

## GLOBAL PROGRAMME ON IMPROVING SYNERGIES BETWEEN SOCIAL PROTECTION AND PUBLIC FINANCE MANAGEMENT

### Enhancing disability-inclusiveness of social protection system in Kyrgyzstan



### Policy Brief #1 – Rapid disability legal and policy review, 2022

# BACKGROUND

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Following Kyrgyzstan's ratification of the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) in March 2019, the localization of the Agenda 2030<sup>1</sup> and the Sustainable Development Goals (SDG), the Government, social partners, organisations of persons with disabilities, and development partners are taking further steps to ensure that international commitments are included in legislation, policy, and practice.

At the policy level, the inclusion of persons with disabilities is prioritized in the National Development Strategy of the Kyrgyz Republic until 2040<sup>2</sup>; the National Development Programme until 2026<sup>3</sup>; and the National Programme "Inclusive Country" 2021-2024 (not yet approved)<sup>4</sup>. Furthermore, the commitment to the principle of 'leave no one behind' embedded in the SDGs has been stressed as a national policy objective by prioritising the most vulnerable groups. This particularly concerns people with disabilities who are facing exclusion in most spheres of life.

According to the 2021 data of the National Statistical Committee, at least **198,000 persons with disabilities** or approximately **3 percent of the total population of Kyrgyzstan** lived with some type of disability. Over the past five years, the number of registered persons with disabilities has increased by 10.5 percent. More **than 165,000 of the total number of people with disabilities** are adults (4%). The number of children with disabilities under 18 years old is more **than 32,000 (1.3%)**. The National Statistical Committee's data is derived from administrative data sources which collect limited types of information based on their particular mandate and on persons with disabilities with whom they interact, specifically the Ministry of Labour, Social Security and Migration; the Ministry of Education; and the Centre of Medico-social Expertise which conducts **disability assessment**. Given that disability assessment is based on the **medical approach**, and possibly because not all persons with disability undergo assessment procedures, persons with **disability constitute 3% of the Kyrgyz population**. The Population Census conducted in March 2022 included indicators of the Sustainable Development Goals for the first time, as well as a short set of questions about disability based on the recommendations of **the Washington Group on Disability Statistics**<sup>5</sup>. This will allow to more accurately identify the share of persons with different types of disabilities in the total population.

International social security and labour standards are among the commitments that the Government of Kyrgyzstan and social partners aspire to. Kyrgyzstan has ratified eight<sup>6</sup> out of ten fundamental conventions, three governance priority conventions, and several technical

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<sup>1</sup> Localizing the 2030 Agenda: Building on What Works, <https://www.un.org/humansecurity/exchange/forum/#:~:text=Localizing%20the%202030%20Agenda%20is.to%20local%20needs%20and%20aspirations>.

<sup>2</sup> National Development Strategy of the Kyrgyz Republic until 2040, <https://mfa.gov.kg/uploads/content/1036/3ccf962c-a0fc-3e32-b2f0-5580bfc79401.pdf>

<sup>3</sup> National Development Programme until 2026, [http://www.president.kg/ru/sobytiya/20898\\_prinyata\\_nacionalnaya\\_programma\\_razvitiya\\_kirgizskoy\\_respubliki\\_do2026\\_goda](http://www.president.kg/ru/sobytiya/20898_prinyata_nacionalnaya_programma_razvitiya_kirgizskoy_respubliki_do2026_goda)

<sup>4</sup> National Programme "Inclusive Country" for 2021-2024 <https://mlsp.gov.kg/2020/12/21/proekt-gosprogrammy-dostupnaya-strana-dlya-licz-s-invalidnostyu-i-drugih-malomobilnyh-grupp-naseleniya-v-kr-na-2021-2040-gody/>

<sup>5</sup> National Statistical Committee of the Kyrgyz Republic population and housing census of the Kyrgyz Republic 2020, <http://www.stat.kg/media/files/3a250421-7912-47d9-a96e-a0e1323aa685.pdf>

Sample questions on disability of census:

13. Functional limitations of features; 13.1 Do you have difficulty seeing even with glasses? 13.2 Do you have difficulty hearing, even if you use

with a hearing aid; 13.3 Do you have difficulty walking or climbing stairs? 13.4 Do you have difficulty remembering or concentrating? 13.5 Do you have difficulties taking care of yourself (with self-care, for example, related to washing or dressing yourself)?;

<sup>6</sup> Forced Labour Convention, 1930 (No.29), Freedom of Association and Right to Organise Convention, 1948, No.87, Right to Organise and Collective Bargaining Convention, 1949 (No.98), Equal Remuneration Convention, 1951, No. 100, Abolition of Forced Labour Convention, 1957, No.105, Discrimination (Employment and Occupation) Convention, 1958, No.111, Minimum Age Convention, 1973, No. 138, Worst Forms of Child Labour Convention, 1999 No. 182

conventions<sup>7</sup>. The standards and guiding principles set out in the Equal Remuneration Convention 1951, No. 100; the Employment Policy Convention, 1964, No.122; and the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, No.159; are of particular importance for Kyrgyzstan's on-going education, employment, and social protection policy reform. Importantly, Kyrgyzstan is one of 60 ILO Global Initiative Building Social Protection Floors for All<sup>8</sup> members which support the implementation of social protection systems, including floors, guided by ILO social security standards.

Despite all the positive attempts of the state to promote the inclusion of persons with disabilities, they are frequently excluded from education, vocational training, and employment opportunities.

## BRIEF POLICY ANALYSIS

*The Kyrgyz Republic ratified the Convention on the Rights of Persons with Disabilities (CRPD) (May 2019)<sup>9</sup>.*

In this regard, local NGOs and persons with disabilities highlighted the tangible activities and measures necessary to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities which are still not in place.

*An Action Plan for implementation of the CRPD (2019-2022) and state programme "Inclusive Country for 2021-2040" have been drafted but not officially adopted yet. The process of public consultations about "Inclusive Country for 2021-2040" is ongoing, headed by the Ministry of Labour, Social Security and Migration to facilitate finalization of the programme.*

*The Law on the rights and guarantees of persons with disabilities<sup>10</sup>: The right of persons with*

disabilities to **social protection** arises from the moment the relevant authorized state body **establishes a disability group**. The government guarantees the following types of social protection: cash benefits and compensation; home-based service; community-based services, residential care; provision of technical and special equipment; all types of rehabilitation; and additional social guarantees.



<sup>7</sup> Full list of conventions ratified by Kyrgyzstan

[https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:103529](https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103529)

<sup>8</sup> Global Flagship Programme Building Social Protection Floors for All <https://www.ilo.org/secsoc/technical-cooperation-projects/building-social-protection-floors-for-all/lang-en/index.htm>

<sup>9</sup> Law of the Kyrgyz Republic "On Ratification of the UN Convention on the Rights of Persons with Disabilities adopted by the United Nations General Assembly" dated March 13, 2019 No. 34, <http://cbd.minjust.gov.kg/act/view/ru-ru/111885?cl=ru-ru#unknown>

<sup>10</sup> The Law of the Kyrgyz Republic "On the Rights and guarantees of persons with disabilities" dated April 3, 2008 No. 38

*The Labour Code of the Kyrgyz Republic*<sup>11</sup> guarantees **the right to work** in the open labour market, in specialized organizations, workshops, and on sites employing persons with disabilities, as well as engagement in individual entrepreneurial activity. The law prescribes **job quotas** for persons with disabilities of at least **5 percent of the number of employees** (where the number of employees is **at least 20 people**) in public sector. At the same time, due to this standard, **part-time work can also be provided**. During the discussion, the organizations noted that law still contains discriminatory norms, has ambiguous and confusing terminology and contains impairment-focused definition of disability. In addition, particularly focus on more rights-based approaches championed by the CRPD, innovative and inclusive approaches and good practices such as the provision of tax exemptions, financial incentives, or other new support/incentives/schemes to private sector investment in the workplace and the promotion of employment of persons with disabilities is needed.

**According to articles 314 and 315 of the Labour Code of the Kyrgyz Republic and the Law "On the rights and guarantees of persons with disabilities"**, the public employment service with the participation of organizations of disabled people is tasked with developing standards for job quotas for people with disabilities and local self-government bodies of **at least 5 percent of the number of employees** (for companies employing over 20 people, or one employee (5%) for companies employing fewer than 20 workers)<sup>12</sup> in public sector.

**Employers are obliged** to establish number of **workplaces** for persons with disabilities. **Termination of an employment** contract of a disabled person on the employer's initiative is **not allowed**. Kyrgyzstan does not yet have systematic monitoring of compliance with this quota. Moreover, the quota schemes cannot be enforced and monitored by the labour inspectorate or by the prosecutor's office. Labour market policies are underfunded and do not have a significant impact on promoting the employment of persons with disabilities or employment in general.

**Local self-government bodies have the right to establish additional social guarantees for persons with disabilities at the expense of the local budget.**

*The Law of the Kyrgyz Republic "On State benefits in Kyrgyz Republic"*<sup>13</sup>. **Monthly social benefits** are assigned to: 1) children with disabilities - up to 18 years; 2) persons with disabilities from childhood of groups I, II, and III; and 3) persons with disabilities of groups I, II, and III who do not qualify for contributory benefits.

*The Law of the Kyrgyz Republic "On the basics of social services in the Kyrgyz Republic" dated December*<sup>14</sup> includes the provision of a set of services: a) Residential care: social residential care facilities for the elderly, persons with disabilities, children with disabilities, and others; b) Semi-residential care: social service centres for the elderly, persons with disabilities, and children with disabilities (day care units); social assistance centres at home; social shelters for children and young people; social rehabilitation centres for children, and other categories of persons with disabilities; social assistance centres for families and children; c) -residential care: centres of emergency psychological assistance (helplines, etc.); urgent (operational) social assistance services; social and household services. The additional network of social services include: charity enterprises and institutions (hospices); shelters for elderly, people who have been subjected to violence); centres of psychological and pedagogical assistance to the population; crisis and psychological centres (primarily for women but also or men); gerontological centres; centres for children without parental care; centres of assistance to graduates of orphanages (centres for social adaptation); social shops, canteens, consumer service centres, rental points and workshops. As the organization of persons with disabilities noted during the discussions, the quality of social services is low, provided by unskilled social workers with heavy workloads

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<sup>11</sup> Labor Code of the Kyrgyz Republic dated August 4, 2004 No. 106. Chapter 25 Features of labor regulation of working persons with disabilities

<sup>12</sup> The Law of the Kyrgyz Republic "On the Rights and guarantees of persons with disabilities" dated April 3, 2008 No. 38

<sup>13</sup> The Law of the Kyrgyz Republic "On State benefits in Kyrgyz Republic" dated July 28, 2017 No. 163

<sup>14</sup> The Law of the Kyrgyz Republic "On the basics of social services in the Kyrgyz Republic" dated December 19, 2001 No. 111.

coupled with low wages, a weak infrastructure, a lack of material and technical support and, generally, insufficient finances for these services.

**The Law of the Kyrgyz Republic "On guaranteed State minimum social standards"<sup>15</sup>. Social standards** of social protection: state benefits to citizens (families), considering their need; requirements for the services provided for socially vulnerable categories of citizens, funeral allowances (for burial) in case of death of able-bodied and disabled citizens. **Social standards** in the field of social protection are approved by the **Government of the Kyrgyz Republic**. Social standards are the basis for the formation and execution of **social interventions** from the republican and local budgets. Social standards are reviewed based on financial and economic opportunities. As the organizations noted during the discussion, these standards are not available to the public and it is very difficult to monitor and understand the application of mechanisms.

**The Law of the Kyrgyz Republic "About the state social order"<sup>16</sup>. State social order** is a mechanism for implementing part of republican, sectoral, regional or municipal social programmes aimed at providing social services to the population. **The objectives of the state social order** are to solve socially significant problems and achieve socially useful goals at using national and/or local budgets, as well as by involving intellectual, human, material, and other resources of legal entities, individual entrepreneurs, and citizens. **State social order is implemented using the following mechanisms:** 1) public procurement of social services; 2) state financing of socially useful projects; and 3) the provision of social services through vouchers. **The purpose of the State social order is**



**to:** 1) protect socially unprotected categories of citizens, including families and children in difficult life situations, elderly citizens, and **persons with disabilities**; 2) support young people; 3) provide education and enlightenment; 4) ensure health and physical well-being; 5) provide medical care services; 6) ensure social entrepreneurship; 7) reduce poverty; 8) protect the environment, including endangered plants and animals; 9) promote physical education and amateur sports; 10) promote science; 11) promote literature; 12) promote art; 13) promote culture; 14) promote tourism; 15) ensure human rights, including the elimination of racial, ethnic, religious, gender or any other form of discrimination; 16) maintain public order and public consent; 16-1) probation; and 17) provide assistance to migrants, internally displaced persons, and refugees.

An authorized state body or local self-government body planning to implement or implementing a state social order **creates a database of social issues and socially useful goals** that can be achieved through the implementation of a state social order and **develops a draft program with period of 1 to 5 years.**

<sup>15</sup> The Law of the Kyrgyz Republic "On guaranteed State minimum social standards" №170 26.05.2009

<sup>16</sup> The Law of the Kyrgyz Republic "About the state social order" №70 от 28.04.2017.

The state social order is financed from the national and/or local budgets. As the organizations noted during the discussion, it is necessary to have a **comprehensive discussion** of the definition of topics or issues with all stakeholders to ensure transparency the social order will only refer to and cover the mentioned issues and will be financed as such. Many stakeholders also noted that activity of private rehabilitation centres (around 50) in Kyrgyzstan have higher quality of services and are more effective compared to public institutions providing different services for children and adults with disabilities.

*The Law of the Kyrgyz Republic "On State pension social insurance"<sup>17</sup>*. Insured persons recognized as disabled have the right to receive a disability pension if they have been contributing to social insurance for a defined period of time at the onset of disability: 1 year for those aged up to 23 years old; 2 years for those between 23 and 26; 3 years for those aged 26 to 31, and; 5 years for those aged 31 and older. The basic and insurance parts of the disability pension are assigned in the full amount of the basic and insurance parts of the old-age pension for disabled belonging to groups I and II, while people with group III disabilities receive 50 percent of the pension.

*The Government decree "State minimum social standards of social services provided to persons with disabilities, including children, in semi-stationary organizations and social service institutions"<sup>18</sup>*. **The needs of people with disabilities** (including children) in social services admitted to the social service centres are determined by **social workers, doctors (medical staff), pedagogues**, and other specialists at the centre. On the basis of **determining which services are needs**, these specialists centre develop an **individual plan**. Challenges associated with the development of individual plans mostly refer to social workers being more interested in memorizing protocol more quickly or being busy with paperwork and are thus inattentive and unsensitive to inclusive issues, lack specific expertise, and do not rely on the participation of parents, caretakers, or their environment.

## GAPS, BARRIERS, CHALLENGES

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*The main disability inclusiveness issues/agendas and recommendations were identified and discussed during consultation meetings with relevant stakeholders in June and July 2022.*

Kyrgyzstan has not yet ratified the **Optional Protocol to the Convention on the Rights of Persons with Disabilities**, which establishes an **individual complaints mechanism** (in order to consider complaints from individuals or groups who claim their rights under the Convention have been violated);

- **There is a lack of sufficient technical capacity**, transparency and professionalism of relevant state agencies and **weak cross-sectorial coordination** at central and local levels regarding disability issues among stakeholders;
- **Government statistics in Kyrgyzstan about situation of PWDs is limited** and are determined largely through the analysis of public health and social protection indicators. In addition, organizations working with people with disabilities also noted during the meetings that statistics do not reflect the real number of PWDs in Kyrgyzstan, data collection tools are unclear, inaccurate, and data is very limited. Sex-aggregated data and statistics on education and employment issues with disabilities **are not currently available**;
- The **physical environment, public transportation** and work environments remain pervasively **inaccessible** in Kyrgyzstan;

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<sup>17</sup> The Law of the Kyrgyz Republic "On State pension social insurance" №57 of 21.07.1997

<sup>18</sup> Government decree "State minimum social standards of social services provided to persons with disabilities, including children, in semi-stationary organizations and social service institutions" (No. 381 of the Kyrgyz Republic dated July 8, 2014).

- **The definition of disability in Kyrgyzstan**, according to the [Law on the rights and guarantees of persons with disabilities \(April 3, 2008 No. 38\)](#) continues to reflect more **medical models of understanding with** resulting in **conflicting guidance and collisions**. Ultimately, legal definitions are not aligned with the CRPD, which creates a chain of structural barriers. The definition of **“disability”** should be based on a **socio-legal understanding/model which assumes that persons with disabilities are those with long-term physical, mental, intellectual or sensory impairments** which presents various barriers which hinder their participation in society
- Organizations working with people with disabilities drew attention to related social problems such as **stigma and discrimination, violence and abuse; lack of educational opportunities; exclusion from income generation and employment opportunities; barriers civil and political rights** and exclusion from participating in the **decision-making process**; and full participation in society on an equal basis;
- The legal knowledge of PWDs varied widely. Notably, over a third of the persons with disabilities surveyed said that they had a **“very weak” understanding of their rights as PWDs**, while the largest group (42%) said that they had only a limited understanding of their rights. The focus group discussions emphasized that PWDs face **many challenges in exercising their rights**, with some attributing this to a lack of legal awareness, while others asserted that PWDs are aware of their rights but are not able to exercise them due to **certain barriers such as bureaucracy or physical access to government institutions**
- The data available clearly downplays the number of persons with **special educational and employment needs**. For example, persons with disabilities **of groups I and II are not covered** although they are willing and able to learn, for example, remotely/from home;
- Educational curricula do not comply with international inclusive education standards. Given the lack of opportunities to access education, obtain professional skills, and reach gainful employment, many persons with disabilities in Kyrgyzstan live **on the margins of or in poverty**.

#### List of meetings and discussions with stakeholders for the preparing

- Minister of Labour, Social Security and Migration of the Kyrgyz Republic;
- Minister of Finance of the Kyrgyz Republic;
- German Society for International Cooperation (GIZ) in the Kyrgyz Republic;
- Solidarity Centre;
- Kyrgyz Society of the Blind and Deaf;
- Foundation "Providing legal assistance to persons with disabilities".
- NGO "Equality";
- Public association "Movement of young people with disabilities";
- Centre for Research on Social and Labour Relations.

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