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THE PENITENTIARY SYSTEM IN THE NEW REALITY

ONLINE FORUM PROCEEDINGS

8 JULY 2021, NUR-SULTAN



The Penitentiary System in the New Reality, Online Forum proceedings.

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The content of the publication contains information on the activities of the Criminal Justice System of the Ministry of Internal Affairs of the Republic of Kazakhstan, the results of the First Prison Forum “Open Dialogue - a Tool for Reforming the Penitentiary System” held in 2019, speeches of the participants and recommendations.

The views of the speakers do not necessarily coincide with the views of the organizers, the authors are responsible for the content.

July 2021, Nur-Sultan

CONTENT

ONLINE FORUM PROGRAM	5
LIST OF PARTICIPANTS	7
FORUM PARTICIPANTS' PRESENTATIONS	18
Yerlan TURGUMBAYEV	18
Asset CHINDALIEV	21
Elvira AZIMOVA	23
Anar DAUTBAYEVA	24
Sven-Olov CARLSSON	26
André CARSTENS	28
Ryszard KOMENDA	29
Yakup BERIS	30
Ashita MITTAL	32
1st SESSION THE CRIMINAL JUSTICE SYSTEM: REALITY AND PROSPECTS	35
Zhanna NAZAROVA	35
Zhanat YESHMAGAMBETOV	35
Elvira AZIMOVA	40
Vyacheslav SELIVERSTOV	41
DISCUSSION. QUESTIONS AND ANSWERS	42
Bibigul ASSYLOVA	42
Isidor BORCHASHVILI	44
Marina NYSTOLYI	44
2d SESSION INTERNATIONAL AND NATIONAL RECOMMENDATIONS IN THE FIELD OF HUMAN RIGHTS IN THE PENITENTIARY SYSTEM	46
Aruzhan SAIN	46
Zhemis TURMAGAMBETOVA	50
Assel TOKAYEVA	51
Yevgeniy ZHOVTIS	52
Anara IBRAYEVA	54
Bekbolat SHAKIROV	56
DISCUSSION. Q&A SESSION	58
Aydarkan SKAKOV	58

3d SESSION OPEN DIALOGUE IS THE KEY TO TRANSPARENCY AND EFFICIENCY	59
Meiram AYUBAEV.....	59
Nurlan DYUSENBAYEV	64
DISCUSSION. QUESTIONS AND ANSWERS	66
Yelena SEMYONOVA.....	66
Bauyrzhan MUSSIN	67
Olga RYL	68
Khalida SEMYONOVA	69
 Appendix 1	
PRESS RELEASE	
THE MINISTRY OF INTERNAL AFFAIRS AND INTERNATIONAL EXPERTS	
DISCUSSED REFORMS IN THE PENITENTIARY SYSTEM.....	70
 Appendix 2	
PHOTO POSTS AND ARTICLES IN THE MEDIA.....	71
 Appendix 3	
LIST OF RECOMMENDATIONS BY FORUM PARTICIPANTS	74
 Appendix 4	
INFOGRAPHIC ON THE PERFORMANCE OF THE CRIMINAL-EXECUTIVE	
SYSTEM OF THE MINISTRY OF INTERNAL AFFAIRS OF	
THE REPUBLIC OF KAZAKHSTAN	82
 Appendix 5	
INFOGRAPHIC ON THE IMPLEMENTATION OF	
THE FIRST PENITENTIARY FORUM «OPEN DIALOGUE -	
A TOOL FOR REFORMING THE PENITENTIARY SYSTEM».....	94

ONLINE FORUM PROGRAM

14.00-14.25	Registration of participants
Moderator: Mr Yerlan TURGUMBAYEV Minister of Internal Affairs of the Republic of Kazakhstan, Lieutenant General of the Police	
14.30-14.40	Forum Opening Session Mr Yerlan TURGUMBAYEV Minister of Internal Affairs of the Republic of Kazakhstan
Welcoming speeches:	
14.40-14.43	Ms Elvira AZIMOVA, Commissioner for Human Rights in the Republic of Kazakhstan
14.43-14.46	Mr Asset CHINDALIEV, Deputy Prosecutor General of the Republic of Kazakhstan, 3d class State Counselor of Justice
14.46-14.49	Mr Didar TEMENOV, Director of Department of multilateral cooperation of Ministry of Foreign Affairs
14.49-14.52	Ambassador Sven-Olov CARLSSON, Head of the European Union Delegation to Kazakhstan
14.52-14.55	Ambassador André CARSTENS, Ambassador Extraordinary and Plenipotentiary of the Kingdom of the Netherlands to the Republic of Kazakhstan
14.55-14.58	Mr Ryszard KOMENDA, Regional Representative with the Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central Asia
14.58-15.01	Mr Yakup BERIS, United Nations Development Programme (UNDP) Resident Representative in Kazakhstan
15.01-15.04	Ms Ashita MITTAL, United Nations Office for Drugs and Crime (UNODC) Regional Representative to Central Asia
1st SESSION THE CRIMINAL JUSTICE SYSTEM: REALITY AND PROSPECTS Moderator: Ms Zhanna NAZAROVA Head of Penal Reform International (PRI) Representative Office in Central Asia, member of the NPM Coordinating Council, member of the Public Council of the Ministry of Internal Affairs of the Republic of Kazakhstan	
15.04-15.25	On the Activities of the Criminal-Executive System of the Republic of Kazakhstan and the Measures Taken to Improve It Mr Zhanat YESHMAGAMBETOV, Head of the Committee of the Criminal-Executive System of the Republic of Kazakhstan, Major General of Justice
15.25-15.35	Ms Elvira AZIMOVA, Commissioner for Human Rights in the Republic of Kazakhstan
15.35-15.45	Mr Vyacheslav SELIVERSTOV, Professor of the Faculty of Law of the Lomonosov Moscow State University, Doctor of Laws, Honored Scientist of the Russian Federation

15.45-16.15	Discussion. Q&A Session
16.15-16.20	Break
2d SESSION INTERNATIONAL AND NATIONAL RECOMMENDATIONS IN THE FIELD OF HUMAN RIGHTS IN THE PENITENTIARY SYSTEM Moderator: Mr Nurlan BIYEKENOV Head of the S.Kabylbayev Kostanay Academy under the Ministry of Internal Affairs of the Republic of Kazakhstan, Doctor of Laws, Associate Professor	
16.20-16.30	Ms Aruzhan SAIN, The Commissioner for Children's Rights in the Republic of Kazakhstan
16.30-16.40	Ms Zhemis TURMAGAMBETOVA, Executive Director of the Charter for Human Rights Public Foundation, Public Adviser to the Minister of Internal Affairs of the Republic of Kazakhstan, member of the National Council of Public Trust under the President of the Republic of Kazakhstan
16.40-16.45	Ms Assel TOKAYEVA, Acting Chairperson of the Republican Bar Association
16.45-16.50	Mr Yevgeniy ZHOVTIS, Director of the Kazakhstan International Bureau for Human Rights and Rule of Law
16.50-16.55	Ms Anara IBRAYEVA, Member of the NPM Coordinating Council, expert of the Kadir-kassiyet NGO
16.55-17.00	Mr Bekbolat SHAKIROV, Deputy Head of the Department of the Criminal-Executive System for the Karaganda region
17.00-17.30	Discussion. Q&A Session
17.30-17.35	Break
3d SESSION OPEN DIALOGUE IS THE KEY TO TRANSPARENCY AND EFFICIENCY Moderator: Mr Kuat RAKHIMBERDIN Member of the Public Council of the Ministry of Internal Affairs of the Republic of Kazakhstan, Doctor of Laws, Professor	
17.35-17.45	Mr Meiram AYUBAEV, Deputy Head of the Committee of the Criminal-Executive System of the Ministry of Internal Affairs of the Republic of Kazakhstan, Major General of Justice, Doctor of Laws
17.45-17.50	Mr Nurlan DYUSENBAYEV, Deputy Head of the Service for Supervision of the Legality of Sentences that Have Entered into Force and Their Execution by the General Prosecutor's Office of the Republic of Kazakhstan, 3d class State Counselor of Justice
17.50-18.25	General discussion, speeches and proposals by the participants of the meeting on further improvement of the criminal justice system
18.25-18.30	Closing remark. Mr Zhanat YESHMAGAMBETOV, Head of the Committee of the Criminal-Executive System of the Republic of Kazakhstan, Major General of Justice

LIST OF PARTICIPANTS

THE SENATE OF THE PARLIAMENT OF THE REPUBLIC OF KAZAKHSTAN		
1.	Saule AITPAYEVA	Deputy, Member of the Committee on Constitutional Legislation, Judiciary System and Law Enforcement Agencies
THE MAZHILIS OF THE PARLIAMENT OF THE REPUBLIC OF KAZAKHSTAN		
2.	Erlik TAIZHANOV	Deputy, member of the Committee on Foreign Affairs, Defense and Security
THE NATIONAL HUMAN RIGHTS COMMISSION IN THE REPUBLIC OF KAZAKHSTAN		
3.	Elvira AZIMOVA	Commissioner for Human Rights in the Republic of Kazakhstan
4.	Zere UTEBAYEVA	Head of the National Center for Human Rights
THE COMMISSIONER FOR CHILDREN'S RIGHTS IN THE REPUBLIC OF KAZAKHSTAN		
5.	Aruzhan SAIN	Commissioner for Children's Rights in the Republic of Kazakhstan
THE SUPREME COURT OF THE REPUBLIC OF KAZAKHSTAN		
6.	Vladimir KIRILENKO	Chairperson of the Judicial Board for Criminal Cases in the North Kazakhstan region
7.	Tatti UALIYEVA	Chairperson of the Judicial Board for Criminal Cases in the Atyrau Regional Court
THE GENERAL PROSECUTOR'S OFFICE OF THE REPUBLIC OF KAZAKHSTAN		
8.	Asset CHINDALIEV	Deputy Prosecutor General of the Republic of Kazakhstan, 3d class State Counselor of Justice
9.	Nurlan DYUSENBAYEV	Deputy Head of the Service for Supervision of the Legality of Sentences that Have Entered into Force and Their Execution by the General Prosecutor's Office of the Republic of Kazakhstan, 3d class State Counselor of Justice
THE NATIONAL SECURITY COMMITTEE OF THE REPUBLIC OF KAZAKHSTAN		
10.	Aidos KALTAYEV	Deputy Head of the 5th Department
THE MINISTRY OF JUSTICE OF THE REPUBLIC OF KAZAKHSTAN		
11.	Bayan KYZDARBEKOVA	Researcher at the State Institute of Legislation and Legal Information, Candidate of Legal Sciences, Associate Professor
12.	Sanzhar UTEMISSOV	Expert of the Analytical Work Department of the Legislation Department of the Ministry of Justice of the Republic of Kazakhstan
THE MINISTRY OF INFORMATION AND PUBLIC DEVELOPMENT OF THE REPUBLIC OF KAZAKHSTAN		
13.	Nurbol SERIKBEKOV	Deputy Head of the Committee on Civil Society Affairs
14.	Diyas SAHTANOV	Chief Expert of the Department of Interdepartmental Coordination of the Committee

THE MINISTRY OF HEALTH OF THE REPUBLIC OF KAZAKHSTAN		
15.	Azamat DYUSSENOV	Director of the Department of the Ministry of Health of the Republic of Kazakhstan
THE MINISTRY OF NATIONAL ECONOMY OF THE REPUBLIC OF KAZAKHSTAN		
16.	Nurgul ZHANNAZAROVA	Director of the Department of Social Policy and Development of State Bodies
THE MINISTRY OF EDUCATION AND SCIENCE OF THE REPUBLIC OF KAZAKHSTAN		
17.	Bibigul ASSYLOVA	Vice-Minister of Education and Science
18.	Yesengazy IMANGALIYEV	Chairman of the Committee on Protection of Children's Rights
THE MINISTRY OF LABOR AND SOCIAL PROTECTION OF POPULATION OF THE REPUBLIC OF KAZAKHSTAN		
19.	Yerzhan BIRZHANOV	Vice-Minister of Labor and Social Protection of Population
THE MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF KAZAKHSTAN		
20.	Didar TEMENOV	Director of Department of Multilateral Cooperation of Ministry of Foreign Affairs
THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF KAZAKHSTAN		
21.	Yerlan TURGUMBAYEV	Minister of Internal Affairs of the Republic of Kazakhstan, Lieutenant General of the Police
22.	Arystangani ZAPPAROV	Deputy Minister of Internal Affairs of the Republic of Kazakhstan, Major General of Police
23.	Alexey KALAICHIDI	Deputy Minister of Internal Affairs of the Republic of Kazakhstan, Major General of Police
24.	Angela DZHANADILOVA	Head of the Legal Department
25.	Albina MAKHAMBETOVA	Head of the Department of Ideological and Image Work, Police Colonel
26.	Talgat ABILMAZHINOV	Chief of Staff – Department, Police Colonel
27.	Kairat NURMAGAMBETOV	Deputy Chief of the Investigation Department, Police Colonel
28.	Zhanat YESHMAGAMBETOV	Head of the Committee of the Criminal-Executive System of the Republic of Kazakhstan, Major General of Justice
29.	Meiram AYUBAEV	Deputy Head of the Committee of the Criminal-Executive System of the Ministry of Internal Affairs of the Republic of Kazakhstan, Major General of Justice, Doctor of Laws
30.	Yeskali SALAMATOV	Deputy Chairman of the Committee of the Criminal-Executive System of the Ministry of Internal Affairs of the Republic of Kazakhstan, Colonel of Justice

30.	Timur DZHANTEMIROV	Chief of Staff-Department of the Committee of the Criminal-Executive System of the Ministry of Internal Affairs of the Republic of Kazakhstan, Lieutenant Colonel of Justice
DIPLOMATIC MISSIONS AND INTERNATIONAL ORGANIZATIONS		
32.	Dr. Willy KEMPEL	Ambassador of the Embassy of Austria in Kazakhstan
33.	Ambassador Sven-Olov CARLSSON	Head of the European Union Delegation to Kazakhstan
34.	Ambassador André CARSTENS	Ambassador Extraordinary and Plenipotentiary of the Kingdom of the Netherlands to the Republic of Kazakhstan
35.	Ashita MITTAL	United Nations Office for Drugs and Crime (UNODC) Regional Representative to Central Asia
36.	Yakup BERIS	United Nations Development Programme (UNDP) Resident Representative in Kazakhstan
37.	Ryszard KOMENDA	Regional Representative with the Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central Asia
38.	Philipp MEISSNER	United Nations Office for Drugs and Crime (UNODC), Prison Reform Focal Point
39.	Baurzhan BODYKOV	Specialist of the Department of the Consular Service of the Republic of Kazakhstan in the Russian Federation
40.	Aliya ZHANTIKINA	Human Rights Adviser to the United States Ambassador to Kazakhstan
41.	Igor IVANOV	Second Secretary of the Embassy of the Republic of Belarus in Kazakhstan
42.	Arthur van DIESEN	Representative of the United Nations Children's Fund (UNICEF) in Kazakhstan
43.	Veronika VASHCHENKO	Deputy Representative of the United Nations Children's Fund (UNICEF) in Kazakhstan
44.	Madina SARIYEVA	National Coordinator of the United Nations Office on Drugs and Crime Program in Central Asia
45.	Oleg KOZYREV	Advocacy Advisor of the Soros Foundation-Kazakhstan (SFK)
46.	Dr. Volker FROBARTH	Head of the Organization for Security and Co-operation in Europe (OSCE) Program Office in Nur-Sultan
47.	Dr. Diana DIGOL	Deputy Head of the Organization for Security and Co-operation in Europe (OSCE) Program Office in Nur-Sultan
48.	Biserka IVANOVIC	Head of the Human Dimension Department of the Program Office of the Organization for Security and Co-operation in Europe (OSCE) in Nur-Sultan

49.	Kunsulu DEMEUOVA	Senior Project Assistant, Human Dimension Division, Program Office of the Organization for Security and Co-operation in Europe (OSCE) in Nur-Sultan
50.	Leyla DUISEKOVA	Coordinator of National Programs of the Office of the United Nations High Commissioner for Human Rights for Central Asia
REPRESENTATIVES OF THE EMBASSY OF THE REPUBLIC OF KAZAKHSTAN LOCATED ON THE TERRITORY OF THE CIS COUNTRIES		
51.	Asset UALIEV	Advisor to the Embassy of the Republic of Kazakhstan in the Republic of Uzbekistan
52.	Aigul ABEUOVA	Consul of the Embassy of the Republic of Kazakhstan in the Republic of Uzbekistan
53.	Bakyt BOLSAJEV	Third Secretary of the Embassy of the Republic of Kazakhstan in the Republic of Tajikistan
54.	Kairat KULMAGAMBETOV	Adviser of the Embassy of the Republic of Kazakhstan in Armenia
FEDERAL PENITENTIARY SERVICE OF THE RUSSIAN FEDERATION		
55.	Yelena KOROBKOVA	Head of the Department for Organizing the Execution of Sentences Not Related to the Isolation of Convicts from Society, Major General of the Internal Service
56.	Vladislav PANCHENKO	Head of the Legal Department, Doctor of Law
REPRESENTATIVES OF THE SCIENTIFIC COMMUNITY		
57.	Rima DZHANSARAYEVA	Chairperson of the Expert Council of the Ministry of Education and Science of the Republic of Kazakhstan, Head of the Department of Criminal Law, Criminal Procedure Law and Criminalistics of Al-Farabi Kazakh National University, Doctor of Law, Professor
58.	Vyacheslav SELIVERSTOV	Professor of the Faculty of Law of the Lomonosov Moscow State University, Doctor of Laws, Honored Scientist of the Russian Federation
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61.	Nurlan BIYEKENOV	Head of the S. Kabylbayev Kostanay Academy under the Ministry of Internal Affairs of the Republic of Kazakhstan, Doctor of Laws, Associate Professor
62.	Sergey PEN	Rector of M.S. Narikbayev KAZGUU University, Candidate of Legal Sciences

63.	Serik GALIYEV	Head of the Department of the Kazakhstan Institute of Innovative Technologies and Management, Adviser to the President of the Kazakhstan Section of the International Police Association
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REPRESENTATIVES OF NON-GOVERNMENTAL ORGANIZATIONS		
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66.	Zhumabek BUSURMANOV	Director of the Research Institute of Judicial-Legal and Innovative Projects of the Academy of Justice under the Supreme Court of the Republic of Kazakhstan
67.	Yevgeniy ZHOVTIS	Member of the Commission for the Election of members of the Coordination Council under the Commissioner for Human Rights, Director of the Kazakhstan International Bureau for Human Rights and Rule of Law
68.	Tolesh KAUDYROV	Doctor of Law, Rector of the Academy of Justice under the Supreme Court of the Republic of Kazakhstan
69.	Zulfiya BAISAKOVA	Chairman of the Management Board of the Union of Crisis Centers of Kazakhstan
70.	Anara IBRAYEVA	Member of the NPM Coordinating Council, expert of the Kadir-kassiyet NGO
71.	Yelena SEMYONOVA	Member of the Coordination Council of the Coalition for Security and Protection of Human Rights Defenders
72.	Igor KOLOV	Chairman of the Public Committee for Human Rights Public Association
73.	Olga RYL	Director of the Pravo Public Foundation
74.	Orynbasar KULZHABAEVA	Director of the Rehabilitation Technologies and Concepts Public Foundation, member of the PMC in Nur-Sultan
75.	Baurzhan MUSSIN	Representative of the We are Against Torture NGO
76.	Banu NURGAZIEVA	President of the Civil Alliance of Kazakhstan
REPUBLICAN BAR ASSOCIATION		
77.	Assel TOKAYEVA	Acting Chairperson of the Republican Bar Association

THE ATAMEKEN NATIONAL CHAMBER OF ENTREPRENEURS		
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80.	Esmukhan KINZHITAEV	Lawyer of the Self-regulatory Organization Union of Legal Entities and Individual Entrepreneurs "National Union of Light Industrial Enterprises "Qaz Textile Industry"
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83.	Vadim MIKHAILOV	Director of CONVEX Co LLP
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91.	Zhanar NURMUKHANOVA	President of the Women's Support Center in Taldykorgan region, lawyer, member of the NPM group in Almaty region
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93.	Serik TENIZBAYEV	Head of the PMC for Kyzylorda region, President of the Kyzylorda Regional Society for Consumer Protection Public Organization, Head of the NPM group in Kyzylorda region
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99.	Baktygul KANATOV	Head of the PMC group in Aktobe region
100.	Asyltek ISPUSINOV	Head of the PMC group in Atyrau region
101.	Assem ADAYANOVA	Member of the PMC group in the East Kazakhstan region
102.	Dmitry KHALIDOV	Head of the PMC group in Zhambyl region
103.	Mynataubik ANESOV	Member of the PMC group in the West Kazakhstan region
104.	Nailya CHUIKINA	Member of the PMC group in the Karaganda region
105.	Alexandra SERGAZINOVA	Head of the PMC group in Kostanay region
106.	Dinara Zere	Member of the PMC group in Kostanay region
107.	Marina NYSTOLIUS	Head of the PMC group in the North Kazakhstan region
108.	Pavel DUDIN	Head of the PMC group in Mangystau region
109.	Raikhan KHOBDABERGENOVA	Head of the PMC group in the city of Shymkent and Turkestan regions
NATIONAL PREVENTIVE MECHANISM		
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111.	Zhanar DOSETOVA	Member of the NPM group in Nur-Sultan city
112.	Sairash ZHUKENOVA	Member of the NPM group in Nur-Sultan city
113.	Dinara YESSIMOVA	Member of the NPM group in Nur-Sultan city
114.	Igor MIROSHNICHENKO	Head of the NPM group in the city of Almaty and Almaty region
115.	Ruslan MUKAZHANOV	Head of the NPM group in Akmola region
116.	Asiya NURPEISOVA	Director of the Regional Communications Service of Aktope region, KazTAG News agency correspondent, member of the NPM group in Aktope region
117.	Asel MAKOT	Member of the NPM group in Atyrau region
118.	Daria ULZHAGALIYEVA	Member of the NPM group in Atyrau region
119.	Saltanat RAKHIMOVA	Member of the NPM group in Atyrau region
120.	Zhanar RAKHIMBERDINA	Head of the NPM group in East Kazakhstan region, Associate Professor of the Department of Criminal Law and Procedure
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123.	Huseynali NASIROV	Member of the NPM group in East Kazakhstan region
124.	Rauf SABITOV	Member of the NPM group in Zhambyl region, Director of Nasirovy & Co. Law Firm, lawyer, forensic expert
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128.	Mahabbat AKHMETBEKOVA	Member of the NPM group in Kostanay region
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130.	Marina NYSTOLYI	Head of the NPM group in North Kazakhstan region, President of the WinG Charity Foundation Public Foundation, member of the Coalition on Security and Protection of Human Rights Defenders
131.	Alexander MUKHA	Head of the Meyirim Public Association, Director of the Kazakhstan International Bureau for Human Rights and Rule of Law branch in Mangystau, Head of the NPM group in Mangystau region
132.	Nikolai TARARA	Head of the NPM group in Shymkent and Turkestan regions, lawyer of the Kazakhstan Bureau for Human Rights and Rule of Law branch in Shymkent
NATIONAL CENTER FOR HUMAN RIGHTS		
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134.	Zukhra GALIYEVA	Head of the Department of the Expert Work at the NCHR
135.	Bekzhan NURTAZIN	Chief Expert of the Department for the Work with Citizens' Appeals
136.	Zharkynbek MAMALINOV	Chief Expert of the Department for the Work with Citizens' Appeals
137.	Gulnur IDIGEEVA	Member of the Coordination Council under the authorized body on human rights in the Republic of Kazakhstan, Executive Director of the Daris Information and Advisory Center, head of the NPM group in Aktobe region, lawyer
138.	Alexander KIM	Member of the NPM group in Almaty region, Head of the Kazakhstan Union of Lawyers branch in Almaty
139.	Dmitry KURYACHENKO	Member of the Coordination Council under the authorized body on human rights in the Republic of Kazakhstan, lawyer, Bar Association of Nur-Sultan
PUBLIC COUNCIL OF THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF KAZAKHSTAN		
140.	Marat KOGAMOV	Member of the Commission for the election of members of the Coordinating Council under the Commissioner for Human Rights, head of research projects' on criminal justice issues, KAZGUU University
141.	Zhanna NAZAROVA	Head of Penal Reform International (PRI) Representative Office in Central Asia, member of the NPM Coordinating Council, member of the Public Council of the Ministry of Internal Affairs of the Republic of Kazakhstan

142.	Kuat RAKHIMBERDIN	Doctor of Laws, Professor, Director of the Kazakhstan Bureau for Human Rights and Rule of Law branch in East Kazakhstan region, Member of the Public Council of the Ministry of Internal Affairs of the Republic of Kazakhstan
143.	Alina ORLOVA	Head of the Women's Support Center NGO
144.	Yerzhan NURPEISOV	Lawyer, Nur-Sultan city Bar Association
145.	Anuar TUGEL	Director of the Research Institute for the Protection of Human Rights at the Al-Farabi National University
REGIONAL DEPARTMENTS OF THE CRIMINAL-EXECUTIVE SYSTEM		
146.	Daulet RAKHIMBEKOV	Acting Head of the Nur-Sultan city Department of the Criminal-Executive System
147.	Darkhan KANATBEKOV	Head of the Almaty city Department of the Criminal-Executive System
148.	Kanat ASHOV	Acting Head of the Almaty region Department of the Criminal-Executive System
149.	Kairat AIDARBEKOV	Head of the Akmola region Department of the Criminal-Executive System
150.	Almaz SHAMISHEV	Head of the Aktobe region Department of the Criminal-Executive System
151.	Murat KURMASHOV	Acting Head of the Atyrau region Department of the Criminal-Executive System
152.	Dzhanbolat KALETAEV	Head of the East Kazakhstan region Department of the Criminal-Executive System
153.	Tenizzhan DZHANIBEKOV	Acting Head of the Zhambyl region Department of the Criminal-Executive System
154.	Azamat IZTLEUOV	Head of the Karaganda region Department of the Criminal-Executive System
155.	Bekbolat SHAKIROV	Deputy Head of the Karaganda region Department of the Criminal-Executive System
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157.	Shaimerden YESENKELDIEV	Acting Head the Kyzylorda region Department of the Criminal-Executive System
158.	Adilet MUSTAFINOV	Head of the Pavlodar region Department of the Criminal-Executive System
159.	Rustan AKHMETZHANOV	Head of the North Kazakhstan region Department of the Criminal-Executive System

160.	Zhastalap BASAROV	Head of the Mangystau region Department of the Criminal-Executive System
161.	Talgat ABDRANBAYEV	Head of the Turkestan region Department of the Criminal-Executive System
162.	Atelbek DOSMAGAMBETOV	Head of the Shymkent city Department of the Criminal-Executive System

FORUM PARTICIPANTS' PRESENTATIONS



Yerlan TURGUMBAYEV
Minister of Internal Affairs
of the Republic of Kazakhstan,
Lieutenant General of the Police

Ladies and gentlemen!

A great basis for such a dialogue was laid by the **Forum held in 2019** jointly with Penal Reform International (PRI) office in Central Asia.

The recommendations and ideas worked out back then are being implemented within the framework of the ongoing reform of the penitentiary system of Kazakhstan.

Therefore, we intend to organize such events on an **annual basis**.

The **main priorities** of all our reforms are to ensure the observance of **human rights** and improve the detention conditions for convicts.

As part of this work, the ministry is taking a set of measures to bring the **penitentiary system in line with international standards**.

Now there are **80** institutions in the country, where **33 000** convicted and investigative arrested persons are being held.

At the same time, many colonies do not meet the requirements and are technically worn out.

In this regard, 4 old colonies were shut down in 2019, and 2 more in the past.

Measures are being taken to gradually switch barack-type institutions to **cell-based type facilities**, taking into account the budget available.

By the **Order of the First President**, roadmaps are being implemented for the modernization of the police department and the development of the criminal justice system.

The work is underway to improve the **legal status of people in places of detention**.

So, in January last year, following amendments were made to the criminal, criminal procedure legislation:

- the procedure for transferring a convicted person to the penitentiary institution closer to the place of residence was **simplified**;
- restrictions on sending/receiving medicines, medical products to/by convicts were **lifted**;
- the terms for considering a submission for release due to the convict's illness **reduced**;
- the convicts were **granted the right** to send complaints in electronic format, etc.

In accordance with the **Presidential Decree "On Further Measures in the Field of Human Rights"**, the relevant **Priority Action Plan** is being implemented.

Currently, the Ministry has additionally developed proposals providing for:

- extension of the period of stay of the **child with the mother** after he/she reaches 3 years of age in the event of mother's release within a year;
- **postponement** of serving a sentence in case of a serious illness;
- immediate execution of court orders for **release** due to serious illness;

- mandatory **notification** of the Prosecutor's office when transferring a convicted person;
- ensuring the **separation** of previously convicted persons from those convicted for the first time and so on.

These legislative initiatives are **planned to be implemented** within the framework of the draft law being developed by the General Prosecutor's Office to improve the criminal and criminal procedure legislation.

Measures are being taken to **improve the conditions and regime of detention**.

The **nutrition standards** per convict were **increased by 40%**, the range of food products was also expanded

The **weight of parcels and packages was increased**, the list of items that are now allowed to be sent to/received by convicts in parcels, packages or purchased in stores in the institutions was also expanded.

The requirements for **conducting general searches** in places of detention were revised.

Now, searches are held with the mandatory participation of human rights defenders, prosecutors, and the entire process is video recorded.

There are 121 special terminals installed in the penitentiary institutions for submission by convicts of complaints in electronic format to the court, the Prosecutor's office, and/or other state bodies.

It is planned to purchase 122 more electronic terminals this year. All of them are to be installed in open accessible places.

Video communication with relatives is now available in all penitentiary institutions. This allows for the maintenance of socially useful connections by convicts. This is particularly relevant amidst the pandemic when there are restrictive measures for prison visits.

The means of remote control over probation clients are being introduced for the probation service, which allows real-time control and minimization of contacts between citizens and employees.

Employment of convicts is another important topic.

The number of working convicts increased from **38%** last year to **49%**.

This contributes to their adaptation in society, and also allows them to pay the material damage caused to the victims.

Timely measures were taken to prevent the spread of **coronavirus infection**.

The necessary stock of **medicines**, medical equipment and personal protective equipment has been formed.

Currently, **the vaccination** of convicts and personnel is being carried out.

On behalf of the Head of State, the work is underway to ensure **continuous video surveillance** in the penitentiary institutions except for the "blind zones".

This will ensure constant monitoring of institutions in real time and prevent possible offenses, both on the part of convicts and employees.

On our initiative, the issue of **transferring the function of medical support** in places of detention to the Ministry of Health has been **finally resolved**.

This proposal was supported by the Commission on the Reform of the Law Enforcement and Judicial Systems under the President and all government agencies.

A corresponding **draft Decree** of the Head of State has been developed.

From July 1, 2022 - medical services of pre-trial detention centers will be transferred under the Ministry of Health, from **January 1, 2023** - all remaining institutions.

Receiving medical assistance from civilian healthcare will let convicts have wider access to modern methods of medical examination, diagnosis, and treatment.

Currently, in pursuance of **the President's instruction**, a **draft Amnesty law** has been developed, which provides for the release of convicts who committed crimes that do not pose a serious threat to the security of citizens and the State, and those who have compensated for the damage caused.

Special attention is paid to the socially **vulnerable categories of citizens**, i.e. juveniles, elderly women and men, people with disabilities of groups I and II, and other persons who do not pose a significant threat to society.

In accordance with **the Address of the Head of State**, measures are being taken to ensure the principle of a **"Listening State"**, to establish communication with the population, generate **"feedback"**, ensure openness and transparency.

There are **15 front offices** in the divisions of the penal system, where citizens receive the necessary advice.

A weekly reception of citizens was organized by the administration of the prison service, territorial departments and institutions. Not a single complaint is left without consideration.

A **"hot line"** and **"Call-center"** of the Committee were launched, where convicts and their relatives can apply to receive information on all issues of interest.

We actively interact **with civil society institutions**.

And this work brings results - as a result of constructive work, the facts of unlawful actions in relation to convicts have been **minimized**.

Dear forum participants!

I shared information about the main directions of modernization carried out by the penitentiary system.



Asset CHINDALIEV
Deputy Prosecutor General of
the Republic of Kazakhstan,
3d class State Counselor of Justice

Good afternoon, dear participants of the Forum!

Thank you, Mr Minister for the opportunity to make a welcoming speech.

Indeed, the General Prosecutor's Office, together with the Ministry of Internal Affairs, and in cooperation with PRI and other partners, is directly involved in the development of our penitentiary system.

Kazakhstan has always strived for the best world practices in all areas.

In 2014, we updated the legislation by adopting the Criminal, Criminal Procedure and Penal Execution Codes.

The accusatory bias has been reduced and the mechanisms for the protection of human rights have been strengthened.

A two-vector criminal justice policy has been introduced. We apply strict measures for serious crimes for those who

do not want to join an honest life and soft punishments without isolation from society for non-dangerous acts.

Due to reforms and organizational measures, **the number of prisoners was decreased in 7 years** (from 57 000 in 2012 to 30 000).

This did not worsen the crime situation; crime rate is decreasing every year.

Kazakhstan has risen **from 35th to 100th place** in the world prison population ranking.

If you remember, due to the Soviet legacy at the dawn of independence, we **were in third place** after the United States and Russia.

For three decades, we have significantly approached international standards

Since 2013, **14 colonies** have been closed.

Nine cells-based type colonies (4 000 convicts) are already functioning.

The Nelson Mandela Rules are being implemented into national legislation.

4 stages of probation were introduced (pre-trial, sentence, penitentiary, post-penitentiary).

The quality of social, legal and psychological assistance to convicts has improved.

Digitalization is being actively implemented in the penal system, which acts as an additional tool to ensure the observance of the rights of convicts.

A number of effective measures are laid down in **the Roadmaps** for the Development of Internal Affairs Bodies and the Penitentiary System.

However, the reality is that legality in the penitentiary system largely depends **on the beginning of the criminal process** itself.

Therefore, the General Prosecutor's office is constantly working on its modernization in order to strengthen the guarantees of respect for human rights.

To increase the competitiveness, we are expanding the powers of the defense and are introducing **an electronic criminal case**.

70% (80 000) of cases are investigated electronically. Everything became transparent to the court, the prosecutor and the lawyer.

Based on the experience of the OECD countries, since last year we have embarked on a phased introduction of a **three-tier model** of the criminal process.

In other words, we will clearly delineate the powers and areas of responsibility between the investigating authorities, the prosecutor's office and the court.

The police will collect and secure evidence.

The prosecutor gives a legal assessment of the evidence and sends the case to the court.

The court exercises control, adjudicates and determines the punishment.

Before starting the implementation on-site, we studied the foreign practices: **the experience of Germany, England, Estonia, Georgia, etc.**

Pilot testing was carried out in the regions. The legal framework and personnel, the technical side – everything was prepared in advance.

On **December 31, 2020**, the Law began to operate, and at **the first stage** of introducing the new model, the prosecutor's office began to coordinate **key decisions** of the investigating authorities.

This is the recognition of a person as a suspect, the qualification of his/her act, the interruption of the investigation and the termination of the case.

Without the approval of the prosecutor, such **decisions have no legal force** and have no legal consequences.

The effect is already visible. There are fewer mistakes, illegal procedural decisions.

Violations of **the constitutional rights of citizens** decreased by a third (from 155 to 101).

The entire approval procedure is carried out in electronic format, through our **Unified Register of Pre-trial Investigations**.

We are now preparing for the **second stage**.

It is planned to transfer from investigators to prosecutors the powers to draw up **an indictment**.

It is this document that sums up the investigation and the person is finally charged.

This will strengthen the mechanism for the independent legal assessment of evidence by the prosecutor and personalize his/her responsibility for bringing the accused to trial.

We will introduce the new order sequentially.

From 2022 - on especially grave crimes. Then, in other categories (from 23 years old - for corruption, from 24 years old - for all other criminal offenses).

Dear Forum participants!

All this is only part of the big work to strengthen constitutional guarantees in the country.

The international community trusts us. Thirty-two countries signed 68 treaties with Kazakhstan on extradition, legal assistance and transfer of convicted persons, including with the United States (separately on legal assistance, on extradition and extradition of convicted persons - the Inter-American Convention), England (on legal assistance), Spain, Italy, Hungary and etc.

Therefore, I want to assure our foreign partners who are now at the Forum that Kazakhstan is ready to share its experience and is always open to cooperation.

I am sure that today we will hear new ideas in the field of human rights protection. I wish all the participants fruitful work.



Elvira AZIMOVA
*Commissioner for Human Rights in
 the Republic of Kazakhstan*

Dear Yerlan Zamanbekovich, thank you for your commitment to an open dialogue with civil society, scientists, independent experts. Today, the list of participants is represented by a large pool of experts.

The number of interested parties confirms that the topic is quite interesting and in fact, in matters of reforming the legislation and practice of the internal affairs bodies, the penitentiary system and the criminal prosecution system are important for assessing the level of development of criminal justice in countries as a whole.

The 2019 Forum was very effective and gave impetus to the ongoing reform.

In 2020, all of us: NPM participants, PMCs, NGO representatives, were waiting for the next forum. I would like to note that this site is in great demand. Looking at its history, the forum was previously held under the auspices of the General Prosecutor's Office, since 2019 it has become the platform of the Ministry of Internal Affairs.

Last year made its own adjustments to the plan for holding this forum, but on the other hand, the very reboot of public administration in the context of a pandemic accelerated the adoption of a number of decisions, which were announced by the Minister and the Deputy Prosecutor General.

One of the key issues is the transfer of medical support in places of detention to a civilian agency. Therefore, the position on the revision of measures in the field of human rights, considering national interests and the obligations assumed, is fundamental, and we are talking not only about new initiatives, but also about reloading the current legislation and practice.

I would like this process to be as stable and long-term as possible, regular monitoring is needed, including by civil society, as I have already said, ombudsmen for human rights and for children's rights are ombudsmen with a special mandate, but at the same time, feedback with civil society, national international experts and academics is relevant within the framework of the concept of the "Listening State".

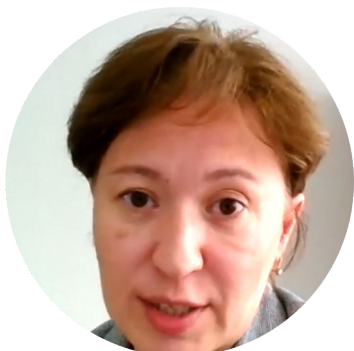
It is great that in the implementation of the instruction of the President of the Republic of Kazakhstan, which was literally adopted recently, specifically on the implementation of further steps in the field of human rights, the government adopted a Plan of Priority Measures for the near future. This approach made it possible to reach more stable indicators for assessing the effectiveness of the activities of state bodies.

In conclusion, I would like to remind once again the most basic three thoughts in favor of observing human rights in the institutions of the penitentiary system:

First, we must all understand that punishment and re-education should cease to be a criterion for assessing the effectiveness of only the penitentiary system itself.

Second, efficiency is expressed in the prisoner's self-development, his/her self-esteem and feelings of appreciation for his/her own actions and respect for the law on the territory of the institution.

Third, the state needs to reboot the policy of investigating complaints of torture or other ill-treatment and provide a mechanism for prompt response to reports involving medical specialists, fixing evidence of coverage of the results of the investigation, and no exceptional circumstances can serve as an excuse for torture.



Anar DAUTBAYEVA
*Deputy Director of the Department of
Multilateral Cooperation of
the Ministry of Foreign Affairs of
the Republic of Kazakhstan*

Dear forum participants! Ladies and gentlemen!

First of all, I would like to thank the prison service for organizing today's forum and for the invitation. It is a great honor for me to speak on behalf of the Foreign Ministry at this forum. The participation of such distinguished guests and representatives of international organizations in this event testifies to the relevance of this topic, as well as excellent preparatory work for the event.

Ensuring effective protection of human rights and freedoms is one of the priority directions of not only domestic, but also foreign policy of the Republic of Kazakhstan.

June 9, 2021 The President signed **Decree on Further Measures in the Field of Human Rights**. In this regard, the Government has prepared the **Plan of Priority Measures in the Field of Human Rights**, which provides for practical measures to improve the mechanisms of interaction with the treaty bodies and special procedures of the UN Human Rights

Council, ensuring the rights of victims of human trafficking and persons with disabilities, combating discrimination against women, the right to freedom of expression, interaction with NGOs, etc.

The struggle for human dignity and protection of human rights is especially relevant for places of detention, which requires, first of all, countering torture, cruel and degrading treatment of- convicts.

There is a whole **range of international legal instruments** for the prevention of torture and ill-treatment, which is necessary for application in the penitentiary systems of modern States, including the criminal-executive system of the Republic of Kazakhstan. Among these international instruments, the International Covenant on Civil and Political Rights (1966), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Code of Conduct for Law Enforcement Officials (1979), the UN Declaration on the Protection of all Persons from Enforced Disappearance (1992), the International Convention- for the Protection of All Persons from Enforced Disappearance (2006), the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988) are worth particular attention. A qualitatively new stage in the development of universal -human rights mechanisms was the adoption of the Nelson Mandela Rules, including their implementation in the national penal enforcement legislation of the Republic of Kazakhstan.

President of the Republic of Kazakhstan K.Tokayev, in his -public speeches repeatedly draws attention to the **need for further humanization of the detention conditions in places of detention, harmonization of international human rights instruments and national penal enforcement legislation, expansion of the scope of application of alternative non-custodial sanctions.**

The measures taken towards the humanization of criminal legislation, including our country's accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty, have received a positive assessment from the international community and experts.

Taking into account the commitment of our country to its international obligations and contributing to collective global efforts to strengthen peace and ensure fundamental human rights, the Republic of Kazakhstan has put forward its candidacy for **membership in the UN Human Rights Council for 2022-2024.**

The Ministry of Foreign Affairs closely cooperates with the Ministry of Internal Affairs and other relevant state bodies on the topic of today's forum. We regularly inform about the relevant foreign experience, we have transferred the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) to the Ministry of Internal Affairs, supported the proposals of the Ministry of Internal Affairs to amend Article 146 of the Criminal Code of the Republic of Kazakhstan in terms of expanding the circle of persons belonging to the subjects of the crime of torture, and supplementing

it with Article 146-1, which defines the disposition of a new corpus delicti (cruel or degrading treatment) taking into account the position of the UN Committee against Torture, the treaty body under the Convention, whose competence also includes explanations for the States parties on the application of its provisions.

Speaking about the prison system, let's look at the facts. Kazakhstan has taken systematic comprehensive measures to improve the situation in this area. The results are obvious. The dynamics are positive. This was clearly stated by the previous speakers and is evidenced by the materials of the forum.

We are interested in sharing the experience that our country has accumulated with the states of Central Asia, Europe, and America, members of the EEU and the CIS. We are aimed at further constructive cooperation with UN structures and other international players, including obtaining information, analytical and expert assistance, as well as expanding cooperation in all areas in the field of protection and promotion of human rights, including the rights of persons held in penitentiary institutions.

This is evidenced by the organization and holding of this Forum, aimed at an equal collective response to existing challenges and threats related to human rights violations, including in places of deprivation of liberty. I take this opportunity to wish all participants fruitful work and interesting discussions.



Ambassador Sven-Olov CARLSSON
*Head of the European Union
Delegation to Kazakhstan*

Dear Minister, dear Elvira Abilkhasimovna, ladies and gentlemen!

It is with great pleasure that I welcome you to the online forum “The Penitentiary System in the new Reality”, organized by the Ministry of Internal Affairs and its Committee of the Criminal-Executive System. This event brings together all stakeholders in the government, civil society and the international community to discuss the key achievements of the Republic of Kazakhstan in the field of penitentiary system reform and determine the main priorities for further development.

Individual freedom is one of the fundamental human rights recognized in international human rights instruments and national constitutions around the world. However, the number of prisoners around the world is increasing, which puts a huge financial burden on Governments. Numerous international instruments recommend the rationalization of sentencing policies, including the wider use of alternatives to

imprisonment.

On behalf of the Delegation of the European Union to the Republic of Kazakhstan, I would like to highlight some key developments in the field of penitentiary system reform as part of the broader criminal justice reform that the European Union has supported in the recent past.

The EU Criminal Justice Program in Kazakhstan, which was implemented for 2016-2018 together with key stakeholders, including the Committee of the Criminal-Executive System, was aimed at strengthening criminal justice by supporting the reform of the criminal process and the procedure for the execution of judicial acts.

The program has made a significant contribution to the revision of several laws, including the criminal procedure legislation and the Law on Probation, and provided IT equipment to facilitate the introduction of a probation system. This contributed to a decrease in the number of prisoners from 231 in 2016 to 186 in 2018; the number of people on probation increased from 41 000 to 46 515 people (over the same years).

The problems associated with radicalization are well known, and radicalization in prisons poses a particular risk to society. All over the world, prisons have been recognized as possible incubators of radicalization and recruitment by violent groups, including extremists.

Thus, prisons provide an opportunity to reduce the risks that certain people pose to society. However, this requires the allocation of a significant amount of resources to develop and provide effective and targeted approaches aimed at reducing the risks of radicalization. Experience shows that good prison management and proper prison conditions are necessary for the successful rehabilitation and reintegration of all prisoners, including those at risk of radicalization.

It is against this background that the EU has decided to support the EU-UN initiative on the management of violent extremist prisoners and the prevention of radicalization in prisons, and Kazakhstan is part of this global initiative. The joint programme, implemented by UNODC and the UN Counter-Terrorism Centre in partnership with the UN Counter-Terrorism Committee Executive Directorate, is also co-funded by the Government of the Netherlands and the UN Counter-Terrorism Centre.

I would like to emphasize that at the European level, the European Union Strategy to Combat the Radicalization and Recruitment of Terrorists calls for a balanced approach between security-related measures and efforts to eliminate those factors that can create an environment conducive to the radicalization and recruitment of terrorists. It emphasizes full respect for human rights as one of the foundations of the EU's work in this area.

I would also like to draw attention to the new Counter-Terrorism Agenda adopted in December 2020, announced in the context of the EU Security Union Strategy, which combines existing and new areas of work in a single approach to combating terrorism.

The new agenda highlights the need to strengthen EU action in three key areas: prisons, rehabilitation and reintegration.

First, by identifying best practices regarding the management and risk assessment of radicalized prisoners and terrorist criminals, as well as supporting the training of professionals involved in this field.

Secondly, based on the ideas of the Guidance on the Rehabilitation of the Radicalization Awareness Network, through which the European Commission will support member States by providing more individual recommendations for the rehabilitation and reintegration of radical prisoners, including after release.

Therefore, the Delegation of the European Union to the Republic of Kazakhstan also welcomes the concrete steps taken by the Committee of the Criminal-Executive System under the Ministry of Internal Affairs of Kazakhstan to implement the joint initiative of the EU and the UN on the treatment of violent extremist prisoners. They are aimed at developing individual policies to prevent such radicalization; taking measures that allow rehabilitation, de-radicalization or separation inside and outside prisons. Providing training for prison staff involved in dealing with violent extremists or persons at risk of radicalization and ensuring good prison conditions and good prison management through the allocation of adequate resources.

In conclusion, I would like to thank the Ministry of Internal Affairs and the Committee of the Criminal-Executive System for the constructive cooperation and once again express the commitment of the EU Delegation to continue supporting the reform of the penitentiary system in the Republic of Kazakhstan.

Thank you for your attention. I wish you all an interesting and productive event.

**André CARSTENS**

*Ambassador Extraordinary and
Plenipotentiary of the Kingdom of
the Netherlands to
the Republic of Kazakhstan*

The Netherlands is the number one investor in the economy of Kazakhstan. To assess the investment attractiveness of a particular country, investors look not only at economic, ease of doing business indicators and similar data, but also always at indicators of internal processes such as the rule of law, the independence of the judicial system, the fairness of judicial proceedings and respect for human rights.

Human rights are the cornerstone of the domestic and foreign policy of the Kingdom of the Netherlands. The Republic of Kazakhstan, in turn, is a signatory to various international conventions and treaties in the field of human rights.

It is from this point of view of human rights in the context of investment attractiveness that the development of the penitentiary system is important for us.

I would like to note the steps taken within the framework of the major reform of criminal legislation in Kazakhstan (2012-2014) and the important role of civil society organizations in this process.

I consider the participation of civil society and cooperation with it at all stages - from the development of state policy in the field of criminal justice to the practical implementation of this policy - very important.

I would also like to thank you for the openness and trust of the Committee of the Criminal-Executive System regarding the visits of representatives of the diplomatic corps to the institutions of the penitentiary system.

More recently, representatives of our Embassy had the opportunity to get acquainted with the conditions of detention and innovations in the institution for those sentenced to life imprisonment, the Chernyi Berkut institution in Zhitikara city.



Ryszard KOMENDA

Regional Representative with the Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central Asia

Dear Yerlan Zamanbekovich, dear participants!

Thank you very much for the invitation! I am glad to participate in such a representative forum! A lot has been done, especially recently at the initiative of the country's leadership, in the field of human rights and issues within the mandate of the penitentiary system. Much remains to be done in accordance with the Priority Action Plan of June 11. Today's forum is an opportunity to exchange views on what else can be done to fulfill the obligations assumed by the State.

This may be further efforts to improve the functioning of the National Preventive Mechanism in accordance with the recommendations of the Subcommittee on Prevention of Torture following the visit, the NPM, the NGO Coalition against Torture.

I would like to draw your attention to one more document of the Subcommittee on the role of judicial control and due process in the prevention of torture in prisons. The subcommittee emphasizes the fallacy of the opinion that the process of due process ends at the time of sentencing in this document. Therefore, the issues of serving a sentence, for example, the regime of the day, transfer to another institution, the rules of communication with the outside world, the internal system of punishments, remain in the hands of the administration, whose actions are not subject to judicial control to ensure human rights. Such conditions may change the nature of the punishment, making it cruel or inhuman, or lead to torture. The Subcommittee cites the institute of prison supervision judges for resolving issues of serving sentences as a positive example. The NPM once proposed to assemble commissions with the participation of the Prosecutor's office and the public when considering issues of obtaining a degree of behavior, transfer to another institution and other types of punishments and incentives.

One of the recommendations of the UN Committee against Torture concerns the effective investigation of allegations of torture. In the information material for the forum there is a slide about registration, referral to the court, termination or conviction for facts of torture. Very few end up going to court and convicting people who have committed torture. Probably, the statements are not confirmed, but there may be other reasons that are worth analyzing and taking appropriate measures.

The State and the Ministry are making serious efforts to counteract torture and improve the penitentiary system. Perhaps it is time to think about step-by-step measures to implement one more recommendation of the UN Committee against Torture - the transfer of all places of deprivation of liberty and pre-trial detention from the Ministry of Internal Affairs subordination. Such a measure would comply with international standards, especially since such a practice already existed in Kazakhstan.

The measures taken by the State and the Ministry inspire optimism and, on behalf of the Office of the UN High Commissioner for Human Rights, I express my readiness to assist them in every possible way in accordance with the recommendations of the UN human rights mechanisms.



Yakup BERIS
United Nations Development
Programme (UNDP)
Resident Representative in Kazakhstan

UNDP welcomes Kazakhstan's efforts to improve legislation on criminal justice guarantees, as well as the promotion of international human rights standards in the work of the penitentiary system of Kazakhstan.

For more than 20 years, we have been cooperating with State bodies and civil society organizations to discuss various issues, including the need for a human rights-based approach at all levels of investigation and serving sentences, as well as preventing torture and ill-treatment in closed institutions.

In particular, we supported the government in implementing the recommendations of the Universal Periodic Review (UPR), which is a mechanism of the UN Human Rights Council, assisted in the institutional strengthening of the NPM aimed at preventing torture in closed institutions, helped to increase the capacity of law enforcement agencies and the police in accordance with the standards of the Istanbul Protocol

on the Effective Investigation of Torture, in a victim-oriented approach in cases of gender-based violence, and also conducted professional training for local police.

Last year, Penal Reform International, with the support of UNDP and the National Center for Human Rights, conducted a comprehensive review of the work of medical services in the penitentiary system and developed a list of recommendations for improving the effectiveness of medical care for suspects and convicts, including vulnerable groups.

Incarceration is not only about security, protection and discipline, but, as the Council of Europe stated in its Prison Rules of 2006, it is always also about "... ensuring conditions of detention in prisons that do not infringe on human dignity and involve meaningful professional activities and treatment programs for prisoners, thereby preparing them for reintegration into society".

Thus, an important principle is that prisoners remain the bearers of all human rights, since they are not limited by law or are limited to the extent that it is clearly necessary, based on the fact of detention. This also applies to their right to health, which is based on various foundations of basic human rights. The most important is Article 12 of the International Covenant on Economic, Social and Cultural Rights. In its General Comment No.14, intended to serve as a guide for States, the UN Committee on Economic, Social and Cultural Rights outlined the scope and content of the right to health.

With regard to the scope, the Committee states that "... the right to health should be understood as the right to enjoy various amenities, goods, services, and conditions necessary to achieve the highest attainable standard of health".

Society must continue to overcome serious inequalities in health and access to healthcare, so that no one is left behind. This is critical for compliance with the Global Agenda and the Sustainable Development Goals approved by the United Nations General Assembly. Therefore, it is extremely important to meet the medical needs of vulnerable groups, including prisoners, for whom access to medical and related social services is often inadequate".

At the same time, we must realize that this is a complex process that requires a gradual approach, a large amount of work on transforming services and increasing financial resources to attract professional medical workers to the organizations of the penitentiary system.

During the COVID-19 pandemic, we all understand that the risks of human rights violations increase significantly and make the prison population more vulnerable.

Joint efforts of State bodies and civil society are needed to combat such risks, which will ultimately contribute to justice and ensure development in the country

As part of such joint efforts, I would like to assure you that UNDP, both here in Nur-Sultan and at headquarters, highly appreciates our joint initiatives with the Ministry of Internal Affairs of Kazakhstan and is ready to continue to support the best available experience in promoting a human rights-based approach for all people in Kazakhstan.



Ashita MITTAL
UNODC Regional Representative for
Central Asia

Your Excellencies, Ladies and Gentlemen!

Thank you very much for the invitation to the online forum dedicated to the main achievements of the reform of the penal enforcement system of the Republic of Kazakhstan in recent years.

On behalf of the United Nations Office on Drugs and Crime, let me first of all thank the Government of Kazakhstan for the fruitful cooperation with the United Nations system in Kazakhstan in implementing joint initiatives aimed at strengthening peace, security and sustainable development.

The United Nations Office on Drugs and Crime is the custodian of the United Nations Standard Minimum Rules for the Treatment of Prisoners (**The Nelson Mandela Rules**) and the United Nations Standard Minimum Rules for Non-Custodial Measures (**also known as the Tokyo Rules**) provide technical assistance to 50 countries, including Central Asia.

The practical implementation of both Rules is a key objective of the work of UNODC in the field of penitentiary reform, aimed at ensuring the safe and humane management of penitentiary institutions and the treatment of prisoners.

A prison sentence is only a deprivation of the basic right to freedom. This does not entail restrictions on other human rights, except for those that are naturally limited by the very fact of being in prison. Thus, the reform of the penal system is necessary to ensure compliance with this principle, protect the human rights of convicts and increase their prospects for social reintegration in accordance with international standards and norms.

In this regard, I would like to congratulate the Ministry of Internal Affairs of the Republic of Kazakhstan and the Committee of the Penitentiary System on the effective measures taken to reform the penitentiary system over the past 10 years. During the decade, significant efforts were made to improve criminal legislation, including the adoption of the Probation Law, the application of non-custodial sanctions, and measures that eventually led to a significant reduction in the prison population. It is very important to emphasize the role of civil society organizations in the process of reform of the penitentiary system. They provided expertise, promoted transparency and accountability, and promoted the social rehabilitation and reintegration of convicts into society. UNODC also welcomes the recent legislative initiative to transfer medical services to the Ministry of Health. This will improve the quality of medical services in penitentiary institutions and reduce the risks of ill-treatment and torture.

At the same time, the main achievements are observed in the development of training programs for heads of institutions aimed at improving their leadership role and the potential of employees in applying international standards and norms in everyday practice, as well as contributing to building the institutional capacity of the administration of penitentiary institutions.

I would like to once again note the success of the Kostanay Academy under the Ministry of Internal Affairs and its administration in promoting innovative tools and promising ways to support prison staff in understanding and practical application of the Nelson Mandela Rules, including the integration of the UNODC e-learning course on the Nelson Mandela Rules into national training programs for specialists of the penitentiary system. To date, about 3 000 prison and probation service employees, as well as members of the National Preventive Mechanism, have successfully completed the UNODC e-learning course according to the Nelson Mandela Rules, which makes Kazakhstan one of the leading countries not only in the Central Asian region but also around the world.

Taking this opportunity, I would like to note that UNODC, in partnership with the Kostanay Academy under the Ministry of Internal Affairs, is completing the translation of the UNODC e-learning course according to the Nelson Mandela Rules into Kazakh, which will expand its coverage throughout the country.

It is important to note the establishment of a new Scientific and Educational Center for training specialists of the Criminal Justice System on Countering Extremist Ideology at the MIA Kostanay Academy within the framework of a joint initiative of the EU and the UN to work with those convicted of terrorist and extremist crimes and prevent radicalization that generates violence in penitentiary institutions. To date, the Center has trained more than 300 employees of the penitentiary system in methods of dealing with convicted violent extremists and developing measures to renounce violence on the basis of penitentiary institutions, as well as social rehabilitation programs after release.

I would like to note and highly appreciate the initiative of the Ministry of Internal Affairs and the Kostanay Academy under the Ministry of Internal Affairs to promote the Kostanay Academy as a regional hub for training employees of penitentiary institutions and probation services from Central Asian countries, which will ensure the promotion of international standards and norms regarding the management of penitentiary institutions and the treatment of convicts. The Kostanay Academy under the Ministry of Internal Affairs has great potential for this purpose, and UNODC is ready to provide all the necessary support.

UNODC has a broad mandate to assist the Member States in the prevention of crime and terrorism, including through rehabilitation and reintegration of convicted persons.

Penitentiary institutions can serve as incubators of ideas of antisocial and violent extremism, which then continue the cycle of harming society. But they are also a great opportunity to save people both inside, and communities, and countries outside prison walls from harm and violent extremism. This requires the participation of the community and, thus, civil society has a unique opportunity to contribute, to give convicts hope for correction, rehabilitation and reintegration into society as future productive citizens, service providers, and parents.

I would like to repeat that both the Kyoto Declaration and the report of the 30th meeting of the Commission on Crime Prevention and Criminal Justice, adopted this year, emphasize that reducing the number of repeat offenses is an essential element of building inclusive and sustainable societies, as stipulated in the 2030 Agenda. In order to effectively reduce the number of repeat offenses, criminal justice systems should give priority to the rehabilitation of offenders and their social reintegration by creating appropriate conditions in penal institutions, adopting and implementing community-based approaches that contribute to reducing the number of repeat offenses and applying an interdisciplinary multi-stakeholder approach.

It is extremely important that prison reform is not considered in isolation from the broader criminal justice reform. UNODC believes that effective reform of the prison system depends on the improvement and rationalization of criminal justice policies, including crime prevention and sentencing policies, as well as care and treatment of vulnerable groups in society. Therefore, the reform of the penitentiary system should always take into account the needs associated with the reform of the criminal justice system as a whole and use a comprehensive interdisciplinary strategy to achieve a sustainable impact.

We will definitely listen today about the potential benefits of the reform of the criminal justice system in Kazakhstan, with respect for human rights, taking into account gender aspects, the participation of the whole society, as well as about key problems based on real-life examples. There is always a solution for any problem, and we can deal with each of them if we are united by partnership and commitment to promoting humane and safe management of institutions and the treatment of prisoners, preventing radicalization leading to violence in prisons and preparing people for reintegration as peaceful members of society.

Together, thanks to our cooperation, we will prove that we CAN help give hope and rehabilitation. As we recover from the terrible losses of the Covid-19 pandemic, we CAN recover better than we did due to stronger institutions, the promotion of justice, the support of the leadership of criminal justice institutions, the involvement of the whole society and the prevention of violent extremism in communities and countries around the world.

1st SESSION

THE CRIMINAL JUSTICE SYSTEM: REALITY AND PROSPECTS

Moderator: Zhanna NAZAROVA



Zhanna NAZAROVA

*Head of Penal Reform International (PRI)
Representative Office in Central Asia,
member of the NPM Coordinating Council,
member of the Public Council of
the Ministry of Internal Affairs of
the Republic of Kazakhstan*

Dear Yerlan Zamanbekovich, dear forum participants!

Today is the day when we all together determine the positions of “where are we?” and plans for the future.

I hope that the participants had the opportunity to get acquainted with the materials of the forum, which undoubtedly indicates that they follow the “Open Data” principle. This argument is supported by the quarterly update of data on the prison service web resources.

Taking this opportunity, let me thank the Commissioner for Human Rights with members of PMCs and the NPM for the joint prison visits, which help to generate new ideas for practical implementation.

As already noted, the analysis of national legislation for compliance with the Nelson Mandela Rules was carried out and amendments were proposed to introduce 20 more rules.

We hope that today’s platform will serve as an accumulation of new ideas and practical recommendations, as well as ways to implement them.



Zhanat YESHMAGAMBETOV

*Head of the Committee of
the Criminal-Executive System of
the Republic of Kazakhstan,
Major General of Justice*

Dear forum participants!

I am glad to welcome you and thank you for participating in our event. I would like to express my gratitude for your attention to the issues of the penal enforcement system.

Kazakhstan became a place of concentration of correctional labor colonies due to the historical events in the Soviet Union related to forced migration, the policy of repression. Every seventh convict served the sentence in our country. At the dawn of independence, we ranked third in the world, after the United States and Russia, in terms of the number of prisoners per capita.

Overcrowding of colonies, barrack-type facilities, inadequate hygiene, infectious diseases, high mortality were the problems that were in the agenda in the first years of independence. Therefore, important legal and structural reforms in the penitentiary system were carried out in a short time, and the country’s legislation was improved.

As a result, the number of persons in places of deprivation of liberty has decreased **three times**, and Kazakhstan has moved from **the 3rd to the 99th place in the Prison Population Index**.

Currently, the main tasks of the penal enforcement system are to ensure the order and conditions for the execution of serving sentences, the protection of the rights and freedoms of convicts, the identification of means for their correction, and assistance in social adaptation.

There are 80 institutions operating in the country: 64 for the execution of sentences in the form of imprisonment and 16 pre-trial detention centers. There are **33 000 people** in these institutions: **28 700** convicts and **4 500** are under investigation and arrested. **94%** of convicts are serving sentences for serious and especially serious crimes and about **47%** were previously convicted. In order to get closer to global standards, work is being carried out on the transition from barrack-type facilities to cell-based type institutions.

Now there are 9 cell-based type facilities, where 4 000 persons are serving sentences. A Roadmap for the implementation of the Nur-Otan party's electoral programme includes measures for the reconstruction of 12 residential blocks in 6 institutions.

Design and estimate documentation are already being developed and construction will begin in 2023. Together with private investors, in the framework of the public-private partnership mechanism, the issue of construction of new institutions, reconstruction of old, and modernization of industrial bases is being worked out to ensure full employment of convicts.

As part of the implementation of the instructions by the Head of State, work is being carried out on the introduction of **continuous video surveillance in all institutions**.

This will allow to record all offenses and establish the reasons for their occurrence. A concrete Action Plan has been developed jointly with interested state and local executive bodies and human rights defenders.

Technical surveys have already been carried out to implement it, the number of video cameras and their installation locations have been determined. The necessary financial resources have been allocated for these purposes.

This year, video surveillance systems to be installed in **29** institutions where **53%** of convicts are serving sentences.

Video surveillance systems in other institutions to be installed within the next two years when the Ministry of Digital Development completes the work on the connection of communication lines and organizes secure channels.

In order to ensure openness, transparency, as well as increase the level of trust of citizens, close cooperation has been established with **Public Monitoring Commissions**, the National Preventive Mechanism, non-governmental organizations.

They conduct independent monitoring of compliance with the rights and detention conditions for persons serving sentences and various social activities.

As a result of the work carried out and the constructive dialogue between their participants, the facts of illegal actions against convicts are minimized.

Last year, more than 1 000 preventive visits to institutions were carried out.

Constant monitoring is also carried out by the Prosecutor's office. Complaint boxes, which are opened only by employees of the Prosecutor's office are installed in accessible places in all institutions. Along with this, the Committee has a helpline for the Head's blog. To simplify the procedure for receiving appeals and complaints from citizens, a "hotline" has been created in the WhatsApp messenger, there are official pages in social networks, round-the-clock monitoring of the Internet space and the media is conducted.

As a result of the ongoing work, the number of pre-trial investigations on the facts of torture is reduced annually.

All reports that show signs of possible illegal actions against convicted persons are subject to mandatory registration and pre-trial investigations are conducted on them.

Special attention is paid to the **improvement of the penal enforcement legislation**. Last year, within the framework of the Law on Improving Criminal Legislation and Strengthening the Protection of Individual Rights, amendments were made aimed at improving the legal status of convicts.

The term for considering a submission for release due to illness has been reduced from one month to 10 days, the number of visits has been increased, and the right to file complaints in electronic format has been introduced, etc. Along with this, a number of amendments have been prepared and previously agreed with state bodies, which also take into account the proposals received within the framework of the 2019 forum. Their implementation will be carried out within the framework of the Plan of Priority Measures in the Field of Human Rights adopted at the Government meeting.

We did not ignore any proposal that was voiced. Most of them have already been implemented. In February of this year, a corresponding government decree was adopted, according to which the nutrition standards per convict were increased from KZT 630 to KZT 1 018, or by almost 40%.

“**Electronic stores**” have been introduced for the purchase of products and essential goods. All institutions have **terminals** for filing complaints and appeals.

Biometric terminals are installed, designed for automatic registration of arrivals and identification of persons registered with the probation service by fingerprint. Technical **means of control** over registered persons of probation services are being introduced.

It is supposed that **electronic bracelets** will be used in relation to convicts who violate the procedure for serving sentences, and smartphones – to positively characterized persons. **Video communication** that is available now has shown effectiveness amidst the pandemic when there were restrictive measures for short- and long-term prison visits.

An interdepartmental working group has been established to develop proposals for bringing the legal acts regulating the activities of the prison service into compliance with international standards. The group has already analyzed the implementation of the Nelson Mandela Rules into national legislation.

20 proposals for changing legal acts have been developed. Special attention is paid to **healthcare**. The penitentiary healthcare has **65** medical units, **15** medical posts, as well as two somatic, three tuberculosis and one psychiatric hospitals. This year, about **5 000** patients received consultative and diagnostic assistance, **156** surgical operations were performed. It is worth noting that penitentiary medical service has developed a positive practice of treating tuberculosis. As a result, the number of tuberculosis patients has been reduced by **51% over the past three years**. Convicts with progressive chronic diseases are under special control in the medical unit.

Taking into account the difficulties in the penitentiary systems of different countries, measures have been taken to prevent the spread of **coronavirus infection**. Appropriate plans have been developed jointly with the territorial health authorities, and each institution is assigned to a medical organization of the civil sector.

Due to the projected increase in coronavirus incidence, the necessary stock of medicines was formed. The necessary medical equipment was purchased.

Also, there is a stock of personal protective equipment for employees and convicts. Currently, 95% of the employees and 92% of the convicts have been vaccinated, no mass infection with coronavirus inside the penitentiary institutions happened as of today.

Dear forum participants!

Issues of transferring the functions of penitentiary medical service to the Ministry of Health have been discussed at all levels for 10 years.

Only thanks to the principled position of the Minister of Internal Affairs, Turgumbayev Yerlan Zamanbekovich, the Commission for the Reform of the Law Enforcement and Judicial Systems under the President made a final decision on this issue.

I would like to note that despite the fact that a convicted person is deprived of liberty, he/she must receive guaranteed qualified medical care in full on an equal basis with all citizens.

In addition, the transfer will provide independence of medical workers from the administration of institutions and create conditions for the elimination of possible facts of illegal working methods, untimely provision of medical care.

Work is being carried out on the normative consolidation of this issue.

In accordance with the instructions by the Head of State, a **Draft Amnesty Law** has been developed. It is dedicated to the 30th anniversary of Kazakhstan's independence and has already been submitted to the Government.

The necessary scientific and legal examinations were conducted, as well as public hearings with the participation of public figures and scientific experts.

It provides for exemption from serving a sentence for misdemeanors and crimes of small and medium gravity, as well as a reduction in the sentence for serious and especially serious crimes. The amnesty will be applied to persons who have committed crimes that do not pose a serious threat to the security of citizens and the State.

Both bills will be submitted to the Parliament this year. Special attention is paid to **socially vulnerable** categories of convicts.

Improved living conditions have been created for them, increased nutrition standards have been established, and the right to receive parcels and packages with medicines and medical products without restrictions has been granted.

Premises and special cells where disabled people are kept, canteen buildings and common areas are equipped with special technical means and devices, ramps and handrails (Article 115 of the PEC).

According to the individual rehabilitation program, they are provided with auxiliary means, such as strollers, canes, crutches, prostheses, etc.

At the women's correctional institution in the village of Zhaugashty, Almaty region, there is a **"Children's Home"** where **30 children** are kept.

They are provided with full-fledged baby food, the necessary hygiene and cleaning products and are under the constant supervision of doctors, teachers and educators. **Juveniles** in the world legal practice are considered a special category of subjects of legal relations and crimes.

There is a special colony for them in Almaty, where **49 juveniles** are currently serving sentences. To a greater extent, this is an educational colony, where conditions are created for the potential correction of juvenile offenders, in order to protect them from recidivism.

A special role in the educational work is assigned to the study process.

In the general education school at the institution, **6 classes**, where juveniles study in Kazakh and Russian languages, are opened. Teachers of the Department of Education of Almaty city teach the juveniles, all students of the school are fully provided with textbooks and writing materials. Also, an important factor for the correction and adaptation to life after release is employment. Currently, the main employer is the Yenbek Republican State Enterprise.

Currently, work is being carried out to expand the list and scope of goods, works and services purchased from the RSE, as well as the possibility of supplying manufactured products to the internal affairs bodies, without restrictions, within the allocated budget funds and the establishment of guaranteed state orders for manufactured products. The practice of state support of the penitentiary system exists in many countries, including neighboring countries. These measures will help to increase the volume of production and the number of employed convicts. At the same time, **243 business entities** operating in penitentiary institutions employed more than **3 000 convicts**. In general, more than **11 000 convicts** are employed. They are mainly involved in the production of building materials, metal structures, wood and plastic products. The processing of vegetables, meat, and fish products, as well as the production of bakery products has been established. During the

acute shortage of personal protective equipment in the country, on the instructions of the Minister, the production of reusable masks, protective suits, and disinfection corridors was organized at the production facilities. This allowed not only to cover the internal need but also to provide convicts with work.

The employment of convicts contributes to their preparation for further social adaptation in society and provides them with the opportunity to repay claims for material damage caused by a crime, as well as to provide financial support to relatives. Also, professional training has been organized in 35 most demanded manual jobs. More than 2 800 people are receiving training.

Work is being carried out on the resocialization of convicts and persons registered with the **probation service**, providing them with social and legal assistance.

Since January 2017, the Law on Probation has been put into force. Kazakhstan is the 4th country in the world where all stages of probation have been introduced: pre-trial, sentencing, penitentiary and post-penitentiary. In other words, the probation system now covers all criminally dangerous situations that a person finds him/herself in-from his/her initial conflict with the law to work to prevent him/her from committing repeated crimes. Over the past period, more than 46 000 people have passed through the records of the probation service. There are 32 000 probation clients as of today.

In cooperation with akimats, non-governmental organizations, and other state bodies, assistance was provided in obtaining more than 41 000 social and other assistance services.

Along with this, about 2 000 volunteers are involved in the process of social adaptation of registered persons, appropriate programs and plans for working with them have been developed.

Special attention is paid to public works, the main purpose of which is to correct the offender through socially useful work.

In order to prevent the commission of crimes by other persons, this activity is actively covered in the media. In conclusion, I would like to note **the systemic problems** that persist for a long time: Insufficient funding and a weak material and technical base. The provision of clothing and bedding for convicts is only financed partially. The main parts of barack-type buildings and structures were built in the 30-70 years of the last century, some of them are in dilapidated and disrepair condition. The annually declared funds for improving the material and technical support of convicts are not provided.



Elvira AZIMOVA
*Commissioner for Human Rights in
 the Republic of Kazakhstan*

First, I would like to outline two important projects that we have carried out together with Penal Reform International:

- analysis of the legislation and practice of foreign countries and WHO recommendations regarding the policy of transferring the medical service from the jurisdiction of the penitentiary system to civilian jurisdiction. This policy is based on the fact that ensuring the right to health protection is part of public health;
- analysis of national legislation, including subordinate and departmental legal acts.

The most sensitive point is the observance of human rights in conditions of deprivation of liberty, the issues of ensuring minimum standards of detention are the cornerstone through which the level of respect for human rights, the level of constitutional guarantees, and the level of fulfillment of the obligations assumed, including at the international level, are designated and assessed as a whole. It is very important that the commitments made are respected.

Speaking about public control, it is important to note the role of the PMCs and the NPM, as well as the possibility of visits by individual civil activists who raise certain issues. First, it is important to say how effectively and regularly monitoring is carried out by independent external observers. Secondly, how regularly and effectively academic experts are involved, that is, scientists, practicing lawyers, and mediators. The participation of experts who can carry out the recording according to the norms of the Istanbul Protocol is important.

I would like to note that during the pandemic, the number of visits by NPM and PMCs doubled compared to the previous year, which was made possible by a joint decision of the Prosecutor General's office and the Ministry of Internal Affairs. In fact, not all countries were able to follow this recommendation by the UN Subcommittee against Torture about not creating obstacles to monitoring places of detention by external public inspections.

It is also important to note that in cases of planned releases of convicts, the probation service provided safe movement to the place of residence, despite the period of the state of emergency in the country and the pandemic.

Recommendation regarding the analysis of legislation – it is necessary to conduct it on a regular basis since the legislation is undergoing changes.

It is also important to note that during the pandemic, the Committee of the Criminal Executive System introduced digital approaches, despite the existing regime restrictions, i.e. video communication means and video meetings were introduced.

In general, citizens who were in places of detention were more in demand for telephone communication, and face-to-face meetings with lawyers and other defenders. At the same time, we should not exclude this tool and keep it as an additional opportunity to communicate with the outside world.

The second point is to pay more attention to alternative measures unrelated to deprivation of liberty, so as not to be limited only to issues of detention conditions. In particular, special attention should be paid to children under 3 years old who are kept in the Children's Home of the colony for female offenders. In the Scandinavian countries, the experience is quite wide in the application of mediation measures. Probation works in such a way that the child does not fall into the conditions of the penal enforcement system or has a greater range of opportunities to communicate with the outside world. I ask that we do not limit ourselves to this forum today.



Vyacheslav SELIVERSTOV

*Professor of the Faculty of Law of
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Scientific director of the Scientific and
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of Criminal Executive Law
named after Y.M. Tkachevsky.
Doctor of Laws, Professor. Honored
Scientist of the Russian Federation*

The existing reality for the Republic of Kazakhstan is that currently, the prison population is at the lowest level. In these conditions, it is no longer possible to refer to overcrowding as the reason for the slow progress of penitentiary reforms, respectively, as the reason for the inconsistency of the activities of the penal enforcement system with international standards. At the same time, the harmonization of penal enforcement legislation, taking into account international standards for the treatment of convicts is carried out in the Republic of Kazakhstan on an ongoing basis. Nevertheless, in modern conditions, it is important to once again assess the provisions of national legislation in the field of the execution of criminal penalties from the international norm standpoint. Based on the Decree of the President of the Republic of Kazakhstan on Further Measures of the Republic of Kazakhstan in the Field of Human Rights dated June 09, 2021, and the Plan of Priority Measures in the Field of Human Rights approved by the Decree of the Government of the Republic of Kazakhstan No. 405 dated June 11, 2021, I will focus on improving the penal enforcement legislation on the legal status of convicts. At the same time, the emphasis will be placed on taking into account the Nelson Mandela Rules in the norms of penal enforcement legislation that determine the legal status of convicts.

It seems that in this work, priority should be given to changes in the PEC of the Republic of Kazakhstan, and subsequently to departmental regulatory legal acts, since they should not contradict the norms of the law.

In our opinion, there are two ways to improve the penal enforcement legislation in the aspect of the recommendations of the Nelson Mandela Rules.

So, taking into account the relevant recommendations of the Mandela Rules, it would be possible to regulate in more detail in Chapter 3 of the Criminal Code of the Republic of Kazakhstan in a separate article the right of convicts to receive information. Thus, in addition to the currently available legal regulation, it would be possible to guarantee convicts the provision of information not only about the procedure and conditions of serving a sentence or about their changes, but also about the rights and legitimate interests of convicts (para b of Rule 54 of the Nelson Mandela Rules) and, most importantly, about legal ways to protect their rights and legitimate interests (para 3 of Rule 55). For example, to provide a Rule that: "In institutions and bodies executing criminal penalties, information about the addresses, phone numbers, websites and e-mail of state bodies (officials), international and public organizations that monitor the observance of the rights, freedoms and legitimate interests of convicted persons is placed in premises that are publicly accessible to convicted persons".

As an element of assistance in improving the General Part of the PEC of the Republic of Kazakhstan, I sent an electronic version of the book "The General part of the new Criminal Executive Code of the Russian Federation: results and justifications of theoretical modeling", developed in 2017 by the team of the Scientific and Educational Center "Problems of Criminal Executive Law" of the Lomonosov Moscow State University. In this edition, 17 draft articles in the form of the norms of the general part of the PEC that could be included in the chapter regulating the legal status of convicts are set out. Since Russia and Kazakhstan have many common features of legal systems, it can be assumed that perhaps some ideas and project norms of this Russian publication will be useful in Kazakhstan.

DISCUSSION. QUESTIONS AND ANSWERS



Bibigul ASSYLOVA

*Vice-Minister of Education and Science of
the Republic of Kazakhstan*

Just last week, Zhemis Utegenovna and I visited our school in a juvenile colony in Almaty, where 47 juveniles are serving sentences.

In general, if we consider the education system at correctional institutions, of course, there are a number of systemic issues that require urgent solutions.

As the Head of the prison service noted, this situation has developed due to the systematic underfunding, including the infrastructure that is directly related to access to education, medical services, and other services that are directly related to the maintenance of convicts, including children.

The weak material and technical base affect the conditions of access to education of convicts, the level of equipment of educational and laboratory equipment, capital repairs and routine repairs, access to digital educational resources, access to the Unified National Test (UNT), and subsequent studies in higher educational institutions and colleges of the country.

The Ministry of Education and Science, the Committee for the Protection of Children's Rights, the Almaty city Department of Education will provide classrooms in this school with educational and laboratory equipment, furniture, stands, and strengthen the organization of the educational process until the beginning of the school year.

However, it is necessary to carry out repairs on the part of the prison service.

The Committee for the Protection of Children's Rights has sent a letter to the Ministry of Finance asking them to support the application of the Committee of the Criminal-Executive System in terms of carrying out capital and current repairs.

Our children are studying in terrible conditions, the state of the furniture and the premises where the general education school is located is of concern to us as an authorized body for the protection of children's rights.

Secondly, it is planned to introduce an algorithm for obtaining professional and technical education in the coming days in the pilot mode.

Third, improving reading literacy. The Committee for the Protection of Children's Rights prepared a list of literature, educational, artistic, cognitive, etc, which is to be delivered to this institution in the near future. The Committee also appealed to the library system of Almaty city to organize methodological assistance in relation to reading literacy.

Fourth, the staffing table and the remuneration system for teachers in penitentiary institutions are subject to attention.

We will also consider whether we will help in solving short-term problems, as far as long-term problems are concerned, so we will solve it. I suggest the Ministry of Internal Affairs jointly develop a Roadmap. Legislative amendments in the field of education, which also provide for the format of online learning have been developed already. In particular, it is possible for convicts to organize higher and secondary special, technical education, I think it will be possible to ensure the availability of such a category of persons in online training.

Regarding the UNT, it is necessary to ensure the right of access this exam, which is also to be laid down in the Roadmap.

Regarding children under 3 years of age, the Committee for the Protection of Children's Rights, together with the Ministry of Information and Social Development, is working on the issue of opening a mini-center with appropriate programs for pre-school children in this institution.

In general, I think that we will carry out similar work in all institutions of the criminal justice system.



Isidor BORCHASHVILI

*Director of the Institute of Modern Law,
Honored Worker of Kazakhstan,
Doctor of Law, Professor, Academic of
the National Academy of Natural Sciences of
the Republic of Kazakhstan*

As we have all noticed in recent years, the Ministry of Internal Affairs and the Committee of the Criminal Executive System are open to cooperation. We are witnessing the direction in which the Ministry of Internal Affairs and the prison service are moving forward in solving a number of problems. I believe that, first of all, we must support them. This work is being carried out and their desire to involve civil society deserves attention.

I would like to draw your attention to some issues. I understand that it is difficult to demand anything from prison service when there is no appropriate financial support. Most importantly, civil society understands that there is not enough funding. Both the Minister and the Head of the prison service say that no new colony that would fully meet the requirements of international standards was built yet.

Secondly, in my opinion, Elvira Abilkhasimovna correctly noted the role of punishment, the terms of detention and the effectiveness of alternative measures.

It is necessary to review the mechanism of crimes prevention. Moreover, in his address, the Head of State made it a priority that it is necessary to pay great attention to the prevention of offenses.

It is necessary to monitor how efficiently the legal mechanism of prevention works in our country, and it is also necessary to monitor the contradictions between the Criminal Code and the Penal Execution Code. The difference related to the terms of detention in the Criminal Code and the Penal Execution Code that affects convicts, as well as the introduction of the Nelson Mandela Rules.



Marina NYSTOLYI

*Head of the PMC group in
the North Kazakhstan region*

It is necessary to distinguish norms of an educational and correctional nature.

Secondly, the number of complaints about the use of torture in penal institutions is growing in Kazakhstan, but last year only 17 % reached the court. Complaints are mostly related to the conditions of detention, and applicants automatically equate such treatment to torture.

Therefore, such appeals are most often of a refusal nature. Consequently, as a sign of protest, the convicted person declares a hunger strike and goes on self-mutilation.

Today, it is important to consolidate and separate the concepts of torture and inhuman and degrading treatment in the Criminal Code. Only in this case we will see a reliable number of complaints.

Thirdly, the State has entrusted the sewing of clothing to the Yenbek RSE. Today, there are many complaints about the quality of the products of this enterprise. Especially textile accessories, mattresses and pillows simply do not withstand the approved terms of use. The density of the mattress filler shall be better. When pressing on them, the base of the bed is felt. After a while, the pillow fillers get into lumps, but the convicts have to use these pillows for 4 years according to the requirements. Of course, the convicts would complain about the detention conditions, which is happening now. It is necessary to establish a state standard for the products of the Yenbek RSE at the legislative level and hold them accountable for their violation.

Fourth, the appointment of an individual assistant to a person with a disability serving a sentence shall be addressed at the legislative level. Currently, the disabled person is forced to independently look for an assistant among the convicts, not without interest. Therefore, it is necessary to work out and provide a mechanism for an individual assistant for people with disabilities of group I and those who have difficulties when moving.

Fifth, the regulatory documents provide that during the search activities, each convict must be at the place of inspection with his/her personal belongings and sleeping accessories, which includes a mattress, pillow, etc., however, convicted persons with disabilities, elderly convicts are not able to carry things. So, they have to ask for help from other convicts.

It is necessary to amend the regulatory documents and provide assistance to vulnerable categories of convicts during search operations.

Sixth, there is a number of women in colonies for female offenders, who have children. According to the approved rules, they have the same number of dates as others. We should not forget that a woman is a mother by nature, moreover, the one who has a young child. She is not deprived of this status by the court. Therefore, she has every right to take care of her child wherever she is. In turn, the child's right to receive maternal care. Today, there is a problem of blunting maternal feelings and the moral degradation of motherhood and childhood.

It is necessary to increase the number of short-term and long-term visits for women with young children and adolescent children at the legislative level.

Our institutions of Soviet times require major repairs. Dilapidation of the facilities leads to non-compliance with sanitary standards and deterioration of the living conditions of convicts. When the temperature is extremely low in winter, the walls freeze, which leads to diseases among convicts and complaints from them.

It is necessary to pay special attention to the state of the facilities of the penitentiary system and allocate funding to bring them into line with the legal norms related to the detention conditions. Also, there is a need to review the norms of furniture and inventory and equipment. Although the weight of the parcels increased to 20 kg, the storage space remained the same, which leads to food spoilage, especially in summer.

Constant complaints from convicts, constant checks by state bodies make working in penitentiary institutions unattractive. As a result, experienced employees are leaving their workplaces. There are more and more illegal actions on the part of new and untrained employees who are alien to the rights of convicts. All this gives rise to new complaints and inspections, which undermines the activities and authority of the institutions of the criminal justice system. Therefore, for more effective work of employees, professionalism of the personnel, it is necessary to review the issues of social security of employees of penitentiary institutions and carry out measures to respect the rights of convicts with the involvement of representatives of PMCs, NPM.

During the transfer of the convicted, relatives are not informed about the location, which causes alarm among the relatives and the convicts themselves. The ability to keep in touch with the outside world. During the transfer notification is one of the important protections against torture.

Amendments to ensure that relatives and legal representatives are notified about the convict's transfer and about the final location before the start of the transfer are necessary. It is also important to inform if the convict is delayed in a transit institution for more than 3 days, except in cases for security reasons.

2d SESSION

INTERNATIONAL AND NATIONAL RECOMMENDATIONS IN THE FIELD OF HUMAN RIGHTS IN THE PENITENTIARY SYSTEM

Moderator: Nurlan BIYEKENOV

Head of the S.Kabybayev Kostanay Academy under the Ministry of Internal Affairs of the Republic of Kazakhstan, Doctor of Laws, Associate Professor



Aruzhan SAIN

*Commissioner for Children's Rights in
the Republic of Kazakhstan*

I express gratitude for the invitation to this very important forum, I also want to take the opportunity to express my gratitude to the Ministry of Internal Affairs, the Committee for the Protection of Children's Rights under the Ministry of Education and Science of the Republic of Kazakhstan, a number of NGOs - there is Zhemis Utegenovna, who actively helped in a number of cases in the protection of children's rights, lawyers who actively assist us. The Institute of Children's Rights Commissioner is a public position in our country, and it is not yet possible to hire lawyers, this is a huge help, and of course, to all law enforcement agencies on the ground, with whom we are in close contact on the protection of children's rights.

For 2 years in the position of the Children's Rights Commissioner, I received 4 appeals related to the violation of the rights of children in conflict with the law, they are mainly related to the violation of rights during the pre-trial investigation. On our part, work was carried out with police departments and prosecutor's offices. This resulted in one case being filed on torture, and the second case was filed under the "Arbitrariness" article. Basically, if the appeals are related to criminal offenses, they relate to the children of victims of some crimes. One case did not reach the court, since the parties reconciled. Pre-trial investigation for the second case is still underway.

We have been cooperating with the prison service for many years, helping the Child's Home, which is located at one of the colonies for female offenders. It is worth noting that we always get access there, we get objective information about what kind of help would be useful, we contact the mothers of children during visits.

At the beginning of my speech, I would like to say that the main task of any state is to make sure that the level of offenses and crimes among juveniles is reduced by application of preventive measures. It is important to note here that every child from a young age gets into a state system where everything is aimed at high-quality upbringing and education, and through an individual approach to each child, work is being done to create all conditions for the development of the best qualities, the disclosure of everyone's talent and abilities.

By doing sports, art, learning sciences in the education system, through own success, thanks to work and achievements, the child will grow up to be a worthy adult who is not capable of violating the rights of other people, not inclined to violate the law. At the initiative of the Head of State, having adopted the relevant laws last year on mandatory 100% coverage of every child by sports sections and art circles, guaranteed 2 for each child at the expense of the state budget, you have begun a major reform in this direction, which I am sure will bear fruit, not only in terms of strengthening the physical and psycho-emotional health of children, and adults, not only in the formation of high-quality human capital, but also in reducing juvenile delinquency, suicide, and in the future will affect the reduction of crime in principle.

Nevertheless, we have one problem in our country: there is one colony for juvenile offenders, where 49 boys are serving sentences. Kazakhstan has done a lot of work to improve the situation in the field of justice for children.

I would like to thank UNICEF for their great contribution to this work. The specialists of the Children's Fund prepared an analytical report on policy issues and reforms in the field of justice for children in Kazakhstan, assessed the current situation, and made recommendations.

Since 2009, the Government of the Republic of Kazakhstan, with the support of UNICEF, stakeholders and donors, has launched a number of reforms in the field of justice for children. New specialized institutions were created, in particular, a specialized juvenile court, which is now operating in all regions of the country. Amendments to legislative acts were adopted to ensure that the law strengthens the protection of children with their participation in the processes of justice and compliance with international standards. Activities were carried out to increase the capacity of stakeholders at various levels who come into contact with children in conflict with the law, and child victims and witnesses of crimes. As a result of these reforms, there is a significant decrease in the number of children participating in criminal proceedings, convicted and/or detained juveniles. In addition, child victims and witnesses of crimes are better protected by the justice system. Despite the fact that the system does not yet fully comply with international standards, the issue of justice that takes into account an individual approach to children is becoming relevant in the country and is considered a priority at the highest level.

Since the adoption of the Concept for the Development of Juvenile Justice for 2009-2011, the Government of Kazakhstan, with the support of UNICEF, stakeholders and donors, has begun to introduce a number of reforms.

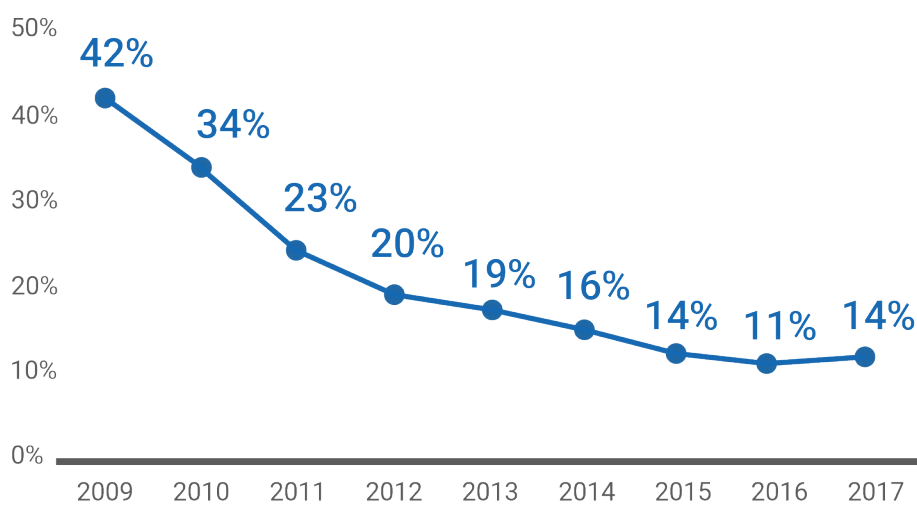
In 2009, the approach to children in conflict with the law was mostly punitive, there was no specialized institution that would deal with children involved in the processes of justice, except for two institutions of a specialized juvenile court in the city of Almaty and the city of Astana. The number of children participating in criminal proceedings was high: 6 367 children in 2009. There was also a significant number of convicted children: in 2009, 2 654 children were convicted, which was 41.7 % of children involved in criminal proceedings. Children victims and witnesses of crimes became victims repeatedly during court proceedings, passed many interviews, and came into contact with suspects during court hearings. No psychological support was provided to them during the trials, which led to secondary victimization.

As part of the reform, three main concepts were developed and implemented. Specialized institutions that deal with children involved in justice processes have been established or strengthened since 2009 as a result of the reform, several main specialized institutions in the field of child justice have been strengthened or established. The juvenile courts that handle most cases involving juvenile offenders have been organized in all regions of the country. Audio and video equipment was provided in several institutions of the juvenile court for conducting interviews with child victims and witnesses of crimes. Moreover, several law enforcement agencies and courts were equipped with child-friendly rooms. The juvenile police was opened in cities and villages. Conditions in special schools, Juvenile Adaptation Centers, and juvenile colonies improved. These institutions are paying more attention to the rehabilitation and resocialization of children, however, sending them there is still considered as the isolation from their families. The National Preventive Mechanism has started its work in closed institutions for juveniles, pilot programs have been launched in several areas. Important legislative amendments were adopted to strengthen the protection of children in the framework of justice processes. The legislation allows the authorities to eliminate criminal responsibility from children, allows for the adoption of sentences with probation or alternative justice measures, although the country does not yet have a "divergence" scheme consistent with international standards. Deprivation of liberty is allowed only in cases of serious criminal offenses, the duration of detention of children before trial has been reduced from 72 hours to 24 hours. In addition, the legislation contains new provisions on the use of audio and video equipment for conducting interviews with child victims and witnesses of crimes and on the presence of a psychologist or social educators to support children in such cases. In addition, the criminal penalty for crimes committed against children has been increased. As a result, national legislation is now more consistent with international standards, while some improvements still need to be introduced in order for the country to comply with its international obligations. Specialists working with children took advantage of participation in activities to improve their skills. Pieces of training were provided for judges, psychologists, social workers, lawyers, NGOs, probation officers, juvenile police inspectors, prosecutors, etc. Some of these training sessions

took on an official character, but there were many one-time training courses conducted by NGOs or UNICEF, without a specific action plan or a developed strategy.

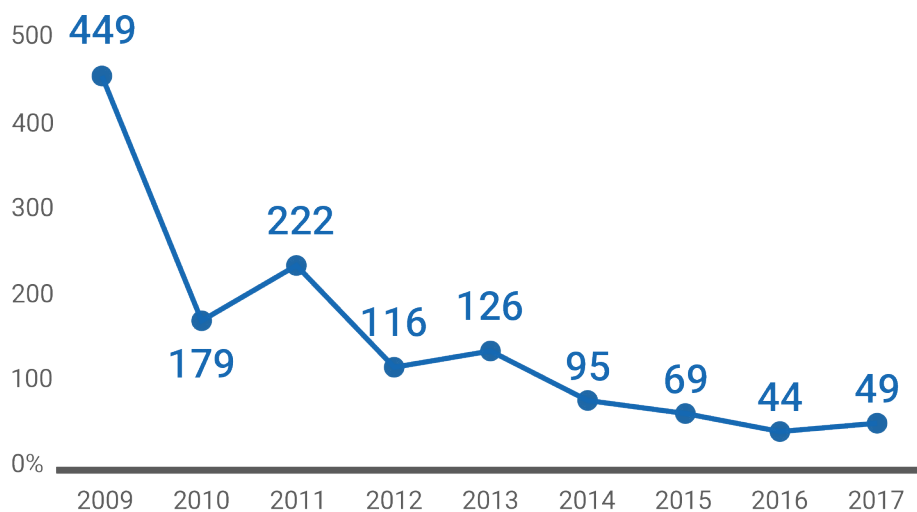
As a result of the reforms, the protection of children in conflict with the law has been strengthened, the number of children who have committed criminal offenses has decreased in the period from 2009 to 2017. There is a 53% decrease in the number of children who have committed criminal offenses, and as a result, fewer children have come into contact with the justice system.

This number has decreased due to the decriminalization of a number of offenses, as well as due to the exclusion of children under the age of 14 from statistics as a result of capacity-building measures. As a result of amendments to laws, the creation and training of legal specialists, a large number of cases involving children are closed before trial, mainly due to reconciliation procedures.



The dynamics of the number of convicted juveniles compared to the number of juveniles involved in criminal proceedings

Despite the fact that such procedures do not yet fully comply with international standards, they allow children to avoid contact with the justice system, which leads to a significant decrease in the rate of convicted children from 42% in 2009 to 14% in 2017. Since the beginning of the establishment of the juvenile court and the adoption of amendments to laws that introduced restrictions on the detention of children after the trial and mitigation of punishment for crimes committed by children, the number of children sentenced to detention has significantly decreased.



The number of juvenile offenders in the penitentiary institution (end of the year)

The development of alternative justice measures at the legislative level allowed judges to apply other measures, such as educational measures, as a result, avoiding imprisonment. The lack of services for preventing the commission of repeated offenses and providing support to children for resocialization and rehabilitation in society remains an important problem in the country, including for the reasons voiced by Bibigul Amangelninovna, but, as I said at the beginning, the authorities of Kazakhstan are already taking concrete steps to reform the prevention of child crime and support children at the national level.

Nevertheless, we need to strengthen reforms to protect child victims and witnesses of crime. The number of surveys of children has decreased. For example, in a number of criminal cases that we accompanied, the deposition of children's testimonies was used, which made it possible to avoid repeated questioning in the courts. Child victims and witnesses of crimes receive the support of psychologists during criminal proceedings. We often cooperate with police departments from different regions when it is necessary to attract the most qualified specialists. For instance, when the victim is a very young child and highly professional specialists, or particular attributes are required so that the child can tell what happened to him/her.

However, it is necessary to create a program for the protection of victims and witnesses of crimes.

The main lessons learned from this analysis suggest that legislative changes should be accompanied by the development of services to ensure their effectiveness and impact. The reforms have demonstrated excellent sustainable achievements, but we still need to overcome some difficulties in order to strengthen the protection of children involved in justice processes and ensure full compliance with international standards.

At the same time, I want to emphasize again that we need to direct all resources for the prevention of crimes in general, both among adults and certainly among juveniles. This can be done only through the systematic efforts of the state to educate society and create conditions for each child to direct his/her energy and efforts to develop individual potential, reveal talents, engage in interesting, useful activities, to receive a high-quality education that he/she will definitely apply in the future for a stable and prosperous life. Children who learn to achieve goals, overcome difficulties, and see the result of their work through sports and art will respect their achievements, the work, and the results of other people. They will know how to protect their own and respect other people's rights, which is the basis of a law-abiding society.

**Zhemis TURMAGAMBETOVA**

Executive Director of the Charter for Human Rights Public Foundation, Public Adviser to the Minister of Internal Affairs of the Republic of Kazakhstan, member of the National Council of Public Trust under the President of the Republic of Kazakhstan

I would like to thank Bibigul Amangeldinovna, also Vyacheslav Ivanovich, who has been coming to our republic since the mid-90s and was engaged in the first reform of the penitentiary system.

You all know that there is a message from the President as of September 1, 2020, where he gave instructions to organize continuous video surveillance in places of detention and in the system of the Ministry of Internal Affairs. It is necessary to develop a detailed legal framework that would allow for video surveillance of convicts, taking into account the observance of their rights, especially with regard to the right to privacy, to compile a complete list of premises, availability of cameras in the institution, indicating the duration of video surveillance, storage periods, the possibility of providing recordings to all interested persons in case of disputes and cases of torture, including representatives of the PMCs and NPM. Also, viewing of video surveillance cameras and obtaining copies of the recording in case of procedural situations shall be provided.

Of course, with cell-type accommodation for 2-4 people, there is no need to install video cameras in order to avoid violating the right to privacy of convicts. However, it is impossible to put video surveillance cameras in toilets, which I already mentioned during the monitoring visit to draw up the maps. In order to avoid conflict situations in the sleeping room, an important role is played in allocating convicts according to personal characteristics. A psychologist's recommendation is required to determine whether particular convicts are fine being together in one sleeping room.

I hope that the Department of Psychology of the MIA Kostanay Academy will work on this topic.

Now there is a question of transferring the footage to the Operations Center of the Police Departments in the regions, considering that the storage period is only 30 days, so, if there are any controversial points after 2-3 years, then where these materials can be obtained from.

All these questions show that this issue requires an agreed package of instructions and a list of premises that will be covered by video surveillance, to ensure personal security while serving a sentence, as we have already mentioned, to develop a detailed legal framework that allows for video surveillance, taking into account the observance of the rights of convicts, especially the right to privacy, etc.

Zhanat Bolatovich, while monitoring some institutions, I asked how they are developing, whether they are developing a map of this placement of cameras. Administrations of different institutions evaluate everything differently, so it is necessary to develop a unified list of premises and special places for installing video surveillance cameras in the interests of citizens, with the involvement of scientists and probably representatives of civil society.

In general, now there are more questions than we expected, so I suggest that the organizers and donors hold perhaps one more conference on video surveillance, which can also be organized online. This issue requires careful study, it cannot be done just to fulfill the President's instructions. We will need to determine the exact date, look at the development of video surveillance maps, give those to experts, to representatives of NGOs so that we can make a list of recommendations based, among other things, on the experience of other countries, video surveillance and what state it is in, but we will have to develop it ourselves, we will count on the help of interested international organizations and interested representatives of our civil society.



Assel TOKAYEVA
*Acting Chairperson of
 the Republican Bar Association*

The interaction with the clients in the pre-trial detention centers amidst quarantine measures. The lawyers were allowed to communicate with clients via Skype. In some cases, video communication is enough. However, for full-fledged assistance, the personal presence of a lawyer is necessary. In this regard, we propose to amend the order of the Ministry of Internal Affairs No. 505 regarding the provision of the possibility of providing visits both, offline and online, at the choice of the person being held in custody or his/her defender. It will take about 3 months to make changes to the Internal Regulations, but online meetings are necessary immediately. Therefore, I ask you to send an instruction on the provision of visits in an alternative order.

Secondly, the legal community is concerned in the light of the latest Decree of the Sanitary Doctor, according to which restrictions are listed for certain persons, including lawyers. As a result, the lawyers faced the requirements of the institutions about the need for a PCR test results certificate.

We believe that this requirement is not permissible, they violate the constitutional rights of investigative-arrested citizens to provide legal assistance. Of course, after a few days, this requirement was adjusted, but we ask the prison service to keep in mind that there may be questions.

Third, this is what Elvira Abylkhasymovna said, regarding conditional early release or replacement of the unserved part of the sentence with a milder form: not all courts apply legislative norms in practice and not all are released despite the presence of all grounds, not all courts apply this norm of parole and replacement of the sentence. In this regard, it is proposed that the prison service, together with the Republican Bar Association, analyze the practice of applying these acts by courts. For example, for the past period of at least 2021, including the percentage of how many positively characterized convicts were eligible for release and how many were refused, and the grounds for refusal. Further, the analyses should be sent to the Supreme Court, the Prosecutor General's office for joint discussion and taking the necessary measures aimed at ensuring the rights of convicted persons in this direction.

Fourth, today, due to digitalization, there is a unified information system of legal assistance. There is also a centralized automated database for persons held in penitentiary institutions. The Bar Association is proposed to consider the integration of existing information systems, including the possibility for lawyers to obtain information on a convicted person if there are relevant documents, i.e. notifications for the provision of legal assistance. We believe that this proposal is appropriate and corresponds to the realities of our time.

In 2018, a Memorandum was concluded between the prison service and the Republican Bar Association regarding visits to pre-trial detention centers by lawyers. It spells out some conditions for entering penitentiary institutions, interacting with the prison service in order to have as few complaints from the legal community as possible, and in general, the Memorandum was concluded in order to relieve any tension when visiting pre-trial detention centers. During the visits by lawyers, as a rule, there are always tense relations, scandals, claims based on technical issues.

We have previously sent a request to the prison service on this matter, collected information, and it turned out that many regions do not comply with this Memorandum, do not even know about its existence. In this regard, we propose to conclude a new Memorandum or update the terms of the Memorandum including important points from the legal community that would help us to carry out our professional activities.



Yevgeniy ZHOVTIS

*Director of the Kazakhstan International
Bureau for Human Rights and Rule of Law*

First of all, thank you for the opportunity to speak at this forum. Let me remind you that since the beginning of the 90s, together with today's speaker Ms Turmagambetova, Amnesty International, and Penal Reform International, we have been raising the issues on the abolition of the death penalty in Kazakhstan, the fight against torture, and the establishment of a mechanism for public control over the penitentiary system.

It took 10 years for a Moratorium on the execution of the death penalty to be issued first, and another 15 years for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights and the gradual elimination of the death penalty from our criminal legislation.

It also took 10 years and the efforts of a number of human rights organizations, human rights defenders to include the crime of torture in criminal legislation and to establish the first Public Monitoring Commissions to monitor institutions of the penal system.

Another 10 years to create and strengthen the National Preventive Mechanism for the prevention of torture.

The reason I recalled this is because most of all I regret about the wasted time and that a lot of effort was spent on forming the political will for these changes and for their practical implementation.

Every time we develop analytical notes, reviews of international standards, hold expert meetings, discussions, conferences, seminars.

Of course, I understand that everything needs time so that everything is done step by step, but I am absolutely convinced that many reform decisions can be carried out and implemented and taken much faster.

Since the time allocated for my speech is short, I would like to note that we sent to the organizers of the forum, first, a comparative analysis of our criminal legislation and the Nelson Mandela Rules, prepared by Mr Rakhimberdin, also the proposals that were developed for the section "Penal Enforcement Policy", the draft concept of the legal policy of the Republic of Kazakhstan until 2030.

In 2013, during the discussion of the draft of the current Penal Enforcement Code, I sent a large package of proposals to the Ministry of Internal Affairs and the Parliament, which, as it seems to me, continues to be relevant and we can get back to those.

There are a number of other proposals that we are also ready to send, including the results of, for example, a study conducted on the problems of access to legal aid in places of deprivation of liberty that are not directly related to the appeal of court decisions, sentences, and so on.

All these proposals in the documents are based on conceptual positions.

The first position, which I continue to defend, and therefore I said that it is desirable that everything happens as quickly as possible.

The first position. The penal enforcement system should be completely demilitarized, except for perimeter protection and maintaining the order of the allocated structure of the Ministry of Internal Affairs, and turned into a civil agency in the form of an independent structure or as part of the Ministry of Justice with the main staff, social workers, psychologists, and so on.

There are so many arguments why it is so productive to be part of the Ministry of Internal Affairs based on experience that it makes no sense for me to stop, it is enough to look at the recommendations of international organizations.

Look at the recommendations of the UN Human Rights Council under the Universal Periodic Review, the Human Rights Committee, the Committee against Torture, and finally the Special Rapporteur on the issue of torture, who visited our country.

The second, outdated concept of education and correction of convicts, including with the help of the regime, socially useful work. It should be replaced with a modern concept of preservation, aimed at not getting an angry and sick human after release from the penitentiary institution, this system does not really correct anyone and does not educate anyone. I think it is not worth even concentrating on this.

Its task should be to support the physical and mental health of convicts who are isolated from society due to public danger. Help with social rehabilitation and reintegration.

Third, we need a modern approach to the probation service so that it really turns into a crime prevention service, providing social rehabilitation, reintegration at different stages, it is very good that there are different stages included in the legislation, but there may be a need to separate it into an independent structure.

I understand perfectly well that such a conceptual approach will require a qualitative revision of the penal enforcement legislation, staff training programs and many other steps.

I have no doubt that we will come to this sooner or later and it is better to hurry up so as not to waste time.

Nevertheless, if we are not ready for such drastic steps yet, of course, we are preparing to participate in individual changes, improvements, revision of our country's obligations in legislation that do not meet international standards, aspects of law enforcement practice, protection of the rights of convicts, and improvement of staff training.

Moreover, there are quite a large number of problems: torture, ill-treatment, I will add one more important element from the Convention against Torture - degrading treatment and punishment. It is not enough just to talk about detention conditions or about torture and ill-treatment and detention and ill-treatment in its pure form, there is also degrading treatment that is widespread and causes serious problems. For instance, issues related to access to legal remedies and a lot of different recommendations regarding effective appeal process, including a disciplinary decision, and so on.

We can make proposals on all of them, and we will do this, necessary and important steps that have led, among other things, to the humanization of criminal policy and a threefold reduction in the prison population, a number of other positive results, but I think it is conceptual to make conceptual decisions because if we want to create a modern penitentiary system in the 21st century, it is better to take these steps as early as possible. Taking constitutional, legislative, and practical steps will improve this situation significantly, increase our ratings in various international organizations, etc.

I will conclude with a very simple formula, it is said that the country is evaluated by its economic, political and other development according to two parameters. If we are talking about economic development, it is the toilets that are to be judged, if it is about human rights, then it is the situation with the rights of convicts. I really hope that such forums and this movement in a positive direction will help both if we want to be included in the first 30th or 50th of developed countries of the world.



Anara IBRAYEVA

*Member of the NPM Coordinating Council,
expert of the Kadir-kassiyet NGO*

Since the forum is not broadcast publicly on social networks, here is my first recommendation, in 2022, let this platform be not just a forum where participants exchange opinions that are not mandatory for participants but perhaps become a congress.

Considering from the etymology of the word "forum", which is a square that has become the center of life, I really hope that the organizers will try to make it accessible in the future.

With this recommendation, I would also like to raise issues that concern not only the penal enforcement system because this is not only the execution of sentences related to deprivation of liberty but also alternative non-custodial measures, detention before trial.

This also refers to temporary detention facilities, by the way, there is a decision of the Committee against Torture in this regard that Dmitry Akishev, who was under investigation in the temporary detention facility of Stepnogorsk city, died in custody without even being convicted. So, this shows the importance of raising the issues related to temporary detention facilities.

Recommendation: to make statistics public, it is important for society to know not only the number of tortures, complaints about them, but also the number of deaths in custody, the number of people with disabilities, but also about torture more often, e.g. on a monthly basis.

It may also be possible to make some kind of interactive map of institutions where the complaint about ill-treatment and torture comes from. Including inhuman, degrading treatment, also punishment. Publicly available information, including the results of official inspections, will calm the society, calm the People. I would like to know more about those persons who were brought to disciplinary responsibility, even if not to criminal, but at least to disciplinary responsibility. The society also has the right to know the number of recommendations. What is the fate of the applicant about torture in places of detention, those who filed complaints. Because there are suspicions about what happens to these people next, after they reported torture and the cases were dismissed.

I will give an example, in the anti-torture index among 8 countries for 2020, Kazakhstan was in fifth place, after Ukraine, Moldova, Armenia, and Poland. There were only Kyrgyzstan, Russia and Belarus after Kazakhstan. We do receive information from the Committee of the Criminal-Executive System, which cannot be said about other departments of the Ministry of Internal Affairs or about the Prosecutor General's office or the Anti-Corruption Service. For some reason, the Supreme Court has become such a closed zone and therefore the prison service seems more open against this background, however, problems with access to information still exist. Therefore, in this regard, my recommendations are about opening access to all data that may be of interest and are of interest to society.

Secondly, out of 48 decisions of the Human Rights Committee, 30% are about torture (16 decisions by the UN Committee against Torture). With the support of the Embassy of the Kingdom of the Netherlands in Kazakhstan, in cooperation with 20 experts, we have developed hundreds of measures that are already enshrined in 40 roadmaps for the implementation of these decisions. Only 3 out of 31 measures that the Committees called in their decisions have been partially implemented, which is only 10%. As you understand, I have a recommendation in this regard. By the way, the recommendations that I will list do not apply only to the prison service or the Ministry of Internal Affairs, they relate to many state bodies, which for some reason are very poorly represented today. To legislate the state body that will be responsible for the execution of the UN Committees' decisions. It is an urgent issue for all of us, but also for those heroes-applicants, who show an example with their experience of how to fight torture.

Please check out our website that has all the roadmaps, all the tables on changing the legislation on combating torture and addressing other matters.

The Istanbul Protocol, which was discussed today, is a matter of implementation both in legislation and in practice. As for the documentation of torture investigations, the recommendation is to develop and enact in a short time a clear plan for the implementation of the Istanbul Protocol with specific indicators.

The next one is about penitentiary healthcare that we are talking about a lot today, I doubt that proper medical services are to be provided only by transferring it under the Ministry of Health. Of course, these are great achievements, but I want to draw your attention to two decisions by the UN Human Rights Committee: the first decision is on the case of Mukhtar Dzhakishiev, who is well-known to everyone; and the second is on the case of a person with a disability, Zhaslan Suleimenov. The recommendation that comes from these two decisions is that continuous, effective access to medical care, transparency, including transparency of allocated funds, shall be ensured. I am speaking here about the funds that were allocated from the budget on healthcare. I understand that this is not a roundtable, but I would ask organizers to include such recommendation in the results of the forum. It would also be nice to hear some live broadcasts from the prisoners themselves, so as to make sure that there is definitely no torture in places of detention. This will help society to see it directly, but it also gives the prisoners the opportunity to get such a microphone.

There are three more small recommendations, they relate to people with disabilities, including their leisure time, engaging in useful activities. First, to implement the decision of the Human Rights Committee, as I have already said in the case of Zhaslan Suleimenov, including publishing on the website of the Ministry of Internal Affairs the report of the Committee of the Criminal-Executive System, which would relate to the state of medical and sanitary services, to assistance to persons with disabilities, taking into account their limited capabilities, to the number of persons who had access to private doctors and medical examinations necessary.

Regarding the complaint mechanism. Everyone knows that the terminals that are installed in the penitentiary institutions do not work, or they work with some problems, so the recommendation is to make sure that those terminals are in proper condition and are operating constantly. There are many questions regarding this matter, including those related to corruption, apparently either to determine the reasons or to force the return of the expenses spent on these terminals, since the amount of money spent on them, as we know, was not small.

Strengthen and develop interaction with society, with the media sector. Such interaction should not be limited to the Public Council or the PMCs, NPM only. It should be expanded, and not just be within the boundaries of this specified institution.

Finally, the prison subculture. For example, it can be the cohesion of organized criminal activity, the continuity of new generations, and so on. On the other hand, we understand that this is a certain form of protection for convicts. The question is, what are the convicts defending themselves from? Sometimes we even wonder where there is more of such a subculture in society or in places of detention? I want to give specific recommendations about the presence of a prison subculture. As we understand, the existence of the prison subculture requires thorough studies and as Dr Borchashvili mentioned today, these studies should not be useless. I would propose to conduct, or I would say that it is necessary to measure the values in two spectra: what employees and society think about convicts, and vice versa, what convicts think not only about society and employees of the institution but also about the state. So, what we will see? Believe me, we will see first of all, that convicts' attitude is negative not only towards the prison service or the Ministry of Internal Affairs but mainly to the judicial system. Thus, such important questions should not be skipped. The recommendation of a private nature is to ensure equality among prisoners. For example, to think how the practice of hierarchy in the form of privileges for some convicts could be eliminated. Of course, it is not so easy to implement such a recommendation.

Yevgeny Alexandrovich talked about withdrawing the penitentiary service from the system of the Ministry of Internal Affairs: to carry out reforms of the criminal justice system, to change traditions and rules of the norm in order to eradicate a criminal lifestyle, including preventing juveniles from doing this. But also, to introduce concepts and ideologies for each prison, for each colony of its own ideology, neither the one we are talking about. There must be a modernization of consciousness.



Bekbolat SHAKIROV
*Deputy Head of the Department of the
Criminal-Executive System for
the Karaganda region*

According to the Nelson Mandela Rules, the purpose and justification of a prison sentence is to protect society and prevent crimes that threaten society, but when a person is segregated from society, the difference between life in prison and life at liberty should be minimized. The treatment of prisoners should emphasize not their exclusion from society, but the fact that they continue to remain members of society.

Moreover, it follows from the international experience of preventing post-penitentiary recidivism that deprivation of liberty does not work as a means of correcting the offender. As a result, there are such precedents as reducing the incarceration of the population due to other measures of influence.

I think it is appropriate to mention that in the history of the Criminal Code of our country, namely in the Kazakh customary law, there was no concept of prison, the main types of punishment were widely used, such as “kun” (ransom for murder), “ayyp” (fine), confiscation of all property from the offender, the expulsion of the offender from the community.

To date, the basic principles of the Nelson Mandela Rules have been implemented in the current legislation of the Republic of Kazakhstan (for reference: respect for honor and dignity, non-discrimination, torture, ensuring the safety of convicts). It is also worth noting that, in Kazakhstan, ongoing work is being carried out to improve and bring the penitentiary system in line with the international standards of developed countries. One of the introduced innovations is the possibility of submitting electronic appeals by convicts through terminals in the institutions of the criminal justice system.

Moreover, convicts are provided with short-term visits via video communication during the period of suspension of visits related to the implementation of anti-epidemic regime-restrictive measures (for reference: introduced on April 5, 2021).

Telephone conversations, including those using video communication systems, if it is technically possible, are provided from 9.00 am to 21.00 pm. Also, the weight of parcels has been increased from 14 kg to 20 kg.

In addition, international pilot projects such as “Reading without Borders”, “Pay Back to Society” are being successfully carried out, and a joint program of the European Union and UNODC is also being implemented.

That is, a huge and scrupulous work has been done in terms of legal and material support for convicted persons, the difference between life in prison and life at liberty has been brought to a sufficient minimum in the penitentiary system of the Republic of Kazakhstan. Of course, there are questions for further development.

The education of law-abiding behavior among convicts is carried out on the basis of methods and means of self-discipline, professional training and employment of prisoners, first of all, is an instrument of the educational impact of the penal system.

At the same time, convicts are trained in new specialties that are in demand in the labor market.

Due to the recent changes, the provision of labor for convicts directly depends on the result of the state order.

In addition, from the experience of conducting international pilot projects by the European Union and the United Nations, the level of training and provision of employees is the main factor in the effective implementation of the project, as well as the targeted use of appropriate investments. Thus, the goal of sustainable development and humanization of the penitentiary system is achieved.

The current situation of the penitentiary system of the Republic of Kazakhstan is a complex, joint work of state bodies, international public organizations, representatives of the civil sector. As a result, the Nelson Mandela Rules have been implemented in the national legislation of the Republic of Kazakhstan, while there are issues for further development and implementation of international experience, and in this regard, the Department of the Criminal-Executive System for the Karaganda region is always ready to test pilot projects.

DISCUSSION. Q&A SESSION



Aydarkan SKAKOV

*Professor of the Department of
Criminology and Crime Prevention of
the Academy of the Federal Penitentiary
Service of Russia, Professor of
the Department of Criminal Law and
Organization of Execution of Sentences
of the S. Kabylbayev Kostanay Academy
under the Ministry of Internal Affairs of
the Republic of Kazakhstan*

Dear colleagues, I am very grateful to the organizers of this forum for the opportunity to participate in the work. I came to Kostanay specially for this purpose, thank you all!

The speeches of our previous speakers prompted me not to stand aside. I was glad to hear speeches of the Head of the Committee, the Minister of Internal Affairs, and to know about many positive achievements in our system. Our international colleagues also drew attention to the positive aspects.

At the same time, there are, of course, shortcomings, there is no chapel of perfection, and in this regard, I would like to express my thoughts in a thesis.

I will start with the legislation. In this regard, I would like to say, indeed, Professor Borchashvili noted that we have a lot of contradictions and conflicts, with which I agree with.

Secondly, I fully agree with dear Vyacheslav Ivanovich about expanding the practice of implementing the Nelson Mandela Rules.

In terms of improving the legislation, it is necessary to define clear boundaries of "torture" and "ill-treatment".

The issue of insufficient funding is also important.

Regarding the construction of institutions, I agree that many of them are dilapidated. I suggest that we turn to commercial structures, private businesses for the reconstruction or construction of new prisons.

The forum was organized by colleagues, prompting us to come up with new ideas.

3d SESSION

OPEN DIALOGUE IS THE KEY TO TRANSPARENCY AND EFFICIENCY

Moderator: Kuat RAKHIMBERDIN,

*Member of the Public Council of the Ministry of Internal Affairs of the Republic of Kazakhstan,
Doctor of Laws, Professor*



Meiram AYUBAEV
*Deputy Head of the Committee of
the Criminal-Executive System*

Dear participants and guests of the forum!

First of all, let me welcome everyone to today's event.

As you know, on the initiative of the Minister of Internal Affairs, Yerlan Zamanbekovich Turgumbayev, and with the support of Penal Reform International in Central Asia, the forum "Open Dialogue – a Tool for Reforming the Penitentiary System" was organized back in May 2019.

The Forum was attended by members of the Parliament of the Republic of Kazakhstan, representatives of state bodies, diplomatic missions, non-governmental, international organizations, Public Monitoring Commissions, the National Preventive Mechanism, the scientific and expert community (159 participants in total).

We had the honor to work with many of those present at the first forum and, as time has shown, to develop and implement a number of proposals that significantly improved the legal status of convicts, the humanization of the execution of sentences, as well as the activities of the penal enforcement system.

Following the results of the event, a decision was made on the expediency of creating an interdepartmental working group to collect and study proposals aimed at eliminating existing problems in the penitentiary system and bringing it closer to the best international standards.

For this purpose, the section "Public discussion on improving the penal enforcement system" was created on the departmental website.

An interdepartmental working group that includes representatives of interested state bodies, civil society, foreign and domestic non-governmental organizations, and the scientific community has been established.

A total of 199 proposals were received. Four meetings of the working group on June 18, July 10 and 17, August 5, 2019, were held and the following decisions were made:

- 54 proposals approved and recommended for further implementation;
- 145 proposals excluded because they are associated with an increase in funding, the need to introduce additional staff, or are provided for in state planning documents and draft laws.

On August 6, 2019, a briefing was held for representatives of the mass media, where the results of the ongoing work were discussed.

Based on the results of the work of the interdepartmental working group, a round table was held on August 28, 2019, on the further implementation of the generalized recommendations aimed at improving the activities of the penal enforcement system.

Dear participants, I am pleased to inform you that one of the most significant and discussed recommendations of the Forum on the transfer of medical support for convicts from the Ministry of Internal Affairs to the Ministry of Health is currently being implemented.

To date, a draft Decree on Further Measures to Improve the Public Administration System of the Republic of Kazakhstan has been prepared and agreed upon by the interested state bodies and akimats.

On June 30, the draft Decree was passed to the Office of the Prime Minister of the Republic of Kazakhstan for further consideration.

Together with the Ministry of Health, the Concept of the draft Law on Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Improving the Activities of Internal Affairs Bodies was developed, which was approved at the next meeting of the Interdepartmental Commission.

As of July 8, 2021, a draft Law has been prepared:

- On April 26, 2021, the project was posted on the Open LSI portal (a certificate was compiled on May 14, 2021);
- On April 28, 2021, the project was posted on the Internet resource of the Ministry of Internal Affairs.
- On May 6, 2021, the project was sent for scientific legal analysis (a response was received on May 19, 2021) and anti-corruption (response received on May 28, 2021) expertise.
- On May 25, 2021, the conclusion of the Public Council was received;
- Public hearings were held on June 2, 2021;

The Ministry of Internal Affairs has submitted to the Ministry of Health all the necessary calculations for a total amount of KZT 10 billion.

Implementation of the Forum's recommendations

The implementation of the recommendations of the Forum took place in the main five areas.

First: these are organizational and practical measures to improve the activities of the penal enforcement system.

Second: improvement of the legal status of convicts.

The third: humanization of the execution of punishments.

Fourth: striving for the best international standards.

Fifth: further actions to implement the recommendations of the Forum.

As part of the implementation of the Forum's recommendation, 25 amendments and additions were made to regulatory legal acts, which are aimed at improving the legal status of convicts, humanizing the execution of criminal penalties and approaching international standards for the activities of the criminal justice system.

Organizational and practical measures to improve the activities of the criminal-executive system have already been announced in the report of the Head of the Committee, Zhanat Bolatovich.

I will once again note the main points, such as the transfer of medical support for convicts from the Ministry of Internal Affairs to the Ministry of Health, the coverage of penitentiary institutions with continuous video surveillance, the strengthening of the social package of employees of the penitentiary system (salary increase, inclusion in the list of medical workers receiving compensation for hiring housing), etc.

Improvement of the legal status of convicts.

In order to improve the legal status of convicts, the following amendments were made:

- The right to apply for conditional early release and replacement of the part of the sentence with a milder form of punishment, if such a right occurred during the period of detention in the pre-trial detention center (part 3 of Article 90 of the Criminal Code);
- The mandatory entry into self-regulating organizations for assigning the second and third positive degrees of behavior is excluded (part 4 of Article 95 of the PEC);
- The transfer of convicted persons with disabilities to a full security institution is excluded (para 3 of part 3-1 of Article 96 of the Criminal Code);
- There is a mandatory notification of the prosecutor about changes in the degree of behavior, conditions of detention, incentives, penalties, applications for parole, etc (Order of the Ministry of Internal Affairs No. 819 dated November 17, 2014).
- The terms of consideration of the submission for the release of a convicted person due to illness (para 2 of part 4 of Article 478 of the Criminal Procedure Code) have been reduced from a month to ten days
- The use of a fine as a norm that worsens the financial situation of a convicted person is excluded from the list of types of disciplinary penalties (part 1 of Article 131 of the Criminal Code)
- The term of detention in solitary confinement has been reduced to 4 months (subparagraph 5, para 1, Article 131 of the Criminal Code)
- Visits of transferred convicts to a mixed security institution have been increased (part 7 of Article 92 of the Criminal Code), two short-term and two long-term visits during the year
- The calculation of the time of detention of convicted persons has been revised

Humanization of the execution of criminal punishment.

During the first Forum, proposals to increase the time on phone calls until 21.00 pm, to increase the maximum weight of parcels from 14 to 20 kg, to appoint a person from among the convicts to assist convicted persons with disabilities (there are 714 convicts with disabilities, 13 of them are not able to move without the help of another person), to introduce electronic stores for the purchase of food and essential goods, were accepted by the Minister of Internal Affairs.

Moreover, remote monitoring tools for probation clients, which will allow monitoring convicts in real-time and minimizes contacts between citizens and employees are being introduced.

For reference: for 2021, funds were allocated for the rental of 2 562 electronic bracelets and 1 418 tablets for employees.

Video communication that is available now has shown effectiveness amidst the pandemic when there were restrictive measures for short- and long-term prison visits.

For reference: More than 154 900 telephone conversations, 11 500 video calls and 3 500 video interviews were conducted.

Striving for the best international standards

I would like to note separately that on the initiative of the Commissioner for Human Rights, Elvira Abilkhasimovna Azimova, and the Minister of Internal Affairs, with the support of the Head of Penal Reform International office in Central Asia, Zhanna Bakytbekovna Nazarovaan interdepartmental

working group to develop proposals to bring the regulatory legal acts regulating the activities of the penal system in accordance with the requirements of international standards was established by the Order of the Head of the prison service.

The main purpose of the working group was to determine whether recommendations of the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) are implemented in the national legislation of the Republic of Kazakhstan, namely in the penitentiary system.

According to the results of the work of the interdepartmental working group, it was identified that around 20 of the Nelson Mandela Rules are either not taken into account at all or are not fully regulated by the legislation in the penitentiary sphere.

In this regard, the draft Orders of the Ministry of Internal Affairs on Amendments and Additions to Some Orders of the Minister of Internal Affairs of the Republic of Kazakhstan, a new version of the Internal Regulations of the institutions of the penitentiary system, as well as a draft Comparative table of legislative amendments aimed at improving the activities of the penitentiary system and bringing it closer to generally recognized international standards have been developed.

Further actions to implement the recommendations of the Forum.

It should be noted that thanks to the efforts of the Commissioner for Human Rights, Elvira Abilkhasimovna, and the Special Representative of the President of the Republic of Kazakhstan for International Cooperation, Yerzhan Khozeevich Kazykhan, the Plan of Priority Measures in the Field of Human Rights has been approved by Government Decree (No. 405) on June 11, 2020. The Plan, among other things, provides for legislative amendments to the Criminal, Criminal Procedure and Criminal Executive Codes in terms of:

- granting a delay in serving a sentence in case of a serious illness of the convicted person;
- immediate execution of a court order on release or replacement with a milder type of punishment due to a serious illness;
- extension of the period of stay of the child with the mother after reaching the age of three in case of the mother's release by the end of the term or conditional early release, replacement of the unserved part of the sentence with a milder type of punishment, within a year;
- providing video recordings of interrogations, as well as court sessions;
- clarification of the definition of "torture", as well as the introduction of the definition of "ill-treatment" (social institutions with children and persons with disabilities);
- ensuring the separation of previously convicted persons from those convicted for the first time by abolishing emergency security institutions.

Along with this, we continue to work on the implementation of legislative initiatives.

A number of recommendations on improving criminal and penal enforcement legislation have been sent to the Ministry of Internal Affairs under the Prosecutor General's Office for consideration. Among these:

to the Criminal Code:

- the introduction of specific types of violations by convicts that fall under the requirements of Article 428 of the Criminal Code, "Disobedience to the legal requirements of the administration of the penitentiary institution".

to the Penal Enforcement Code:

- approval of detailed requirements in the behavior of convicts when meeting with employees and other persons;

- independent arrival to institutions by convicts serving sentences in minimum-security facilities;
- prohibition of joining the Public Monitoring Commission by relatives of convicts serving sentences in penal institutions.

As you can see, a lot of work has been done in recent years to form a modern system of execution of criminal penalties that meets international standards.

Nevertheless, I would like to note that the improvement of legal legislation is a constant process, since global trends, changing technologies, restrictions dictated by the post-pandemic, require appropriate adjustments.

The current Forum should become a starting point for new and constructive proposals for legislative norms. Therefore, I ask you to send your proposals to the Committee of the Criminal-Executive System.

Once again, I would like to note the invaluable assistance of PRI and personally Zhanna Nazarova in organizing both the first and the current Forum.

I would like to thank all the participants and guests for their constructive dialogue and active participation in the work to improve the activities of the penal enforcement system.

In conclusion, I would like to note that all proposals will be taken into account. As a result of the Forum, an Interdepartmental working group will be created with the participation of representatives of not only government agencies, but also the public and the scientific community.

We will continue the work and the planned course aimed at improving the legal status of convicts, the conditions and order of detention, protecting the rights of convicts, humanizing and improving the process of executing sentences, as well as strengthening civil control.



Nurlan DYUSENBAYEV

Head of the Service for Supervision of the Legality of Sentences that Have Entered into Force and Their Execution by the General Prosecutor's Office of the Republic of Kazakhstan, 3rd class State Counselor of Justice

Dear Forum participants!

As you know, over the past 8 years, the State has done a lot of work to reform the penal enforcement system.

Legal framework has been replaced almost entirely.

In 2014, new Criminal, Criminal Procedure, and Criminal Executive Codes were introduced.

The result of the "10 measures to reduce the prison population" project implemented at the initiative of the Prosecutor General's office is the reduce the number of convicts in colonies by half (from 57 000 in 2012 to 30 000).

In the international ranking, Kazakhstan improved its position from 35th to 96th place, ahead of a number of EU countries (Czech Republic, Poland, Latvia, and Estonia).

Consistent work has been carried out to adjust the legislation in order to ensure the protection of the rights of convicts.

By making amendments to Article 32 of the PEC, Article 4 of the CPC and Article 3 of the Criminal Code:

- the problems of the development of socially useful relations (serving a sentence at the place of residence) have been solved;
- local executive bodies are involved in solving the problems of employment and resocialization;
- the terms of consideration of the issue of the release of seriously ill patients have been reduced (from 30 to 10 days);
- there is a preferential calculation of the time of detention when imposing a sentence (a day and a half in a medium-security institution, two days in a minimum-security institution).
- all decisions of the heads of institutions restricting the rights of prisoners are sent to the prosecutor to check their legality, which is an additional lever in ensuring the rule of law.

Special attention is paid to the realization of the rights of convicts to appeal in defense of their interests.

The PEC introduced norms that allowed submitting applications in electronic form (Article 14).

When developing the Roadmap for the Development of the Criminal-Executive System until 2023, the purchase of 608 terminals (with a total cost of KZT 716 million) was provided.

121 terminals are already successfully functioning in colonies, prisoners have submitted 1 419 electronic appeals to the prosecutor, 280 applications to the criminal prosecution authorities, 223 petitions for the application of parole, transfer to a minimum-security institution, etc.

Each convicted person has access to the terminals according to the schedule, all appeals go to the addressee without the control of the administration.

By adjusting nine Orders of the Ministry of Internal Affairs, following norms of the Nelson Mandela Rules were implemented:

- the time of telephone conversations extended;
- the weight of parcels increased from 14 kg to 20 kg.
- restrictions on the amount of medicines as prescribed by a doctor received in the transfers eliminated.

In order to implement international standards, work is being carried out on the transition from barrack-type facilities to the cell-based type of detention (9 colonies are functioning, where more than 4 000 convicts are held).

The issue of transferring medical services from the prison service to the Ministry of Health has been resolved, which has been positively received by the international community.

In order to prevent violations of the rights of prisoners during large-scale searches, the current order stipulates the mandatory participation of prosecutors, the use of video recording, representatives of the public, PMCs and the NPM are involved.

The situation with torture and ill-treatment is under special control.

The Decree of the Prosecutor General on the Organization of the Investigation of the Facts of Torture, Suicide and Self-mutilation in the Penitentiary System (dated August 28, 2019) clearly regulates the actions of the prosecutor and the investigative team to conduct urgent investigative actions. Today, a procedural assessment is given for each fact of torture.

The Academy of Law Enforcement Agencies under the Prosecutor General's office has developed an Investigation Methodology based on the Istanbul Protocol, which is sent to all investigative units.

Today, the institutions of public control and the National Preventive Mechanism are operating actively.

All these measures on the prevention of torture are yielding results (the number of allegations of torture decreased by 23% from 103 to 80).

The Order of the Head of State on providing continuous video surveillance in the colonies is being implemented.

This will eliminate blind spots and solve a number of systemic problems aimed at protecting the rights of convicts.

As part of the work on the resocialization of convicts, the positions of psychologists have been introduced in the probation services. Convicts receive medical and legal assistance, and issues of their employment are being resolved.

Biometric terminals (based on fingerprints) are installed, which simplifies the registration procedure, frees employees from unnecessary work, and eliminates corruption risks.

Such terminals are already functioning in six regions (Nur-Sultan, Almaty, Akmola, Karaganda, East Kazakhstan Region, North Kazakhstan Region).

It is planned to establish them in all institutions throughout the Republic.

In general, we have a large package of proposals, the implementation of which will directly affect the state of legality in institutions and the protection of prisoners' rights.

Many of the initiatives have been implemented in close cooperation with the public, including those announced at the previous Forum.

This is a clear confirmation that an open dialogue is indeed the key to transparency and increasing the effectiveness of our joint work.

I hope that today's Forum will become another impetus for new progressive ideas that will bring the penitentiary system to a new level.

Thank you for your attention.

DISCUSSION. QUESTIONS AND ANSWERS



Yelena SEMYONOVA

*Member of the Coordination Council of
the Coalition for Security and Protection of
Human Rights Defenders*

Good evening to the forum participants, thank you for the invitation. I want to note that the reform is good, but in this case, it is worth noting that not all problems of the correctional system have been voiced, which also violate the rights of convicts.

The first problem is the insurance of convicts. According to the law, everyone has the right to insure their life however, insurance companies refuse to insure convicts, thus discriminating against them. We believe that it is somehow necessary for the prison service to raise the question on voluntary insurance.

The second question that occurs in almost all institutions is about how medical certificates are being issued to convicts. The medical unit issues certificates of exemption from certain activities or bed rest for medical reasons for some convicts, but the staff of the institution does not even know about such prescription, as a result a conflict situation arises often. Therefore, it is necessary that the medical units inform the institutions about the persons who have such medical certificates.

Attention shall be paid to the clothing of convicts. It is necessary to provide clothing according to the region in terms of temperature indicators.

I was in Kyzylorda, at a special unit, where ventilation is not provided for convicts in the 3K-169/5 institution. Living in a cell-based type facility without ventilation can be equated to torture. In this case, the law does not even provide for a ventilator to be set in the institutions. As a recommendation, an order that excludes corruption could be issued that would stipulate the possibility to receive cooling fans from relatives.

I would also like to draw attention to the daily routine, which in principle cannot be the same for persons with disabilities, for workers, students, and convicts who are not involved anywhere, i.e. it cannot be compiled at the discretion of the head of the institution, because it may have a corruption component. The daily schedules for each category should be included in the order.

Another problem is the detection of prohibited items when arriving in the institution, despite the person being already inspected when departing from a certain place. For example, in Zhezkazgan, a prohibited object is found on arrival, although the convict was already inspected. Where does the prohibited item come from?

The weight of the parcels was increased, even soaps and detergents were included in the list of allowed items. However, soaps and detergents are heavy, and this does not improve the rights of convicts in any way. There would be no questions if these products were brought out separately.

After the appointment of the new Head of the prison service and the Minister of Internal Affairs, the regions started reacting, but not all of them. We are doing one thing, and I hope that the correctional system will remain correctional, not punitive.



Bauyrzhan MUSSIN
Representative of
the We are Against Torture NGO

Good evening, thank you for the invitation and participation in the forum.

The issue of departmental control, the involvement of independent NGOs, not only PMCs, the NPM, remained unheard, in addition to the contradictions of the legislation, an analysis of the norms shall be carried out. There are also recommendations, but there are no article-by-article norms. It should be done on the basis of the Academy, by the leading criminologists of the country. It is necessary to develop a commentary to the Criminal Executive Code, which will be useful to all interested parties of the criminal justice system.

As a consumer of these services, I see a number of shortcomings in the application of alternative non-custodial measures, such as probation, social and legal assistance.

There is also another problem, no matter how much the prison service tries to put an offender on the path of correction, unfortunately, the educational work carried out by the prison service is most often leveled by the courts. The courts do not take into account the opinion of the administration of the institutions. The courts consider the recommendations by the institution just formally.

Another issue of no less important is the employment of convicts - an increase in wages. Of course, measures are being taken. Separately, I would like to draw attention to institutions of minimum-security, when business organizations are interested in cooperation, but there are obstacles from the administration of the institution.

I think it is necessary to increase the wages of convicts, because they are minimal.

**Olga RYL***Director of the Pravo Public Foundation*

I want to supplement the information that concerns all NGOs working with juveniles. You have talked a lot about human rights, including about children's rights, but no one mentioned the resocialization of convicts without imprisonment.

Back in 2010, we created Juvenile courts. I have been working since the establishment of the Juvenile Court in Astana city. Our center took responsibility for working with juveniles who were given a suspended sentence. Unfortunately, 11 years have passed, and no one conducted an efficiency analysis in this part, neither the Ministry of Education and Science nor the prison service.

Only under Article 19, the guardianship authorities, the employees of the prison service carry out a survey of the housing and living conditions of juvenile offenders, and then who decides what program shall be implemented for

the particular case? Whether the results are submitted to the Commission on Juvenile Affairs? I have repeatedly said, and I want to say it again that the child is underage, for us these are children, they cannot bear double punishment, an employee of the criminal justice system has not yet been introduced, a study has not been conducted on what kind of program should be applied for a particular case.

Why we cannot implement our own programmes? It is necessary to transfer the system of reeducation, at least in part of children, to a civilian environment, where teachers and psychologists work. Who works with children, convicts and mothers who were given a reprieve until their children reach the age of 14.

I want to say about the problem of pre-trial probation, when at this moment it is necessary to work with a teenager so that he/she does not join the ranks of adult convicts.

It is necessary to shake up the system of akimats. Sufficient budgets shall be allocated for the work with juvenile offenders.

No one has said here about the load on the employee of the criminal justice system, which resulted in an outflow of personnel.



Khalida SEMYONOVA
Lawyer of the CONVEX Co LLP

As you know, the CONVEX Co LLP is the developer of the CONVEX electronic store. The project was successfully implemented in Almaty city and Almaty region. Now we are also implementing the project in East Kazakhstan region and Shymkent city. I would like to note that the current legislation does not regulate the operation of electronic stores, it is tailored to the principle of operation that existed before. Accordingly, we would like to suggest separating regulations on online and offline stores. What we mean by offline is a store on the territory of the institution, or a package sent by relatives, etc. Now, we are faced with the fact that online purchase is not quite interesting as opposed to offline. Because offline shopping means personal contact, however, the presence of unauthorized persons on the territory of the institution is a dubious delivery of goods. We understand that in order for online stores to become interesting, it needs to

be separated. Therefore, we made proposals to make a separate limit of parcels through electronic stores, as well as to single out such a concept as a "personal account" in the electronic store system, which will have a balance of a convicted person or a person under investigation, which he/she could use depending on the restrictions regulated by the Criminal Executive Code. In general, we think that online stores are more favorable for the prison service, as penitentiary institutions are regime objects. We hope that the whole trading system in penitentiary institutions will be switched to online stores in the future.

Why electronic online stores? Firstly, this is the age of digitalization, and secondly, it is a transparent method of work: it is an opportunity to keep statistics, to track the process of receiving packages and parcels, the purchase of essential goods, etc. Accordingly, since this is a restricted access facility, it is necessary to exclude personal contact of third parties inside the institution and their presence in the institution. We have repeatedly offered a number of proposals to the Committee of the Criminal-Executive System and to the Ministry of Internal Affairs noting, that currently, in the age of digitalization, online stores system shall be allocated into a separate mechanism and be given some preferences for further development.

Closing address

Zhanat YESHMAGAMBETOV, Head of the Committee of the Criminal-Executive System of the Republic of Kazakhstan, Major General of Justice

PRESS RELEASE

The Ministry of Internal Affairs and international experts discussed reforms in the penitentiary system

Representatives of the Ministry of Internal Affairs, members of Parliament, lawyers, national and international experts, as well as human rights defenders discussed the modern system of execution of sentences at the site of the International Online Forum “The Penitentiary System in a New Reality”. The forum chaired by the Minister of Internal Affairs, Lieutenant General of the Police, Mr Yerlan Turgumbayev, was attended by about 150 people: representatives of state bodies, national experts in the field of human rights, as well as heads of diplomatic missions and international organizations from Canada, the United States, Great Britain, Russia, India, Uzbekistan, the Netherlands, and Belarus. The Minister noted the effectiveness of this platform and stressed that the basis for a broad dialogue was laid by the Forum held back in 2019, which resulted in a number of amendments and additions to improve the legal status of convicts and detention conditions were implemented into national legislative acts.

Yerlan Turgumbayev stressed that the modernization of the penal enforcement system continues to be one of the most urgent requests of society in the law enforcement sphere. **“At an expanded meeting of the Board of the Ministry of Internal Affairs, the President of Kazakhstan pointed out the need to improve the state of the domestic penitentiary system. *The Ministry of Internal Affairs shall demonstrate real results,*” the Minister quoted the Head of State.** In this regard, the Ministry of Internal Affairs has identified the main priorities for all reforms of the penal enforcement system, first of all, respect for human rights, improvement of the conditions of detention for convicts, development of employment system for them, modernization of the penitentiary infrastructure in accordance with international standards.

On behalf of the Head of State, the Ministry of Internal Affairs is working to ensure continuous video surveillance of penitentiary institutions with the exception of “blind zones” to ensure the safety and rights of convicts, to prevent offenses. The Minister also informed about the upcoming transfer of the function of medical support for convicts to the Ministry of Health of the Republic of Kazakhstan. **“This will allow for wider access to modern methods of medical analysis, diagnosis and treatment and will provide medical workers with independence from the administration of institutions, which in turn will eliminate the concealment of possible facts of illegal actions,”** the Minister stressed.

In addition, the procedure for transferring a convict to the prison at the place of residence has been simplified (requirements for a positive degree of behavior have been removed); restrictions on the transfer of medicines have been lifted; terms for consideration of applications for sick leave have been reduced; the convicts are granted the right to send applications electronically. In terms of improving the conditions of detention, the nutrition standards for one convict were increased almost 40%, and the weight of parcels and packages was increased by almost 1/3 in February. The list of items that are now allowed to be received by convicts in parcels, packages or purchased in stores of the institution was expanded. Last year, the gradual introduction of electronic services such as “electronic stores” started in Kazakhstani penitentiary institutions. The number of dates has also been increased. As the Minister emphasized, another important issue is the employment of persons held in places of detention. The number of employed prisoners has increased from 38% last year to 49%. This contributes to their adaptation in society, also allows them to pay the material damage caused to victims and help families. International experts highly appreciated and supported the reforms in the criminal justice system and made proposals for the international exchange of experiences and training programs, as well as for the provision of expert assistance.

Appendix 2

PHOTO POSTS AND ARTICLES IN THE MEDIA

 <p>“ По нашей инициативе окончательно решен вопрос передачи функции медицинского обеспечения в ведение Министерства здравоохранения.</p> <p>С 1 июля 2022 года – медицинские службы следственных изоляторов будут переданы в ведение Министерства здравоохранения РК, с 1 января 2023 года – всех учреждений.</p> <p>Тургумбаев Е. З. Министр внутренних дел РК</p> 	 <p>“ Основными приоритетами всех наших реформ являются обеспечение соблюдения прав человека и улучшение условий содержания осужденных.</p> <p>Тургумбаев Е. З. Министр внутренних дел РК</p> 
 <p>“ Предлагается продлить срок пребывания ребенка с матерью, после достижения им 3-летнего возраста, в случае ее освобождения в течение года. Также рассмотреть возможность раздельного отбывания наказания в учреждениях пенитенциарной системы впервые осужденных от ранее судимых.</p> <p>Тургумбаев Е. З. Министр внутренних дел РК</p> 	 <p>“ Сейчас основными задачами уголовно-исполнительной системы является обеспечение порядка и условий исполнения наказаний, охрана прав и свобод осужденных, определение средств их исправления.</p> <p>Ешмагамбетов Ж.Б. Председатель КУИС МВД РК</p> 
 <p>“ В целях приближения к общемировым стандартам, проводится работа по переходу от отрядно-барачного содержания на покамерное. Сейчас имеется 9 таких учреждений.</p> <p>Ешмагамбетов Ж.Б. Председатель КУИС МВД РК</p> 	 <p>“ Государству нужно перезагрузить политику расследования обращений о пытках или ином жестоком обращении, обеспечить механизм оперативного реагирования на сообщения и привлечения медицинских специалистов к фиксации доказательств, освещении результатов расследований. Главный принцип в этом вопросе - никакие исключительные обстоятельства не могут служить оправданием для пыток.</p> <p>Азимова Э.А. Уполномоченный по правам человека</p> 
 <p>“ ПРООН приветствует усилия Казахстана по совершенствованию законодательства о гарантиях уголовного правосудия, а также продвижение международных стандартов в области прав человека в работе пенитенциарной системы Казахстана.</p> <p>Якуп Бериш Постоянный представитель ПРООН в Казахстане</p> 	 <p>“ Отрадно, что План первоочередных мер по правам человека одной из важных задач ставит передачу медицинской тюремной службы в гражданское здравоохранение. Со своей стороны PRI оказывает экспертную поддержку в обмене опытом с другими странами, которые уже осуществили передачу.</p> <p>Назарова Жанна Руководитель PRI в Центральной Азии</p> 

KAZINFORM МЕЖДУНАРОДНОЕ ИНФОРМАЦИОННОЕ АГЕНТСТВО

30 КАЗАХСТАН

БЕРЕГИ БЛИЖНЕГО

Нур-Султан: 31.5% Алматы: 31.5%
USD 434.99 / EUR 504.21 / RUB 5.81 / KZT 65.66

Понедельник 17.07.2021 17:59

Власть Государственные Экономика Регионы Общество Происшествия Анонс Спецпроекты Назначения

ЧИТАЙТЕ ТАКЖЕ

69 иностранцев выдворены из страны в Туркестанской области

Икра в ТРЦ Нур-Султана попала на видео

В Нур-Султане гости украла у парочки украшения на полмиллиона тенге

Более 10 тысяч правонарушений выявили в столице благодаря видеонаблюдению

Соучастие крупной финансовой пирамиды арестован в Алматы

В Костанайской области 181 иностранец выдворен из страны

В МВД обсудили с международными экспертами реформирование пенитенциарной системы

8 июля 2021 20:40

Поделись

НУР-СУЛТАН. KAZINFORM - На площадке Международного онлайн-форума «Пенитенциарная система в новой реальности» представители МВД, депутаты парламента, юристы, национальные и международные эксперты, а также правозащитники обсудили современную систему исполнения наказаний, передает МИА «Казинформ» со ссылкой на пресс-службу МВД РК.

В работе форума под председательством министра внутренних дел Ерлана Турғұмбаева приняло участие порядка 150 человек: представители государственных органов, национальные эксперты в области прав человека, а также руководители

НОВОСТИ

14:56 Количество вакцинированных в Вооруженных силах приближается к 100%

14:50 Факты покровительства незаконному игорному бизнесу выявило Агентство по финансовому мониторингу

14:27 Что будет влиять на курс тенге, ответила замглавы Нацбанка

14:27 Касым-Жомарт Токаев поздравил с 95-летием экс-министра просвещения КазССР

14:22 69 иностранцев выдворены из страны в Туркестанской области

14:18 Золотовалютные резервы и активы Нацфонда снизились за месяц в Казахстане

14:16 Кто будет финансировать строительство оптовых центров в трех соседних странах

14:12

UNDP Kazakhstan @UNDPKAZ

The #convicted persons' human rights & their conditions in #detention places are the priority of legal reform.

@UNDPKAZ proposed to transfer #penitentiary medical services to the Minister of Healthcare to guarantee the rights for #health for the convicted & detained people.

UNDP supports Kazakhstan's efforts to improve legislation on safeguards towards criminal justice, as well as the promotion of international human rights standards in the work of the penitentiary system in Kazakhstan.

Yakup Beris, UNDP Resident Representative in Kazakhstan

1:16 PM · 9 июля 2021 г. · Twitter Web App

zakon.kz ЗАКОНОДАТЕЛЬСТВО БУХГАЛТЕРИ ПРАВО

По какому пути пойдут казахстанские тюрьмы

9 июля 2021, 19:17

Модернизация уголовно-исполнительной системы Казахстана продолжает оставаться одним из самых актуальных запросов общества в правоохранительной сфере, сообщает zakon.kz.

На площадке Международного онлайн-форума «Пенитенциарная система в новой реальности» представители МВД, депутаты Парламента, юристы, национальные и международные эксперты, правозащитники обсудили современную систему исполнения наказаний.

В работе форума под председательством министра внутренних дел Ерлана Турғұмбаева приняло участие порядка 150 человек: представители государственных органов, национальные эксперты в области прав человека, а также руководители дипломатических миссий и международных организаций из Канады, США,

ПОИ

1. Более 400 тысяч (1)

2. В Каза

3. Скольким людям Казак

ВСЕ

3-, 4- КОМНАТНЫЕ КВАРТИРЫ от 457 000 - ИПОТЕКА БЕЗ ЗАЛОГА

PENAL REFORM INTERNATIONAL

Issues Where We Work About us Tools Blog Covid-19 Prison Trends

International Forum on Strengthening the Penitentiary System of Kazakhstan to be held annually

ALL NEWS

Infographics

See full set of infographics from the event

Nur-Sultan city

Today, on July 8, at the International Online Forum "The Penitentiary System in the New Reality" representatives of

"Ликвидация ветхих колоний и улучшение питания осужденных". Как меняется тюремная система в Казахстане

8 июля, 19:27

В Казахстане колонии и СИЗО технически изношены и требуют полной реконструкции, передает корреспондент BaigeNews.kz. Об этом министр внутренних дел Ерлан Турғұмбаев сообщил на международном форуме «Пенитенциарная система в новой реальности». В своем докладе глава МВД рассказал, за последние шесть лет в стране ликвидировали 14 колоний с наилучшими материально-бытовыми условиями.

"В Казахстане насчитывается 80 учреждений (64 колонии и 16 СИЗО), в которых содержится 33 тысячи осужденных и следственных арестованных лиц. При этом многие колонии не отвечают предъявляемым требованиям, технические изношены. С учетом возможностей бюджета принимаются меры по поэтапному переходу учреждений на полкарманные содержание (реконструкция 12 жилых блоков в шести колониях в городе Нур-Султане, Акмолинской, Атырауской, Карагандинской, Костанайской и Павлодарской областях)", - сообщил Турғұмбаев.

КАМЕРЫ В КАМЕРАХ

Колониям Казахстана не хватает 33 тысячи видеокamer

2 898 просмотров · 9 июля 2021 г.

Первый канал Евразия

ПОДПИСАТЬСЯ

LIST OF RECOMMENDATIONS BY FORUM PARTICIPANTS

Author	Nº	Suggestions and questions
Ryszard KOMENDA <i>Regional Representative with the Office of the United Nations High Commissioner for Human Rights (OHCHR) for Central Asia</i>	1.	Improving the definition of places of detention and deprivation of liberty. With an exhaustive definition, there will be no need to constantly expand the list of institutions of concern to the NPM.
	2.	Stricter consolidation of guarantees for the protection of NPM participants in their activities, especially in the light of potential liability for defamation or dissemination of deliberately false information.
	3.	The responsibility for deliberately false denunciation continues to cause concern.
	4.	The authority of the NPM is to review procedures and instructions for law enforcement, medical and other authorities involved in the detention, interrogation, and treatment of people deprived of their liberty in any form, for compliance with the Convention and the optional protocol. The Subcommittee against Torture, in its recent advice to States and NPMs of June 18, emphasized this function of the NPM and called on NPMs in all countries to strengthen their work on analyzing legislation, especially on emergencies that may affect visits to closed institutions.
Yakup BERIS <i>United Nations Development Programme (UNDP) Resident Representative in Kazakhstan</i>	5.	The need for an independent healthcare in the prison system that can provide adequate medical knowledge and services without the influence of the prison administration. This model has proved to be human-oriented and effective in most European countries, including France, Italy, Portugal, Denmark and the United Kingdom
Elvira AZIMOVA <i>Commissioner for Human Rights in the Republic of Kazakhstan</i>	6.	To consider introducing a separate section on responding to complaints of torture and ill-treatment. This is a separate section concerning the adoption of procedural actions in criminal enforcement legislation.
	7.	Monitoring of legislation for compliance with the Nelson Mandela Rules shall be carried out on a regular basis.
	8.	To pay attention to alternative non-custodial measures of punishment, because imprisonment is always a solution.

Vyacheslav SELIVERSTOV <i>Professor of the Faculty of Law of the Lomonosov Moscow State University, scientific director of the Scientific and Educational Center Problems of Criminal Executive Law named after Yu.M. Tkachevsky, Doctor of Laws, Professor, Honored Scientist of the Russian Federation</i>	9.	The extension of the legal status of prisoners by securing in the General part of the CEC RK features and guarantees for the implementation of a number of civil rights in the form of separate articles of Chapter 3 of the PEC. (the right of prisoners to receive information, to ensure that information for convicts includes not only about the order and conditions of serving a sentence or on changes, but also about the rights and legitimate interests of convicts, legal ways to protect their rights and legitimate interests).
	10.	To provide a provision that: "In institutions and bodies executing criminal penalties, information about the addresses, phone numbers, websites and e-mail of state bodies (officials), international and public organizations that monitor the observance of the rights, freedoms and legitimate interests of convicted persons is placed in premises that are publicly accessible to convicted persons"
	11.	To impose the duty to warn convicted persons in writing about the penalties and the procedure for their application, about the use of audio-visual, electronic and other technical means of control and supervision over their behavior, about the possibility of using security measures, and weapons, on the administration of penitentiary institutions.
	12.	The proposed provision reflects a number of recommendations of the Nelson Mandela Rules on ways to get acquainted with the information of convicts from among foreign citizens and stateless persons, illiterate convicts, persons with visual and/or hearing impairment.
	13.	<p>To consolidate the guarantees of the right of convicted persons to ensure the dignity of the individual.</p> <p>Find a reflection of the following recommendations from the Nelson Mandela Rules:</p> <ul style="list-style-type: none"> • the inadmissibility of diminishing the dignity of the person convicted during the serving of the sentence, the use of torture, other cruel, degrading treatment or punishment (rule 1); • respect for human dignity and privacy (rule 1 and rule 50); • compliance with the principles of proportionality, legality and necessity when conducting searches and other restrictive measures (rule 50); • implementation of the necessary measures to protect convicted persons from insults, curiosity and any kind of publicity (para 1 of rule 73)

	14.	The right of convicts to choose the language of appeal and guarantees of its implementation in the light of the recommendations of the Nelson Mandela Rules (paras 2 and 3 of rule 41, para 2 of rule 61) can also find a separate consolidation in Chapter 3 of the Criminal Code of the Republic of Kazakhstan.
	15.	The Nelson Mandela Rules also pay great attention to the guarantees of the realization of the right of convicts to the protection of personal data, as evidenced by the provisions of rules 6 and 9. However, this is not regulated in Chapter 3 of the PEC of the Republic of Kazakhstan.
	16.	<p>Improvement of control measures over the activities of institutions that execute sentences, including in the field of human rights. It seems to us that the possibilities of changing and supplementing the PEC of the Republic of Kazakhstan have not been fully used in the light of the provisions of the Nelson Mandela Rules on monitoring the rights of convicts.</p> <p>Thus, there is an Article 32 in the PEC of the Republic of Kazakhstan, which specifies officials and other persons who use the right to visit institutions without a special permit.</p> <p>However, in this norm:</p> <ul style="list-style-type: none"> • the Minister of Internal Affairs of the Republic of Kazakhstan is not among the subjects of such a visit (in Russia, on April 5, 2021, such a right was granted to the Minister of Justice of the Russian Federation); • the status of persons visiting institutions has not been determined in accordance with the recommendations of the Nelson Mandela Rules (rule 84) and the administration's reaction to such visits (rule 85). <p>At the same time, Part 6 of Article 32 of the Criminal Code of the Republic of Kazakhstan contains the norm that the rules for visiting institutions are established by the authorized body in the field of criminal enforcement activities.</p>
Bibigul ASSYLOVA <i>Vice-Minister of Education and Science of the Republic of Kazakhstan</i>	17.	<p>Weak material and technical base of general educational facilities in the penitentiary institutions.</p> <p>The weak material and technical base affect the conditions of access to education of convicts, the level of equipment of educational and laboratory equipment, capital repairs and routine repairs, access to digital educational resources, access to the Unified National Test (UNT), and subsequent studies in higher educational institutions and colleges of the country.</p>
	18.	There are no legal norms for obtaining professional and technical education. The algorithm has been developed and is planned to be launched, but this requires an application from the institution about how many children want to study starting this academic year.
	19.	The library fund is weak, there is no funding, convicts do not have the opportunity to improve their reading literacy.

Isidor BORCHASHVILI <i>Director of the Institute of Modern Law, Honored Worker of Kazakhstan, Doctor of Law, Professor, Academic of the National Academy of Natural Sciences of the Republic of Kazakhstan</i>	20.	To conduct a study on how effective long prison terms are?
	21.	To monitor and review the legal mechanism for crime prevention.
	22.	To monitor the contradictions between the Criminal Code and the Penal Executive Code.
	23.	To finalize the penal enforcement legislation in terms of compliance with the Nelson Mandela Rules.
Igor SLEPTSOV Professor of the Department of Criminal, Penal Enforcement Law and Criminology of the S. Kabylbayev Kostanay Academy under the Ministry of Internal Affairs of the Republic of Kazakhstan, Candidate of Legal Sciences, Professor	24.	To review the issues related to pre-trial probation. Legislative changes are needed.
	25.	Including in the PEC of issues related to the response to torture, since the National Preventive Mechanism is focused not only on the penitentiary institutions, but also on the institutions of the Ministry of Education and Health. These sections shall be transferred to the CPC and considered in a separate section on the issues related to torture in all areas.
	26.	Current formation of NPM participants is wrong. The legislation stipulates that a member of the NPM can be a member of the PMC. At the same time, the functions of the PMC and the NPM are completely different and are clearly delineated by legislation. Why the same person performs different functions?
	27.	We need a legislative norm in terms of video surveillance, because we are invading privacy. There are certain legal restrictions in this direction. Many issues should be transferred from the internal regulations to the PEC.
	28.	It is proposed to review the visits of civilians and relatives to institutions. Issues related to the rights during the inspection, highlight those that do not relate to the service, all this shall be written down in the internal regulations.
	29.	Regarding restricted documents related to visits to institutions. The fact is that the rights of citizens who visit institutions are registered there, but those cannot be shown to the citizens, since they are for official use only. The convicted person should know in which case a full search can be applied to him/her.

Marina NYSTOLYI <i>Head of the PMC group in North Kazakhstan region</i>	30.	Today, it is important to consolidate and separate the concepts of torture and inhuman and degrading treatment in the Criminal Code.
	31.	It is necessary to establish a state standard for the products of the Yenbek RSE at the legislative level and hold them accountable for their violation.
	32.	To appoint an individual assistant for disabled people at the legislative level. The disabled person is forced to independently look for an assistant among the convicts. It is necessary to work out and provide a mechanism for an individual assistant for people with disabilities of group I and those who have difficulties when moving.
	33.	It is necessary to amend the regulatory documents and provide assistance to vulnerable categories of convicts during search operations.
	34.	It is necessary to increase the number of short-term and long-term visits for women with young children and adolescent children at the legislative level.
	35.	It is necessary to pay special attention to the state of the facilities of the penitentiary system and allocate funding to bring them into line with the legal norms related to the detention conditions. There is a need to review the norms of furniture and inventory and equipment. The weight of the parcels increased to 20 kg, but the storage space remained the same, which leads to food spoilage, especially in summer.
	36.	For more effective work of employees, professionalism of the personnel, it is necessary to review the issues of social security of employees of penitentiary institutions and carry out measures to respect the rights of convicts with the involvement of representatives of PMCs, NPM.
Zhemis TURMAGAMBETOVA <i>Executive Director of the Charter for Human Rights Public Foundation, Public Adviser to the Minister of Internal Affairs of the Republic of Kazakhstan,</i>	37.	To make amendments providing for notification of relatives and legal representatives about their transfer and their final location before the start of the transfer as well as detention in a transit institution for more than 3 days.
	38.	To develop a detailed legal framework that would allow for video surveillance of convicts, taking into account the observance of the rights of convicts, especially with regard to the right to privacy. To make a complete list of premises, the availability of cameras in the institution with an indication of the duration of video surveillance, storage periods, the possibility of providing records to all interested parties in the event of disputes. Also, viewing of video surveillance cameras and obtaining copies of the recording in case of procedural situations shall be provided

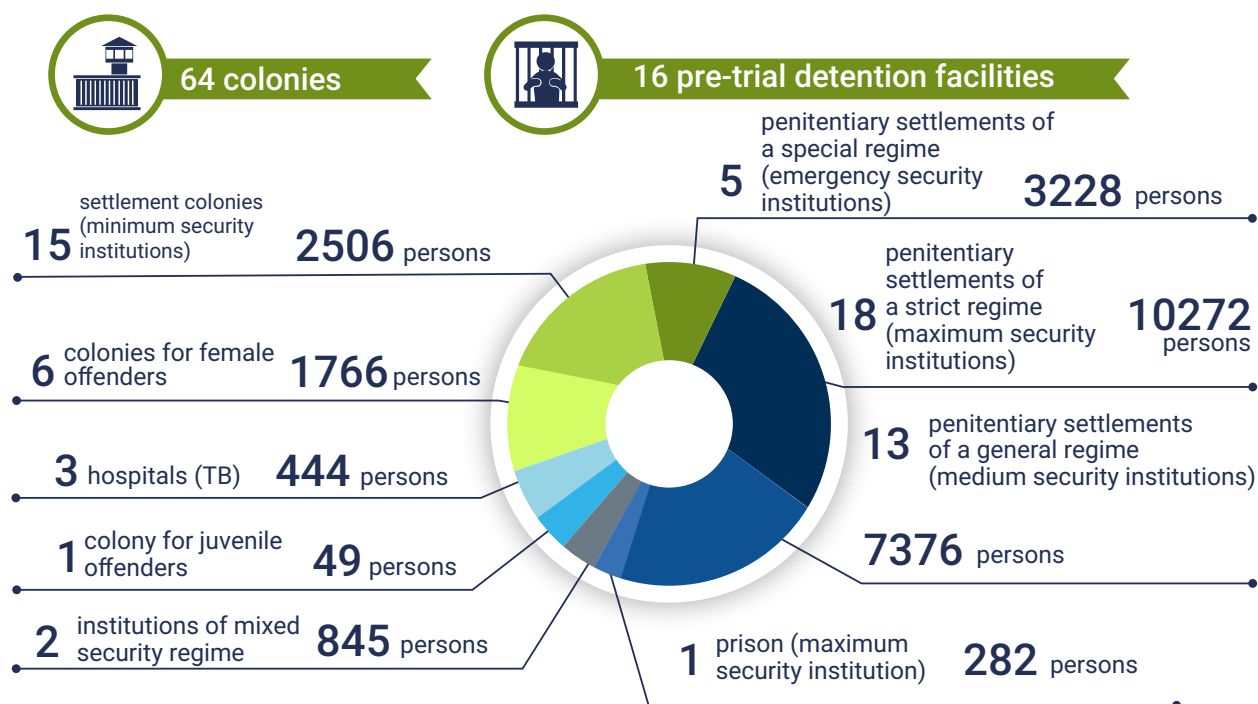
<i>member of the National Council of Public Trust under the President of the Republic of Kazakhstan</i>	39.	To ensure adequate detention conditions with cells-based accommodation.
	40.	With cell-type accommodation for 2-4 people, there is no need to install video cameras in order to avoid violating the right to privacy of convicts. Video surveillance cameras shall not be installed in the toilets.
	41.	In order to avoid conflict situations in the sleeping room, the allocation of convicts according to personal characteristics plays an important role. A psychologist's recommendation is required to determine whether particular convicts are fine being together in one sleeping room.
	42.	To develop a list of premises and special places for installing video surveillance cameras in the interests of citizens, with the involvement of academics and representatives of civil society
	43.	To hold a conference on the implementation of continuous video surveillance.
Assel TOKAYEVA <i>Acting Chairperson of the Republican Bar Association</i>	44.	To amend the order of the Ministry of Internal Affairs No. 505 regarding the provision of the possibility of providing visits both, offline and online, at the choice of the person being held in custody or his/her defender.
	45.	To exclude the provision of a PCR certificate when visiting investigative-arrested persons to provide legal assistance.
	46.	To conduct an analysis together with the Republican Bar Association on the practice of application of conditional early release or replacement of the unserved part of the sentence with a milder form of punishment by courts.
	47.	It is proposed to consider the issue of integration of the Unified Information System of Legal Assistance with the prison service's centralized automated database for persons held in penitentiary institutions.
	48.	It is suggested to conclude a new Memorandum or update the terms of the existing Memorandum including important points from the legal community that would help lawyers to carry out professional activities.
Yevgenyi ZHOVTIS <i>Director of the Kazakhstan International Bureau for Human Rights and Rule of Law</i>	49.	It is proposed to completely demilitarize the penal enforcement system, except for perimeter protection and maintaining order of a dedicated structure of the Ministry of Internal Affairs or as part of the Ministry of Justice with the main staff, social workers, psychologists, and so on.
	50.	Outdated concept of education and correction of convicts, including with the help of the regime, socially useful work. It shall be replaced with a modern concept of preservation, aimed at not getting an angry and sick human after release from the penitentiary institution, this system does not really correct anyone and does not educate anyone

	51.	A modern approach to the probation service is needed, so that it really turns into a crime prevention service, providing social rehabilitation, reintegration at different stages, and becomes an independent structure.
Anara IBRAYEVA <i>Member of the NPM Coordinating Council, expert of the Kadir-kassiyet NGO</i>	52.	To organize a forum in an accessible way, with a public broadcast on social networks.
	53.	To make statistics public. It is important for society to know not only the number of tortures, complaints about them, but also the number of deaths in custody, the number of people with disabilities (monthly).
	54.	To develop and implement in a short time a clear plan for the implementation of the Istanbul Protocol with specific indicators.
	55.	To ensure continuous, effective access to medical care, to ensure transparency, including information about the allocated budget funds. To organize live broadcasts with the participation of the prisoners themselves to make sure that there is no torture in custody.
	56.	To implement the decision of the Human Rights Committee in the case of Zhaslan Suleimenov. To publish on the website of the Ministry of Internal Affairs a report of the Committee of the Criminal-Executive System on the state of medical and sanitary services, assistance to persons with disabilities.
	57.	To modify the terminals that are installed in the colonies but not operating.
	58.	To eliminate the prison subculture.
Aydarkhan SKAKOV <i>Professor of the Department of Criminology and Crime Prevention of the Academy of the Federal Penitentiary Service of Russia, Professor of the Department of Criminal Law and Organization of Execution of Sentences of the S. Kabybayev Kostanay Academy under the Ministry of Internal Affairs of the Republic of Kazakhstan</i>	59.	Implementation of the Nelson Mandela Rules in the PEC.
	60.	To develop a new Code on the Execution of Punishments and Probation and assign the execution of all types of punishments to one department (Committee of the Criminal-Executive System).
	61.	Sufficient funding of the penitentiary system directly from the Republican budget is needed, which shall be specified in a separate article.
	62.	Construction of new penitentiary institutions within the framework of the public-private partnership mechanism.

Elena SEMYONOVA <i>Member of the Coordination Council of the Coalition for Security and Protection of Human Rights Defenders</i>	63.	The Committee of the Criminal-Executive System shall initiate a question regarding the insurance of convicts. This right is not implemented due to the fact that insurance companies refuse to insure convicts
	64.	It is necessary to provide convicts with clothing according to the season, depending on the weather conditions in the region.
	65.	To make changes to the list of permitted items and allow the transfer of cooling fans from relatives to cells-based type institutions.
	66.	To develop a separate daily routine for convicted persons with disabilities, employed and studying convicts
	67.	Do not take into account the mass of the detergents in parcels.
Baurzhan MUSSIN <i>Representative of the We are Against Torture NGO</i>	68.	To develop a commentary to the Penal Enforcement Code, which will be useful for all interested parties of the criminal justice system.
Olga RYL <i>Director of the Pravo Public Foundation</i>	69.	It is necessary to transfer the system of reeducation, at least in part of children, to a civilian environment, where teachers and psychologists work.
	70.	It is necessary to review the workload rate of the prison service employees.
Khalida SEMYONOVA <i>Lawyer of the CONVEX Co LLP</i>	71.	To introduce the concept of "Funds in the personal accounts of convicts in the electronic trading platform system (Login)"
	72.	To provide the possibility of additional parcels for institutions of all types and detention conditions, in the case of ordering a parcel through an electronic trading platform (ETP).
	73.	To remove the restrictions that are available on the Login of funds for the purchase of food and basic necessities.
	74.	To allow delivery of hot (ready) food in the penitentiary institutions.
	75.	It is necessary to completely limit the offline store.

INFOGRAPHIC ON THE PERFORMANCE OF THE CRIMINAL-EXECUTIVE SYSTEM OF THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF KAZAKHSTAN

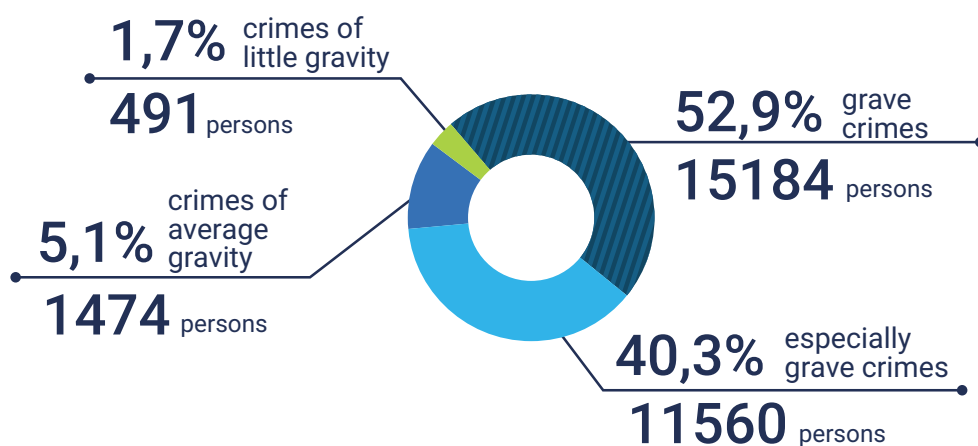
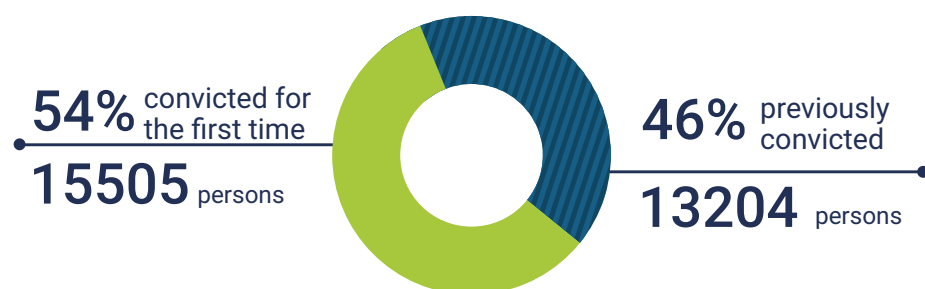
INSTITUTIONS OF THE CRIMINAL EXECUTIVE SYSTEM (UIS) UNDER MIA OF KAZAKHSTAN



NO. OF CONVICTS AND PERSONS IN PRE-TRIAL DETENTION FACILITIES

THERE ARE CURRENTLY **33 217** PERSONS IN PLACES OF DETENTION IN KAZAKHSTAN, INCLUDING



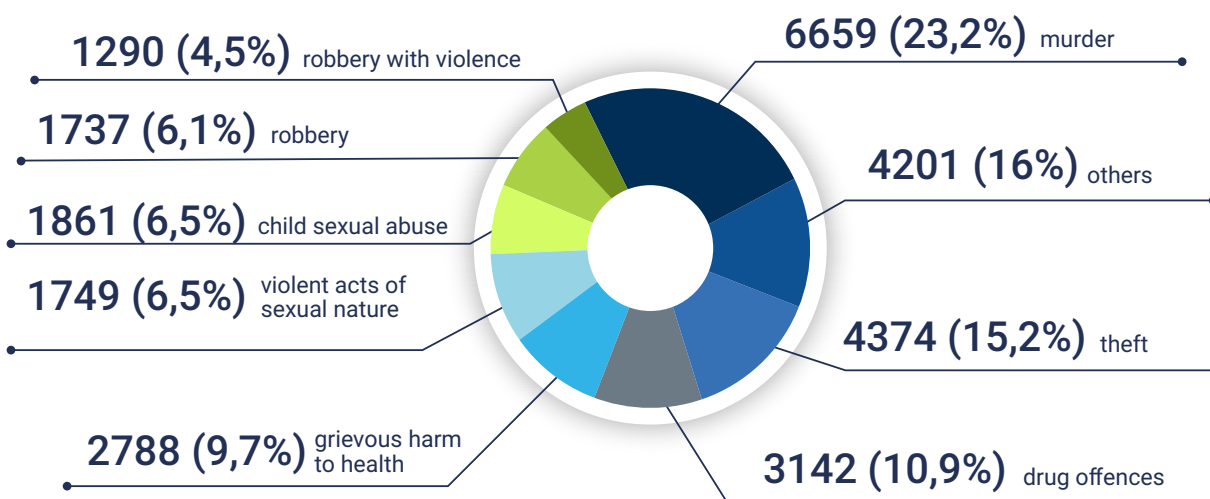


COSTS FOR CONVICTS: KZT 559 000 PER YEAR, KZT 50 000 PER MONTH, KZT 1 642 PER DAY

CATEGORIES OF CRIMES



28 709 convicts



ROADMAP FOR THE DEVELOPMENT OF THE CRIMINAL EXECUTIVE SYSTEM

- AMENDMENTS TO LAWS AND REGULATIONS RELATED TO THE LEGAL STATUS OF CONVICTS
- GRADUAL TRANSFER TO THE CELLS-BASED FACILITIES
- DIGITALIZATION AND EQUIPPING THE PENITENTIARY INSTITUTIONS WITH CONTINUOUS VIDEO SURVEILLANCE SYSTEMS
- DEVELOPMENT OF TRAINING CENTERS AND MANUFACTURING/PRODUCTION ACTIVITIES
- RESOCIALIZATION, MAINTAINING SOCIALLY USEFUL RELATIONSHIPS WITH THE FAMILY

THE PRESIDENTIAL DECREE ON FURTHER MEASURES OF THE REPUBLIC OF KAZAKHSTAN IN THE FIELD OF HUMAN RIGHTS DATED JUNE 9, 2021



THE PLAN OF PRIORITY MEASURES IN THE FIELD OF HUMAN RIGHTS WAS APPROVED BY THE DECREE OF THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN NO. 405 DATED JUNE 11, 2021

- Adoption of the Amnesty Law (in 2021)
- Amendments and additions to the Penal, Criminal Procedure and Penal Execution Codes related to the legal status of convicts (in 2022)
- Amendments to the legislation providing for the improvement of conditions for the employment of convicts and their social adaptation (in 2021)
- Development of a centralized automated Database for the criminal justice system (in 2022)

LEGAL STATUS OF CONVICTS



In accordance with international human rights documents, including the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

15 AMENDMENTS TO THE PENAL, CRIMINAL PROCEDURE AND PENAL EXECUTION CODES AND 14 AMENDMENTS TO THE DEPARTMENTAL LEGAL ACTS WERE MADE

- The requirement for a positive degree of behavior to transfer the convict to serve a sentence in the institution close to the place of residence eliminated
- The weight of parcels for convicts increased from (14 kg to 20 kg)
- Medicine and medical products are now not included in the number of parcels and packages
- Video calls introduced, telephone conversations extended (from 19:00 to until 21:00)
- The terms for considering a submission for release due to the convict's illness reduced (from 1 month to 10 days)
- The convicts were granted the right to file complaints in electronic format (starting from January 2020)
- The list of permitted items for convicts in institutions of minimum security expanded (starting from January 2020)
- The nutrition standards for one convict increased from KZT 686 to KZT 1 018 per day (starting from February 2021)

IMPROVING LEGISLATION

- MANDATORY NOTIFICATION OF THE PROSECUTOR'S OFFICE WHEN TRANSFERRING A CONVICTED PERSON TO ANOTHER FACILITY
- DEFERRAL OF SENTENCE IN CASE OF A SERIOUS ILLNESS OF A CONVICTED PERSON
- IMMEDIATE EXECUTION OF A COURT ORDER ON RELEASE OR REPLACEMENT WITH A LESS STRICT TYPE OF PUNISHMENT DUE TO SERIOUS ILLNESS OF A CONVICTED PERSON
- EXTENDING THE PERIOD OF STAY OF A CHILD WITH A MOTHER AFTER REACHING THE AGE OF THREE, IN CASE OF THE MOTHER'S RELEASE WITHIN A YEAR
- SEPARATION OF PREVIOUSLY CONVICTED FROM THOSE CONVICTED FOR THE FIRST TIME, ETC.

VIDEO SURVEILLANCE SYSTEMS IN PLACES OF DETENTION



No. of available video cameras

14 417 cameras available, including

5 522 digital cameras

8 895 analog cameras

Required 33 966 more

digital cameras



Video recorders available 3531

5 550 video recorders required according to the norms
32% demand in 2019



Introduction of continuous video surveillance systems in Places of detention within 2021-2025



A DRAFT AMNESTY LAW DEDICATED TO THE 30TH ANNIVERSARY OF KAZAKHSTAN'S INDEPENDENCE WAS DEVELOPED

BY THE DECREE OF THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN,
THE DRAFT AMNESTY LAW WAS SUBMITTED TO THE MAZHILIS
OF THE PARLIAMENT ON JUNE 29, 2021

AMNESTIES TO BE GRANTED TO PERSONS CONVICTED OF CRIMES THAT
DO NOT POSE A SERIOUS THREAT TO THE SECURITY OF CITIZENS AND THE STATE

SPECIAL ATTENTION WILL BE PAID TO THE SOCIALLY VULNERABLE
CATEGORIES OF CITIZENS, I.E. JUVENILES, ELDERLY WOMEN AND MEN,
PEOPLE WITH DISABILITIES OF GROUPS I AND II, AND OTHER PERSONS
WHO DO NOT POSE A SIGNIFICANT THREAT TO SOCIETY

CELLS-BASED TYPE OF IMPRISONMENT



More than **4 000 convicts** are serving sentences in 9 penitentiary institutions (12% of the total number of institutions)

Starting from 2012, 4 penitentiary institutions were reconstructed from a collective (barrack-detachment) type of facilities to cells-based facilities

2013  in Kyzylorda city

2015  in Uralsk and Almaty cities

2017  in Almaty region



40 more penitentiary institutions need to be reconstructed

Reconstruction of 12 residential blocks in 6 penitentiary institutions (АП-162/2, УГ-157/9, ЭК-166/5, ЭК-166/25, АК-159/6, УК-16) to cells-based facilities is planned within 2021-2025

NUMBER OF PENITENTIARY INSTITUTIONS WHICH HAVE BEEN CLOSED DOWN



The humanization of criminal legislation and the reduction of the prison population allowed to close **14 COLONIES** with the worst conditions over the past six years

2014  1 institution

2016  7 institutions

2019  4 institutions

2020  2 institutions

ELECTRONIC TERMINALS FOR FILING COMPLAINTS

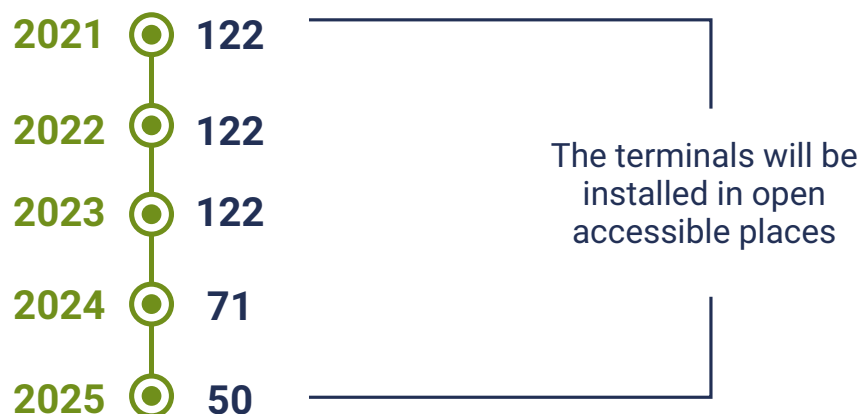


Complaints filled in electronic terminals located on the territory of penitentiary institutions are sent straight to the relevant state authority bypassing the administration of the institution



121 electronic terminals were bought in 2020

It is planned to buy additionally **487 electronic terminals**



THE ONLINE SHOPS SERVICE IS BEING INTRODUCED



Orders of **the food, clothes, books** and other goods that are not prohibited (via courier services)

Private investors support the **ONLINE SHOPS** service in **7 penitentiary institutions**

VIDEO CALLS



EMPLOYMENT OF CONVICTS



The «YENBEK» Republican state enterprise is the main employer

11 495 (49%) convicts are employed

There are also **243** small and medium-sized enterprises where **3 200** convicts are employed

In 2020, the convicts were involved in the work to prevent the spread of the coronavirus and made

Protective masks



1,8 million

Protective coveralls



23 000

Protection screens



3 300

Disinfection tunnels



73

ISSUE

INSUFFICIENT PRODUCTION LOAD

Without state support the 'Yenbek' RSE (the main employer for convicts) cannot compete on an equal footing with other enterprises



SOLUTION

Amendments to the Decree of the Government No. 79 dated February 18, 2016 and Article 39 of the Law on Public Procurement: expansion of the list and scope of goods, works and services purchased from the RSE

PROFESSIONAL TRAINING

49



No. of general secondary education institutions where more than 2 000 convicts are studying annually

35
professions



Professional training for convicts on manual jobs is organized in 44 specialized secondary education institutions
The most in-demand manual jobs are carpenter, plasterer and painter, plumber, electric or gas welder, miller, tailor, baker, cook

734
convicts



received certificates of professional education in 2019-2020

INTERACTION WITH INTERNATIONAL ORGANISATIONS

United Nations Office on Drugs and Crime (with the support of the European Union, the US Embassy, the Embassy of the Kingdom of the Netherlands):

1. Technical support for the establishment of the Prison Staff Training Centre on Countering Extremist Ideology on the basis of the Kostanay Academy under the Ministry of Internal Affairs was provided.
2. UNODC has developed and implemented online courses on the Nelson Mandela Rules, as a practical training tool for the prison staff. More than 2 500 employees completed online training and received the certificates.
3. Trainings, online classes, webinars with 250 prison staff members were organized.
4. The material and technical capacity of 8 pilot institutions in Karaganda and Pavlodar regions is enhanced.

Penal Reform International (PRI) office in Central Asia

1. Organization of the MIA Forum "Open Dialogue - a Tool for Reforming the Penitentiary System" and the Forum "The Penitentiary System in the New Reality" (with the support of the British Embassy).
2. Organization of the Forum "Central Asian Dialogue of Penitentiary Services".
3. Expert support on the issues of penitentiary healthcare, prison staff capacity building (with the support of UNDP).
4. Analysis of the penal execution legislation for compliance with the Nelson Mandela Rules and further implementation of standards in regulatory legal acts.
5. Opening the rooms for juvenile probation clients in all regions of the country (together with UNICEF).
6. Regional monitoring visits together with the Ombudsman, prison service administration and national experts on the observance of human rights in the penitentiary institutions.
7. The Capstone Project, a research works competition on human rights issues in the criminal justice system among the cadets of the MIA Kostanay Academy (with the support of the Embassy of the Kingdom of the Netherlands).
8. Republican literary contest among convicts.

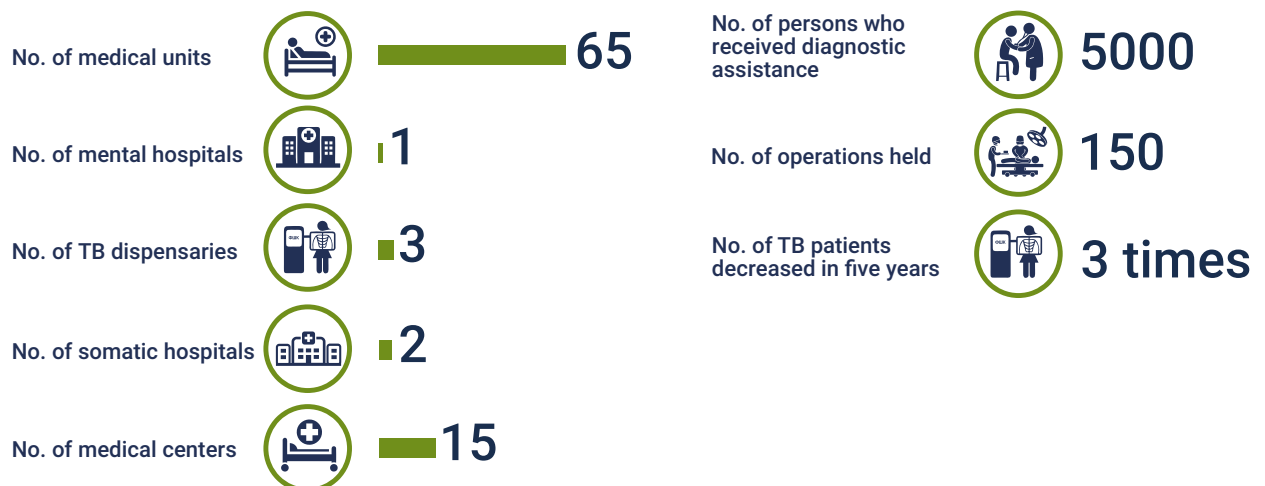
INTERACTION WITH NGOS

PMCs and NPM members are conducting independent monitoring of the observance of the rights of convicts and detention conditions

THE FOLLOWING WORK IS ORGANIZED IN ALL REGIONS OF THE COUNTRY



HEALTHCARE IN PLACES OF DETENTION

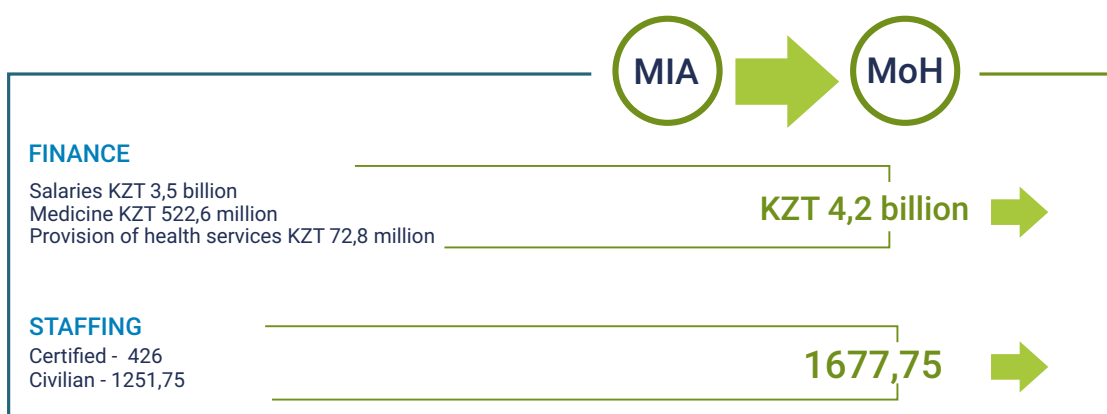


INCIDENCE AMONG CONVICTS

COVID 19



PNEUMONIA

TRANSFER OF THE PENITENTIARY HEALTHCARE
UNDER THE MINISTRY OF HEALTH

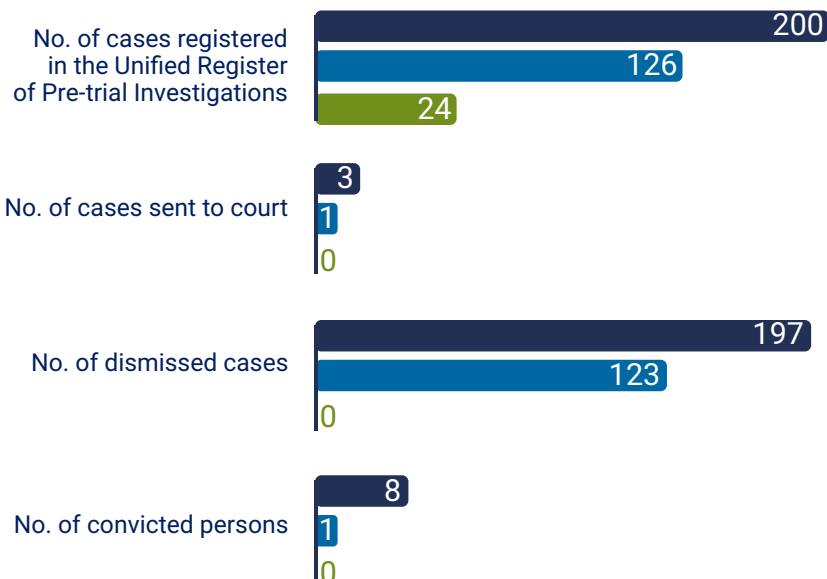
- Improved interaction with healthcare organizations
- Wider access to modern methods of medical examination, diagnosis and treatment
- Financial support from Akimats (Mayors' offices)
- Independence of medical workers from the administration of penitentiary institutions when registering illnesses, facts of physical harm
- Reducing shortage in medical personnel

PUBLIC RELATIONS



TORTURE CASES

Number of torture cases is decreasing



INFOGRAPHIC ON THE IMPLEMENTATION OF THE FIRST PENITENTIARY FORUM «OPEN DIALOGUE - A TOOL FOR REFORMING THE PENITENTIARY SYSTEM»

«OPEN DIALOGUE - A TOOL FOR REFORMING THE PENITENTIARY SYSTEM»

ORGANIZATIONAL AND PRACTICAL MEASURES



Organization of the Forum "Open Dialogue - a Tool for Reforming the Penitentiary System" (May 29, 2019)



The "Public discussion on improving the penitentiary system" section created on the prison service's official website



An interdepartmental working group to collect and study proposals established



Organization of the briefing for media representatives on the results of the discussed initiatives (August 6, 2019)



Organization of the round table on the further implementation of collated recommendations aimed at improving the performance of the prison service (August 28, 2019)



The orders of the Ministry of Internal Affairs of the Republic of Kazakhstan on proposals requiring by-law regulation developed and approved



A comparative table for proposals of a legislative nature developed (CC, CPC, PEC)

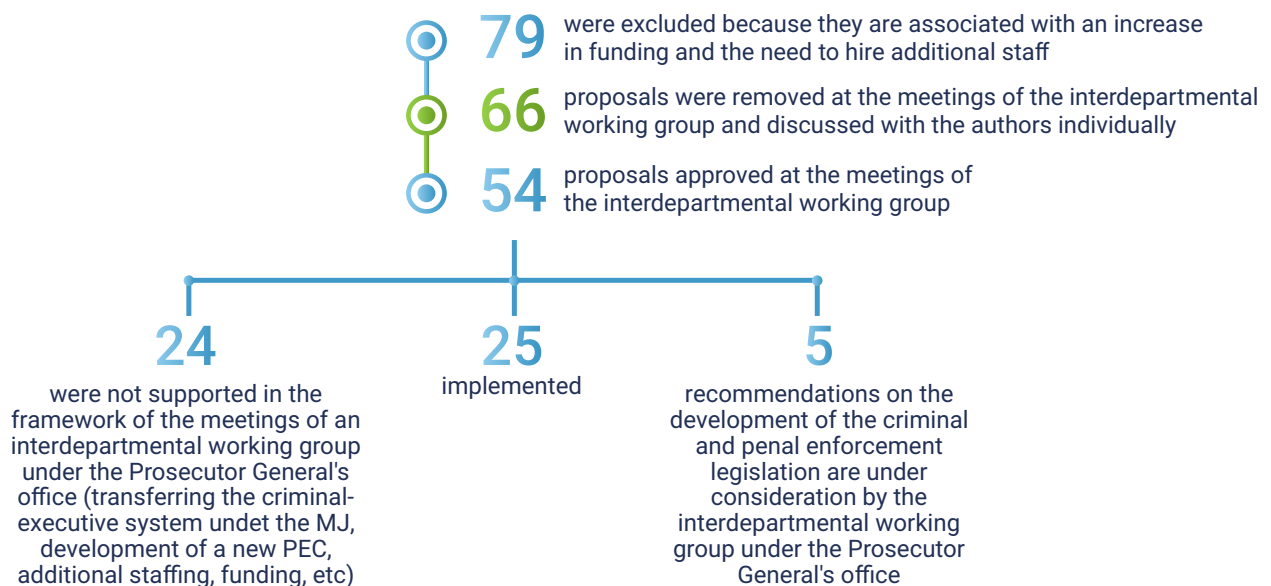


Organization of meetings of the interdepartmental working group to discuss proposals of a legislative nature (June 18, July 10 and 17, August 5, 2019)

«OPEN DIALOGUE - A TOOL FOR REFORMING THE PENITENTIARY SYSTEM»

Following the results of the event, a decision was made on the expediency of creating an interdepartmental working group to collect and study proposals aimed at eliminating existing problems in the penitentiary system and bringing it closer to the best international standards.

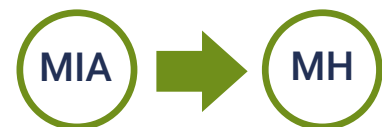
The interdepartmental working group (the members were approved by the Order of the Minister of Internal Affairs) received total of **199** proposals:



IMPLEMENTATION OF RECOMMENDATIONS MADE BY PUBLIC

Transferring the penitentiary healthcare under the Ministry of Health

The main recommendation made during the 2019 Forum



A Draft Decree on Further Measures to Improve the Public Administration System of the Republic of Kazakhstan is agreed upon by the interested state bodies and Mayor's offices



On June 30, the draft Decree was passed to the Office of the Prime Minister of the Republic of Kazakhstan for further consideration



Together with the Ministry of Health, the Concept of the draft Law on Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Improving the Activities of Internal Affairs Bodies was developed

FOLLOWING ACTIVITIES WERE IMPLEMENTED AS OF JULY 8, 2021:

- 1) On April 15, 2021, the Interdepartmental commission approved the Concept of the draft Law.
- 2) By the Order No. 211 of the Minister of Internal Affairs dated April 13, 2021, members of the working group were approved.
- 3) On 15 and 21 April, 2021 the meetings of the established working group took place.
- 4) The draft Law was developed:
 - on April 26, 2021, the project was posted on the Open LSI portal (a certificate was compiled on May 14, 2021);
 - on April 28, 2021, the project was posted on the Internet resource of the Ministry of Internal Affairs.
 - on May 6, 2021, the project was sent for scientific legal analysis (a response was received on May 19, 2021) and anti-corruption (response received on May 28, 2021) expertise.
 - on May 25, 2021, the conclusion of the Public Council was received.
- 5) Public hearings were held on June 2, 2021.
- 6) The Ministry of Internal Affairs has submitted to the Ministry of Health all the necessary calculations.

The implementation of the recommendations of the Forum took place in the main **five areas:**



First: these are organizational and practical measures to improve the activities of the penal enforcement system



Second: improvement of the legal status of convicts



The third: humanization of the execution of punishments



Fourth: striving for the best international standards



Fifth: further actions to implement the recommendations of the Forum

IMPLEMENTATION OF RECOMMENDATIONS MADE DURING THE FORUM

As part of the implementation of the Forum's recommendation, 25 amendments and additions were made to regulatory legal acts, which are aimed at improving the legal status of convicts, humanizing the execution of criminal penalties and approaching international standards for the activities of the criminal justice system:



PEC - 15

CC - 1

CPC - 1

Order of the MIA RK No.819 - 7

Order of the MIA RK No.508 - 1

ORGANIZATIONAL AND PRACTICAL MEASURES TO IMPROVE THE PERFORMANCE OF THE CRIMINAL-EXECUTIVE SYSTEM

Transfer of medical support for convicts from the Ministry of Internal Affairs to the Ministry of Health



Covering penitentiary institutions with continuous video surveillance systems



Improving the social package for employees of the penitentiary system (salary increase, etc)



IMPROVING THE LEGAL STATUS OF CONVICTS

The right to apply for conditional early release and replacement of the part of the sentence with a milder form of punishment, if such a right occurred during the period of detention in the pre-trial detention center (part 3 of Article 90 of the Criminal Code)



The mandatory entry into self-regulating organizations for assigning the second and third positive degrees of behavior is excluded (part 4 of Article 95 of the PEC)



The transfer of convicted persons with disabilities to a full security institution is excluded (para 3 of part 3-1 of Article 96 of the Criminal Code)



There is a mandatory notification of the prosecutor about changes in the degree of behavior, conditions of detention, incentives, penalties, applications for parole, etc (Order of the Ministry of Internal Affairs No. 819 dated November 17, 2014)



The terms of consideration of the submission for the release of a convicted person due to illness (para 2 of part 4 of Article 478 of the Criminal Procedure Code) have been reduced from a month to ten days

IMPROVING THE LEGAL STATUS OF CONVICTS



The use of a fine as a norm that worsens the financial situation of a convicted person is excluded from the list of types of disciplinary penalties (part 1 of Article 131 of the Criminal Code)



The term of detention in solitary confinement has been reduced to 4 months (subparagraph 5, para 1, Article 131 of the Criminal Code)



Visits of transferred convicts to a mixed security institution have been increased

1 day in pre-trial detention center = 1,5 day



The calculation of the time of detention of convicted persons (starting from 10.01.2020)

1 day in pre-trial detention center = 2 days Minimum-security institutions (settlement colonies)

1 day in pre-trial detention center = 1,5 day Medium-security institutions (penitentiary settlements of a general regime)

1 day in pre-trial detention center under arrest = 2 days of restriction of freedom

HUMANIZATION OF THE EXECUTION OF CRIMINAL PUNISHMENT

The time allowed for phone calls extended until 21.00 pm



The maximum weight of parcels increased from 14 to 20 kg



A decision was made about appointing persons from among the convicts to assist convicted persons with disabilities



Electronic stores for the purchase of food and essential goods introduced





Remote monitoring tools for probation clients, which will allow monitoring convicts in real-time and minimizes contacts between citizens and employees are being introduced.
(for 2021, funds were allocated for the rental of 2 562 electronic bracelets and 1 418 tablets for employees).



Video communication that is available now has shown effectiveness amidst the pandemic when there were restrictive measures for short- and long-term prison visits.
(more than 154 900 telephone conversations, 11 500 video calls and 3 500 video interviews were conducted).

STRIVING FOR THE BEST INTERNATIONAL STANDARDS

On the initiative of the Commissioner for Human Rights, Ms Azimova Elvira, with the support of Penal Reform International office in Central Asia, an interdepartmental working group to develop proposals to bring the regulatory legal acts regulating the activities of the penal system in accordance with the requirements of international standards was established by the Order of the Head of the prison service.



According to the results of the work of the interdepartmental working group, it was identified that around 20 of the Nelson Mandela Rules are either not taken into account at all or are not fully regulated by the legislation in the penitentiary sphere. In this regard, the following documents were developed:

- the draft Orders of the Ministry of Internal Affairs on Amendments and Additions to Some Orders of the Minister of Internal Affairs of the Republic of Kazakhstan,
- a new version of the Internal Regulations of the institutions of the penitentiary system,
- a draft Comparative table of legislative amendments aimed at improving the activities of the penitentiary system and bringing it closer to generally recognized international standards.

FURTHER ACTIONS TO IMPLEMENT THE RECOMMENDATIONS OF THE FORUM

1. Implementation of the Plan of Priority Measures in the Field of Human Rights (the Government Decree No.405 dated 11.06.2021), which among other things, provides for legislative amendments to the Criminal, Criminal Procedure and Criminal Executive Codes in terms of:

- granting a delay in serving a sentence in case of a serious illness of the convicted person;
- immediate execution of a court order on release or replacement with a milder type of punishment due to a serious illness;
- extension of the period of stay of the child with the mother after reaching the age of three in case of the mother's release by the end of the term or conditional early release, replacement of the unserved part of the sentence with a milder type of punishment, within a year;
- providing video recordings of interrogations, as well as court sessions;
- clarification of the definition of "torture", as well as the introduction of the definition of "ill-treatment" (social institutions with children and persons with disabilities);
- ensuring the separation of previously convicted persons from those convicted for the first time by abolishing emergency security institutions.

2. Continue the work on the implementation of legislative initiatives (proposals are submitted to the Interdepartmental working group under the Prosecutor General's office).

3. Implementation of the recommendations made during the online Forum "The Penitentiary System in the New Reality".



UNODC
United Nations Office on Drugs and Crime