



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

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Committee against Torture

Information received from Kazakhstan on follow-up to the concluding observations on its fourth periodic report*

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Follow-up information relating to paragraph 10 of the concluding observations (CAT/C/KAZ/CO/4)

1. Measures are being taken to improve legislation on the definition of torture, and a bill to amend certain legislative acts on the optimization of the Criminal Code, the Code of Criminal Procedure and Penalties Enforcement Code has been submitted for consideration by the Majilis, the lower house of Parliament.
2. The bill provides for amendments to articles 50, 63, 72 and 73 of the Criminal Code to introduce: a lifetime ban on holding positions in law enforcement and special agencies with mandatory deprivation of the right to hold a certain position or engage in certain activities for the commission of torture; and a prohibition against suspended sentences, parole and commutation of the part of the sentence that has not been served or the reduction of the prescribed period of punishment for those convicted of torture.

Follow-up information relating to paragraphs 11–15 of the concluding observations

3. The Constitution guarantees the right of everyone to judicial protection of their rights and freedoms and the equality of all before the law and the courts. The Advocacy and Legal Assistance Act provides for the right to receive qualified legal assistance, which is provided free of charge in cases specified by law and is paid for by the State.
4. In accordance with the requirements of the Code of Criminal Procedure, every person is guaranteed the right to a defence. In the event of detention or remand in custody, if the defence lawyer chosen by the suspect, accused person, person standing trial, convict or acquitted person is unable to appear within 24 hours, the body conducting the criminal proceedings must offer the suspect, accused person, person standing trial, convict or acquitted person the option to engage another defence lawyer and, in the event of a refusal, it must take steps to appoint a defence lawyer through the professional organization of lawyers or its subsidiary bodies (Code, art. 68).
5. The Advocacy and Legal Assistance Act provides that counsel is entitled from the moment he or she is admitted for participation in a case to meet with the defendant in private and confidentially, without any restriction as to the number or duration of the meetings.
6. Parliament is currently considering legislative amendments to expand the powers of lawyers in criminal proceedings. It is envisaged: to grant lawyers the right to request an expert examination of all matters; to establish the possibility for lawyers to ask questions directly to the expert without applying to the investigator; to grant lawyers the right to familiarize themselves with the case file when material is submitted for expert examination; and to grant lawyers the right to file a defence with the court against the bill of indictment, i.e. a defence statement.
7. Under the Code of Criminal Procedure, any information obtained by misleading a person involved in criminal proceedings about his or her rights and obligations, resulting from a failure to explain them to the person, or from an incomplete or incorrect explanation, is to be deemed inadmissible as evidence (Code, art. 112).
8. In accordance with the requirements of article 129 of the Code, 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 electronic information system for recording persons brought in (which is regulated by the instructions on the electronic registration of persons brought in, approved by Order No. 162 of the Procurator General of 24 December 2014).
9. In fulfilment of paragraph 107 of the national action plan to give effect to the President's address of 1 September 2020 to the people of Kazakhstan, entitled "Kazakhstan in a new reality: time for action", a system of continuous video surveillance has been introduced in all law enforcement and prison facilities. More than 40,000 video surveillance cameras are currently in operation (equipping of the prison system will be completed in 2023).

10. A number of special rules were adopted to regulate the functioning of the video surveillance system (approved by orders of the Procurator General, No. 46 of 27 January 2023, the Minister of Internal Affairs, No. 176 of 21 February 2023, and the Chairs of the Financial Monitoring Agency, No. 54 of 23 February 2023, and Anti-Corruption Agency, No. 85 of 27 February 2023).

11. The rules contain the procedure for organizing the operation of the video surveillance system, ensuring round-the-clock monitoring, specifying video storage conditions and providing for independent backup power supply and additional sets of equipment.

12. As part of the implementation of the rules, video recordings are monitored on a daily basis and procurators are provided with online access to the video surveillance system in prison facilities and offices of investigative units. All video storage server rooms are sealed by the relevant commission with the procurator present.

13. The Code of Criminal Procedure provides for compulsory medical examination at the time of arrest and placement in a temporary holding facility with the results of the examination attached to the record of arrest.

14. Wilful failure to inform a suspect's relatives of his or her detention and whereabouts, unlawful refusal to provide information on the place where a person is being held in custody to a person who has the right to receive such information and falsification of the time at which an arrest record was drawn up or of the time of the actual arrest are crimes punishable under article 414 of the Criminal Code.

15. As part of the implementation of the Committee's recommendation and with a view to enhancing guarantees for the protection of citizens' rights, the heads of law enforcement agencies approved the instructions on ensuring respect for the constitutional rights and freedoms of citizens in criminal proceedings and during the enforcement of sentences (orders of the Procurator General, No. 14 of 9 January 2023, the Minister of Internal Affairs, No. 14 of 13 January 2023, and the Chairs of the Anti-Corruption Agency, No. 19 of 13 January 2023, and the Financial Monitoring Agency, No. 7 of 16 January 2023).

16. The instructions make provision for: bringing citizens before the criminal prosecution authorities; bringing a person before the competent authority, including in the event of default of appearance, with the use of body-worn cameras; fitting out "transparent" investigation rooms; establishing the personal responsibility of senior officers; and requiring the procurator to visit places where cases of torture are reported. A ban on interviews, interrogations and negotiations with persons who have not been assigned a procedural status has been introduced, and other measures to prevent torture have been established.

17. In accordance with articles 131 and 147 of the Code of Criminal Procedure, procurators review the lawfulness of detention and remand in custody. To ensure that the law is observed on the premises of law enforcement agencies, there is a "duty procurator", who is responsible for reviewing the lawfulness of the detention, remand in custody and admission of citizens (in 2023, 449 persons were released from office premises and 603 citizens from temporary holding facilities as part of the reviews carried out by procurators).

18. To prevent delays in reporting cases of torture and ill-treatment, procurators are required to interview all detainees and to investigate allegations of torture when authorizing remand in custody (amendments were made to the instructions on the organization of reviews of the lawfulness of pretrial investigations and criminal prosecution by order of the Procurator General, No. 237 of 30 December 2023).

19. Disciplinary sanctions were imposed on 709 officials from pretrial investigation bodies (377 in 2022 and 332 in 2023) a result of reports by procurators on action taken to remedy violations of citizens' constitutional rights.

20. 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: 66 were suspected of taking part in the riots; 143 had been violating regulations on states of emergency and counter-terrorism operations (including 22 who had accidentally come under fire or were involved in a traffic accident);

4 had died as a result of other crimes; and 6 had died as a result of offences subsequently classified as torture.

21. Pretrial investigations were conducted into all deaths, and the investigations were complete and comprehensive.

22. A total of 337 pretrial investigations have been opened into all allegations of torture and abuse of authority. Criminal proceedings were terminated in 300 cases for lack of evidence that a crime had been committed. The courts have considered criminal cases against 42 persons, of whom 35 were convicted of torture and 6 of other malfeasance (3 under article 362 (4), 2 under article 370 and 1 under article 432 of the Criminal Code), and 1 was acquitted (on appeal before an appellate court).

23. Criminal cases of torture against 5 officials are pending in court. Investigations continue to be pursued in a number of cases of torture and abuse of authority, taking into account previously overturned decisions, the results of expert examinations and investigative actions.

24. Since 1 January 2023, by order of the President, the procuratorial authorities have been assigned exclusive jurisdiction over the investigation of torture. Corresponding amendments have been made to the Code of Criminal Procedure (amendments introduced by the Act of 5 November 2022 amending certain legislative acts on the implementation of the President's address of 16 March 2022).

25. Procurators ensure the prompt and impartial investigation of torture cases in accordance with the international standards established by the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). To ensure such investigation, instructions on the organization of pretrial investigations in the procurator's office (approved by Order No. 264 of the Procurator General of 31 December 2022) have been adopted.

26. The instructions regulate the procedure for conducting urgent investigative actions, requesting the necessary forensic examinations, providing for security measures, questioning participants in criminal proceedings and taking other investigative actions.

27. Special mobile groups have been set up throughout the country, which, when reports of torture are received, travel to the scene of the crime and carry out urgent investigative actions.

28. In 2023 and 2024, procurators made 107 submissions to the competent authorities as part of their investigations into cases of torture under article 200 of the Code of Criminal Procedure to remedy circumstances that had contributed to the commission of the criminal offence and other violations of the law. Disciplinary sanctions were imposed on 123 persons, including 45 senior officials.

29. Methods of investigation of torture are being improved, and training sessions (on 31 December 2022, 5 January 2023, 20 April 2023 and 29 June 2023) and round tables (on 30 March 2023) on the investigation of torture cases have been held. Representatives of the Coalition against Torture, the Council of Europe and the Supreme Court, lawyers and law enforcement officials have taken part in the events.

30. On 21 and 22 September 2023, special training sessions were organized for duty procurators at the Law Enforcement Academy to ensure respect for citizens' rights and to combat torture.

31. The event covered theoretical and practical issues of preventing torture, acquiring skills in conducting urgent investigative actions and analysing various case scenarios.

32. The Academy of Law Enforcement Agencies conducted an interdepartmental research study on the theme, "Combating torture: organizational and personnel aspects of the prevention of torture offences". As part of the study, recommendations were developed to provide guidance to the senior staff of human resources and mental health services of law enforcement agencies in the organization of work on the prevention of torture through the adoption of organizational and managerial decisions.

33. Forensic medical experts, psychiatrists and psychologists working at the Forensic Expertise Centre of the Ministry of Justice receive advanced training on a regular basis in conducting expert examinations related to the use of torture.

34. Currently, training has been organized at the Serbsky National Research Centre for Psychiatry and Drug Dependence using a training module entitled “Mental health disorders occurring in persons who are victims of various forms of violence and abuse”.

35. In general, the implementation of a number of recommendations is provided for in the Action Plan on Human Rights and the Rule of Law (approved by Presidential Decree No. 409 of 8 December 2023). The plan includes measures aimed at eliminating discrimination against women, ensuring the right to freedom of association, the right to work, labour protection and trade union activity, respect for the rights of migrants, stateless persons and refugees, human rights in business activities, criminal justice, the enforcement of sentences and the prevention of ill-treatment, and others.

Follow-up information relating to paragraph 21 of the concluding observations

36. Detention facilities provide for the separation of male and female and juvenile and adult inmates. First-time convicted persons are kept separately from those who have previously served a prison sentence.

37. In order to come closer to international standards, work is under way to switch from confinement of inmates in barracks to confinement in cells. There were currently nine facilities with prison cells, housing more than 4,000 persons. In 2023, construction has begun on eight housing units in four facilities.

38. In accordance with the policy framework for ensuring public safety in partnership with society for the period 2024–2028, it is planned to build new institutions that meet international requirements (three remand centres and 4 multi-regime facilities) and to improve the infrastructure of existing facilities (overhaul of utilities, buildings and structures).

39. Work continues on organizing the construction of facilities with an occupancy limit of 1,500 places as part of the implementation of the public-private partnership mechanism. Once the facilities are completed, the percentage of those confined in cells will reach 45.5 per cent, or 13,200 persons, by 2030 (19.2 per cent, or 4,500 persons, in 2023).

40. Work is being carried out to improve technical and sanitary conditions in facilities of the penal system, and problems are being addressed through the construction of modular buildings and housing units.

Follow-up information relating to paragraph 24 of the concluding observations

41. The rights, freedoms and legitimate interests of convicted persons are protected in Kazakhstan. Every case of bodily injury is investigated. When suspects or accused persons sustain bodily injuries, an examination is conducted without delay by the medical officers of the place of detention. The findings of the examination are entered in a register in accordance with the established procedure and the victim is informed of them.

42. Every case of injury or death of inmates is recorded in the electronic crime record book. A crime scene unit arrives at the scene to make initial inquiries; if signs of a criminal offence are established, a pretrial investigation is conducted, forensic medical examinations are ordered, and the guilty parties are brought to justice in accordance with the Criminal Code.

43. Furthermore, official investigations are conducted into serious incidents in penal institutions, during which the causes and circumstances that led to the incident, including those related to the actions or inaction of officials and staff, are established. In the event of improper fulfilment of duties on the part of the officials of the institution, a decision to hold them to account is taken.

44. Over the past three years, about 3,500 internal investigations have been conducted, and over 400 officials have been subject to various types of disciplinary action for improper fulfilment of their duties (167 in 2021, 128 in 2022 and 109 in 2023).

45. Measures have been taken to maintain a high level of disease control in remand prisons in order to prevent any threats to the life and health of detainees.

46. Interviews are held with the persons under investigation, during which suicidal tendencies are identified and psychological support is provided to prevent cases of suicide. A medical officer makes daily rounds to monitor the health of and provide medical care to detainees.

47. A medical examination is performed confidentially behind a screen, out of sight of police officers and prison staff, by specialists and at the request of the person being examined.

48. The period from 2021 to 2023 saw a downward trend in mortality from diseases among convicted persons and remand prisoners (106 in 2021, 94 in 2022 and 94 in 2023). In 2023, there were 22 suicides among the prison population (29 cases in 2022, or a decrease of 32 per cent). In addition, 120 attempted suicides were prevented (78 in 2022), including 23 (7 in 2022) through video surveillance.

49. An action plan to improve the psychological service of the penal system and strengthen psychological support for inmates, including those sentenced to long terms of imprisonment, for 2022–2024 is being implemented.

50. Plans have been approved to prevent serious incidents and malicious acts among the prison population for 2023–2025, to ensure continuous operation of the video surveillance system installed in penal institutions and to prevent and cut off channels for the delivery of prohibited items.

51. Eleven operating procedures and guidelines have been developed and are being used in daily work activities, including guidelines for the staff of penal institutions on interaction with persons with suicidal tendencies and operating procedures for accepting remand prisoners arriving from temporary detention centres once investigative measures have been carried out and from courtrooms after the pronouncement of a sentence.

52. Psychological support is provided by prison psychologists, and counselling, diagnosis, evaluations, recommendations and mental health rehabilitation and preventive mental health-care services are offered.

53. Cooperation with human rights organizations has been established as part of the observance of the rights of convicted persons and the prevention of torture (in 2023, representatives from the Ombudsman's Office carried out visits to institutions on 248 occasions and the national preventive mechanism on 102 occasions).

Follow-up information relating to paragraph 28 of the concluding observations

54. In accordance with Presidential Decree No. 622 of 19 July 2021 on measures for the further improvement of public administration in Kazakhstan, the functions and powers of the Ministry of Internal Affairs in the area of medical care for persons held in penal institutions and remand centres have been transferred to the Ministry of Health.

55. As at 1 January 2023, medical care for persons held in 79 penal institutions is provided by local authorities in coordination with the Ministry of Health and licenses for basic medical activities have been obtained for all medical facilities to which responsibility for care has been transferred.

56. There are 63 medical outpatient clinics in penal institutions, 16 medical stations in open prisons and two inpatient facilities (a tuberculosis hospital and a psychiatric hospital) for inmates and a children's home with 50 beds. There are 1,352 medical personnel, of whom 512 are doctors, 710 are nurses, and 130 are junior medical personnel.

57. The Government has approved a road map to improve the situation in penal institutions for 2023–2025, which includes measures to integrate and improve medical information systems and to provide medical equipment, supplies and medicines for the needs of medical organizations in penal institutions.

58. Legal acts on the organization of medical care for convicted persons have been adopted (Code on Public Health and the Health-Care System and 14 laws and regulations).

59. The rules for medical examination of convicted prisoners put forward for remission of sentence on grounds of illness and the list of diseases that are grounds for exemption from serving a sentence have been updated and expanded (the rules were approved by Ministry of Health Order No. 58 of 30 June 2022). A reporting form for recording signs of bodily injury and psychological trauma based on the principles of the Istanbul Protocol has been approved.

60. With a view to staffing, the Minister of Health adopted an order on 5 August 2022 approving standard staffing levels and staffing standards for medical organizations providing medical care to persons held in remand centres and penal institutions.

61. The rules for the provision of medical care to persons held in remand centres and penal institutions (Ministry of Health Order No. 61 of 30 June 2022) and the rules for the provision of medicines and medical devices within the guaranteed level of free medical care and additional medical care for persons held in remand prisons and penal institutions out of public funding or funds from the health insurance system (Ministry Order No. 89 of August 2021) have been approved.

62. A provision on admitting persons detained in penal institutions to primary health-care facilities has been introduced to the rules on admitting persons to primary health-care facilities (Ministry of Health Order No. 194/2020 of 13 November 2020), which gives the facilities the right to provide them with primary health care.

63. On a local basis, medical outpatient clinics and health units are attached to primary health-care facilities. With the transfer of medical support in 2023, computed tomography (CT) services (magnetic resonance imaging (MRI) and positron emission tomography-computed tomography (PET-CT)) are readily available.

64. Emergency medical assistance is provided at the convicted person's place of detention. In cases of long waiting times, provision is also made to transport the patient to the nearest health facility. Laboratory tests (sampling, biochemical tests, X-rays, etc.) are carried out in medical facilities at penal institutions.

65. On 20 April 2023, the Social Code was adopted, which provides for the care of convicted persons with a category I disability held in penal institutions by persons from among inmates of these institutions, with the provision of social benefits in the form of care allowances.

66. To implement the Code, amendments have been made to the departmental order regarding the procedure for selecting and assigning candidates from among fellow convicted persons to care for convicted persons with category I disabilities (Ministry of Internal Affairs Order No. 508 of 13 August 2014).

Follow-up information relating to paragraph 44 of the concluding observations

67. Preserving the life and health of military personnel is one of the top priorities of the Ministry of Defence. Educational work to prevent incidents and breaches of law is organized in accordance with the requirements of the orders of the Minister of Defence, the action plan for the implementation of the interdepartmental programme entitled "Take care of life" and organizational guidelines.

68. Since the beginning of the new training year, the troops have been implementing the procedure for the targeted prevention of violations, approved by the Minister of Defence on 14 December 2023.

69. The commanders of military units take appropriate measures to respond to all cases of abuse of authority, hazing and other forms of physical or psychological pressure by conducting official investigations, issuing orders to punish the guilty officials and setting objectives to prevent such violations in the future.

70. Pretrial investigations are conducted by the military police and military investigation departments into each criminal case, and the perpetrators are held criminally liable under the Criminal Code.

71. In order to root out unlawful acts against military personnel, the following are carried out in military units on a systematic basis: preventive actions and 10-day campaigns in accordance with approved plans; physical examinations of conscripts with the involvement of military officers, military police and medical personnel; individual interviews, opinion polls by means of anonymous questionnaires; telephone and video conversations between conscripts and their parents; and monitoring of recordings from surveillance cameras, among others.

72. Prevention services, boxes to receive complaints and petitions and telephone helplines are available in military units and institutions.

73. Since 2005, a one-year period of fixed-term military service has been introduced in Kazakhstan, which has been accompanied by an intensive process of professionalization of the army. Hazing in the armed forces has been virtually eliminated (the term “hazing” itself (*dedovshchina*) could be used until 2005, when the period of compulsory military service was 24 months).

74. The service in military units is based on the principle of a “single call-up”, i.e. until some serve, others do not arrive.

75. Individual educational work, opinion polls and anonymous surveys are conducted to monitor the mental and psychological well-being of personnel, and the Zhauynerlikdos (comrade-in-arms), Naparnik (partner) and Pyramid systems are used to monitor military personnel. To prevent offences, the troops actively use modern forms and methods of work with personnel, including critical thinking technology and the case study methodology, where errors and omissions are examined using real-life examples.

76. The armed forces conduct annual preventive medical examinations covering all personnel performing contractual military service. During preventive medical examinations, about 8,000 military personnel undergo annual screening within the time frames and at the levels determined by the authorized health authority.

77. Monitoring the state of health of military personnel in the armed forces includes: a preliminary compulsory health check-up of those being called up for military service or training; a compulsory health check-up before assuming guard duty, combat duty or combat service, before going on a journey, upon leaving for other military units or returning from leave, a mission or health facilities; periodic compulsory health check-ups and ongoing observation of the state of health of personnel.

Follow-up information relating to paragraph 46 of the concluding observations

78. In 2009, Kazakhstan extended a standing invitation to all special procedure mandate holders. The country is thus willing to consider organizing visits by special procedures mandate holders.

Follow-up information relating to paragraph 47 of the concluding observations

79. The fourth periodic report on measures taken by Kazakhstan to implement the Convention against Torture, approved by the Government Decision No. 789 of 27 November 2018, is publicly available on the Adilet database of laws and regulations. The report and the Committee’s concluding observations have been disseminated by the media.

Follow-up information relating to paragraph 48 of the concluding observations

80. The Committee's proposal to adopt a simplified procedure for the submission of reports by Kazakhstan, providing for the transmission of a list of questions prior to the submission of the report, is supported (the replies of Kazakhstan to this list of issues will constitute the fifth periodic report in accordance with article 19 of the Convention).
