



COALITION FOR THE SECURITY AND PROTECTION
OF HUMAN RIGHTS DEFENDERS

2013

Public
Association
Dignity



2010



THE OBSERVATORY
for the Protection of
Human Rights Defenders

1997 FIDH+OMCT

Human Rights Defenders

Of the 14 recommendations, only 2 were directly related to the protection of human rights defenders

Coalition of NGOs

Freedom from torture

Fair trial

Of the 10 recommendations, 139.61-139.67, 139.79-139.81
partially implemented

UPR Pre-session on Kazakhstan

#uprkz4

i. Situation of Human Rights Defenders

Recommendations



Index of HRD's protection for 2023 in Kazakhstan

2021 – **1586** cases of threats, 2022 – **995**, 2023 – **374**,
10 months of 2024 – **447** cases

a. To adopt a law on the national mechanism for the protection of HRDs, in accordance with the State's obligation under article 3 of the UN Declaration on HRDs.

b. Ensure thorough investigations into threats against HRDs and hold perpetrators accountable.

c. The Working Group on the Protection of HRDs under the Commissioner for Human Rights, established in autumn 2022, should become an effective channel of communication with civil society representatives taking measures to protect HRDs from threats and violations.

d. Create an environment conducive to the development of civil society so that HRDs can effectively exercise their rights; the state should implement the UN Declaration on HRDs.

e. To supplement the Code of Criminal Procedure, the Code of Civil Procedure, the Code of Administrative Offences with the obligation of the court to cancel, review judicial acts due to Views taken by UN Treaty Bodies.

ii. Access to justice (fair trial)

New developments since the review

- 3 categories of citizens (incapacitated, children and judges) do not have the right to go to court, whereas the Constitution of Kazakhstan guarantees judicial protection to every person.
- Covid-19, the tragedy of January 2022, floods, earthquakes, fires showed a state administration in which citizens were left alone with themselves.
- The ongoing reforms do not solve one of the fundamental problems with the independence of the judiciary. Judges are still appointed by the President, it is not an elective position.
- There is not a single woman in the post of chairman of the regional court.
- Closed trials are often conducted in cases against representatives of civil society, as well as in cases about the events in January 2022. Of the 63 decisions of the UN Committees against Kazakhstan, most of the applicants are human rights defenders, activists and journalists. They are not fulfilled. There are no effective remedies for civil society in the country

Recommendations

- a. To introduce the electability of judges by citizens.
- b. Eliminate all barriers to access to the court.
- c. Adopt legislation with algorithms to ensure access to the court in a crisis
- d. Establish a court for equality and protection against discrimination. Such courts should be mandated to ensure protection of the rights of all individuals, including vulnerable groups and minorities.

iii. Freedom from torture

New developments since the last review

- The presumption of innocence is rarely respected. The approach to it is only as a principle of judicial procedure, but not as a right, for the observance of which the state is obliged to create conditions for a person to be able to use this right. A person simply cannot use the right to remain silent if he is in the status of a witness with the right to defense (this is a suspect), who is deprived in the CPC of the opportunity to refuse to testify.
- When examining the received materials of the criminal case, judges form a stable conviction of guilt even before the start of the hearing. And the prosecutor has only a maximum of 20% to prove in court that the person is guilty. This is a problem of the standard of proof, the legality of evidence. It can even be argued that it is difficult for the court to exercise power independently due to the dominance of the powers of the prosecution.
- Last year, the UN Committee against Torture asked Kazakhstan to provide an answer to 3 questions within a year: the events of January 2022, deaths and torture in prisons and the army, as well as access to medical care for prisoners. Unfortunately, there have been no changes over the year.
- In 2023, ill-treatment was criminalized, but the Ministry of Internal Affairs, under whose jurisdiction this part 1 of Article 146 of the Criminal Code did not investigate a single case!
- The threat of torture is not criminalized, as, for example, in the Criminal Code of Georgia.
- The prison subculture allows humiliation to reign in the lower caste, a separate category that is forcibly made representatives of the lowest chain in the hierarchy of prisoners.

Recommendations

- a. Change the approach to the person who should initially be trusted.
- b. To create conditions in which a person can enjoy the right to remain silent, and not force him to prove his innocence.
- c. Observe every step in the procedures prescribed by the CPC, the Administrative Code, as this will lead to the automatic exclusion of torture.
- d. Suicides and deaths of military personnel in the army in peacetime (about 300 people from 2020 to 2023) indicate the expansion of the range of institutions under the national preventive mechanism by military units.

Thank you for your attention!