



КОАЛИЦИЯ
НПО КАЗАХСТАНА ПРОТИВ ПЫТОК

**STATEMENT BY THE COALITION OF NON-GOVERNMENTAL ORGANISATIONS
OF KAZAKHSTAN AGAINST TORTURE REGARDING THE THIRD (PERIODIC)
REPORT OF THE REPUBLIC OF KAZAKHSTAN ON THE IMPLEMENTATION OF
OBLIGATIONS UNDER THE INTERNATIONAL COVENANT ON CIVIL AND
POLITICAL RIGHTS**

(for submission to the UN Human Rights Committee)

May 2025

State of emergency (Article 4 of the ICCPR)

1. During the January 2022 Protests a state of emergency was declared in the country and between 2 and 7 January 2022, the Internet was shut down in a number of cities in Kazakhstan, and scant information was received from the authorities via SMS messages or national television channels, which was mainly limited to the prevention of movement of citizens in the streets, the announcement of the anti-terrorist operation regime, and news about the arrival of CSTO forces.

2. On 5 January 2022, Internet providers Kazakhtelecom and Beeline switched off access to the Internet - both mobile and wireline. Since the Internet in Kazakhstan is centralised through the monopoly Kazakhtelecom JSC, the entire population of the country was deprived of access to the network. Providers reported that they acted on the instructions of state authorities. Access to full and objective information about the January events was also not provided to the people of Kazakhstan after the protests ended and throughout their investigation.

3. Human Rights Alliance in Support of Fundamental Rights and one of the co-authors of this Statement, the Public Foundation “MISK”, conducted research on providing citizens with information during a state of emergency. It was noted that information during the period of the January Events was “absolutely inaccessible”, the entire information flow was carefully monitored and all efforts of the authorities were aimed at ensuring that access to information was limited for the media and the public in general. Separately, the journalists noted that information during the January Events was transmitted in a fragmentary manner and only through the state media, while private media, and even more so, independent ones, had no access to it.

Recommendations (Article 4 of the ICCPR):

- **to develop a protocol for informing citizens during a state of emergency and create channels for the rapid and comprehensive dissemination of official information about events;**
- **to eliminate the practice of disconnecting the Internet during emergencies, preventing the spread of misinformation and providing citizens with timely and complete information about what is happening.**

4. The victims of human rights violations that are committed by the state and its agencies lack access to effective, immediate, thorough and impartial investigations; the alleged perpetrators walk free in most cases, resulting in the sense of impunity and doubts as to whether legal remedies will be effective and any damage restored.

Recommendations (Article 2.3 of the ICCPR):

- to introduce appropriate changes and additions to the legislation so that, in accordance with international standards, the victims of human rights violations in the form of harm to life and health caused by government officials will have effective remedies and be compensated for harm caused by the state in full, whenever such harm is caused;
- to introduce a procedure to review cases of compensation for damage caused by illegal actions of state officials while performing their duties in the fight against terrorism and crime and while ensuring public order, which would be based on the presumption of good faith of the claim and placement of the burden of proof on the state when it comes to establishing an absence of grounds for compensation;
- when harm is caused to life and health resulting from unlawful actions by state bodies and public officials, introduce a compensation system according to this formula: “harm then compensation” as opposed to the currently adopted “harm then perpetrator then compensation,” an idea which would be based on a general rule of damage being compensated from budgetary funds in full, irrespectively of whether or not the body carrying out the criminal process was at fault.

Right to life (Article 6 of the ICCPR)

5. In December 2021, the death penalty was excluded from the criminal legislation of the Republic of Kazakhstan, in 2021 Kazakhstan also ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the abolition of the death penalty. In June 2022 the Constitution of the Republic of Kazakhstan was amended to establish a ban on the use of the death penalty. Thus, the numerous and repeated recommendations of the Human Rights Council, the Human Rights Committee, the Committee against Torture and other UN treaty bodies concerning the complete abolition of the death penalty were implemented, and Kazakhstan joined the ranks of countries where the death penalty is not practiced and is absent from legislation.

6. During the tragic events of January 2022 (Qantar-2022), official reports state that at least 238 people died, including 19 law-enforcement officers. Research conducted by the Documentation Centre of the Human Rights Alliance in Support of Fundamental Rights showed that Kazakhstan lacks reliable mechanisms to protect the right to life, and the authorities are not ready to take strict precautionary and comprehensive measures to avoid violation of the right to life by their duty to exercise “due care.” Despite the fact that in counter-terrorism practice, priority should be given to non-lethal measures, such as offering the opportunity to surrender and other measures to prevent loss of life, the authorities used disproportionate and often unjustified force, although under international law, the use of force must adhere to the principles of necessity and proportionality, which was not observed in this case.

7. Documentation has also shown that despite numerous emergency training programs for law enforcement officers and provision of all necessary resources and means to the law enforcement agencies, the law enforcement agencies were clearly unprepared and lacked professionalism while taking measures to stop mass unrest without the use of lethal weapons.

Recommendations (Article 6 of the ICCPR):

- bring legislation and law enforcement practice in line with international standards for ensuring the right to life, including with regard to the use of force and firearms, based on the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- ensure that in the training of all law enforcement officers and other persons in an official capacity who have the right to use force and firearms, special attention is paid to issues of police ethics and human rights, especially in the investigation process, to alternatives to the use of force and firearms, including peaceful conflict resolution, understanding the

behaviour of large masses of people and methods of persuasion, negotiation and mediation, as well as technical means to limit the use of force or firearms;
- conduct a comprehensive assessment of whether the use of lethal weapons by military and law enforcement agencies was acutely necessary and proportional, conduct a thorough analysis of all actions of security forces during the tragic January 2022 events and present all results of such analysis to the public.

**Right to freedom from torture or cruel, inhuman or degrading treatment or punishment
(Article 7 of the ICCPR)**

8. It should be noted that the National Preventive Mechanism against torture and ill-treatment has been functioning for more than 10 years, with a number of changes being made to the current legislation (NPM). There is no separate law on the NPM in Kazakhstan, but rather provisions on the NPM inserted into various separate laws. The NPM is coordinated by the Human Rights Commissioner, whose institution, according to the assessment of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI), does not fully comply with the Paris Principles, being excessively dependent on the executive branch. This is also reflected in the independence of the NPM.

9. With the adoption of legislative amendments in March 2023, the infliction of cruel, inhuman and degrading treatment was separated from torture, which changed the jurisdiction of crimes related to torture and other types of unlawful treatment. Only torture itself is investigated by a mechanism independent from criminal prosecution and penal enforcement bodies in the form of the General Prosecutor's Office, while other types of treatment prohibited by Article 7 of the ICCPR are investigated by the police.

10. According to the adopted amendments to Article 146 "Cruel, inhuman or degrading treatment, torture" of the Criminal Code of Kazakhstan, "physical and mental suffering caused as a result of lawful actions by persons acting in an official capacity, or other persons" are not recognised as torture. This means that in Kazakhstan, the definition of torture does not coincide with the conventional one, as it significantly expands the range of actions that will not be considered torture within the meaning of Article 1 of the Convention against Torture. The Committee against Torture noted in its recommendations to Kazakhstan in 2023 (CAT/C/KAZ/CO/4) that such reservations should not extend to (a) "lawful actions". The CAT's position is that the reservation concerns lawful sanctions, for example, detention, and not lawful actions. Such a broad interpretation is capable of exempting a wide range of individuals from responsibility for torture, cruel treatment and other similar actions.

11. Kazakhstan lacks a comprehensive mechanism for compensating victims of torture, cruel, inhuman or degrading treatment or punishment. At the time of preparing this Statement, rehabilitation and support programmes for victims of torture and ill-treatment have still not been established in the country.

12. As a result of monitoring the tragic January Events in 2022, human rights organisations noted a number of problems with respect for the rights to freedom and security of person and freedom from torture, which were also reflected in the Concluding Observations of the CAT following the hearing of the government report of Kazakhstan in spring 2023: a) delays in ensuring the right of detainees to access to a lawyer, alleged interference with or obstruction of the provision of legal aid, and delays in the notification of a relative or other person chosen by the detainee; (b) inaccurate recording of the time of detention, keeping in temporary detention centres of internal affairs bodies for periods significantly longer than those prescribed by law; (c) initial detention in places not intended for this purpose, such as sports halls of internal affairs bodies or military

facilities; (d) deletion of video recordings of interrogations, which occurred in several documented cases; (e) failure to conduct independent medical examinations routinely upon admission of detainees to a pre-trial detention centre, and to conduct such examinations in the presence of a police officer; (f) failure to investigate detainees' complaints of injuries caused to them; and (g) disproportionate and unjustified use of administrative detention.

13. Training for law enforcement and prison staff on the prevention of torture and ill-treatment is carried out on an irregular basis. Insufficient action is taken to analyse the situation due to resource and financial constraints on the authorities investigating cases of torture and ill-treatment.

Recommendations (Article 7 of the ICCPR):

- **assign to special prosecutors the investigation of all types of treatment or punishment prohibited by Article 7 of the ICCPR, or otherwise ensure the independence and effectiveness of investigation mechanisms;**
- **modify the reservation to Article 146 of the Criminal Code of the Republic of Kazakhstan, replacing the word “actions” in the phrase “lawful actions” with “sanctions”, in accordance with Article 1 of the UN Convention against Torture, avoiding the expansion of unpunishable acts;**
- **unify approaches to investigation and regularly conduct joint trainings and exchange of experience based on the Istanbul Protocol;**
- **ensure in practice the independence of the National Preventive Mechanism from the executive branch and adopt a separate law on the NPM;**
- **to specify in civil law provisions that harm caused by unlawful acts of the authorities, in particular as a result of torture or cruel, inhuman or degrading treatment or punishment, shall be compensated by the state under civil law in full, regardless of the fault of the perpetrator;**
- **to provide for mandatory training and advanced training for torture cases pre-trial investigation officers.**

Right to Freedom from Slavery, Forced Labour (Article 8 of the ICCPR)

14. Article 12 of the Constitution enshrines Kazakhstan's recognition and guarantee of human rights and freedoms in accordance with the Constitution of Kazakhstan. However, there is no constitutional prohibition of slavery in the Constitution. The Constitution of Kazakhstan only establishes the right to personal freedom in the context of restriction and deprivation of human freedom by the state (arrest, detention) (Article 16), as well as freedom of labour, choice of occupation and profession (Article 24).

15. A separate Department for Combating Organised Crime was established in mid-2022 under the Ministry of Internal Affairs of the Republic of Kazakhstan, whose activities are aimed at detecting and suppressing offences related to human trafficking.

16. In order to fulfil international obligations in the area of ensuring the right to freedom from slavery and combating human trafficking, the Law of Kazakhstan “On Combating Human Trafficking in the Republic of Kazakhstan” was developed and adopted in July 2024. It provides for the competence and powers of interested state bodies on issues of preventing and combating human trafficking, increasing the effectiveness of cooperation with non-governmental organisations, and the implementation of the provisions of the Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime in practice. In April 2023, the Social Code of Kazakhstan was adopted, which states that forms of ill-treatment resulting in social maladaptation and

social deprivation are acts of domestic violence, trafficking in persons, including minors, and other forms of exploitation, as well as kidnapping, regardless of whether or not criminal proceedings have been initiated in relation to the acts committed.

17. At the same time, at the legislative level, no authorised state body for coordinating activities in the area of combating human trafficking has been designated. There is a lack of an algorithm for comprehensive assistance to victims of human trafficking by all interested parties; systemic and effective work in providing assistance to victims of human trafficking using a trauma-oriented approach and taking into account the needs of victims of human trafficking; conditions in organisations providing special social services for the detention of persons with disabilities who have become victims of human trafficking; criteria for assessing the presence of abuse that has led to social maladaptation and social deprivation among minors who have suffered from human trafficking.

Recommendations (Article 8 of the ICCPR):

- **to amend the Constitution of the Republic of Kazakhstan and enshrine freedom from slavery in accordance with Article 8 of the ICCPR;**
- **to criminalise a number of acts related to human trafficking by expanding the concept of “exploitation of human beings”, adding such an important element as the “method of influence” (deception, breach of trust and others);**
- **to criminalise the receipt of prostitution services provided by known minors and criminalise the organisation of brothels for prostitution through the use of telecommunications networks and the Internet.**

Right to freedom and personal inviolability (Article 9 of the ICCPR)

18. The existing procedure for judicial sanctioning of detention does not fully comply with the principles and objectives of the “*habeas corpus*” institution and does not guarantee the protection of the individual’s rights from torture and unlawful detention. The legality and justification of detention in each case are not subjects of judicial review. A suspect (accused) is not questioned by the court about possible violations of their rights and freedoms during pre-trial detention. The court’s function is limited to examining, in a closed process, the materials relating to the circumstances considered when choosing a measure of restraint (the severity of the crime of which the person is suspected (accused), the presence of a permanent place of residence, the establishment of identity, information about violations of previously selected measures of restraint, and the presence of alleged attempts to escape the investigation as assumed by the investigation). Detention is sanctioned by the courts of first instance, the same instance which subsequently hear the criminal case on its merits.

19. The Code of the Republic of Kazakhstan “On the Health of the People and the Health Care System” was adopted in July 2020. It provides for compulsory placement of persons with tuberculosis, persons with mental, behavioural disorders (diseases), including those related to the use of psychoactive substances, in medical institutions and their compulsory treatment. Although decisions on compulsory treatment are rendered by courts of law, it appears the law does not provide sufficient guarantees against possible abuse, and internal regulations at the health care organisations and the rights and responsibilities of patients stipulated in the law seem more like those used for suspects and accused persons who are detained as a preventive measure or placed under an administrative arrest, arrested or imprisoned.

20. There is a whole other set of questions with respect to the Law of the Republic of Kazakhstan “On the procedure and conditions of detention of persons in special institutions that provide temporary isolation from the society”. In addition to persons subjected to administrative arrest,

this law provides for the detention in custody of persons who do not have a specific place of residence or registration at the place of residence or domicile in the territory of Kazakhstan (Article 2.4 of the Law). Restriction of their freedom and personal inviolability in this Law is defined as “preventive restriction of freedom of movement as a measure of individual prevention of offenses in relation to persons that have no specific place of residence and/or documents confirming their identity, which consists in their temporary isolation in a special internal affairs establishment.”

21. Absence of identification documents or a place of residence does not constitute a criminal or administrative offense, unless it involves other crimes or administrative offenses that entail imprisonment or administrative arrest as the basis for detention. Despite this, such persons are placed in custody into special establishments as a measure of temporary isolation. Essentially, this Law defines the grounds, procedure and timeframes for keeping persons at temporary isolation establishments, despite the fact those persons are not suspected and accused of committing a criminal or administrative offense. Although the decision to place a person in a reception-distribution centre is sanctioned by the court, it is evident that this Law significantly contradicts international standards of upholding the presumption of freedom. The HRC already approached Kazakhstan with this issue in 2016 in order to bring the practice on this issue into line with the ICCPR, but so far no steps have been taken in this direction.

22. In general, the legal rules pertaining to restriction of freedom and personal inviolability are “spread across” a whole number of regulatory legal acts. While those restrictions are equipped with various procedures none of which guarantee against arbitrary application.

23. The excessive use of pre-trial detention is a serious problem, including the following issues: a) decisions choosing this measure of restraint are not sufficiently justified; b) detention is applied to the persons who have committed minor crimes; c) timeframes of keeping persons in detention during a preliminary investigation and trial are still too long, as indicated by the HRC in 2016: the State should, in particular, ensure that in practice the recorded date and time of arrest coincides with the date and time of actual detention.

24. The following measures are used without sufficient grounds to individuals suspected of committing administrative offenses, particularly to political opposition members and civil activists:

- detention for a period of three hours without any paperwork whatsoever;
- forced fingerprinting and mugshots full face and half-face;
- forcing the detainees to write up explanatory notes, which is not something provided in the law, etc.

Recommendations (Article 9 of the ICCPR):

- **to bring legislation and law enforcement practice into line with Article 9 of the International Covenant on Civil and Political Rights;**
- **to revise, adopt and publish by-laws (rules, instructions, instructional guidelines) that are in line with international standards and that set forth stringent procedures for detaining, delivering and bringing in persons who have been detained as a matter of a criminal or administrative process, including those persons who are subject to deportation or expulsion or whose status of a refugee is still being defined, and individuals who are detained and placed in custody in order to prevent infectious diseases from spreading, as well as mentally ill, alcoholics, drug addicts or vagrants;**
- **to bring the practice of administrative detention into full line with Articles 9 and 14 of the International Covenant on Civil and Political Rights and ensure full respect for procedural rights, including an effective right to appeal, and that the principles of legality and**

proportionality are strictly observed when making any decisions restricting the right to freedom and personal inviolability;

- to abolish the practice of preventive detention of civil activists, which is not in line with the State party's obligations under Articles 9, 14, 19, 21 and 22 of the ICCPR;
- to introduce into judicial practices of rendering rulings on compulsory treatment of psychiatric illnesses the internationally-adopted method of "tripe-test approach" whereunder a person may not be subjected to compulsory treatment in the conditions of confinement if at least one of the following three conditions is not met: first, the person must be objectively recognized as mentally ill; second, mental illness must be of such nature and such degree that justifies compulsory treatment in the conditions of confinement; third, the lawfulness of an extended compulsory treatment in the condition of confinement must be commensurate with the duration of mental illness;
- in order for a person to be objectively recognized as mentally ill, an objective medical expert examination is required. In this regard, any person in whose respect a ruling of compulsory treatment of a mental disorder might be issued must be provided free and efficient access to independent psychiatric expert examination;
- to determine that compulsory treatment in the conditions of confinement, based on the nature and degree of the psychiatric disorder, may be justified only when other, less stringent measures, have been already considered and deemed insufficient for the protection of private or public interests.

Prisoners' rights (Article 10 of the ICCPR)

25. It should be noted that there have been some positive changes, in particular, the reduction of the "prison population" over the past 20 years by more than three times, including the reduction in the number of juvenile prisoners by more than 20 times due to the introduction of juvenile justice. At the same time, after the return of the penitentiary system from the Ministry of Justice of the Republic of Kazakhstan (where it was transferred in 2004), to the Ministry of Internal Affairs of the Republic of Kazakhstan in 2011, the agency has become more militarised, and reports come from places of deprivation of freedom of cases of torture, violence and ill-treatment, failure to provide medical care, taking place in the practice of modern penitentiary institutions of Kazakhstan and sometimes receive a wide public resonance.

26. Despite the fact that in January 2023 medical support of institutions, staffing levels and material and technical base were transferred to the Ministry of Health of the Republic of Kazakhstan from the Ministry of Internal Affairs of the Republic of Kazakhstan, this did not lead to any significant improvement of medical care and greater independence of medical personnel in places of detention and imprisonment. Moreover, the supply of medicines and medical products and the financial support of the medical service have deteriorated. In many cases, medical personnel refuse to provide information on the health status of inmates on the grounds that it is prohibited to disclose personal data on health status.

27. It should be noted that many persons deprived of their freedom have difficulties in filing or are reluctant to file complaints of torture or ill-treatment through terminals due to their proximity to or lack of access to the offices of the administration of the institution. From personal interviews with inmates and their relatives, we are reliably informed that there is a lack of trust among inmates towards the procedure for filing complaints electronically and handing them over to other oversight bodies during their visits to penitentiary institutions, and there are fears of pressure.

28. Despite the presence of video cameras in closed institutions and law enforcement agencies, reports of violence due to sexual orientation and gender identity from detainees are received

systematically. There is a negative practice of harassment and sexual violence against female prisoners by male guards in exchange for peaceful conditions within the facility. Unfortunately, information about violence among prisoners remains relevant, with cases of self-harm and fatalities not being exceptions. In the course of investigations into such incidents, video footage from surveillance cameras is often unavailable, with technical difficulties cited as the reason.

Recommendations (Article 10 of the ICCPR):

- to conduct, with the assistance of national and international experts, an inventory and analysis of the legislation of the Republic of Kazakhstan regulating the grounds, procedure and conditions of detention for its compliance with the Nelson Mandela Rules, the UN Bangkok Rules and other international legal acts, with subsequent finding of discrepancies and preparation of proposals to overcome them, to bring the relevant legislation of the Republic of Kazakhstan in line with the recommendations of international bodies and organisations;
- to consider the possibility and organisational and legal mechanism of withdrawal of the penal system from the jurisdiction of the Ministry of Internal Affairs of the Republic of Kazakhstan with simultaneous determination of its further departmental affiliation and organisational and administrative structure;
- to ensure the implementation of the recommendations of international human rights organisations concerning persons representing vulnerable categories of the population and, above all, convicts persons with disabilities. In this regard, to include in the penal enforcement legislation of the Republic of Kazakhstan the provisions creating an organisational and legal mechanism for the rehabilitation of wheelchair users and other convicts with disabilities, while at the same time creating conditions for their detention that exclude cruel and inhuman treatment;
- to provide support and protection to victims of violence in prisons, including access to legal and psychological assistance, rehabilitation and commensurate compensation;
- ensure the right of convicted persons to protection of their reproductive health, maternity and child welfare while serving sentences involving deprivation of liberty, and the right to receive information about the specifics of serving sentences for female persons, pregnant women and nursing mothers.

Right to a fair trial (Article 14 of the ICCPR)

29. The analysis of the procedure for the “election” and appointment of judges from the perspective of democracy and transparency of the procedure raises justified doubts. For instance, in reality, the Senate of the Republic of Kazakhstan can only choose from among the candidates for the position of the chairman and justices of the Supreme Court who are presented by the President of the RoK, this means that the “elections” of the Supreme Court justices effectively occurs on a non-competitive basis, which essentially represents a procedure for approving the proposed candidates and deprives the senators of the freedom of discretion in deciding this issue. Concerns regarding the independence of the judiciary in the judge selection procedure were repeatedly noted by the HRC in its Concluding Observations in 2016: specifically, there were concerns about improper interference from the executive branch due to the President’s involvement in the appointment of members of the Supreme Judicial Council. The recommendations of the UN Special Rapporteur on the independence of judges and lawyers, based on the mission to Kazakhstan in 2004, have largely remained unfulfilled.

30. A Romano-Germanic legal system, of which Kazakhstan is a part, could be characterised by a court system wherein the state prosecution, very strong traditionally, can draw support from as much as strong investigative and police apparatus. In this regard, it is very important to overcome the remnants of a repressive criminal-procedural past and balance out the authorities

of the prosecution with those of the defence. This also concerns the dominant role of the prosecutor's office in the judicial process.

31. Unfortunately, to this date the criminal justice keeps being unnecessarily harsh and almost inquisition-like, producing very low numbers of acquittal verdicts. It should be admitted that in a criminal process, the authorities of defence are infinitely smaller compared to the authorities of the prosecution. The expanded rights of advocates to collect evidence, stipulated by the new Code of Criminal Procedure of the Republic of Kazakhstan, are surely positive but unfortunately clearly insufficient to ensure true contentiousness of the process. The HRC noted in 2016: "The prosecution retains broad powers in both civil and criminal proceedings, which undermines the principle of equality of arms between the parties in legal proceedings." The situation in this regard has hardly changed.

32. One of the most painful issues in the criminal procedural practice remains the limitations on the access to an advocate of one's choice, due to the advocate not having a special clearance for state secrets. Moreover, in 2018 the new Law on Advocate Practice and Legal Assistance was adopted, which further restricts the independence of the advocacy. The draft law was heavily criticized by the UN Special Rapporteur on the independence of judges and lawyers (E/CN.4/2005/60/Add.2), the International Commission of Jurists, and the OSCE ODIHR; however, it was adopted virtually with no changes. Also noteworthy is the concern of the HRC in 2016, which recommended respect for the right to a fair trial, including access to counsel of one's own choice.

33. In violation of Article 14 of the ICCPR, Kazakhstan's criminal procedural and civil procedural legislation allows the announcement of any court judgements, including sentences, in their entirety to be withheld and limited to the reading of the operative part in respect of cases in which state secrets were contained. Moreover, even the defendants themselves sometimes do not have access to the files of such cases during court proceedings. In particular, in the case of K.S., a famous scientist convicted of high treason, he had no access to his own case file or to the full version of his sentence, and as a result he essentially did not know what he was accused of and what the prosecution's evidence was.

34. In the last three to five years, criminal proceedings against high-ranking national security and police officers, political opposition activists and civil activists have been closed from the public on a mass scale. The justification for keeping the trials completely closed is the presence of state secrets in the case files, ensuring the safety of witnesses (including witnesses whose identity has not been disclosed) and other participants in the process, etc. In the case of the death of four-year-old A.M. during the tragic January Events, even the victim, her father, was denied participation in the trial.

35. Pre-trial investigation bodies interpret Article 201 of the Criminal Procedure Code of Kazakhstan, concerning the inadmissibility of disclosure of pre-trial investigation data, in the belief that it allows them to completely deprive the participants in the proceedings of any information about the case. As a result, investigators take non-specific non-disclosure undertakings signed by witnesses, experts, advocates and even suspects or accused persons themselves, stating that they cannot say anything about the case at all under threat of criminal liability. Claims have already been made against a number of advocates with threats of licence revocation just for giving information about the essence of the charges and the legal position of their clients.

36. In the last few years, after the COVID-19 pandemic, courts have begun conducting most proceedings, both civil and criminal, online, which, in our opinion, violates fair trial standards.

37. Courts do not properly address hate crimes against LGBTIQ (lesbian, gay, bisexual, transgender, intersex and queer people). In 2021, the Kazakhstan Feminist Initiative “Feminita” was attacked in the cities of Shymkent and Karaganda. To this day, none of the male attackers, who are clearly visible in videos distributed by the perpetrators themselves, have been punished. However, in 2025, court proceedings against the co-founders of “Feminita” took place in a single day, and they were subjected to various administrative penalties for organising unauthorised peaceful assemblies: from fines to administrative arrests for periods of 10 days.

Recommendations (Article 14 of the ICCPR):

- to establish in the Law clear grounds for disciplinary responsibility of judges (including dismissal) and criteria for a judge’s non-compliance with the position she/he occupies, which would exclude his/her responsibility for a fair interpretation of the law that does not align with the opinion of the higher authority. The law should regulate the disciplinary procedure based on the principles of competition and equality while respecting the judges’ rights to defend and appeal the ruling in a court of Law;
- to ensure that an independent body is responsible for judicial discipline, define clearly the grounds for disciplinary action, including dismissal, and guarantee due process in judicial disciplinary proceedings and independent judicial oversight of disciplinary action;
- to eliminate all forms of undue interference in the judiciary by the executive branch and effectively investigate such offences;
- to intensify efforts to combat corruption in the judiciary and prosecute and punish those guilty, including judges who may be complicit;
- to ensure that the High Judicial Council established to manage the selection of judges is fully independent and operates with full transparency, and to this end, consider reviewing the membership of the Council to ensure that the majority of its members are judges elected by the self-governing judiciary;
- to exclude from the Code of Criminal Procedure the exclusive powers of prosecutors who violate the principle of equality of parties before the court, such as the authority to request case materials from the court, power to protest against court judgments, including those that have entered into legal force, power to suspend a court judgment from being executed, etc.
- to introduce a legislative requirement that any interference with human rights, including the rights to protection, inviolability of the home, privacy of correspondence, etc., would only be exercised following the sanction of a court based on objective criteria established by the Law;
- in the Code of Criminal Procedure, to provide equal possibilities for prosecution and defence to collect evidence;
- to provide that evidence would be recorded by an independent (investigative) judge and eliminate dependence on the law enforcement agencies in matters of appointing judicial expert examinations;
- to develop and implement qualitatively new indicators of efficiency of the law enforcement agencies and courts with a view to eliminating the accusatory bias in the process of administration of justice. An acquittal ruling should not be used as the basis for holding a prosecutor or a judge to disciplinary liability;
- to revise the provisions of the Law on advocacy and legal assistance from the point of view of ensuring independence of advocates in accordance with the recommendations of the UN Special Rapporteur on the independence of judges and lawyers (E/CN.4/2005/60/Add.2), the International Commission of Jurists, the International Bar Association, and the OSCE ODIHR;
- to provide sufficient safeguards to ensure in practice the independence of advocates, to refrain from any action that may constitute harassment or undue interference in their

work, and to prosecute those guilty;

- to ensure that any limitations on fair trial guarantees that are imposed to protect state secrets are fully consistent with the state's obligations under the ICCPR and, in particular, that the rights of affected persons, including equality of parties, are strictly respected;**
- to implement recommendations issued by the UN Special Rapporteur on the independence of judges and lawyers following his visit to the Republic of Kazakhstan in 2004 (E/CN.4/2005/60/Add.2) and recommendations adopted by the HRC Committee in 2016 regarding the fulfilment of obligations under Article 14 of the ICCPR;**
- ensure that online court proceedings are the exception to the rule, rather than the rule.**