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2019 TRAFFICKING IN PERSONS REPORT: KAZAKHSTAN

KAZAKHSTAN: TIER 2 WATCH LIST

The Government of Kazakhstan does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included adopting a new anti-trafficking national action plan and establishing a victim compensation fund that will be capitalized through monetary penalties applied to convicted traffickers. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Efforts to identify and protect foreign victims remained inadequate compared to the estimated size of the population, and foreign victims who did not participate in criminal investigations were ineligible for services and had no legal alternatives to removal. Law enforcement made limited efforts to investigate, prosecute, and convict labor trafficking crimes. NGOs continued to report allegations of police officers' complicity in human trafficking; there remained few investigations or prosecutions of police or other government officials suspected of complicity. While not applied in 2018, legislative norms allowed for alleged traffickers to pay a settlement to victims to withdraw their criminal cases. Therefore Kazakhstan was downgraded to Tier 2 Watch List.

PRIORITIZED RECOMMENDATIONS

Significantly increase efforts to identify trafficking victims—particularly foreign forced labor victims—among vulnerable populations and refer these victims for assistance. • Significantly increase assistance available to foreign trafficking victims and ensure victim identification and assistance are not contingent on participation in investigation and prosecution efforts. • Ensure trafficking crimes are subject to criminal investigation and prosecution. • Vigorously investigate, prosecute, and convict suspected trafficking cases, respecting due process, including allegedly complicit government officials and police officers and labor traffickers. • Punish convicted traffickers with adequate penalties, which should involve significant prison terms. • Increase funding and resources for anti-trafficking police units. • Provide legal alternatives to deportation, especially where trafficking victims face hardship, abuse, or re-trafficking in the foreign country. • Provide specialized training to labor inspectors to identify victims of forced labor and report potential trafficking cases to the police. • Amend the trafficking law to align the definition of trafficking with international standards. • Provide anti-trafficking training or guidance for diplomatic personnel and peacekeepers to prevent their engagement in or facilitation of trafficking crimes. • Create mechanisms to ensure that the shelter service provider contract bidding process does not lead to any gaps in services available to victims.

PROSECUTION

The government decreased anti-trafficking law enforcement efforts. Articles 128, 134, 135, 308, 125(3b), and 126(3b) of the penal code criminalized sex trafficking and labor trafficking. However, inconsistent with the

definition of trafficking under international law, the law did not include force, fraud, or coercion as an essential element of the crime, but rather considered them an aggravating circumstance. The law prescribed penalties of three to five years' imprisonment for adult trafficking and five to seven years' imprisonment for child trafficking; the penalties could be increased to up to 15 years' imprisonment under aggravated circumstances. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape. Article 68 of the criminal code allowed defendants to pursue settlements by paying monetary compensation to the victim in exchange for having the criminal case withdrawn; while this option was not available in cases involving sex crimes against minors, it was an option in cases involving other forms of trafficking under article 128, part 1; in 2018, this article was not applied in any trafficking cases.

Police investigated 106 trafficking cases in 2018, compared to 101 in 2017. The government did not report the number of prosecutions. The government convicted 17 sex traffickers, compared to 29 traffickers in 2017; of the 17 convicted, eight received prison sentences ranging from three to nine years' imprisonment, five received conditional sentences ranging from 3.6 years to four years served outside of prison—one of whom was fined 2 million Kazakhstani tenge (KZT) (\$5,330), and four received suspended sentences ranging from 4.6 years to seven years. In addition, the government opened 182 investigations of trafficking-related crimes, including pimping and brothel maintenance. Many of the trafficking and trafficking-related cases were the result of four multi-day special anti-trafficking police operations, called "Stop Trafficking," in which the police located and closed brothels, arrested pimps, and registered adults in prostitution.

NGOs continued to report traffickers bribed low-ranking police officials to avoid these charges and alleged that some police officers facilitated forced labor or sex trafficking crimes. The government reported law enforcement efforts in two cases of alleged official complicity in 2018, including an ongoing investigation of the Director of the Center for Employment and Social Protection in Turkestan for labor trafficking, and an ongoing court case against a police officer in Kostanay province for covering up potential trafficking crimes.

The government continued to train police, prosecutors, and judges in the identification, investigation, and prosecution of trafficking crimes and funded police participation in international anti-trafficking conferences. In 2018, the Judicial Academy trained 65 judges on the protection of trafficking victims during the criminal process. The Ministry of Internal Affairs' (MVD) Trafficking in Persons Training Center trained 115 police officers on investigative techniques. The Prosecutors General Office trained 93 prosecutors on protection and trial of criminal cases related to human trafficking. In all training programs, the government provided the venue while international organizations, NGOs, and international donors covered other costs, including the travel of trainers and provision of training materials. Labor inspectors did not receive specialized training on identifying victims, nor did their official duties direct them to investigate trafficking indicators; they did not refer potential labor trafficking crimes to appropriate law enforcement. During the reporting period, the government jointly investigated 17 cases related to trafficking in cooperation with foreign governments, including Kyrgyzstan, Russia, Tajikistan, and Uzbekistan and conducted joint anti-trafficking operations with neighboring countries, resulting in the identification of 96 trafficking crimes. In 2018, the government extradited two foreign citizens wanted in their home countries for trafficking-related crimes.

PROTECTION

The government maintained protection efforts for Kazakhstani victims, but efforts to identify and assist foreign victims remained negligible, with no shelters available to foreign victims. The government identified 83 trafficking victims, an increase from 76 in 2017. Of those, all but six were exploited in Kazakhstan; 79 were victims of sex trafficking, three of forced labor, and one of forced begging. All but two of the identified victims were from Kazakhstan; the government identified two victims from Uzbekistan, one in forced labor and one in sexual exploitation. Six of the Kazakhstani victims were victims of sex trafficking in South Korea. The government identified the majority of sex victims during one of four anti-trafficking special police operations intended to uncover trafficking cases by locating and closing brothels, arresting pimps, and registering women in prostitution; the small number of labor victims indicated a lack of consistent proactive screening efforts during routine law enforcement efforts throughout the year. In 2018, NGOs reported assisting 122 trafficking victims, compared to 177 in 2017; among these, 36 were Kazakhstani and 86 were foreigners; 29 were victims of sex trafficking, 92 of forced labor; 42 were female, and 80 male. Of the 86 foreign victims, 82 were from Uzbekistan.

Law enforcement referred 19 victims to NGOs, foreign embassies referred ten, NGOs referred 69, 23 were referred by international organizations, and 24 victims self-referred (including through hotlines). The government-funded and NGO-operated trafficking hotline received 1,834 phone calls in 2018, the vast majority of which were requests for information while 23 were referred to anti-trafficking police units, but they did not result in confirmed trafficking cases. Observers noted many foreign victims were reluctant to self-identify to the police due to lack of trust, perceived corruption, and fear of punishment or deportation due to their unlawful status, among other reasons. In cases where law enforcement identified foreign victims, victims often refused to cooperate. According to experts, foreign victims report to local police upon return to their home country, where they felt safer.

The government continued to fund 10 NGO-operated shelters; one shelter in Temirtau closed due to gaps in the funding cycle. The 10 NGO-operated trafficking shelters offered legal, psychological, and medical assistance and were accessible to all Kazakhstani trafficking victims, regardless of gender or age. These services were not conditional upon victim's cooperation with law enforcement; however, foreign citizens were not eligible to receive services at these shelters, and all assistance to foreign victims was contingent upon cooperation with law enforcement. Victims were required to decide on cooperation at the time of their identification. In 2018, the government allocated at least 92 million KZT (\$245,240) to direct victim assistance, including 90 million KZT (\$239,900) for shelters and 2 million KZT (\$5,330) for victim assistance during investigations, a decrease from 162.7 million KZT (\$433,690) in 2017; the government shelter allocation in 2017 was significantly higher than in 2018 due to costs related to opening seven new shelters during the year. The shelters were staffed in accordance with the 2016 established standards for trafficking victim shelters. Bidding for shelter operation contracts is conducted annually, as the funding cycle is limited to one year; NGOs reported severe administrative and financial constraints at the end of the calendar year due to the end of the funding cycle and delays to the awarding of new contracts, which limited their ability to provide services. The government adopted a law on victim compensation in 2017, which allowed victims, including foreign victims, to request monetary compensation as a part of the criminal proceedings, instead of filing a civil suit in conjunction with the criminal case; the law was scheduled to be implemented in 2020. In July 2018, the government introduced means to the Criminal Code providing for the fixed withholding of payments from convicted criminals; these payments will be used to fund victims' monetary compensation. Victims could file a civil suit, but many could not afford attorney fees and were unaware of their ability to do so; no victims pursued a civil suit in 2018. The government provided pro bono attorneys to trafficking victims, although NGOs reported these attorneys were often inexperienced.

NGOs reported effective victim referral and police cooperation with anti-trafficking units assigned to each region. Law enforcement units mandated to address migration or trafficking issues had a formal system to identify trafficking victims among at-risk persons, such as undocumented migrants or persons in prostitution; nonetheless, officials' efforts to identify foreign victims and victims of labor trafficking remained limited. The government encouraged victims—including foreigners—to participate in investigations and prosecutions by providing witness protection during court proceedings, access to pre-trial shelter services, and basic provisions such as food, clothing, and medical and legal assistance. Such assistance ceased for foreign victims if the government did not initiate a criminal case. If a criminal case was not initiated, authorities did not recognize or give protective status to foreign victims. In 2018, the government provided one foreign victim legal protection (compared to two foreign victims in 2017 and 15 in 2016), including suspension of deportation proceedings, and special temporary residency throughout the criminal investigation. NGOs reported foreign victims sometimes experienced problems in accessing local medical care due to a lack of health insurance or residence permits. The government did not offer legal alternatives to foreign victims' removal to countries where they would face retribution or hardship and, according to local law, victims were deported after expiration of their temporary residency rights. In 2018, there were no reports of authorities criminally punishing victims for crimes as a direct result of trafficking; however, authorities routinely detained and deported possible foreign victims with no proactive efforts made to screen for trafficking victimization, offer referral to care providers, or ensure they were not penalized for crimes traffickers compelled them to commit.

The government repatriated Kazakhstani women and minors, including potential trafficking victims, whose parents or spouses were alleged fighters with ISIS. ISIS was known to use child soldiers and perpetrate other forms of trafficking. The children were generally housed with family members, and the state fully funded and supported their rehabilitation and reintegration.

PREVENTION

The government maintained prevention efforts, under the direction of the Interagency Trafficking in Persons Working Group, led by the Ministry of Internal Affairs. The government adopted an anti-trafficking national action plan for 2018-2020. The new action plan included elements designed to improve victim identification and assistance, investigation and prosecution of human trafficking cases, prevention of human trafficking, and cooperation with international and non-governmental organizations. The government continued to fund anti-trafficking information and education campaigns targeting potential trafficking victims, including children. The Ministry of Information and Communication funded radio and television programs, as well as the publication of newspaper articles and web-publications, designed to raise public awareness and prevent the crime. The government continued to advertise an NGO-operated anti-trafficking hotline; the hotline received 1,834 calls in 2018, which led to the identification of trafficking victims, but no confirmed human trafficking cases. In 2018, labor inspectors under the Ministry of Health and Social Protection conducted 6,681 inspections to identify labor violations, which resulted in 3,057 recruiters and employers receiving administrative fines for violations of foreign labor recruitment rules and employment of undocumented foreign laborers and the opening of 158 criminal cases by the MVD, although it was unclear if any cases included potential trafficking crimes. Migrant laborers reported using unofficial third party intermediaries to find employment and meet Kazakhstani migration registration requirements; these intermediaries often circumvented the law and facilitated the trafficking of foreign victims, but due to their unofficial status they were rarely held accountable. The government did not take any action to reduce the demand for commercial sex acts or forced labor. Although included in the 2018-2020 National Action Plan, the government did not provide anti-trafficking training to its diplomatic personnel and did not report providing anti-trafficking training to its troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Kazakhstan, and traffickers exploit victims from Kazakhstan abroad. Domestic trafficking remains a consistent problem, as traffickers lure victims from rural areas to larger cities with mala fide offers of employment. Kazakhstani men and women are subjected to forced labor mostly in Russia, but also in Bahrain, Brazil, the Republic of Korea, Turkey, and the United Arab Emirates. Kazakhstani women and girls are subjected to sex trafficking in the Middle East, Europe, East Asia, and the United States. Women and girls from neighboring Central Asian and Eastern European countries, as well as from rural areas in Kazakhstan, are subjected to sex trafficking in Kazakhstan; in most cases, traffickers target young girls and women, luring them with promises of employment as waitresses, models, or nannies in large cities. Some children are forced to beg. Adults and children may be coerced into criminal behavior. The relative economic prosperity in the government capital Nur-Sultan (Astana), the financial capital Almaty, and the western oil cities Aktau and Atyrau, attract large numbers of Kazakhstanis from rural villages, some of whom become victims of labor trafficking and sex trafficking. Chinese, Filipino, Ukrainian, Kazakhstani, and other Central Asian citizens, in particular Uzbekistani men and women, are subjected to forced labor in domestic service, construction, and agriculture in Kazakhstan. Since Russia banned re-entry for an estimated one million Uzbek migrants, many of them have sought temporary work and residence in Kazakhstan, where they remained vulnerable to trafficking; since 2014, the year the ban entered into effect, NGOs identified significantly more foreign victims, likely only a portion of the overall victims in this migrant population. Many victims of trafficking in Kazakhstan are lured through fraud and deceit, sometimes by friends or acquaintances. Organized crime groups and small trafficking rings with recruiters in Kazakhstan operated in conjunction with brothel operators in Kazakhstan and abroad. NGOs reported increased instances of traffickers using debt-based coercion in the exploitation of migrants. Traffickers capitalize on tough law enforcement policies to coerce migrants to remain in exploitative situations and leverage these policies to threaten victims with punishment and deportation if they notify authorities, fostering distrust in law enforcement.

ecoi.net summary:

Annual report on trafficking in persons (covering April 2018 to March 2019)

Country:

Kazakhstan

Source:

USDOS – US Department of State

Original link:

<https://www.state.gov/reports/2019-trafficking-in-persons-report-2/kazakhstan/>

Document type:

Periodical Report

Language:

English

Published:

20 June 2019

Document ID:

2010839

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

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