

Document #1407985

USDOS – US Department of State

Trafficking in Persons Report 2017 - Country Narratives - Kazakhstan

KAZAKHSTAN: Tier 2

The Government of Kazakhstan does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Kazakhstan remained on Tier 2. The government demonstrated increasing efforts by significantly increasing prosecution and conviction of human traffickers, expanding protection of victims by opening four new shelters for human trafficking victims, and approving a budget for shelter and victim assistance. The government also convicted and sentenced a former police officer for collusion in human trafficking. The government continued to fund and implement awareness-raising events. However, the government did not meet the minimum standards in several key areas. Legislative norms allow for “conciliation of parties,” which allows alleged traffickers to pay a settlement to victims to withdraw their criminal cases. Media continued to report allegations of police officers’ complicity in human trafficking, but the government reported few investigations or prosecutions of police or other government officials suspected of trafficking crimes.

RECOMMENDATIONS FOR KAZAKHSTAN

Update laws to align with international standards and exclude exemption from criminal liability due to conciliation of parties under human trafficking crimes or otherwise ensure such crimes are subject to criminal investigation and prosecution; increase efforts to identify trafficking victims—particularly foreign forced labor victims—among vulnerable populations and refer these victims for assistance; vigorously investigate, prosecute, and convict suspected trafficking cases, respecting due process, including allegedly complicit government officials and police officers; increase funding and resources for anti-trafficking police units; ensure victim identification and assistance is not contingent on successful investigation and prosecution efforts; cease deporting victims and provide legal alternatives to forced repatriation; train labor inspectors to identify victims of forced labor and report potential trafficking cases to the police; and provide anti-trafficking training or guidance for diplomatic personnel to prevent their engagement or facilitation of trafficking crimes.

PROSECUTION

The government increased anti-trafficking law enforcement efforts. Articles 128, 135, 125(3b), 126(3b), 308, and 134 of the penal code criminalize all forms of sex and labor trafficking and prescribe penalties of up to 15 years imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Amendments to the penal code that went into effect in 2015 increased penalties for crimes committed against children, including sex trafficking. Article 68 of the criminal code allows defendants to pursue settlements by paying monetary compensation to the victim in exchange for having the criminal case withdrawn. Although 2016 amendments preclude the possibility of invoking article 68 in cases of sexual crimes against minors, it still is an option in cases involving other forms of trafficking.

Police investigated 147 trafficking cases, compared to 104 in 2015. In 2016, law enforcement officials initiated 110 new prosecutions for trafficking offenses (97 in 2015), including 92 sex trafficking cases and 18 labor trafficking cases. The government convicted 45 offenders (12 in 2015); of which, 40 sex traffickers received sentences ranging from three to 10 years imprisonment and five labor traffickers received sentences of one to six years. In addition, the government opened 228 investigations of trafficking-related crimes, including pimping and brothel maintenance. NGOs continued to suspect traffickers bribed low-ranking police officials to avoid these charges. Media reported several cases in which police officers were accused of trafficking or sentenced for other offenses that may have involved trafficking. Such cases included a former deputy head of the regional counternarcotic department who allegedly recruited and facilitated sex trafficking and a former police officer convicted for collusion in human trafficking. The government sentenced the former police officer to 10 years in prison with a lifetime ban for work in law enforcement agencies in November 2016.

The government continued to provide a variety of specialized training courses for police, prosecutors, and judges in the identification, investigation, and prosecution of trafficking crimes and funded police participation in international anti-trafficking conferences. In 2016, the judicial institute and Ministry of Internal Affairs (MVD) conducted 13 training sessions for 166 judges and 133 police officers on the protection of trafficking victims during the criminal process and victim identification. More than 170 law enforcement officers and social workers participated in anti-trafficking conferences to exchange best practices in combating human trafficking and training on victim assistance. In all training programs, the government covered participant costs and the venue while international organizations, NGOs, and international donors contributed the expert fees and training materials. During the reporting period, the government jointly investigated 13 cases related to trafficking in cooperation with foreign governments, including Azerbaijan, Belarus, Kyrgyzstan, Russia, and the United Kingdom. In December 2016, the National Commission for Human Rights released the report “On the Protection of Rights of Migrants and Victims of Human Trafficking.” The report provided analysis of the implementation of the recommendations from two

reports previously published by the National Commission Special Reports “On the Rights of Migrants in Kazakhstan” and “On Current Issues Affecting Human Rights Protection in Combating Trafficking in Persons in the Republic of Kazakhstan.”

PROTECTION

The government increased efforts to protect victims. The government identified 110 trafficking victims, an increase from 92 in 2015. Of those, 82 were victims of sex trafficking and 21 of forced labor. All but 15 of the identified victims were from Kazakhstan; three of the Kazakhstani victims were subjected to trafficking in South Korea and the United Arab Emirates, while the rest were subjected to trafficking in Kazakhstan, recruited from rural to urban areas for both labor and sexual exploitation. All 82 Kazakhstani victims identified by the government received assistance from government-funded programs, however, foreign victims are not eligible for assistance in government-funded shelters. In 2016, NGOs reported assisting 167 trafficking victims (162 in 2015); among these, police referred 55 and international organizations, embassies, NGOs, and self-referrals were responsible for the additional 112. Of all 167 trafficking victims assisted by NGOs, 65 were Kazakhstani and 102 were foreigners; 33 were victims of sex trafficking, 134 of forced labor, 57 were female, 107 male, and three transgender. The government-funded and NGO-operated trafficking hotline received 841 phone calls in 2016, the vast majority of which were requests for information while six were referred to anti-trafficking police units.

In addition to one government-funded NGO-operated shelter in Astana, the government-funded the opening of three new NGO-operated trafficking shelters in Shymkent, Kostanay, and Almaty in 2016. The four NGO-operated trafficking shelters provide legal, psychological, and medical assistance and are accessible to all trafficking victims, regardless of gender or age. In 2016, the government allocated at least 25.97 million Kazakhstani Tenge (KZT) (\$77,918) to direct victim assistance, including 24 million KZT (\$72,007) for shelter assistance and 1.97 million KZT (\$5,911) for victim assistance during investigations, an increase from 4.7 million KZT (\$14,101) in 2015. The government special social services law entitles trafficking victims to care as “victims of violence.” In 2015, the government finalized standard criteria for determining eligibility for a wide range of social services, and in 2016, the government implemented the new standards in the operation of shelters for trafficking victims. Amendments to the penal procedural code made in 2015 allow victims to seek compensation from a government fund; however, the fund has not yet been established, as it requires the adoption of implementing regulations. 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 have a formal system to identify trafficking victims among at-risk persons, such as undocumented migrants or persons in prostitution. The government encouraged victims 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. In 2016, the government provided 15 foreign victims legal protection, including suspension of deportation proceedings, and special temporary residency throughout the criminal investigation. However, if a criminal case was not initiated,

authorities did not recognize and give protective status to foreign victims. 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 removal of foreign victims and forcibly repatriated all victims after expiration of their temporary residency rights. In 2016, there were no reports of authorities criminally punishing victims for crimes as a direct result of being subjected to trafficking.

PREVENTION

The government maintained prevention efforts, under the direction of the Interagency Trafficking in Person Working Group, led by the Ministry of Health and Social Development in 2016. The government continued implementing a national action plan for 2015-2017, which includes activities to improve anti-trafficking legislation; investigation and prosecution of human trafficking cases; victim identification and assistance; cooperation with international and non-governmental organizations; and prevention efforts such as public awareness programs. The government continued to fund anti-trafficking information and education campaigns targeting potential trafficking victims, including children. The Ministry of Culture and Information funded radio and television programs, as well as the publication of newspaper articles and web-publications, designed to prevent trafficking by raising public awareness. In July 2016, the MVD began a 25-day public information campaign in commemoration of International Day against Human Trafficking. During the campaign, police participated in TV and radio programs, conducted presentations at hospitals and tourist information and construction offices, and organized flash mobs at sporting events to raise public awareness of human trafficking. The MVD also distributed information in parks, shopping malls, rail stations, airports, hotels, and markets that included the number for the national anti-trafficking hotline. The hotline received more than 841 calls in 2016, which led to the investigation of six cases of human trafficking. The government allocated an undisclosed amount of funding to NGOs for prevention projects, including public awareness campaigns. The government allocated 9.8 million KZT (\$29,403) during the previous year. The government did not take any action to reduce the demand for commercial sex or forced labor. The government did not provide anti-trafficking training to its diplomatic personnel; however, Ministry of Foreign Affairs personnel attended trafficking in persons awareness training conducted by an international organization.

TRAFFICKING PROFILE

As reported over the past five years, Kazakhstan is a destination and, to a lesser extent, a source and transit country for men, women, and children subjected to sex trafficking and forced labor. Domestic trafficking remains a consistent problem, accounting for most identified victims. Kazakhstani men but also women are subjected to labor exploitation mostly in Russia, but also in the Republic of Korea. 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 and others may be coerced into criminal behavior. The relative economic prosperity in the government capital 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 sexual exploitation. Chinese, Filipino, 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. Many victims of trafficking in Kazakhstan indicate they were lured through fraud and deceit, sometimes by friends or acquaintances, and, at times, exploited by small organized criminal groups in Kazakhstan.

ecoi.net summary:

Annual report on trafficking in persons (covering April 2016 to March 2017)


Country:

Kazakhstan

Source:

USDOS – US Department of State (</en/source/11558.html>)

Original link:

<https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271215.htm> (<https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271215.htm>)

Document type:

Periodical Report

Language:

English

Published:

27 June 2017

Document ID:

1407985 (former ID [342530](/en/document/342530) (</en/document/342530>))

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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.

