

BRIEFING FROM Child Rights International Network (CRIN)
FOR THE COMMITTEE ON MIGRANT WORKERS
22nd Session, April 13-24, 2015

KYRGYZSTAN

CRIN urges the Committee to recommend that the government of Kyrgyzstan bring national standards for unaccompanied children into line with the ICRMW by encouraging a review of the Chisinau Agreement¹ as well as domestic legislation.

On May 11, 2004 the Parliament of Kyrgyzstan ratified the “Agreement on Cooperation of States - Members of Commonwealth of Independent States (CIS) on the return of minors to their state of residence” (the Chisinau Agreement), signed on 7 November 2002 in the city of Chisinau, Moldova.

The Agreement regulates procedures, logistics and financial matters relating to the transfer of unaccompanied children in the CIS, as well as designated institutions where these children are held while their status is determined.

Unaccompanied children travelling to Kyrgyzstan are usually children of Central Asian migrant workers in an irregular situation. The children usually travel alone to join relatives already residing in Kyrgyzstan. Given the state of the economy and the political situation in other countries of Central Asia it can be assumed that economic factors are the main reasons for migration.

Any child who has been left unaccompanied is usually placed in Centres of Prevention of Juvenile Delinquency (in the cities of Bishkek or Osh). These are pre-trial detention centres run by the Ministry of Internal Affairs of Kyrgyzstan. The most common reason for a child to be placed in these institutions is for identification purposes. In 2014, the Centre of Prevention of Juvenile Delinquency in Bishkek received eight unaccompanied minors from CIS countries.² Most children placed in the centres are neglected and only a small proportion (3 percent) are in conflict with the law.³

¹ “Agreement on Cooperation of States-Members of Commonwealth of Independent States on the return of minors to their state of residence”. Available online at: <http://cbd.minjust.gov.kg/act/view/ru-ru/17408?cl=ru-ru>

² Kyrgyz Telegraph Agency, "Last year the Centre of Prevention of Juvenile Delinquency received 38 preschoolers" (9 February, 2015). Available online at:

<http://kyrtag.kg/news/v-proshlom-godu-v-tsentri-profilaktiki-pravonarusheniy-postupili-38-doshkolnikov/>

³ Shadow report of NGOs on compliance of obligations under the UN Convention on the Rights of the Child by the Kyrgyz Republic, 2013. Available online at:

https://www.crin.org/docs/Kyrgyzstan_Youth%20Human%20Rights%20Group_Integrated%20CRC%20Report%20EN.pdf

Children can be detained in the centre from three to a maximum of 48 hours (according to Article 24 of the Constitution of Kyrgyzstan), however, the centre is a closed institution which is penitentiary in nature. There have been attempts, even by the Ministry of Internal Affairs, to relocate the Centre to the Ministry of Social Development, but these attempts have been rebuffed by the government of Kyrgyzstan.

Issues:

- Chisinau Agreement has no provisions allowing children in an irregular situation to stay in Kyrgyzstan, instead they are deported to their country of origin, even if this is not in their best interests - a breach of article 8 of the the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and article 3 of the Convention on the Rights of the Child (CRC);
- Unaccompanied children in an irregular situation who have not committed any offence are detained in closed institutions and their freedom of movement is restricted, a violation of article 17 (paragraph 2) of the ICRMW and article 37 (paragraph b) of the CRC. Furthermore, children in conflict with the law and unaccompanied children are held in the same centre (albeit separately);
- Monitoring by NGOs and the Ombudsperson's office shows a high level of physical violence against children in these institutions, while staff including psychologists are usually not trained to work with children⁴;
- Legal assistance is not provided systematically in these institutions which means that decisions affecting unaccompanied children are not informed by their views and wishes, and the children affected are not made aware of their legal entitlements (a violation of article 18, paragraph 3(d) of the ICRMW and article 37 of the CRC);
- Conditions in the Centre in Bishkek are unsuitable for children. The building has been neglected for many years and is in a state of such disrepair that it cannot be renovated.⁵

Recommendations

We urge the Committee to recommend that the government:

1. Initiate, at the CIS level, a review of the Chisinau Agreement to ensure it complies with international human rights standards;
2. Allocate responsibility for transit centres to the Ministries of Education and Science, Health or Social Development, instead of the Ministry of Internal Affairs;
3. Adopt alternatives to detention, to avoid criminalising children, and seek out good practices for dealing with unaccompanied children;
4. Provide unaccompanied children with legal and psychological assistance from professionals trained to work with children;
5. Conduct trainings with law enforcement officials and migration officers on the treatment of unaccompanied children.

⁴ Youth Human Rights Group submission to CRIN on the situation of unaccompanied children in Kyrgyzstan, 2013.

⁵ Kabarlar, "The building of the Centre of Prevention of Juvenile Delinquency is in poor state" (9 February, 2015). Available at: <http://kabarlar.org/index.php?newsid=41245>