



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org – cedaw@ohchr.org

REFERENCE: BN/follow-up/Kazakhstan/81

24 February 2022

Excellency,

In my capacity as Rapporteur on follow-up on concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the fifth periodic report of Kazakhstan, at the Committee's seventy-fourth session, held in October and November 2019. At the end of that session, the Committee's concluding observations ([CEDAW/C/KAZ/CO/5](#)) were transmitted to your Permanent Mission. You may recall that in paragraph 53 on follow-up to the concluding observations, the Committee requested Kazakhstan to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 26 (b), (c) and (i) and 38 (d) of the concluding observations.

The Committee welcomes the follow-up report received on time in October 2021 ([CEDAW/C/KAZ/FCO/5](#)) under the CEDAW follow-up procedure. At its eighty-first session, held in February 2022, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 26 (b)** of the concluding observations, urging the State party to **“revise article 109 of the Criminal Code to base the definition of rape on the absence of consent and align it with the Convention and the Committee's jurisprudence under the Optional Protocol”**:

The Committee notes that the definition of rape is contained in article 120 of the Criminal Code. While it notes the information shared on the amendments to the Criminal Code in 2016 and through the Act amending certain legislative acts of the Republic of Kazakhstan of 30 December 2020 concerning sexual offences against minors and sexual offences committed by minors, the Committee regrets that the State party has not revised article 120 of the its Criminal Code in line with the recommendation.

The Committee considers that the State party has taken no action to implement the recommendation. It considers that the recommendation **has not been implemented**.

The Committee notes that the information provided by the State party is vague and incomplete, and that it fails to address the recommendation. It thus considers that the quality of the information provided is **unsatisfactory**.

In relation to the recommendation made in **paragraph 26 (c)** of the concluding observations, urging the State party to **“review the bill on countering domestic violence with a view to ensuring its compliance with the Convention, in order to effectively prevent and combat all forms of gender-based violence against women and protect victims”**:

The Committee takes note of the information provided by the State party on amendments to the Criminal Code and to the Code of Administrative Offences. It also notes the information shared on further amendments planned to the Code of Administrative Offences and to increase

H.E. Ms Zhanar Aitzhanova
Permanent Representative

Email: mission@kazakhstan-geneva.ch

the powers of local police inspectors to issue protection orders in cases of domestic violence. However, the Committee remains concerned that the State party has not reviewed the Domestic Violence Prevention Act of 4 December 2009, in line with the recommendation and with a view to ensuring its compliance with the Convention, apart from plans to amend article 20 of the Act. Further, it regrets that reconciliation is given priority to other proceedings in some cases of domestic violence and that many of the amendments cited by the State party imply that cases of domestic violence are considered as mere administrative offences.

The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation has been **partially implemented**.

The Committee notes that the information provided by the State party is thorough and extensive, but it fails to respond fully to the recommendation. It thus considers that the quality of the information provided is **partially satisfactory**.

In relation to the recommendation made in **paragraph 26 (i)** of the concluding observations, urging the State party to “**ensure that forced sterilization and abortion are criminalized and perpetrators prosecuted, abolish mandatory gender reassignment surgery, in law and in practice, identify and eliminate the barriers preventing victims from gaining access to justice in rural and urban areas and ensure that all victims have access to effective reparation, including compensation**”:

The Committee notes the information provided by the State party on relevant rights enshrined in its Constitution and in national legislation. While the Committee takes note of the provisions in national legislation on abortion and sterilization cited by the State party, it notes the lack of information on the criminalization of forced sterilization and abortion, to which particularly women with disabilities are subjected, and on the measures taken to ensure the prosecution of perpetrators of such acts. Further, the Committee regrets the absence of information on any steps taken to abolish mandatory gender reassignment surgery, and to ensure that victims of such mandatory surgery and of forced sterilization and abortion have access to justice in rural and urban areas and to effective reparation, including compensation.

The Committee considers that the State party has taken no action to implement the recommendation. It considers that the recommendation **has not been implemented**.

The Committee notes that the information provided by the State party is vague and incomplete, and that it fails to address the recommendation. It thus considers that the quality of the information provided is **unsatisfactory**.

The Committee recommends that, in relation to **paragraph 26 (b), (c) and (i)** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) **Revise article 120 of the Criminal Code to base the definition of rape on the absence of consent and align it with the Convention and the Committee’s jurisprudence under the Optional Protocol;**
- 2) **Review, without delay, the bill on countering domestic violence with a view to ensuring its compliance with the Convention, in order to effectively prevent and combat all forms of gender-based violence against women and protect victims; and**
- 3) **Ensure that forced sterilization and abortion are criminalized and perpetrators prosecuted, abolish mandatory gender reassignment surgery, in law and in practice, identify and eliminate the barriers preventing victims from gaining access to justice in rural and urban areas and ensure that all victims have access to effective reparation, including compensation.**



With regard to the recommendation made in **paragraph 38 (d)** of the concluding observations, urging the State party to **“repeal the list of prohibited occupations for women and facilitate access for women to such occupations, and ensure that any restrictions are applied individually and not across the board to all women”**:

The Committee welcomes the adoption of legislation in October 2021 that abolishes the list of prohibited occupations for women. However, it regrets the lack of information on any measures taken to facilitate access for women to such occupations.

The Committee considers that the State party has taken substantial action towards the implementation of the recommendation, but that this action fails to respond fully to the recommendation. It considers that the recommendation has been **substantially implemented**.

The Committee notes that the information provided by the State party is thorough and extensive, but it fails to respond fully to the recommendation. It thus considers that the quality of the information provided is **partially satisfactory**.

The Committee recommends that, in relation to **paragraph 38 (d)** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

Facilitate access for women to occupations that were previously prohibited for them.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

Louiza Chalal
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women