



OPEN DIALOG

Torture in Kazakhstan



**Torture of prisoners and criminal suspects in Kazakhstan
is of a permanent and pervasive nature**

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1. INTRODUCTION

Kazakhstan is party to the Convention against Torture and the International Covenant on Civil and Political Rights. Relevant agreements impose on state authorities a series of legislative, administrative, judicial and other obligations aimed at preventing the use of torture in the country. Nevertheless, multiple incidents confirm the following: torture in Kazakhstan remains a widespread phenomenon. Authorities only give the appearance of combating torture, but the real measures undertaken by official Astana do not solve the problem of systematic torture in police stations and prisons.

Torture in Kazakhstan is exerted both on detainees as a form of interrogation with the aim of obtaining confessions, and to prisoners in prisons and penal colonies. At the same time, the problem of torture has reached such proportions that even the authorities of the country can no longer completely turn a blind eye to it. Recently, the Prosecutor's Office of Kazakhstan reported on criminal cases instituted against workers of law enforcement bodies and prisons. The reason for instituting criminal investigations were incidents of the ill-treatment of detainees, criminal suspects and prisoners.

In recent years, the number of complaints of torture, as well as the number of criminal cases instituted with regard to alleged torture has increased in Kazakhstan. According to official data, in 2009, 14 statements on the use of torture were registered in Kazakhstan, in 2010 - 36 statements, 2011 - 52 statements, 2012 - 602 statements and during the first 5 months of 2013 - 304 statements were submitted. In 2009, three criminal cases were instituted in connection with torture in Kazakhstan, in 2010 - 10 cases, in 2011 - 15 cases, in 2012 - 18 cases and during the first 5 months of 2013 - 19 cases [1]. Within six months of 2013, the Kazakhstan Coalition of NGOs Against Torture received 201 complaints of torture and other forms of cruel treatment. Official statistics show that **the number of criminal cases, instituted against law enforcement officers on charges of torture, is negligibly small compared to the number of statements on the use of torture.** At the same time, law enforcement officials and prison staff who exerted torture, do not face charges under Article 141, section 1 ('Torture') of the Criminal Code of the Republic of Kazakhstan (the CC of the RK), but under Article 308 ('Abuse of power and official authority').

The scale of torture in Kazakhstan is also confirmed by the high incidence of self-mutilation (committed both by groups and individuals) of inmates in detention centres and prisons. In 2012, the number of cases in which prisoners caused physical injury to themselves in protest against cruel prison conditions and abuse, has significantly increased. [2] Also, numerous cases of deaths of prisoners, who were unable to endure inhumane treatment have been recorded. Despite the statements of witnesses and international observers on the shocking beating of prisoners, **the government does not respond adequately to the reports of torture, and human rights organisations are not permitted to enter penal colonies.** Due to the closed nature of the penitentiary system in Kazakhstan, it is almost impossible to effectively investigate the statements regarding ill-treatment, filed by prisoners.

This report presents cases of torture, which have become known to the public. The examples of criminal cases against law enforcement officers and prison staff specified below prove that the maximum punishment to which they were sentenced for the use of torture is 7 years' imprisonment; it is noteworthy that **there are also cases in which defendants received suspended sentences.** At the same time, for example, persons convicted for political reasons, namely: Mukhtar Dzhakishev, Vadim Kuramshin, Vladimir Kozlov, Roza Tuletayeva were sentenced to 14 years', 12 years', 7.5 years' and 5 years' imprisonment respectively. **Thus, the sentences to which police officers and prison workers for applying torture are rather lenient, especially in comparison with the sentences handed down in connection with 'political' articles.**

Torture is unacceptable in a state which participates in a variety of international human rights agreements and declares its commitment to democratic values. Unfortunately, it can be concluded that the use of torture is a widespread phenomenon in Kazakhstan. This is due to imperfection of legislation in the sphere of combating torture and corruption in government bodies. Competent authorities frequently ignore statements on torture and do not carry out necessary investigations. Until such time that these and other issues are addressed, the fight against torture will be futile.

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2. KAZAKH POLICE SYSTEMATICALLY USE TORTURE AGAINST DETAINEES

2.1. The case of workers of the Telmanskiy District Department of Internal Affairs (DIA) of Karaganda Province.

On 29 October, 2012, in the village of Dubovka (Karaganda Province) police raided the Maurer apartment, where a single mother, Natalya lived with her 16-year-old twin sons: Vladimir and Vadim. The policemen beat the teenagers. They broke Vadim Maurer's jaw. Moreover, **following the incident, a criminal case on charges of using violence against a representative of the authorities was instituted against Vladimir** [1]. According to investigators, Vladimir Maurer allegedly attacked the chief of criminal police department of the Telmanskiy District Department of Internal Affairs, Medet Kozhakhmetov and operational duty officer, Bekzat Matiyev. [2].

As a result of complaints, filed by the mother of the teenagers, Natalia Maurer, the Temirtau financial police opened a criminal case against the police officers who had beaten the teenagers, but it was soon closed due to a lack of evidence. [3] Therefore, Pavel Rudavin, the counsel of the Maurers, appealed to the Regional Court, and **the dismissal of the case against the police officers was deemed unlawful and the case itself was transferred back for further investigation.** [4] Still, according to Pavel Rudavin, Temirtau financial police again decided on the termination of the criminal proceedings against the police officers who had beaten the teenagers. The counsel and his clients were not notified of the ruling. In addition, on 26 August, 2013, the Telmanskiy District Department of Internal Affairs instituted a criminal case against the Maurer brothers for attempted robbery. As claimed by Natalia Maurer, the police forced their relative to write a statement incriminating the adolescents. The next day, the relative wanted to retract the statement, but he was not permitted to do so. The family's counsel believes that the criminal case was filed in retaliation for the charges brought by members of the family against workers of the Telmanskiy District Department of Internal Affairs. **In connection with the situation, the family and the counsel addressed a letter to the UN Committee against Torture.** The response of the Committee states that Stephanie Selg, a human rights expert and an assistant of the Special Rapporteur on torture, will examine the case of the beating of Vladimir and Vadim Maurer by policemen. [5]

2.2. The case of policemen of the Bostandykskiy District of Almaty.

On 28 November, 2012, it became known that 4 workers of the Department of internal Affairs of the Bostandykskiy District in Almaty, namely: Berik Salikharov, Azat Zakhanov, Erkin Ibrayev and Zhiger Uzakbekov were convicted. The policemen had been found guilty of beating a citizen of Kazakhstan, Bakhtiyar Tursynbekova.

On 26 June, 2012, Bakhtiyar Tursynbekov was detained by authorised operative officer, Berik Salikharov and Azat Zakhanov and taken to a police station against his will. At the police station, the detainee was beaten; further medical examination revealed he had suffered abrasions to his hands, bruises to the face and to the area around the bridge of the nose. A witness of the battery was Police Lieutenant Zhiger Uzakbekov. Nevertheless, he did not put a stop to the actions of his subordinates. Police officers also carried out illegal search and seized personal documents and items of the detainee.

On 27 June, 2012, in connection with the incident, the Bostandykskiy District Prosecutor's Office instituted a criminal case against the three police officers under Article 308 of the Criminal Code ('abuse of power or authority') and in respect of Lieutenant Zhiger Uzakbekov – under Article 315

of the Criminal Code ('failure to act while on duty'). It is noteworthy that **no criminal case, which would be classified under Article 141, section 1 of the Criminal Code ('Torture') has been instituted in connection to the beating and torture by police.** On 4 November, 2012, the criminal case was transferred to the Bostandikskiy District Court. By decision of the court, the police officer Erkin Ibrayev was sentenced to six years' imprisonment, Berik Salikharov and Azat Zakhanov - 5 years, and the police lieutenant Zhiger Uzakbekov - to 2 years. [\[6\]](#), [\[7\]](#)

2.3. The case of policemen of the Glubokovski District Department of Internal Affairs of East Kazakhstan Province.

On 15 May, 2012, Maksat Kozhakhmetov was arrested on charges of stealing a mobile phone. Whilst being transported in a police car, he was hit once in the head and three times in the stomach by police officers from the Glubokovski District Department of Internal Affairs: Didar Aytkulov and Dias Zhumadilov. **As a result, the detainee lost consciousness.**

As stated by Maksat Kozhakhmetov, in the Glubokovsky District Department of Internal Affairs, authorised operative officer Dias Zhumadilov beat him with a truncheon, empty plastic bottle, a pack of papers, the edge of a pair of scissors, particularly about the head, and kicked him in the hips and ribs. After that, junior inspector - cynologist Bauyrzhan Turyndykov slapped the detainee around his ears; as a result, Maksat Kozhakhmetov partially **lost his hearing**. The policemen also forced an item of the detainee's underwear into his mouth; using it as a gag.

The detainee Maksat Kozhakhmetov reported the incident to the prosecutor's office. **A criminal case was instituted with regard to the three policemen under Article 141, section 1 of the Criminal Code ('Torture').** The court sentenced the inspector - cynologist Bauyrzhan Turyndykov to 2.5 years' imprisonment in a general regime penal colony. The policemen Didar Aytkulov and Dias Zhumadilov were sentenced to two years. [\[8\]](#), [\[9\]](#), [\[10\]](#)

2.4. Torture in the central police station of the Department of Internal Affairs of the city of Kostanai in Kostanai Province.

On 7 August, 2011, Azamat Mukhametkaliyev, authorised senior operative officer of the central police station of the Department of Internal Affairs of the city of Kostanai exerted torture on Aleksander Molitvin and Vadim Tokmakov in order to coerce them into confessing to stealing a car, which they had not. [\[11\]](#) **The policeman Azamat Mukhametkaliyev inflicted blows with a rubber truncheon and his hands to the detainees' chests, necks and other body parts.** Alexander Molitvin suffered bruises to his neck, damage to the anterior surface of the chest, the left lumbar area and the right thigh. Vadim Tokmakov sustained injuries in the form of: abrasions of his face and right elbow, as well as bruising of the face, left shoulder and right tibia. [\[12\]](#)

On 28 March, 2012, Court No. 2 of the city of Kostanai convicted the policeman Azamat Mukhametkaliyev under Article 141, section 1, paragraph 2, letter 'a' of the Criminal Code ('Torture'). He was sentenced to 1 year and 6 months' imprisonment, with disqualification from holding a position in law enforcement bodies for a period of 2 years. **Having applied Article 63 of the Criminal Code of the Republic of Kazakhstan, the court ruled that the imposed sentence be conditional with a probation period of 1 year and 6 months.** [\[13\]](#)

2.5. The case of policemen of Karasu District Department of Internal Affairs of Kostanai Province.

On 8 June, 2009, in the village of Oktyabrskoe of the Karasu District, an authorised operative officer of the Karasu District Department of Internal Affairs, Miras Zhanabekov along with precinct police officers Zhomart Burkutbayev and Asylan Mergenbayev punched and kicked Anatoliy Petrenko. Having transported A. Petrenko to a facility for detainees, the police continued to beat and kick him, and insert an unspecified solid object into Petrenko's rectum. ***Such actions have caused serious harm to the victim's health in the form of ruptures of the bladder and rectum.***

Despite the fact that the cruel treatment by the policemen was proven, the court did not qualify their actions under the 'Torture' Article of the Criminal Code of the Republic of Kazakhstan. On 12 March, 2010, Karasu District Court No. 2 convicted the policemen of crimes under Article 308 section 4, letter 'a' of the Criminal Code ('abuse of power and official authority with the use of violence or threat of violence) and Article 103, section 1 of the Criminal Code ('intentional infliction of harm, dangerous to human life'). The policemen were sentenced to 3 years' imprisonment in a general regime penal colony with confiscation of property and denied the right to hold public office in the bodies of the Ministry of Internal Affairs for a period of 7 years. [14]

2.6. Torture of oil workers who participated in the strike in Zhanaozen.

As stated earlier by the Open Dialog Foundation in their report, torture was exerted on oil workers, who were involved in the investigation of the case of the Zhanaozen riots of 16-17 December, 2011. [15]

Kazakhstan's appellate courts, however, ignored the numerous statements of the defendants on the use of torture by the investigating authorities. At the same time, forensic examination confirmed that torture was exerted against Maksat Dosmagambetov with the aim of extorting confessions; he was subsequently sentenced to six years in prison. [16]. The international organisation 'Human Rights Watch' reported these incidents in its letter of 27 June, 2013 to the British Prime Minister David Cameron. [17] ***According to Article 15 of the 'Convention against Torture', each State party must ensure that "any statement which is established to have been made as a result of torture shall not be invoked as evidence" at trial.*** [18]

Apart from the widespread use of torture to extort confessions, Kazakh policemen systematically commit other crimes which vary in nature. On 15 March, 2013, during a briefing, Head of the Department of Internal Affairs of the Ministry of Internal Affairs, Kuat Ospanov stated that **since the beginning of the year, the department has identified 96 crimes committed by police officers**; 57 of them related to corruption. 120 employees were dismissed from law enforcement agencies on disciplinary grounds. [19] The Head of the Department of the Internal Affairs of the West Kazakhstan Province, Makhambet Abisatov reported that from January to May 2013, 22 criminal cases were instituted on charges of abuse by police officers. [20]

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3. PRISONERS PROTEST AGAINST TORTURE AND ILL-TREATMENT IN PRISONS

3.1. Mass protest of inmates in the colony RU-170/2 in West Kazakhstan Province.

On 20 August, 2013, in the colony RU-170/2 of the city of Uralsk, 62 prisoners severed their veins and ripped their stomachs, while on 21 August, 2013, approx. three dozen prisoners climbed onto the roof of one of the barracks with a placard bearing the inscription 'Help!' written in blood. According to the prisoners, in the colony they are constantly subjected to humiliation and beatings. A commission of seven people (relatives of prisoners) was permitted to enter the colony. They reported seeing injuries on the bodies of the prisoners with whom they were able to meet.

The incidents of beatings of prisoners in the colony were reported by human rights activist Pavel Kochetkov, who met with the prisoners. [1] In particular, it was reported to him that on the evening of 19 August, 2013, prisoners of the colony RU- 170/2 were brought to the courtyard and subsequently beaten by officers of Special Forces. It was after that incident that unrest began in the colony. On 20 August, 2013 internal troops were brought into the colony; according to official information, they came in order to suppress the rebellion. [2] It also should be noted that some of those convicted for the Zhanaozen events who are serving sentences in this colony, were also among the beaten prisoners. [3] As reported by a relative of one of the prisoners, four people died in this colony; still, the head of the Department of Internal Affairs of West Kazakhstan Province, Makhambet Abisatov, denied this information. [4]

3.2. Ill-treatment of inmates in prisons of Karaganda Province.

On 3 September, 2012, the press reported the death of a prisoner in jail AK 159/5 in the village of Karagan (Karaganda Province). Previously, on 31 August, 2012, a rebellion broke out in the prison. The fact that the rebellion took place and measures were taken was not denied by a representative of the Committee of Criminal and Executive System (CCES) of Karaganda Province, Natalia Gorina, but she did not link the prisoner's death to these events. Human rights activists sent an inquiry about the cause of death of the prisoner to the CCES. Representatives of civil observation commissions in the Karaganda Province are not to visit the colony. [5]

On 20 September, 2012, relatives of inmates of the prison AK-159/18 in the village of Karabas (Karaganda Province) saw prison officers brutally beating prisoners. People gathered outside the prison, demanding a meeting with the prisoners. On the night of 21 September, 2012, after threats from the prosecutor and demands to disperse, soldiers began to beat and detain relatives of prisoners. Now convicted, a human rights activist, Vadim Kuramshin reported that as a result of the use of force against civilians, a retiree, Sovya Shmachkova was injured, and the wife of one of the convicts, Zhanna Filimonova suffered a miscarriage. [6] According to local press reports, police detained approximately 30 people. With regard to 16 citizens, a court ruled on their administrative liability, while in respect of 15 citizens - a monetary fine was imposed; one citizen was incarcerated for 2 days. [7]

On 21 May, 2013, 30 inmates of the prison AK-159/22 in the town of Karazhal inflicted stab wounds on themselves in protest. According to Tatiana Ilchenko, the wife of one of the prisoners, her husband did it to save his life, and not as a sign of protest in order to soften the regime. On the eve of this rebellion, Kazakhstan Bureau for Human Rights appealed to the authorities with a request to consider the complaints of violations of the rights of prisoners in this institution [8]. On 22 May, 2013, the press-service of the CCES of Kazakhstan stated that the convicts had committed acts of self-harm in order to prevent searches in the colony. [9]

On 5 September, 2012, the convicted civil activist, **Aron Atabek** along with a group of prisoners of the high security in-patient clinic in the colony UCH AK 159/22 of the town of Karazhal sent a statement regarding the use of torture and lack of sanitation to the General Prosecutor of Kazakhstan as well as national and international organisations. The statement reads that in 2004, the convicted, Igor Terekhov suffered a fracture to his leg and spine as a result of beatings by the colony workers; still, for many years, he has made unsuccessful attempts to become registered as a disabled person. Aron Atabek is constantly held either in solitary confinement or in the high security in-patient clinic, despite his serious injury to his skull, a broken leg and a slipped spinal disc inflicted on him by law enforcement officials during the use of force.

In 2012, an inmate, Rustem Dakenov committed suicide in this prison. He accused the authorities of prompting him to take his life. Prisoners also reported in the statement that there is a leak in the roof of the high security in-patient clinic, a cleansing and drainage system does not work and there is also no water supply. Drinking water does not meet sanitary standards, which leads to chronic dysentery and can cause pandemics. Prisoners in the high security in-patient clinic have been fed spoiled food and the infirmary has an acute shortage of medicines. [\[10\]](#)

3.3. Torture in the colony UK 161/4 of Kostanai Province, which led to the death of a prisoner.

On 28 September, 2010, 22-year-old Kanat Mukhambetkaliyev was transferred to the Kushmurunskaya colony UK 161/4. In order to ‘pacify’ the prisoner, the Assistant Duty Head of the colony, Batyrzhan Abishev along with workers of the colony, Gabit Baytishkin and Nikolay Fedorovich beat the prisoner with batons about the buttocks and lower back. Deputy Head for Preventive and Curative Work, Roza Galyautdinova, instead of providing the inmate with medical care, gave permission to place the beaten man in solitary confinement where his arms and legs were handcuffed and fastened to the bed. ***On 5 October, 2010, Kanat Mukhambetkaliyev was admitted to the Auliekol district hospital in a serious condition, where he died a day later from avascular necrosis.*** [\[11\]](#), [\[12\]](#)

In accordance with the judgment of the Auliekol District Court of Kostanai Province, dated 30 June, 2011, ***prison workers: Batyrzhan Abishev, Gabit Baytishkin and Nikolai Fedorovich were not guilty of torture.*** They were convicted under Article 103, section 3 of the Criminal Code of the Republic of Kazakhstan (intentional infliction of harm, resulting, due to imprudence, in the death of the victim), and Article 308, section 4, paragraph ‘b’ of the Criminal Code of the Republic of Kazakhstan (abuse of power and official authority with the use of weapons or special means). Batyrzhan Abishev was sentenced to 5 years and 6 months’ imprisonment and Gabit Baytishkin - to 7 years’. Deputy Head for Preventive and Curative Work, Roza Galyautdinova was convicted under Article 316, section 2 of the Criminal Code of the Republic of Kazakhstan (negligence, resulting, due to imprudence, in the death of a man or other serious consequences) and was sentenced to 1 year and 6 months’ imprisonment.

3.4. Individual acts of protest against torture and ill-treatment in prisons.

On 11 February, 2013, Ivan Kozik, a convict serving his sentence in the prison of the town of Arkalyk (Kostanay Province) was subjected to improper and ill treatment. He reported it in detail in his letter published on 4 February, 2013. In protest against such treatment, Ivan Kozik cut his abdomen. [\[13\]](#) Besides him, Zhandos Almatayev and Ashirbek Baytureyev committed acts of self-mutilation on the same day. The deputy prosecutor of the East Kazakhstan Province, Vasiliy Oleynik, arrived in prison in order to investigate the incidents. As a result, criminal cases were

instigated against the three prisoners under Article 360, section 3 [\[14\]](#) (organisation of collective disobedience to legal requirements of the administration of the institution providing isolation from society). [\[15\]](#) On 15 July, 2013, a trial of the prisoners was held. The judge of the Court No. 2 of the town of Semey, Galia Zhunuspekova, transferred the case back for further investigation. [\[16\]](#)

On 10 October, 2012, Sabina Makhinina, 25-year-old inmate of the penal colony AP 162/10 (Shiderty village, Pavlodar Province), went on hunger strike in protest against beatings and sexual harassment by the authorities of the colony. On 30 October, 2012, she was forced to suspend her hunger strike due to deterioration of her health condition. The authorities carried out 'inspections' but failed to uncover strong evidence of the allegations presented by Sabina Makhinina. [\[17\]](#)

On 16 October, 2012, the staff of the correctional facility AK-159/25 (the town of Zhezkazgan, Karaganda Province) along with soldiers of the military controllers team beat the inmate, Orzu Imronshoyev for three hours and finally stretched him on a wall. The convict died from the numerous serious injuries inflicted. As a result of the hearing, which ended in mid-August 2013, the Akmola Garrison Military sentenced as follows:

- Head of Operations Department, Perizat Baybosynov, senior detective of the Operations Department Kuanysh Zhankulov, detective of the Custodial Department and Dauren Baydyrakhman - **to 6 years' imprisonment;**
- controllers: Medet Makhambetov and Akzhigit Absalyamov - **to 5 years' imprisonment;**
- Head of the Custodial Department, Nurzhol Dzhaylov, Assistant Duty Head of the institution, Yerkebulan Ospanov, Deputy Assistant Head on-duty of the institution, Aybar Azhibayev, Head of the Military Team, Yerlan Anarbayev and soldiers-controllers - Nariman Abdykalikov Almaz Esmukhanov, Askhat Musin and Samat Talgarov – **to conditional sentences of 5 years in prison.** [\[18\]](#), [\[19\]](#)

3.5. Refusal to provide inmates with adequate medical care, which can be regarded as torture.

The U.S. State Department report emphasises the tough conditions of Kazakh prisons, which often pose a threat to the lives of prisoners. Health problems of prisoners in many cases, have been neglected or exacerbated due to poor prison conditions, and medical care provided to prisoners is sub-standard. [\[20\]](#) This problem is being faced, in particular, by Roza Tuletayeva, the activist of the oil workers' strike movement in Zhanaozen; her health condition is constantly deteriorating. Apart from the diagnosed benign liver tumour, Roza Tuletayeva suffers from chronic mastopathy, she has low blood pressure (80/50), a growing cyst and deteriorating eyesight. Also, she suffers from problems with her spine; however, no diagnostic examination has been carried out. In hospital, Roza Tuletayeva was informed that her operation can only be carried out if the liver tumor reaches a critical level. [\[21\]](#)

On 29 August, 2013, Deputy Minister of Health, Erik Bayzhunusov, in response to the inquiry of the Open Dialog Foundation stated that Roza Tuletayeva received all necessary medical care and has no claims against the medical staff. The acting Head of the Department of Criminal and Executive System, Kanat Mamyrbekuly stated that during the medical examination of Roza Tuletayeva, no abnormalities related to her health have been identified: "In general, Tuletaeva stated that she is in good health condition and that she is ready to work in the colony". [\[22\]](#)

The former head of the National Company 'Kazatomprom', **Mukhtar Dzhakishiev**, currently serving 14 years in prison, was subjected to lengthy interrogations during his investigation and **was not**

provided with timely medical care. [23]. Kazakh human rights activists placed Mukhtar Dzhakishev on the current list of political prisoners of Kazakhstan. [24] Before his arrest, Mukhtar Dzhakishev suffered from hypertension. While on remand, his disease worsened and developed to a critical stage, which normally enables a person to be classified in category one of disabled persons. *Throughout the judicial proceedings against Mukhtar Dzhakishev, he suffered about 20 episodes of hypertensive crisis.* [25] The court did not accept his statement regarding ill-treatment. [26] Also, a politician, **Vladimir Kozlov**, who was convicted in Kazakhstan to 7.5 years in prison for political reasons, found himself in a similar situation. Due to the fact that Vladimir Kozlov is not provided with adequate medical care, as reported by his wife Aliya Turusbekova, he may suffer a stroke. [27]

A Kazakh human rights activist, **Vadim Kuramshin**, who is currently serving a sentence resulting from charges that the European Parliament has recognised as politically motivated, may be subjected to ill-treatment by prison staff. [28] It was thanks to him, that numerous cases of ill-treatment of detainees in prisons in Kazakhstan became widely known. Vadim Kuramshin is now serving a sentence in the penal colony EC 164/4 (the village of Gornyy, North-Kazakhstan Province), in respect of which, the human rights activist had repeatedly raised the issue of violation of the rights of prisoners in this very facility. [29] In this regard, international human rights organisations appealed to the Kazakh authorities to repeal the court decision on transferring V. Kuramshin to the penal colony EC 164/4. [30] Kazakh authorities have not responded to the appeal of human rights defenders and the transfer of the human rights defender to this colony was carried out nonetheless.

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4. INTERNATIONAL AND KAZAKHSTANI NGOS CONCERNED OVER THE EXTENT OF TORTURE IN KAZAKHSTAN

Amnesty International noted that since 2010, Kazakh authorities have constantly been receiving reports of torture and other ill-treatment of detainees and prisoners by members of law enforcement bodies and prisons. [1] The organisation reported that typically, detainees are tortured and ill-treated during the initial interrogations, when they are being remanded in custody without any contact with the outside world. [2] In its report, **Freedom House** drew attention to mistreatment of detainees and threats to their families by the Kazakh police. [3] In turn, **the U.S. State Department** has repeatedly noted the frequent use of torture by the Kazakh police in order to extract confessions from criminal suspects, and the unclear nature of the definition of torture in Kazakhstan's legislation, not meeting UN standards, was also underlined. [4]

The Kazakhstan Coalition of NGOs Against Torture states that public authorities, responsible for responding to allegations of torture, often do not perform their direct duties, procrastinating with the completion of forensic medical examinations. [5]

Currently, in Kazakhstan there is no adequate legislation or sufficient mechanisms which would allow to effectively combat torture in the country.

In 2010, the General Prosecutor of Kazakhstan issued a Decree 'On Approval of the Instruction about the verification of allegations of torture and other illegal methods of ill-treatment of persons involved in criminal proceedings and remanded in specialised institutions, and the prevention of torture and other forms of ill-treatment'. [6] Still, the effectiveness of the implementation of this decree remains in serious doubt, given the number of allegations of torture.

The Kazakh President, Nursultan Nazarbayev enacted a Law of 2 July, 2013 "On Amendments to Certain Legislative Acts of the Republic of Kazakhstan on the Establishment of a National Preventive Mechanism, designed to prevent torture and other cruel, inhumane or degrading treatment or punishment". The purpose of this Act is the adequate performance of the obligations assumed by Kazakhstan under the Optional Protocol of the Convention against Torture on 25 September 2007. [7], [8] The efficiency of this step, made by Kazakhstan, may be verified only in practice with the passage of time.

On 24 May, 2012, the UN Committee against Torture adopted a first decision in respect of Kazakhstan in the case of Alexander Gerasimov vs. Kazakhstan, in which it admitted that "there had been no prompt, impartial and effective investigation into the applicant's allegations of torture.(...) The investigation was not carried out by an independent and impartial body. (...) The investigation has not managed to establish the perpetrators or to assigned to those guilty criminal liability for torture against the applicant". [9] The UN Committee against Torture urged Kazakhstan to indemnify Alexander Gerasimov with compensation and rehabilitation in connection with the torture inflicted by the police officers. On 18 November, 2013, the Kostanay City Court ordered the Department of Internal Affairs of the Kostanay Province to pay Alexander Gerasimov compensation in the amount of 2 million tenge (about 9590 euros). [10]

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5. CONCLUSIONS AND RECOMMENDATIONS

In general, the fight against the use of torture in Kazakhstan is marred by the following problems:

- Lack of a clear definition of ‘torture’ in the legislation.
- Considerably ‘lenient’ punishment for such kind of crime (the maximum penalty for torture under the Penal Code of Kazakhstan is 10 years’ imprisonment.[\[1\]](#)).
- Application of Article 308 of the Criminal Code of the Republic of Kazakhstan (‘abuse of power and official authority’) instead of Article 141, section 1 (‘Torture’) in cases where there are all the signs of torture, exerted against detainees or prisoners.
- Return of the penitentiary system under the auspices of the Ministry of the Interior in 2011 (previously, it was administered by the Ministry of Justice). The decision may bring about further impeding the process of an objective investigation of torture as well as the ‘closed nature’ of the criminal and executive system. [\[2\]](#)
- Lack of reaction of the competent state authorities with regard to allegations of torture.
- Tough conditions of detention in prisons and the failure to provide appropriate medical care.

In light of the current situation in Kazakhstan, connected with the systematic use of torture during pre-trial investigation and in prisons, the Open Dialog Foundation hereby calls upon the international community to exert pressure on Kazakhstan, thus coercing it to comply with the commitments under international agreements in the field of human rights protection, assumed by the country.

We demand from the authorities of the Republic of Kazakhstan that they:

- **Ensure the conduct of immediate and thorough investigations into all allegations of torture and other ill-treatment.**
- **In accordance with international standards of fair trial, bring to justice all employees of the Ministry of Internal Affairs of Kazakhstan, who were found guilty of torturing suspects and convicts.**
- **Revise criminal cases in which there is reason to believe that evidence and testimonies were obtained through the use of torture (in particular, the case of the Zhanaozen oil workers).**
- **Immediately provide adequate medical care to all prisoners who need it, including Roza Tuletayeva and Vladimir Kozlov.**
- **Bring the conditions of incarceration in detention centres and prisons, and the definition of ‘torture’ in line with international standards.**
- **Provide public organisations with unimpeded access to pre-trial detention facilities and prisons, thus enabling them to monitor the observance of the rights of detainees and convicts.**
- **Withdraw the Committee of Criminal and Executive System from the auspices of the Ministry of Internal Affairs and return the supervision of it to the Ministry of Justice, as well as ensure open public access of observers to it.**

- **Toughen punishment for the use of torture, eliminating the possibility of imposing conditional sentences on those guilty.**
- **Create an independent agency which would investigate violations of human rights by law enforcement officers or persons acting with the knowledge of these bodies; ensure publicity of the activities of the agency and engage representatives of civil society and the international community as its members.**

You are welcome to support our appeal by addressing the following officials and agencies:

- President of Kazakhstan, Nursultan Nazarbayev - the Presidential Administration, the 'Akorda' building, Left Bank, Astana, 010000, Kazakhstan, fax +7 7172 72 05 16;
- Commissioner for Human Rights in the Republic of Kazakhstan, Askar Shakirov - 010000, Astana, Left Bank, House of Ministries, entrance No. 15; e-mail: ombudsman-kz@mail.ru;
- Chairman of the Committee of Criminal and Executive System of Kazakhstan's Ministry of Internal Affairs, Baurzhan Berdalın - 010000, Astana, 2 B. Maylina Street, tel. +7 7172 72-30-26, +7 7172 72-30-37. A blank for appeals: <http://kuis.kz/kz/otinishter>;
- Minister of Internal Affairs, Kalmukhanbet Kasymov - 010000, Astana, 1 Tauelsizdik Prospekt. Tel. +7 7172 72 24 93, +7 7172 71-51-89, e-mail: oraz-n@mvd.kz;
- General Prosecutor of the Republic of Kazakhstan, Askhat Daulbayev, - 010000, Astana, House of Ministries, entrance No.2, 8 Orynbor Street, tel: +7 7172 71-26-20, +7 7172 71-28-68;
- Minister of Foreign Affairs of the Republic of Kazakhstan, Erlan Idrisov, - 010000, Astana, Left Bank, 31 Kunayeva Street. Tel: +7 7172 72-05-18, +7 7172 72-05-16, e-mail: midrk@mfa.kz;
- Ministry of Health of the Republic of Kazakhstan, – 010000, Astana, Left Bank, 8 Orynbor Street, House of Ministries, entrance No. 5. Tel: +7 7172 74-32-43, +7 7172 74-32-40 (office), Fax: +7 7172 74-36-50, e-mail: minzdrav@mz.gov.kz;
- Ministry of Justice of the Republic of Kazakhstan, Berik Imashev, - 010000, Astana, Left Bank, 8 Orynbor Street, House of Ministries, entrance No. 13, +7 7172 74-06-01,+7 7172 74-06-46, pressgov@mail.ru, press@minjust.kz.

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The Open Dialog Foundation was established in Poland, in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Management Board). The statutory objectives of the Foundation include protection of human rights, democracy and rule of law in the post-Soviet area, with special focus on the biggest CIS countries: Russia, Kazakhstan and Ukraine.

The Foundation pursues its goals through the organisation of observation missions, including election observation and monitoring of the human rights situation in the CIS countries. Based on these activities, the Foundation creates its reports and distributes them among the institutions of the EU, the OSCE and other international organisations, foreign ministries and parliaments of EU countries, analytical centres and media.

In addition to observational and analytical activities, the Foundation is actively engaged in cooperation with members of parliaments involved in foreign affairs, human rights and relationships with the CIS countries, in order to support the process of democratisation and liberalisation of internal policies in the post-Soviet area. Significant areas of the Foundation's activities also include support programmes for political prisoners and refugees.

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