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Labour
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▶ **Closing legal and policy gaps
in maternity protection
in the Kyrgyz Republic**

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First published 2022

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Closing legal and policy gaps in maternity protection in the Kyrgyz Republic. Moscow, Russia: International Labour Office, 2022.

ISBN: 9789220385418 (web PDF)

Also available in Russian: *Устранение пробелов политики и национального законодательства Кыргызской Республики относительно охраны материнства.* ISBN: 9789220385425 (web PDF). Москва, Россия: Международная организация труда, 2022.

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► Abbreviations

COVID-19	Coronavirus infection
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
KR	Kyrgyz Republic
MLSSM	Ministry of Labour, Social Security and Migration
MMI	Mandatory Medical Insurance
MMIF	Mandatory Medical Insurance Fund
NGES	National Gender Equality Strategy of the Kyrgyz Republic though 2030
NPGE	National Action Plan for Achieving Gender Equality for 2022-2024
SocFund	Social Fund of the Kyrgyz Republic
UN	United Nations

► Introduction

A national dialogue in the Kyrgyz Republic¹ was conducted from 2015 to 2017 in order to make an assessment of the social protection system. This assessment-based national dialogue identified maternity protection as one of the priorities for further action.² As a result, a study³ of the national legislation was undertaken with a focus on maternity protection and equal opportunities for workers with family responsibilities.

This report documents the changes which have taken place in national policies and legislation related to maternity protection in the world of work since the Government received the reports and publications reviewing relevant laws of the Kyrgyz Republic from the viewpoint of provisions of the Maternity Protection Convention, 2000 (No. 183) and the Workers with Family Responsibilities Convention, 1981 (No. 156); and it highlights ILO standards, which can assist specialists and experts in improving and implementing the maternity protection strategy in the world of work.

The report also includes an overview of the implementation in the national legislation and policies, either directly or indirectly, of the guiding principles of the Social Protection Floors Recommendation, 2012 (No. 202)⁴ and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)⁵ as they pertain to protection of maternity and workers with family responsibilities.

1 The ILO initiated cooperation with governmental structures, the social partners, state institutions, members of the scientific community, and the UN agencies in the Kyrgyz Republic in order to conduct an assessment of the social protection system through national dialogue.

2 In 2016, in the course of consultations with the Ministry of Labour and Social Development it was agreed to calculate the costs of scenarios for increasing the coverage of maternity benefits.

3 Links to the analyses and documents are provided in Annex 1 to this report.

4 Recommendation No. 202 describes the concept and strategy for efforts to extend social security coverage to all in need and provides guidance to ILO member states in devising and implementing the national social security policy and strategy.

5 Recommendation No. 204 provides guidance to members in order to: (a) facilitate the transition of workers and economic units from the informal to the formal economy, while respecting workers' fundamental rights and ensuring opportunities for income security, adequate livelihoods, and entrepreneurship; (b) promote the creation, preservation and sustainability of enterprises and decent jobs in the formal economy within a coherent framework of macroeconomic, employment, social protection, and other social policies; and (c) prevent the informalization of formal economy jobs.

► Basic provisions

Positive factors

1. A steadfast approach to social protection policy issues is evident. In 2021 Kyrgyzstan adopted the new Constitution. The commitment to support vulnerable groups of citizens, provide for occupational safety and health, develop the system of social and healthcare services, and introduce and provide benefits and other social protection guarantees have remained unchanged (Article 19 of the KR Constitution). There have subsequently been no changes in the legislation related to the right to freedom of work, capacity to work, choice of a profession or occupation, or to occupational health and safety; and the entitlement to remuneration for work in an amount no less than the subsistence minimum established by law (Article 42 of the KR Constitution) is still in place.
2. The new National Development Programme for the Kyrgyz Republic through 2026 (hereinafter – the **National Development Programme**) has been approved. The government acknowledges that the social protection system is not functioning to the fullest extent possible despite the investments made. It is expected that the social protection system will be strengthened in order to mitigate the burdens imposed by COVID-19 and to support those incapacitated for work and socially vulnerable groups of the population.
3. Reform of the social insurance system is anticipated in order to ensure that resources will be equitably distributed among various groups of contributors, taxpayers and beneficiaries. In order to encourage small and medium-sized businesses to formalize, the rates for social insurance contributions will be reduced depending upon the number of company's employees,⁶ but experts are not unanimously in favour of these choices. Various discussions on information platforms concerning the impact that lower social contribution rates will have on the transition of enterprises from the informal to the formal economy have appeared. Sources from the Social Fund⁷ confirm that reduced rates are neither encouraging nor accelerating formalization. Representatives of the business sector⁸ confirm that the first step in formalization is setting lower rates.⁹
4. The planned activities of the KR Cabinet of Ministers for executing the National Development Programme of the Kyrgyz Republic through 2026 include determining the basic level of social protection for the population and assessment of the social protection system for its compliance with international regulations and standards (Q4 2023 to Q4 2024 by allocating funds from the state budget). It includes review of the Social Protection Concept for the population in view of the ILO's international standards and recommendations on social security (Q4 2025 to Q4 2026 by allocating funds from the state budget and donor funds).¹⁰ The Concept will outline a model social protection system which secures all the minimum levels of social protection.

6 National Development Programme of the Kyrgyz Republic through 2026, 4.4 Reform of the fiscal system.

7 Available online at : https://kaktus.media/doc/455204_lgoty_ne_vyveli_iz_teni_socfond_rasschital_sootnoshenie_platelshikov_i_pensionerov.html.

8 Available online at : https://kaktus.media/doc/453973_neformalnaia_ekonomika_v_kyrgyzstane_ojidaniia_biznesa.html.

9 Statistics from the JIA (Young Entrepreneurs' Association) indicate that total insurance contributions increased substantially during the two years since introduction of preferential rates for garment and textile enterprises depending upon their number of employees. This lends support to that decision as a step towards formalization.

10 Action plan of the Cabinet of Ministers of the KR for implementing the National Development Programme of the KR through 2026, 5.4 Inclusive Growth.

The action plan also envisions studies on social protection¹¹ and progressively increasing cash benefits in order to decrease poverty as stipulated by the ILO's social security standards.

5. The new National Strategy for Achieving Gender Equality through 2030 (the **NGES**) and the National Action Plan for Achieving Gender Equality (the **NPGE**) have been drafted and are now being agreed upon.¹² The expectation is that both documents will be approved very soon. The NGES is intended in part to make progress toward gender equality in the economy (including climate change impact), to ensure decent work for women and men while increasing employment of women especially in IT, as well as to provide assistance in improving women's employment and opportunities for self-realization, in combining their family life and careers, and by removing economic barriers and restrictive social norms.¹³ The measures pertaining to labour are specified as the first to be implemented in the National Development Programme, and this indicates that special emphasis has been placed on labour issues.¹⁴
6. A labour market and employment analysis will be conducted in 2022 with concentration on the components of decent work, and in 2023 the Decent Work Programme will be drafted.¹⁵
7. Analysis of the socio-economic situation as it bears upon the country's readiness to ratify the Workers with Family Responsibilities Convention, 1981 (No. 156), the Maternity Protection Convention, 2000 (No. 183), the Domestic Workers Convention, 2011 (No. 189), and the Violence and Harassment Convention, 2019 (No. 190) and upon its willingness to make commitments in line with the ILO Social Protection Floors Recommendation, 2012 (No. 202) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) has been incorporated into the General Agreement for 2022–2024 between the Cabinet of Ministers of the KR, the Federation of Trade Unions of Kyrgyzstan, and the National Confederation of Employers (signed by the parties in April 2022).

11 Among these there are: 1) the analysis and study of issues related to introducing compensation for taking care of children under three years of age by providing benefits to children and paid childcare leave from different funding sources (Q1-Q4 2022); 2) research into options for including men in efforts to advance gender equality and responsible parenthood and to equally distribute the burden of unpaid care work (Q4 2022); 3) drafting the directive of the KR Cabinet of Ministers on increasing benefits for persons with disabilities resulting from general illness (Q4 2022); 4) analysis of compliance of current legislation with international labour standards for maternity protection and, in particular, study of issues involved in assignment of maternity benefits (Q4 2022 to Q4 2023); 5) assessment of the compliance of the social protection system with international rules and standards (Q4 2023 to Q4 2024); 6) drafting the directive of the KR Cabinet of Ministers in order to extend the categories of beneficiaries and introduce the concept of a "personal assistant" as caretaker for persons with disabilities who need intensive long-term care (Q4 2023 to Q4 2024); 6) drafting the decree of the KR Cabinet of Ministers in order to provide a 20% increase in the social assistance benefit for low-income families (Q4 2023); 7) drafting the directive of the KR Cabinet of Ministers for a 10% increase in the guaranteed minimum wage and social assistance benefits for low-income families (Q4 2024); 8) drafting the social protection and benefits concept with due regard for the ILO international social security standards and recommendations (Q4 2025 to Q4 2026).

12 Posted on 21 February 2022 on the consolidated website for public discussion of draft legal documents of the Kyrgyz Republic. According to the established procedures, it was to be under discussion until 20 March 2022, and on 27 March the draft law was to be sent on for inter-ministerial review.

13 With respect to economic opportunities for women, the NGES sets the following priorities: 1) reducing the number of economically inactive women of working age by encouraging their employment; 2) enhancing women's entrepreneurship; 3) creating decent work conditions; 4) improving the legal and financial literacy of women; 5) introducing gender aspects into climate change policies.

14 The National Development Programme includes efforts to facilitate employment of women (Goal 1.1) and creation of conditions necessary for ensuring decent work for women and men (Goal 1.2).

15 The Draft National Action Plan for Achieving Gender Equality, Goal 1.2.

8. In 2022 the Mandatory Medical Insurance Fund planned to bring more of the population under mandatory health insurance.¹⁶ The Ministry of Health of the Kyrgyz Republic is drafting the law, which obliges persons of working age (over 16 years old) to obtain a mandatory medical insurance policy.¹⁷ According to the Ministry, MMI coverage provides citizens of the Kyrgyz Republic and foreign nationals who are studying at higher, secondary specialised, and general educational facilities with medicines under preferential conditions and allows them to receive medical treatment under preferential conditions from healthcare organizations working under agreement with the MMIF. The draft law also would increase the contributions from the Republic's budget to mandatory medical insurance from 1.5 to 18 nominal accounting units per person per calendar year, and this will increase the revenues of the MMIF.

Factors that make compliance with the ILO standards for maternity protection and for workers with family responsibilities more compelling

9. In 2021 the ILO's International Labour Conference adopted its Resolution concerning the second recurrent discussion on social protection (social security), which contains the framework for action aimed at universal, adequate, comprehensive and sustainable social protection systems that are responsive to developments in the world of work. "Rights-based social protection systems, which encompass social protection floors and higher levels of protection, guarantee that rights related to social protection and the obligations of all parties concerned – workers, employers, governments, state institutions – are anchored in law and duly observed."¹⁸
10. The Committee on the Elimination of All Forms of Discrimination against Women¹⁹ has reiterated its recommendations for Kyrgyzstan (para. 34(g) of the concluding observations on the fifth periodic report on Kyrgyzstan): to ratify the Maternity Protection Convention, 2000 (No. 183), while also recommending ratification of the Workers with Family Responsibilities Convention, 1981 (No.156), and the Violence and Harassment Convention, 2019 (No. 190).

16 Information about the Mandatory Medical Insurance Fund under the Ministry of Health of the KR was taken from open sources available during report drafting at: <http://foms.kg/uploads/reports/%D0%9E%D1%82%D1%87%D0%B5%D1%82%D0%A4%D0%9E%D0%9C%D0%A1-2021.pdf>

17 In its explanatory note attached to the draft law, the Ministry of Health offers the following information: National statistics set the population of the Kyrgyz Republic at 6,636,800 persons. Statistics from the Electronic Healthcare Centre place the population assigned to family practitioners at 6,201,100 persons. Of the latter 4,610,700 were insured by MMI, which comes to 70.6% of the assigned population. Among those insured there are:

- citizens of the Kyrgyz Republic working under employment agreements;
- pensioners;
- the unemployed registered as such with state employment services;
- citizens of the Kyrgyz Republic employed under other circumstances (individual entrepreneurs, the self-employed, professionals in private practice;
- persons receiving social benefits (381,380 persons as of 1 October 2022);
- military servicepersons and those in equivalent branches of service;
- children under 16 years of age (students in general educational institutions until they complete their studies but only until they turn 18);
- students at primary occupational training facilities, students at secondary and higher occupational training facilities until they turn 21 (except for those training remotely or in evening sessions);
- foreign nationals temporarily or permanently residing in the Kyrgyz Republic (who have obtained a mandatory medical insurance policy); and
- persons without citizenship permanently residing in the Kyrgyz Republic (who have obtained a mandatory medical insurance policy).

18 The full text in Russian is available online at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_808856.pdf and in English: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_806099.pdf.

19 Concluding remarks in the fifth periodic report on Kyrgyzstan dated 29 November 2021.

11. The Committee for Economic, Social and Cultural Rights²⁰ recommends that Kyrgyzstan establishes a minimum level of social protection as a first step towards creating a universal comprehensive social security system (para. 34).
12. The Committee on Economic, Social and Cultural Rights²¹ recommended that Kyrgyzstan ensures full implementation of labour rights in the informal economic sector and that labour inspections of that sector are to be conducted on a regular basis. The Committee also recommended regulating the status of persons employed in the informal economy and ensuring compliance with the law on occupational safety and health (para. 32).

Factors which should be considered

13. Since February 2021 the country has been carrying out a massive inventory review of the entire legislative base for the purpose of optimizing and improving it (Decree of the President of the KR UP No. 26 dated 8 February 2021). 350 laws, which are distributed across sectoral subgroups, have come within the scope of this review of legislation. At present the review is in its second phase (the process of drafting laws). No decision has yet been taken about many laws, and the draft laws are at various stages of completion (under public discussion, submitted for consideration by the Cabinet of Ministers or for debate in Parliament, awaiting the President's signature, etc.).
14. Kyrgyzstan ranks 120th out of 189 countries in the Human Development Index. According to the statistics from 2019, this would place it in the medium human development category.²² Continual social and political disruptions brought on by dissatisfaction with the quality of life need to be addressed by measures aimed at accelerating progress in healthcare, education, and standard of living.
15. The state finance system came under serious pressure from COVID-19, and in 2020 government revenues plummeted. In all probability, there will be some liquidity problems affecting the budget.²³
16. Increased inflation in Turkey, political unrest in Kazakhstan that has led to detention of Kyrgyz citizens, as well as the response of financial markets to the events in Ukraine, and the sanctions against Russia will inevitably affect the migration and remittances upon which Kyrgyzstan's economy relies. These developments underline the urgent need for the government to take decisive action in matters of social protection and employment.
17. Feminization of migration from Kyrgyzstan is a matter to consider. Various statistical sources place the migration of women at 45 to 60 percent of total migration.²⁴ It is quite possible that women migrants, especially pregnant women and/or those with young children, will be returning to Kyrgyzstan during these crises and that they will require maternity benefits and other social protection guarantees.

20 Human Rights Council. Report of the Administration of the UN High Commissioner for Human Rights dated 11 November 2020. Available online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/321/02/PDF/G1932102.pdf?OpenElement>.

21 Op. cit., note 21.

22 Human Development Report 2020. Human Development and the Anthropocene.

23 National Development Programme through 2026, 3.2 Restoring economic activity.

24 Various assessments find that about 12 to 15 percent of Kyrgyzstanis or over 800,000 persons are labour migrants. Over 90 percent of them work in EAEU countries, and nine out of ten individuals choose Russia. Alternative information for monitoring Kyrgyzstan's fulfilment of the UN Convention on the Elimination of All Forms of Discrimination against Women from the 76th pre-sessional working group of CEDAW dated 11-15 November 2019.

18. Lack of social protection for informally employed workers is holding back progress in achieving the SDGs through 2030.²⁵
19. The Ministry of Health of the Kyrgyz Republic has initiated the draft law which, in addition to expanding coverage by medical insurance, also proposes an increase from 1.5 to 18 nominal accounting units per person per calendar year in the contributions from the Republic's budget to mandatory medical insurance.
20. The frequently changing structure of the Government is another factor to consider. The Ministry of Labour and Social Protection has undergone a series of transformations over a short period,²⁶ and this may affect the sustainability of its chosen course.

A. Modifications of national policies and legislation reflecting provisions of the Maternity Protection Convention, 2000 (No. 183)

21. It was noted in the ILO's reports²⁷ focusing on Convention No. 183 that Kyrgyzstan is observing almost all the standards of the Convention and even that certain guarantees exceeded those in the Convention. The two fundamental aspects that require attention from the tripartite partners are expanding the coverage of maternity protection to all working women and adhering to the standards for setting the amount of cash maternity benefits.

Expanding coverage

22. The government has not developed a plan or concept for gradual extension of all maternity protection measures to all working women.
23. Nevertheless, the number of women entitled²⁸ to maternity benefits has increased.²⁹ Now foreign citizens and persons without citizenship – ethnic Kyrgyzstanis returning to their homeland and who have qualified for the status of *kairylyman* (returnee)³⁰ – are entitled to maternity protection benefits.

25 Goal 1 (eliminating poverty), Goal 2 (eliminating hunger), Goal 3 (ensuring healthful lifestyles and enhancing well-being), Goal 5 (ensuring gender equality and broadening rights and opportunities for women and girls), Goal 8 (encouraging gradual, comprehensive and sustainable economic growth, full and productive employment, and decent work for all), Goal 10 (reducing inequality), and Goal 16 (encouraging peace, rule of law, and transparent institutions).

26 A new agency, the Ministry of Healthcare and Social Protection of the KR, was approved in April 2021 and became the designated legal successor to several ministries, inspectorates, and services including the Ministry of Labour and Social Protection. By November 2021 that Ministry was already reorganised as the Ministry of Healthcare and the Ministry of Labour, Social Protection and Migration (MLSSM). As part of the reorganization, the functions of the information and consultation centre of the Department of Internal Migration (formerly under the Ministry of Foreign Affairs) were transferred to the MLSSM, and the new Service for Control and Monitoring of Labour Legislation was formed.

27 Analysis of legal documents of the Kyrgyz Republic: Compliance with the ILO Convention on Maternity protection, 2000 (No.183); analysis of issues pertaining to national legislation and the policy on maternity protection and workers with family responsibilities; and analysis of the national legislation on assigning maternity protection benefits in the Kyrgyz Republic are provided in this report: Compliance with international maternity protection and labour standards. Available online at: https://www.ilo.org/moscow/information-resources/publications/WCMS_812252/lang--ru/index.htm.

28 Until the amendments in 2021, entitlement to maternity benefits had extended to working citizens of the Kyrgyz Republic and also to foreign nationals and persons without citizenship working in compliance with the legislation of the Kyrgyz Republic at enterprises, organizations and institutions, regardless of their form of ownership or type of operation.

29 Directive of the Cabinet of Ministers of the Kyrgyz Republic "On amending several decisions of the Government of the Kyrgyz Republic concerning benefits for temporary incapacity to work and maternity, and funeral benefits (for burial)" No. 152 dated 26 August 2021.

30 A *kairylyman* is an ethnic Kyrgyz who is a citizen of a foreign country or without citizenship and who voluntarily resettles in the Kyrgyz Republic and has received temporary legal status as a *kairylyman* until Kyrgyz citizenship is granted.

Qualifying for maternity benefits

24. The procedure for collecting materials to qualify for maternity protection entitlements has changed. Earlier the responsibility for compiling documents fell upon the woman (recipient of benefits), but now with introduction of an inter-agency electronic exchange system, information for the assignment of maternity benefits is requested by a state body. The woman needs only to submit an application for the assignment of benefits and a certificate of pregnancy, a requirement which is in line with the standards of Convention No. 183. According to information from the MLSSM, the Ministry of Health is currently working on automating notification of temporary incapacity to work (medical notification of pregnancy). This means that soon a woman will have to provide only her application for maternity benefits.
25. In the future, fully operational inter-agency electronic exchange of information will relieve women of the burden of indirect and other costs (copying services, transportation, and postage) incurred in demonstrating eligibility for benefits. Nevertheless, the legislature has allowed for an exception if it is impossible to obtain electronic notifications due to technical problems in obtaining data from inter-agency electronic data exchange. In that event, the certificates from citizens that establish eligibility for maternity benefits can be requested in hard copy, and such certificates must be provided to women free of charge. Automation of processes and effective interdepartmental interaction³¹ will in the future completely relieve women of the burden of gathering a package of documents. The plan of the Cabinet of Ministers includes digitalization of state and municipal services and an increase in the range of available services in electronic format by the end of 2023.
26. The legislature has initiated a number of amendments to the Law of the Kyrgyz Republic “On facilitating employment of the population”. One of the amendments prescribes more lenient conditions for the unemployed to qualify for unemployment benefits. It is important to recognize that the right of unemployed women to receive maternity benefits paid for from the Republic's budget is linked to their right to receive unemployment benefits.³² Current legislation requires a continuous insurance period of at least twelve months during the three years prior to application for unemployment benefits. The amended version proposes taking insurance history into account as a total.
27. The imposition of a state of emergency in 2020 as a response to the COVID-19 pandemic brought to light a number of legislative inadequacies. In order to provide social support to socially vulnerable groups and ensure social stability under the state of emergency and emergency provisions, the Government introduced a series of legislative amendments.³³ The legislature prescribed two approaches: 1) extension of the deadline for payment of assigned benefits that would have expired during the state of emergency; 2) suspension of processing applications to qualify for and secure payment of maternity benefits during the state of emergency. The same standard applied to monthly cash compensations in lieu of benefits and to maternity and funeral benefits. Applications for assignment and payment of maternity benefits were suspended due to the state of emergency. This rule in effect deprived women and their children of the means

31 Materials needed to qualify for maternity benefits are henceforth to be requested from the appropriate governmental agencies in electronic format as prescribed by the applicable Interdepartmental Agreements on Electronic Interaction, which have been signed and are in force.

32 Analysis of legal documents of the Kyrgyz Republic: Compliance with the ILO Convention on Maternity protection, 2000 (No.183), “Access to benefits”, page 15. Available online at: http://www.oit.org/moscow/information-resources/publications/WCMS_812252/lang--ru/index.htm.

33 Directive of the Government of the Kyrgyz Republic “On amending several decisions of the Government of the Kyrgyz Republic pertaining to social development and humanitarian aid” No. 433 dated 24 August 2020.

for subsistence for up to 30 days and in some cases up to 60 days.³⁴ The standard adopted threatens the economic stability of pregnant and postpartum women and their newborns. Comparison of the current legislation with respect to the three scenarios for maternity protection envisaged as part of the Assessment Based on National Dialogue on Social Protection³⁵ shows that none of the scenarios has yet been adopted and implemented. Under the ABND three scenarios were developed: i) universal coverage for all women with an equal amount of benefits (regardless of employment status); ii) coverage only for employed women (excluding those unemployed or economically inactive) who are not part of the labour force; iii) only for wage-employed women who make contributions. It is worth mentioning that the maternity protection program operational in the country provides maternity benefits to employed women in a manner which partly complies with the second scenario. In order to determine the amount of benefits, the number of nominal accounting units applied to calculate the benefits financed from the state budget has not been increased.³⁶

28. An increase in the amount of maternity benefits has been included in the General Agreement,³⁷ which commits the Cabinet of Ministers of the Kyrgyz Republic to develop a draft resolution of the Cabinet of Ministers that would increase the amount of maternity benefits from 10 to 20 nominal payment units as of 1 January 2023. Based on its own estimations, the Ministry of Labour, Social Security and Migration has reiterated the need to increase the maternity benefit, but no increase has so far been made.
29. The Law "On state benefits"³⁸ has expanded the recipients of state benefits financed from the national budget. Since July 2020, a new type of benefit has been introduced for children both of whose parents are unknown³⁹ (their birth certificates lack information about the parents). Benefits are assigned as soon as applied for and continue until the children reach the age of 16 or complete their studies at educational institutions provided that they are not yet 23 years of age. Payment of benefits may also be terminated upon adoption or restoration of parental rights.

34 The duration of a state of emergency declared for the entire territory of the Kyrgyz Republic may not exceed 30 days, and one imposed on a portion of the Kyrgyz Republic may not exceed 60 days. When those terms expire, the state of emergency is terminated or may be extended for a like term by the Jogorku Kenesh (Parliament). Constitutional Law of the Kyrgyz Republic No. 135, Article 13, dated 24 October 1998.

35 Assessment Based on National Dialogue on Social Protection: Towards a Nationally Defined Social Protection Floor in the Kyrgyz Republic. Available online at: https://www.ilo.org/moscow/information-resources/publications/WCMS_623031/lang--ru/index.htm.

36 During consultations with the Ministry of Labour and Social Development in 2016, it was agreed to work through calculations of scenarios for increasing maternity protection benefits. During a technical meeting in 2017, the members of the working group selected the three most feasible and actionable scenarios for expanding coverage by maternity protection benefits:

- by 2022 (a) to expand the coverage to officially employed workers, farmers and the self-employed; and (b) to increase the amount of benefits in proportion to inflation or up to 3,000 KGS;
- by 2030 (a) to extend the coverage to informal workers and (b) to increase the amount of benefits to the minimum subsistence level;
- by 2040 (a) to ensure coverage of all women, and (b) to increase the amount of benefits for wage earners to 2/3 of their average or recent earnings.

37 The General Agreement between the Cabinet of Ministers of the Kyrgyz Republic, the Federation of Trade Unions of Kyrgyzstan, and the Nationwide Associations of Employers for 2022–2024.

38 This law regulates provision of state social support in the form of benefits and lump sum payments to children and persons not entitled to a pension.

39 According to the law, an authorised representative is entitled to receipt of benefits. According to the Code of the Kyrgyz Republic "On children", parents, adoptive parents, guardians, or caretakers are considered to be such a legal representative; and in event that there is no such authorised representative, staff of the authorised child protection institution assumes that status.

30. In addition, increased amounts for certain kinds⁴⁰ of social benefits⁴¹ have been prescribed by the Law "On state benefits" in order to provide social protection to children and persons with disabilities since childhood. The increases have been applied in two stages (a 50 percent increase beginning 1 October 2021 and a 100 to 200 percent increase of monthly social benefits after 1 January 2022 above the monthly benefits that were being paid prior to 1 October 2021).

Additional information is provided in Annex 2.

31. The difference in the amount of maternity benefits paid to women employed in the lowlands and in mountainous areas is of concern for the Ministry of Labour, Social Security and Migration. Application of different methods for calculating the amount of maternity protection benefits for women residing in the mountainous areas and lowlands, as well as the amount of premiums paid by employers (in commercial banks and in international and non-government organizations) has resulted in a significant discrepancy between the maternity benefits paid in different regions of the country.⁴² Assignment of benefits when salaries increase is also of concern for the Ministry because the amount of the benefit will increase disproportionately, as the state-financed portion of the benefit for women residing in lowlands is not linked to their salaries.⁴³

32. The analysis by the Ministry of Labour, Social Security and Migration shows the ratio of maternity benefits to benefits accrued to women. However, two factors should be singled out:

- 1) If the amount of benefits is compared to the taxes or contributions women have made, the taxes and contributions from their salaries are also high;
- b) The adequacy of benefits is not being determined by assessing how sufficient the benefits accrued are for meeting the basic needs of a mother and child during maternity leave. For that purpose, attention should be paid to the cost burden of expensive services and consumer goods in locations that are difficult to access, remote, or mountainous, including the additional costs associated with accessing such services (for example, transportation to a regional centre or city, etc.). Convention No. 183 in Articles 6 and 7 stipulates that maternity cash benefits are to be at a level which ensures that a woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.

40 To children in case of loss of both parents; children in case of loss of one parent; children with disabilities; children both of whose parents are unknown; children born to mothers living with HIV or AIDS; persons with disabilities since childhood of Class I, II, III ; and children born to mothers living with HIV or AIDS.

41 According to the Law of the Kyrgyz Republic "On state benefits", monthly social benefits are assigned to disabled persons not entitled to a pension. The following persons qualify for a monthly social benefit:

- children with disabilities up to the age of eighteen;
- persons with disabilities of Class I, II and III since childhood provided that they are not entitled to a pension;
- persons with disabilities of Class I, II and III provided that they are not entitled to a pension;
- elderly citizens provided that they are not entitled to a pension;
- mothers designated as heroines provided that they are not entitled to a pension;
- children deprived of a breadwinner and orphaned children provided that they are not entitled to a pension; and
- children up to the age of eighteen months born to mothers with HIV/AIDS.

42 According to the Ministry of Labour, the state-financed maternity protection benefits for residents in the highlands range from 20,000 to 300,000 KGS, whereas in other regions they are set at about 3,000 KGS. Analysis of national legislation and assignment of maternity protection benefits in the Kyrgyz Republic: Compliance with international maternity protection and labour standards. Available online at: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms_812251.pdf.

43 Op. cit., note 43.

33. Addenda inserted into the regulatory act assigning maternity benefits addresses the manner of paying assigned benefits in the event that the mother or child dies. That recommendation had also come up during reviews. In accordance with the new regulation, maternity benefits which have been assigned but not received by the date of the woman's death are payable to an adult family member, or to a person who is a dependent of the deceased as of the date of her death upon submission of documents verifying those relations, or to a guardian. The legislation has no regulations on whether the father of a child is entitled to the unexpired portion of the maternity leave. Recommendation No. 191 (paragraph 10 (1)) states that *in the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.*

Maternity leave

34. Some amendments and addenda to the Law of the KR "On state guarantees and compensation to persons residing and working in mountainous and remote areas that are difficult to access"⁴⁴ concerning the length of maternity leave for adoptive parents have been initiated. When the amendments have been adopted, the length of maternity leave for adoptive parents who reside and work in mountainous and remote areas that are difficult to access will be increased to 86 and 140 days from the date of birth of the adopted child or children (from the 70 and 110 days in the current Labour Code).

Healthcare

35. COVID-19 revealed several systemic features of the healthcare sector in need of improvement. The National Development Programme noted that one of the high-priority areas for state investment is strengthening protection for maternity and children.

44 The draft Law of the Kyrgyz Republic "On state guarantees and compensation to persons residing and working in mountainous and remote areas that are difficult to access" was at the public discussion stage until 5 March 2022.

45 The Administrative Office for Strategy, Analysis and Quality Assurance of Medical Services (a structural subdivision of the MMIF) is responsible for improving the quality assurance system for the medical services delivered by preventive, medical and pharmaceutical providers. Assessment of the quality of medical services provided by healthcare organizations for primary first response assistance is conducted with reference to the Assessment Chart which has been developed on the basis of the existing healthcare problems analysis with an emphasis on key high-priority areas, such as healthcare for mothers and children, cardio-vascular illnesses, diabetes and tuberculosis. The Assessment Chart comprises a selection of indicators for structures, processes, and results. The information required may be collected by employing a variety of tools (analysis of patients' medical documentation, inspection of available resources, tests of the knowledge and skills of medical workers who provide primary first response treatment for children, pregnant mothers, and for patients with acute coronary syndrome, diabetes and tuberculosis, together with surveys of patients' satisfaction); and that information is collected through application of the Methodology for Conducting Quality Assessment of Medical Services by employing the Assessment Chart to evaluate primary healthcare (Annex 4 to the decree of the Ministry of Health of the KR No. 1236 dated 8 September 2021).

46 At hospitals, the quality of medical care for pregnant women is judged on two factors: 1) evaluation of medical services in the maternity ward and their conformity to clinical protocols; 2) evaluation of medical care for newborns and children.

47 Medical care for pregnant women is one of the services provided by general inpatient facilities at both the regional and oblast levels. In addition, Bishkek is the site of five specialised hospitals and the country's only National Healthcare Centre for Mothers and Children. The total number of maternity, gynaecological and obstetric beds in the Republic is 2,214; there are 501 maternity pathology beds and 734 for gynaecology. The number of childbirth cases treated was 127,780, and the number of newborns and children treated for pathologies in the perinatal period was 21,972. The Mandatory Medical Insurance Fund paid 1.489 million som for those cases according to information on the activities of the Mandatory Medical Insurance Fund under the Ministry of Healthcare of the Kyrgyz Republic in 2021. Available online at: <http://foms.kg/uploads/reports/%D0%9E%D1%82%D1%87%D0%B5%D1%82%20%D0%A4%D0%9E%D0%9C%D0%A1-2021.pdf> (the link to MMIF was active as this was written).

36. The quality index for care of pregnant women in the country stands at 65 percent for primary medical and hygiene assistance. The average index throughout the country for the quality of medical care in maternity wards is 63.7 percent out of a possible 100. For newborns and children, the quality of medical care in the country averages 66.2 percent out of a possible 100.
37. In order to sustain freedom of choice in employment and establish an equitable approach in matters impinging upon the choice of an occupation and kind of job, the MLSSM has proposed^{48,49} rescinding the list of jobs for which employment of women is prohibited by annulling the "List of facilities, jobs, occupations and positions with harmful and (or) hazardous work conditions in which employment of women is prohibited".⁵⁰ While noting that certain facilities, jobs and occupations do present risks of exposure to factors hazardous to pregnant workers, workers with young children, and workers breastfeeding children, the MLSSM has noted that the additional Law of the KR "On amending the Labour Code of the Kyrgyz Republic" will be drafted. In this regard it is worth mentioning the Direct Request of the Committee of Experts on the Application of Conventions and Recommendations (CEACR),⁵¹ that stipulates in part that protective measures for women must be determined on the basis of the results of a risk assessment showing that there are specific risks for women's health and/or safety. Therefore such restrictions, if any, have to be justified and based on scientific evidence and, when in place, have to be periodically reviewed in the light of technological developments and scientific progress to determine whether they are still necessary for protection purposes. At the time this report was written, the list of jobs prohibited for women had not yet been rescinded.

Protection of employment and prohibiting discrimination

38. The draft amendment of the Law of the Kyrgyz Republic "On state guarantees of equal rights and opportunities for men and women" is in the process of adoption. A decision about revising it is anticipated in the near future. One of the important revisions would be a new definition of "gender-based violence", which would reinforce the understanding that violence is not only a personal problem but also a social one that requires adopting both personal measures related to specific acts together with more comprehensive measures. As of today, the Law previously mentioned defines sexual harassment as a direct form of gender discrimination, but the definition of "sexual harassment" is too restrictive and does not cover the full range of behaviours constituting sexual harassment through quid pro quo arrangements and a hostile work environment as outlined by the ILO Committee of the Experts (CEACR).⁵²

48 Draft Law of the Kyrgyz Republic "On amendments and addenda to the Law of the Kyrgyz Republic 'On occupational health and safety'", Article 8.

49 Draft Directive of the Cabinet of Ministers of the Kyrgyz Republic "On recognition that the Directive of the Government of the Kyrgyz Republic 'On the List of facilities, jobs, occupations, and positions with harmful and (or) hazardous work conditions in which women may not be employed' No. 158 dated 24 March 2000 is no longer in force."

50 Directive of the Government of the Kyrgyz Republic No. 158 dated 24 March 2000.

51 Protective measures for women may be broadly categorised into those aimed at protecting maternity in the strict sense, which come within the scope of Article 5 of the Convention, and those aimed at protecting women generally because of their sex or gender. That second kind of protection is based on stereotypical perceptions about women's capabilities and their appropriate role in society, and these attitudes are contrary to the Convention and constitute obstacles to the recruitment and employment of women (see General Survey of 2012, paragraph 839). The Committee reiterated its position that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking into account gender differences as they may relate to specific risks to their health. The Committee further emphasised that it may be necessary to examine what other measures, such as improved health protection of both men and women, adequate transportation and security, as well as social services, are necessary to ensure that women can access the types of employment concerned on an equal footing with men (see the General Survey 2012, paragraph 840, Direct Request (CEACR), adopted in 2020, published for the 109th ILC session (2021).

39. The second important aspect is that gender-based violence is recognised by law as gender discrimination. Violence and harassment may prevent persons, particularly women, from accessing the labour market and remaining or advancing in it. ILO Convention No. 190 gives a clear definition of violence and harassment in the world of work. The efforts made in this matter could serve as a useful impetus towards ratification of Convention No. 190 or implementation of its provisions in the national legislation.
40. According to the draft NDP, anti-discrimination legislation is to be developed such that the legislature will have to give due consideration to Article 8(1) of ILO Convention No. 183, according to which the burden of proof that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing is to fall upon the employer. The legislation in force does not stipulate this obligation of employers. In general, inclusion of the term "gender-based violence" will serve as a basis for discussions with national stakeholders about shifting the burden of proof to an employer that may be engaged in gender discrimination in the world of work.

Definition of domestic work and domestic worker

41. The definition of "domestic work" is mentioned in two documents: the Family Code and the Law "On state guarantees of equal rights and opportunities for men and women", according to which domestic work is a form of labour activity aimed at meeting the needs of the family. There is a conceptual divergence from ILO Convention No. 189, which defines a "domestic worker" as any person engaged in domestic work within an employment relationship.
42. Also, the Law "On state guarantees of equal rights and equal opportunities for men and women" provides for entitlement to compensation for unpaid domestic work in the form of benefits. Although the current version of the law clearly specifies the class of persons subject to compensation,⁵³ the new amendments presuppose a looser formulation of "a family member"⁵⁴ that expands the class of persons who are being cared for. Furthermore, the author of the draft law has added the term "other payments" to the entitlement to compensation. This may imply that recipients of the entitlement may qualify for larger or broader compensatory payments. It should be noted that this draft law is under deliberation and no final version has yet been accepted.
43. New versions of the Criminal Code, the Criminal Procedural Code and the Code of Misdemeanours were adopted in October 2021. The Code of Misconduct and the Code of Violations have been rescinded, but the sanctions incurred in response to the nature of employment have found expression in the new Code of Misdemeanours. The Code of Misdemeanours contains seven articles⁵⁵ pertaining to liability for violation of labour legislation. The regulation concerning violation of occupational safety legal standards (Article 87) was reinforced by adding a new regulation according to which an

52 The CEACR further reiterated that the definitions of sexual harassment contain the following elements: (1) *quid pro quo*: any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men which is unwelcome, unreasonable and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; and (2) a hostile work environment: conduct that creates an intimidating, hostile or humiliating working environment for the recipient (see the General Survey 2012, paragraph 789). Direct Request (CEACR), adopted in 2020, published for the 109th ILC session (2021, Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

53 Children, elderly parents, and persons with disabilities.

54 In accordance with legislation on the family, a family is a group of persons connected by property and personal non-property rights and obligations that stem from marriage, kinship, adoption or other forms of providing children with an upbringing and that are recognised as conducive to strengthening and developing family relations.

employer is to bear responsibility for creation of healthy and safe labour conditions, introduction of resources and technologies, as well as ensuring compliance with hygiene and sanitary rules and requirements, technical regulations and other legal documents pertaining to occupational safety.

44. A new article has been introduced into the Code of Misdemeanours in order to make an employer liable for employing a person without registration of an employment contract (Art. 92). The same article also stipulates a penalty for unilateral refusal by an employer to engage in collective bargaining.

Accommodating breastfeeding

45. Expert examination of gender issues related to the Law of the Kyrgyz Republic “On protecting breastfeeding and regulating marketing for products and items used as breast milk substitutes”⁵⁶ was conducted as part of the legislative inventory review and resulted in a recommendation to keep that law in force provided that it was amended. In particular, the recommendation is to stipulate in the Law that state agencies are tasked with meeting the requirements for premises intended for mothers and children and also to stipulate liability for persons who fail to meet the requirements for creating suitable conditions for breastfeeding mothers on the premises of state and self-governing authorities, as well as those concerning allocation of special premises for mothers and children at enterprises, institutions, and organizations regardless of their form of ownership.

B. Modifications of national policies and legislation reflecting provisions of the Workers with Family Responsibilities Convention, 1981 (No. 156)

46. The COVID-19 pandemic brought to light a substantial range of problems with the allocation of responsibilities within the family, most of which fall upon women. It has become urgent to consider ways to combine family and work responsibilities and understand their effect on reducing the proportion of economically active women in the population.
47. The current National Development Programme of the Kyrgyz Republic through 2026 affirms the intention of the state to arrange conditions for harmonizing work and family responsibilities for women and men by advocating the principles of responsible parenting, protecting maternity and paternity, and promoting family values based on joint child-raising and respect for all family members.
48. The draft NGES has as one of its objectives changing the attitudes toward family roles (solidarity and mutual support rather than the traditional division of responsibilities, and a joint approach to raising children), and this is in keeping with the spirit of provisions of ILO Convention No. 156, Article 6.
49. Issues involved in reaching a balanced allocation of family responsibilities are considered in the NGES as they impact its prioritised objectives for cultural and educational policies. This suggests that the legislating bodies have not yet become fully aware of the effects of the burden of meeting family responsibilities on broadening economic opportunities for women and ensuring equality in the workplace and in the world of work.

55 Violation of requirements stipulated by the occupational safety law (Article 87); unjustified refusal to hire a person or accept them for a job (Article 88); failure to comply with the requirements for employment of persons with disabilities (Article 89); failure to pay salaries, pensions and benefits (Article 90); illegal termination of an employment agreement with a pregnant woman (Article 91); hiring a person without a passport (Article 136); violation of procedures for carrying out decisions, prescriptions, decrees and requirements of an authorised body (Article 434).

56 No. 263 dated 17 December 2008.

50. The Employment Promotion Programme for 2022-2026 has been drafted and its adoption is pending. The Action Plan for implementing the Employment Promotion Programme for 2022-2026 contains measures aimed at encouraging employment for women who are taking care of children by providing those women with training and career guidance. It would be advisable to evaluate the selected mechanisms and approaches for their effectiveness in ensuring that women and men raising young children may be actively involved in the labour market.
51. The draft Law of the Kyrgyz Republic “On state guarantees and compensation to persons residing and working in mountainous and remote areas that are difficult to access” has been amended to provide the same status to men and women who work in mountainous and remote areas that are difficult to access and who have children under 16 years of age. The proposed changes are aimed at gender equality and stipulate that one of the parents is entitled to an additional leave day each month with retention of pay. The current law provides that entitlement only to women.
52. Preschool education is trending upward. In 2019 there were only 208,000 children in preschool educational organisations, and that was 29 percent higher than in 2015. In 2019 state-owned preschool educational organisations made up about 87 percent of the total. The number of children in them has increased 1.3 times since 2015 to reach 196,000. Nevertheless, the number of privately owned preschool educational organisations has also increased (by 2.1 times) while the number of children in them has increased by the same factor since 2015 to reach 12,000 youngsters.

C. Prerequisites for implementing the Social Protection Floors Recommendation, 2012 (No.202) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) as they pertain to maternity protection

53. Kyrgyzstan is making an effort to keep abreast with worldwide trends and with the instruments of the International Labour Organization and the United Nations which pertain to the transition from the informal to the formal economy. In particular, it has ratified the ILO Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), is implementing certain provisions of ILO Convention No. 156 in its legislative standards and national programme documents and has in place some provisions that exceed the standards of ILO Convention No. 183.
54. A review of the eighteen principles promulgated in Recommendation No. 202 shows that the principles are incorporated directly or indirectly in national legislation, although actual implementation of those principles should be accelerated. Additional information is provided in Annex 3.
55. Kyrgyzstan has ratified a number of Conventions which show its commitment to ensuring decent work and to transition from the informal to the formal economy (as specified in Recommendation No. 204). Recently there have been discussions on the country’s readiness to ratify Conventions No. 156 and No. 183. The Kyrgyz Republic is also a party to: the Universal Declaration of Human Rights, 1948; the International Covenant on Economic, Social and Cultural Rights, 1966;⁵⁷ the International Covenant on Civil and Political Rights, 1966;⁵⁸ and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁵⁹

⁵⁷ Kyrgyzstan joined as a member on 12 January 1994, No. 1406-XII.

⁵⁸ Kyrgyzstan joined as a member on 12 January 1994, No. 1406-XII.

⁵⁹ Kyrgyzstan joined as a member on 15 April 2003, No. 80.

56. A firmly established social protection system and continuity of social policy are evident in Kyrgyzstan. Maternity protection is one of the social policies guarantees because it is one of the most important factors in social policy as well as a component for reaching the Sustainable Development Goals. Nationwide measures for protection of maternity include entitlement to guaranteed income for pregnant women and mothers of newborn children. Mothers and children are also entitled to services from the healthcare system. Nevertheless, these guarantees do not ensure complete protection for all women and their newborn children, and they make only a modest contribution to preventing poverty or reducing its extent in the employed population. Additional information is provided in Annex 4.
57. The National Development Programme of the Kyrgyz Republic through 2026⁶⁰ prescribes: a) determining the minimum levels of social protection for the population and assessing the social protection system's conformity to international social security standards (for 2023–2024); and b) drafting a social protection concept in keeping with international standards and the ILO's social security standards and recommendations (for 2025–2026). The National Development Programme of the Kyrgyz Republic through 2026 has as one of its objectives constructing an equitable and effective social protection system that guarantees everyone minimum levels of social protection, specifically in the event of social risks (disability, old age, loss of a breadwinner, job loss or unemployment, temporary incapacity to work, occupational illness, or death).⁶¹ It is advisable that the implementation of these goals be guided by the ILO's two-dimensional strategy adopted in 2011 by ILO constituents at the 100th International Labour Conference, a strategy which incorporates basic social security guarantees that ensure universal access to essential healthcare and income security at least at a nationally defined minimum level (the horizontal dimension) and that are in line with the Social Protection Floors Recommendation, 2012 (No. 202) together with progressive attainment of higher levels of protection (the vertical dimension) within comprehensive social security systems according to the Social Security (Minimum Standards) Convention, 1952 (No. 102).
58. The International Covenant on Economic, Social and Cultural Rights⁶² (Art. 10) is part of national legislation and places matters impacting maternity protection under special control. The state bears the responsibility for providing working mothers with paid leave or leave with sufficient benefits for social security. Inasmuch as every person has the right to social security, Kyrgyzstan in its capacity as a member state of the Covenant is under obligation to pay particular attention to persons and groups that typically encounter obstacles in the exercise of that right.⁶³
59. The International Covenant on Economic, Social and Cultural Rights also requires the state to provide benefits sufficient in amount and duration so that everyone can exercise their right to protection and to support for their families with a sufficient standard of living and access to medical care (Art. 10, 11 and 12 and also General Comment No. 19).
60. General Comment No. 19 to the International Covenant on Economic, Social and Cultural Rights emphasizes that particular attention is to be paid to persons and groups that typically encounter obstacles to the exercise of their right to social security, including women working in the informal

60 Decree of the President of the Kyrgyz Republic "On the National Development Programme of the Kyrgyz Republic through 2026" UP No. 435 dated 12 October 2021.

61 National Development Programme of the Kyrgyz Republic through 2026, Section 7.4. Inclusive growth.

62 The Kyrgyz Republic became a member by Directive of the Jogorku Kenesh No. 1406-XII dated 12 January 1994.

63 Committee on Economic, Social and Cultural Rights. General Comment No. 19.

sector of the economy, domestic workers, homeworkers,⁶⁴ women subject to additional discrimination as members of minority groups, refugees, asylum-seekers, returnees, non-nationals, prisoners, and detainees.

61. For the first time as a point of national law, the concept of “informal employment” appears in the draft Law “On promotion of employment”.⁶⁵ The amendments being introduced would specify that the term “informal employment” is to be understood as “the total number of informal workers at enterprises in the formal sector, at enterprises in the informal sector, and in domestic work during a given reporting period”. That definition will entail analysis and collection of various data pertaining to informal employment.
62. The Programme for Support and Development of Women’s Entrepreneurship in the Kyrgyz Republic for 2022-2026 has been approved, and the National Development Programme includes objectives aimed at facilitating financial stability and economic security for women.
63. The National Statistics Committee is compiling and analysing indicators that will provide a preliminary picture of the informal economy’s structure.
64. Kyrgyzstan has also made a commitment to the Committee on the Elimination of All Forms of Discrimination against Women,⁶⁶ which has recommended that Kyrgyzstan: a) ensures protection of maternity for women working in the informal economy; b) facilitates return to work by young mothers; c) advocates an equal distribution of family and domestic duties between men and women, including through motivating more fathers to exercise the right to take leave from work upon the birth of a child.
65. In general, the implementation of legally stipulated maternity protection depends upon the ability to prove the fact that an employment relationship exists, but this excludes workers who may not be able to confirm the fact of their employment or were in disguised employment. Also, the current practice of concluding short-term agreements may in fact deprive women of their maternity leave in the event that they have not been able to document entitlement to it before the expiration of their agreement.
66. The country is reforming its fiscal sector and in 2022 adopted a new Tax Code. At this point it is difficult to judge its effectiveness or the usefulness of its incentives for formalization.

64 A homemaker is a person who performs remunerated work at home at the direction of an employer or enterprise engaged in commercial or other activities. See the ILO Home Work Convention, 1996 (No. 177).

65 The draft Law of the Kyrgyz Republic “On amending the Law of the Kyrgyz Republic ‘On employment promotion’” is in the process of adoption.

66 Concluding remarks from the fifth periodic report on Kyrgyzstan dated 29 November 2021.

D. Recommendations

Social protection system and social dialogue

- A. During implementation of the measures listed in the National Development Programme of the Kyrgyz Republic through 2026 for constructing an equitable and effective social protection system, it is advisable to be guided by the two-dimensional strategy on extending social security schemes,⁶⁷ which provides for basic social security guarantees that ensure universal access to essential healthcare and income security at least at a nationally defined minimum level (the horizontal dimension) and that are in line with the Social Protection Floors Recommendation, 2012 (No. 202) and together with progressive attainment of higher levels of protection (the vertical dimension) within comprehensive social security systems in keeping with the Social Security (Minimum Standards) Convention, 1952 (No. 102). Such an initiative should be based on actuarial assessments and tripartite consultations. The Social Protection Floors Recommendation reiterates the recommendation of the Committee for Economic, Social and Cultural Rights,⁶⁸ which prescribes that Kyrgyzstan defines the minimum level of its social protection as a first step towards a universal and comprehensive social security system.
- B. The degree of trust of the population in the existing social protection system should be assessed along with the obstacles to implementing state guarantees.
- C. A full-scale assessment of gaps or deficits in the social protection measures for women working in the informal economy should be undertaken with due consideration of differences between sectors and occupations.
- D. A strategy for encouraging formalization by means of extending social security measures to women in the informal economy should be developed with input from a national dialogue and consultations with the social partners.
- E. Social dialogue mechanisms should be strengthened, and the capacity of the social partners should be improved.

Benefits and remuneration for work

- F. During discussion about maternity benefits and determining their amounts, it is advisable to be guided by ILO standards, specifically the Social Security (Minimum Standards) Convention, 1952 (No. 102) as it applies to schemes for the economically active population; in particular, the universal benefit amount (covering the subsistence minimum) is to be at least 45% of an unskilled worker's earnings. Maternity benefit schemes for wage-earning workers are to provide at least 45% of a woman's earnings prior to her leave.
- G. A gradual increase in the amount of maternity benefits for working women should be applied in order to reach two thirds of previous earnings as prescribed by social security standards.
- H. The minimum wage should increase and compliance with it should be enforced (the Recommendation of the Committee for Economic, Social and Cultural Rights).
- I. Poverty reduction strategies, including for child benefits to low-income families, should be implemented and measures that enable families not to relinquish their children to specialised institutions should be in place (the Recommendation of the Committee for Economic, Social and Cultural Rights).

⁶⁷ Adopted at the 100th session of the International Labour Conference, 2011.

⁶⁸ Recommendations of the Committee for Economic, Social and Cultural Rights referred to in this report's recommendations labelled A, H, I, N and V are from the Human Rights Council Report of the Administration of the UN High Commissioner for Human Rights, 35th session, 20-31 January 2020.

Employment

- J. Targeted measures should be adopted in order to broaden women's access to official employment, including leadership and highly qualified positions in traditionally male occupations as well as leadership positions in national and local administrative agencies. This should be accomplished through occupational training, incentives that facilitate hiring women, increasing the number of jobs, improving the quality of services in preschool childcare institutions and preschool educational institutions in both urban and rural regions, as well as through measures to mitigate the impact of COVID-19 on women's employment (the Recommendation of the Committee on the Elimination of All Forms of Discrimination against Women).⁶⁹
- K. Current social risks or threats to the position of women working in the informal economy and their family members should be identified so that economic and social risks for them and also for the country's economy as a whole are lessened.
- L. Categories of working women at elevated risk for informal employment should be identified by various characteristics so that the countermeasures devised are well targeted and take into account the differing needs of those groups of workers. For that purpose, it is advisable to be aware of the statistics on the economy sectors under review as well as of the concerns of various groups of women working in the informal economy.

Labour inspection

- M. The number of labour inspections that monitor employers' compliance with these principles and provide women with effective legal protections in the event that their labour rights are infringed should be increased (the Recommendation of the Committee on the Elimination of All Forms of Discrimination against Women).
- N. It is necessary to ensure that the informal economy fully respects labour rights and this sector is subject to regular labour inspection (the Recommendation of the Committee for Economic, Social and Cultural Rights).

Gender equality in the world of work

- O. The official list of facilities, jobs, occupations and positions with hazardous and harmful work conditions in which it is prohibited to employ women should be re-evaluated in order to remove unjustifiable restrictions on women. Women's access to those facilities, workplaces, occupations and positions should be facilitated; and any remaining measures that impose limitations should be proportionate and applied individually rather than universally to all women (the Recommendation of the Committee on the Elimination of All Forms of Discrimination against Women).
- P. Protection of maternity for women working in the informal economy should be ensured along with facilitating young mothers' return to work and advocating equal distribution of family and household obligations between men and women, including by use of paternal leave extended to fathers in connection with the birth of a child (the Recommendation of the Committee on the Elimination of All Forms of Discrimination against Women).

⁶⁹ The recommendations labelled J, M, O and P have been informed by the concluding remarks in the fifth periodic report on Kyrgyzstan dated 29 November 2021.

The purpose of concluding remarks is described as follows:

Having joined the Committee on the Elimination of All Forms of Discrimination against Women, Kyrgyzstan is obligated to submit periodic reports to the Committee concerning the implementation of rights stipulated by the Convention. During its open sessions, the Committee examines reports from member states and issues its recommendations to member states in the form of concluding remarks.

- Q. The employer should bear the burden of proof that the reasons for a worker's dismissal are not related to pregnancy or childbirth and its consequences or to nursing (Article 8, ILO's Convention 183);
- R. Requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment should be prohibited, except as required by national laws or regulations limited to specific types of jobs (Article 9, ILO's Convention 183).

Ratification and commitments

- S. In order to comply with the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women and the provisions of the General Agreement signed by the social partners, the feasibility of ratifying the following ILO Conventions should be considered:
 - Maternity Protection Convention, 2000 (No. 183).
 - Workers with Family Responsibilities Convention, 1981 (No. 156).
 - Violence and Harassment Convention, 2019 (No. 190);
- T. Any measure pertaining to implementation at the national level of international labour standards based on ILO Convention No. 144 should be subject to consultation.
- U. The feasibility of meeting the obligations listed in the ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) should be reviewed.

Labour inspection

- V. The status of persons employed in the informal economy should be regulated and implementation of the legislation pertaining to occupational safety and health should be ensured (the Recommendation of the Committee for Economic, Social and Cultural Rights).

Monitoring and evaluation

- W. Uniform definitions of terms related to the informal economy should be established for the purpose of data collection and processing as well as for efficient development of policies.
- X. An effective mechanism for regular monitoring and evaluation of maternity protection and social protection programmes for working women and workers with family responsibilities should be devised.
- Y. The membership of workers' and employers' organizations should be expanded through engaging and organizing workers in the informal economy and ensuring their active involvement in developing, implementing and monitoring policies and programmes affecting the informal economy.

E. Annexes

Annex 1: Assessment of national legislation with emphasis upon maternity protection and equal opportunities for workers with family responsibilities

1. Analysis of the national legislation and maternity protection benefits assignment system in the Kyrgyz Republic: Compliance with international maternity protection and labour standards.

Available online at:

https://www.ilo.org/moscow/information-resources/publications/WCMS_812251/lang--ru/index.htm.

2. Analysis of legal documents of the Kyrgyz Republic: Compliance with ILO Convention on Maternity protection, 2000 (No.183).

Available online at:

https://www.ilo.org/moscow/information-resources/publications/WCMS_812252/lang--ru/index.htm.

3. Review of national legislation and policies pertaining to protection of maternity and of workers with family responsibilities.

Available online at:

https://www.ilo.org/moscow/information-resources/publications/WCMS_812255/lang--ru/index.htm.

4. Social Protection Assessment-Based National Dialogue. Towards a Nationally Defined Social Protection Floor in the Kyrgyz Republic.

Available online at:

https://www.ilo.org/moscow/information-resources/publications/WCMS_623031/lang--ru/index.htm.

Annex 2: Social cash benefit amounts

Beginning 1 October 2021	
Monthly social benefits increased by 50 percent	<ul style="list-style-type: none"> ▶ children born to mothers with AIDS or HIV, from 4,000 to 6,000 som; ▶ children with disabilities, from 4,000 to 6,000 som; ▶ children who have lost one parent, from 1,000 to 1,500 som; ▶ children who have lost both parents, from 2,000 to 3,000 som; ▶ persons with Class I disabilities from childhood, from 4,000 to 6,000 som; ▶ persons with Class II disabilities from childhood, from 3,300 to 4,950 som; ▶ persons with Class III disabilities from childhood, from 2,700 to 4,050 som; ▶ children, both of whose parents are unknown, from 2,000 to 3,000 som.
Beginning 1 January 2022	
Monthly social benefits increased by 100 percent above amounts paid prior to 1 October 2021	<ul style="list-style-type: none"> ▶ children born to mothers with AIDS or HIV, from 4,000 to 8,000 som; ▶ children with disabilities, from 4,000 to 8,000 som; ▶ children who have lost one parent, from 1,000 to 2,000 som; ▶ persons with Class I disabilities from childhood, from 4,000 to 8,000 som; ▶ persons with Class II disabilities from childhood, from 3,300 to 6,600 som; ▶ persons with Class III disabilities from childhood, from 2,700 to 5,400 som.
Monthly social benefits increased by 200 percent above amounts paid prior to 1 October 2021	<ul style="list-style-type: none"> ▶ children who have lost both parents, from 2,000 to 6,000 som; ▶ children, both of whose parents are unknown, from 2,000 to 6,000 som.
<p>By Decree of the President, measures must be adopted to make the basic pension for children who have lost a breadwinner in the family equal to the monthly benefit for children who have lost a parent (or parents) provided that the children do not qualify for a pension.</p>	

Source: Decree of the President of the Kyrgyz Republic "On increasing the monthly social benefits for certain categories of citizens" UP No. 373 dated 1 September 2021.

Annex 3: Selected statistical indicators of poverty in the country

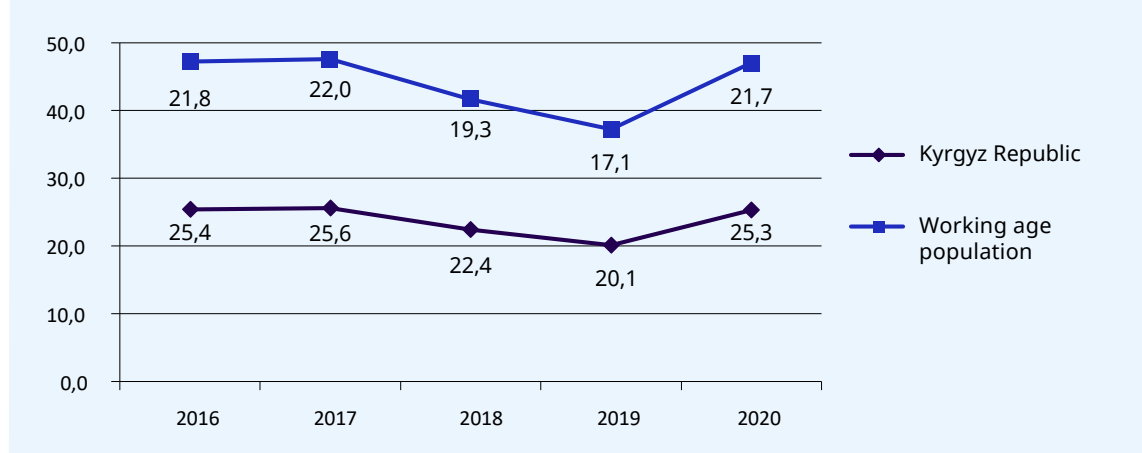
The monetary cut-off for the overall level of poverty in 2020 was an annual income of 35,268 som per capita; for extreme poverty, the level was 19,774 som.

In 2020, 1.678 million persons were under the poverty level, and 73.7 percent of them resided in rural communities. Approximately 25.3 percent of the population was living in poverty in 2020, and about another 8 percent were at risk of poverty.⁷⁰ In 2020 the share of the population beneath the official poverty level⁷¹ stood at 25.3 percent, while the population of employable age⁷² from 16 to 62⁷³ was 21.7%. See Diagram 1.

The poverty of the working population is the main indicator that illustrates the degree of poverty in the country. The working poor category applies not only to those with low earnings, but also to those with several dependents in their families, who are therefore unable to provide the minimum income necessary for each family member.

The main sources of monetary income for the population are earnings from employment, which account for 67.4 percent of disposable income, social transfers accounting for 16.7 percent, and 11.9 percent⁷⁴ from sales of agricultural products cultivated on privately owned farms. For average per capita disposable income, the figures are 40.6 percent from wages and 14.5 percent from individual employment. It should be noted that over 12 percent of the population's earnings come from employment of the population outside the Kyrgyz Republic.⁷⁵

► Diagram 1. Proportion of population living below the national poverty line (in percent)



70 Available online at: <http://www.stat.kg/media/publicationarchive/27bf7b42-dfee-44e0-9698-864275e6b3b3.pdf>.

71 Available online at: <http://www.stat.kg/media/publicationarchive/27bf7b42-dfee-44e0-9698-864275e6b3b3.pdf>.

72 SDG indicators 1.2.1. Available online at: <https://sustainabledevelopment-kyrgyzstan.github.io/1-2-1/>

73 For women the employable age runs from 16 to 57, and for men from 16 to 62.

74 National Statistical Committee, *30 Years of Independence for the Kyrgyz Republic*, p. 83.

75 National Statistical Committee, *Poverty Level of the Kyrgyz Republic's Population*, p. 4.

Annex 4: Extract from the Tax Code of the Kyrgyz Republic dated 18 January 2022 No. 3

Article 46. Tax regime

1. The tax regime comprises the taxes and their elements together with the procedure for their calculation and payment as applied in the instances and in the manner established by the tax legislation of the Kyrgyz Republic.

2. Both a general and a special tax regime shall be established in the Kyrgyz Republic.

3. The general tax regime is the system of taxation under which taxpayers incur tax liabilities for the general state and local taxes established by this Code.

The special tax regime is the system of taxation under which special procedures to identify the composition of taxes and their elements are applied instead of general state taxes and/or exemption from liability to pay particular general state and local taxes in accordance with this Code.

4. The special tax regime shall consist of:

- 1) the tax based on a patent;
- 2) the simplified taxation system based on a single tax;
- 3) the tax regime in free enterprise zones;
- 4) the tax regime in the High Technology Park;
- 5) the mining tax;
- 6) the tax on electronic commerce.

5. The establishment of any special tax regime for particular kinds of economic activity other than those established by this Article shall be prohibited.

Additional information: the state taxes include the income tax; profit tax, value-added tax; excise tax; tax on the use of mineral resources; sales tax; local taxes include property tax (Article 37 of the Tax Code of the Kyrgyz Republic).

Annex 5: Brief information

Maternity leave. The maximum duration of maternity leave in the Kyrgyz Republic is 126 calendar days (18 weeks), and that exceeds the minimum standard defined by Convention No. 183. But in some cases, extended maternity leave is provided, for example, in case of difficult or multiple births and for women residing in mountainous and remote areas or areas difficult to access.

Health protection. A range of legal documents of the Kyrgyz Republic entitle women to health protection guarantees at work during the period of pregnancy, and some guarantees are even extended to mothers with small children, a provision that exceeds the standards prescribed in Convention No. 183.

Cash benefits and medical care. At present, maternity benefits are paid to women with employment agreements; women who work on the basis of a patent or license; and members of farms and the unemployed entitled to unemployment benefits. In 2018 maternity benefits were distributed fairly equally with 42% going to wage earners and members of farms (not registered as legal entities), 16% – to the unemployed who were entitled to unemployment benefits, and only the insignificant share of 0.1 % – to entrepreneurs (not registered as legal entities).

Maternity benefits are financed from two sources: employers' funds and the state budget. The existing financing mechanism is not inconsistent with the standards of Convention No. 183, specifically, "An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement".

As for medical care, the Kyrgyz Republic at present fully implements the provisions of Convention No. 183 and in addition provides women with entitlement to medical care before, during and after giving birth; if needed, a hospital stay is also provided. Free medical care is provided to children below six years of age.

Employment protection and non-discrimination. The principles of equality and non-discrimination are included in the Constitution and Labour Code of the Kyrgyz Republic. The Labour code protects women from unjustified dismissal and recognises that the terms of an employment agreement are to be deemed void if they worsen the position of a worker or are discriminatory in nature. It is unlawful for an employer to terminate the employment of a woman who has children below three years of age, a provision that complies with Convention No.183. In addition, legislation protects single mothers with children below fourteen years of age (for disabled children, up to eighteen years of age) from dismissal. This guarantee also extends to persons who are caring for children without a mother. National legislation exceeds the international standards of Convention 183 in this regard.

Breastfeeding mothers. The national legal guarantees for working women with breastfed children exceeds the standards of Convention No.183. The Labour Code regulates the entitlement of women to paid nursing breaks. The entitlement extends also to all working women with breastfed children under one and a half years of age. This exceeds the standard from Convention No. 183. Nursing breaks are provided in addition to rest and lunch breaks. Nursing breaks are to be permitted once every 3 hours, and the duration of each nursing break is to be at least 30 minutes. If a working woman has two or more children below one and a half years of age, the duration of each nursing period is to be at least one hour. The Labour Code also entitles breastfeeding women to flexible working hours upon agreement with the employer, and this complies with the provisions of Convention No.183.

The Kyrgyz Republic has been implementing the ILO recommendations pertaining to allocation of premises for breastfeeding at the workplace or near it. The Law of the Kyrgyz Republic "On protecting breastfeeding and regulating marketing of products and items used as breast milk substitutes" requires that organisations arrange suitable conditions for breastfeeding mothers on the premises of state and self-governing authorities as well as requiring special premises for mothers and children at enterprises, institutions, and organisations regardless of their form of ownership.



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