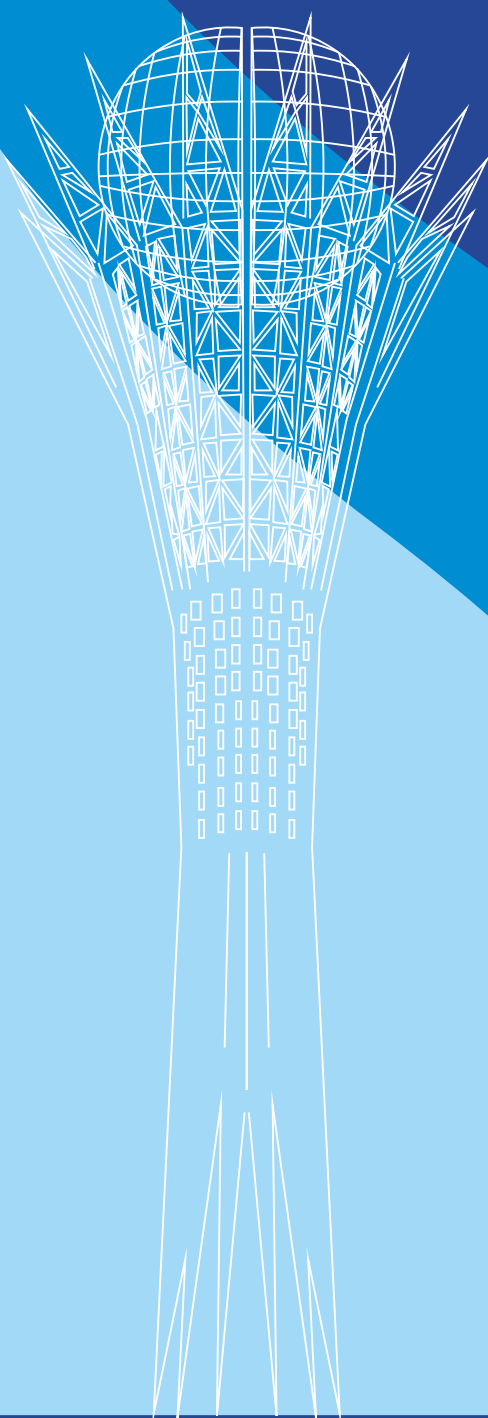




Национальный
Превентивный
Механизм
по предупреждению пыток

CONSOLIDATED REPORT

of the National Preventive Mechanism members
on the preventive visits carried out in 2014



Astana
2015

Consolidated report

**of the National Preventive Mechanism members
on the preventive visits carried out in
2014**



**Astana
2015**

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ADDRESS

This report is the first annual consolidated document summarizing the activities of the national preventive mechanism in the Republic of Kazakhstan in 2014 and was drafted in line with Article 23, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment and Article 47 of the Penal Code of the Republic of Kazakhstan.

Republic of Kazakhstan is a party to the main international legal treaties in the field of torture prevention and the National Preventive Mechanism launched in 2014 is one of the main developments of such process.

A unique model of cooperation between the authorities and the civil society with the Commissioner for human rights as a coordinator was established with the purpose of eradication of torture in all closed institutions of Kazakhstan. This important achievement of our country, a practical demonstration of commitment to the modern human rights standards is at the same time is a sign of the civil society's maturity and a demonstration of a trust to the civil society.

The actions have been positively evaluated by the UN Human Rights Council, UN Committee against Torture, Office of the UN High Commissioner for Human Rights, the International Ombudsmen's Committee, EU-Kazakhstan Human Rights Dialogue and other international partners.

The report makes special emphasis on establishment of NPM in Kazakhstan, its priorities, contains comprehensive analysis of its work in 2014 and provides recommendations for the competent public bodies to improve legislation of the Republic of Kazakhstan. Besides, the report reflects analysis of key issues pertinent to torture prevention and offers real cases of infringement of the human right to be free from torture and other cruel, inhuman or degrading treatment and punishment.

A hope that the report contributes to the project's transparency and its accountability, serves as a mean to raise awareness in the area of torture prevention, will facilitate continuous dialogue with the authorities, non-governmental and international organizations.

**Commissioner for Human Rights
of the Republic of Kazakhstan,
Chairman of the NPM Coordinating Council**

A. Shakirov

Introduction

The principle of integrity of human dignity, ban on use of torture, violence and other cruel or degrading treatment or punishment is regulated by Article 17 of the RK Constitution of 1995. On top of that Kazakhstan is a member to all international treaties and legal mechanisms on torture prevention. In particular, Kazakhstan has acceded Convention against Torture in 1998, while its Optional Protocol provisions of which require establishment of the National Preventive Mechanism on torture prevention (the NPM) was ratified in 2008.

Taking into account that under Optional Protocol, article 18, para 3, it is the state's duty to provide all necessary resources required for NPM operations which requires allocation of funds from the national budget, the Presidential Decree No. 896, dated Nov. 30, 2009, instructed to postpone enforcement of such duty by 3 years, based on Optional Protocol's article 24.

Such postponement offered the authorities and the NGO sector to carry out a more in-depth preparation for development and establishment of the NPM. The drafting of the draft law on the NPM involved the Government, the Parliament, the Supreme Court, the Constitutional Council, RK Presidential Administration and the Prosecutor General's Office, Ombudsman's office, number of public agencies, including Justice and Healthcare ministries and representatives of international and local NGOs.

Based on the shared view regarding the role in the NPM of the Commissioner for Human Rights, the national human rights institution since the very first days has facilitated wide public discussions with the civil society institutions on the NPM draft law. The Working Group on development of the draft law consisted of representatives of 13 NGOs and 4 international organizations, including UN HCHR Regional Office in Central Asia, OSCE Center Astana, PRI office in Central Asia, Kazakhstan International Bureau for Human Rights and Rule of Law and Coalition of NGOs of Kazakhstan against torture.

The Coalition of NGOs of Kazakhstan against torture has devised an alternative draft law on NPM. Other NGOs who also contributed to the alternative NPM draft law were also involved in drafting of the NPM. Following the debated which took place within the Working Groups a significant number of proposals made by the civil society sector was taken into account and reflected in the final document. The main legislator of the body text was the Justice Ministry, a public body responsible for drafting of the most important laws of the Kazakh legislation. Development of the draft law was accompanied by number of conferences, round-tables and other activities with participation of MPs, representatives of public agencies, human rights organizations as well as international experts. The Working Groups has conducted field visits to the

correctional institutions, where meetings with prison staff and prisoners took place; the draft law was presented there as well. Such format allowed the legislators learn more about outstanding issues of the draft law. The draft NPM law was submitted to the Majilis' (lower chamber of the Parliament) approval in March 2012. Line committee of the Majilis has made a public presentation of the draft law on May 8, 2012, which was attended by representatives of all the stakeholders, including public agencies, national and international NGOs and media. On July 12, 2012 the establishment of the NPM in Kazakhstan was discussed during the visit of the UN High Commissioner for Human Rights Navanethem Pillay. The work and best practice of the UN Subcommittee on torture prevention has positively affected the quality of the document. To be specific, the UN Subcommittee on torture prevention has provided written explanations to the legislator regarding interpretation of the "place of detention" term as well as the role of the Justice Ministry in establishing and fine-tuning of the NPM. A visit to Kazakhstan by Malcolm Evans, Chairman of the Subcommittee on torture prevention of the UN Committee against Torture took place on January 30-31, 2013, where some disputable issues regarding NPM establishment have been raised.

Deliberations on the draft law at the Parliament have been accompanied by continuous support and cooperation offered by the Astana Representation of the UN OHCHR in Europe and Central Asia and Penal Reform International office in Central Asia.

On July 2, 2013, the President of Kazakhstan has signed the Law of the Republic of Kazakhstan "On Introduction of Changes and Addendae to Certain Legislation Acts of the Republic of Kazakhstan pertinent to Establishment of the National Preventive Mechanism, To Prevent Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment" (hereinafter – NPM Law), which established and legislated the NPM in our country.

1. Activity according to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1.1. Optional to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Kazakhstan is a party to the main UN human rights treaties, provisions of which prohibit torture and ill-treatment. Kazakhstan is also a member of 1949 Geneva Conventions and complimentary Protocols thereof of 1977. In 2008 Kazakhstan ratified, as stated earlier, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which stipulated establishment of a two-tier (international and national) mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment. In line with the Law of the Republic of Kazakhstan “On Introduction of Changes and Addendae to Certain Legislation Acts of the Republic of Kazakhstan pertinent to Establishment of the National Preventive Mechanism, To Prevent Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment” (the NPM Law) a national preventive mechanism based on “Ombudsman plus” was established. Development of such model took a long process of discussions and negotiations with the civil society institutions, law enforcement agencies and MPs of the institution to be established. The Commissioner for Human Rights (Ombudsman) chairs the NPM Coordinating Council.

To comply with Optional Protocol of the Convention Against Torture, the Commissioner for Human Rights has initiated drafting of a number of legal acts, resolutions and regulations. Those include: Regulation on the Commission to Elect Member of the Coordinating Council under the Commissioner for Human Rights; Regulation on the Coordinating Council; Rules of Selection of NPM Members, Rules of Forming a Group of NPM Member to Conduct Preventive Visits; Rules of Drafting of Annual Consolidated Report based on the preventive visits and others. Adoption of these documents enabled enforcement of the provisions of the law and helped to create conditions necessary for functioning of the NPM.

1.2. Legislation of the Republic of Kazakhstan in the area of prevention of torture and other cruel, inhuman or degrading treatment and punishment

The Constitution of Kazakhstan in its second Chapter “The Individual and citizen” lists human rights and freedoms, including right to life, right to non-discrimination, right to freedom of consciousness and freedom of speech, as well as right to health. Prohibition of use of torture and integrity of human dignity is regulated by article 17 of the Constitution. Also, article 16 guarantees the right to personal freedom, determines maximum duration of 72 hours of detention under custody and has provisions on legal assistance and motion.

In addition to the constitutional ban on use of torture, torture (has been) prohibited by Criminal Code, article 141-1 (no longer in effect, replaced on Jan 1, 2015 by a newly adopted Criminal Code where similar prohibition is covered by article 146). Definition of torture offered in this article slightly differs from the one of the Convention against Torture, article 1. It stipulates that criminal liability is foreseen only for public officials, whilst torture committed by other individuals, acting in official capacity or by individuals acting upon incitement or from conscientious consent of public officials, are not categorized as crimes. Also, unlike the CAT, article 1, which speaks about “legal sanctions”, reservations to article 141-1 stated that “physical and psychological sufferings resulting from lawful actions of public officials are not recognized as torture” (Criminal Code in effect as of Jan 1, 2015 – article 146).

The Criminal Code which expired in 2014 also had other provisions under which staff of law enforcement agencies could be prosecuted for unlawful actions. Articles 307 and 308 of the Criminal Code criminalized “abuse of power or office” and “misfeasance” and stipulated range of sanctions, including imprisonment for up to 2 and 5 years respectively. Also, article 107 treated “causing of physical or psychological sufferings by regular beatings or other violent actions” as a crime, while torture was mentioned as aggravating circumstance. A grave crime was punishable by “restriction of liberty for up to five years or imprisonment from 3 to 7 years”.

It is noteworthy that similar norms are present in the Criminal Code which was passed on July 2, 2014 and which came into effect on Jan 1, 2015.

Number of bylaws passed in Kazakhstan also contributes to torture prevention, for instance, in December 2009, the Supreme Court of Kazakhstan has issued a Normative Resolution “On Application of Norms of Criminal and Criminal Procedure Laws to Protect Intactness of Privacy and Integrity of Human Dignity, To Counteract Torture, Violence and Other Cruel or Degrading Treatment and Punishment”. This Normative Resolution clearly indicates legal grounds for criminal liability for use of torture and abuse of office. Also, it regulated procedural mechanisms of handling by prosecution and by judiciary of torture complains received from detainees or arrestees. The Resolution also provides explanations regarding assessment of evidence, correct categorization of crimes, criminal prosecution of torturers as well as those who incited torture or who were aware of torture, or with whose tacit consent torture was used, compensation of material and moral damage to torture victims.

In February 2010, Prosecutor General’s Office has issued an Instruction regulating verification of torture complaints and complaints on use of unlawful methods related to ill-treatment of individuals involved in a criminal process and detained in specialized facilities, and prevention thereof. The Instruction regulates the order to be followed by Prosecution bodies to protect constitutional and citizen’s rights and freedoms in

a criminal process in their capacity as a supervisory agency and also prescribes due implementation of commitments in line with the Convention against Torture and other international treaties ratified by the Republic of Kazakhstan.

The Justice Ministry, Ministry of Healthcare, Ministry of Interior, National Security Committee have endorsed a joint order “On Ensuring Mandatory Participation of Forensic Experts in Conducting a Medical Examination to Detect Bodily Harm in Persons Detained in Police Holding Cells, Pre-trial Detention Centers and Penal Institutions”. The order stipulates conducting of a timely and quality medical examination by independent medical experts of persons detained in holding cells or pre-trial facilities as well as persons who complained about caused bodily harm.

The Justice Ministry, Prosecutor Generals Office, Ministry of Interior, National Security Committee, Agency for combatting economic crimes and corruption have issued a joint order “On Interaction of Law Enforcement Agencies and Civil Society Organizations during Examination of Torture Complaints and Other Complaints about Unlawful Methods Used During Inquiry and Investigation, as well as Criminal Prosecution for these Facts”. The Order stipulates for effective and impartial examination of torture complaints and other complaints about use of unlawful techniques applied during inquiry and investigation with participation of civil society representatives.

1.3. Powers of the Coordinating Council, NPM Members

The first Coordinating Council of NPM Members comprises of the following persons:

- 1. Shakirov Askar Orazaliyevich – Commissioner for Human Rights in Kazakhstan, Coordinating Council Chairman**
- 2. Akylbekova Roza Maksatbekovna – Director, Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR&RL)**
- 3. Aidosov Serik Baimendeyevich – Executive Director, “Sociological Resource Center”**
- 4. Baisakova Zulfiya Mukhamedbekovna – Chairman of Legal Entities Association “Union of Kazakhstan’s Crisis Centers”**
- 5. Baltabayev Kuanysh Zhatpisovich – Head of the Criminal Law Chair of Gumilev ENU**
- 6. Busurmanov Zhumabek Duseshevich – Chairman of the Theory and History of State and Law Chair of Gumilev ENU**
- 7. Gabdullin Arnur Askarovich – ombudsman– chief manager of Corporate Secretary Service, “Samruk-Kazyna Real Estate Fund”**
- 8. Gussakov Yuri Anatolyevich – Director of Karaganda branch, KIBHR&RL**
- 9. Zhanabilova Ardak Sarybayevna – Chairman of Almaty city and Almaty oblast Public Monitoring Commission, Director of “Human Rights Monitoring**

Center” Public Fund

10. Ibrayeva Anara Nurlybayevna – Chairman of Astana city Public Monitoring Commissions, Director of Astana branch, KIBHR&RL

11. Mektepbayeva Saule Kayirgeldiyevna – Regional Director of Penal Reform International Central Asian office

12. Mukha Alexander Viktorovich – Chairman of Mangistau oblast Public Monitoring Commission, Director of Mangistau Branch, KIBHR&RL

13. Orlova Albina Gennadyevna – Chairman of Women Support Center (Petrovavlovsk)

14. Pen Sergey Gennadyevich – Head of Criminal Procedure Law and Criminalistics Chair of Kazakh State University of Law

15. Rakhimberdin Kuat Khazhumukanivich – Chairman of East Kazakhstan Public Monitoring Commission, Director of East Kazakhstan branch, KIBHR&RL

16. Syzdikov Olzhan Turgunovich – Director, Prometheus Public Fund, Kokshetau

17. Tenizbayev Serik Mustafayevich – Chairman of Kyzylorda oblast Public Monitoring Commissions, President of Kyzylorda Consumer Rights Protection Public Association, Deputy Chairman of Public Council of NurOtan NDP to monitor public services

18. Turmagembetova Zhemis Utegenovna – Executive Director, Charter for Human Rights Public Fund

19. Khobdabergenova Raikhan Rzabayevna – South Kazakhstan oblast Public Monitoring Commission, Executive Director of South Kazakhstan Lawyers’ Association Public Association

Coordinating Council meeting



Powers of the NPM Coordinating Council are covered by the Regulation which, in essence requires that the Coordinating Council, to achieve objectives of the NPM does the following:

- Interacts with the UN CAT Subcommittee against Torture and Cruel, Inhuman or Degrading Treatment and Punishment;
- Makes proposals and recommendations in relation to addressing problems in the activity of the National Preventive Mechanism;
- Requests documents necessary for the Coordinating Council's work from the public bodies, facilities and institutions covered by preventive visits as well organizations, irrespective of their organizational and legal type of ownership and their officials;
- Invites to its meetings the heads and representatives of various public agencies, institutions and facilities covered by preventive visits, public associations and others;
- Hears information at its meetings (communications, reports) from the relevant officials on issues within their competence;
- Determines dates and list of institutions and facilities to be covered by preventive visits, within the limits of allocated budget funding;
- Receives information about torture and ill-treatment complaints and allegations. Information about accepted complaints and allegations is included in the minutes of the Coordination Council meeting;
- Selects a team of members of the national preventive mechanisms to carry out a preventive visit;
- Approves the reporting format to be followed by preventive mechanism's visit groups upon completion of a visit;
- Processes and analysis reporting documentation prepared as a result of a preventive visit;
- Develops and transfers recommendations to the competent public bodies in relation to improvement of treatment of individuals detained in institutions and facilities covered by preventive visits;
- Develops proposals on improvement of the national legislation, and
- Prepares the annual consolidated report by the members of the National Preventive Mechanism based on the results of the preventive visits reports, recommendations to improve treatments of individuals detained in institutions and facilities covered by preventive visits as well as proposals to improve legislation of Kazakhstan.

The following members of the Coordinating Council enjoy special status:

Commissioner for Human Rights, who acts as the Coordinating Council Chairman and whose duties include:

- Coordination of the Council's and its members' activity;

- Undertaking of measures to ensure that Coordination Council members have required capacity and professional competencies;
- Chairs Coordination Council meetings;
- Approves Action Plan of the Coordinating Council
- Receives information, torture and ill-treatment complaints and allegations for consideration;
- Accepts resignation notice from Coordinating Council members, and
- Receives notification from Coordination Council on replacement of a Council member

Coordinating Council Member – Coordinating Council Secretary, who:

- Organizes and control preparation of documents submitted for the Council meeting;
- Keeps minutes of the meeting, and
- Executes instruction of the Chairman and takes measures necessary to ensure effective performance of the Coordinating Council.

Other than that, the remaining members of the Coordinating Council enjoy equal rights when discussing issues presented to the attention of Coordinating Council. Besides, upon instruction from the Council Chairman, in his absence, chair the meetings (upon agreement), submit issues to be discussed at the Council meetings, submit individual proposals and recommendations to be voted upon by the Council. They are also entitled to a minority report, which should be submitted in writing.

To ensure succession and rotation of the NPM Coordinating Council a simple draw procedure was organized at its first meeting, where a two-year term in office for half of the Council members was set. For the remaining half the term in office would be four years.

Commissioner for Human Rights and Coordinating Council play a coordinating role in ensuring efficient implementation of the NPM. All in all 5 meetings of the Coordinating Council took place since its establishment.

One must note efficacy of the Coordinating Council and its decisions: in particular, development of recommendations on preventive visits, which are now actively used by NPM members in their work, Coordinating Council Recommendations for NPM Members on Media have been devised and delivered, number of issues critical for NPM general operation has been resolved.

Representatives of public agencies are regularly invited to attend Council meetings and to discuss course of NPM implementation in our country.

The Commissioner for Human Rights together with General Prosecutor's Office, Penal Reform International has organized a video-conference on efficient implementation of the NPM Law, with participation by Presidential Administration, Constitutional Council, Central Government bodies, MPs, members of Public Council under General Prosecutor's Office, members of Coordinating Council under Ombudsman, oblast procurators, leaders of local state bodies and law enforcement agencies, NPM members.

Penal Committee organizes on a regular basis trainings delivered by the National Human Rights Center and NPM members; Ministry of Healthcare and Social Development has conducted a video-conference with its territorial subdivisions on cooperation with NPM members.

Regional training for NPM members in 5 regions have been organized, these were in Astana city (attended members from Kostanai, Karaganda and Akmola oblasts), Almaty (for Zhambyl, Kyzylorda, South Kazakhstan and Almaty oblasts), Ust-Kamenogorsk (attended by Pavlodar, East Kazakhstan oblasts) and Aktobe (for Mangistau, Atyrau and West Kazakhstan oblasts). The training have been organized together with NHRC, OSCE Center in Astana and PRI. An international expert Krasimir Kanev was engaged as a trainer.

On April 9, 2014, R.A. Rakhimov, Head of Complaints Unit took part in the preliminary meetings of the national preventive mechanisms: "Police and Torture Prevention" and in additional human dimension meeting on torture prevention (Vienna, Austria).

On 10-13 of February 2014, a delegation presided by the Commissioner for Human Rights (Ombudsman) in Kazakhstan (CHR RK) A. Shakirov has carried out a working visit to Slovenia, with financial support of OSCE Center in Astana and PRI.

The work of the NPM in Kazakhstan was positively assessed during UPR procedure (Geneva, October-November), report at the Committee against Torture (Geneva, November) and a Structured Human Rights Dialogue (Brussels, November).

1.4. Financing of the National Preventive Mechanism

Governmental Decree No.301 dated April 2, 2014 has approved the Rules of Compensation of Expenses incurred by the NPM members in relation to their preventive visits. The Rules lists regulations obliging competent public bodies to compensate expenses incurred by the NPM members, and also determines the order and terms of such compensation of expenses resulting from preventive visits in Kazakhstan.

Compensation of expenses incurred by NPM members in relation to preventive visits is done from the national budget allocated in respective financial year. Grounds for compensation of expenses incurred in relation to a preventive visit from the national budget are: Coordinating Council Protocol determining list and dates of institutions and facilities to be covered by preventive visits, composition of NPM members team to carry out a preventive visit, supporting documents proving the expense, including overheads, as well as expenses related to preparation of a post-visit report.

The Copy of the Council Protocol should be submitted to the Budget Programme Coordinator not later than January 10 of the respective year.

The NPM Member are entitled to the following compensation to be paid by Budget Programme Administrator:

- Expenses related to preparation of the post-visit report, including processing of collected materials, drafting of proposals and recommendations, information on the visit for the annual consolidated report in the amount of 1 minimum salary to each NPM member;
- Overhead expenses which include purchase of stationary, telephone bills, internet and postal services, in the amount not exceeding two minimum monthly calculation indices per each NPM participant who has carried out a preventive visit
- Travel expenses incurred by the NPM participant during a trip to location other than residence location, and
- Under Labour Code, Article 149, para 1 and 2, an NPM member's salary and position at the main place of work while he/she carries out a preventive visit, including departure date and date of return to the main place of work is preserved.

On a monthly basis, not later than 5th day of every month following the reporting month, the head of the NPM team leader sends the expense report of the preventive visits to the Budget Programme Administrator via courier delivery. Documents supporting expenses were related to the trip to location other than main residence location of an NPM member, preparation of the preventive visit report, information about visit carried out and overheads to be compensated in line with the Rules shall be submitted along with the expense report.

Commissioner for Human rights shall send confirmation to the Budget Programme Administrator on a monthly basis and not later than the 5th day of the month following the reporting month stating the expenses incurred by NPM members in relation to preventive visits.

Budget Programme Administrator shall, not later than 10 days upon receipt of the documents listed in para 7 and 8 of the Rules, make payment of compensation to the NPM member by a bank transfer to his/her account, following submission of verified

and appropriately certified by respective bank or financial institution information by NPM team leader.

The report does not seek to evaluate performance of regional teams and their team leaders. However, it is important to focus on one of the NPM activity components. The annual financial analysis indicates some problems in this area. Namely, the spending of funds allocated from the national budget was low, resulting in non-submission of financial reporting from some regional teams, including Kostanai, Mangistau, Aktobe and West-Kazakhstan oblast for a few months.

Regional teams of Mangistau and West-Kazakhstan oblasts have not used a single tenge for purchase of stationary or communication services. This indicator is also low for Atyrau oblast.

Poor spending of budget funds allocated for NPM activity may result in reduction of such funding in the future, and therefore NPM team leaders and members must prepare preventive visit reports in a timely and accurate manner, considering every possible expense covered by the Rules of Compensation.

Data on expenses is presented in aggregate table titled: “Financial Report on NPM for 2014”, (Annex 1).

1.5. Participation of public associations in the NPM

Participation of civil society organizations (not-for-profit organizations of various legal forms, including public associations) in formation, establishment and activity of the NPM is immediate. A special commission was established to form the NPM Coordinating Council in full compliance with the procedure. Members of the Commission were elected from the deputy corps, representatives of public bodies, NGOs of Kazakhstan, international organizations, academic circles, media and other individuals who have competence and experience in human rights. The Commission comprised of 17 members total. Commissioner for Human Rights has endorsed by his order the composition of the Commission with term in office of 5 years.

The commission members to elect the NPM Coordinating Council members are:

1. **Shakirov Askar Orazaliyevich** – Commissioner for Human Rights in Kazakhstan, Commission Chairman;
2. **Kalyuzhny Vyacheslav Afanasyevich** – head of the National Human Rights Center, Commission Secretary;
3. **Asanov Zhakip Kazhmanovich** – Deputy Prosecutor General;
4. **Bychkova Svetlana Fedorovna** – MP, Majilis of RK Parliament, Secretary

of the Legislation and Legal-Judiciary Reform Committee;

5. **Yerimbekov Nurlan Kenzhebekovich** – Director General, “Social Partnership Corporate Fund” under Samruk-Kazyna Public Well-being Fund, President of Civil Alliance of Kazakhstan Association of Legal Entities, political analyst;

6. **Zhumageldiyeva Gulnara Amengeldiyevna** – Deputy Chairman, Federation of Trade Unions of Kazakhstan;

7. **Kaltayeva Lyazzat Moldabekovna** – Chairman, “Shyrak” Association of Women with Disabilities, member of the National Commission for affairs of Women and Family and Demographics Policy under the President of Kazakhstan;

8. **Kozyreva Yevgeniya Alexandrovna** – President, Feminist League Public Association;

9. **Matayev Seitkazy Beisengazyevich** – Chairman of the Board, Union of Journalists;

10. **Mektepbayeva Saule Kayirgeldiyevna** – Director of PRI Central Asian office, c.l.s.;

11. **Rakhimberdin Kuat Khazhumukanovich** – Director of East Kazakhstan Branch, Kazakhstan International Bureau for Human Rights and Rule of Law, Chairman of Public Monitoring Commission;

12. **Rubezhanskaya Lyubov Alekseyevna** – Chairman of Akmola oblast Public Monitoring Commission, Director of Luch Nadezhdy (Ray of Hope) Public Fund;

13. **Turgeldinov Zhumabek Suleimenovich** – Senate MP, Member of the Committee for Constitutional Legislation, Judiciary and law-enforcement agencies of the Senate;

14. **Turetsky Nikolai Nikolayevich** – Inspector, Law Enforcement System Unit of the Presidential Administration, Doctor of Law, Professor;

15. **Tugel Anuar Kurmanbayevich** – President of Kazakhstan’s Union of Attorneys, c.l.s.;

16. **Fedotova Zinaida Leontyevna** – Chairman of the Parole Commission under the President of RK;

17. **Shukenov Batyr Kamalovich** – UNICEF Good Will Ambassador in Kazakhstan.

The procedure of forming the teams of NPM members is fully transparent and is open for any citizen of Kazakhstan. Public associations may also recommend the NPM Coordinating Council candidatures of Kazakhstani citizens. However, according to the list the general procedure of submission of paperwork is uniform for all the candidates without exception. Representation in the Coordinating Council of various not-for-profit organizations and other civil society institutions is rather broad both by status and geographic coverage (see list of NPM Coordinating Council members for 2014).

***1.6. Preventive visits of places of detention
according to the requirements of the Optional protocol to the Convention against
Torture and other Cruel, Inhuman or Degrading Treatment and Punishment***

The rules of preventive visits to be carried out by teams made of NPM members have been approved by the Resolution No.266 of the Government of RK of March 26, 2014, which include the list of laws and regulations serving as legal framework for preventive visits by NPM teams to institutions and facilities determined by the laws of Kazakhstan.

Preventive visits are carried out in teams, formed by the Coordinating Council under the Commissioner for Human Rights (hereinafter the Coordinating Council) which comprise of the NPM members. The Coordinating Council approved preventive visits plan which include:

- Types of preventive visit (periodic, interim, special);
- Date of preventive visit, and
- List of institutions and facilities covered by preventive visits.

Periodic and interim preventive visits are performed in teams, in line with the approved plan. Special preventive visits carried out by teams are sudden and in response to torture or ill-treatment allegations. Decision to send a team for a special visit is taken by the Commissioner for Human Rights.

Institutions and facilities covered by preventive visits by law are listed in the table (Annex 2).

Identity certificate of the NPM member issued by the Commissioner for Human Rights is the document that confirms powers and authorities of the NPM member

When conducting a preventive visit in a team, the NPM member is entitled:

- To choose and visit institutions and facilities covered by preventive visits in an unimpeded manner;
- To hold private interviews with persons detained in institutions and facilities covered by preventive visits, and (or) their legal representatives;
- To receive torture and ill-treatment complaints and allegations, and;
- To enjoy other rights foreseen by the laws of Kazakhstan.

An NPM member shall observe independence while exercising his/her lawful activities. Should there be circumstances casting doubt on ability of the NPM members to remain impartial, he/she should refuse taking part in a preventive visit.

An NPM member must treat with respect both detainees and staff of the

institutions and facilities visited.

An NPM member shall not disclose private information which became known to him/her during a preventive visit, without consent of concerned individuals.

An NPM member shall not interfere into the activities of the institutions and facilities covered by preventive visit.

In case of unlawful actions by the NPM members, the head of institution or a facility covered by preventive visit notifies in writing the Commissioner for Human Rights about such incidents.

Safety of the NPM members, including escorting within the territory of institution/facility is the responsibility of that institution's/facility's administration. Should there be a real threat to the safety of an NPM member resulting in inability to provide full confidentiality during an interview such member shall be notified in writing by the institution/facility administration. In cases when an NPM member refuses to compromise confidentiality of an interview with a detainee caused by safety reasons, such refusal shall be done in writing.

The duration of preventive visits to institution and facilities covered by preventive visits shall not exceed two working days, excluding travel time. Prolongation of the preventive visit duration is allowed in exceptional cases, for up to five working days to be approved by the Commissioner for Human Rights.

Compensation of expenses of the NPM members incurred in relation to preventive visits shall be done within the limits of allocated budget funds.

Following the results of every preventive visit, a written report in an established format shall be drafted on behalf of the visit team and signed by all team members. Minority report shall be drafted in writing and attached to the report.

The reports prepared by the NPM members' team on the results of their visits shall be submitted to the Coordinating Council:

- in 14 days for periodic visits;
- in five days for interim visits, and
- in two days for special preventive visits.

The preventive visit reports summarizing results of a visit to an institution/facility are confidential. (Rules, para 17).

2.Imprisonment Conditions of persons detained in institutions subordinate to the Interior Ministry

2.1. Institutions of the Interior Ministry Penal Committee

General Situation

According to international best practice, the NPM makes special focus on preventive visits to facilities where suspects, accused and convicts are detained.

Institutions subordinate to the Penal Committee (pre-trial detention centers and institutions where persons convicted and sentenced by court ruling to imprisonment are detained) have granted access to preventive visits by NPM members in March-April 2014.

During 2014, 72 penal institutions were visited. Those were pre-trial detention centers and correctional institutions, 12 special preventive visits have been carried out there.

Detainees of pre-trial detention centers are persons suspected and accused of committing a crime who have been sanctioned to detention, as well as convicts left to carry out day-to-day operations of the facility, and convicts temporary staying in the facility during prison transfer. Remand detainees are persons who have been arrested and charged but not found guilty yet, and therefore such detention is not a sentence but merely a measure to protect criminal proceedings. However, such detainees may stay under custody for long periods of time, and be exposed to risk of torture, ill-treatment of poor imprisonment conditions.

Prisoners of correctional institutions are persons deprived of their liberty for lengthy periods by a court ruling. Due to certain circumstances, including arbitrary ones, violations of fundamental rights and freedoms often takes place in closed places of incarceration, isolated from the society.

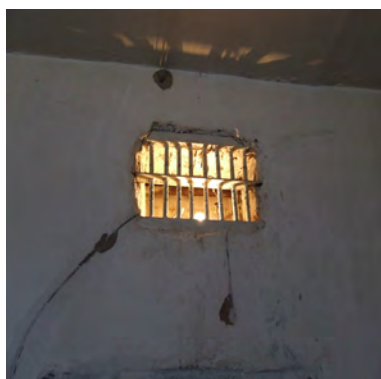
Institutions subordinate to the Interior Ministry Penal Committee are places where before introduction of NPM public oversight of human rights was carried out (public monitoring). Such oversight has been done by Public Monitoring Commissions and has legal framework enshrined in the Penal Code of Kazakhstan. Instead of monitoring the whole range of human rights, the NPM members focused on human rights in terms of respect for human dignity, constitutional right to integrity, documenting (if necessary) of cases, consequences or conditions of cruel treatment, punishment or torture.

Situation Assessment

The obvious facts of cruel and degrading treatment are poor imprisonment conditions, outdated infrastructure, buildings which were erected mid-last century, or even

earlier, premises and facilities that need capital repair or which are in unsafe critical condition. Examples of such facilities are pre-trial centers in East Kazakhstan (OV-156/19), Karaganda (AK-159/1), Almaty (LA-155/16) oblasts and the city of Astana, correctional institutions LA 156/6, OV -156/22, GM-172/1, GM-172/8.

Failure to respect sanitary-hygienic norms and requirements, unsatisfactory state of toilets and other facilities, poor sewage system and poor state of bedding was seen in pre-trial centers of East Kazakhstan Karaganda, Kostanai, Aktobe oblasts and certain correctional facilities of North Kazakhstan, East Kazakhstan, Kostanai and Kyzylorda oblasts, cities of Almaty and Astana.



*Solitary Confinement Cell, OV-156/3,
Ust-Kamenogorsk*



*Toilet, ES-164/4
Gorny village, NK oblast*



*Pre-trial detention cell
Semey*

The analysis of submitted reports shows that places of detention and incarceration have persistent problem of insufficient medical care and medication supply, overall deficit of medical staff. Transportation of convicts with disabilities inside the institution is problematic, including for outdoor walks; wheelchairs are outworn in correctional institutions of North Kazakhstan and East Kazakhstan oblasts, pre-trial detention facility in Pavlodar does not have special appliances and tools to accommodate detainees with disabilities in standard premises.



EC-164/4 FACILITY, GORNY VILLAGE, NK OBLAST

The reports of NPM members note limited communication with the outside world (absence or low number of periodic print media, books in free access, radios, arbitrary

reduction of telephone conversation with relatives). An important factor in prevention of torture and ill-treatment in places of temporary isolation or lengthy imprisonment is the access of detainees to complaints mechanism. The majority of reports mentioned absence or poor access of arrestees, remand detainees and convicts to information about their legal rights and interests, order and procedure of filing a complaint to public bodies and human rights organization and lack of efficient channels to file a complaint.



Bedroom, UK-161/2, Kostanai



*Medical unit, OV-156/3
Ust-Kamenogorsk*

It is necessary to note the efforts undertaken by the responsible agency to improve the penal system, to better conditions and order of imprisonment, to engage civil society in implementation of such efforts.

Alongside with that the overall situation is assessed as needing attention and investment of significant budget money to bring firstly the residential premises into required condition, to build new institutions, to ensure due medical care and to guarantee that living condition of imprisonment are in order.

Long-term stay of prisoners under custody and in place of imprisonment under above described conditions can be recognized as cruel and degrading treatment.

Number of recommendations sent by NPM members to administrations of visited institutions has concrete proposals as to how to change the existing situation.

The biggest share of special visits requested by NPM in the reporting year was visits to Penal Committee institutions. In total 12 visits have been conducted, including 4 – pre-trial detention centers and 8 – correctional institutions.

The findings of 11 special visits have been submitted to prosecution bodies, complaints received during the visits have been accepted by the Commissioner for Human Rights for consideration. Prosecution bodies have inspected all the allegations

reported in the submitted documents.

The special visits conducted by NPM members in 2014 results in opening of 3 criminal investigations charging officials suspected in commitment of criminally punishable acts:

1. Pursuant to allegations of remand detainee A.A.Burlakov, under custody in RU-170/1 Penal Committee Department of West Kazakhstan oblast (allegation of torture used by police officers);
2. Pursuant to address by S.Ushenin – ETs-166/5 facility, Penal Committee Department of Almaty city (allegation of abuse of office) – case dismissed at a later stage, and
3. Pursuant to B.Auelbek – ETs-166/5 facility, Penal Committee Department of Astana city (allegation of abuse of office) – case dismissed at a later stage.

It is noteworthy that practically every institution/facility of the Interior Ministry Penal Committee has discrimination on the grounds of “loyalty to administration”. The institute of “volunteer assistant of administration” which is not regulated by any law or regulation is an indirect instrument of violence and discrimination, delegated by the institution/facility administration to groups of convicts to maintain order and discipline in Penal Committee’s penitentiary institutions.

The NPM member have also demonstrated controversial attitude to “prison transfer admission” in the institution: the procedure is arbitrary, it is performed by both prisons staff and controlling prison guards wearing camouflage and masks. Seemingly, such procedure should be formalized in the appropriate laws and regulations; it should be predictable in terms of legal consequences for newly arriving convicts.

The first special visits were caused by the reports that prisoners with TB have been tortured during “prison transfer admission” procedure. The NPM members, quoting the convicts, stated that they latter have been subjected to cruel and degrading treatment. For instance, during a visit to ES-164/8 of Penal Committee Department of North Kazakhstan oblast the newly transferred prisoners complained about use of special tools, having been made to stay awake in “zaichik” (bunny-like position: sitting on the floor cross-legged with arms on the ears and palms looking upward) position, coercion to clean toilets naked, sexual violence threats and others during prison transfer admission procedure.



The NPM members who made a special visit to facility ZhD-158/7 of the Penal Committee Department of Zhambyl oblast noted that prisoners were kept outdoors on a hardstand for 13-15 hours, they were forced to squat on hams, get up and sit down on signal while holding hands above the head, restrained from going to the toilet, unwell prisoners had to perform unpaid works such as gentrification of prison area; psychological and physical influence methods were used.



The NPM members during their visit to correctional facility of the Penal Committee Department of Astana city have also encountered facts when newly arrived prisoners had to be instructed about Internal Procedure Rules while standing. Such instruction lasts two days with meal and toilet breaks.

The facts of cruel and degrading treatment also take place during search and seizure operations in pre-trial detention centers and correctional institutions.

Prison staff guided by the legal norms and regulations is entitled to apply measures of restraint to ensure observance of custodial mode, supervision and control of persons detained in such institutions. However, such measures must be limited by principles

of necessity and proportionality, and should not be turned into a targeted instrument of punishment, threatening or violence and should be of degrading or painful nature.

The staff of the medical service plays an important role in combatting torture and ill-treatment, because they have a duty to provide medical care to victims and report bodily injuries. For instance such cases and delayed provision of medical care and registration of injuries were have been registered by NPM members in the correctional institutions of Zhambyl and North Kazakhstan oblasts and similar complaints about actions of staff of East Kazakhstan, Pavlodar and North Kazakhstan oblasts were reflected in by prisoners and their relatives.

During special visits the NPM members noticed fear prisoners of consequences that might follow submission of a complaint or allegation to a human rights organization.

Almost all NPM teams have noted increased “militarization” of Penal Committee institutions, manifested in obligation to every prisoner to learn by heart the hymn of Kazakhstan, to march, to sing marching songs on hardstand and during movements inside prison. The duty of a prisoner to add a phrase of “Strictly follow the path of correction” at the end of every report to prison staff is perceived with befuddlement.

There were conflict situations between prison administration and NPM members, expressed in mutual accusations of impartiality, as well as in deliberate abuse of office on the part of NPM members.

One of problem areas in the NPM implementation during the reporting period was unawareness of certain prison staff about such mechanism, its goals and objectives.

It is noteworthy that access of NPM members to Penal Committee institutions and facilities cannot be classified as fully “unimpeded” due to a requirement to obtain certain permission passes from the Committee to enter the institution/facility.

2.2. Temporary holding cells, reception centers, specialized reception centers

General Situation

Temporary holding cell is used for custodian detention of persons suspected of a crime. Placing to a temporary holding cell of apprehended persons is endorsed by effect of an apprehension protocol delivered by investigator or inquirer. Putting suspects, accused or criminal defendants to temporary holding cell when arrest is used as measure of restraint is endorsed by court ruling in instances when transportation of such individuals to a pre-trial detention facility is impossible due to remoteness or absence of commute routs.

Specialized reception centers of the Interior Ministry are for detention of persons sanctioned to administrative arrest, and reception centers are for keeping homeless persons or (and) persons without ID documents, in cases when their actions had not elements of administrative offence and crime and when identifying them by other means is impossible.

The risk of human rights violation of a detainee is especially high in the first hours of detention when such person is particularly vulnerable. As a rule such facilities are not for long-term detention. However there is a possibility of abuse of powers by police officers to obtain testimony from a detainee along with poor imprisonment conditions.

Situation Assessment

The NPM members have in the reporting period visited 101 institutions, including:

- Temporary holding cells – 73;
- Reception centers – 11, and
- Specialized reception centers – 17.

The results of the first preventive visits to institutions and facilities have shown that the authorities are taking measures to improve human rights record in place of temporary isolation, new buildings are being commissioned in many regions of the country, imprisonment conditions in overall have improved.

At the same time, some places of custodial detention have been having problems in terms of human rights violations and degrading treatment.

Temporary holding facility of Mamlut District Internal Affairs Department of North Kazakhstan oblast, Temporary holding facility of Terekty District Internal Affairs Department of West Kazakhstan oblast, Temporary holding facility of Kulsary city District Internal Affairs Department of Atyrau oblast, Temporary holding facility of Severny District Internal Affairs Department of Pavlodar city, Temporary holding facility of Kostanai city Internal Affairs Department, Temporary holding facility of Semey city Internal Affairs Department, East Kazakhstan oblast; Temporary holding facility of Tylybas District Internal Affairs Department of South Kazakhstan oblast, Temporary holding facility and specialized reception center of Karakiya District Internal Affairs Department of Mangistau oblast, specizlied reception center of Kostanai city Internal Affairs Department and reception centers of Internal Affairs Department of Almaty are situated in buildings failing to conform to the national and international standards (old buildings, basement or semi-basements, need capital repair).



Reception center of Almaty city Internal Affairs Department

Many facilities lack basic imprisonment conditions, incarceration norms are not respected (overcrowded or uneven distribution of persons and sanitary area). the overwhelming majority have poor natural lighting and have unregulated 24-hour lighting in cells, limited access to natural ventilation and poor capacity to control ventilation.



Temporary holding facility, Semey

The biggest share of visited holding facilities, specialized reception centers and reception centers had no hot water, premises were not adequately heated in winter, toilets and sewage were in bad shape, bedding was of unsatisfactory quality (in some instances beds were not provided), personal hygiene products were lacking, and so did sanitary disinfection liquids; humidity was also increased. A factor perceived as degrading treatment is non-isolated toilets in cells, absence of tanks with drinking water. All the state circumstances contradict international norms of treatment of prisoners, whilst detention of prisoners in such conditions amount to torture.

The analysis of submitted reports shows that issues like access to medical services, negligent attitude of medical staff, poorly organized interaction with medical NGOs remain unresolved in places of custodial detention. A fact of refusal to provide

medical care to a person suspected in sexual crime was registered in Rudny. Also, in a confidential interview a detainee of one of the temporary holding facilities reported that essence of a criminal charge becomes known to everybody and then at times serves as a cause or a reason of violent actions.

Following preventive visits many NPM members have mentioned the absence of mechanism to detect, examine and document bodily harm.

All the places of custodial detention subordinate to Interior Ministry have a common serious problem - no communication with the external world (no print media, no library, no radio and no opportunity to make a telephone call).

2.3. Conclusions and Recommendations

The NPM members who visited Interior Ministry facilities during the period-in-question were governed by current Kazakh laws and relevant international standards while drawing conclusions and giving recommendations. The Minimal Standard Rules for Treatment of Prisoners (“MSR”) and a report produced by a special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (a mission to Kazakhstan on 5th to 13th May 2009) were also used to look into situation.

Most of recommendations given by the NPM members represent specific suggestions on how to improve wards, sanitary conditions, medical service, and meals and to enable the prisoners to do sports and contact the outer world (access to newspapers and magazines, visits and phone calls) to bring them in compliance with relevant standards and MSR, contributed to managers of facilities and heads of agencies.



Temporary detention facility of Karasai Subdistrict Internal Affairs Department of Almaty Oblast Department of the Interior in Kaskelen Town

It appears that such suggestions (recommendations) should be taken into account by prosecutors on the ground to take relevant actions as they have to do directly or indirectly with dignity of individuals imprisoned in the Interior Ministry’s facilities.

Nevertheless, this report should include some recommendations on how to ensure human sanctity and prevent cruel treatment or punishment, as well as torture in the Interior Ministry's facilities.

One of significant issues related to NPM is unawareness of some officers and administration of facilities, to which the Law On NPM is applicable, of the mechanism and its objectives. In some areas the NPM members who wanted to visit correctional facilities, temporary detention facilities, specialized reception centres and reception centres were not admitted there and their cameras and video cameras were seized. To resolve the issue, the Office of the Commissioner for Human Rights had to intervene to inform the relevant central governmental authority.

Therefore, it is extremely important to continue raising awareness of officers of both central governmental authorities and those of departments of agencies on the ground of significance of the existing mechanism to fight against torture.

Given the currently unreasonable use (not on a permanent basis) of special tools, and psychological and physical pressure put by officers on individuals detained in the Interior Ministry facilities, we recommend to raise awareness of the staff of facilities of a need to respect human rights in such facilities, and of liability of officers for ill-treatment.

One should broaden the range of methods of different treatment of prisoners and their psychological correction, their productive potential and engagement of prisoners, their participation in rehabilitation and education programmes to encourage them to behave well and further adapt and integrate into society, and to reduce adverse impact of imprisonment.

As prisoners and detainees are precluded from complaining about violations of their rights in correctional facilities and pre-trial detention centres and there are no mechanisms to do so in temporary holding facilities we recommend to make sure that detained or imprisoned individuals are kept informed and have a chance to exercise their right to contact human rights organisations and law-enforcement authorities. In doing so we recommend ensuring that individuals, complaining about illegal actions of relevant officers, are not repressed.

Given the nature of job officers of such facilities do and related risks and challenges one should take care of their working conditions, their social security and the public trust.

One should more involve the public in activities of facilities, particularly in rehabilitation and education et al.

3. Individuals Detained in the National Security Committee's Facilities

3.1. General Situation

It was impossible for this report to fully describe the current situation in the Kazakh National Security Committee's facilities because of four such facilities only one pre-trial detention centre was visited twice. Nevertheless, the NPM members revealed some flaws in that facility. Corrective actions need to be taken by the administration of the facility and Chairman of the Committee.

In general, the facility is okay. The NPM members did not reveal cruel treatment or torture.

3.2. Situation Assessment

The NPM members revealed the following flaws in the facility and some contradictions to the regulatory framework:

- Inadequate natural lighting;
- Insufficient number of stools (chairs); and
- Plumbing equipment not functional at the time of monitoring (faeces were discharged by prisoners manually et al.).

Prisoners and detainees complained about public authorities not responding to their complaints on time set under law.

List of recommendations given by the NPM members was submitted to the facility administration. However, it is possible to follow them if funds are specifically allocated to maintain all the premises of the facility based on designing estimates ("DE").

3.3. Conclusions and Recommendations

It is impossible to draw conclusions on how things generally are after a visit to one facility by the NPM members. However, a supervising authority should make sure that the administration of the facility follows recommendations.

If the NPM members do not reveal any cases of degrading treatment, cruel treatment or torture of prisoners, it does not mean that the administration of the facility may be less focused on prevention of such things. This also obligates them to inform the staff about laws on prevention of torture, relevant international standards and laws and regulations for the NPM.

4. Individuals Detained in the Ministry of Defence's Facilities

4.1. General Situation

The NPM members generally describe the general situation with individuals detained in military confinement places of the Kazakh Ministry of Defence's military police divisions as satisfactory one. They somehow criticised facilities (confinement places) where wards did not look like places of stay due to lack of windows and consequent lack of natural lighting. Some confinement places are partly or fully closed for repairs. Medical service is not perfect. There are concerns about confinement places at Taraz and Aktyubinsk garrisons of the Kazakh Ministry of Defence where individual cells have no windows and toilets: they were described by the NPM members as "sacks of stone" without air and light.

The NPM members visited 4 military confinement places of the Kazakh Ministry of Defence's military police.

4.2. Situation Assessment

The general situation with military confinement places of the Kazakh Ministry of Defence's military police is described firstly to look into current detention conditions, on which supervising authorities and the senior officials of the ministry should focus on. Actions need to be taken promptly to change the situation and for officials to understand it.

According to the relevant staff of those military confinement places the number of servicemen detained in military confinement places decreases from year to year mainly due to better discipline in the country's army.

However, the current issues particularly related to locations of military confinement places, remoteness of medical workers from military confinement places, reception of servicemen from other garrisons and the need for repairs also need to be resolved.

4.3. Conclusions and Recommendations

Focus made by the public and government agencies, including supervising ones, on civil penitentiary institutions, led to worse control and lower focus on institutions reporting to the Kazakh Ministry of Defence's military police. The national standards are the same for all facilities designed to detain imprisoned individuals, individuals prior to trial (arrested ones) or those in administrative custody in the armed forces of the Kazakh Ministry of Defence.

List of recommendations given by the NPM members to administration of facilities should be taken under control by the military supervising authority. In doing

so a focus should be made on how to bring wards (cells and buildings) in line with the current laws so that they comply with standards on sanitary, contacts with the outer world, and knowledge of constitutional rights and obligations by the staff of facilities and individuals imprisoned there.

5. Individuals Detained in the Ministry of Healthcare and Social Development's Institutions

5.1. General Situation

In accordance with the Kazakh Code of Public Health and Healthcare the NPM members visit the following institutions for forced treatment: specialized TB institutions, substance addiction treatment institutions for forced treatment, and psychiatric hospitals where forced medical service is provided (general-purpose psychiatric hospitals for forced treatment, specialized psychiatric hospitals, and specialized psychiatric hospitals with intensive observation).

The NPM members were granted access to the above institutions during a period from March to November 2014. During the stated 71 visits were paid to healthcare institutions. Of them:

- TB dispensaries and TB parlours: 21;
- Psycho-neurologic hospitals and psychiatric hospitals: 25; and
- Substance addition treatment hospitals, including specialized prevention and treatment institutions for forced treatment of alcoholics and drug addicts: 25.

This includes 1 special visit to Zhambyl Oblast TB Dispensary on 24th and 25th September 2014.

It should be noted that the Ministry of Healthcare and Social Development's institutions are places where before the NPM was launched the public oversight (public monitoring) was carried out on a selective basis and only in some institutions as part of monitoring visits by the staff of the Office of the Commissioner for Human Rights.

Therefore, of all mandated institutions visited by the regional NPM groups during the period-in-question, healthcare institutions were those, most of which the NPM groups were not admitted to. Also, the staff of them generally responded in a negative manner to comments on staying conditions and failure to follow these recommendations.

For instance, access to institutions was not granted on time due to unawareness of the staff of the NPM. Access was only granted after consultation with the regional departments of healthcare and the National Human Rights Centre by phone. That was the case with a provincial psycho-neurologic hospital and a provincial substance addiction treatment hospital in South Kazakhstan oblast, with West Kazakhstan oblast's specialized

addiction prevention and treatment institution, with Almaty City drug addiction centre for social and medical correction, and with substance addiction treatment institution for forced treatment in Blagoveshchenka Village in North Kazakhstan oblast.

Also, the managers of the following institutions did not allow the NPM teams pay planned prevention visits to: a medical centre for psychic health in Astana City, a centre for psychic health in Almaty City, Zhambyl oblast Psychiatric Hospital, and Pavlodar oblast's TB Dispensary. The NPM members had to come back to those institutions.

Relevant reports on the above incidents were produced. They were submitted to designated authorities. Also, the National Centre for Human Rights sent letters directly to the Ministry of Healthcare and Social Development to make sure that technical and organisational support was provided to the institution. Following that in early 2015 the ministry made a conference call to address all relevant issues.

5.2. Situation Assessment

Substance addiction treatment Institutions for Forced Treatment

On preventive visits to narcological institutions the NPM members did not establish specific facts of torture or other cruel treatment in those institutions.

At the same time, they raised the following issues that needed to be addressed.

The NPM members stated that the following institutions were located in buildings and premises, requiring overhauls: West Kazakhstan oblast substance addiction treatment hospital (built in 1983), a substance addiction treatment ward of oblast substance addiction treatment centre in Karaganda oblast Zhezkazgan City (built in 1956), East Kazakhstan oblast substance addiction treatment hospital, and West Kazakhstan oblast substance addiction treatment dedicated prevention and treatment institution.

Besides, South Kazakhstan oblast's substance addiction treatment hospital is located in a structure built in 1979 and it is not designated for medical service. In some institutions such premises as baths, canteens and outdoor toilets require repairs.

In general, medical service in such institutions is okay. In some institutions there is a shortage of medical workers. For instance, there is no a sufficient number of medical workers in a substance addiction treatment institution for forced treatment in Blagoveshchenka Village of North Kazakhstan oblast: there is a considerable shortage of psychotherapists, narcologists and therapists. There is no a psychologist and a psychotherapist in South Kazakhstan oblast substance addiction treatment hospital.



Municipal substance addiction treatment centre for social and medical correction in Almaty City

Poor sanitary is one of the most common challenges faced in all relevant institutions. Narcological institutions are not an exception. And it is important to realise that insufficient number of toilets and sinks, lack of personal hygiene products, outdoor toilets in bad sanitary condition and other sanitary-related issues are one of the forms of cruel or degrading treatment. Some institutions refer to inadequate allocation of funds from the central budget. However, the maintaining of existing toilets in good condition does not require too much money.

Therefore, the NPM members considered the sanitary conditions poor in the following narcological institutions: Aktobe oblast narcological hospital (1 toilet per 6 wards, bad condition, lack of soap, and 1 shower per floor), West Kazakhstan oblast narcological dedicated prevention and treatment institution (bathrooms in the building are locked to save water, patients use outdoor toilet, which is in bad condition, no place to do laundry), Almaty City narcological centre for social and medical correction, Pavlodar Oblast's narcological hospital, provincial dedicated prevention and treatment institution in Saran Town of Karaganda oblast, narcological institution for forced treatment in Blagoveshchenka Village of North Kazakhstan oblast, East Kazakhstan oblast narcological hospital, West Kazakhstan Oblast's narcological dedicated prevention and treatment institution et al.

Inadequate meals are also one of important challenges. The NPM members established facts of insufficient number of utensils (Aktobe oblast narcological hospital), lack of meat and dairy (Aktobe oblast narcological hospital), and no control over quality of meals (narcological ward of the oblast's narcological centre in Zhezkazgan City, the oblast's dedicated prevention and treatment institution in Saran Town).

Some institutions lack special room for having meals (Eastern-Kazakhstan Oblast's narcological hospital) while others have such rooms but do not use them so that patients have meals in wards (a narcological institution for forced treatment in Blagoveshchenka Village of North Kazakhstan oblast).

There is another challenge faced by many narcological institutions: patients cannot contact the outer world as there are no libraries and periodicals, extremely limited time for watching TV, impossibility to contact families due to lack of special visiting rooms. There are challenges faced by patients in a special prevention and treatment institution of Mangistau oblast, Kostanai oblast narcological hospital, Almaty City narcological centre for social and medical correction, narcological ward of Karaganda oblast Zhambyl City narcological centre, Karaganda oblast Saran Town dedicated prevention and treatment institution, Eastern-Kazakhstan narcological hospital, and West Kazakhstan oblast narcological dedicated prevention and treatment institution.

Bad living conditions, which represent cruel treatment, as well, mean lack of beds (sometimes patients sleep on the floor), overcrowded rooms, lack of bed sheets, broken furniture, non-functional ventilation (there is an odour in rooms), uncomfortable and filthy area, lack of natural lighting and inadequate air inflow, no partition to separate a toilet in a special ward for patients who break rules, inadequate sanitary area per person and insufficient number of bedside tables.

Virtually all visited narcological institutions do not support work or leisure, including physical exercises and sports. Some institutions have scarce sporting equipment, which can be only used by males. Walking yards of institutions are virtually not equipped. Just a few walking yards have 1 chin-up bar, and 1 chair despite the fact that benches and other sporting equipment are supposed to be there.

A big challenge, impacting other things, is lack of complaints mechanism and consequent lack of their proper review. For instance, most institutions lack boxes for complaints, legal information, as well as complaint registries.

West Kazakhstan oblast narcological dedicated prevention and treatment institution forbids to make phone calls and refuses to accept complaints from its patients. A security guard attempted to take a complaint from the NPM members, thus demonstrating ignorance of laws, governing the NPM. Also, the administration of that institution sent patients out to work for free.

When calling Pavlodar oblast narcological hospital at a number indicated at a stand as its chief physician's number it was found out that the number had been owned for 2 years by private individuals, and the hotline phone did not answer.

Psychiatric Hospitals for Forced Medical Service

When visiting various psychiatric and psycho-neurologic institutions the NPM members raised the following issues requiring relevant resolution.

First of all, one needs to look at buildings and premises of institutions. Some of them

need big overhauls (Stepnogorsk regional psychiatric hospital, Kostanai Oblast's psychiatric hospital, medial centre for psychiatric health in Astana City, and national dedicated psychiatric hospital for intensive observation in Aktas Village of Almaty Oblast). Besides, Akmola Oblast's psycho-neurologic hospital is located in 3 old buildings not suitable for medical service. Also, Atyrau Oblast's psycho-neurologic hospital is located in a structure built in 1958.

Expired drugs were once found in Astana City centre for psychiatric health.

Lack of human resources, poor sanitary, bad meals, lack of contacts with the outer world, overcrowded wards, lack of individual patient closets and bedside tables, inadequate natural and artificial lighting, lack of ways to file complaints, bad quality of bed clothes and other issues related to living conditions, are typical of psychiatric institutions, as well as of narcological hospitals.

A distinctive feature of institutions of this kind is that patients are not engaged at all: they do not work, and they have no chance to get educated or do sports.

The living conditions in the national psychiatric hospital in Almaty Oblast's Aktas Village are of particular concern. It was found out that patients had to subscribe to newspapers and magazines by themselves, but the administration of the institution censored the correspondence. Patients may be visited 2 times per months. Visits may last for 10 to 15 minutes and patients can speak by phone only in the presence of administration for 5 minutes. There is 1 telephone per 845 patients.



National dedicated psychiatric hospital for intensive observation in Almaty Oblast's Aktas Village

Besides, the NPM members established facts of writing off (using) patients' personal money to buy things, which had absolutely nothing to do with personal belongings of patients of the institution. That should be investigated by the designated authority. Therefore, Almaty City's and Almaty Oblast's regional NPM group made the relevant request to Almaty Oblast's prosecutors.

TB Institutions

During the visits to TB institutions the NPM members raised the following issues requiring relevant resolution.

Issues related to buildings and premises were raised in 3 areas of the country: Ily TB hospital in Almaty Oblast (a dish washing room needs to be repaired), Pavlodar Oblast's TB hospital (there is a need to enhance the area of wards to comply with international standards) and Kyzylorda Oblast's Zhanakorgan TB Hospital (built in 1974 not suitable for medical service).

As to medical services provided in such institutions the NPM members did not reveal any particular problems. On the contrary, they evaluated them quite highly. They only revealed bad-quality drugs in Zhambyl Oblast's TB hospital.

Sanitary in the institutions-in-question were somehow criticised by members of monitoring teams. For instance, patients of Ily TB hospital in Almaty Oblast are allowed to use toilets inside the hospital only to relieve themselves. In other cases they have to use an outdoor toilet in any weather any season.

Also, there are no toilets for disabled people using wheel chairs.

As to meals, contacts with the outer world, living conditions and ways to file complaints, the NPM members also gave lots of recommendations on how to improve those.

Special Visit

On 24th and 25th September 2014, the NPM members in Zhambyl Oblast paid a special visit to Zhambyl Oblast's TB hospital.

The special visit was paid following several complaints filed by its patients about patient living conditions, meals and medical service.

During the visit there a number of issues related to patients' stay such as use of bad-quality drugs and syringes, lack of control over quality of meals that could be extremely bad for people taking lots of drugs for tuberculosis, male and female wards not separated properly from each other through partitions, and other issues were raised.

Following the visit the relevant recommendations were given to the administration of the institution.

Therefore, the situation with individuals staying in the Ministry of Healthcare and Social Development's institutions generally needs attention and allocation of

considerable budgetary funds mainly to bring wards in compliance with the national standards and international standards and to build new facilities conforming to national and international standards.

5.3 Conclusions and Recommendations

Conclusions drawn and recommendations given by **the NPM members** who visited healthcare institutions during the reporting period are based on the effective national laws and international standards.

The majority of recommendations given by **the NPM members** represent specific suggestions to senior officials of provincial governments, **administration** of institutions and heads of agencies on how to improve wards, sanitary, medical services, meals, sporting environment and contacts with the outer world (access to newspapers and magazines, visits, phone calls) et al.

It appears that the Ministry of Healthcare and Social Development and the Office of the General Prosecutor should start monitoring a progress in following such suggestions (recommendations) contributed at provincial level so that prosecutors take actions planned under law in order to respond on time.

First, one needs to take a number of actions to teach to act and get knowledge of regulations to perform all required duties, of laws on NPM, international and national standards on forced medical service, and of criminal laws and other issues such as prevention of torture and constitutional principle of sanctity of human dignity.

Besides, the staff of healthcare institutions should be prepared for detect and respond to specific incidents of torture and other cruel or degrading treatment, which patients staying in institutions can undergo.

Second, given the fact that in some cases persons the NPM members were not able to monitor the institutions during the reporting period, it is extremely important to continue raising awareness of officials of both central governmental authorities and relevant departments on the ground of importance of the mechanisms to combat torture.

Third, healthcare institutions, whom the NPM members gave recommendations following preventive visits, must to take all possible steps within the limits of their current budgets to improve patient staying and treating conditions.

Fourth, given the fact that the institutions-in-question do not report directly to the Ministry of Healthcare and Social Development, but to local governments, local governments shall take all possible steps to finance and make sure that recommendations given by the NPM members to institutions are followed.

Fifth, the Ministry of Healthcare and Social Development must take all possible steps to follow long-term recommendations given by the NPM members to institutions.

6. Individuals Staying in the Ministry of Education and Science's Institutions

6.1. General Situation

In accordance with the Law On Prevention of Offences by Minors and Prevention of Child Neglect the NPM members visit such educational institutions as the Centre for Adaptation of Minors (“CAM”), dedicated educational institutions and educational institutions with special control.

Given the fact that this report is released for the first time, this part will briefly describe institutions visited by the NPM members.

Centres for adaptation of minors receive and temporarily detain neglected minors 3 to 18 years old left without parental care or guardian care, sent to specialized educational institutions and or who find themselves in a difficult life situation due to cruel treatment.

Specialized educational institutions raise, educate and carry out social rehabilitation of minors 11 to 18 years old, who has been systematically committing crimes, and which entailed administrative actions, minors who do not want to be educated, minors who left their families or children's institutions without permission, and minors, who take other antisocial actions.

Educational institutions with special control enable special environment for raising, educating and socially rehabilitating minors, requiring special approach in education.

There are 18 centres for adaptation of minors and 9 specialized educational institutions in Kazakhstan. One of them is an educational institution with special control.

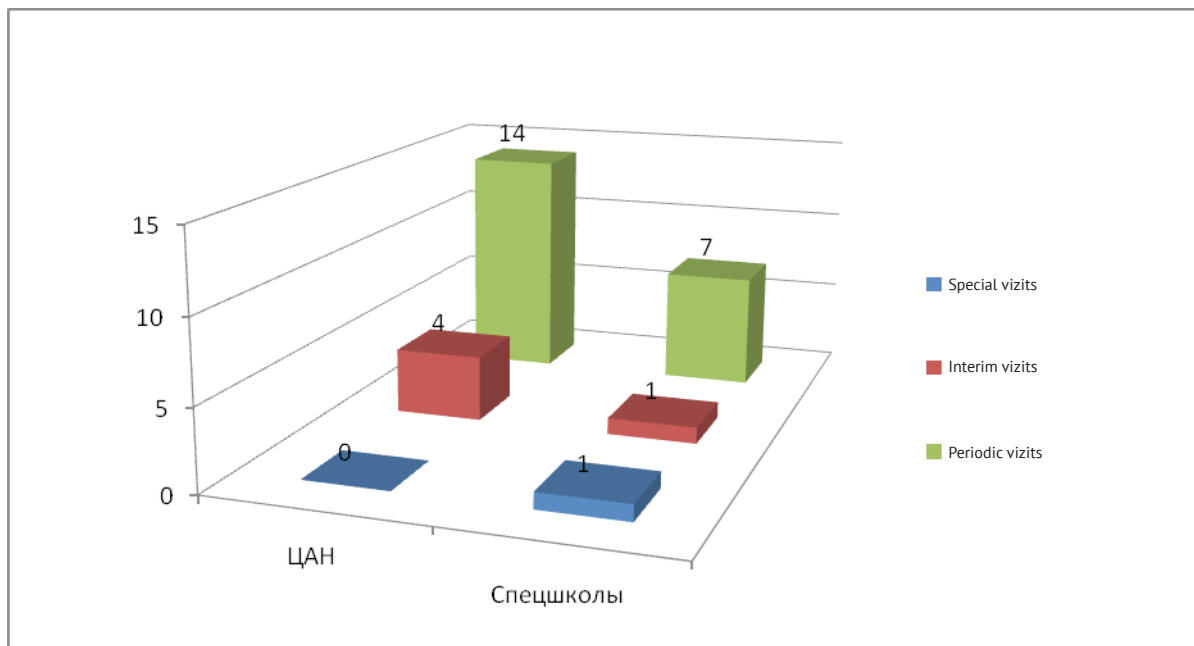
Centres for adaptation of minors, which were earlier referred to as “centres for temporary isolation, adaptation and rehabilitation of minors” and which earlier reported to the Interior Ministry, have always been criticised by human rights lawyers, including international ones, because neglected minors were detained there together with juvenile offenders.

During the reporting period the NPM members visited 14 CAMs. Four of them were visited twice i.e. on interim visits.

9 visits were paid to special educational institutions. These include 7 preventive visits, 1 interim visit and 1 special visit.

Below is a diagram of visits to educational institutions.

Preventive visits to education institutions (2014)



When visiting the above-mentioned institutions the NPM members looked into situation with the respect to children's rights in those institutions in terms of human dignity, constitutional principle of its sanctity, documentation (if required) of incidents, consequences or conditions of cruel treatment, punishment or torture.

Unfortunately, the remaining educational institutions such as orphanages, children's homes and other foster homes are not covered by the NPM mandate and are not in the list of institutions subject to NPM under the law.

6.2. Situation Assessment

The NPM members did not establish specific facts of torture or other cruel treatment in those institutions.

At the same time, the NPM members raised the following issues, requiring resolution.

Centres for adaptation of minors do not have ready-to-use standard designs for construction of new buildings or reconstruction of the existing ones that would meet modern living conditions requirements and conform to sanitary and special status of minors.

In case of emergency (fire, or natural disaster) and if medical aid needs to be rendered to a minor, it is difficult to access institutions for many reasons including due to their remoteness.

In some institutions rooms for first reception of minors are not equipped properly: these are dark and gloomy rooms for solitary detention without proper lighting and other things (no books, TV set et al.). (South Kazakhstan Oblast and Kostanai Oblast)

In some centres for adaptation of minors lights in the living rooms are dim, furniture is old and worn, no playing grounds, no enough bed-side tables and no natural airing. (Kyzylorda Oblast, and Almaty Oblast)

Not all equipment in toilets is functional, and doorways are low there. Toilets in some centres for adaptation of minors are locked or there are no toilets at all. Children have to do go outdoors so that there is relevant odour. (Aktobe Oblast, and Zhambyl Oblast)

It should be noted that the institutions which operate within the framework of the same rules, in reality do not always perform relevant services as required.

For instance, persons the NPM members reported about good child living conditions in East Kazakhstan Oblast's centre for adaptation of minors which was evidently due to adequate financing. At the same time, they said that the staff of the institution did not develop children properly, and did not render proper support as teachers and psychologists. That attitude results in repeated admission of children. For instance, in 2014, 67 children have been repeatedly returned to the institution.

The above stated is the contrary to the work done by the staff of Akmola Oblast's centre for adaptation of minors: the staff work with children as psychologists not only inside the institution, they also work with the vulnerable families, and adoptive parents; they oversee and help families, which took orphans. 24 children were given to families in 2014.

The NPM members have criticised conditions, in which children, having no chance to talk to parents or other relatives by phone in absence of security guards or other strange adults, happened to be.

Special Educational Institutions

Some institutions do not have enough sporting equipment, and there are no sports playgrounds. Even if there is sporting equipment, it is unusable for little children. (Kyzylorda Oblast) There were issues related to contacts with the outer world such as lack of libraries, insufficient information about rights and obligations, and lack of complaints mechanism, including anonymous ones.

The NPM members pointed out inadequate standards on provision of clothes, particularly underwear, socks and stockings as they are worn too quickly. Therefore, they do not satisfy actual needs of children (for instance, 3 pairs of socks per year, 2 pairs of briefs and T-shirts per year etc.). (East Kazakhstan Oblast, and Zhambyl Oblast)

The NPM members in East Kazakhstan Oblast stated that teachers working at the oblast's specialized boarding school for juveniles that offended before they turned 16 (Belousovka Village in East Kazakhstan Oblast) had been taking systemic actions to counteract torture and degrading treatment.

The NPM members in Zhambyl Oblast highly value efforts made at Special School for Children and Teenagers (Taraz City) where its administration selects staff and work with children so that there is a unique environment enabling the right raising of deviant teenagers. Moreover, individual polls of teenagers show that the environment there is actually friendly and that it enables development of children and teenagers.



Special educational institution for deviant children in Almaty City

Special Visit

Pursuant to Paragraph 6 of Rules for Preventive Visits by Teams to Be Formed of the National Preventive Mechanism Members, approved by Resolution No. 266 passed by the Kazakh government on 26th March 2014, Kyzylorda Oblast's NPM team paid a special preventive visit, as decided by the Commissioner for Human Rights following a message about cruel treatment of the 5th year student of the Provincial Home for Deviant Children Ye. Abdirakhimov.

On that visit the fact of cruel treatment of minor Ye. Abdrakhimov was established. Besides, it was found out that the teenager was apt to suicide.

As a result, the law-enforcement authorities brought a criminal action as per Article 137 of the Criminal Code. (failure to fulfil obligations to raise a minor). Mr Kurmanbekov, a security guard of the institution was initially charged with cruel treatment of the minor but his actions were not considered criminal offence as they did not have elements of a crime but had elements of an administrative offence, as per Article 137 of the Criminal Code. Therefore, administrative action was brought against Mr Kurmanbekov pursuant to Article 79-3 of the Code of Administrative Offences (damage to health) and the case went to court.

Specialists of the department of education, department of healthcare and psychologist of the oblast's psycho-neurologic hospital rendered psychological aid to Ye.

Abdirakhimov. The specialists certified that the teenager was suicidal. The oblast's leading psychologists were obligated to look after the teenager and provide educational and psychological support on individual basis.

6.3. Conclusions and Recommendations

Concluding the part of preventive visits, it should be noted that according the NPM members the number of staff members of many institutions (centres for adaptation of minors and special schools) is sometimes larger than the number of minors. Perhaps, such institutions need to be reformed so that they can cover and help as many children of "risk groups" or vulnerable families as possible.

Not all the institutions are aware of such mechanism as NPM, and of a need to continuously educate the staff on how to treat children. The staff of children's institutions should support the correction of minors, instil sense of justice and respect for human rights.

It should be noted that the administration of visited institutions is willing to respond adequately to recommendations given by the NPM members. However, not all recommendations can be implemented given their current budgets.

Many institutions have no complaints mechanism (no boxes, minors are not aware of organisations, which they can contact et al.).

Following visits the NPM members gave recommendations directly to the administration of the institutions. They are generally as follows:

- The staff of children's institutions should be prepared to determine and respond to specific facts of torture and other cruel or degrading treatment of children detained in institutions and;
- The administration of all institutions subordinate to the Ministry of Education and Science should be obligated under law (or regulations) to make it possible for minors to file a complaint and ensure that they are considered. Information boards (posters) informing children about their rights and internal rules of the institution shall be made available in Kazakh language and Russian, and
- Centres for adaptation of minors need to improve efficiency of Family Support Centres established in every CAM to address needs of vulnerable families and children of "risk groups" to prevent child neglect, and to fulfil potential of existing institutions given their low occupancy rates.

7. Conclusion

The introductory section of this report describes the establishment of a new National Preventive Mechanism to prevent torture and other cruel, inhuman or degrading

treatment or punishment. Indeed, even before the Law of the Republic of Kazakhstan “On Introduction of Changes and Addendae to Certain Legislation Acts of the Republic of Kazakhstan pertinent to Establishment of the National Preventive Mechanism, To Prevent Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment” (“Law On NPM”) was signed by the President of Kazakhstan in July 2013, enormous efforts had been made in this regard.

The Commissioner for Human Rights informed the UN Committee Against Torture about those efforts, as well as about issues related to the establishment of the new human rights institution and outlook for its progress. (September 2014) At the same time, it should be noted that the NPM is part (or component of the subcommittee) of a mechanism to prevent torture in Kazakhstan. Therefore, we can look forward to assistance, including methodological one, from our foreign colleagues, who has been using such human right mechanism in their countries longer than we do. Also, one may count on exchange of experience in visiting, raising issues, giving recommendations and further monitoring of the relevant progress.

One should not forget that in accordance with the legislation the NPM was set up in Kazakhstan using an “ombudsman plus” model. The ombudsman is the national human rights institution developed by Decree No. 947 issued by the President of Kazakhstan on 19th September 2002 and accredited with the International Coordinating Committee of National Human Rights Institutions. However, some failure of the institution to adhere with Paris Principles impacted the NPM. As a result, the two national human rights institutions cannot impact in the fullest possible manner the situation with human rights in general and in the NPM mandate institutions in particular. First of all, this is the case with the Commissioner for Human Rights’ response actions, number of staff of its executive board and representation in the regions. As to the legal framework, the NPM’s framework is a bit superior as the Commissioner for Human Rights institution was established by the Presidential Decree and does not have effect of a law as opposed to the law on NPM. This needs to be rectified.

7.1. Conclusions

Today one may state the efficiency of the National Preventive Mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment, certain reputation of the majority of the NPM members and readiness to bring constructive change if required. The new legal framework allows to respond to emergencies and complex situations and to regularly visit relevant institutions on periodic and interim basis. (Annexes 3 and 4)

The main issues raised by the NPM members in institutions reporting to various agencies are related ultimately to the need to do the routine maintenance or to overhaul buildings and structures or to build new ones. Bad sanitary conditions, lack of required drugs and inadequate meals are caused primarily by poor control and supervision on the part of governmental authorities.

It should be noted that governmental authorities and the administration of institutions are willing to follow recommendations given by the NPM members, as well as recommendations given to governmental authorities, including the departments of the General Prosecutor's Office, by the Commissioner and head of the National Human Rights Centre. This is confirmed by extensive correspondence exchange about the recommendations given by the NPM members and about organising, planning and paying preventive visits, sent and received from governmental authorities.

7.2. Recommendations

Majority of recommendations given by the NPM members represent specific suggestions to the administration of institutions and heads of agencies on how to improve wards, sanitary, medical service, meals, conditions for sporting and contacts with the outer world (access of newspapers and magazines, visits, phone calls) so that they comply with bylaws and regulations.

Set of suggestions (recommendations) contributed by the NPM members on the ground should be taken under control by the General Prosecutor's Office to take actions of prosecutorial response for sometimes these issues directly or indirectly violate human dignity of individuals detained in the institutions of the Interior Ministry, Ministry of Defence, National Security Committee, Ministry of Healthcare, and Ministry of Education and Science. (Recommendations given the NPM members are summarised by institution and by agency).

Besides, at the central government we recommend the following:

Improvement of laws and regulations for the NPM

- The Coordinating Council is to begin looking into possibility to make amendments and addendae to the Law on NPM to compliment the list of institutions and organisations subject to the NPM by social and healthcare institutions for persons with disabilities, children with psycho-neurologic pathologies, children with locomotor system disorders, senior citizens, orphanages, special care social homes and other special boarding schools;
- The National Centre for Human Rights is to submit suggestions to the Ministry of Justice (budget programme administrator) on how to amend and modify Governmental Resolution No. 301 dated April 2, 2014, the Rules of Compensation of Expenses incurred by the NPM members in relation to their preventive visits such as transportation costs, office lease costs, training costs etc.;
- Rules for visiting to penal institutions, pre-trial detention facilities (Appendix 2 to Order No. 182 issued by Interior Minister on March 29, 2012), making a list of individuals entitled to visit penal institutions and pre-trial detention facilities without special permission, are to be amended and the NPM members are to be included in the list (amendments enforced on January 1, 2015 (Order No. 535 of 20/08/2014) although the NPM members are equalled in that sense to judges and prosecutors, Article 32 of

the Penal Code leaves the current situation unchanged: a pass has to be received in advance);

- The Regulations for the Commissioner for Human Rights Coordinating Council are to be amended so that they allow the Chairman of the Coordinating Council to submit recommendations given in reports produced by the NPM members on how to rectify breaches of laws and regulations directly to the Prosecutor General for prosecutorial response and a follow up control the progress on the ground, and

- The Law On Procedure and Terms of Detention Persons in Special Institutions, Providing Temporary Social Isolation is to be amended to enable the remand detainees have right to long-term visits while in pre-trial detention facility, to be authorized by investigator or judge and depending on the stage the case: many of them are detained in pre-trial detention facilities for a few years and have no chance to see their families which represents a discrimination on the ground to enjoy the right to private and family life.

Required Capacity and Professional Competenceпотенциала и профессиональных знаний

- The Ombudsman for Human Rights as a chair of the NPM's Coordinating Council should plan and take actions, providing continuous training of the NPM members (paying preventive visits and looking at medical issues) on skills and knowledge of regulations, as well as on bylaws on NPM, on international and national standards regarding custodial detention, individuals under forced treatment, and provisions of criminal laws concerning prevention of torture and sanctity of human dignity;

- As part of operational training and occupational training for the officers of the Interior Ministry's internal forces, in charge of prison security, convoy and control of prisoners, the staff of penal institutions and pre-trial detention facilities, as well as the staff of the Special Institutions Department and Convoy, disciplines of NPM law and related regulations, as well as of criminal law and other issues related to prevention of torture and sanctity of human dignity must be incorporated into curriculum of trainings and held on a permanent basis to enhance knowledge of NPM, international and national standards of imprisonment conditions and other issues related to prevention of torture and sanctity of human dignity;

- The Ministry of Healthcare and Social Development is to take number of actions, which, if taken, will allow to provide all healthcare institutions, including penitentiary institutions, with information on prohibition of torture. Trainings to study NPM laws and regulations, international and national standards on imprisonment conditions and conditions applicable in case of forced treatment, as well as criminal laws and other issues related to prevention of torture and sanctity of

- human dignity shall be developed and incorporated into training programmes for those institutions, and

- A number of training actions (for all Ministry of Education and Science institutions staff) shall be planned and delivered in association with the Committee on

Protection of the Rights of the Child so that they are aware and capable of using bylaws to perform their duties duly, along with NPM law and regulations, international and national standards on detention of minors, as well as criminal laws and other issues related to prevention of torture and respect for constitutional principle of sanctity of human dignity.

Access to mechanisms to protection mechanisms by individuals detained in institutions

- The Penal Committee of the Interior Ministry in association with the NPM Coordinating Council is to consider engaging the NPM members in offering incentives to prisoners that will become an important component of motivating them to abide by law and to adapt and integrate into society; and
- The Ministry of Education and Science, the Ministry of Healthcare and Social Development, and the Ministry of Interior are to grant access the national hotline No. 150 to children and youth to make emergency phone calls and obtain information about the rights of the child and youth.

Improvement of the NPM's institutional activities

- Due to coming into effect on January 1, 2015 of the new Criminal Code, Penal Code, and Criminal Procedure Code and given the fact that new members join the NPM groups - to hold working meetings of the NPM members at national and regional levels, including ones where heads of public agencies are invited. Such meetings need to be organised to share experience, improve skills of the NPM members and improve their preparedness for upcoming visits to institutions of various agencies.

Improvement of logistics of institutions to be visited

- The Ministry of Education and Science needs to take a set of actions to systemically appraise the situation and further develop a governmental programme backed by adequate financing to build new institutions (based on standard designs) and reconstruct the existing ones to comply with minimum standards on wards, lighting standards, sanitary standards, standards on logistics, modern standards on leisure of minors; and
- Prosecutors and officials of the Ministry of Education and Science are to (immediately) focus on the Centre for Adaptation of Minors of Zhambyl Oblast's department of education as children there live in a building, which was officially recognised as unsafe. Meanwhile, the local department of the agency failed to take any corrective action.

NPM 2014 Financial Report

| No | Oblasts | April | | May | | June | | July | | August | | September | | October | | November | | TOTAL | | Including overheads (stationery, comm.servic es, travel expenses) |
|----|------------------------|--------------------|---------|---------------------|---------|---------------------|---------|---------------------|---------|--------------------|---------|---------------------|---------|-------------------|---------|---------------------|---------|-------------------|----------|---|
| | | Numbe r of visit s | amount | Nu mb er of visi ts | Amount | Nu mbe r of visit s | Amount | Nu mb er of visi ts | Amount | Num ber of visit s | Amount | Nu mb er of visi ts | Amount | Num ber of visits | Amount | Nu mb er of visit s | Amount | Num ber of visits | Amount | |
| 1 | Astana city | 5 | 99830 | 5 | 110372 | 7 | 143430 | 6 | 122303 | 5 | 103158 | 7 | 142062 | 4 | 83568 | 17 | 346887 | 56 | 1151610 | 33514 |
| 2 | Akmola | 2 | 39932 | 10 | 258888 | 19 | 441104 | 12 | 321980 | 0 | 0 | 7 | 164157 | 4 | 80244 | 7 | 154534 | 61 | 1460839 | 242913 |
| 3 | Almaty city and oblast | 4 | 79864 | 0 | 0 | 12 | 288649 | 8 | 159728 | 7 | 139762 | 8 | 159728 | 0 | 0 | 27 | 551822 | 66 | 1379553 | 61797 |
| 4 | East KZ | 12 | 239592 | 7 | 139762 | 7 | 139762 | 7 | 203618 | 0 | 0 | 14 | 291329 | 6 | 153578 | 7 | 139762 | 60 | 1307403 | 109443 |
| 5 | Zhambyl | 4 | 79864 | 12 | 275139 | 8 | 160238 | 7 | 139762 | 4 | 79864 | 12 | 241107 | 4 | 109921 | 4 | 79864 | 55 | 1165759 | 67629 |
| 6 | West KZ | 0 | 0 | 0 | 0 | 0 | 0 | 28 | 559048 | 10 | 199660 | 6 | 119796 | 9 | 179694 | 10 | 199660 | 63 | 1257858 | 0 |
| 7 | Karaganda | 0 | 0 | 0 | 0 | 0 | 0 | 25 | 499150 | 8 | 159728 | 6 | 127204 | 6 | 146332 | 6 | 119796 | 51 | 1052210 | 33944 |
| 8 | Kostanai | 3 | 59898 | 4 | 99122 | 6 | 123025 | 6 | 124062 | 4 | 84431 | 3 | 62775 | 8 | 166710 | 8 | 258080 | 42 | 978103 | 139531 |
| 9 | Kyzylorda | 15 | 299490 | 3 | 59898 | 7 | 139762 | 4 | 84908 | 5 | 99830 | 2 | 52715 | 11 | 224108 | 6 | 122996 | 53 | 1083707 | 25509 |
| 10 | Mangistau | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 79864 | 12 | 239592 | 6 | 119796 | 22 | 439252 | 0 |
| 11 | Pavlodar | 11 | 219626 | 12 | 262004 | 5 | 122501 | 0 | 0 | 14 | 313073 | 12 | 262001 | 8 | 170816 | 10 | 222998 | 72 | 1573019 | 135467 |
| 12 | North KZ | 10 | 208568 | 7 | 193556 | 7 | 139762 | 6 | 119796 | 12 | 239592 | 7 | 139762 | 11 | 272850 | 12 | 284504 | 72 | 1598390 | 160838 |
| 13 | South KZ | 8 | 170928 | 8 | 223914 | 8 | 200910 | 8 | 163887 | 8 | 160358 | 4 | 80114 | 12 | 241202 | 8 | 160978 | 65 | 1382525 | 84735 |
| 14 | Atyrau | 0 | 0 | 13 | 259558 | 9 | 180114 | 9 | 180184 | 10 | 200220 | 7 | 140262 | 19 | 379824 | 11 | 219626 | 78 | 1559788 | 2440 |
| 15 | Aktobe | 0 | 0 | 0 | 0 | 0 | 0 | 12 | 239592 | 20 | 454344 | 18 | 538756 | 0 | 0 | 0 | 0 | 50 | 1232692 | 234392 |
| | TOTAL | 74 | 1497592 | 81 | 1882213 | 95 | 2079257 | 138 | 2918018 | 107 | 2234020 | 117 | 2601632 | 114 | 2448439 | 139 | 2981303 | 866 | 18622708 | 1332152 |

In KZT

Number of institutions and facilities to be covered by preventive visits in oblasts as planned for 2014.

| № | Oblast | THF | PD C | Recepti on center | Special ized RC | CAM | Psych iatric hospit al | Drug Addictio n treatme nt | TB Dispens ary | Special Schools | CNS PDC | Militar y confinement cells | Total |
|-----|-------------------------------------|------------|-----------|-------------------------|-----------------------|-----------|---------------------------------|--|----------------------|--------------------|------------|--------------------------------------|------------|
| 1. | Astana city | 1 | 4 | 1 | 1 | 1 | 1 | 1 | 1 | ----- | 1 | 1 | 13 |
| 2. | Akmola | 16 | 7 | 1 | ----- | 1 | 3 | 2 | 5 | ----- | ----- | ----- | 35 |
| 3. | Almaty city and Almaty oblast | 21 | 9 | 3 | 1 | 2 | 5 | 2 | 19 | 1 | 1 | 3 | 67 |
| 4. | Aktobe | 14 | 5 | 1 | 1 | 1 | 1 | 2 | 8 | ----- | ----- | 1 | 34 |
| 5. | Atyrau | 8 | 4 | 1 | 2 | 1 | 1 | 1 | 10 | ----- | ----- | ----- | 28 |
| 6. | East KZ | 20 | 14 | 2 | 4 | 2 | 5 | 3 | 14 | 2 | ----- | 1 | 67 |
| 7. | Zhambyl | 7 | 5 | 1 | 1 | 1 | 1 | 1 | 12 | 1 | ----- | 1 | 31 |
| 8. | West KZ | 19 | 3 | 1 | 2 | 1 | 1 | 3 | 12 | ----- | ----- | ----- | 42 |
| 9. | Karaganda | 20 | 12 | 2 | 1 | 2 | 5 | 6 | 11 | 1 | 1 | 1 | 62 |
| 10. | Kostanai | 10 | 6 | 1 | 3 | 1 | 3 | 2 | 11 | ----- | ----- | ----- | 37 |
| 11. | Kyzylorda | 8 | 3 | 1 | 2 | 1 | 2 | 1 | 11 | 1 | ----- | ----- | 30 |
| 12. | Mangistau | 6 | 4 | 1 | 2 | 1 | 1 | 2 | 8 | 1 | ----- | ----- | 26 |
| 13. | Pavlodar | 12 | 6 | 1 | 3 | 1 | 3 | 1 | 13 | 1 | ----- | ----- | 41 |
| 14. | North KZ | 10 | 6 | 1 | 1 | 1 | 1 | 2 | 5 | ----- | ----- | ----- | 27 |
| 15. | South KZ | 15 | 6 | 3 | 4 | 1 | 2 | 2 | 21 | 1 | 1 | 1 | 57 |
| | TOTAL | 187 | 94 | 21 | 28 | 18 | 35 | 31 | 161 | 9 | 4 | 9 | 597 |

THF - Temporary holding facility; PDC – pre-trial detention center; RC – reception center, CAM – Center for Adaptation of Minors; NSC – National Security Committee

**Visits to institutions and facilities covered by preventive visits in oblasts,
from April through December 2014**

| № | Oblast | THF | PDC | Reception center | Specialized RC | CAM | Psychiatric hospital | Drug Addiction treatment | TB Dispensary | Special Schools | CNS PDC | Military confinement cells | Total |
|-----|-------------------------------|-----------|-----------|------------------|----------------|-----------|----------------------|--------------------------|---------------|-----------------|----------|----------------------------|------------|
| 1. | Astana city | 2 | 8 (3*) | 1 | 2 | 2 | 2 | 1 | 1 | | 2 | 1 | 22 |
| 2. | Akmola | 8 | 7 | 1 | | 1 | 3 | | 3 | | | | 23 |
| 3. | Almaty city and Almaty oblast | 3 | 5 (1*) | 1 | 1 | 1 | 4 | 1 | 1 | 1 | | 1 | 19 |
| 4. | Aktobe | 2 | 4 | | 1 | 1 | 1 | 1 | 2 | | | 1 | 13 |
| 5. | Atyrau | 7 | 4 | 3 | 3 | 2 | 1 | 1 | 3 | | | | 24 |
| 6. | East KZ | 5 | 7 (1*) | | | 1 | | 3 | | 1 | | | 17 |
| 7. | Zhambyl | 4 | 2 (1*) | 1 | 1 | 2 | 1 | 1 | 1* | 2 | | 1 | 16 |
| 8. | West KZ | 4 | 5 (1*) | 1 | 1 | 1 | 1 | 4 | | | | | 17 |
| 9. | Karaganda | 9 | 6 (1*) | 1 | | | 5 | 2 | | | | | 23 |
| 10. | Kostanai | 3 | 5 (1*) | | 1 | 2 | 1 | 1 | | | | | 13 |
| 11. | Kyzylorda | 5 | 3 (1*) | | 1 | 1 | 3 | 2 | 4 | 2 (1*) | | | 21 |
| 12. | Mangistau | 3 | 4 | | 1 | 1 | | 2 | 1 | 1 | | | 13 |
| 13. | Pavlodar | 6 | 4 (1*) | | 2 | 1 | 1 | 1 | 4 | 1 | | | 20 |
| 14. | North KZ | 6 | 7 (1*) | 1 | | 1 | 1 | 3 | 1 | | | | 20 |
| 15. | South KZ | 6 | 1 | 1 | 3 | 1 | 1 | 2 | | 1 | | | 16 |
| | TOTAL | 73 | 72 | 11 | 17 | 18 | 25 | 25 | 21 | 9 | 2 | 4 | 277 |

*- Special visits

THF - Temporary holding facility; PDC – pre-trial detention center; RC – reception center, CAM – Center for Adaptation of Minors; NSC – National Security Committee

14 special visits:

- 1) East Kazakhstan oblast – facility OV 156/20 Penal Committee East Kazakhstan Department (11 April);
- 2) North Kazakhstan oblast – facility ES-164/8 (14 April) – findings submitted to Prosecutor General;
- 3) Zhambyl oblast – facility ZhD 158/7 (23-24 May) – findings submitted to oblast Prosecutor;
- 4) Kyzylorda oblast – State Organization “Oblast Boarding School for Children with Deviant Behavior”, (17 June) – materials submitted by team leader to oblast Prosecutor and Internal Affairs Department; National Human Rights Center – to Prosecutor General, Interior Ministry, municipality and Ministry of Education and Science;
- 5) Karaganda oblast – facility AK-159/1 (26 August) – a criminal case has been initiated earlier by General Prosecution office;
- 6) Astana city – facility ETs -166/5 (13 September) – report and annexes submitted by the National Human Rights Center to Prosecutor General;
- 7) Zhambyl oblast – State Organization “Zhambyl oblast TB Hospital” (24-25 September);
- 8) Pavlodar oblast – facility AP-162/4 (27 September) – findings submitted by the National Human Rights Center to Prosecutor General;
- 9) Kyzylorda oblast – facility ZK-169/5 (18 October) – findings submitted by the National Human Rights Center to Prosecutor General;;
- 10) West Kazakhstan oblast – facility RU-170/1, (22 October) –NPM team leader has sent finding to oblast Prosecutor;
- 11) Almaty city – facility LA-155/1 Penal Committee Department of Almaty city and Almaty oblast (31 October) –the National Human Rights Center has sent a request to Prosecutor General;
- 12) Astana city – facility ETs-166/5 Penal Committee Department of Astana city (19 November) – findings submitted by the National Human Rights Center to Prosecutor General;
- 13) Kostanai oblast – facility UK-161/1 Penal Committee Department of Kostanai oblast (24 November) – the NPM team has sent the report to Kostanai oblast Prosecutor
- 14) Astana city – facility ETs-166/10 (25 December) – findings submitted by the National Human Rights Center to Prosecutor General;