



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
23 February 2023
English
Original: Russian
English, French, Russian and
Spanish only

Committee against Torture

Seventy-sixth session

17 April–12 May 2023

Item 4 of the provisional agenda

Consideration of reports submitted by States parties
under article 19 of the Convention

Replies of Kazakhstan to the list of issues in relation to its fourth periodic report*

[Date received: 15 February 2023]

* The present document is being issued without formal editing.



Information in response to the list of issues (CAT/C/KAZ/Q/4) related to the consideration of the fourth periodic report

Articles 1 and 4

1. The Senate is examining a draft act amending and supplementing the provisions of the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code which deal with human rights in the field of criminal justice, the enforcement of penalties and the prevention of torture and ill-treatment, the aim of which is to bring legislation into line with the Convention against Torture.
2. The incorporation of the term “person acting in an official capacity” into national law is intended to ensure the implementation of the term contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The draft act also provides for tougher penalties under article 146 of the Criminal Code; the penalty under paragraph 2 of this article is increased to 10 years deprivation of liberty.
3. According to the commentary to article 146 of the Code, suffering caused by the lawful actions of officials is not deemed to be torture. The exercise of authority is assumed to rest on strict compliance with the law. The term “legitimate” is absent in national legislation owing to its broad interpretation.

Article 2

4. In Kazakhstan, the Office of the Human Rights Commissioner (Ombudsman), accredited by the Global Alliance of National Human Rights Institutions, has been in operation for more than 20 years.
5. The constitutional provision concerning the Human Rights Commissioner that also cover his independence and unaccountability to State bodies and officials was strengthened by the Constitutional Amendment Act of 8 June 2022.
6. The National Human Rights Centre is attached to the Office of the Human Rights Commissioner. The national preventive mechanism for the prevention of torture and ill-treatment, based on the “Ombudsman+” model, was established in 2014.
7. Pursuant to the Optional Protocol, which has been ratified, the Act of 2 July 2013 amended and supplemented legislation concerning the establishment of a national preventive mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment.
8. National legislation contains provisions on a national preventive mechanism and the powers of the Ombudsman and the mechanism have been widened in the updated Penal Enforcement Code (Chapter 9) and the Code on Public Health and the Health-Care System (Chapter 22). The relevant amendments have been made to the Act on Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities (Chapter 3–3), the Children’s Rights Act (article 47) and the Act on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness (Chapter 4).
9. Legislation has expanded the mechanism’s mandate to cover not only prisons, special institutions and special premises of the criminal prosecution bodies, but also medical facilities for compulsory treatment and institutions providing special social services, including for children. The number of institutions covered by the mechanism increased from 400 in 2014 to 3,434 in 2022.
10. In order to guarantee the smooth functioning of the mechanism, budgetary provision was made for an individual programme entitled, “Implementation of measures for the effective operation of the national preventive mechanism” covering the period 2020–2022, under which the Ministry of Justice (the programme administrator) has paid members of the mechanism 163.8 million tenge (54.4 in 2020, 55.1 million tenge in 2021 and 54.3 million tenge, in 2022) to defray expenditure on visits and travel, administrative expenses and the

cost of renting premises. The National Human Rights Centre has been the programme administrator since 1 January 2023.

11. In accordance with the rules on preventive visits by groups of members of the national preventive mechanism, a member has the unrestricted right to select and visit the institutions and organizations where such visits are to be carried out, to conduct private interviews with persons held in the institutions and organizations being visited, and (or) their legal representatives and to receive information and complaints about torture or other cruel, inhuman or degrading treatment or punishment, etc.

12. Special preventive visits are conducted without warning (by decision of the Ombudsman), including in response to reports of torture and other cruel, inhuman or degrading treatment or punishment. Coordination of the monitoring activities of the national preventive mechanism and the Commissioner for Children's Rights in closed institutions for children is in the process of being studied in depth.

13. Between 2020 and 2022, members of the mechanism conducted 1,529 visits (517 in 2020, 507 in 2021 and 505 in 2022), including 135 special visits (40 in 2020, 46 in 2021 and 49 in 2022).

14. In the wake of visits by the mechanism's members, 10,150 recommendations were made to facilities and organizations under their mandate (3,319 in 2020, 3,667 in 2021 and 3,164 in 2022), most of which were related to improving the detention conditions of persons in solitary confinement, including better medical care and nutrition and the prevention of torture and ill-treatment.

15. Government agencies are taking steps to implement the recommendations and eliminate such shortcomings in the activities of institutions and organizations as were identified in the reports. Some 30.5 per cent, or 2,130, of the recommendations have been fully implemented, 67.3 per cent, or 4,702, are being implemented, and 2.2 per cent or 154 have not been implemented. The mechanism's recommendations from 2022 are being implemented.

16. On 5 November 2022 the President signed the Constitutional Act on the Human Rights Ombudsman in the Republic of Kazakhstan which established the status, powers, guarantees of the Ombudsman's independence and his unaccountability to State bodies and officials. The Ombudsman may participate in a public dialogue to settle disputes between State bodies, local authorities, other organizations and citizens and make give them appropriate recommendations.

17. The Constitutional Act ensures that the Ombudsman acts in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and gives him the right to submit proposals to the President, Parliament and Government on drafting laws and improving national legislation to promote and protect human and civil rights and freedoms and to petition the Constitutional Court on the adequacy of normative legal acts that affect the protection of human and civil rights and freedoms embodied in the Constitution.

18. In order to improve the organization of activities, 20 positions of representatives of the Human Rights Ombudsman have been created in all provinces, and in two major towns and the capital. They are appointed directly by the Ombudsman.

19. The recommendations of the Committee against Torture regarding the structural reform of the administration of justice are being implemented. The main aim of the reform is to boost the level of citizens' legal protection, ensure the effective judicial protection of their rights and mould a first-rate judiciary.

20. An Act of 27 December 2021 introduced a three-tiered model of criminal proceedings. The three key tasks in criminal procedure are performed by different bodies: (1) the pretrial investigative bodies are responsible for the detection and suppression of a criminal offence, the identification of the perpetrators and the gathering and preservation of evidence; (2) the Procurator's Office is responsible for giving an independent legal assessment of the evidence, coordinating key procedural decisions and for filing and presenting charges in court; (3) a court is responsible for passing sentence, authorizing investigations and examining

complaints about the actions and decisions of pretrial investigative bodies and the Procurator's Office.

21. Proceedings in all courts have been streamlined and simplified. Much excessive stress has gone. The procedure for reporting newly discovered circumstances has been shortened.

22. In courts of first instance an audiovisual recording is made of court hearings and good summary records are kept. Consideration by the courts of civil suits and private prosecutions, even those using the shortened procedure, is regulated.

23. In the court of appeals cases concerning crimes of medium gravity are heard by a judge sitting alone. Their power to review a sentence has been expanded. Only the introductory and operative parts of the judgment or ruling are delivered orally. The rules regarding the repetition of the entire text of a ruling have been dropped.

24. In cassation procedure petitions receive preliminary consideration by three judges in an open session. The President of the Supreme Court is no longer entitled to apply for a review of judicial acts. Judicial acts in cases concerning misdemeanours and less serious offences are not subject to appeal but are considered only when they are challenged by the Procurator General.

25. The Jurors Act was amended by Parliament on 27 July 2022. Jury selection is now computerized. As of 1 January 2023, the competence of a court with a jury has been widened to 30 crimes (24 articles) and will be extended to 43 crimes (30 articles) on 1 January 2024.

26. Specialized investigative courts were set up in 2018. This has ensured proper judicial control over pretrial proceedings. Contacts between investigative judges and judges of criminal courts, which subsequently hear criminal cases, have been minimized. The period of detention without court authorization has been reduced from 72 to 48 hours and in the case of minors to 24 hours.

27. The institution of summary procedure has been introduced in criminal proceedings. It has shortened the pretrial and trial stages. This helps to expedite the restoration of rights that have been violated and does away with the repressive nature of the criminal process.

28. The scope of alternative criminal penalties not entailing deprivation of liberty has been widened. Community service has been introduced for minor or ordinary offences. Restriction of freedoms and fines are imposed for certain categories of serious crimes. A unified judicial practice has been developed for ordering the additional punishment of confiscation of property.

29. Electronic criminal case files have been introduced to rule out the possibility of tampering with them. The transparency of procedural action on the part of law enforcement agencies is ensured.

30. In order to provide stronger guarantees of judges' independence, the Constitutional Act of 21 February 2019 introduced the following amendments: it abolished court presidiums which could decide whether to initiate disciplinary proceedings against judges; it prohibited more than two terms of office for presidents of courts and chairmen of judicial boards; The Judicial Panel and the Staff Reserve Commission have been placed under the aegis of the Supreme Judicial Council.

31. A special body, the Commission on the Quality of Justice, has been created to assess judges' performance by new methodology using human resources tools recognized in the leading countries.

32. Between 2018 and 2019, the rise in judges' salaries halted their exodus from the system, notwithstanding the greater demands placed on them. In the budget, a statutory bottom threshold has been established exclusively for the judiciary to ensure its independence. It is not less than 6.5 per cent of the expenditure of all State bodies for the previous fiscal year.

33. The Court Administration has been set up under Presidential Decree No. 1002 of 8 September 2022 on measures to modernize court administration. This body is responsible for providing courts with information and analysis, as well as legal, material and technical support for their activities.

34. The Act on the Professional Activities of Advocates and Legal Assistance of 8 April 2021 established guarantees in respect of the work of lawyers and legal advisers, as well as the principles of legal assistance.

35. The rights of a lawyer or legal adviser are subject only to such restrictions as are expressly provided for by the laws of Kazakhstan. Interference in or obstruction of the lawful activity of a lawyer is a criminal offence (art. 435 of the Criminal Code). Identification of a lawyer with the person to whom he or she renders legal assistance is prohibited.

36. The following is prohibited: questioning a lawyer as a witness about circumstances which became known to him or her in the exercise of his or her professional duties; obtaining information or evidence related to the rendering of legal assistance from a lawyer, his or her assistant, trainee or a person employed by the lawyer, from a legal advisor or law firm, from the senior staff or employees of the Presidium of the Bar Association, or from any person whose right to practice law has been suspended or terminated, or trying by other means to obtain information and evidence related to the rendering of legal assistance, without the consent of the lawyer or his or her client, except in cases prescribed by the laws of Kazakhstan.

37. Pursuant to article 6 of the above-mentioned Act, the principle of independence means that persons rendering legal assistance are independent in the exercise of their rights and the performance of their professional duties.

38. The Act of 9 June 2021 amending and supplementing Certain Legislative Acts on the Professional Activities of Advocates and Legal Assistance adopted several conceptual amendments to the Code of Criminal Procedure. Lawyers have the right to inspect all the files and evidence of a criminal case at the end of the pretrial investigation, to note any amount of information drawn from them, to make copies by scientific and technical means, save for information constituting State or other secrets protected by law and the list of witnesses for the prosecution.

39. In order to give advocates greater opportunities to provide legal assistance, a defence lawyer participating in the proceedings may briefly consult with his or her client, at that person's request, in the presence of the person who conducted the pretrial investigation.

40. In August 2022 amendments were made to the Government Decree Approving the Amount of State-guaranteed Payments for Legal Assistance Provided by an Advocate, and Reimbursement of Expenses Related to Legal Advice, Defence and Representation, as well as to Conciliation Procedures, which increased the payment of lawyers for proceedings at night, at weekends and on public holidays.

41. The transfer of authority for the penal correction system to the Ministry of Justice was considered by the Government in the content of carrying out the President's instruction to take preventive measures to avert torture in prisons (24 February 2022). In light of the potential risks entailed by less interaction between the operational services to counter the spread of criminal ideology and religious extremism in prisons, at this stage it was decided that such a transfer would be premature.

42. As the 2011 reform showed, the Ministry of Justice was not ready to ensure the proper functioning of the penitentiary system. The main priorities have become the need to secure stability in prisons, make convicts' conditions of detention consonant with legal requirements and neutralize the negative influence of leaders of organized criminal groups on the behaviour of much of the prison population.

43. The penal correction system has a separate governing body, namely the Committee of the Penal Correction System of the Ministry of the Interior, which upholds our commitment to international standards.

44. (a) Pursuant to Presidential Decree No. 622 of 19 July 2021 on Measures for the Further Improvement of Public Administration in Kazakhstan, authority over the provision of medical care for persons held in remand centres and prisons has been transferred from the Ministry of the Interior to the Ministry of Health. Medical workers are independent of the administration of these facilities.

45. When specialists examine prisoners and also at the request of the person being examined, the medical examination is performed confidentially behind a screen, out of sight of police officers and prison staff.

46. The order of the Minister of Health of 30 June 2022 approving the Rules on the Provision of Medical Assistance to Persons held in Remand Centres and Prisons is currently being amended to require notification of the procurator whenever a medical worker records bodily injuries.

47. (b) In accordance with the requirements of article 129 of the Code of Criminal Procedure, custody as a procedural coercive measure may not exceed three hours. In order to monitor the length of custody, all law enforcement agencies have an information system for recording visitors, which is regulated by the Instruction on the procedure for electronic registration of visitors (approved by Order No. 162 of the Procurator General of 24 November 2014).

48. In pursuance of paragraph 107 of the National Action Plan to give effect to the Message of the Head of State of 1 September 2020 entitled “Kazakhstan in the new reality: time for action” a system of continuous video surveillance has been introduced on the premises of all law enforcement bodies and prisons. More than 40,000 video surveillance cameras are currently in operation. Rules have been formulated for video surveillance systems on the premises of law enforcement agencies and prisons.

49. To ensure compliance with the law on the premises of law enforcement agencies, a “duty prosecutor” checks the lawfulness of citizens’ investigative detention.

50. With regard to violations of constitutional rights on the premises of the criminal prosecution service, in 2022 procurators issued 209 orders to desist from unlawful activity, which resulted in the punishment of 346 officials.

51. The wilful failure to notify a suspect’s relatives of his or her detention and whereabouts, the unlawful refusal to provide information about the place of detention to a citizen entitled to receive such information and wrongly stating the time at which detention was recorded or the time of actual detention are crimes under article 414 of the Criminal Code.

52. On 16 January 2023, law enforcement agencies adopted a joint order approving the Instruction on Ensuring Observance of the Constitutional Rights and Freedoms of Citizens at the Stage of Pretrial Investigation and the Enforcement of a Penalty. The instruction regulates the procedure for ensuring the lawfulness of and justification for procedural coercive measures, mandatory video recording of the process of investigative detention, taking into custody and detention, questioning in rooms specially equipped with video cameras and conducting urgent investigations when cases of torture are revealed or detected.

53. (c) In accordance with article 68 of the Code of Criminal Procedure, a defence lawyer is retained for a witness who has the right to defence, the suspect, accused or defendant, a convicted or acquitted person, their legal representatives, as well as for other persons acting on behalf of or with the consent of a witness who has the right to defence, the suspect, accused or defendant, and a convicted or acquitted person.

54. In cases where the participation of the chosen or appointed defence lawyer is impossible for an extended period (at least five days), the body conducting the criminal proceedings may suggest retaining another defence lawyer or take steps to appoint a defence lawyer through the professional organization of lawyers or its subsidiary bodies. The body conducting the criminal proceedings does not have the right to recommend retaining a particular person as the defence lawyer.

55. If, in the event of detention or imprisonment, the defence lawyer chosen by the suspect or accused is unable to attend within twenty-four hours, the criminal prosecution body offers to retain another defence lawyer for the suspect and if this is refused, it takes steps to appoint a defence lawyer through the professional organization of lawyers or its subsidiary bodies. All data obtained by misleading a person involved in criminal proceedings about his or her rights and obligations, resulting in a failure to explain them, or in an incomplete or incorrect

explanation, shall be deemed inadmissible as evidence (article 112 of the Code of Criminal Procedure).

56. (d) Under article 210 of the Code of Criminal Procedure, audiovisual recordings may be used during questioning by decision of the person conducting the pretrial investigation and also at the request of the suspect, accused, witness or victim. The person being questioned is notified of the use of audiovisual recordings prior to interrogation. At the end of the interrogation, the audiovisual recordings are played back in their entirety to the person being questioned. Sound or video recordings may also be made of additions by the person being questioned to the testimony on the audiovisual recordings. Audiovisual recordings end with a statement from the person being questioned certifying their correctness.

57. Testimony obtained during an interrogation with the use of audiovisual recordings is noted in the record of the interrogation. The sound or video recording is kept in the case file and sealed at the end of the pretrial investigation. Advocates have the right to inspect all the evidence in a criminal case, to note any amount of information drawn from it, and to make copies by scientific and technical means.

58. (e) In accordance with articles 131 and 147 of the Code of Criminal Procedure, the procurator checks the lawfulness of arrest and remand in custody.

59. Over the past four years, procurators have released 3,754 citizens who were being held in custody and refused to allow the remand in custody of 1,071 persons. Over the same period, the investigating courts have considered 51,534 applications for authorization of remand in custody, 7,468 of which were refused.

60. Under article 107 of the Code of Criminal Procedure, during the pretrial investigation, the suspect, his or her defence counsel or legal representative, the victim, his or her legal representative and any person whose rights and freedoms are directly affected by the act of the investigating judge has the right to appeal, while the prosecutor may request the judge to authorize or extend the preventive measure of remand in custody.

61. In just four years, appellate courts have considered 8,686 complaints and applications from procurators regarding investigative courts' decisions on remand in custody. They led to 385 court rulings being reversed and 434 being amended.

62. Kazakhstan has adopted and is implementing the special gender-oriented Act on State Guarantees of Equal Rights and Equal Opportunities for Men and Women and Domestic Violence Prevention Act.

63. On 6 December 2016, a Presidential Decree gave effect to the Family and Gender Policy Framework for the period up to 2030, which takes account of international and national development priorities.

64. The Domestic Violence Prevention Act and Crime Prevention Act have defined the legal, social and organizational aspects of activities by State bodies and citizens to avert this social phenomenon. The police can now bring real pressure to bear on unruly members of a family through focused individual preventive action.

65. The police have the right to issue special protective orders that bar or limit a troublemaker's contact with the victim for up to one month. Any breach of the restrictions is punishable by a warning or administrative detention.

66. If the offender is unwilling to turn over a new leaf as requested by the police, a court may impose special requirements regarding that person's conduct for a period ranging from 3 months to 1 year (article 54 of the Code of Administrative Offences).

67. In 2022, police officers issued more than 72,500 protective orders. In more than 10,600 cases, the courts established special requirements regarding offenders' conduct. The injunction prohibits searching for, harassing, visiting, holding oral or telephone conversations or otherwise contacting the victim against his or her will. Not only may contact with the victim be banned, but the use and possession of weapons of any kind, and the use of alcoholic beverages and narcotic drugs may likewise be prohibited.

68. For the purpose of implementing the Special Social Services Act, the Standard for Providing Special Social Services to Victims of Domestic Violence was approved in December 2016 (Order No. 1079 of the Minister of Health of 21 December 2016).

69. In order to introduce the Standard, since 2017 regions have received targeted transfers for the provision of special social services. Between 2017 and 2021, special social services were provided to more than 9,000 victims of domestic violence (along with their children) and an active attempt is made to assist them and to promote their integration in society and their employment, etc.

70. Special social services to victims of domestic violence are available in 41 crisis centres: 14 in the public sector and 27 under contract to the Government. As from 2022 these crisis centres will be financed from the local budget.

71. Over the past two years, the courts have examined 86,108 cases of administrative offences involving domestic violence, 39,871 of which have resulted in the imposition of administrative penalties. At the same time, the courts examined 657 criminal cases and sentences were handed down in 601 of them.

72. Compensation under article 6 of the Victims Compensation Fund Act is awarded to recognized victims of the crimes listed in that article, including crimes against persons committed in a family or domestic context.

73. Pursuant to the message of the Head of State of 1 September 2022 entitled “A just State. A single nation. A prosperous society” and especially to increase the penalty for family or domestic violence, it has been proposed that the Code of Administrative Offences and the Criminal Code should be amended and supplemented, in particular, to have reports of domestic offences registered not as testimony but as a complaint, to rule out conciliation procedure after repeated offences, to up the penalty for offences in the family or domestic sphere and to make material or other dependence a qualifying element of the most common crimes against the person (articles 106 and 107 of the Criminal Code).

74. Members of Parliament have now submitted a draft act amending and supplementing legislation to strengthen the institution of the family. It contains provisions introducing additional notions in laws aimed at the prevention of family violence.

75. On 2 February 2023, a meeting was held with representatives of the Council of Europe to consider amendments to legislation on domestic violence. During the discussion the international experts concluded that it was inappropriate to criminalize family or domestic violence.

76. During a mission to the Federal Republic of Germany, a study was made of experience with work on preventing domestic violence and with the introduction of the Ontario Domestic Assault Risk Assessment (ODARA) to that end. On the whole, in the light of Germany’s experience, the delegation from Kazakhstan judged it to be an effective tool for preventing domestic violence.

77. On 7–8 February 2023, an international expert from an intervention centre and a police officer from the Rhineland-Palatinate ran training courses in Astana for the police and staff of crisis centres, as well as an international legal forum on the subject of partnership between the police and private individuals as a means of preventing domestic violence.

78. All in all, between 2017 and 2021, 48 workshops for judges were held at the Friedrich-Ebert-Stiftung, with the assistance of the OSCE office in Astana.

79. As part of police training, 36-hour courses have been introduced on the subjects of improving access to justice in the event of gender violence, effective perception to enhance the police’s capacity to take action against gender violence, joint action to defend children, the prevention of domestic violence and the impact of religious extremism on family violence directed against women and children. Between 2017 and 2022 more than 1,200 police officer underwent training.

80. Since 2014, an interdepartmental committee has been examining how to combat the illegal entry, departure and trafficking of persons. Current problems and measures to prevent,

suppress and combat crimes related to trafficking in persons are being considered and discussed.

81. Government Decision No. 94 of 24 February 2021 approved the Action Plan 2021–2023 to prevent, suppress and combat crimes related to trafficking in persons.

82. According to the Department of State of the United States of America, Kazakhstan has moved up from the Special Watch List to the second category in country ratings thus demonstrating that the human rights situation has improved.

83. A Prevention of Trafficking in Persons Act has been drafted. It is included in the Government's legislative programme of work for 2023. Once adopted, the Act will establish and render more effective State measures to counter trafficking in persons, lay the legal and organizational foundations of State policy and international cooperation, define the general principles governing the legal responsibility of natural and legal persons for crimes of trafficking in persons, determine the legal status of victims of trafficking in persons along with guarantees, principles and the form of protecting and supporting them, regulate the powers of State entities and supply the organizational and legal basis for their interaction with civil society bodies.

84. The Standard for the provision of special social services for victims of trafficking in persons (Order No. 138 of the Ministry of Health and Social Development of 24 February 2016) has been implemented since 2016 to secure timely, urgent assistance for victims and their reintegration in and return to society. Targeted current transfers for the provision of special social services are allocated from the national budget to non-governmental organizations assisting victims of trafficking in persons. The assistance and protection afforded to victims of trafficking in persons within the framework of the Standard includes shelter, medical and psychological assistance, vocational guidance, legal counselling and other forms of help.

85. In 2022, more than 107 million tenge were made available for providing special social services to 79 victims of trafficking in persons. The implementation of the Standard has made it possible to give timely, urgent assistance to victims of trafficking in persons and to reintegrate and return them to society.

86. In addition, compensation awarded to victims of crimes related to trafficking in persons from the Victim Compensation Fund amounts to 30 units of the monthly calculation index (the Fund has been in operation since 1 June 2020).

87. As part of measures to enhance legislation on combating trafficking in persons, an Act was adopted on 27 June 2022 to amend and supplement legislation to improve the quality of life of persons with disability. Under the Act, aliens who are found in and identified as victims of trafficking in persons in the territory of Kazakhstan are entitled to equal access to the amount of assistance provided, whether or not they participate in investigations.

88. The basic assistance covers shelter, the restoration of documents, the organization of medical treatment, the provision of legal and juridical assistance and an opportunity to obtain fresh vocational training, employment and psychological support.

89. In order to clarify certain issues related to trafficking in persons, on 11 December 2020 the Supreme Court issued a normative decision introducing amendments in the application of legislation establishing responsibility for trafficking in persons. It elucidates the concept of other acts for the purpose of exploitation. It distinguishes between trafficking in persons and offences with similar elements. It provides for measures to protect victims of trafficking in persons from the possibility of criminal or administrative prosecution and it draws the courts' attention to the ratification by Kazakhstan of the Protocol to Prevent, Suppress and Punish Trafficking in Persons.

90. Seventy-seven crimes related to trafficking in persons were recorded in 2022 (compared with 99 in 2021) including 40 (70) consisting in the organization and running of brothels for prostitution and pimping, 13 (4) cases of trafficking in persons, 4 (2) cases of involving minors in prostitution, 13 (10) cases of trafficking in minors, 6 (10) cases of involvement in prostitution, 1 (2) case(s) of unlawful deprivation of liberty for the purpose of exploitation and 0 (1) case(s) of kidnapping for the purpose of exploitation.

91. Under article 128 of the Criminal Code (Trafficking in persons), the courts heard 4 cases involving 6 persons (in 2021, 4 cases each involving 4 persons). In those cases, 3 (8) persons received a prison sentence. Under article 135 of the Criminal Code (trafficking in minors), the courts heard 2 (9) cases involving 2 (33) persons, of whom 1 (29) received a prison sentence and 1 was acquitted.

92. Between 19 and 23 September 2022, a third national simulation exercise in countering trafficking in persons on migration routes was held with the support of the OSCE offices in Astana and Almaty for staff of the Procurator's Office, investigative and operational police units, social and migration services, the labour inspectorate and representatives of non-governmental organizations.

93. Between 2017 and 2021, the Friedrich-Ebert-Stiftung held 58 seminars for judges. The Academy of Justice under the Supreme Court runs courses to build judges' capacity to deal with cases related to trafficking in persons. Seminars, webinars and meetings are held. Training courses for 36 labour inspectors were held at the Law Enforcement Agencies Academy.

Article 3

94. Article 18 of the Refugees Act prohibits the return or expulsion of asylum-seekers to a country where their life or freedom would be endangered on the grounds of race, religion, nationality, citizenship, membership of a particular social group or political conviction.

95. During the period under review, no persons were extradited to a country where they would have been in danger of being tortured (including those where diplomatic assurances were given that torture would not be used).

96. The law enforcement agencies have received requests from the People's Republic of China for the extradition of four citizens of that country (who are ethnic Kazakhs) for criminal prosecution. In Kazakhstan, these persons (Musakhan Khaster, Alim Mulager, Kaisha Akhan and Telek Tabalak) have been granted refugee and asylum-seeker status. Under article 3 (2) of the extradition treaty between Kazakhstan and China of 5 July 1995, the granting of asylum is a circumstance precluding the extradition of the person in question.

97. Similar provisions are contained in article 33 of the Convention relating to the Status of Refugees and, in particular, in article 590 (1) of the Code of Criminal Procedure. Article 9 of the Refugee Act of 4 December 2009 establishes the right of persons enjoying refugee status to asylum. Asylum-seekers are entitled to remain in the territory of Kazakhstan until the procedure for considering their application for refugee status, including the appeal procedure, is completed.

98. If asylum-seekers or refugees refuse to leave the territory of Kazakhstan voluntarily, expulsion by the internal affairs agencies is carried out in accordance with the law and in pursuance of court decisions that have become final.

99. Currently 7,832 stateless persons are living in the country. Stateless persons acquire Kazakh nationality through annual decrees of the Head of State. The Ministry of Internal Affairs carries out a preliminary check on compliance with the requirements of the Citizenship Act.

100. Every year up to 2,000 stateless persons acquire Kazakh nationality. Most of them come to Kazakhstan from neighbouring States (Uzbekistan, Tajikistan and, Kyrgyzstan) or countries where there is a risk of migration (Afghanistan, the Syrian Arab Republic, Pakistan and the State of Palestine).

101. Pursuant to paragraph 26 of the Plan for further measures in the field of human rights and the rule of law (adopted by a Government decision of 28 April 2022) the accession by Kazakhstan to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness has been discussed, but at this stage it is deemed premature.

102. Mechanisms for identifying and assisting asylum-seekers and victims of gender-based violence or trafficking in persons are laid down in the relevant orders of State bodies.

103. In 2020, in order to identify victims of violence or trafficking in persons, changes were made to the risk assessment criteria and checklists and a reporting form to detect instances of forced labour was added (Joint Order of the Ministry of Health and Social Development of 25 December 2015 and the Ministry of National Economy of 28 December 2015). In the period 2020/21 interdepartmental mobile units were set up to prevent trafficking in persons and identify victims of labour exploitation.

104. The Standard for the provision of special social services for victims of trafficking in persons (Order No. 138 of the Ministry of Health and Social Development of 24 February 2016) has been implemented since 2016 to secure timely, urgent assistance for victims and their reintegration in and return to society. Targeted current transfers for the provision of special social services are allocated from the national budget to non-governmental organizations assisting victims of trafficking in persons. The assistance and protection afforded to victims of trafficking in persons within the framework of the Standard includes shelter, medical and psychological assistance, vocational guidance, legal counselling and other forms of help.

105. A temporary residence permit is issued to persons who have been identified as victims of trafficking in persons to ensure that they receive a guaranteed level of special social services for immigrants.

106. The rules for the registration and consideration of applications for refugee status (adopted by Order No. 118 of 7 April 2022 of the Ministry of Labour and Social Development) lay down the procedure for registering an application for refugee status.

107. On crossing the State border (in airports or transit zones), an asylum-seeker either submits a written application to the migration control point or, if there is no such point, on the same day to a unit of the Border Service of the National Security Committee.

108. If there is no checkpoint on the State border, an asylum-seeker who has been forced to cross the border illegally applies to the local authorities within 24 hours of the crossing.

109. An application received from the above-mentioned Border Service is recorded in the local authority's Register of Asylum-seekers within one working day following that of the receipt of the application and is referred for consideration by the competent official on the same day.

110. This interaction between the Border Service and local authorities at all border crossing points guarantees respect for the principle of non-refoulement.

111. An act on combating trafficking in persons in Kazakhstan has been drafted. It sets forth the measures to be taken by the Border Service on this matter. A rule is being formulated that would exempt victims of trafficking in persons from criminal or other penalties for the violation of the State border.

112. During the period under review, 916 applications for asylum were received. They came mainly from citizens of Ukraine (605), Afghanistan (263) and the Russian Federation (20). Currently 293 refugees are registered in Kazakhstan, most of whom are citizens of Afghanistan (278), China (5) and the Syrian Arab Republic (5).

113. Of the total number of registered refugees, 148 were men, 145 were women and 109 were minors.

114. In 2021, pursuant to a court decision, 18 aliens who had been denied refugee status were expelled from the country. There were no expulsions in 2022.

115. A plan of joint activities in 2022 was signed on 9 June 2022 with the Office of the United Nations High Commissioner for Refugees in Central Asia. The plan provides for the implementation of the following measures: conducting joint training courses and a round table on the procedures for protecting, registering and determining refugee status; drawing up joint proposals to enhance legislation on refugee protection in the context of migration policy until 2027 and jointly training the relevant bodies on how to interact to protect refugees.

116. Returns, extraditions and expulsions are carried out on the basis of diplomatic assurances, or the equivalent thereof.

Articles 5–9

117. Kazakhstan has concluded 21 extradition treaties with 21 States. These agreements stipulate that no extradition may take place if the requested party has good reason to believe that the wanted person will be subjected to torture or other cruel, inhuman or degrading treatment or punishment in the requesting party.

118. It has concluded 29 treaties on mutual legal assistance with 29 States. They provide for the appropriate assistance in response to all categories of crimes, including those related to torture or cruel treatment. During the period under review, under the treaties, no evidence has been submitted of cases related to torture or ill-treatment.

Article 10

119. (a) The provisions of the Convention and the absolute prohibition of torture are compulsory subjects on the curriculum. Improvements in interrogation methods form part of officials' refresher training.

120. In order to prevent any instances of torture, the rules and instructions on and methods of interrogation are being systematically improved in line with international practice, along with those concerning the treatment of persons subjected to any form of arrest, custody or imprisonment.

121. The Research and Education Centre for the implementation of the Nelson Mandela Rules was established on 11 November 2021 at the Sh. Kabybaev Academy in Qostanai. It is one of the first specialized educational institutions in Central Asia to offer the online courses of the United Nations Office on Drugs and Crime (UNODC) on the Nelson Mandela Rules.

122. Between 2020 and 2022, more than 3,500 prison officers, including probation officers, representatives of human rights organizations and non-governmental organizations successfully completed online courses on the Nelson Mandela Rules.

123. In 2022, the Academy of Justice under the Supreme Court conducted five refresher courses for judges on “International legal mechanisms for securing and protecting human rights in the treaty body system” and “The judicial protection of human rights – the international obligations of Kazakhstan”.

124. (b) A compulsory course on international and national human rights law has been introduced in all the educational institutions run by the Ministry of Internal Affairs. As part of their initial vocational training, future employees study courses entitled “Human Rights”, “Topical issues in human rights protection” and “Risks and vulnerability: law enforcement action in relation to key risk groups and human rights protection”. Cadets follow a course entitled “Ensuring constitutional rights and human freedoms in the activities of internal affairs officers” and, at the postgraduate level, they study the general theory of human rights.

125. Simulation scenarios with trained actors have enabled participants to acquire new skills in identifying victims, investigating alleged cases of trafficking in persons and prosecuting exploiters.

126. As part of the plan of joint activities with the Office of the United Nations High Commissioner for Refugees (UNHCR) in 2023 and in order to promote effective interaction between the Border Service and the competent migration authorities, there are plans to hold training sessions and round tables, including for the staff of the Border Service, on protection and registration procedures and on the procedure for granting refugee status.

127. (c) Educational institutions conduct refresher courses for police officers on “Human Rights”, “Risks and vulnerability: law enforcement action in relation to key risk groups and human rights protection”, “Official conduct – the inadmissibility of threatening

violence, harassment, prosecution, intimidation or reprisals” and “Effective methods of preventing offences among law enforcement officers”. More than 1,500 officers underwent training between 2017 and 2022.

128. (d) In order to improve the quality of investigations in criminal cases, the Law Enforcement Agencies Academy has devised methodology for investigating torture that is based on the Istanbul Protocol. This handbook for detecting torture is used by foreign law enforcement agencies. The methodology is designed for use by all law enforcement authorities and specialized training colleges.

129. The Law Enforcement Agencies Academy regularly holds courses, with the participation of the OSCE Programme Office, for law enforcement officers and forensic experts on the implementation of the Istanbul Protocol.

130. A special course called “Effective investigation and documentation of torture and cruel treatment in accordance with the Istanbul Protocol” has been put together to enhance the professionalism of law enforcement officers.

131. In 2017, in order to boost the quality of the forensic investigation of torture, the Forensic Centre, taking the recommendations of the Istanbul Protocol as its basis, drew up and approved the “Methodology for comprehensive forensic, psychological and psychiatric investigations in the event of torture and other cruel, inhuman or degrading treatment of a person. Physical and mental evidence of torture”.

132. The methodology lays down a set of forensic, psychological and psychiatric examinations to be conducted when investigating cases of torture. In the course of their work, experts use the methodology to detect the nature of physical and mental suffering, which is crucial for proving the existence or absence of torture.

133. Pursuant to article 7 (14) of the Constitutional Act on the Human Rights Commissioner, the Ombudsman has approved the “Methodological recommendations regarding preventive visits” for use by participants in the National Preventive Mechanism which cover basic living requirements in the institutions and organizations covered by its terms of reference, the set actions to be taken during preventive visits and the registration of reports and complaints of torture received during the visit. There are plans to hold quarterly capacity building seminars for participants in the National Preventive Mechanism.

134. (e) Regular assessment of the impact of programmes and training to reduce torture and ill-treatment and the formulation of the appropriate methodology are now being studied.

Article 11

135. The interrogation of persons taking part in criminal proceedings, including suspects, is regulated by Chapter 26 (articles 208–218) of the Code of Criminal Procedure, which establishes the procedure for summoning for questioning, the place, time and length of questioning, general rules of conduct, the writing of the record, the use of scientific and technical means and, separately, special considerations dependent on the participant’s status.

136. The amendments made to the Code on 27 December 2019 restricted continuous interrogation to three hours in the case of pregnant women, women over the age of 58 and men over the age of 63.

137. Separate recommendations based on the Code and that take into account the specific aspects of crimes, concern the procedural methods and tactics of interrogations. The recommendations are updated in line with changes in practice and the national law.

138. More than 500 offices of the criminal prosecution service have video-recording equipment (glass doors have been installed along with video surveillance cameras, the monitors of which display footage in the entrance hall, the control room and the procurator’s office).

139. International experiences are being studied. We have been interested by the following models for investigative interviewing: the Planning and preparation, Engage and Explain, Account, Closure and Evaluation (PEACE) and Communication, Rule of law, Ethics and

Empathy, Active awareness, Trust through openness, Information, Scientific anchoring (KREATIV). These models are based on various psychological aspects of questioning suspects, witnesses and victims and on psychological techniques which boost the effectiveness of interrogation.

140. Prisoners serving their sentence in correctional institutions are provided with essential amenities in accordance with the rules laid down in Government Decision No. 1255 of 28 November 2014 approving natural standards of nutrition and living conditions for suspects, accused, convicts and children in youth custody centres and models of prison uniforms. Inmates have individual beds, bedding and furniture.

141. Facilities must have standardized natural and artificial lighting, hot and cold water, ventilation and air temperature (all cells and common areas have heating). Each cell is equipped with sanitary facilities consisting of a washbasin and toilet, which are separated by a partition.

142. Pursuant to the requirements of article 115 of the Penalties Enforcement Code, correctional facilities have equipped the living quarters of convicts with disabilities with specially fitted washrooms and lavatories, ramps, handrails and special cells or dormitories. Convicts with disabilities are accommodated on the ground floor, where they can access the lavatories and other common areas equipped for them.

143. A plan of organizational measures has been drawn up to resolve the problems of mixed security prisons covering the 2022–2026 period. The plan takes account of the need for remand centres to carry out technical inspections of buildings and structures, to draw up design specifications and to carry out major renovation in 16 of them. Public-private partnerships plan to build 6 new remand centres and 14 multi-regime, mixed-security prisons.

144. In addition to educational activities, lectures, competitions, sports and athletic events, new measures involving the relatives of convicts include “Open Doors Day” and “Meeting at the Gates”. They are aimed at the social reintegration of convicts. Inmates have taken part and won prizes in the world chess tournament for convicted persons serving sentences in various countries of the world. This is primarily designed to introduce convicts to sport and a healthy lifestyle and also to reintegrate inmates in society.

145. In a bid to arouse convicts’ interest in reading and literacy, the stock of prison libraries has been expanded to 474,768 books.

146. The penitentiary system comprises 79 prisons. Two amnesties have been announced since 2018 under the Act of 7 December 2021 on an amnesty to mark the thirtieth anniversary of the independence of Kazakhstan and under the Act amnestying participants in the riots of 2022 that covered 2,399 convicts.

147. Amnesty was granted to persons who had committed a crime and/or petty offence, persons who had committed a moderately serious offence which did not cause damage, or for which they had provided full reparation, or against whom no civil claim had been brought and socially vulnerable persons who had committed a moderately serious offence, irrespective of whether it caused damage or gave rise to a civil claim. In all cases, the decision to grant amnesty was taken by the judiciary in the light of the crimes committed.

148. The new Penalties Enforcement Code has ushered in a national penitentiary system that is significantly closer to high international standards. The Code provides for a review of convicts’ conduct, strengthens their right to appeal directly to a court for a transfer to a different type of prison and specifies more clearly when sentences must be served in solitary confinement and much else.

149. National legislation clearly defines the rights of participants in the National Preventive Mechanism to receive information on the number of prisoners, the conditions of their detention and their treatment, to conduct confidential interviews with prisoners and their legal representatives, freely to make preventive visits to any penal correction facility of their choice and to receive reports and complaints of torture.

150. Pursuant to article 10 of the Penalties Enforcement Code, convicts are entitled to appeal against disciplinary measures to higher authorities, a court or the prosecution service by filing a complaint. In all penal correction facilities, separate boxes have been installed in

accessible places for appeals to the Human Rights Commissioner, the National Preventive Mechanism, the Public Monitoring Commission and the Procurator's Office.

151. Convicts' appeals to State authorities and the Human Rights Commissioner are not inspected and must be forwarded to the addressee within 24 hours. Convicts may also file their complaints electronically, or through participants in the National Preventive Mechanism.

152. Incentives and penalties have been improved by banning the placement of women and minors in disciplinary units or solitary confinement.

153. The Act of 27 December 2019 amending and supplementing certain legislative acts to improve criminal law and the law of criminal procedure and to strengthen the rights of persons has reduced the length of solitary confinement for a breach of the established rules from six to four months.

154. A convict is transferred to solitary confinement or placed in a disciplinary unit after a medical assessment of his or her fitness for the appointed length of such detention.

155. Transfer to solitary confinement is permitted only when a convict is placed in a disciplinary unit for having previously broken the rules.

156. Women nursing infants in the prison's children's home, pregnant women and women who have just given birth, who are exempt from work and minors are not transferred to solitary confinement or placed in a disciplinary unit.

157. All the services of a prison (psychologists, educators, etc.) take part in preventing offences among inmates. Representatives of the Public Monitoring Commissions, the National Preventive Mechanism and the public are involved in preventing such offences. Personal interviews are held in the presence of representatives of the prosecution service. No disciplinary measures have been applied to juvenile convicts since 2019.

158. Between 2018 and 2022, 4,089 persons have been convicted of offences related to terrorism and extremism and 83 persons have been placed in solitary confinement for a breach of the prison regulations.

159. Guardianship and public oversight boards, committees of convicts' parents, trade unions, labour collectives, religious associations, public and charitable foundations, political parties and other organizations take part in the rehabilitation of prisoners.

160. A comprehensive strategy, approved by Presidential Decree No. 387 of 8 December 2016, was implemented for the social rehabilitation of citizens released from places of deprivation of liberty and registered with the probation service between 2017 and 2019. Its purpose was to create the conditions for the effective realization of a national system for the comprehensive rehabilitation of the above-mentioned persons in order to lower the recidivism rate. All the target indicators have been achieved.

161. When suspects or the accused sustain bodily injuries, an examination is conducted without delay by the medical officers of the place of detention. The findings of the examination are recorded in accordance with the established procedure and the victim is informed of them.

162. If a suspect or the accused is diagnosed with a serious, life-threatening disease, the administration may, on medical advice, ask the procurator and the authority in charge of the case about altering the custodial measures.

163. Under the Presidential Decree of 19 July 2021 on measures to further improve the public administration of the Republic of Kazakhstan, the functions and powers of the Ministry of Internal Affairs in respect of the medical treatment of persons held in custody in remand centres and penal correction facilities have been transferred to the Ministry of Health and medical staff have become independent of the prison administration.

164. Since 1 July 2022, medical care in 16 remand centres has been transferred to the jurisdiction of the Ministry of Health. Since 1 January 2023, medical care in the remaining 64 penal correction facilities has been transferred. Four medical institutions are in operation (one general hospital (in Semey), one psychiatric hospital (in Almaty Province) and two tuberculosis sanatoriums (in Karaganda).

165. Measures have now been completed for the transfer of remand centres' medical buildings, equipment, devices and courtesy vehicles to the polyclinics serving remand centres. The whole complement of prison medical staff has been transferred.

166. Health information systems are being installed in penal correction facilities which permit the electronic registration of sick inmates and facilitate consultation of their electronic health records not only within the province but throughout the entire country. Responsibility for the investigation of torture has been transferred to the Procurator's Office.

167. The Order of the Minister of Health of 30 June 2022 approving the rules for the provision of medical assistance to persons being held in remand centres and institutions in the penal correction (penitentiary) system is currently being amended with a view to informing the procurator whenever a member of the medical staff finds that there has been a case of physical injury.

168. The number of deaths in custody: 108 in 2018, 120 in 2019, 127 in 2020, 134 in 2021 and 133 in 2022. Their causes being suicide: 12 in 2018, 26 in 2019, 21 in 2020, 18 in 2021 and 29 in 2022; injuries: 2 in 2018, 6 in 2019, 3 in 2020, 8 in 2021 and 5 in 2022; intoxication: 4 in 2018, 1 in 2019, 0 in 2020, 2 in 2021 and 3 in 2022; tuberculosis: 11 in 2018, 7 in 2019, 7 in 2020, 2 in 2021 and 2 in 2022; other diseases: 79 in 2018, 80 in 2019, 96 in 2020, 104 in 2021 and 94 in 2022.

169. Six persons died from torture during the riots in January 2022 (Zh. Anafiyev, I. Rakhmetov, E. Otepbaev, A. Mukashev, Zh. Zhotabaev and E. Kaliev). In three cases investigations have been completed and referred to the court. Investigations are continuing in the other three cases.

170. No deaths have been reported in remand centres or the guard rooms of the National Security Committee.

171. A pretrial investigation is carried out into each death. Forensic examinations are ordered and whenever there are signs that the death was due to a crime, the guilty party is punished in accordance with the provisions of the Criminal Code.

172. In the country, there are 20 residential homes for children with psychoneurological autism and musculoskeletal disability. At the end of 2022, more than 1,600 children were being cared for in these centres. Their work is organized in accordance with the Social Services Provision Act and the standards regulated thereunder. The children are provided with eight kinds of specialist social services. The type of activity and social interaction depend on the psychosomatic and physiological characteristics of the child.

173. Special rooms have been set aside for teaching the children and maintaining their health at a normal level. Social and pedagogical activities are run by special education teachers, speech therapists and psychologists in specially equipped rooms. The services are provided in accordance with the standards for the provision of special social services to the recipients of social welfare (Order of the Ministry of Health Order No. 165 of 26 March 2015. The arrangements are consistent with the Convention on the Rights of Persons with Disabilities.

174. On 9 September 2020, the police initiated four pretrial investigations under article 106 (3) of the Criminal Code (intentional infliction of serious harm to health) on account of the deaths of children in the Ayagoz Children's Centre for the Provision of Special Social Services, in the East Kazakhstan Province. The investigation was opened on the basis of the findings of a forensic experts' commission which had exhumed the bodies. According to those findings, grievous bodily harm was detected in respect of three of the minors (Mukhameliev, Zhanabaev and Salimov).

175. The investigations are ongoing. Three members of the centre's staff have been sentenced to various penalties for dereliction of their duties.

176. Another child (Maksatkyza) was found to have sustained slight bodily injuries which had not been the cause of death. Death had occurred as a result of bilateral septic pneumonia caused by a microabscess and purulent bronchitis. The pretrial investigation was closed as no crime had been committed.

177. The protection of children's rights is one of the priorities of the procuratorial agencies, the focus being on children who have been left without parental care and children with disabilities. The procurators make an annual inspection of the activities of children's homes and sociomedical institutions.

178. Between 2019 and 2021, more than 300 inspections took place in the above-mentioned institutions and more than 700 persons were called to account for various offences in disciplinary and administrative proceedings.

179. The procurators' inspections revealed cases where persons responsible for the upbringing of a child were suspected of violating the rights of their charges. In some cases that had taken the form of cruelty, unlawful methods of upbringing, beatings and torture.

180. As a result of the measures taken by the procurators and the criminal investigation authorities, under article 110 of the Criminal Code (torture) 16 members of the staff of a centre received a custodial sentence of three years and six months.

181. In total, between 2019 and 2022, 22 members of the staff of residential homes for children with disability were sentenced to various penalties under article 110 of the Criminal Code (torture) and article 140 of the Criminal Code (dereliction of duty in respect of the upbringing of minors combined with cruelty).

Articles 12 and 13

182. The law enforcement agencies are committed to the effective investigation of all cases of torture and to the defence of human rights. A special instruction of the Procurator General of 28 August 2019 concerning the organization of investigations into cases of torture, suicide and self-harm in the penitentiary system is being implemented in order to exclude any loss of evidence and establish all the circumstances within the first few days.

183. Once the investigative team and the procurator have been alerted to cases of torture, they immediately go to the scene of the incident where the possible victim is questioned, material evidence is gathered and examined and the persons involved are identified. A record is entered in the Unified Register of Pretrial Investigations and a forensic assessment is ordered to establish any physical injuries.

184. In order to improve the quality of investigations in criminal cases, the Law Enforcement Agencies Academy has devised methodology for investigating torture that is based on the Istanbul Protocol. This handbook for detecting torture is used by foreign law enforcement agencies. The methodology is designed for use by all law enforcement authorities and specialized training colleges.

185. Pursuant to the instructions of the Head of State of 1 January 2023, the procuratorial agencies have the exclusive authority to investigate torture.

186. An order of the Procurator General of 30 December 2022 approved an instruction on the procedure for the investigation of cases of torture by procurators, which sets out the procedure for urgent investigative action, ordering forensic assessments, conducting interrogations and securing evidence.

187. The safety of a victim of torture is ensured and, in the event of custody or detention, access to that person is monitored and consideration is given to transferring the victim to another facility with similar conditions of detention.

188. In penal colonies, special boxes are provided for complaints and appeals concerning the unlawful actions of officers. The procurator is the only person with access to them (article 14 of the Penalties Enforcement Code). A total of 243 terminals have been installed and connected throughout the penal correction system for the electronic submission of convicts' appeals and 122 terminals have been installed for the filing of video appeals.

189. As instructed by the Head of State, work is underway on installing a comprehensive video surveillance system in penal correction facilities and equipment for relaying the video data to the procuratorial agencies. Twenty-four local procurator's offices have been linked up to the system and the relaying of 14 facilities' video images has been tested. All in all,

completion of the work in all 78 facilities is envisaged by the end of 2023. A situation centre has been set up, the staff of which conduct remote video monitoring (images of 24 facilities are displayed). The use of a comprehensive video surveillance system in penal correction facilities makes it possible to rule out instances of torture and human rights violations of persons who have been arrested or convicted and, at the same time, it will help to prevent such violations among inmates, thus substantially improving the quality of life when serving a sentence.

190. There are also helplines in all law enforcement agencies, including procurators' offices, from which anyone who so wishes can submit a complaint, including one of torture.

191. On average, the annual trend over for the last five (up to 2022) has been that of 80 fewer crimes, or a 10 per cent reduction in the number of cases of torture recorded (659 in 2018, 850 in 2019, 766 in 2020, 685 in 2021 and 920 in 2022). Over the same period, more than 90 per cent of those cases were closed for lack of confirmation, including because the complaint was filed so late that it was impossible to gather evidence while the trial was still hot. A total number of 53 criminal cases were referred to a court between 2018 and 2022 (10 in 2018, 15 in 2019, 11 in 2020, 7 in 2021 and 10 in 2022), in which 68 persons were convicted. In accordance with the Code of Criminal Procedure, all such cases are investigated by the Counter-terrorism Service and special procurators. Pursuant to the instructions of the Head of State of 1 January 2023, procurators have the exclusive authority to investigate torture.

192. A total of 238 persons were killed in events related to the January riots, of whom 219 were civilians and 19 were officers of the security forces. The circumstances leading to the death of the 219 civilians have been clarified; 67 were suspected of taking part in the riots, 120 had been violating the state of emergency and counter-terrorism operations, 22 were innocent bystanders, 4 died as a result of other crimes and 6 died as a result of torture.

193. As far as the death of the civilians is concerned, 184 pretrial investigations have been closed in the absence of a crime (cases where the officers of the security forces had used their weapons), 20 have been suspended (15 because the suspects have not been identified and 5 because an expert opinion has been ordered), and 7 are going forward. The pretrial investigations have been completed with regard to 8 persons (5 have been referred to court and 3 are to be reviewed).

194. The Office of the Procurator General has special competence to determine whether there has been abuse of authority or unjustified use of weapons by the armed forces under a state of emergency or in counter-terrorism operations (two cases have been referred to a court, in one a guilty verdict has been handed down and investigations have been completed in the other which is still pending, while investigations are still ongoing in three cases).

195. Three hundred and twenty-nine pretrial investigations have been initiated into all the allegations of torture or abuse of authority, of which 236 cases have been closed, in 232 of them because no crime had been committed. Thirty-four officers are being treated as suspects (21 from the Ministry of Internal Affairs and 12 from the Security Committee). Detailed information on the outcome of the investigations will be submitted when we defend our report.

196. On 2 November 2022, as instructed by the Head of State in his message to the people in September, the participants in the January events were amnestied. The amnesty was based on the principles of mercy and humanism for the sake of social harmony. The main purpose of the Act is to amnesty persons who committed criminal offences, having succumbed to provocation by the organizers.

197. The amnesty does not apply to persons who have committed terrorist or extremist crimes, torture, crimes against the sexual integrity of minors, high treason, or who have engaged in corruption, the organization of riots, with the exception of minors, recidivism or dangerous recidivism. Under the amnesty, the courts have reduced the sentences of 900 persons, closed 2 cases concerning 3 persons who were standing trial and exempted 52 persons from punishment. Four cases related to torture and concerning 16 persons are before the courts.

198. The investigation into the riots in Zhanaozen was carried out by an interagency task force from the Office of the Procurator General and the Ministry of Internal Affairs on the

instruction of the President. The investigation was thorough; it involved more than 1,500 witnesses and established the sequence and timing of events. As a result, five police officers, who had unlawfully used their weapons against participants in the riots, were convicted of abuse of authority and received sentences of varying lengths.

199. The majority of observers from international organizations and the authorities who took part in the investigations confirmed that Kazakhstan had ensured a transparent investigation process. Moreover, they did not find that those arrested had engaged in torture or cruel treatment.

Article 14

200. The rehabilitation of persons and the prevention of harm attributable to illegal acts by the authorities in charge of criminal proceedings are regulated by Chapter 4 of the Code of Criminal Procedure. In accordance with article 37 of that Code, a person who has been acquitted by a court, or a suspect, accused or person on trial whose case has been closed by a court or criminal prosecution authority on rehabilitative grounds, is entitled to rehabilitation, i.e. the restoration of rights and he or she cannot be subjected to any restriction of the rights and freedoms guaranteed by the Constitution.

201. Harm to a person that is caused by unlawful custody, detention, house arrest, suspension from office, placement in a special medical institution, conviction or the use of coercive medical measures is fully compensated from budgetary resources, irrespective of the guilt of the authority in charge of criminal proceedings.

202. A Victims Compensation Fund has been in existence since 1 July 2020. Under article 6 of the Victims Compensation Fund Act, compensation is awarded to minors who are the victims of crimes involving sexual violence, victims of crimes related to trafficking in persons and other persons listed in the article.

203. Any person conducting a criminal investigation is bound under article 110 of the Code of Criminal Procedure to inform the victim of his or her right to receive compensation under article 71 (6) (23) of the Code. This is noted in the decision recognizing that he or she is a victim, or a report is drawn up explaining that the victim is entitled to receive compensation.

204. The total amount of compensation paid by the Fund over the last two years to more than 1,617 victims stands at 202 million tenge.

205. The Kazakhstan Khalkyna Public Foundation provided charitable assistance to the victims of the riots at the beginning of 2022. As of 5 January 2023, the total amount of assistance granted to 540 of these victims stood at 2.1 billion tenge.

206. On 1 February 2022 a joint order was signed on some questions regarding the examination of the requests and observations of human rights treaty monitoring bodies whose competence has been recognized by the Republic of Kazakhstan. The order approved the procedure for the examination by State authorities of such requests and observations. The outcome of a legal analysis of these requests and observations is considered collegially by the interagency task force.

207. When considering requests, if necessary, the author of the complaint and the representative of the United Nations in Kazakhstan are invited to meetings to discuss thorny issues raised by the request and/or observations. This stage of the hearing contributes to an objective resolution of the issues raised. A total of eight meetings have been held to examine 19 requests and observations of human rights treaty monitoring bodies.

Article 15

208. Under article 112 of the Code of Criminal Procedure, factual data must be declared inadmissible as evidence if it has been obtained through breaches of the requirements of the Code which, by depriving or restricting the statutory rights of persons taking part in proceedings, or by violating other rules of criminal procedure during the pretrial investigation or trial of the case, have affected or could affect the reliability of the factual data received.

Such breaches include the use of torture or violence, threats, deception or other unlawful action and cruel treatment.

209. Over the last five years, 282 statements have been made (48 in 2018, 67 in 2019, 45 in 2020, 45 in 2021 and 77 in 2022) in which the person on trial has pleaded that his or her testimony was obtained through torture. Investigations could not establish whether torture had taken place owing to the considerable length of time that had elapsed. Between 2018 and 2022 there were no acquittals on the grounds that evidence had been obtained through torture and the courts did not deem the evidence admissible.

Article 16

210. In April 2020, Kazakhstan adopted the first clinical protocol for health care provision in the management of gender-based violence, developed with the assistance of the United Nations Population Fund. The subsection concerned highlights the Government's efforts to provide for harsher penalties for violent acts of a sexual nature.

211. The Public Health and Health-care System Code and one of the priorities of the 2020–2025 State Health Promotion Programme lay out the rights of citizens to protect their reproductive rights, to free reproductive choice and to access reproductive health and family planning services.

212. Minors aged 16 years and older have the right to consent to medical care, with the exception of surgical interventions and induced termination of pregnancy, which are performed with the consent of their parents or legal representatives, with information on reproductive health care provided in an accessible form.

213. Pursuant to article 168 of the Public Health and Health-care System Code, the grounds for hospitalization of a person in an inpatient facility are: a mental or behavioural disorder or illness and a psychiatrist's decision that an examination or treatment must be administered in an inpatient setting. Forced hospitalization in an inpatient facility is permitted on the basis of a court decision. Forced hospitalization of a person in an inpatient facility prior to a court decision is permitted only in the cases provided for in article 137 (1) (3) and (4) of the Code.

214. In each case of forced hospitalization of an individual without a court decision, the administration of the facility providing medical mental health care to persons with mental or behavioural disorders or illnesses must, within forty-eight hours of the time of admission to the facility, send written notice to the prosecutor in accordance with the laws of Kazakhstan and inform the person's spouse, close relatives and/or legal representatives, if known.

215. Checks are also carried out by the competent State authorities in order to protect the rights of the persons receiving the services. Among other things, staff of the National Human Rights Centre carry out annual seasonal checks to protect the rights of service recipients. Similar checks are conducted by law enforcement monitoring groups.

216. Once a year, service recipients undergo preventive examinations, including sexual and reproductive health checks. There is no evidence of any forced medical intervention in the context of sexual and reproductive health, notably in the case of women with disabilities, including those living in social institutions. Thus, no investigation has been conducted.

217. Pursuant to article 95 of the Code of Criminal Procedure, counsel for the defence and other participants in criminal proceedings, including family members and close relatives, are under the protection of the State. The State ensures, in the manner prescribed in law, that security measures are taken to prevent any infringement on their lives or other violence in connection with the consideration of criminal cases or materials in court and during pretrial investigations. The judicial authorities have not received any reports from lawyers or legal consultants of harassment related to their professional activities.

218. Measures have been taken to decriminalize slander. In line with the Act adopted on 26 June 2020 amending some legislation to improve enforcement proceedings and criminal legislation, article 130 of the Criminal Code (slander) has been decriminalized.

219. In accordance with legislation, all reports and allegations of harassment, surveillance, intimidation, threats and arbitrary arrests and detentions are registered, regardless of the professional activities of the complainants, including journalists, human rights defenders, lawyers and other individuals whose activities are related to human rights work. Such reports are subject to mandatory investigation before the trial.

220. Articles 158 and 435 of the Criminal Code provide for criminal liability for obstruction of the lawful activities of journalists and lawyers. In 2022, seven criminal cases were registered under article 158 of the Code. Of those, three were terminated for lack of evidence that a crime had been committed, two were sent to court with an indictment and two are pending. Two criminal cases registered under article 435 of the Criminal Code were terminated for lack of evidence that a crime had been committed.

221. Countering all forms and manifestations of radicalism, extremism and terrorism has been identified as a priority for Kazakhstan. The Government has thus implemented the 2018–2022 State Programme to Counter Religious Extremism and Terrorism in the country. Particular attention is paid to cooperation in combating international terrorism, religious extremism, transnational drug trafficking and illegal migration.

222. In order to strengthen interfaith harmony and the stability of the sociopolitical situation in the country, the population and civil society institutions are actively involved in countering extremism and terrorism. The State works to promote a sense in society of zero tolerance for all offences, including those associated with any radical manifestations.

223. Some practical experience has been acquired in special and antiterrorist operations to suppress the activities of extremist and terrorist groups and organizations. Kazakhstan is a party to all the basic international and universal instruments aimed at combating terrorism. Special government services and the law enforcement agencies cooperate actively with the United Nations Security Council Counter-Terrorism Committee, the Organization for Security and Cooperation in Europe Action against Terrorism Unit, the Commonwealth of Independent States Anti-Terrorism Centre, the Regional Antiterrorist Structure of the Shanghai Cooperation Organization and the Collective Security Treaty Organization.

224. Under the Counter-Terrorism Act, an internal system was set up under the auspices of the Antiterrorism Centre to coordinate the fight against religious extremism and terrorism.

225. To date, Kazakhstan has acceded to all 19 antiterrorism conventions and their protocols. It has concluded 60 bilateral agreements with countries in Europe, Asia and the Americas, and the United Nations Security Council has adopted 41 resolutions on combating terrorism, under which the country has certain obligations.

226. In recent years, Kazakhstan has contributed to countering the phenomenon of foreign terrorist fighters through its Zhusan humanitarian operations, as a result of which more than 600 citizens of Kazakhstan have been repatriated from Syria and Iraq.

227. Measures have been taken to implement the recommendations made by the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, following her visit in May 2019. In general, State agencies have worked on the recommendations, a number of which have been implemented. The functions of the Ombudsman have been strengthened, the National Human Rights Centre has territorial offices in all regions and a system of continuous video surveillance and terminals for filing complaints have been introduced in the penal correction system.

228. The Regional Hub for Countering Global Threats was set up within the Law Enforcement Agencies Academy in 2017. It is the single research and training platform in Central Asia and comprises five thematic areas of activities, including extremism and terrorism. The Hub's activities have been welcomed and are actively supported by foreign countries and leading international organizations, including the United Nations, the Organization for Security and Cooperation in Europe and the European Union. Between 2021 and 2022, 450 law enforcement officers from Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, Turkmenistan and Pakistan improved their qualifications with the support of international partners.

229. The provisions of the Code of Criminal Procedure do not place any restrictions on the rights of persons suspected of terrorist or extremist offences. They enjoy all rights, including the rights to judicial remedy, to appeal against the decisions and actions of persons conducting pretrial investigations and to file applications. The possible use of procedural detention for up to 72 hours and of preventive measures in the form of detention in custody for persons in this category results exclusively from the particular danger to the public that the acts in question represent.

230. In order to prevent the spread of coronavirus disease (COVID-19) and to control the epidemiological situation, all medical and social institutions, including nursing homes and residential homes for persons with psychoneurological disabilities, were placed in quarantine in line with a decree of the chief medical officer of Kazakhstan. With the imposition of quarantine, a teams of employees were formed to work in shifts, providing services to the residents. In 2021, the local akimats considered the introduction of a quarantine regime because of the epidemiological situation in their territory.

231. In order to guarantee the rights of service recipients, in accordance with the rules of organizations that could potentially be providing special services, all organizations were provided with video surveillance cameras. Service recipients were given the possibility of recording information about their condition via the Internet. In addition, service recipients were able to use the Internet to contact their relatives via video link. No instances of torture were recorded during the period of quarantine.

232. The procuratorial agencies, together with representatives of public monitoring commissions and the national preventive mechanism, were able, including with the use of medical workers from the civilian sector, to conduct a daily on-camera inspection of pretrial detention facilities. Specialists conducted screening in a mobile diagnostic centre. If necessary, and if the relevant medical indications were found, individuals were taken to hospital for inpatient treatment.

233. In line with the Advocacy and Legal Aid Act and the Act on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants, suspects and defendants are, from the moment of detention, able to meet with legal counsel in private and confidentially. The legislation mentioned, including the public health and epidemiological regulations, provided for the mandatory use of masks or protective breathing equipment, rubber gloves and closed-type goggles.

234. Prisoners' rights in terms of receiving visits from lawyers and defence counsel in other penal institutions were not violated either; they were exercised, including through discussions via videoconference in the facility's short-term visiting room.
