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Committee against Torture

REFERENCE: CAT/Follow-up - Kazakhstan

10 October 2024

Excellency,

In my capacity as Rapporteur for Follow-up to Concluding Observations of the Committee against Torture, I have the honour to refer to the follow-up to the consideration of the fourth periodic report of Kazakhstan, in accordance with the Guidelines for follow-up to concluding observations (CAT/C/55/3).

At its 76th session, held from 17 April to 12 May 2023, the Committee transmitted its concluding observations to your Permanent Mission. The Committee's concluding observations (CAT/C/KAZ/CO/4, para. 45) requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 14 (a), 24 (a), 28 and 44 of its concluding observations.

On behalf of the Committee, allow me to express appreciation for your letter of 13 May 2024 providing your Government's response on the above-mentioned paragraphs (CAT/C/KAZ/FCO/4) and to make the following comments:

Events of January 2022 (para. 14 (a) of the concluding observations)

While acknowledging the State party's efforts to improve investigative methods, assign exclusive jurisdiction for torture cases to the special prosecution authorities, conduct the interdepartmental study "Combating torture: organizational and personnel aspects of the prevention of torture offences", and deliver various trainings, the Committee remains concerned about the high rate of closed cases related to allegations of torture and abuse of authority during the January 2022 protests. Out of 337 pretrial investigations, 300 cases were closed due to insufficient evidence of a crime. The Committee is also concerned that forensic medical and psychological-psychiatric expert reports in torture and ill-treatment cases are reportedly still not aligned with the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), despite advance training on conducting expert examination in cases of torture provided to forensic experts at the Ministry of Justice's Forensic Expertise Centre.

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The Committee also notes the data submitted by the State party regarding 35 convictions for torture and six for other crimes (out of a total of 42), one acquittal, and the ongoing trial of five officials for crime of torture during the January 2022 protests. However, according to the information before the Committee, several documented cases of torture and ill-treatment, including the excessive use of force during these events, remain inadequately investigated and prosecuted, resulting in punishment of perpetrators not commensurate with gravity of the offence. Additionally, the Committee lacks comprehensive information on the sentences imposed on the 35 convicted individuals, redress provided to victims, and whether assistance from international experts for investigating cases of torture and ill-treatment in accordance with international standards has been sought (2/B2).

Violence and deaths in custody (para. 24 (a) of the concluding observations)

While acknowledging the State party's follow-up replies that mention 3,500 internal investigations and disciplinary actions against 400 officials since 2021, along with data on suicide rates from 2021 to 2023 and prevented suicides through video surveillance in 2023, the Committee regrets the lack of specific information on these disciplinary proceedings and on criminal investigations regarding allegations of violence against detainees, including into allegations of violence against detainees based on their sexual orientation and gender identity as well as women detainees. The Committee is also concerned about the reported low number of criminal cases of torture and ill-treatment against prison staff reaching trial; reportedly, out of 450 pretrial investigations for torture under article 146 of the Criminal Code, only four cases reached the trial, and 16 prison staff were convicted from 2019 to early 2024. Furthermore, individuals reporting these cases allegedly face threats and reprisals. Lastly, the Committee takes note of the additional information provided by the State party regarding the implementation of other recommendations contained in paragraph 24 of its concluding observations (2/C).

Health care in places of deprivation of liberty (para. 28 of the concluding observations)

The Committee acknowledges the steps taken by the State party in its follow-up report to address the shortcomings in health-care services in pretrial and penitentiary facilities. This includes a roadmap for 2023–2025 aimed at integrating and improve medical information systems and providing medical equipment, supplies, and medicines. The Committee notes the staffing level of 1,352 medical personnel, including 512 doctors, 710 nurses, and 130 junior medical personnel. However, it regrets the lack of information on measures taken to increase the number of psychiatrists in these institutions and improve specialized treatment for HIV-infected individuals and support for convicted persons with disabilities. While a certain category of persons with disability may qualify for care allowances, this does not adequately address the Committee's concerns. Additionally, the Committee has received reports about a high turnover among medical workers, insufficient number of psychologists (one psychologist per institution), and ongoing medication shortages. Furthermore, the Committee lacks comprehensive information on mandatory training for detecting torture and ill-treatment in accordance with the revised version of the Istanbul Protocol. However, it acknowledges the State party's efforts to develop a reporting form for documenting signs of bodily injury and psychological trauma based on the Istanbul Protocol's principles. The Committee would also appreciate update on the prison health services reform and its impact (2/C).

Hazing and ill-treatment in the army (para. 44 of the concluding observations)

The Committee appreciates the explanation regarding the preventive measures taken by the State party to address hazing and ill-treatment in the army, including an action plan, guidelines, training, campaigns, and individual educational efforts. However, it regrets the lack of information on recorded cases of ill-treatment and deaths of military personnel, as well as their outcomes, which could demonstrate the effectiveness of these preventive measures. Moreover, the Committee notes with concern reports indicating that such statistics are not officially disclosed by the Ministry of Defence and the Ministry of Internal Affairs, and these practices seem to persist. Additionally, the national preventive mechanism lacks the mandate to visit the military barracks and schools for monitoring purposes (2/B2).

Implementation plans (para. 45 of the Committee's concluding observations)

The Committee appreciates the information submitted by the State party addressing a number of other recommendations included in the concluding observations and looks forward to continuing to monitor and review their further implementation (B).

The Government of Kazakhstan is encouraged to provide additional information, if there is any, which would further contribute to the Committee's analysis of the progress made regarding the specific issues of concern cited above. This additional information may be provided in any subsequent report by the State party pursuant to the Committee's request in its concluding observations on the fourth periodic report of Kazakhstan or other future periodic reports.

The Committee looks forward to a continued constructive dialogue with the authorities of Kazakhstan on the implementation of the Convention.

Accept, Excellency, the assurances of my highest consideration.



Bakhtiyar Tuzmukhamedov
Rapporteur for Follow-up to Concluding Observations
Committee against Torture