



Human Rights Council
Working Group on the Universal Periodic Review
Thirty-fourth session
4–15 November 2019

Summary of Stakeholders' submissions on Kazakhstan*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 31 stakeholders' submissions¹ to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies²

2. Joint Submission 7 (JS7) recommended that Kazakhstan ensure legal clarity regarding the status and applicability of international treaties on human rights ratified by Kazakhstan, by recognizing their complete priority over the national legislation.³ Kazakhstan was also recommended to ratify the third Optional Protocol to the Convention on the Rights of the Child,⁴ the Optional Protocol to the Convention on the Rights of Persons with Disabilities,⁵ the 1961 Convention on the Reduction of Statelessness, the 1954 Convention Relating to the Status of Stateless Persons⁶ and the Treaty on the Prohibition of Nuclear Weapons.⁷

B. National human rights framework⁸

3. Amnesty International (AI) noted that the Commissioner for Human Rights (Ombudsperson) did not comply with the Paris Principles regarding autonomy and independence from the Government and recommended promoting such compliance.⁹ JS7 noted that there was no special legislation on the Ombudsman, the institution was not

* The present document was not edited before being sent to United Nations translation services.



represented in the regions of the country and did not have sufficient resources to perform its functions.¹⁰

4. In 2016, a Presidential decree established the institution of the Ombudsman on the Rights of the Child, who served on a pro-bono basis. JS7 noted that the institution did not have sufficient legislative support to ensure its independence, sufficient staff or material resources to perform its functions properly.¹¹

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross-cutting issues

*Equality and non-discrimination*¹²

5. Joint Submission 11 (JS11) noted that the legal framework on discrimination was fragmented and did not provide an effective protection against discrimination in various fields. It recommended that Kazakhstan adopt anti-discrimination legislation, and establish effective anti-discrimination institutions, mechanisms and procedures.¹³

6. AI noted in particular the absence of a specific legislation to prohibit discrimination against and to protect LGBTI persons from hate crimes and violence.¹⁴ Article 145 of the Criminal Code on violations of equality did not list sexual orientation and gender identity under protected characteristics.¹⁵ Joint Submission 4 (JS4) stated that the number of cases invoking Article 145 was extremely low and that the lack of legal protection and judicial remedy under Article 145 prevented people from reporting to the police or filing cases to the court.¹⁶

7. JS4 noted that although consensual same-sex relationships were decriminalized, Kazakhstan retained a number of laws in its Criminal Code such as articles 121, 122 and 123 which it deemed discriminatory.¹⁷ Kok team reported that the Marriage and Family Code of Kazakhstan directly discriminated against same-sex families by defining marriage as “an equal union of a man and a woman”. Moreover, article 11 of the Code stated that same-sex relationship was a condition under which marriage was not allowed.¹⁸ It also reported that under the same Code adoption was prohibited for persons “adhering to non-traditional sexual orientation”.¹⁹

8. JS4 and Joint Submission 2 (JS2) reported that under article 257 of the Marriage and Family Code, transgender persons were allowed to change their first name, patronymic, last name that corresponded with the chosen gender only in case of undergoing sex reassignment surgery.²⁰ JS4 recommended that Kazakhstan repeal all provisions on such surgeries from the list of requirements for legal change of one’s gender.²¹

Development, the environment, and business and human rights

9. JS2 reported that under article 160 of the Environmental Code of Kazakhstan, subsoil users were not required to provide the population with information on the impact of pollutants on health and environment.²² It recommended that Kazakhstan amend the Environmental Code by adding a liability for local executive authorities to provide online information on daily emissions released by industry and by adding a clause on the impact of pollutants on people’s health and the environment into the list of information to be submitted by subsoil users.²³

10. Joint Submission 10 (JS10) noted the lack of a state environmental policy, extortionate exploitation of natural resources, a flawed national legislation and systemic corruption as some of the main causes of violations of the right to a favourable environment. It recommended to develop a state environmental protection policy and a mechanism of participation of the public in the decision-making process. Despite the 2016 regulatory resolution of the Supreme Court “On the Practice of Application by the Courts of the Legislation on Disputes in the Field of Environment”, there was no unified interpretation and correct application by the courts of the environmental legislation during legal proceedings.²⁴

11. International Campaign to Abolish Nuclear Weapons (ICAN) reported that between the 1940s and 1980s, Kazakhstan was the site of Soviet nuclear testing of approximately 450 weapons in a vast testing site called the Polygon. People living in this area continued to suffer the effects of exposure to radiation, including through birth defects, leukemia and other forms of cancer.²⁵

Human rights and counter-terrorism

12. Joint Submission 9 (JS9) noted the 2017 amendments to counter-terrorism and extremism-related legislation, which included article 256 of the Criminal Code criminalising ‘propaganda of terrorism or public calls for commission of an act of terrorism’ in extremely general terms, rendering it liable to arbitrary application to silence legitimate expression²⁶ and article 180, criminalising ‘propaganda or public calls for violation of the integrity of the Republic of Kazakhstan’, in similarly general terms, absent the requirement of intent, and a direct link between the expressive conduct and the risk of clearly defined, unlawful acts.²⁷ According to JS9, such vague provisions encouraged self-censorship, in particular among the media and its coverage of terrorist acts and terrorist groups.²⁸

2. Civil and political rights

Right to life, liberty and security of person²⁹

13. JS7 noted that the 2014 Criminal Code provided for 17 elements of crimes where the death penalty was defined as a punishment. At the same time, Kazakhstan continued to adhere to the moratorium on the execution of death sentences.³⁰ It recommended to exclude death penalty from Constitution and the criminal legislation.³¹

14. AI noted that there was no independent mechanism to investigate torture allegations in the country,³² while impunity for torture and other ill-treatment remained prevalent. The investigation of torture allegations failed to live up to the principles of independence, effectiveness, and promptness, and as a result, most of the cases were dismissed by the investigative authorities as lacking evidence or ungrounded. Torture victims often chose not to lodge complaints because they risked criminal prosecution for false reporting, and had no faith that their complaints would be investigated.³³ Human Rights Watch (HRW) and JS10 made similar observations.³⁴ JS10 also stated that the punishment for torture was not commensurate with the severity of the crime.³⁵

15. JS7 noted that the existing procedure for judicial authorization of detention did not fully comply with the principles and objectives of the institution “*habeas corpus*” and did not guarantee the protection of the rights of persons from torture and unlawful detention.³⁶ According to JS7, despite certain positive developments in the legislation, the law enforcement agencies quite often restricted the rights of detainees and suspects by refusing to document the exact time of detention, falsifying an administrative offense in order to carry out an administrative arrest and failing to respect the right of detainees to inform their relatives and have access to an advocate and doctor. The excessive use of pre-trial detention was also noted as a serious problem.³⁷

16. The list of places of detention that could be monitored by the National Preventative Mechanism excluded a number of places of detention, such as those under the Ministry of Labour and Social Protection, and places that might be used for illegal detention by police.³⁸

Administration of justice, including impunity, and the rule of law³⁹

17. JS7 recommended that Kazakhstan establish in its law clear grounds for disciplinary responsibility of judges and criteria for a judge’s non-compliance with the position she/he occupies.⁴⁰ It also recommended excluding from the Criminal Procedure Code the exclusive powers of prosecutors violating 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, as well as providing equal possibilities for the prosecution and defence to collect evidence.⁴¹

18. International Bar Association's Human Rights Institute (IBAHRI) noted that the amendments to the national legislation, including the 2017 amendment to the Constitution, did not improve the status of lawyers, but rather targeted lawyers and their independence, and compromised their capacities to practice law.⁴² IBAHRI, International Commission of Jurists (ICJ), JS7 and Lawyers for Lawyers (L4L) noted that the 2018 Law on the Professional Activities of Advocates and Legal Aid included provisions interfering with the independence of the legal profession.⁴³ The Law afforded the Ministry of Justice excessive powers of control over the lawyers and their governance, and thus opened the door for making the lawyers completely dependent of the executive branch.⁴⁴ More specifically, the Law provided the Ministry of Justice with a power of oversight and control over the Republican Bar Association.⁴⁵ Kazakhstan was recommended to amend the 2018 Law accordingly.⁴⁶

19. IBAHRI, ICJ and L4L noted that admission of lawyers by the Qualification Commission was also under the authority of the Ministry of Justice.⁴⁷ IBAHRI specified that the latter could suspend lawyer's license *ex officio* or initiate termination of the license before the court skipping the disciplinary procedures within the bar association.⁴⁸

20. Lawyers' efforts in defense of their clients in Kazakhstan often led to interlocutory rulings against lawyers by judges. Such rulings could be issued on various unfounded allegations, such as "interference in investigative actions" or "counteracting the court", among others.⁴⁹ IBAHRI noted that authorities used intimidation to prevent lawyers from freely and effectively performing their duties, especially in politically motivated cases, cases of alleged torture, and cases involving opponents of those in power.⁵⁰

*Fundamental freedoms*⁵¹

21. ADF International reported that in 2016, Kazakhstan amended the Law on Religious Activity or Religious Association of 2011 to increase penalties and the state control of religious literature.⁵² European Baptist Federation (EBF), the European Center for Law and Justice (ECLJ) and Forum 18 noted that without registration individuals and communities had no right to practice their religion or belief and hold religious services.⁵³ EBF recommended to review the Law on Religious Activity and Religious Associations and the Law on introducing Amendments and Additions to several legal acts concerning Religious Activity and Religious Associations, lift the ban of unregistered religious activities, the compulsory religious censorship and remove obstacles for the building and opening of new places of worship.⁵⁴ Kazakhstan was also recommended to remove the burdensome religious registration requirements and rescind intrusive governmental practices, including monitoring and raiding.⁵⁵

22. ADF international, EBF, ECLJ and Forum 18 reported that raids of unregistered religious communities continued to take place, including on Baptist congregations.⁵⁶ Worship practices of religious groups were also heavily restricted⁵⁷ and schools increasingly denied access to girls who wore headscarves.⁵⁸ The European Association of Jehovah's Witnesses (EAJW) meanwhile noted that the number of Jehovah's Witnesses who had been convicted for "illegal missionary activity" or detained for peaceful religious activity had greatly reduced in recent years.⁵⁹

23. AI and HRW noted that article 174 of the 2014 Criminal Code on incitement of social, clan, national, racial or religious discord had not been changed and the term "discord" was still not defined in a precise manner, resulting in a broad and vaguely worded law, making it possible to use it to silence views that are critical of the authorities.⁶⁰ JS9 also noted that Article 174 was the most commonly used article against civil society activists, while it failed to provide genuine protection to individuals from minority groups.⁶¹ JS2 noted that the number of criminal cases under the article 174 was increasing.⁶² Journalists and human rights defenders were targeted using article 174.⁶³ Such cases were heard in closed courts, raising significant concerns about fair trials and due process violations.⁶⁴ Joint Submission 1 (JS1) made similar observations.⁶⁵

24. JS9 also noted that the 2014 Criminal Code retained various provisions on criminal defamation, insult and "false information", which were actively applied against journalists and media organisations.⁶⁶ Reporters without borders and Joint Submission 5 (JS5) made

similar observations.⁶⁷ Despite Kazakhstan's acceptance of a recommendation to amend civil defamation legislation and to reduce fines against media outlets, civil defamation cases with exorbitantly high levels of damages continued to be widely used against independent media.⁶⁸ JS9 and Reporters without Borders provided lists of cases of attacks and searches of journalists.⁶⁹

25. JS11 noted that the number of threats made against civil society activists and human rights defenders had been increasing year after year⁷⁰ and that the state inhibited the activity of human rights defenders and civil society activists.⁷¹

26. Reporters without Borders and JS8 noted that since January 2016, Internet users must install a national security certificate that facilitated the general surveillance of the Internet by intelligence services. The 2016 amendments to the Law "On the means of communication" granted the intelligence service the right to suspend the access to "networks and / or means of communication" without waiting for the green light of justice.⁷² Meanwhile the 2017 Law on addenda and amendments to several legislative acts on the issues of information and communications obliged journalists to obtain consent from a person or his legal representative for distribution in the mass media of personal, family, medical, banking, commercial and other secrets protected by law and introducing mandatory identification of individuals commenting on messages in the media.⁷³ Joint Submission 2 (JS2) reported that a new law on public access to government information was adopted in 2015, but was poorly implemented in practice.⁷⁴

27. JS8 reported that Kazakhstan did not take any steps to change its legislation on assembly and regulatory practices since the previous UPR cycle.⁷⁵ AI noted that permission from local authorities was needed to hold any kind of street protest, which was often refused, or permission was given to hold the event only in non-central locations. The Criminal and Administrative Codes provided sanctions of deprivation of liberty for breaching the laws on holding assemblies.⁷⁶ Over the past few years, the situation with freedom of assembly and association in Kazakhstan had deteriorated and participants in peaceful assemblies were subjected to mass detentions, interrogations and criminal prosecutions.⁷⁷

28. AI and JS5 noted that in 2016, peaceful demonstrations took place in towns and cities across Kazakhstan against proposed changes to the Land Code with many people arrested.⁷⁸ Kazakhstan was recommended to adopt a new law on public assembly which would eliminate the requirement for prior approval for assemblies and repeal Article 400 of the Criminal Code, which made it a criminal offence to provide assistance to "illegal" assemblies, including via "means of communication".⁷⁹ Reporters without Borders noted that in March 2019, one journalist was detained during the protests following the change of the name of the capital city.⁸⁰

29. According to AI, non-governmental organizations faced undue restrictions, stringent reporting requirements under the legislation introduced in 2015, and frequent tax inspections. Failure to regularly supply accurate information for the central database could lead to fines or a temporary ban on activities.⁸¹ JS1 made similar observations.⁸² A new category of offenders was introduced in the 2014 Criminal Code - "the leader of a public association", allowing the prosecution of any members and activists of public associations who were arbitrarily deemed "leaders" of their organizations.⁸³ JS8 noted that under articles 403, 404 and 405 of the 2014 Criminal Code, the country made it legal to apply repressions with respect to independent public associations.⁸⁴

*Prohibition of all forms of slavery*⁸⁵

30. JS11 noted that Kazakhstan had taken a number of measures with respect to human trafficking. The law created a regulatory and legal framework for the protection of victims of human trafficking and members of their families.⁸⁶ It noted however that there was no systematic effective work and relevant institutions to identify, prosecute, punish perpetrators and simultaneously provide assistance to victims of human trafficking, including obtaining compensation for the harm done were absent. The main work on the provision of direct assistance to victims of trafficking was carried out by NGOs.⁸⁷ Jubilee campaign made similar observations.⁸⁸ JS11 recommended that Kazakhstan ensure

effective investigation and prosecution of trafficking cases under the relevant articles of the Criminal Code, refrain from unnecessarily classifying such crimes under provisions that provide for lesser penalties, and secure convictions for perpetrators.⁸⁹

31. The Legal Center for Women's Initiatives "Sana Sezim" (Sana Sezim) noted that one of the main causes of human trafficking was poverty and gender inequality.⁹⁰ The 2014 amendments to the Criminal Procedure Code, gave trafficked persons the right to a compensation from the state fund. The fund was created and payments would be possible in 2020.⁹¹ JS11 stated that victims of human trafficking could not often obtain social assistance from the state because of the absence of official residential registration or citizenship.⁹² Sana Sezim recommended that Kazakhstan amend the order of the Ministry of Health and Social Development "On Approval of the Standard of Special Social Services to Victims of Trafficking in Persons" to include foreign nationals to the recipients of special social services.⁹³

3. Economic, social and cultural rights

*Right to work and to just and favourable conditions of work*⁹⁴

32. International Trade Union Confederation (ITUC), International Center for Trade Union Rights (ICTUR) and JS8 noted that the 2014 Law on Trade Unions imposed mandatory affiliation of trade unions to regional or sectorial federations. With the introduction of the law, all existing trade unions were required to undergo an extremely burdensome re-registration procedure.⁹⁵ Several unions and the Confederation of Free Trade Unions of Kazakhstan were unable to achieve permanent re-registration.⁹⁶ Numerous legal actions were brought against the leaders of these organisations and criminal sentences were passed against them.⁹⁷ ICTUR was concerned about unfair trials, witness intimidation, and continuing impunity for perpetrators of the Zhanaozen killings and anti-union violence.⁹⁸ Several unions had been investigated and prosecuted for alleged criminal offences arising from their participation in trade union activities, including strike actions, and from alleged fraud in relation to the holding of trade union funds.⁹⁹

33. Kazakhstan was recommended to establish prompt, effective, and independent investigations into all cases of violence against trade unionists, including the 2011 Zhanaozen events and cases of harassment, violence and suspicious deaths that preceded these events as well as to cease prosecutions against trade unionists on grounds relating to their legitimate trade union activities. It was also recommended to remove criminal penalties for incitement to strike (Criminal Code, section 402).¹⁰⁰ AI and ICTUR recommended that Kazakhstan amend the Trade Union Law of 2014 to bring it in line with ILO Convention on the Right to Organize and Collective Bargaining, including by lifting limitations on the right of workers to form and join trade unions of their own choosing.¹⁰¹

*Right to an adequate standard of living*¹⁰²

34. JS10 noted that the legislation did not have a provision prohibiting forced evictions and protecting against forced evictions. Instead, the legislation contained rules of forced eviction without providing alternative housing. According to JS10, there were no measures to hold responsible those who had committed violations in the process of eviction. It stated that there was a growing trend of violations of property-related rights of citizens. People were evicted from their own property while being offered a compensation that was not commensurate to the property's market value and that the state seized land plots and forcefully evicted the owners of the property relying on public interest.¹⁰³

*Right to health*¹⁰⁴

35. JS2 reported that the state healthcare system in Kazakhstan did not ensure enforcement of the right to the highest attainable standard of health without discrimination against vulnerable populations, due to physical and economic inaccessibility of healthcare services, and a lack of qualified healthcare staff, health promotion services and programs. The quality level of healthcare assistance provided in remote residential areas was significantly lower than that in cities.¹⁰⁵

36. Joint Submission 6 (JS6) noted that expanding programs on educating youth about sexual and reproductive health was one of the goals of the Concept of Family and Gender Policy up to 2030. However, sexuality education was currently not part of the mandatory school curriculum.¹⁰⁶ JS6 reported of a high number of unwanted pregnancies among young girls, many of whom admitted that they had resorted to domestic abortions.¹⁰⁷ The legislation provided for the right of minors to reproductive health and services, but at the same time they were not allowed to access medical services, including abortion services and contraceptives, without the consent of their parents or legal representatives. According to JS6, Ministry of Health had recently drafted a law that would allow minors from the age of 16 to receive medical services without knowledge and consent of their parents, including abortions. This draft law was currently being examined.¹⁰⁸

37. JS2 reported that women with psychological and/or mental disabilities were coerced to use contraceptives to prevent pregnancy and to terminate pregnancy. Decisions about their reproductive health were made by third parties, including legal representatives, guardians and family members.¹⁰⁹

*Right to education*¹¹⁰

38. JS10 noted that most budget schools accepted children for education only with a residence registration document. Despite the ratification of the Convention against Discrimination in Education, inequalities continued to exist with regard to access to quality education and to correctional and rehabilitation programs for children whose parents lived with old documents or without any documents at all, children with disabilities; and people residing in rural areas, among others.¹¹¹

39. HRW reported that the majority of children with disabilities still could not access inclusive and quality education on an equal basis with others. A key barrier to inclusive education was a medical commission, known as the Psychological-Medical-Pedagogical Consultation, which usually recommended that children with disabilities receive their education at home, or that they attend special schools or separate classrooms in mainstream schools, segregated from their communities. Children with disabilities in neurological psychiatric institutions received little or no education at all.¹¹² HRW recommended that Kazakhstan transform the medical commission and ensure that children with disabilities are not required to have the conclusion of such commission to attend mainstream schools.¹¹³

4. Rights of specific persons or groups

*Women*¹¹⁴

40. OSCE/ODIHR reported that Kazakhstan demonstrated good advances in terms of gender equality in elected office, still, strengthened efforts were needed to translate women's representation into substantive power and active influence of women in the political life. It noted that Kazakhstan had the highest women's representation in parliaments of Central Asia.¹¹⁵ JS11 noted however that representation of women at the decision-making level as the heads of departments and agencies of ministries was insignificant.¹¹⁶ The 2009 Law "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women" had an incomplete definition of discrimination and no liability had been defined for violating the law.¹¹⁷

41. JS6 noted that despite the efforts of the state to counteract domestic violence, the problem of violence against women remained acute, as it was a common offense in the country.¹¹⁸ It noted that in 2017, a law was enacted decriminalizing domestic violence, which now was treated as an administrative offense rather than as a crime.¹¹⁹ JS6 noted that the 2016 Order of the Minister of Health and Social Development No. 1079 "On approving the standard of providing special social services to victims of domestic violence" provided for different types of services to victims of domestic violence, including legal, medical and psychological services.¹²⁰ It also noted that the term of the protective order was increased from 10 to 30 days, and a rule was adopted prohibiting a person who committed domestic violence to live with the victim. In practice, offenders often did not leave their homes, and continued to commit violence against the victim.¹²¹

42. JS3 noted that the Criminal Code provided an inadequate and limited definition of sexual violence crimes leaving many of the coerced and non-consensual acts of a sexual character without any punishment.¹²² The Criminal Code did not include the lack of voluntary and genuine consent on the part of the victim as a constituent element for sexual violence crimes.¹²³ JS3 recommended to amend relevant provisions of the Criminal Code to ensure that the definitions of sexual violence crimes are in compliance with the Convention on the Elimination of All Forms of Discrimination against Women and the Istanbul Convention to cover all forms of sexual acts committed without the victim's voluntary, genuine and willing consent, and include a wide range of coercive circumstances. JS3 noted that according to Article 68 of the Criminal Code, a person might not be found responsible for a crime if he reconciled with the victim and "compensated" the harm without further examination by the authorities. This Article could also be applied in cases of rape (non-aggravated), violent actions of a sexual character, statutory rape and compulsion to perform sexual actions.¹²⁴

43. JS3 also noted that the lack of mandatory prosecution for sexual violence in the legislation.¹²⁵ Burdensome evidence requirements, gender stereotyping and secondary victimization throughout the legal proceedings further denied justice to survivors.¹²⁶ JS3 recommended to amend the Criminal Procedure Code to ensure that sexual violence crimes are subject to mandatory investigation and prosecution by the state and excludes private or public-private prosecution options for these crimes.¹²⁷

*Children*¹²⁸

44. Global Initiative to End All Corporal Punishment of Children (GIEACP) noted that corporal punishment of children was prohibited in some alternative care and day care settings, in schools, in penal institutions and as a sentence for a crime, but was still lawful in the home and in some alternative care and day care settings.¹²⁹ Neither the Criminal and Executive Code of 2014 nor the Code on Administrative Offences of 2014 prohibited all corporal punishment in childrearing.¹³⁰ It hoped that Kazakhstan be recommended to draft and enact legislation as a matter of priority to explicitly prohibit corporal punishment of children in all settings, including the home, and repeal all legal defences for its use.¹³¹

45. JS11 noted that despite the fact that the Government had developed a list of types of work that children were not allowed to perform, including agricultural work, and despite the fact that criminal liability for the use of child labour had been made more stringent, child labour still persisted, mainly in the agricultural sector--in cotton harvesting and vegetable production.¹³²

46. JS11 also noted that the 2014 Criminal Code did not provide for a criminal liability for forced and early forced marriages and in practice, a type of settlement was encouraged when the girls were pressured into confirming that the "relations were voluntary." It recommended to amend the Criminal Code to introduce liability for forcing minors to marry or for marrying a minor and a liability for religious figures for conducting marriage ceremonies involving minors as well as a liability for parents who force their children to marry before they reach the age of consent.¹³³

47. The Howard Center for Family, Religion and Society noted that Kazakhstan had relatively extensive contract law regarding rights, obligations and responsibilities of each party involved in surrogacy.¹³⁴ It reminded Kazakhstan of its commitment to Article 7 of the Convention on the Rights of the Child which provided that every child had a "right to know and be cared for by his or her parents".¹³⁵

*Persons with disabilities*¹³⁶

48. JS2 reported that although the construction norms and regulations were brought in compliance with the international accessibility standards and there was an administrative liability for violation of social and transportation infrastructure facility accessibility requirements,¹³⁷ accessibility standards were universally violated. Monitoring of facility accessibility conditions by state authorities and NGOs were not prescriptive in nature.¹³⁸ According to JS11, persons with disabilities continued to have limited access to justice as

court buildings were not adapted for access and use by persons with disabilities and their interests were not protected during various stages of justice.¹³⁹

49. JS2 reported that physical and informational accessibility of the infrastructure was not fully ensured at polling stations¹⁴⁰ and recommended Kazakhstan to equip voting premises at polling stations and sites with consideration of the needs of people with disabilities.¹⁴¹

50. No mechanisms for deinstitutionalization of special-purpose state establishments where large numbers of persons with disabilities were placed had been developed. Patients with mental health problems continued to be placed in the so-called “psychochronic” homes.¹⁴²

51. Amnesty International recommended Kazakhstan to establish a system of assisted decision-making to replace guardianship or substituted decision-making by closely consulting with and actively involving persons with disabilities. It also recommended to amend legislation to ensure that individuals who had been declared “incapable” had the right to apply to courts to defend their rights, to reverse “capability” decisions and to change guardians.¹⁴³

*Migrants, refugees and asylum seekers*¹⁴⁴

52. JS10 stated that Kazakhstan did not have a separate law that would regulate labour migration. The Law “On the Migration of the Population,” had no provisions that would protect migrant workers against enslavement and cruel treatment. Many migrants were forced to work unofficially without proper documents. As a result, they were not protected with regard to personal security, social and job guarantees.¹⁴⁵

53. JS2 and JS10 noted that internal migrants must register at their place of residence and a temporary place of residence on the territory of Kazakhstan. Temporary registration was mandatory for people residing outside of their permanent place of residence for more than 10 days.¹⁴⁶ JS2 noted that foreigners were required to notify the migration service about all their movements within and outside a city which was incompatible with the concept of ‘liberty of movement’ and violated their right to private life.¹⁴⁷

54. JS2 noted that the healthcare services to migrants aimed exclusively at cases of sudden acute conditions threatening a patient’s life or health of others.¹⁴⁸

55. JS10 noted that Kazakhstan did not fully comply with the principle of *non-refoulement* of asylum-seekers to countries where they were likely to be subject to torture or other serious human rights violations. Despite the fact that the Law “On Refugees” provided for the prohibition to return asylum seekers and refugees to a country where their life or freedom was under threat on the basis of race, religion, nationality, citizenship, affiliation with a particular social group or adherence to a certain political opinion, these provisions did not provide adequate and effective legal protection, as evidenced by a number of examples of extradition to other countries. Although the Code of Criminal Procedure contained a prohibition on extradition in the event of a threat of torture in the requesting country, Kazakhstan accepted diplomatic assurances.¹⁴⁹

56. According to the 2017 amendments of the Code of Administrative Offenses, a court decision on deportation of a foreign citizen or stateless person entered into force on the same date and served as a basis for deporting the foreign citizen or stateless person from Kazakhstan. The court could set a timeframe of one day or more, which made it practically impossible to appeal the decision to a higher instance. The procedure and the basis for appealing and protesting court resolutions that had come into effect did not provide for effective procedural possibilities for foreigners and stateless persons to change or repeal the deportation resolution. If a foreigner or stateless person still filed a petition to the Supreme Court or a prosecutor’s office, this would not suspend the execution of said resolution on deportation.¹⁵⁰

Stateless persons

57. JS10 stated that the 2017 amendments to the Constitution (Article 10.2) provided for a possibility to denationalise a person for committing a crime of terror and for causing other

grave damage to the vital interests of the country. Such legislative norms, in addition to violating the principle of legal certainty and predictability, gave grounds to situations of statelessness.¹⁵¹

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

AI	Amnesty International, London (United Kingdom);
ADF International	ADF International, Geneva (Switzerland);
EAJW	The European Association of Jehovah's Witnesses, Kraainem (Belgium);
EBF	European Baptist Federation, Amsterdam (Netherlands);
ECLJ	European Center for Law and Justice, Strasbourg (France);
Forum 18	Forum 18, Oslo (Norway);
GIEACP	Global Initiative to End All Corporal Punishment of Children, London (United Kingdom);
HRW	Human Rights Watch, Geneva (Switzerland);
IBAHRI	International Bar Association's Human Rights Institute, London (United Kingdom);
ICAN	International Campaign to Abolish Nuclear Weapons, Geneva (Switzerland);
ICJ	International Commission of Jurists, Geneva (Switzerland);
ICTUR	International Center for Trade Union Rights, London (United Kingdom);
ITUC	International Trade Union Confederation, Brussels (Belgium);
Jubilee campaign	Jubilee campaign, Fairfax (USA);
Kok. Team	Kok.Team, Prague (Czech Republic);
L4L	Lawyers for Lawyers, Amsterdam (Netherlands);
Reporters without Borders	Reporters without Borders for freedom of information, Paris (France);
Sana Sezim	The Legal Center for Women's Initiatives "Sana Sezim", Shymkent (Kazakhstan);
The Howard Center	The Howard Center for Family, Religion and Society, Illinois (USA).

Joint submissions:

JS1	Joint submission 1 submitted by: Netherlands Helsinki Committee, Hague (Netherlands) and Public Association Kadyr Kasiet, Nur-Sultan (Kazakhstan);
JS2	Joint submission 2 submitted by: Tandau Foundation, Pavlodar (Kazakhstan), Kazakhstan Union of People Living with HIV, Almaty (Kazakhstan), Informational and Consultative Centre «Дәріс», Aktobe (Kazakhstan), Kostanay branch of Kazakhstan International Bureau on Human Rights and Rule of Law, Kostanay (Kazakhstan), АРДА public foundation, Aktobe (Kazakhstan), EcoSem public foundation (Kazakhstan), Law Media Centre, Nur-Sultan (Kazakhstan), Commission on the Rights of People with Disabilities (Kazakhstan), Youth Information Service NGO, Petropavlovsk (Kazakhstan), Psychoanalysts Association, Almaty (Kazakhstan), NGO ALMA TQ Initiative Group, Almaty (Kazakhstan), Feminist initiative "Feminita", Almaty (Kazakhstan), Development of Parliamentarism Foundation, Nur-Sultan, (Kazakhstan), Еркіндік Қанаты public Foundation, Nur-Sultan (Kazakhstan) as well as individual researchers and activists in the human rights field
JS3	Joint submission 3 submitted by: Equality Now, London (United Kingdom), the Public Movement Against Violence #NeMolchi.Kz (Kazakhstan) and the Feminist League of Kazakhstan (Kazakhstan);
JS4	Joint submission 4 submitted by: Kazakhstan Feminist Initiative "Feminita", Almaty (Kazakhstan); Initiative Group AlmaTQ, Almaty (Kazakhstan);

- JS5 **Joint submission 5 submitted by:** Open Dialogue Foundation, Warsaw (Poland), Italian Federation for Human Rights, Rome (Italy), Kharkiv Institute for Social Research, Kharkiv (Ukraine);
- JS6 **Joint submission 6 submitted by:** The Legal Center for Women's Initiatives "Sana Sezim", Shymkent (Kazakhstan) and Sexual Rights Initiative, Geneva (Switzerland);
- JS7 **Joint submission 7 submitted by:** Kazakhstan International Bureau for Human Rights and Rule of Law, Almaty (Kazakhstan), Charter for Human Rights, Almaty (Kazakhstan), Legal Policy Research Centre (Kazakhstan); International Legal Initiative, Almaty (Kazakhstan), "Kadir-kasiet", Nur-Sultan (Kazakhstan), Development of Parliamentarism Foundation (Kazakhstan), Taldykorgan Human Rights Center (Kazakhstan), Liberty Foundation, Almaty (Kazakhstan), CCPR-Centre, Geneva (Switzerland);
- JS8 **Joint submission 8 submitted by:** Kazakhstan International Bureau for Human Rights and Rule of Law, Almaty (Kazakhstan), Legal Policy Research Centre (Kazakhstan), "Kadir-kasiet", Nur-Sultan (Kazakhstan); "Aman Saulyk", Almaty (Kazakhstan), CCPR-Centre, Geneva (Switzerland), Freedom of Speech International Foundation "Adil Soz", Almaty (Kazakhstan); Association of Religious Organisations of Kazakhstan (AROK) (Kazakhstan); "Ar.Rukh.Khak. Foundation, Almaty (Kazakhstan); Agency for Legal Information and Journalistic Investigation "Vityaz" (Kazakhstan); International Center for Journalism MediaNet, Almaty (Kazakhstan);
- JS9 **Joint submission 9 submitted by:** Article 19, London (United Kingdom) and Adil Soz, Almaty (Kazakhstan);
- JS10 **Joint submission 10 submitted by:** Kazakhstan International Bureau for Human Rights and Rule of Law, Almaty (Kazakhstan), Charter for Human Rights, Almaty (Kazakhstan), CCPR-Centre, Geneva (Switzerland), Legal Policy Research Centre (Kazakhstan), Union of Crisis Centers of Kazakhstan, Almaty (Kazakhstan), Physicians without Drugs Foundation (Kazakhstan), Echo Foundation, Almaty (Kazakhstan);
- JS11 **Joint submission 11 submitted by:** Kazakhstan International Bureau for Human Rights and Rule of Law, Almaty (Kazakhstan), Development of Parliamentarism in Kazakhstan Foundation, Nur-Sultan (Kazakhstan); Feminist League (Kazakhstan); Kazakhstan's feminist initiative "Feminita", Almaty (Kazakhstan), Commission on the Rights of Persons with Disabilities named after Kairat Imanaliyev (Kazakhstan); Children's Fund – Kazakhstan, Almaty (Kazakhstan), CCPR-Centre, Geneva (Switzerland), "Sana Sezym" Legal Centre for Women's initiative, Shymkent (Kazakhstan), Taldykorgan Regional Center for Support of Women, Taldykorgan (Kazakhstan); Women Support Center Foundation (Kazakhstan).

Regional intergovernmental organization(s):

- OSCE/ODIHR Organization for Security and Cooperation in Europe/ Office for Democratic Institutions and Human Rights, Warsaw (Poland).

² For relevant recommendations see A/HRC/28/10, paras. 124.2, 125.1–125.8, 125.35–125.36, 125.76, 126.1–126.19, 126.51.

³ JS7, p.1.

⁴ JS11, p.6.

⁵ JS11, p.8.

⁶ JS10, p.10.

⁷ ICAN, p.1.

- ⁸ For relevant recommendations see A/HRC/28/10, paras.124.1, 124.4–124.6, 124.47, 125.10–125.26, 125.28–125.30, 125.33–125.34, 125.54, 125.74, 125.78, 125.93 and 125.96.
- ⁹ Amnesty International, p. 2.
- ¹⁰ JS7, p.2.
- ¹¹ JS7, p.2.
- ¹² For relevant recommendations see A/HRC/28/10, paras.124.3, 124.42–124.43, 125.31, 125.37,125.77,126.21-126.24.
- ¹³ JS11, p.1.
- ¹⁴ Amnesty International, p.2. See also JS4, p.2 and Kok team, para 5.
- ¹⁵ Amnesty International, p.2.
- ¹⁶ JS4, p.3. See also Amnesty International, p.3.
- ¹⁷ JS4, p.4.
- ¹⁸ Kok.team, para 6.
- ¹⁹ Kok.team, para 8.
- ²⁰ JS4, p.6 and JS2, paras 69–70.
- ²¹ JS4, p.7.
- ²² JS2, para 7.
- ²³ JS2, para 11.
- ²⁴ JS10, p. 8.
- ²⁵ ICAN, p.1.
- ²⁶ JS9, para 19.
- ²⁷ JS9, para 19.
- ²⁸ JS9, para 20.
- ²⁹ For relevant recommendations see A/HRC/28/10, paras. 124.16–124.19, 124.41, 124.44–124.45, 125.48–125.50, 125.72–125.73, 126.27, 126.32.
- ³⁰ JS7, p.5.
- ³¹ JS7, p.6.
- ³² Amnesty International, p.1, See also JS 10, p.1.
- ³³ Amnesty International, p. 3. See also JS5, para 47.
- ³⁴ Human Rights Watch, p.3 and JS10, para 13.
- ³⁵ JS10, p.1.
- ³⁶ JS7, p.6.
- ³⁷ JS7, p.6.
- ³⁸ Amnesty International, p.2. See also JS7, p.2, JS10, p.3.
- ³⁹ For relevant recommendations see A/HRC/28/10, paras. 124.12–124.13, 124.15, 124.38, 125.53, 125.55–125.56.
- ⁴⁰ JS7, p.4.
- ⁴¹ JS7, p.4. See also IBAHRI, para 31.
- ⁴² IBAHRI, para 4.
- ⁴³ IBAHRI, para 5, ICJ para 2 and L4L, para 14 and JS7, p.4.
- ⁴⁴ IBAHRI, para 9.
- ⁴⁵ IBAHRI, para 10. See also JS5, para 40.
- ⁴⁶ IBAHRI, para 29.
- ⁴⁷ IBAHRI, para 12, ICJ, para 3 and L4L, para 15.
- ⁴⁸ IBAHRI, para 13.
- ⁴⁹ IBAHRI, para 24.
- ⁵⁰ IBAHRI, para 25. See also ICJ, para 4 and L4L, para 11.
- ⁵¹ For relevant recommendations see A/HRC/28/10, paras 124.21–124.40, 124.46, 126.28–126.48.
- ⁵² ADF International, para 9. See also EBF, para 1, JS8, p. 8, Jubilee campaign, para 13, 16 and 26.
- ⁵³ EBF, para 2, ECLJ, para 11 and Forum 18, para 14.
- ⁵⁴ EBF, para 14. See also EAJW, para 32 and JS8, p.9.
- ⁵⁵ ADF International, para 22.
- ⁵⁶ ADF International, para 14, EBF, para 3, ECLJ, paras 6-8 and Forum 18, para 31.
- ⁵⁷ ADF International, para 15.
- ⁵⁸ ADF International, para 16.
- ⁵⁹ EAJW, paras 3-4.
- ⁶⁰ Amnesty International, p.1, Human Rights Watch, p.1. See also JS8, p.2 and JS9, para 16.
- ⁶¹ JS9, para 14.
- ⁶² JS2, para 3.
- ⁶³ JS9, para 17.
- ⁶⁴ JS9, para 18.
- ⁶⁵ JS1, paras 6-7.

- 66 JS9, para 7.
- 67 Reporters without Borders, p.1 and 4 and JS5, para 31. See also Human Rights Watch, p 1-2, Amnesty and JS 8, p.1. see also Amnesty International, p.3.
- 68 JS9, para 10.
- 69 JS9, paras 27 and 33, Reporters without Borders, p.2.
- 70 JS11, p.8. see also JS1, para 3.
- 71 JS11, p.9.
- 72 Reporters without borders, p.5 and JS8, p.1-2. See also JS2, para 6.5.
- 73 JS9, para 33, JS5, para 32. See also Reporters without Borders, p.4.
- 74 JS2, para 1.
- 75 JS8, p.5.
- 76 Amnesty International, p.4. See also JS8, p.6. See also JS5, paras 5–6.
- 77 JS5, para 5. See also Human Rights Watch, p.3.
- 78 Amnesty International, p.4 and JS5, para 8.
- 79 Amnesty International, p.5.
- 80 Reporters without Borders, pp.1-2.
- 81 Amnesty International, p.4.
- 82 JS1, para 11. See also JS8, p.3, Human Rights Watch, p.2 and JS5, para 39.
- 83 JS1, paras12–13.
- 84 JS8, p.4.
- 85 For relevant recommendations see A/HRC/28/10, paras.124.37, 125.62–125.67.
- 86 JS11, p.9. See also Jubilee campaign, para 49.
- 87 JS11, p.9.
- 88 Jubilee campaign, para 50.
- 89 JS11, p.10.
- 90 Sana Sezim, para 4.
- 91 Sana Sezim, para 9.
- 92 JS11, p.10.
- 93 Sana Sezim, para 32.
- 94 For relevant recommendations see A/HRC/28/10, paras. 124.31, 125.27, 125.57, 125.80, 125.82, 125.91 and 126.29.
- 95 ITUC p. 3, ICTUR, p.6 and JS8, p.4.
- 96 ITUC, p.3, ICTUR, p.7, JS5, para 18 and Amnesty International, p.4. See also JS1, para 14 and Human Rights Watch, p. 4.
- 97 ICTUR, p.2.
- 98 ICTUR, p.2.
- 99 ICTUR, p.5 and ITUC, p.4.
- 100 ICTUR, p.9.
- 101 Amnesty International, p. 6 and ICTUR, p.9.
- 102 For relevant recommendations see A/HRC/28/10, paras. 125.41, 125.81 and 125.95.
- 103 JS10, p.9.
- 104 For relevant recommendations see A/HRC/28/10, paras.125.83–125.87.
- 105 JS2, para 46.
- 106 JS6, para 17.
- 107 JS6, para 18.
- 108 JS6, para 20.
- 109 JS2, para 55.
- 110 For relevant recommendations see A/HRC/28/10, paras. 124.32 and 125.88–125.89.
- 111 JS10, p.5.
- 112 HRW, p. 5. See also JS11, p.7.
- 113 HRW, p.5.
- 114 For relevant recommendations see A/HRC/28/10, paras. 124.7–124.11, 124.20, 124.35–124.36, 125.38–125.40, 125.52, 125.58–125.61, 125.75 and 125.79.
- 115 OSCE/ODIHR, p.3.
- 116 JS11, p.3.
- 117 JS11, p.2.
- 118 JS6, para 13.
- 119 JS11, p.3. See also JS6, para 10 and JS4, pp 8-9.
- 120 JS6, para 8.
- 121 JS6, para 11.
- 122 JS3, para 6.
- 123 JS3, para 8.

- ¹²⁴ JS3, para 9.
¹²⁵ JS3, para 13.
¹²⁶ JS3, para 15.
¹²⁷ JS3, p.6.
¹²⁸ For relevant recommendations see A/HRC/28/10, paras. 125.32 and 125.51.
¹²⁹ GIAECP, p.2.
¹³⁰ GIAECP, para 2.2.
¹³¹ GIAECP, p.1.
¹³² JS11, p.5.
¹³³ JS11, p. 6.
¹³⁴ The Howard Center, para7.
¹³⁵ The Howard Center para 23.
¹³⁶ For relevant recommendations see A/HRC/28/10, paras. 125.90–125.92.
¹³⁷ JS2, para 36.
¹³⁸ JS2, para 37.
¹³⁹ JS11, p.7.
¹⁴⁰ JS2, para 25.
¹⁴¹ JS2, para 29.
¹⁴² JS11, p.7.
¹⁴³ Amnesty International, p.6.
¹⁴⁴ For relevant recommendations see A/HRC/28/10, paras. 124.14, 124.33–124.34, 126.49–126.50.
¹⁴⁵ JS10, p.5.
¹⁴⁶ JS2, para 34.
¹⁴⁷ JS2, para 35.
¹⁴⁸ JS2, para 51.
¹⁴⁹ JS10, p.6.
¹⁵⁰ JS10, pp 6-7.
¹⁵¹ JS10, p.10.
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