



КОАЛИЦИЯ
ПРОТИВ ПЫТОК

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Submitted by:

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I. Executive Summary

This submission highlights systemic and persistent shortcomings in the Republic of Kazakhstan's compliance with its obligations under the [United Nations Convention against Torture](#) (CAT).

Despite legislative reforms, including amendments to Article 146 of the Criminal Code, structural deficiencies remain. These include fragmentation of the legal definition of torture, lack of independent investigations, ineffective prosecution practices, and inadequate victim rehabilitation mechanisms.

The submitting organizations note that many of the Committee's previous recommendations, including those issued in the context of the [Committee against Torture](#) concluding observations, remain only partially implemented or entirely unaddressed.

II. Legal Framework and Key Concerns

1. Definition of Torture (Article 1 CAT)

Kazakhstan continues to maintain a fragmented legal framework by separating torture and cruel, inhuman or degrading treatment into distinct offences.

This approach contradicts:

- Article 1 of CAT;
- the Committee's jurisprudence;
- General Comment No. 2 of the Committee.

Key concern:

The absence of "severe physical or mental suffering" in Part 2 of Article 146 creates legal ambiguity and weakens prosecution.

LOIPR Questions:

- What steps have been taken to harmonize Article 146 with Article 1 of CAT?

- Why does the legal definition still omit essential elements of torture?

2. Sanctions and Impunity (Articles 2 and 4 CAT)

The continued availability of alternative penalties (fines, non-custodial sanctions) for torture-related crimes is incompatible with the gravity of the offence.

The Committee has consistently emphasized that torture must be punishable by penalties reflecting its seriousness.

Key concern:

Lenient sanctions contribute to a climate of impunity.

LOIPR Questions:

- What legislative amendments are planned to exclude alternative sanctions?
- Why are plea agreements and early release mechanisms still applicable?

3. Lack of Independent Investigations (Articles 12 and 13 CAT)

Although formal jurisdiction over torture cases lies with the prosecution authorities, in practice:

- ill-treatment cases remain under police investigation;
- complaints are often returned for “preliminary checks”;
- institutional conflicts of interest persist.

This contradicts the obligation to ensure prompt, impartial, and independent investigations.

Relevant standard:

General Comment No. 3 and CAT jurisprudence.

LOIPR Questions:

- How is independence guaranteed in practice?
- What safeguards prevent police involvement in torture-related cases?

III. Effectiveness of Investigations

Burden of Proof

In practice, victims are often required to prove torture themselves, contrary to international standards.

This contradicts:

- CAT jurisprudence;
- the principle of reversal of burden where injuries occur in custody.

Use of the Istanbul Protocol

The [Istanbul Protocol](#) is not systematically applied.

Key issues:

- inconsistent use by investigators;
- limited involvement of trained medical experts;
- lack of institutionalization.

LOIPR Questions:

- Is the Istanbul Protocol mandatory?
- How many cases used it between 2023–2025?

IV. January 2022 Events

The events of January 2022 remain a critical test of Kazakhstan's compliance with CAT.

Key concerns:

- large number of unresolved torture allegations;
- delays in investigations of deaths in custody;
- absence of independent or international investigative involvement.

This raises serious concerns under Articles 12 and 13 CAT.

LOIPR Questions:

- How many cases remain unresolved?
- Why were independent experts not involved?

V. Fundamental Safeguards (Article 2 CAT)

Systemic violations persist in:

- delayed access to lawyers;
- manipulation of detention records;
- lack of safeguards for video recordings.

Medical examinations:

Independence is often compromised due to police presence.

LOIPR Questions:

- What measures ensure immediate access to counsel?
- Are medical examinations conducted confidentially?

VI. National Preventive Mechanism (OPCAT)

Kazakhstan's National Preventive Mechanism lacks full operational independence.

Key issues:

- dependence on the Ombudsman's Office;
- restricted access to certain places (e.g., military institutions);
- weak implementation of recommendations.

Relevant instrument:

Optional Protocol to the Convention against Torture

LOIPR Questions:

- Why are military facilities excluded?
- What is the implementation rate of NPM recommendations?
- What are the main challenges to the effectiveness of the NPM in Kazakhstan now, and what steps is the government taking to address them?

VII. Conditions of Detention and Complaints

Detainees face barriers in submitting confidential complaints.

Risks include:

- surveillance;
- reprisals;
- lack of trust in electronic complaint systems.

LOIPR Questions:

- How is confidentiality ensured?
- What proportion of complaints lead to criminal cases?

VIII. Redress and Rehabilitation (Article 14 CAT)

Kazakhstan lacks a comprehensive system of rehabilitation.

Key concerns:

- absence of integrated medical, psychological, and social support;
- low compensation levels;
- weak implementation of UN treaty body decisions.

Relevant standard:

General Comment No. 3 of the Committee.

LOIPR Questions:

- Are rehabilitation programs state-funded and accessible?
- What steps are taken to implement CAT decisions?

IX. Recommendations

The submitting organizations recommend that the State party:

1. Amend Article 146 to fully align with Article 1 CAT.
2. Eliminate alternative sanctions for torture-related offences.
3. Ensure independent investigative mechanisms, separate from law enforcement.
4. Institutionalize mandatory application of the Istanbul Protocol.
5. Ensure full accountability for January 2022 violations.
6. Strengthen safeguards upon detention (access to lawyers, medical exams).
7. Guarantee full independence of the National Preventive Mechanism.
8. Establish comprehensive rehabilitation programmes for victims.
9. Ensure full implementation of decisions of UN treaty bodies.

X. Conclusion

Despite formal commitments, Kazakhstan continues to face systemic challenges in preventing and addressing torture.

Without structural reforms—particularly in investigation independence, legal definitions, and victim support—compliance with CAT obligations will remain incomplete.