RUS&valuta_id=20&beg_day=01&beg_month=01&beg_year=2018&end_day=23&end_month=12&end_year=2018

³²Read: Kyrgyzstan in numbers, 2019 Bishkek, 2019. - National Statistical Committee of the Kyrgyz Republic (p. 95) - <http://www.stat.kg/ru/publications/sbornik-kyrgyzstan-v-cifrah/>.

³³Read: Gender statistics. Dynamic tables. The ratio of women's wages to men's wages - <http://www.stat.kg/ru/statistics/gendernaya-statistika/>.

³⁴Read: Gender statistics. Dynamic tables. The ratio of women's wages to men's wages - <http://www.stat.kg/ru/statistics/gendernaya-statistika/>.

³⁵Read: Concluding comments on the fourth report of Kyrgyzstan, March 11, 2015. UN Committee on the Elimination of All Forms of Discrimination against Women. - https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/KGZ/CO/4&Lang=Ru.

to develop proposals to remove the pay gap.³⁶ Today, the wage gap between men and women remains, and as the data of the National Statistical Committee of the Kyrgyz Republic show, in the whole republic, the gap has even widened.³⁷

At the end of 2018, the National Statistical Committee evaluated average monthly wages in 13 fields. The evaluation results: women are paid more in only two fields — 700 KGS (about 8 Euro) in art, entertainment and recreation, and 800 KGS (about 9 Euro) in healthcare and social services. It was noted that these sectors are among the least paid areas in general. The most difficult situation is for women engaged in transport and cargo storage, where their wages are less than 60% (10800 KGS) (about 131 Euro) of men's. In the field of information and communication, the difference is 12000 KGS (about 146 Euro). On average, the wages of women are by 5000 KGS (about 60 Euro) less than men across all sectors.³⁸

The UN Committee on Economic, Social and Cultural Rights has also expressed concern that women do not enjoy equal rights with men in the economic, social and cultural spheres; this is partially confirmed by the fact that women are mainly employed in sectors and positions with lower wages. This is facilitated, in particular, by maintaining stereotypes regarding the role of men and women in society and underestimating the work performed by women. The Committee recommended that Kyrgyzstan expand the efforts to increase the minimum wage in order to guarantee an adequate standard of living for all employees and their families.³⁹ In its 2016 Regional Human Development Report, UNDP noted that women spent almost twice as much time on unpaid work related to housekeeping, raising children, caring for the elderly people, etc.⁴⁰

In May 2019, the Coalition for Democracy and Civil Society Public Union conducted a survey to assess the opinions of Kyrgyz citizens regarding the degree to which the rights of women and children are respected. 1600 people were interviewed from all regions of Kyrgyzstan, of which: 70% of the respondents believe that men earn more in Kyrgyzstan. At the same time, 9% specify that men's labor is rated higher in those areas where hard physical labour is needed.⁴¹

The Coalition's survey also has revealed another issue: a very low level of awareness of citizens about Kyrgyzstan's commitments to implement international human rights conventions: 85% of the respondents do not know about the existence of Kyrgyzstan's commitments.⁴²

³⁶Decree of the Government of the Kyrgyz Republic No. 123-r (April 19, 2017). <https://mlsp.gov.kg/gendernaya-politika/>; <http://cbd.minjust.gov.kg/act/view/ru-ru/90053?cl=ru-ru>; *Assessment of the human rights situation in the Kyrgyz Republic. Akyikatchy (Ombudsman) of the Kyrgyz Republic. January 2018* - <https://ombudsman.kg/images/files/news/2018/specdokladi/situaciya.pdf>.

³⁷Read: Gender statistics. Dynamic tables. The ratio of women's wages to men's wages - <http://www.stat.kg/ru/statistics/gendernaya-statistika/>.

³⁸Read: <https://ru.sputnik.kg/Kyrgyzstan/20190601/1044530512/kyrgyzstan-muzhchiny-zhenshchiny-zarplata-sravnenie.html>.

³⁹Read: Concluding comments on the combined second and third periodic reports of Kyrgyzstan, July 7, 2015. UN Committee on Economic, Social and Cultural Rights. - https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/KGZ/CO/2-3&Lang=Ru.

⁴⁰Read: UNDP. Regional Human Development Report 2016. Inequality and Human Development in Eastern Europe, Turkey and Central Asia: Progress and Risks. Reduction of Gender Inequality in Political Participation in the Kyrgyz Republic.

⁴¹Read: <http://coalition.kg/2019/09/13/это-должен-знать-каждый-пять-вопросов/>.

⁴²Read: <http://coalition.kg/2019/09/13/это-должен-знать-каждый-пять-вопросов/>.

3.3. Gender discrimination in employment

In 2008 the Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women was adopted, prohibiting direct and indirect gender discrimination and guaranteeing the establishment of equal opportunities for people of different genders to participate in state governance.⁴³ The law includes the terms “gender discrimination,” “indirect gender discrimination,” and “direct gender discrimination,”⁴⁴ but unfortunately none of these terms are defined.

International standard	National legislation
<p>International Covenant on Economic, Social and Cultural Rights</p> <p>Article 7</p> <p>The States-Members to the present Covenant recognize the right of everyone to fair and favorable conditions of work, including, in particular:</p> <p>c) the same opportunity for everyone in promotion to the corresponding higher levels solely on the basis of seniority and competence;</p> <p>International Covenant on Civil and Political Rights</p> <p>Article 26</p> <p>All people are equal before the law and are entitled without any discrimination to equal protection of the law. In this regard, all kinds of discrimination should be prohibited by law, and the law should guarantee all persons equal and effective protection against discrimination on any reasons, such as race, color, gender, language, religion, political or other beliefs, national or social origin, financial status, birth or other circumstances.</p> <p>Convention on the Elimination of All Forms of Discrimination against Women</p>	<p>KR Constitution</p> <p>Article 16</p> <p>2. The Kyrgyz Republic respects and provides all individuals within its territory and under its jurisdiction with human rights and freedoms.</p> <p>No one may be discriminated against on the basis of gender, race, language, disability, ethnicity, religion, age, political or other beliefs, education, origin, property or other status, or other circumstances.</p> <p>Special measures established by law and aimed at ensuring equal opportunities for various social groups in accordance with international commitments are not discrimination.</p> <p>4. In the Kyrgyz Republic, men and women have equal rights and freedoms, equal opportunities for their implementation.</p> <p>Article 42</p> <p>3. Everyone has the right to freedom of labour, to dispose his abilities to work, to choose a profession and occupation, protection and working conditions that meet the requirements of occupational safety and health, as well as the right to receive wages not lower than the legally established subsistence minimum.</p> <p>KR Labor Code</p>

⁴³Read: <http://cbd.minjust.gov.kg/act/view/ru-ru/202398>.

⁴⁴Read: <http://cbd.minjust.gov.kg/act/view/ru-ru/202398>.

Article 11

1. The States-Members shall take all appropriate measures to eliminate discrimination against women in employment in order to ensure equal rights based on equality between men and women, in particular:

b) the right to the same employment opportunities, including the application of the same selection criteria for employment;

c) the right to a free choice of a profession or occupation, to promotion and guarantee of employment, as well as to use all benefits and working conditions, to receive vocational training and retraining, ...;

f) the right to protection of health and safe working conditions, including the preservation of the function of reproduction.

ILO Convention No. 111 on Discrimination in Employment and Occupation

Article 1

1. For the purposes of this Convention, the term "discrimination" includes:

a) any distinction, prevention or preference based on race, color, gender, religion, political opinion, national origin or social origin, leading to the destruction or violation of equal opportunities or treatment in employment and occupation;

Article 2

Each member of the Organization for which this Convention is effective undertakes to define and implement a national policy aimed at promoting, in a manner consistent with national conditions and practice, equality of opportunity and treatment with respect to work and employment, with a view to eradicating any discrimination in respect thereof.

Article 9

Everyone has equal opportunities to realize their labour rights and freedoms.

No one may be limited in labour rights and freedoms or receive any advantages in their realization, depending on gender, race, nationality, language, origin, property and official position, age, place of residence, religion, political opinion, affiliation or non-belonging to public associations, as well as from other circumstances not related to the business qualities of the worker and his working results.

The establishment of differences, exceptions, preferences and restrictions that are determined by the requirements, specific to a particular type of labour, established by law, or caused by special care of the state for persons in need of increased social and legal protection, is not discrimination.

Law of the Kyrgyz Republic On state guarantees of equal rights and equal opportunities for men and women

Article 5

Direct and indirect gender discrimination in any field of activity in relation to people of different gender is prohibited.

Article 18

The employer, when carrying out his activities, must ensure a staged progress towards gender representation.

The employer has the right to carry out positive actions aimed at achieving a balanced ratio of women and men in different areas of work, as well as among different categories of workers.

The employer, regardless of ownership, is required to take measures to ensure that working conditions are equivalent for people of different genders.

The employers are prohibited in job

announcements (advertisements) to offer jobs only to women or only to men, with the exception of specific work that can only be done by persons of a certain gender; put forward different conditions; demand from persons employed the information about their personal life, plans for the birth of children.

3.3.1. Ban on women in certain professions

In 2000, the Government issued Decree No. 158 approving a list of 446 productions, jobs, professions and positions deemed too harmful and dangerous for women, and in which women were thus prevented from working.⁴⁵ According to paragraph 2 of the list, women are barred in all circumstances from employment in the listed roles, regardless of the circumstances.⁴⁶

On January 20, 2018, the Youth March for the Protection of Women's Rights in Bishkek took place as part of the "International Women's March" Global Campaign. The "All Jobs for All Women" campaign aimed to eliminate discriminatory bans for women in employment in all countries of Eastern Europe and Central Asia. During the march, young people appealed to the Kyrgyz government to annul the decree because it violates women's right to work.⁴⁷

During the January 2018 Youth March, Olga Abramenko, an expert at the Memorial Anti-Discrimination Fund, noted that the list of prohibited professions prevents women from access to highly paid and prestigious professions, which further exacerbates discrimination in relation to women in the labor sphere and does not allow them to be financially independent, thus limiting the freedom of women.⁴⁸

Lists of professions prohibited for women, being a legacy of the Soviet law and practice, are currently valid in many countries of the former USSR.⁴⁹

Nº	Country	Article of the Labor Code	List approval date	Number of professions / jobs prohibited for women
1	Azerbaijan	241	1999	678 ⁵⁰
2	Belarus	262	2014	181 professions + 42 working spheres

⁴⁵Decree No. 158 (24 March 2000), Based on Article 303 of the Labour Code.

⁴⁶Read: <http://cbd.minjust.gov.kg/act/view/ru-ru/7182>.

⁴⁷Read: Human Rights Movement Public Organization: Bir Duino Kyrgyzstan" - <http://birduino.kg/ru/prensa/680-otchet-po-itogam-molodezhnogo-marsha-v-chest-zashchity-prav-zhenshchin-kyrgyzstana-v-ramkakh-vsemirnoj-kampanii-mezhdunarodnyj-zhenskij-marsh-dlya-podderzhki-prav-zhenshchin-mira>

⁴⁸experts of Human Rights Movement PO: Bir Duino Kyrgyzstan - <http://birduino.kg/ru/prensa/680-otchet-po-itogam-molodezhnogo-marsha-v-chest-zashchity-prav-zhenshchin-kyrgyzstana-v-ramkakh-vsemirnoj-kampanii-mezhdunarodnyj-zhenskij-marsh-dlya-podderzhki-prav-zhenshchin-mira>.

⁴⁹Read: Professions forbidden to women - gender discrimination. Human Rights Report by Memorial.2018.

⁵⁰<https://1news.az/news/gender-na-povestke-700-professiy-v-azerbaydzhane-vse-esche-pod-zapretom-dlya-zhenshin-foto>.

3	Kazakhstan	16	2015	213 ⁵¹
4	Kyrgyzstan ⁵²	303	2000	446
5	Moldova	248	1993	331
6	Russia	253	2000	456 (reduced to 100, effective from January 1, 2021) ⁵³
7	Tajikistan	216	2017	326
8	Uzbekistan	225	1999	477 the list is completely canceled in June 2019 ⁵⁴
9	Ukraine	174	1993	458 The list was canceled in December 2017, but the Article of the Labor Code was not canceled

Many professions prohibited for women are highly paid, such as long-haul commercial truck driving, long-distance bus driving with over 14 seats, and conducting rail transport. The list of prohibited professions, among other discriminatory effects, exacerbates the sectoral difference in employment between men and women and restricts women's access to high-paying professions.⁵⁵

Protective measures regarding the employment of women, based on stereotypes about their professional abilities and role in society, violate the principle of equal opportunities and equal treatment of men and women in employment and occupation. Provisions related to the protection of persons working in harmful or difficult conditions should be aimed at protecting the labour of both men and women in the workplace, taking into account gender differences associated with specific health risks. For example, the ILO supervisory bodies, during the consideration of reports of the Russian Federation, repeatedly drew the attention of the Government of the Russian Federation to the fact

⁵¹Information and legal system of the legal acts of the Republic of Kazakhstan - <http://adilet.zan.kz/rus/docs/V1500012597#z11>.

⁵²**KR LC. Chapter 24 “Features of the regulation of labor of women and other persons with family responsibilities”**

Article 303. Jobs prohibiting the use of women labour

It is forbidden to use the labor of women in heavy work and in work with harmful and (or) dangerous working conditions, as well as in underground operations, except for non-physical work or work in sanitary and domestic services, as well as in work related to lifting and moving loads manually, exceeding the maximum permissible norms for them. The list of productions, jobs, professions and positions with harmful and (or) dangerous working conditions, which prohibit the use of women's labour, and the maximum allowable load standards for women when lifting and moving heavy loads are approved in the manner determined by the Government of the Kyrgyz Republic. (Read - Decree of the Government of the Kyrgyz Republic No. 158 dated March 24, 2000).

⁵³Official Internet Legal Information Portal. 2005-2019. <http://publication.pravo.gov.ru/Document/View/0001201908150010?index=0&rangeSize=1>.

⁵⁴<http://lex.uz/docs/514958>.

⁵⁵Read: Decree of the Government of the Kyrgyz Republic No. 158 on the list of productions, jobs, professions and positions with harmful and (or) dangerous working conditions that prohibit the use of women's labour was approved on March 24, 2000 - <http://cbd.minjust.gov.kg/act/view/ru-ru/7182>.

that relevant standards should not go beyond protecting reproductive health of women and not be based on stereotypical ideas about the role of women in society.⁵⁶

The Ministry of Labour and Social Development announced on September 20, 2019, that it is revising the list to reduce the number of prohibited professions. However, the list is purely discriminatory and should be eliminated entirely.

3.3.2. Discrimination against gay and transgender women

In 2017 the Kyrgyz Indigo and Labrys NGOs released the study “Needs Assessment for Lesbian, Gay, Bisexual males and females and Queers in Bishkek,” which found an insignificant relationship between sexual orientation and income level, as only a few people can reveal their sexual orientation or gender identity in school and workplace settings for security reasons.⁵⁷ However, in the event where someone discloses their sexual orientation or gender identity, or when a third party discloses that information without permission, many gay and bisexual women find themselves driven out of the workplace due to harassment and intimidation.⁵⁸

Additionally, transgender women have low access to both employment and education because their outward appearance does not match the sex marker on their civil status documents. Transgender women face discrimination from employers and clients, and many find themselves forced into sex work, where they experience violence and extortion, both from clients and from law enforcement bodies (the police).⁵⁹

Within the framework of the survey ‘Transgender Needs Assessment for 2015-2016’, conducted by Kyrgyz Indigo NGO and Labrys NGO, 39% of respondents said that they had problems finding a job. Most indicated that income was not constant and could vary from month to month, while 72% said they worked in illegal jobs, including sex work.⁶⁰

Case Study 1: Aigerim worked in a construction company. Her boss found out about her sexual orientation and disclosed it throughout the team. Her colleagues began to mock her and created a hostile environment. Six months later, she quit, as she was no longer able to work in the team.

*Case Study 2: Zhyldyz, a lesbian working in an LGBT organization, notes that many gay women are trying to go abroad due to pressure in their families and are discriminated against in the workplace in migration.*⁶¹

⁵⁶Read: International Labor Standards and Russian Labour Legislation: Monograph / N. L. Lyutov, E. S. Gerasimova. - M.: Center for Social and Labor Rights, 2015; International Labour Conference, 100th Session, 2011. Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR). Report III (Part 1A).

⁵⁷Read: Needs Assessment for Lesbians, Gays, Bisexuals, Ambisexuals and Queers in Bishkek - https://indigo.kg/wp-content/uploads/2017/06/otsenka-potrebnostey_2016-compressed-1.pdf.

⁵⁸Read: Needs Assessment for Lesbians, Gays, Bisexuals, Ambisexuals and Queers in Bishkek - https://indigo.kg/wp-content/uploads/2017/06/otsenka-potrebnostey_2016-compressed-1.pdf.

⁵⁹Read: Needs Assessment for Lesbians, Gays, Bisexuals, Ambisexuals and Queers in Bishkek - https://indigo.kg/wp-content/uploads/2017/06/otsenka-potrebnostey_2016-compressed-1.pdf; Analytical review: Health and rights of LGBT community representatives in Kyrgyzstan. Bishkek, 2012. - https://indigo.kg/wp-content/uploads/2016/05/Desk-research_Kyrgyzstan-Ru-En_finalized.pdf; Trans Coalition in the post-Soviet space - <https://www.facebook.com/transcoalition/posts/2175220815879778>.

⁶⁰Read: Transgender Needs Assessment for 2015-2016. «Kyrgyz Indigo» NGO and «Labrys» NGO - <https://indigo.kg/wp-content/uploads/2017/07/Needs-Assessment-T.pdf>

⁶¹Names have been changed. The Kyrgyz Indigo NGO collected the stories.

An analytical review prepared by Kyrgyz Indigo and Labrys in 2012 noted a high level of violence and discrimination against transgender people due to the difficulty of hiding their gender identity. The review notes that violence and discrimination are closely related to vulnerability and lack of employment opportunities, as the documents and appearance of trans-people often do not match each other.⁶²

Further, in a survey conducted by the two NGOs in 2015-2016, 41% of respondents said their gender identity affected the possibility of obtaining education, 35% could not go to higher education institutions because of their identity, and 11% were worried about their safety in higher education institutions.⁶³

Case Study 3: Lola, a transgender woman, reported that from 2012 to 2018 she changed several jobs because of her gender identity. At first, she worked as a waitress in a cafe, but the administrator created a hostile atmosphere for her at work, and some clients refused her service due to transphobia. Then she got a job as a cutter in a sewing workshop, but the team found out about her gender identity and told her relatives. After some time, she quit.

She taught at the university for two years, but after refusing to have sex, her colleague spoke about her gender identity to the team, he showed her page on social networks. The vice principal constantly stated that she would seduce students. Harassment and intimidation in the workplace have become the daily norm. They did not even ask her to write a letter of resignation, but simply told her that her position had been cut and they would call back in six months, which was not done.

After that, Lola opened a small cafe where she was beaten by a transphobic-client with a mop, suffering a concussion and other health problems. She had to shut down the cafe. An unsuccessful attempt was also to open a grocery store, where drunk people often harassed her, and clients were extremely disparaging. After a series of unsuccessful attempts to find another job, Lola began to engage in sex work.⁶⁴

In the survey “Challenges and Barriers to Migration as the Consequences of the Economic Vulnerability of Trans-Women in 2019,” Kyrgyz Indigo noted that 64% of the respondents indicated that they were involved in sex work due to employment problems, which was caused by their gender identity. This study shows that trans-women have a high migration rate due to violence and harassment.⁶⁵

4. Conclusion

An important starting point for overcoming discrimination is equality of opportunity and treatment in labour and employment. Freedom from discrimination is one of the basic human rights necessary for workers to freely choose their place of work, to fully develop their potential, and to receive decent wages. Ensuring equality in the workplace brings

⁶²Analytical review: Health and rights of LGBT community representatives in Kyrgyzstan, «Kyrgyz Indigo» NGO and «Labrys» NGO, 2012 - https://indigo.kg/wp-content/uploads/2016/05/Desk-research_Kyrgyzstan-Ru-En_finalized.pdf.

⁶³Read: Transgender Needs Assessment for 2015-2016. «Kyrgyz Indigo» NGO and «Labrys» NGO - <https://indigo.kg/wp-content/uploads/2017/07/Needs-Assessment-T.pdf>.

⁶⁴Names have been changed. The Kyrgyz Indigo NGO collected the stories.

⁶⁵Trans Coalition in the post-Soviet space - <https://www.facebook.com/transcoalition/posts/2175220815879778>

significant economic benefits by enabling employers to access a larger group of qualified human resources. Under conditions of equality, workers have more opportunities to receive professional training, which supports their access to decent work and a living wage.

Nonetheless, discrimination remains common in Kyrgyzstan and manifests itself in various forms and relates to various aspects of work from employment and dismissal to remuneration. The nature of the occurrence of most cases of discrimination on one or another basis lies not in the presence of bad laws, but in law enforcement practice. This situation is not helped by the fact that Kyrgyzstan does not have a comprehensive anti-discrimination law.

One essential step to resolve this situation is raising awareness in society regarding the principles of non-discrimination and equal pay and the mechanisms and remedies available in case of a violation. Despite the fact that both the Constitution and the Labour Code enshrine the rule of the equal pay for work of equal value, there is a significant gap in practice in pay between men and women, both in general and in some sectors. The problems have been identified: (1) women, as a rule, receive lower salaries than men for equal work, (2) the types of work available to women lead to lower incomes, (3) the existing list of types of work and professions prohibited for women restricts the right of women to freedom of labour, the right to dispose their abilities to work, the choice of profession and occupation.

The existence of the list of occupations prohibited for women is a translation of gender stereotypes by the state that expresses the value of a woman only as a subject of reproductive and maternal functions. It also deprives women of the choice and the possibility of exercising the right to work, and neglects to recognize the situation of individual women, rather lumping them all into a group requiring “mandatory care”. Moreover, if the state introduces any prohibitions and restrictions in order to protect women, it is not about the rights, but about politics, since the right of the state to determine someone’s choice is already politics. In addition, when the prohibitions are not justified and not appropriate, then rights end and discrimination begins.

The monitoring was carried out by: (1) studying research reports, analysis and performance reports on international commitments, including the review of national legislation regarding the issues identified for the purpose of this monitoring; (2) analyzing statistics of public authorities freely available; (3) surveying in written public bodies and NGOs specialized in human rights; (4) examining official data, public comments posted in the media; reports of international organizations.

5. RECOMMENDATIONS

5.1. To the Government and Zhogorku Kenesh

Within the next year

- ➔ Improve the legislative framework:
 - a) Expand the grounds for discrimination in Article 9 of the Labour Code to include health status, sexual orientation, gender identity, gender expression.
 - b) Adopt comprehensive anti-discrimination legislation which defines direct and indirect discrimination, covers all signs of discrimination, and prohibits all forms of discrimination;
 - c) Repeal the Decree No. 158 containing the list of occupations prohibited for women;
 - d) Repeal Decree No. 586 “On the introduction of a temporary ban (moratorium) on inspections of business entities” regarding inspections of compliance with labour laws and labour protection.
- ➔ Provide sufficient resources to the Labour Health and Safety Administration to ensure the effectiveness of labour inspectors and bring normative legal acts regulating the procedure of inspections in line with international standards.
- ➔ Undertake awareness-raising campaigns on the issues of equal pay and the available mechanisms and remedies in case of violation.

5.2. To the Ministry of Labour and Social Development

In the next year:

- ➔ Raise before the Zhogorku Kenesh the need to ratify the Optional Protocol to the International Covenant on the Economic, Social and Cultural Rights, which would enable Kyrgyz to take labour rights cases to the relevant UN Committee.
- ➔ Identify sectors where there is the greatest gender division in employment, both in terms of pay and in terms of the ratio of men to women. Take measures to inform employers about the existence of the problem and encourage them to correct the gender imbalance. Provide incentives, which may include tax incentives, for employers in traditionally gender-differentiated sectors and professions.
- ➔ Undertake awareness-raising programs on the right to work, including gender equality.
- ➔ Educate workers and employers on the principle of equal pay, assessment of its compliance, and remedial mechanisms with the participation of labour unions, judges, labour inspectors, and other stakeholders.

5.3. To the State Inspectorate for Environmental and Technical Safety and the Federation of Labour Unions

- ➔ Continuously monitor compliance with labour legislation, taking into account the gender factor.