



**National
Preventive
Mechanism**
for the Prevention of Torture

CONSOLIDATED REPORT

of the National Preventive Mechanism members
on the preventive visits carried out in 2017

CONSOLIDATED REPORT

consolidated report
Prepared by the National Preventive
Mechanism members on the Preventive Visits
Made in 2017



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1

**On some organizational
issues of the National
Preventive Mechanism
in 2017**

The legislation regulating the activities of the National Preventive Mechanism (hereinafter – the NPM) in the Republic of Kazakhstan establishes the obligation of the Coordinating Council under the Commissioner for human rights to prepare the annual consolidated report of the NPM members on the results of preventive visits. This is the fourth consolidated

report of the NPM.

582 preventive visits were carried out in 2017 by the NPM members including 24 special visits (see Figure 1). As statistics show, the number of preventive visits decreased by 98 visits in comparison with the previous year, which is associated with a reduction in the allocated budget.

During the reporting year the NPM members (hereinafter – NPMM) conducted 140 visits to temporary detention centres throughout Kazakhstan, 31 pre-trial detention centres, 106 correctional institutions, 23 remand houses, 24 special reception centres, 21 centres for adaptation of minors, 7 special educational institutions, 36 psychiatric, 31 narcological, 51 anti-tuberculosis organizations, and 4 detention centres of NSC, 8 military detention/confinement facilities, 56 police stations (including the premises of departments of internal affairs).

Out of these 24 special rooms were visited: 17 correctional facilities, 6 pre-trial detention centers, 1

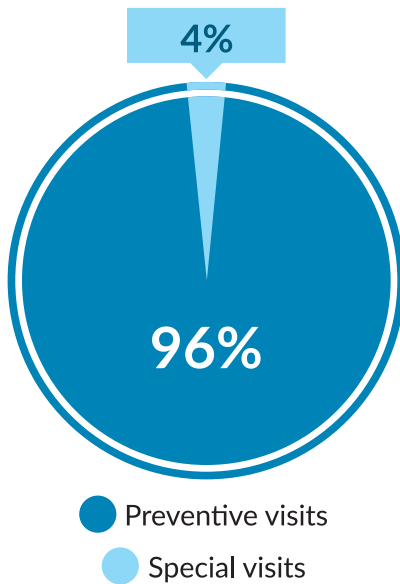


Figure №1
Number of NPMM
visits in 2017

psychiatric hospital.

Based on the results of the special visits the materials on the revealed violations contributing to the creation of factors of cruel and degrading treatment were sent to the Prosecutor's offices and authorized bodies depending on the content.

Also, during the preventive visits in 2017, in total 111 appeals to the Commissioner for human rights were received by the NPM members.

One of the measures showing the effectiveness of the NPM is the implementation of the recommendations on elimination of revealed violations mandated by the institutions referred to in the reports of visits by regional groups of NPM members for the year 2016.

The recommendations of the NPM members set out in the previous consolidated report were implemented in the prescribed manner by the National Security Committee, the Ministry of Interior, the Ministry of Defence, the Ministry of Education and Science and the Ministry of

Health.

Medical supplies were improved in the correctional institutions of East Kazakhstan, Kostanay, North Kazakhstan, Kyzylorda and South Kazakhstan region where the stock of medicines was updated, the ventilation system of the premises was renovated, the library database was updated, and the regime and foodstuffs of prisoners were monitored. In many mandated institutions major repairs were carried out in the living quarters, where windows and a sewer system were replaced, and the yards were equipped with shelters from rainfall.

Detention conditions were improved in detention centres, special reception centres and remand houses in the southern and eastern regions of Kazakhstan. . NPM members also conducted methodological work on familiarizing employees in the correctional institutions of eastern Kazakhstan, specifically Kostanay, and northern Kazakhstan regions with the procedure for observing the rights and

freedoms of convicts, as well as on the prevention of torture. These examples prove the feasibility of ongoing preventive visits.

The leadership of the National Security Committee of the Republic of Kazakhstan, together with the administration of the pre-trial detention centers, implemented measures to create conditions that meet the minimum standard rules for the treatment of prisoners. As part of this, it was planned to build new buildings for pre-trial detention centers in Astana and in Almaty.

The recommendations of NPM members on the outcome of visits to the military confinement facility were taken into account. According to the information received from the General Staff of the Armed Forces of the Ministry of Defense of the Republic of Kazakhstan it follows that work was carried out to equip the facility in accordance with the current international standards. Namely, according to the recommendations of the NPM members, such

work as equipping medical cabinets, placing sports equipment in exercise yards, and increasing artificial lighting was carried out in the military confinement facilities including Almaty, Semey Karaganda. The Ministry of Education and Science of the Republic of Kazakhstan provided detailed information on the implementation of the recommendations of NPM members regarding specific institutions. Moreover, the authorized body announced the dispatch of an information letter to the akimats of oblasts, Astana and Almaty cities, with recommendations for improving the conditions of detained children and the order of their stay in the educational organizations subordinate to the Ministry. The Ministry emphasizes that most of the violations identified by NPM members during preventive visits to the Adaptation Centers for Minors and Specialized organizations in 2016, were eliminated. There were some issues that remained unresolved- for example, the point on requiring an

increase in financial costs, such as the transfer (changing the venue) of the Center for the Adaptation of Minors in Zhambyl and Almaty regions. Due to the fact that financing of these organizations is within the competence of local executive bodies, the Ministry recommended that local executive bodies eliminate the identified violations in the shortest possible time. According to the recommendations of the NPM members in order to prevent torture and ill-treatment of minors by the staff certain work was carried out on the design of information and legal bilingual stands on NPMs, on children's rights, the procedure for filing complaints and appeals with samples of applications, helplines, contacts of prosecutors, the Commissioner for Human Rights in the Republic of Kazakhstan and public organizations.

The information provided by the Ministry of Health of the Republic of Kazakhstan does not sufficiently reveal the implementation of the

recommendations of NPM members. It should be noted that the authorized body does not pay due attention to improving the rehabilitation programs of mental / narcological patients and their social adaptation.

As a result of the analysis of the information provided on the implementation of the recommendations of NPM members for 2016 that was reflected in the consolidated report, there is a positive dynamic of observance of comments and recommendations by the state authorities following the preventive visits.

Within the limits of his competence the Commissioner for Human Rights sent inquiries to authorized state bodies on the facts set forth in citizens' appeals. Not all incoming complaints found confirmation, but in some cases pre-trial investigations were carried out, a number of expertise tests were conducted.

Based on the results of special visits during the reporting year the

materials were forwarded to the authorized bodies for verification. In some cases, the results of special visits led to the disciplinary liability of employees of closed institutions. Thus, according to the results of the special visit of the ETS-164/4 Institution of the Department of the Penitentiary System for the North-Kazakhstan oblast, the investigator of the Petropavlovsk police department and the head of the Office of the Public Prosecutor's Office of the North-Kazakhstan region were disciplined for the weakening of supervision in the line of execution of punishment.

In accordance with national legislation, interference in the activities of NPMs is prohibited. Nonetheless, in 2017, the heads of the NPM groups in West Kazakhstan, Kostanay and the Almaty region faced attempts to prevent their work by the employees of the institutions. This was connected with the latter's lack of knowledge about the norms of the national legislation of the

Republic of Kazakhstan in the field of prevention of torture. It should be noted that the obstruction of the activities of members of the NPM by law enforcement officers entails liability for violating the Code of administrative offences of the Republic of Kazakhstan.

The Commissioner for human rights and his / her institution are implementing training projects aimed at enhancing the professional skills and knowledge of NPM members as a human rights mechanism. The activities of the National Centre for Human Rights in Kazakhstan are carried out in close cooperation with such international organizations as the Office of the High Commissioner for Human Rights' (OHCHR) Regional Office for Central Asia (ROCA), the United Nations Development Programme (UNDP) in Kazakhstan, the United Nations Children's Fund (UNICEF), the European Union, the OSCE Centre in Astana, the PRI office in Central Asia, as well as Kazakhstan's non-governmental organizations.

During 2017 a series of training sessions on practical issues of the functioning of NPMs were conducted with the participation of international experts and organizations such as PRI, OSCE, OHCHR, and the Council of Europe.

Thus, on 14-15 February 2017, a training seminar was held for newly elected members of the NPM. The training was an introductory course on the functioning of NPMs where special attention was paid to the preparation for preventive visits, the conduct of the visit itself, the preparation of reports on the results of visits as well as the importance of sharing responsibilities among group members.

A working meeting of the heads of the NPM preventive visits and reporting teams was held on 15-16 March 2017. Within the framework of this event the group leaders discussed thematic issues of the NPM activities, shared knowledge and experience, and developed proposals for improving the work of the Coordinating Council.

In 2017, a very important event, the first Forum of the national preventive mechanism "Prevention of torture, Kazakhstan and international experience," was held. . The event was dedicated to the 10th anniversary of the entry into force of the optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment (OPCAT). During the meeting Kazakhstan presented its experience about the functioning of the Torture Prevention Institute and the monitoring of places of deprivation and restraint of liberty. Kazakhstan also discussed how to further improve the NPM activities, including the issues of its legal regulation.

During the forum the emphasis was placed on the importance of strengthening the role of the Coordinating Council of NPM and the need to further improve cooperation between the NPM and state authorities at the central and local levels as well as administration of the

mandated institutions.

The draft law «On amendments and additions to some legislative acts of the Republic of Kazakhstan on the activities of organizations engaged in the protection of the rights of the child», regulating the expansion of the mandate of the NPM to more than 200 closed institutions, was unanimously approved at the first reading during the meeting of the Majilis in November 2017. Currently, the draft law is under consideration by the Majilis Parliament of the Republic of Kazakhstan.

It should be noted that the issue of expanding the powers of NPMs was reflected in the concluding observations of the UN Committee against torture on the third Periodic report of the Republic of Kazakhstan dated December 12, 2014. The observations stressed the need to expand the mandate of NPMs by introducing all places of deprivation of liberty, including children's homes, medical and social institutions for children with disabilities, special and closed

educational institutions.

On 12 December 2017, 92 new members of the NPM for 2018 were elected by decision of the members of the Coordinating Council. Due to the lack of the required number of members of the NPM in Atyrau, East Kazakhstan and Mangystau regions an additional recruitment of NPM members was held. As a result of the additional selection 22 participants were elected to regional groups in Atyrau, East Kazakhstan and Mangystau regions. The overall composition of the NPM members in 2018 was updated to 32% in comparison with the previous year.

Financial support for the activities of the NPM is provided from the republican budget. The budget funds are used only to reimburse the costs incurred by NPM members for preventive visits and cannot be used for other purposes.

In order to save budget funds in 2017, the budget for the financing of NPMs was reduced to 61.3 million tenge. Of these, 59.9 million tenge was spent.

2

Rights of convicts in correctional institutions of the Ministry of Interior

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During the period from January to December 2017, 107 visits to correctional institutions of the Penitentiary system of Kazakhstan were carried out, among which there were periodic, intermediate and special visits. It should be noted that during this period there were 25 special visits conducted, namely:

1) Establishment EC-166/1 of the penitentiary system, Astana (remand centre -12) - on 23-24 February, 2017;

2) Establishment of LA-155/18 of the penitentiary system, Almaty and Almaty region, February 23, 2017 - Mamay J. case.;

3) RU-170/3 of the penitentiary system, Zapadnyi (Western) Kazakhstan region, Uralsk - March 14, 2017 - Diyashev's case;

4) Railway department -158/2 of the penitentiary system, Zhambyl region, April 5-6, 2017 - Obaev K. R. case;

5) Detention facility EC-166/1 (Astana) -18 May 2017;

6) State Establishment "Uchrejdenie 157/9", CCES Mol, Kazakhstan (Atyrau city) - May 30, 2017;

7) SE -164/1, CCES Mol RK, Petropavlovsk city, Zarechnyi village - May 26-27, 2017;

8) Railway department -158/2 of the penitentiary system, Zhambyl region (Taraz) - May 26-27, 2017;

9) Establishment of KA-168/5 in Aktobe region, Zhem. 5-6 June 2017;

10) SE "Kostanay regional psychiatric hospital" Zatobolsky village;

11) Health Department of Kostanay region of the Ministry of Health, 13 June 2017;

12) Establishment of the RU-170/3 of the penitentiary system at the WKR 4 July 2017;

13) Establishment ED-166/1 in Astana-July 8, 2017;

14) Establishment EC-164/4 NKO-12-13 July 2017;

15) Establishment UG-157/9 in Atyrau region : 13 July

- 2017;
- 16) Establishment EC - 164/1 at NKO: July 26, 2017;
- 17) Establishment EC - 164/4 at NKO on July 27, 2017;
- 18) Establishment UG-157/9 in Atyrau region - 29 July 2017;
- 19) Establishment IC-167/11 of the penitentiary system of Kazakhstan - August 23, 2017;
- 20) Establishment OV-156/14 East Kazakhstan region - 27 August 2017;
- 21) Establishment EC - 166/4 Atbasar - 29 August 2017;
- 22) Establishment RU-170/2 of the penitentiary system in the West Kazakhstan region, Uralsk - 7-8 September 2017;
- 23) Establishment RU-170/3 of the penitentiary system in West Kazakhstan region, Uralsk, September 8, 2017;
- 24) Establishment RU-170/1 of the penitentiary system in the West Kazakhstan region, Uralsk - October 18, 2017;
- 25) Establishment LA 155/1

of the penitentiary system in Almaty and Almaty region, Almaty - 17 December 2017.

The system for the execution of punishments is one of the constant targets of criticism of the local (Kazakh) and the international community. The main reason for this criticism is the lack of compliance with the standards of detention of persons serving sentences, which leads to violations of their rights and complaints to various organizations. Objective and subjective factors can be identified as the reasons for this situation. The detachment colony system with outdated material resources, contradictions between the normative legal acts (based on which the penitentiary institutions operate) of the national legislation and international norms have led to the fact that, despite the reduction of the prison population, in many units there is a shortage of personnel, which inevitably leads to the creation of voluntary assistants to the

administration from among “loyal” convicts.

Reference to the content of the report allows for a comparison of the situation with the observance of human rights in the correctional institutions of the penitentiary system of Kazakhstan with the recommendations of the “Mandela Rules” and the provisions of the national preventive criminal-executive legislation.

The monitoring of the penitentiary institutions compliance with the standard requirements for material and sanitary conditions in the penal institutions of the republic for the 4 years of existence of the NPM has not changed fundamentally. In the absence of central funding ongoing repairs are often carried out “at their own expense”. During the interviews with prisoners, they complained that the administration of the institution through their “volunteers” forced them to buy construction materials with the help of their relatives or spent money earned in the

institution.

NPMM has pointed out that in almost all of the institutions the sanitary standards of different premises do meet requirements and need major repairs. Thus, NPMM in the South Kazakhstan region noted that major repairs or the construction of a new institution that meets international standards is needed in the women’s colony ИЧ-167/4. In OB-156/3, major repairs are needed in the institution's premises, namely at: disciplinary isolator (DISO), chamber type room (CTR), strict conditions of detention (SCD) rooms, medical station; there is no hot water supply in the living quarters.

Failure to comply with the temperature regime in the winter and the poor quality of drinking water give rise to undeniable risks for the health of convicts at the institution 166/26 in Derzhavinsk city. The long distance from the regional center - more than 500 km, complicates the work of public monitors. Practically in every report, we call on the

government to take measures to close the colonies located far from the regional centers. This step could solve a whole range of problems in the penitentiary system such as: shortage of medical and general personnel, communication with relatives and human rights activists.

NPM members pointed out the poor library fund of institutions, a meager diet, and the dilapidated bed linens and mattresses. There are no sports facilities in nearly all of the institutions.

Special attention should be paid to the most vulnerable category of disabled prisoners. Kazakhstan ratified the Convention on the Protection of the Rights of Persons with Disabilities. The Republic has introduced norms in the national legislation that allow persons with disabilities to use social services and an individual rehabilitation programs. During the 116th session (March 2017), the UN Human Rights Committee rendered a decision on *Suleimenov v. Kazakhstan* case (communication

No. 2146/2012), which recognized that the maintenance of persons with disabilities in unadapted prisons constituted a violation of Art. 10 of the International Covenant on Civil and Political Rights (violation of the right to humane treatment and respect for the inherent dignity of the human person). The Nelson Mandela Rules state that "In order for the principle of non-discrimination to be put into practice, prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings. Measures to protect and promote the rights of prisoners with special needs are required and shall not be regarded as discriminatory."

Many violations of the rights of this vulnerable group of convicts were revealed in the process of monitoring at penitentiary institutions. For example, in OV-156/2, OV-156/3, OV-156/14, IC-167/2, OV-156/15, ETS-164/1, ETS-164/8, ETS-164/4, EC-

166/10, EC-166/25, ZD-158/4, UKA-168/2- disabled convicts did not even know that they have the right to an individual rehabilitation program. It should be noted that the accessibility of disabled people in the premises is complicated. One of the big problems for convicts is obtaining the status of disabled. The absence of narrow specialists and appropriate medical equipment makes it difficult for them to pass medical commissions.

When monitoring the establishment UKA-161/2, the NPM team drew the attention of the institution's administration to the prisoner Sh., who was diagnosed with a fracture of the cervical vertebra, but he was not given a disability. In UKA-161/4 the convict G. was not declared disabled though he had eye disorders (vision impairment).

According to article 10, paragraph 11 (3) of the PEC of the RK, convicted persons with disabilities such as speech defects, either of hearing or sight, have the

right to use the services of specialists who have skills in tactile-sign language or Braille alphabet.

The lack of ramps, unequipped bathrooms and bath rooms for the needs of the disabled are only visible problems. The Committee of the Penitentiary System, the Department of Penal Enforcement Facilities and the local institutions need to resolve as soon as possible the issue of equipping an accessible environment for persons with disabilities in correctional facilities.

In almost all regions, it is noted that the penitentiary institutions suffer from a flourishing vicious practice of empowering certain prisoners with the powers to exercise control over the bulk of the convicts in the form of volunteer assistants to the administration. And although such organizations are not directly named in Article 126 of the PEC, it contains the wording that "convicts' organizations are established to work under the supervision of the administration of the

institution". This formulation basically justifies the creation of such amateur organizations of convicts who are completely comfortable with the administration of correctional facilities and can use it for their own benefit. Participants of voluntary amateur organizations enjoy benefits from the administration for "loyalty". They are not attracted to cleaning work, thereby violating article 121 of the PEC of the RK and creating conflict situations in the institution. The detachment colony system of convicts is a breeding ground for the emergence of "quasi-laws" and subcultures in the penal system. So, in the establishment ETS-166/18 in the Zavodskaia settlement, the convicts complained that the "activists" of the colony do not participate in the cleaning of premises and territory, thereby violating article 121 of the PEC.

In the establishment ETS-164/4 - the NPM group of the SKO came to the conclusion that the convicts

K., G., A., N. were subjected to psychological torture with threats of the so-called "harem" - acts of homosexual assault involving "activists" VOC (voluntary organization of convicts) and with the connivance of the staff of the institution. According to the convicts, there is evidence - records from CCTV cameras, on which illegal actions of the institution's employees were captured. As it became known from interviews with convicts, the motive for committing such actions is refusal of confessions in the case of suicide by A., where these convicts act as witnesses.

In the same colony, a group of NPMs received complaints about extortion of money by members of the VOC, by transferring money from relatives of convicted persons to personal card accounts of civilians, followed by the transfer of funds to VOC participants.

In the course of monitoring, the NPMs of UKA 161/4 revealed that the Volunteer Assistant Administration

(VAA), being in the same unit as the other convicts, was sleeping in a separate bedroom. Despite the fact that, according to Art. 126 PECs of the RK - Members of voluntary organizations of convicts do not enjoy additional privileges and cannot have powers. There is also a separate detachment where all the “offended” of the institution are collected. 33 people in total. They do not have the right to eat together, be around one another in their spare time or watch TV together.

The group of NPMs in the Karaganda region interviewed convicts detained in the DISO who complained about the Voluntary Assistant Administration (VAA), the red tape in the criminal case against the employees of the colony A., P., A., who (according to the convict) were beaten in September 2015.

In particular, the convict B. pointed to an unacceptable situation in the institution, where person E. has a “private” cabinet for the

showdown with the “guilty.” E. is a senior staff of VAA. B. also claims that he was beaten twice by the VAA and there are witnesses of the accident.

The shameful rudiment of the colony detachment system is the existence of the outcast prison subculture. As a rule, they live on general grounds in detachments. They eat in the common dining room, but the tables stand separately.

Despite the fact that they perform the dirtiest, most difficult work such as cleaning the cesspools, sewers, toilets - the work of the convicts is not paid in full. The existence of such discrimination enables the administration of the institution to blackmail and humiliate the dignity of the prisoners. It is undoubtedly an instrument of torture. Unfortunately, the laws of the criminal world have been adopted by the Kazakh penitentiary services, which use them to control convicts by blackmailing them with threats of transfer to the status of “offended”. It is necessary to mention

LGBT citizens, who are automatically ranked in this subculture. It is necessary to take on special control every fact of the status of the convict in the prison hierarchy, and to eliminate the practice of discrimination against this category of convicts in the distribution of work in institutions and their exploitation in unpaid work. There is a need to develop a program for resocialization of this category of convicts.

The provision of convicted citizens with medical care leaves a lot to be desired. A sharp staff shortage, an ill-conceived system of purchasing medicines, and an inadequate list of medical services is only a visible part of the problem. So, the convicts in OV-156/20 complain about the lack of dental services that are available to them and the lack of equipment for the provision of high-quality dental services.

Patients with disorders of the musculoskeletal system, hypertension and heart disease are insufficiently monitored by the medical

staff of institutions. Convicts who have not received the status of persons with disabilities, but having a chronic disease associated with traumatic brain injury or complicated forms of arthritis, which qualifies them as disabled people are forced to stand during roll call, march in formation and stand on the drill ground.

The algorithm by which the medical staff of the institutions shall decide on the temporary disability of convicts raises suspicion as well as procedure the convicted receives additional parcels, medicines and medical supplies in quantity and assortment, determined in accordance with the medical report. According to the convicts, the decisive role in the decision-making is played by the operational-mode staff, according to the criteria of loyalty to the administration of the institution.

The mechanism by which a decision is taken on whether to approve or not to approve the need in question is not

transparent in relation to:

1) hospitalization of prisoners in the hospital branch of the medical-sanitary unit in the hospital or other facilities within the system,

2) the need for hospitalization of convicts in the medical facilities of the public health system.

There is concern about the use of the labor of patients and prisoners suffering from tuberculosis in the institution of ETS 166/11. These concerns have arisen despite the fact that the administration denies, and convicts say that they clean the snow voluntarily. The group of NPMs in Akmola region made recommendations to prevent the use of labor beyond the legal framework. Unfortunately, the staffing table for the institution's facility management services has been halved. And this fact cannot but affect the actions of the administration.

During a conversation with the prisoners who arrived on stage from the detention centre to Karaganda, it was

found that the prison car in which they arrived was not equipped with a separate compartment for tuberculosis patients. Patients with XDR and ordinary convicts in the same carriage were sent to serve sentences in a closed institution in Zavodskoy village. Convict K. complained of the rough treatment of escort service, a cold paddy wagon in which they stayed for more than an hour in the cold weather.

However, it should be noted that despite the fact that the law requires specific diets for convicts with relevant diseases, the mechanism of their appointments is opaque. According to prisoners a diet is often used by convicts from the category of activists as additional benefits. And convicts who have been ill with tuberculosis cannot achieve the provision of the diet. This means that the decisions of doctors are influenced by the staff of the institution.

The rights of convicted HIV - infected non-residents of Kazakhstan are violated, they

are denied in ARV therapy. This decision, in addition to violating the right to life and health of the sickest convicts, according to doctors, leads to resistance and in conjunction with tuberculosis causes death.

The system for the purchase of goods and materials for catering does not allow timely supply of food as it is carried out at the central level by CCES. Food supply is composed and organized by the institution itself.

Article 98 of the PEC of the RK regulates the procedure for screening and searches and mentions that “personal searches of convicts are carried out by persons of the same sex as convicts”. Nothing more, concerning, for example, the prohibition on the excessive use of force, and the rude and inhumane treatment of the searched, is contained in this rule. In so doing, it essentially provides unlimited opportunities for officials to search prisoners and does not comply with the recommendations of the Nelson Mandela Rules and

the UN Code of Conduct for Law Enforcement Officials. The consequence of the imperfection of this and other similar norms of the PECs of the RK are numerous complaints of beating and arbitrariness, brutality and even cruelty towards prisoners in the process of these events, convicted of excessive use of force by the National Guard servicemen involved in routine operations in the CCES institutions of the Ministry of Interior of the Republic of Kazakhstan.

Unfortunately, the situation is not improving at this time. During the search activities, convicts are forced to strip naked. For example, during the special visit by the Akmola group of the NPM to the colony of maximum security of the EC 166/4 of Atbasar city on the complaint of the wife of the convict T., the convict confirmed the facts of ill-treatment on the part of the institution's employees, pointing out that he was “dropped from the paddy wagon”, injuring his knees, and his personal

belongings were thrown out after he made a remark, and finally he was beaten. All this, according to the words of the convict T., was filmed on camera. However, when viewing the camera by NPMM, it turned out that the record was preserved only from the moment of examination of the convict by the doctor, who also, from the words of the convict T., did not render proper medical attention and ignored the convict's complaints of high blood pressure and demands to provide him medical assistance. This incident confirms the need to transfer prison medicine to civilian jurisdiction, to limit access to editing and interference in the memory of the DVR of the prison personnel, and to strictly regulate the procedure for search activities.

The unfulfilled recommendations of the NPM members calling for the elimination of unjustified restrictions on the constitutional rights of convicts to freedom of conscience and religion

by restoring appropriate premises for the conduct of religious rites in the correctional institutions. In response to last year's report, the state body refers to article 7, part 2, paragraph 3, of the Law on Religious Activity and Religious Associations, which refers to the prohibition of worship services, religious ceremonies, ceremonies and / or assemblies, as well as missionary activities on the territory and in the premises of the:

“Armed Forces, other troops and military formations, judicial and law enforcement bodies, other services related to ensuring public safety, protecting the life and health of individuals. However, the same article, in paragraph 4 of this Law, states that

“Persons held in special institutions that provide temporary isolation from society, who are in institutions executing punishment, who are patients of organizations of public health services that provide inpatient care, who are in social care in boarding

homes for the elderly and disabled, at their request or their relatives in the event of ritual necessity, priests of religious associations registered in accordance with the procedure established by the legislation of the Republic of Kazakhstan are invited.”

We noted in the report, that the ban on the construction of religious buildings (structures) on the territory of institutions and bodies executing penalties (part 6 of article 13 of the PEC RK), does not contradict the obligation to create conditions for the exercising religious rites (part 5 of article 13 of the PEC RK). The opening of premises for prayers is not identical to the construction of religious buildings. Obviously, if these premises are available, convicts will not be able to carry out religious rites in accordance with religious canons, and clerics will not have the place required for meetings with convicts. However, the Ministry of Interior of Kazakhstan limited itself to the reference for use by convicts of the right to

freedom of conscience and religious beliefs. And also they say that the number of clerics in correctional institutions increased. The Ministry of Interior did not provide clear explanations of the reasons for the lack of special facilities in the CI to meet the religious needs of convicts.

Modern criminological science suggests that penitentiary institutions, with rare exceptions, do not have a corrective effect. On the contrary, it is the first experience of deprivation of liberty that marks the beginning of many “criminal careers”, people in prison are maladapted, lose ties with “significant others”, work skills, health, and stigmatize, acquiring the labels “convicted”, “convict” (ZEK), “criminal” limiting the normal life chances after liberation.

The criminal legislation and practices of its application in the republic are absurdly harsh, leading to the fact that in places of deprivation of liberty there is a significant number of people who do not pose any danger to

other citizens. Oftentimes these people committed crime under the influence of situational factors.

In addition to the humanistic dimension of the situation - the suffering of hundreds of thousands of people in prison and their family members - there is an economic dimension: the cost of maintaining, guarding, treating and moving hundreds of thousands of prisoners, as well as the staff of the penal system.

We recommend considering the expediency of placing the interregional somatic hospitals (IRSH) in cities where medical universities are located and lack of personnel is not as acute as in the city of Stepnogorsk (Karaganda, Astana, or Almaty).

Conduct an independent medical examination of the convicts for the presence of mechanical injuries received in the last three years, paying special attention to external signs, for example, traumatic spine injuries, persons using crutches as assistance.

Amend the internal rules of the Institution, or otherwise decide on an exceptional basis, to allow convicts with chronic diseases connected with craniocerebral injuries, complicated forms of polyarthritis, actually disabled, to sit in a sitting position during roll calls, and also to release them from marching and standing on the drill ground, in connection with their psychophysical state, to timely resolve the issue of obtaining a disability for medical reasons. Provide the possibility of daytime rest.

In this connection, the following recommendations were developed:

1) Given the importance of the new UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules") adopted on May 21, 2015 in the formation of the modern appearance of the criminal executive system of Kazakhstan and its development, it is advisable to develop a mechanism for the implementation of the Mandela Rules in activities

of the institutions and bodies executing punishment in the form of deprivation of liberty;

2) To carry out activities to train the staff of institutions in the implementation mechanism of the Mandela Rules and the provisions of the executive enforcement legislation of Kazakhstan in the field of the prevention of torture and cruel, degrading treatment and punishment;

3) Conduct seminars in the training format on effective interaction of CI staff and NPM members;

4) Taking into consideration the decision of the Security Council of the Republic of Kazakhstan of 25.05.2011 on the construction of new correctional facilities with chamber type rooms, it is necessary to continue the activity on the modernization of housing complexes for the maintenance of convicts, repair sanitary units, expand sleeping places and provide conditions for normal social living conditions of convicts in places of deprivation of liberty;

5) Considering the importance of medical care and attracting qualified specialists in the field of medicine to the activities of providing medical services to convicts, to develop a mechanism for involving doctors and other medical personnel of civilian health by encouraging their work, providing various benefits and increasing wages, equating working days in the CI to night duty and work on weekends and holidays;

6) Ensure the confidentiality of the introduction and storage of medical records in the CI, and continue to work on creating access for convicts held in CI to civilian health services;

7) In order to increase the effectiveness of the prevention of torture and ill-treatment, ensure that convicted persons have legitimate access to the Internet, as well as the possibility of using videoconferencing links, "Skype technologies" that promote greater "transparency" of the conditions of convicts;

8) Considering the social importance of the

constitutional right to freedom of conscience and religion and its role in the prevention of torture and ill-treatment, and in the implementation of the re-socialization of convicts, consider the abolition of the prohibition of the functioning of premises for the conduct of religious ceremonies in the detention facility and inviting clergymen from traditional religions of Kazakhstan;

9) Considering the high risk of torture and ill-treatment during the conduct of searches and examinations of convicts, as well as in the conditions of their transfer, provide for videotaping the actions of the officers of the CI who search and / or inspect convicts and accompany them in the process of transfer;

10) Supplement article 42 of the PEC of the RK on the rights of NPM members, part 3, to read as follows: "... NPM member is not subject

to criminal prosecution for expressed opinions and assessments related to the performance of his activities";

11) To exclude the possibility of conferring disciplinary and other authority to some convicted over other convicts with the knowledge of the administration of the CI;

12) Refuse from putting metal separating gratings in special cabinets in the CI intended for confidential conversation between NPM members and convicted. The management of the Mol of the Republic of Kazakhstan to design a model reception room, where convicted meet with NPM members;

13) Develop programs for the provision of social psychological, victimological, legal assistance to convicts who become victims of torture and introduce them into the penitentiary system of Kazakhstan.

3

Persons in pre-trial detention Committee on the Penal Correction System of the Ministry of Internal Affairs, Republic of Kazakhstan (KUIS of MIA RK)

Prepared by: Idigeeva Gulnur Ergazievna

Pre-trial detention/ Remand centres are pre-trial detention centres for the accommodation of suspects or accused persons for whom custody has been prescribed as a preventive measure, or detainees – suspects or accused - assigned to a prison under the facility-related work procedure established by Article 88 of the Criminal Executive Code/CEC(Kazakh Law on Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities, Article 2).

The following acts/laws regulate pre-trial detention/remand centres' functioning:

1) *The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) were first adopted at the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, and were revised on 17 December 2015 and adopted as the Nelson Mandela Rules at the 70th session of the UN*

General Assembly

2) *Kazakh Law No.353-I on Procedures and Conditions for the Custody of Persons in Special Temporary Detention Centres, 30 March 1999 (amended as of 03.07.2017)*

3) *Criminal Procedure Code of the Republic of Kazakhstan was approved by the Kazakh law No. 231-V,4 July 2014 (amended as of 12.12.2017);*

4) *Order No. 314 of the Minister of Foreign Affairs of the Republic of Kazakhstan, 7 April 2015 on Approval of the Rules for Providing Medical Care to Persons Subjected to Restriction of their Liberty, and to Persons Serving Sentences in Places of Deprivation of Liberty Pursuant to Court Judgements, Persons Placed in Special Facilities (amended as of 02.11.2017)*

5) *Decision of the Government of the Republic of Kazakhstan No. 1255 of 28 November 2014 on Approval of Nutritional Requirements and Living Conditions for Convicted Persons, Suspects*

and Accused Persons and Children in Institutions of the Penal Correction System, and Samples of Uniforms for Suspects and Accused Persons, and the Rules on Provision of Free Travel, Food or Money to their Place of Residence or Work for Persons Discharged from Serving their Sentence of Short-term Rigorous Imprisonment or Deprivation of Liberty (amended as of 10.11.2016);

6) Order No. 505 of the Minister of Internal Affairs of the Republic of Kazakhstan of 26 July 2017 on Approval of Internal Regulations of the Remand Centres of the Committee on the Penal Correction System of the Ministry of Internal Affairs of the Republic of Kazakhstan

7) Order No. 104 of the Prosecutor General of the Republic of Kazakhstan of 13 September 2017 on Approval of Instructions on Procuratorial Oversight over Legality of Penal Sanctions Execution and Application of Other Coercive Measures

(hereinafter referred to as Order GP No. 104).

8) Construction Norms of the Republic of Kazakhstan 02-24-2014 DESIGN OF PRE-TRIAL DETENTION CENTRES// Order No. 156-HK of the Committee for Construction, Housing, Utilities, and Land Management at the Kazakh Ministry of National Economy dated 29.12.2014 (hereinafter referred to as CN RKC RK 3.02-24-2014).

9) Order No. 1122 of the Minister of Internal Affairs of the Republic of Kazakhstan of 2 December 2016 on Approval of Rules of Transfer of Suspects and Accused Persons;

During the first six months of 2017, in Kazakhstan 5,726 persons were reported to be housed in pre-trial detention centres. The analysis of the number of pre-trial detention centres population shows the decline of this category of detainees compared with the last year which is a positive tendency.

Ratio of men, women and children in pre-trial detention facilities/ PTDC during NPM participants' visits in 2017

92.93% of PTDC population are men



Total number of 5,321 persons

6.72% of PTDC detainees are women



Total number of 385 persons

0.35% of PTDC population are minors



Total number of 20 persons



Visits of NPM participants to PTDC by regions in 2017
*special visits

In 2017, they made 31 visits: 12 periodic, 12 interim, 7 special visits. 2016: 15 periodic, 12 interim, 6 special visits, the number of visits is practically equal.

Compared with 33 visits in

Living conditions (accommodation)

<i>International Standard</i>	<i>National Standard</i>
<p><i>All accommodations provided for the use of prisoners and in particular all sleeping accommodations shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation¹.</i></p>	<p><i>Administration in the places of deprivation of liberty shall establish a healthy and safe environment to meet all hygiene, sanitary and fire safety requirements¹.</i></p>
<p><i>According to the norms established by the European Committee for the Prevention of Torture, every inmate in multi-occupancy cells shall have the area of 4 m², and 6m² for inmates in single cells.</i></p>	<p><i>According to CEC RK the standard living space for one convicted or accused person shall not be less than 2m² in correctional institutions; 2.5m² in prisons; 3m² in colonies for women; 3.5m² in juvenile correctional institution; 3.5m² in correctional institutions exercising medical treatment².</i></p>

1. The United Nations Standard Minimum Rules for the Treatment of Prisoners, para. 13

1. On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities
 2. The Criminal Executive Code, RK, Art. 115

The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

(d) Young prisoners shall be kept separate from adults².

A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are

The following requirements shall be followed when accommodating the accused persons or suspects in cells:

1) separate accommodation shall be provided for:

Men and women;

Minors and adults, unless when persons aged 18 or over may be kept in the same cells as minors, provided that they are of good character, and are charged with the first offence;

Persons who are charged with the first offense and repeat offenders;

Suspects, accused persons separately from suspects and accused persons, whose sentences are not yet enforceable;

Suspects and accused persons who have been charged in the same case or in a number of interrelated cases;

Special requirements for accommodation of women in custody:

1. Women-suspects and accused women are allowed to keep a child under 3 years old.

2. Pregnant women or women with children in

2. The United Nations Standard Minimum Rules for the Treatment of Prisoners, para. 11

allowed to remain in prison with a parent, provision shall be made for:

(a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;

(b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists³.

11. In all places where prisoners are required to live or work:

(a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight⁴

custody shall be provided with better living conditions;

5. If required, the administration in places of deprivation may, in accordance with the established procedure, apply for the temporary transfer of a child to relatives or other persons or for the placement of the child in a children's institution³.

3. The United Nations Standard Minimum Rules for the Treatment of Prisoners, para. 29

4. The United Nations Standard Minimum Rules for the Treatment of Prisoners, para. 14

3. On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities

The majority of accommodation buildings are two-storey facilities with cells. Cells are typically equipped with a solid metal door and barred windows.

There are metal blinds, and no light could penetrate. The cells are badly in need of repair. In many facilities the plaster went off the walls, wooden floors are rotten with gaps. Wind blows through old window frames. Cells are equipped with metal bunk-beds. The facilities and community service areas do not meet international standards, and a major

overhaul is needed. The sewer and water supplies require repair in all correctional facilities both at the unit level and countrywide.

(Almaty, Jambyl province, Aktobe, Karaganda (partially), Pavlodar, North Kazakhstan province)

No special conditions for persons with disabilities are available in pre-trial detention centres (PTDCs), which means that the rights of persons with disabilities are not observed in PTDCs, there are no auxiliary aids, or special means of travel for persons with disabilities who are kept in PTDCs.



Almaty province LA155/16

Cell equipment

Cells do not meet CN RK 3.02-24-2014, para. 5.4.2.9.2., which provides for construction norms stipulating that all cell equipment (beds, tables, benches and stools) shall be securely fixed to the floor or the walls by welding to special fixtures. Sharp corners in the cell equipment shall be rounded. In violation of article 54 (1) of Internal Rules, PTDCs cells with population over

12 persons are not equipped with a table and benches with the appropriate number of seats to cover the needs of inmates. Tables and benches in these cells do not allow all the inmates to take food at the same time, because they can serve only 6-8 persons (less than 40cm per person on the bench)

(Almaty, Aktobe, Astana, Kostanai, North Kazakhstan province)

Sanitary conditions

International Standard	National Standard
<p><i>The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner¹.</i></p>	<p><i>Administration in detention facility shall provide suspects and accused persons conditions that meet hygiene, sanitary and fire safety requirements¹.</i></p>
<p><i>Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to</i></p>	<p><i>Sauna/bath or barber/hairstylist visits are four times a month from 9am to 6pm</i></p>

1. The Nelson Mandela Rules, Rule 12.15

1. On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities

the climate, as frequently as necessary for general hygiene according to the season and geographical region, but at least once a week in a temperate climate².

In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be able to shave regularly³

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness⁴.

Suspects and accused persons in custody shall have the right to use their own bedding, and other items and things listed in the Internal Rules².

2. The Nelson Mandela Rules, Rule 13.16

3. The Nelson Mandela Rules, Rules 15, 16.18

4. Nelson Mandela Rules, Rules 17, 19.21

2. On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities

Bedding and bed-clothes availability

The conclusions followed all NPM groups' visits proved that there were no violations of the law regarding provision of beddings and bed-clothes to persons in custody. Bed sheets are changed every 7 days according to the schedule.

Sanitary installations

Monitoring outcomes showed that the requirement for every prisoner to be enabled to comply with the needs of nature when necessary and in a clean and decent manner was exercised in absolute understanding, however, sanitary units in

several facilities need to be replaced. In several facilities, bowls of

Genoain cells are not covered with lids, walls are 1m high, which creates degrading conditions and do not meet the needs of nature, moreover, the flushing tap is located outside the floor toilet. The sanitary equipment and the floor around it need repairing in some facilities. Thus, urgent cell repairs are required.

Sanitary Surveillance (sanitary condition of the facilities, disinfection, disinsectization)

Ventilation equipment is lacking in all cells, causing



Kyzylorda province ZK/3K- 169/1

acid smell of dampness and fungus on the walls, and moisture. Windows in several cells do not open and are covered with polyethylene. Lower air temperature was detected in cells. (Almaty, Aktobe, Astana, Kostanai, North Kazakhstan province, Kyzylorda)

Nutritional Conditions.

International Standard	National Standard
<p><i>The Nelson Mandela Rules provide that every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.</i></p>	<p><i>The Decision of the Government of the Republic of Kazakhstan No. 1255 of 28 November 2014 № 1255 on Approval of Nutritional Requirements and Living Conditions for Convicted Persons, Suspects and Accused Persons and Children in Institutions of the Penal Correction System, and Samples of Uniforms for Suspects and Accused Persons, and the Rules on Provision of Free Travel, Food or Money to their Place of Residence or Work for Persons Discharged from Serving their Sentence of Short-term Rigorous Imprisonment or Deprivation of Liberty make a provision for the national nutritional norms</i></p>

Drinking water shall be available to every prisoner whenever he or she needs it ¹.

According to CEC RK the standard living space for one convicted or accused person shall not be less than 2m² in correctional institutions; 2.5m² in prisons; 3m² in colonies for women; 3.5m² in juvenile correctional institution; 3.5m² in correctional institutions exercising medical treatment¹.

Article 11 of International Covenant on Economic, Social and Cultural Rights recognizes the right to adequate food as a component of an adequate standard of living for everyone.

Article 11 (2) of the Covenant stipulates that the States Parties to the present Covenant, recognize the fundamental right of everyone to be free from hunger.

The National legislation stipulates that free food shall be provided to convicted and accused persons²

1. The Nelson Mandela Rules.

1. CEC RK, Art.115

2. On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities, Art. 16

Convicted and accused persons kept in pre-trial detention centres can:

3) buy food products...in a detention facility store (kiosk) or in the trade network via administration of custodial facilities

Number of meals and food quantity

Meals are served according to the schedule.

Food shall be provided based on the following norms: 400 KZT for suspects or accused persons (norm No. 5); 604 KZT for remand prisoners (norm No. 1); 740 KZT for dietary food for persons with somatic illnesses (norm No. 8); 966 KZT for TB patients (norm No. 7). There is a kitchen, food products and vegetable warehouse. Dairy products and juices are refrigerated. Food products are procured through the portal via state order.

Three times a day meals are cooked in the appropriate room in this facility, pursuant to the norms for free meals for suspects and accused persons stipulated in the

Government Decision No. 889 of 2 September 2003 on the norms relating to free meals for suspects and accused persons, including pregnant women and women with children, category I and II disabled persons, and minors, and nutritional standards and living conditions for convicted persons.

In general, significant improvement of nutrition for the facility inmates was recorded. The number of complaints related to the food quality reduced compared with the previous year.

However, attention must be paid to the cooking room conditions: temperature, humidity, obsolete equipment requires repairing or replacement in order to provide its smooth operation.



Almaty province LA/ЛA-155/16

Medical service

International Standard

National Standard

The Nelson Mandela Rules describe in detail principles of health-care professionals in correction facilities and provide that a physician shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary, in order to identify health-care needs; any signs of psychological or physical stress and take all necessary measures for

treatment; in cases where prisoners are suspected of having contagious diseases, provide for the clinical isolation.

The physician or competent public health body shall

The Kazakh Constitution provides for the right for everyone to health care and stipulates that the concealment by officials of facts and circumstances which pose a threat to the life and health of people shall result in liability according to the law¹

1. Constitution of the Republic of Kazakhstan adopted at the national referendum on 30 August 1995

regularly inspect and advise the prison director on:

- (a) The quantity, quality, preparation and service of food;
- (b) The hygiene and cleanliness of the institution and the prisoners;
- (c) The sanitation, temperature, lighting and ventilation of the prison;
- (d) The suitability and cleanliness of the prisoners' clothing and bedding;
- (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities¹

The Body of Principles provides that a proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and

Medical care to persons who are held in correctional institutions (hereinafter referred to as CI), special institutions (pre-trial detention centres (hereinafter referred to as PTDC), including foreign citizens and stateless persons shall be provided within the listed free medical services available to Kazakh citizens, as well as types of licensed

1. The Nelson Mandela Rules, Rules24, 26.35

treatment shall be provided free of charge².

medical care.

Medicine/medication for emergency, inpatient care and inpatient medical care within the listed free services shall be stamped by the relevant institution, indicating the facility title, address and the note 'Free of Charge'².

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded³

When specialized inpatient care is required, CI and PTDC patients shall be transferred to local public health organizations, where they provide secure rooms equipped with portable security³

2. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 24.

3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 26.

2. Art.31 Rules for Providing Medical Care to Persons Subjected to Restriction of their Liberty, and to Persons Serving Sentences in Places of Deprivation of Liberty Pursuant to Court Judgements, Persons Placed in Special Facilities

3. Art.34 Rules for Providing Medical Care to Persons Subjected to Restriction of their Liberty, and to Persons Serving Sentences in Places of Deprivation of Liberty Pursuant to Court Judgements, Persons Placed in Special Facilities

PTDC's medical units are equipped with modern devices: ultra-sound scan, microscope, ECG recorder, ultrasonic nebulizer, X-ray and dentist equipment.

Common laboratory tests can be carried out, and sputum VBK testing. More complex tests (biochemical blood assay) are carried out in different clinics based on agreement.

In general, there are many complaints regarding the quality of medical care, in particular, there were grievances regarding failure to provide care for complaints of malaise, or cases of late dispensing of medicines (Almaty, Jambyl, Aktobe).

Another pressing issue is accommodation of women with children in PTDCs, and child's access to healthcare services. For instance, they met a woman with a newborn baby in the facility during a visit. The NPM group interviewed the woman and found out that the baby did not receive any vaccination since he was born (Pavlodar).

There was also a shortage of medical staff, and shortage of medications listed as a free medical care.

According to administrations, medical staff shortage was due to special work conditions with suspects or accused persons, as well as low salaries.

Exercising statutory rights.

The right to information

International Standard	National Standard
<p><i>The Nelson Mandela Rules stipulate provision to every prisoner written information about the prison law and applicable prison regulations; procedures for making</i></p>	<p><i>Suspects and accused persons while in places of deprivation of liberty have the right to: 1) receive information on their rights and obligations, prison law, disciplinary rules,</i></p>

requests or complaints; his or her obligations, including applicable disciplinary sanctions; and all other matters necessary to enable the prisoner to adapt herself/himself to the life in prison. If a prisoner is illiterate, the information shall be conveyed to him or her¹.

proposals, applications, complaints submission procedures

The Body of Principles provides that any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such².

Suspect has the right to:

- 1) receive information on and an explanation of his rights from the person responsible for his/her arrest;
- 2) the reasons for the arrest/what he/she is suspected for;
- 3) request for the lawyer either himself or through his relatives or trustees. If the lawyer is not requested by the suspect, or his relatives or trustees, the prosecution body shall engage the lawyer according to procedures stipulated in Article 67 of CPC¹

1. The United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter referred to as The Nelson Mandela Rules), 1955, Rule 35 (1).

2. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment).

1. Art. 64, RK Criminal Procedure Code

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands³.

The UN Basic Principles on the Role of Lawyers stipulate that Governments shall ensure that all persons are immediately informed by the competent authority of their right to be assisted by a lawyer of their own choice upon arrest or detention or when charged with a criminal offence⁴.

3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 14.

4. UN basic principles related to the role of attorneys, Principle

Many PTDCs have information on the rights and obligations of PTDC inmates, including internal regulations, displayed on the cell walls.

PTDC population are aware of reasons and grounds for their placement in the facility, and the duration of detention.

However, there are exceptions, thus in LA/ЛA 155/16, Almaty province during interviews with detained persons, NPM group members received

complaints from convicted persons or persons awaiting for judgement that they cannot receive explanation

on serving a sentence; similar picture was observed in Jambyl Province PTDC. It is important that they are aware of their rights and obligations, which they currently do not know.

Legal aid and counseling are insufficient. Walks are provided on a daily basis in special areas, walk duration is at least one hour (upon consent).

Not all exercise yards are equipped with benches or shelters against precipitation. The doors of exercise yards are similar to the cell ones, but without small windows.

Right for receiving parcels

International Standard	National Standard
<p><i>Nelson Mandela 's Rules provide the prisoners with a possibility of receiving food from outside at their own expense, either through family members or through their friends¹</i></p>	<p><i>The suspect and the accused are entitled to receive parcels and packages in the manner prescribed by law¹</i></p>

1. The Nelson Mandela Rules, Rule 87

1. Art.16 On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities

There were no complaints about violation or restriction on receipt of parcels on part of the detainees. Receipt of parcels from the family members shall be carried out daily, according to the schedule, at the request of the family members. Properly equipped visiting room for meeting with the family members is available. The visits shall be made according to the requests in consultation with the administration of the institution. Detainees have the opportunity to send correspondence, through the duty officer, who shall forward all appeals, complaints to the special department of the PTDC.

Right to listen radio, watch TV, read newspapers, magazines

International Standard

International standards provide for the need to bring to the attention of prisoners the most important news, providing them with an opportunity to read newspapers, magazines or other publications, to listen radio programs¹.

National Standard

The accused have the right to listen radio programs in their spare time when they are not involved in compulsory mass activities, except for the time set aside by the institution for sleep.

The Summary of Principles provides for the right of detainees or of the imprisoned persons to receive in reasonable numbers, if from public sources, the information materials within the available

1. The Nelson Mandela Rules, Rules 37, 39.

funds, subject to reasonable terms ensuring security and² order in the locations of detention or imprisonment.

Prisoners should be regularly informed about the most important news, allowing them to read newspapers, magazines or special prison publications, listen radio programs and attend lectures, or through any other means allowed and controlled by the administration³.

In general, the inspection of the premises has shown the presence of radio receivers and newspapers. However, it is not all the time that the radio receivers are in working condition, so it turned out that in some detention cells the radio receivers were not functioning (Almaty). The accused are entitled to subscribe to newspapers and magazines distributed through the liaison offices of the Republic of Kazakhstan. For registration of the

subscription, the accused shall apply with a request to the head of the PTDC. Person who has expressed a desire to subscribe, at his/her expense shall be provided with the subscription forms and delivery cards. The registration of a subscription in the Communication Department should be made by the PTDC officer at the expense of the funds of the accused, on his/her personal account. The subscription shall be redirected at the expense of the subscriber upon his/her written request

2. Summary of Principles, Principle 28

3. The Nelson Mandela Rules for treating the prisoners 39

with the permission of the administration of the PTDC. Subscription can be made in the name of the accused by

his relatives or other persons. The number of publications that can be subscribed shall not be limited.

Library

International Standard

Each institution must have a library available to all categories of prisoners with the books of both entertaining and educational content. All prisoners should be encouraged to use the library¹.

National Standard

The persons under investigation, at a certain time of a day, have the right to use the library, the table games, musical instruments, periodicals and literature, procured on the account of the funds available at the controlled temporary cash accounts, as well as religious literature if the positive opinion of the religious expert has been obtained.

Familiarization with the library fund in all institutions has shown the sufficient availability of fiction books, legal and religious literature. In the institutions, there are libraries with a number of books accounting to at least 2,000 copies of books. City newspapers are available as periodicals. Books from

the library are given upon the request and delivered to the detention cells of the institution, including the local compounds. Religious literature shall be permitted only with the approval of the theologians. In the book collections, in addition to the fiction books and specialized literature, there are periodicals in form of national

1. The Nelson Mandela Rules, p.40

and local newspapers in the state and Russian languages.

There are also negative aspects. For instance, when the National Preventive Mechanism Group visited the PTDC in the West Kazakhstan Province, the detainees complained that they could not get an explanation about them serving their sentence. It is important for them to

know about their rights and responsibilities, which they are not aware of. The legal aid and advice in the West Kazakhstan Province is inadequate.

Sports equipment in the territories of the institutions is not provided. There are no gyms. In the yards of some PTDCs, the horizontal sport bars are available.

Physical Culture and Sports

Daily walks

International Standard	National Standard
<p>All prisoners who are not engaged in outdoor works, have the daily right for at least an hour of proper exercises in the yard, if the weather permits it¹.</p>	<p>Walks of the persons under investigation shall take place in the daytime at a specially equipped part of the territory of the institution¹.</p>

Sports equipment in the territories of the institutions is not provided. There are no

gyms. In the yards of some PTDCs, the horizontal sport bars are available.

1. The Nelson Mandela Rules, Rule 21.

1. Article 111. Walks. Penal Enforcement Code RK

Filing complains

The right to file complain

International Standard	National Standard
<p>According to international standards, every detained person has the right appeal to central prison authorities, judicial authorities or other competent bodies with requests or complaints that are not subject to censorship in terms of content and transmitted through prescribed channels to the central prison administration, judicial authorities or other bodies. Complaints and requests should be subject to urgent review and should be answered without undue delay¹</p>	<p>According to national legislation, convicts have the right to issue oral and written proposals, applications and complaints to the administration of the institution or body executing punishment, to their higher authorities, court, prosecution authorities, other state bodies and officials, public associations, and also international organizations for the protection of human rights and freedoms in accordance with the legislation of the Republic of Kazakhstan¹.</p>

Every detainee has the right to communicate freely and confidentially with persons visiting the places of detention, under reasonable conditions necessary to ensure security and order in such places²

1. The Nelson Mandela Rules, Rule 35 (3), (4).

2. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 29 (2).

1. Article 10. Basic Rights of Suspects and Accused REC RK

The Nelson Mandela rules provide for the right of every inmate to contact director of the institution or authorized employee during weekdays with applications and complaints. During inspections, detainees should be given the opportunity to file complaints or appeals to prison inspectors in the absence of staff. Every inmate should be able to appeal to central government authorities, judicial authorities or other competent bodies with applications or complaints that should be sent via established channels without censorship³.

"All interviewed detainees said that their complaints do not reach the addressee. They write letters to various authorities, but do not even get receipts.

It becomes obvious that detainees are restricted in their right to appeal for protection. It might be that some of the applications are

sent after review censorship, but none of the detainees received any response, or they were not acquainted with responses"- (Almaty)

In other institutions, there are no violations of this right

3. The Nelson Mandela Rules, Rule 36 para.1, 2, 3.

The right to practice one's religion

International Standard	National Standard
<p><i>The Universal Declaration proclaims that everyone has right to freedom of thought, conscience and religion, which includes the freedom to practice one's religion and perform religious and ritual ceremonies¹.</i></p>	<p><i>The Constitution of the Republic of Kazakhstan prohibits discrimination on the basis of religion, guarantees everyone freedom of conscience¹ and religion</i></p>
<p><i>The ICCPR establishes that the right to freedom of thought, conscience and religion is subject only to restrictions established by law and necessary to protect public safety, order, health and morals, as well as the fundamental rights and freedoms of other persons².</i></p>	<p><i>Suspect or accused is guaranteed the right to freedom of conscience and religion. Worship is voluntary².</i></p>
<p><i>In accordance with the Standard Minimum Rules, every prisoner should be able to meet her/his religious needs to the possible limits, participating in religious rites within the walls of institution and having at his disposal religious writings specific to</i></p>	<p><i>At the request of the persons under investigation or their relatives, in case of ritual necessity, priests of religious associations registered in accordance with the legislation of the Republic of Kazakhstan should be invited.</i></p> <p><i>The administration of the</i></p>

1. Article 18. Universal Declaration of Human Rights.
2. ICCPR, Article 18 para.1, 3.

1. Article 22. RK Constitution
2. Article 13. Provision of the right of suspects and accused to freedom of conscience and religion, PEC RK

his religion. It is necessary to respect religious beliefs³.

institution or body executing punishment should create conditions for the performance of religious rites, as well as ensure the personal security of the clergy³.

The issue of observing the right of suspects or accused persons to worship is always connected to certain difficulties.

But in some institutions these rights are banned. Employees do not explain based on what normative document the ban on worship has been executed,

but no inmate has the right to worship on the territory of the institution. In the majority of the PTDCs there are no specially allocated worship premises.

Worshipping in cells is not forbidden.

Preserving human dignity

"A survey of individual employees reveals that respondents are not familiar with legal acts in the sphere of preventing torture,

violence and humiliation of human dignity. Many of them have not even heard of such documents. Teaching and educative plan for employees do not include topics of counteracting torture, violence and humiliation of human dignity. The institution's management explains this by the fact of new employees and plans drawn up by the previous administration"(Zhambyl region).

In other regions, NPM groups note that in the framework of martial and service staff training, sessions on topics of counteracting torture, humiliating human dignity conducted regularly, according to the schedule.

Institution's staff members are familiar with

3. The Nelson Mandela Rules, Rules 6, 42.

3. Article 13. Provision of the right of suspects and accused to freedom of conscience and religion, PEC RK

the requirements of the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Majority of employees know norms of the RK criminal enforcement legislation.

According to detainees of PTDC in Jambyl region, the institution continues the practice of intimidation by practicing routine searches. According to respondents, there are days when cell is searched 2-3 times with no reasons. Often such procedure is accompanied by humiliation and insults, personal items are being thrown around the floor are trampled on, expressions such as "Hey! You! Grandma! Baryga! Scam!" used towards elder persons, including women. Similarly rude treatment reported in the PTDC of Aktobe.

1. Living conditions

Conclusions

The general condition of the premises in majority of institutions, including cells

- unsanitary, and require major reparation. Artificial ventilation in living blocks is still out of order. Artificial lighting is in unsatisfactory condition in majority of visited places, no uniformity in lighting conditions.

In some institutions there are old buildings, where not all premises are used due to poor state (some posts are put on hold). Old facilities need to be written off and demolished.

Recommendations

1. To prepare cells for winter, closing the cracks in the window frames and floors.

2. Eliminate violations in ensuring sanitary and epidemiological well-being: check water pipe condition, repair leaking faucets, get rid of rust.

3. Regional criminal-executive system departments should provide all possible support to the initiatives of the institutions' administrations to improve the sanitary, hygienic and living conditions and cells

aesthetics, improve energy efficiency of the institution's facilities, save water resources;

4. To organize inspection and execution of disinfection measures to combat cockroaches in the cells, paying special attention to the detainees' health;

5. Administrations of institutions should install drain tanks in the cells' toilet area.

6. Rule 12 of the UN Standard Minimum Rules for the Treatment of Prisoners - "Sanitary facilities should be sufficient to ensure that needs of every prisoner could be met in clean and decent environment." In all cells, the sanitary unit is to be separated with partition of 140 cm height from the floor level of the sanitary unit, in accordance with Annex 8 of the Order of the Minister of Internal Affairs of the Republic of Kazakhstan "On Approval of Rules for the Organization of Activities and Internal Regulations of Special Institutions Executing

the Sentence of Arrest" dated July 26, 2012. №504.

2. Nutrition conditions

Conclusions

Conditions in some facilities where food is prepared are unacceptable: strong draft, high humidity, metal ceiling where moisture condenses and falls on the cooked food. The equipment needs major repair or replacement. The electric cooker does not work at full capacity affecting food quality.

Recommendations

1. Regional criminal-executive system departments should pay special attention to the conditions in the cooking area of subordinate institutions: temperature, humidity, absence of condensation on the ceiling and draft, and also take measures to repair or replace outdated equipment in order to ensure their uninterrupted operation. Take measures to repair or replace outdated

cooking equipment and bring the ventilation system into working condition.

2. Ensure shower room in the nutrition unit, according to the Natural Norms No. 13 of furniture, instruments and equipment for the facilities of mixed security institutions (PTDC) approved by the Government of the Republic of Kazakhstan on November 28, 2014 No. 1255.

3. Provide a wall-hanger for towels with the appropriate number of towels in utility rooms of nutrition unit, according to the Natural Norms No. 13 of furniture, equipment instruments and equipment for the premises of mixed security institutions (PTDC) approved by the Government Decree No. 1255 of November 28, 2014

4. Medical care

Conclusions

The state of medical care of detainees still needs to be improved. This is confirmed by complaints about the quality of care and the attitude of medical personnel. There are complaints about inadequate medical care, lack

of necessary medications. The rights of persons for regular medical examinations by narrow specialists in PTDC are violated.

Recommendations

1. To MPs of the Majilis of the RK Parliament: initiate systemic changes in the field of medical care in the penal enforcement system: the withdrawal of penal enforcement system medical care from the subordination of the Ministry of Internal Affairs of the Republic of Kazakhstan to the Ministry of Healthcare of the Republic of Kazakhstan.

2. R e c o m m e n d leadership of the regional criminal-executive system departments of DIA MIA for the WKO and ПГҮҮҮ170/1 to ensure timely and qualified medical assistance to the suspect or accused in line with requirements of the Order No. 314 of the Minister of Internal Affairs of the Republic of Kazakhstan dated April 7, 2015, "On Approval of the Regulations for Providing Medical Assistance to Citizens, subjected to restriction of liberty, as well as serving court sentences,

placed in special facilities”.

3. **R e c o m m e n d** leadership of the regional criminal-executive system departments to take urgent measures to provide the PTDC medical units with a full staff of medical personnel.

4. **R e c o m m e n d** leadership of the regional criminal-executive system departments to take emergency measures to provide the subordinate institutions with necessary medicaments.

5. Require part-time doctors to comply with contractual obligations for the regular appointments for PTDC detainees, ensuring regular medical examinations by narrow specialists.

5. Realization of rights provided for by law

Conclusions

Virtually in all PTDCs minors are placed with adults, due to the absence of a separate facilities, section or floors of the regime facilities.

It should be also noted that smoking and non-smoking persons accommodated together in almost all the

institution’s cells.

Recommendations

1. In accordance with paragraph 1. Article 32 of the Law of the Republic of Kazakhstan “On the Procedure and Conditions of Detention of Persons in Special Facilities Providing Temporary Isolation from Society” No. 353 to ensure, as far as possible, separate accommodation of non-smokers and smokers in the cells;

1. To the management of regional criminal-executive system departments in accordance with par. 13.4 and par. 26.3 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”) - it is recommended that the juvenile detainees be immediately separated from adults.

6. Communication with the outside world

Conclusions

Almost all institutions have implemented recommendations on the provision of radio broadcasting. There are libraries, periodicals in

institutions. Newspapers received weekly.

There were no complaints about violation of the requirements of the legislation in matters of ensuring the access to periodicals and table games, unreasonable prohibitions on the transfer of food and basic necessities to detainees.

However, in the West-Kazakhstan region and Almaty region there were few issues, detainees complained that they could not get an explanation on the issues of sentence serving. It is important for them to know about their rights and responsibilities, which they are not aware of. Legal aid and advice not provided in full.

Recommendations

1. To set up information stands in places of common use, with information about NPM, procedure for filing complaints and appeals with samples of applications to relevant authorities, telephone hotlines, prosecutors;

2. Organize legal advice/ consultancy.

3. Work out a system for receiving applications and informing detainees about the further procedures of her/his complaint or application.

4. Design and publish brochures with information on rights and duties of detainees.

7. Physical culture and sports

Conclusions

Sports equipment is not provided on the territories of institutions. There are no gyms. Horizontal bars are installed in yards of several PTDCs.

Recommendations

1. To realize the right of suspects or accused to health, equip walking yards with sitting places and training facilities (benches, horizontal bar);

1. Heads of institutions according to Regulation 23 of the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) - Every prisoner who is not engaged in outdoor work has the right to at least one hour of suitable exercise in the yard every day, if weather

permits. Juvenile and other prisoners of suitable age in the appropriate physical condition should be provided with physical training and the opportunity of playing during the exercise period. To ensure this, there should be necessary yards, facilities and equipment - equip the walking yards with sufficient number of sports facilities, sports equipment).

8. Right to file proposals, applications and complaints

Conclusions

According to defendants and suspects or accused of almost all institutions, every day, every morning, administration conducts cells rounds and accepts statements and complaints in both written and oral forms from suspects and accused.

Almaty region is an exception: "All the interviewed detainees said that their complaints do not reach the addressee. They write letters to various authorities, but do not even get receipts. It becomes obvious that detainees are restricted in their right to appeal for protection. It might be that

some of the applications are sent after review censorship, but none of the detainees received any response, or they were not acquainted with responses."

Recommendations

1. Prepare posters with hotline phone numbers of organizations authorized to monitor observance of human rights (Almaty);

1. Set up information stands in places of common use, with information about NPMs, procedures for filing complaints and appeals with samples of applications to relevant authorities, telephone hotlines, prosecutor's office (Almaty);

9. Right to practice one's religion

Conclusions

The issue of observing the right of suspects or accused persons for worship is always connected to certain difficulties; nevertheless, there are no problems with rituals in PTDCs. Also, there are no specially allocated premises for the performance of religious rituals in institutions. Still there is an

issue of the lack of religious literature, including “Koran”, there were only two copies: one in Kazakh and one in Arabic (West-Kazakhstan region).

Recommendations

1. Provide the necessary number of permitted religious literature.

10. Maintaining Human Dignity

Conclusions

NPM groups note that in all regions, within the framework of martial and service staff training, sessions on topics of counteracting torture, humiliating human dignity conducted regularly, according to the schedule. Institution’s staff members are familiar with the requirements of the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Majority of employees know norms of the RK criminal enforcement legislation. There are lists of NPM group participants. Nevertheless, the recommendation remains to specifically monitor the educational work with staff of the institution for

preventing torture, violence and humiliation of human dignity, take into account the knowledge of the LRA in this area and apply this knowledge in practice in the appraisal performance, use the opportunities and experience of other organizations in the field of training in preventing torture.

Recommendations

1. All persons have the right to humane treatment and respect for human dignity.
2. The regime established at the institution should be aimed at minimizing the difference between life in prison and outside prison, which reduces prisoners’ sense of responsibility or awareness of their human dignity.

4

The situation of persons held in temporary detention facilities and other institutions of the Ministry of Internal Affairs of the Republic of Kazakhstan

Prepared by: Muha Alexander Victorovich
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There are 232 special institutions – divisions of the Ministry of Internal Affairs of the Republic of Kazakhstan, including 180 temporary detention centres (TDC), 25 remand houses and 27 special reception centres. The staff preparation for (and during) service in these institutions is at the proper level. The issues to study are the norms of national legislation, international law, the UN Convention against Torture. The activities of the mentioned institutions are subject to daily supervision by the Prosecutor's Office, the agencies carry out departmental inspections.

As in previous years, in 2017, the participants of the National Preventative Mechanism for the Prevention of Torture in our country had regular and intermediate visits to temporary detention centres TDC (TDCs), remand houses (RHs), special reception centres (SRCs), police stations (PSs) (selectively).

As in 2016, in 2017 the participants of the preventive mechanism gave satisfactory

assessments of the living quarters, food, and hygienic conditions. Nevertheless, the problematic issues raised by NPM participants in 2015 and 2016 are still not solved. They are rather serious, and would detract from human dignity in TDCs, RHs, SRCs of the Ministry of Internal Affairs of the Republic of Kazakhstan.

According to the letter No. 1-30-11-3-231/1-8816 of the Ministry of Internal Affairs of the Republic of Kazakhstan addressed to the Ombudsman for Human Rights concerning the activities of temporary detention centres (TDCs), special reception centres (SRCs) and remand houses (RHs) - the Ministry of Internal Affairs of the Republic of Kazakhstan regularly raises the issue to the Government of the Republic of Kazakhstan and local executive bodies about insufficient funds from local budget for construction, reconstruction, capital and current repair, technical equipment of the special institutions.

Definitely, there are positive changes in the response of government agencies and administrations to the recommendations to bring detention conditions in line with national standards. However, there is no systematic approach in the objective evaluation of the buildings and structures, because their design and construction do not allow for the meeting of the required standards in institutions.

Temporary detention centres of the MIA RK (TDCs) are special institutions designed to keep persons in custody, who were detained on suspicion of committing a criminal offense.

The TDCs are the places of detention for the following persons:

- *suspects, detained in accordance with article 132 of the Criminal Procedure Code of the Republic of Kazakhstan;*
- *suspects, and accused under articles 142, 150 of the Criminal Procedure Code of the Republic of Kazakhstan. Measure of restraint is arrest.*

Almost always the NPM participants' reports include

information on keeping in TDC the detainees under administrative arrest. In order to enforce the decisions of administrative courts, the TDC does keep these persons. As of 2017, there is no regulatory and legal framework on the protection, communal, household, material and technical, medical and sanitary provision of administratively-arrested persons in the Republic of Kazakhstan. As the number of those involved in administrative arrests is growing, this trend is alarming.

Within the reviewed period the NPM participants visited a total of 140 TDCs (including periodic and interim visits).

As before, the NPM participants are being challenged with living quarters, cases of inadequate medical care, lack of effective complaint mechanisms, and shortcomings with the provision of pleasure yards, and bathrooms

For example, the administration of the TDC Department of Internal Affairs

(DIA) of Irgiz district, Aktobe region was recommended “to continue work on eliminating the comments and recommendations of the NPM Aktobe region participants (report dd. 04.06.2015), none of 10 recommendations were implemented.”

Based on the results of visits in 2017, NPM participants suggested addressing comments about residential premises in a number of TDCs. The previous consolidated report had information only about a few of them, including significant shortcomings on rooms (cells) and natural lighting, sanitation and hygiene, developed plan and estimates papers for the reconstruction or construction of new separate buildings of the TDC, but the current report’s list is much longer and includes the following TDCs:

- TDC of the Interior Department of the city of Lisakovsk, Department of Internal Affairs of the Kostanay region of the Ministry of Internal Affairs of

the Republic of Kazakhstan;

- TDC of Sarani, DIA of the Department of Internal Affairs of Karaganda region;

- TDC Shakhtinsky police department, DIA of Shakhtinsk city, Department of Internal Affairs of Karaganda region;

- TDC DIA of the Ridder city;

- TDC Shemonaikhakhinsk regional DIA;

- TDC DIA of Aktobe city with departmental subordination of the Department of Internal Affairs of Aktyubinsk region;

- TDC HD “DIA of Mamlutsky district of the Department of Internal Affairs of the North-Kazakhstan region”

- TDC MIA of Mugalzharsky district of the Department of Internal Affairs of Aktobe region, Kandyagash;

- TDC DIA Taraz city.

Of course, not all TDCs are subject to mandatory reconstruction or closure. Due to structural features of the buildings their reconstruction and elimination of the noted

shortcomings fixed by NPM participants is not allowed. Nevertheless, the problems of these TDCs are known, including for the supervisory bodies. Preventive visits to such institutions are not very promising in terms of bringing these TDCs to the minimum standards in the nearest 2-3 years, or even in the next decade.

Some of the above-mentioned TDCs received repeated comments and recommendations on bringing natural light into the cells, which at least should not lead to harm to health (eyesight) of detainees... It should be noted that they managed to take some measures. However, the list of TDCs with lack of natural light includes:

- TDC DIA of Shardarinsky district (Shardara city);
- TDC DIA of Pavlodar region of the Ministry of Internal Affairs of the Republic of Kazakhstan (Pavlodar city);
- TDC DIA of Bulandinsky district, Department of Internal Affairs of Akmola region

(Makinsk city, Bulandinskiy district);

- TDC of Sarani, Department of Internal Affairs of Karaganda region;

- TDC DIA of Karkaralinsky district, Karaganda region;

- TDC DIA Irtysk district (Pavlodar region, Irtysk village);

- TDC DIA of Bayanaulsky district of Pavlodar region;

- TDC of Kazygurst district DIA of the SKO;

- TDC of Zhambyl district DIA of the Department of Internal Affairs of Almaty region;

- DIA and TDC of Priozersk city, Department of Internal Affairs of Karaganda region;

- TDC of Ili district DIA of the Almaty region.

As in 2016, the NPM note (for example, during their visits to TDC DIA of Altynsarinsky district of the Department of Internal Affairs of Kostanay region, TDC of Karabalik district of Kostanay region) about unsolved systemic problems related to detention

institutions, that are not addressed by supervisory bodies. For example, according to the Rule 73 of the Rule of Mandela, "Transportation of prisoners in conditions of insufficient ventilation or lighting or in any other physically unduly harsh conditions is subject to prohibition". The transportation of people in metal unventilated wagons, providing 0.4 m² per person, is a violation of the constitutional right of prisoners to freedom from torture and other cruel or degrading treatment. This also violates the Art. 7 of the International Covenant on Civil and Political Rights and the UN Convention against Torture ratified by Kazakhstan.

In this regard, NPM group recommends the MIA to bring the conditions for transporting all categories of detainees in line with international standards. To do this, the development of regulations for the transportation of prisoners is needed, the conditions of transportation must

be established, including area, seating equipment, temperature standards, lighting, etc.

The new kind of complaints, appeared in 2017 should also be noted here. They relate to food in TDCs, i.e. one-time meal, the non-signing contracts with outside organizations, lack of food and dishes:

- TDC of Maktaaral district police department (Zhetysay, SKO);
- TDC HD DIA of Esil district of the Department of Internal Affairs of the North-Kazakhstan region (Yavlenka village, Esil district);
- TDC of Kazygurst district DIA of SKO;
- TDC DIA of Aral district, Kyzylorda region;
- TDC of the Internal Affairs Directorate in Kyzylorda.

As in the previous reporting year, the right of persons in custody to communicate with the outside world (media, periodicals, availability of a library fund, phone calls, visits) is the unresolved problem in all MIA RK institutions. This is a systemic

problem and it could not be solved at the local or regional level. At least several copies of periodically published media (newspapers, magazines) in Kazakh and Russian languages should be sent to institutions by subscription. Library funds should be systematized and formed not at the expense of employees and contingent, but considering publications in the state language.

In some institutions, dampness, problems with isolation of sanitary facilities, improper sanitary and hygienic standards for lighting, ventilation, space norms in rooms (cells), and bad temperature regime control are still observed. There is a need for ongoing and major repairs.

Special attention should be paid to the problems with medical care. For the most part these problems relate to planning, i.e. lack of sufficient medicines for specialized piling: anti-shock, first aid. There are shortcomings with the qualifications of health workers, lack of internal control over the keeping the

medical records and relevant documentation, shelf-life of medicines, and indoor temperature. There is a lack of necessary medical equipment and protozoan tonometers, thermometers, dry-burning plants. The problem of non-payment of compensation for psycho-emotional stress to medical staff has a negative impact.

In general, the response of the officials to the recommendations of the NPM participants is satisfactory. It does not include negative manifestations and deserves a positive assessment. However, when visiting TDCs, the NPM participants also met a few employees who do not know the normative legal information about the NPM:

- TDC HD, DIA of the Mamlutsky district of the Department of Internal Affairs of the North-Kazakhstan region
- Irtysh police department, DIA Ust-Kamenogorsk city
- Ulbinsky police department, DIA Ust-Kamenogorsk city
- Aksai police

department, DIA Kyzyl-Orda of Department of Internal Affairs of Kyzyl-Orda region

While visiting these institutions, the NPM did not reveal manifestations of humiliation of human dignity, cruel treatment, punishment, or torture. However, one should not forget about the negative treatment of the detainees under arrest made by investigative operatives, traffic officers, investigators (non-employees of the TDC), and investigating officers.

Remand Houses are designed to receive and keep people who do not have a specific place of residence and (or) identity documents, administrative offenses and crimes in their actions. The identification of these people is impossible to establish by other means.

RHs employees are obliged to take measures for establishing their identity, identification with the wanted persons, hiding from the bodies of inquiry, investigation and the court, missing persons and their subsequent transfer to the relevant authorities and

institutions.

The core regulatory legal acts guiding the procedure and activity of the internal affairs agencies holding and processing centers, as well as detention regime are following:

1. The Law of the Republic of Kazakhstan "On the Procedure and Conditions of Detention of Persons in Special Facilities Providing Temporary Isolation from Society";

2. The order of RK Minister of Internal Affairs dated May 23, 2011 No. 233 "On the Approval of Rules, Organization of Activity of Internal Affairs Bodies."

3. The order of RK Minister of Internal Affairs No. 11 dated January 9, 2011. "On the approval of Internal Regulations in Holding and Processing Centers of Internal Affairs Bodies";

4. The order of RK Minister of Internal Affairs dated May 23, 2011 No. 231 "On the Approval of the Identification Procedures in Holding and Processing Centers of Internal Affairs Bodies".

5. Joint Order of the

Minister of Justice of the Republic of Kazakhstan dated May 6, 2010 No. 157, Minister of Health of the Republic of Kazakhstan dated May 18, 2010 No. 350 and Minister of Internal Affairs of the Republic of Kazakhstan dated June 14, 2010 No. 272 "On Approval of the Regulations for Providing Medical Assistance to Citizens, subjected to restriction of liberty, as well as serving court sentences, placed in special facilities."

When citizens detained in these institutions, there is a risk of violation of their rights, such as authority abuse by police officers, unsatisfactory detention conditions, which may lead to negative manifestations of humiliation, cruel treatment, punishment or torture and violation of human rights.

During the period under review, NPM participants organized 25 visits in total to remand houses. Based on the results of these visits it is possible to conclude that the Ministry of Internal Affairs is taking measures to improve the situation with human

rights in temporary detention facilities, new buildings are being constructed to maintain detainees, detention conditions, sanitary and hygienic conditions are being improved, restoration, old window blocks are being replaced, etc. a number of recommendations are being implemented to improve detention conditions of. The NPM groups note that in majority of institutions of this type, recommendations received as a result of previous NPM visits are being implemented, but, as in previously, these are basically recommendations implementation of which depends on local MIARK units and do not require additional spending. At the same time, there are recommendations that require systemic changes and adoption of regulations at the state level.

Positive change tendency in remand houses are noted by the local police service of the Taraz Department of Internal Affairs. In the opinion of the NPM group members, work of this institution in medical care, food system,

leisure activities organization, sanitary conditions of all premises, arrangement and condition of bathrooms and etc. are to be appreciated and disseminated as an example in other such institutions. Particular attention is paid to the documentation completeness and quality, the established system of professional and psychological training of employees meets the highest requirements and can serve as an example not only in the Zhambyl region but throughout the Republic of Kazakhstan.

Obvious facts of cruel and degrading treatment can be inadequate detention conditions, buildings and premises, some of which require major repairs, and are in emergency state or in the opinion of NPM members should be shut down. For instance, for several years now NPM group members of the West Kazakhstan region indicate that Uralsk detention center using the building of the Department of Internal Affairs, where cells space does not correspond to

the established by law norms, the concrete floor in the bath that does not match the sanitary norms and rules, is a potential spreading source of dangerous diseases and infections. There is no toilet in the courtyard.

In Kostanay city, premises for persons detained without documents are in need of new equipment (old beds, gray bedding), weak daylight, artificial lighting is lit 24 hours a day, no fluorescent light bulbs. During walks detainees have no opportunity to exercise, there are no sports facilities or sports equipment in the yards. The right of persons detained without documents to obtain information about their rights and freedoms is not fully realized. There is no information on the NPM activities, sanitary and epidemiological surveillance norms are violated (there is no note on the disinfectant solution, plates are not rinsed in running water, not all cells have disinfectant solution, there is one basin in the shower room for everyone, hygiene products are not

fully provided for)

Having visited remand house in Almaty the NPM group once again came to the common opinion that institution's closure would be the best possible solution in this situation. The institution does not comply with elementary international standards as well as standards of national legislation. These standards allow to organize and reorganize institutions of this type and continue their activities in the territory of the Republic of Kazakhstan (for instance, the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated 23 May 2011 No. 233 "On the Approval of Rules, Activity Organization of remand houses of Internal Affairs Bodies" clearly states that operation of RHs is allowed only if there are rooms meeting sanitary and hygienic standards and fire safety requirements for safe containment of persons without specific place of residence and/or identity documents. The NPM participants noted not only inattentive, but also heartless

attitude towards detained persons. Detention of persons in this institution is degrading, inhumane, related to ill-treatment.

Analysis of the reports submitted by NPM participants showed that up to date, not all staff members of RH are aware of NPM, mechanism and authority, there are still issues of lack of medical workers, movement of disabled people, lack of periodicals, books, radio, and phone calls.

Also the degrading factor of human dignity not isolated toilets, lack of drinking water in cells, which is also noted in the NPM groups reports. The above mentioned conditions are contrary to international and national legislative treatment norms.

NPM group reports also revealed that when recent visits were organized, none of the visited RHs could be marked as meeting requirements and standards, according to the current National and International legislation.

Conclusions and recommendations

The NPM participants based their conclusions and recommendations on the norms of the current national legislation and established international norms and standards. For the most part, the recommendations presented specific proposals to administration of institutions and the Ministry of Internal Affairs of the Republic of Kazakhstan and were sent immediately after NPM group visits, to the institutions' administration and leadership of the regions' DIA.

Nevertheless, a number of recommendations requiring special attention should be highlighted:

At the legislative level:

Participants of NPM EKR consider that the institute of detention centers in Kazakhstan currently plays more of a penitentiary (prison) function, although, in our opinion, such centers should incorporate in their activities the functions of detainees' re-socialization. For this,

the functional belonging of the institution should be reviewed with the possibility of its civil transfer. Instead of cells there should be hostel-like rooms, with staff members of psychologists and social workers.

There is still a quality issue of purchased via electronic procurement goods based on the price request offers. So, the purchase of mattresses for the institution is done via electronic purchases, while tender won by the supplier offering the lowest price, the quality of goods suffers. In spite of the fact that according to the Law of the Republic of Kazakhstan dated 21 July 2007 "On Public Procurement" the expert commission should identify the best technical specification of goods submitted by potential suppliers, in practice the commission is guided by price, and not by the best specification offered.

Also there are a number of significant difficulties faced by the former Soviet Union citizens after they leave RH. So, after release citizens

of these states receive a document mentioning they were kept in custody, however this document does not allow them purchasing a train ticket. Thus, in order to restore identity documents they need to travel to the respective embassies in Almaty or Astana without documents, along the way they can also be detained and placed in RH. It is necessary to create a mechanism for documents restoration for citizens when they are released from RH.

To the Ministry of Internal Affairs of Republic of Kazakhstan:

- Continue regular information work among employees about NPM activities, their mandate, goals and objectives;
- Evaluate technical conditions of buildings where RHs are located;
- Shut down those institutions which do not meet basic hygiene standards and allocate (in the first place) financial means for their repair or construction of new buildings;

- Consider taking a full-time physician, thereby creating conditions for accessing medical help at any time;

- It is necessary to introduce a social insurance system for RH employees;

- Develop and implement a mechanism for handling complaints about violations of rights and interests in places of temporary isolation from society;

- To pay attention to improvement of working conditions and social security of RHs employees.

To regional Departments of Internal Affairs:

- Review and update information stands on NPM activities, on the rights and duties of detained persons;

- Create conditions for the duty officers, to receive video surveillance information.

At the moment, such information goes directly to the central point, and only then, if requested, goes to the duty officer;

- Place the legal information on stands or on cell doors with complaints examples,

appeals in two languages – Kazakh and Russian. In cells place information on the procedure for filing complaints and addresses of human rights organizations, attach examples of appeals to national human rights institutions in accordance with paragraph 2 of Art. 20 of the RK Constitution;

- To seek the possibility of increasing medical care funding;

- When having tenders for the supply (purchase) of bed linen, pay attention to the quality of bedding, specifically mattresses.

A special detention center is an institution of internal affairs bodies, designed to receive and detain persons under administrative arrest.

The placement in special RHs of persons subject to administrative arrest is carried out on the basis of the court decision. In special RHs a regime is established that provides round-the-clock duty and excludes the possibility of unauthorized leaving of the detainees outside institution.

2.2.4 Police stations

Not all NPM groups used the RK Ministry of Internal Affairs permission for unhindered visits to DIA police stations in different regions. Therefore, it is difficult to assess the situation there from the point of view of compliance with the standards for preventing violations of the constitutional principle of inviolability of human dignity. Nevertheless, even now, on the basis of selective visits, one can speak about the shortcomings in the logistics of police officers, police departments in rural areas and in cities of regional significance.

We consider it necessary to note the awareness of the police stations personnel about the NPM activities in the Republic of Kazakhstan and the provision of unimpeded access to NPM participants for the performance of their duties.

Conclusions and recommendations

The conclusions and recommendations of NPM

participants who visited the MIA institutions in the period under review are based on the norms of the current legislation of the Republic of Kazakhstan, including those of departmental by-laws. Also, the Standard Minimum Rules for the Treatment of Prisoners (hereinafter referred to as SMRs or Mandela Rules) were used to assess the situation in these institutions.

The recommendations of the NPM participants are specific proposals to the special RHs administration and the leadership of the Ministry of Internal Affairs to eliminate inconsistencies in living spaces, sanitary and hygienic conditions, medical care, food, conditions for sport and communication with the outside world (access to media, visits, telephone calls). The set of such proposals should be taken for control by the staff of the General Prosecutor's Office of the Republic of Kazakhstan for the adoption of the prosecution response measures provided by law.

This report should

reflect some of the recommendations directly related to the inviolability of human dignity and the prevention of ill-treatment, punishment, as well as the prevention of torture in the MIA RK institutions.

First, the Ministry of Internal Affairs of the Republic of Kazakhstan in 2018 should develop step-by-step measures (draft program) for the shut down and re-profiling of institutions, where bringing them to the norms ensuring the rights of persons in custody, is not feasible due to the design features of the buildings used. Among the measures include a plan for the phased shut down of institutions, including those that are impractical to use due to limited number of detained persons, as well as the construction of new buildings for state institutions, which cannot be used due to poor conditions;

Second, the Ministry of Internal Affairs of the Republic of Kazakhstan should take on special control issues of medical services,

sanitation and hygiene of section institutions (TDF, RH, SRC), reflected in the recommendations of NPM participants based on the results of visits held in 2017 with mandatory informing the Commissioner for Human Rights in the Republic of Kazakhstan on taken measures.

Third, within the framework of martial and service training with the personnel of the Ministry of Internal Affairs of the Republic of Kazakhstan, guarding the outer perimeter and escorting, as well as acting inspectors, employees of institutions executing punishment and investigative isolators, employees of SAD, MRS- regularly organize sessions on legal regulatory acts on NPMs, international and national standards for detention conditions, as well as criminal law and other issues relevant to prevention of torture and inviolability of human dignity.

Fourth, the Prosecutor General's Office of the Republic of Kazakhstan and its subdivisions - organize

working meetings with NPM participants, members of the NPM Coordination Council at the national and regional level, inviting heads of state institutions and departments to discuss recommendations and possible solutions to issues.

Fifth, the Coordinating Council of the NPM needs to organize annual sectional meetings and sessions with regional NPM group leaders to share experiences, improve the qualifications of NPM participants, level of preparedness for upcoming visits to institutions of various departments and bring NPM work to a unified standard throughout the territory of the Republic Kazakhstan.

5

The situation of persons held in institutions subordinated to the National Security Committee (NSC) of the Republic of Kazakhstan

Prepared by: Rakhimberdin Kuat Hazhumukanovich

In accordance with the List of State Institutions of the National Security Committee of the Republic of Kazakhstan (NSC RK), there are four pre-trial detention centers (PTDC) in the country; they are located in the cities of Astana, Almaty, Karaganda and Shymkent.

During the period from January to December 2017, the National Preventive Mechanism (NPM) members made 5 visits to the pre-trial detention centers of the National Security Committee of the Republic of Kazakhstan, among which periodic intermediate visits took place.

1. 24.01.2017 - PTDC of the NSC RK in South-Kazakhstan Region (SKR), an intermediate preventive visit;

2. 07.03.2017. - PTDC of the NSC RK in Astana, a periodic intermediate visit;

3. 21.04.2017 - PTDC of the NSC RK in Karaganda Region, an intermediate preventive visit;

4. 13.09.2017. - PTDC of the NSC RK in the city of

Almaty and Almaty Region;

5. 23.11.2017 г. - PTDC of the NSC RK in Karaganda Region, an intermediate preventive visit.

The pre-trial detention centers of the NSC RK in the cities of Almaty, Karaganda, Shymkent are located in basement or semi-basement premises. The PTDC of Almaty is located in a building that was built in 1936. The PTDC of the National Security Committee of Astana city is located in the adapted building that was built in 1975, where major refurbishment (plumbing fixtures, bathroom and lavatory equipment were replaced, the floors were covered with linoleum, the walls were painted) was carried out in December 2016.

The NPM members in the city of Almaty and Almaty Region say that in pre-trial detention center of the National Security Committee Department of the Republic of Kazakhstan (PTDC NSCD RK) in Almaty -

“there are no sinks and water closets (WC) in the cells, the suspects and accused are conveyed to the toilet and for hygienic procedures (washing, brushing teeth) twice a day; they are given 2 plastic buckets to relieve themselves”; “Because of the lack of WCs in the cells, they smelt bad”; “The shared toilet is not divided by partitions”; “The tiles in the shower-room require replacement.”

The NPM members in Almaty note that relatives of remand detainees are ready to purchase portable toilets for the PTDC at their own expense, but the administration of the institution has so far turned down this assistance. Although the availability of portable toilets in the cells, would at least partially solve the problem of inmates’ relieving themselves.

In accordance with the legislation of the Republic of Kazakhstan, the suspects and accused should be kept in the premises, based on the norm of sanitary area per person

not less than two and a half square meters. The NPM members say that “in some PTDC cells in Astana, these standards are not complied with (in cells 10 and 8 there are 4 individual beds, the cells are very tight), the PTDC NSC RK cell dimensions are no more than 6-8 square meters.”

In the PTDC cells of Astana city “Para. 5.4.2.9.2. of the Sanitary Standards of the Republic of Kazakhstan SS RK 3.02-24-2014 is not complied with, according to which all of the equipment in the cells (beds, tables, benches and stools, etc.) must be securely attached to the floor or walls by welding them to pre-installed embedded fittings. The sharp corners of the cell equipment should be rounded. For example, stools have sharp angles and are not fixed to the floor by welding them to pre-installed embedded fittings.”

The PTDC NSC RK in Astana does not comply with Paras. 5.4.2.9.3-5.4.2.9.4 of SS RK 3.02-24-2014,

according to which there should be a cell equipped for temporary isolation of suspects, accused or convicts who experienced a nervous collapse (a cell for isolation of violent inmates), in which a window opening is not provided.

In general, the situation regarding the medical support of the inmates of the PTDC NSC RK is in line with national legislation and international standards for the treatment of prisoners. Nevertheless, the participants of the Astana NPM members note that the PTDC NSC RK in Astana is not staffed with medical personnel, which puts in question the access to qualified medical care for remand detainees in this institution.

According to the report of the NPM members in Astana, "in cell 5 there is a remand detainee, according to him, he is ill with chronic hepatitis, which is proven and confirmed. He receives the necessary medicines from relatives. According to

him, the PTDC NSC RK does not facilitate the provision of treatment due to the high cost of the corresponding medications. Although, in accordance with section 3 of MOH Order No. 92, the treatment of chronic viral hepatitis B can be carried out within the guaranteed scope of free medical care." The management of the medical service of the NSC RK should consider this case.

None of the PTDC NSC RK has created the proper conditions for persons with disabilities who are held in detention there. To improve the living conditions, social and medical support for the remand detainees held in the PTDC NSC RK, it is necessary: 1) to equip the toilet areas with sinks and toilets with handrails for wheelchair users, to ensure privacy conditions; 2) to equip the shower rooms with separate places with flexible hoses and stools for convicted persons with disabilities; 3) to create and install gently sloping platforms for movement to

the walking yard, i.e. create a barrier-free environment for persons with disabilities from among the remand detainees.

In accordance with the observations of the NPM members in the PTDC NSC RK in the city of Almaty, instead of the 1-hour walk, according to complaints of the remand detainees, they take a walk only for 25-30 minutes. The administration of PTDC explains this by the fact that the building of the institution is old and there are not enough walking yards to organize an hour's walk for the remand detainees.

The NPM members in Astana and Karaganda Region note that remand detainees complained that the staff of the territorial prosecutor's offices visited the PTDC NSC RK very rarely, and even less often did they conduct a personal reception of the inmates. Thus in the PTDC of Astana city "according to a remand detainee R.S. Akhanov (the surname and initials were written with the permission

of that person), for more than two and a half months there were no facts of inspections and / or supervision by prosecutors in the PTDC NSC RK, - the detainee did not see any prosecutors." Therefore, the leadership of the General Prosecutor's Office of the RK should take into consideration this circumstance and the officers of the prosecutor's office should conduct a reception of remand detainees in the shortest possible time.

An analysis of the NPM members' reports on the situation in the PTDC NSC RK shows that the following recommendations set forth in the Consolidated Reports for 2015 and 2016 years remained unfulfilled:

1. Transfer the PTDC cells from basements or semi-basements to standardized buildings that would comply with the UN Standard Minimum Rules for the Treatment of Prisoners ("Nelson Mandela Rules") and the national legislation of the Republic of Kazakhstan;

2. Taking into consideration the existence of a problem with the conditions of detention of detainees and their sanitary-and-hygienic provision, to find resources for capital refurbishment of the PTDC NSC RK, for bringing their premises in proper sanitary condition, actually providing the necessary conditions for keeping persons with disabilities;
3. Provide a barrier-free environment for persons with disabilities (equipment of toilets with handrails, shower rooms with flexible hoses and stools, etc.);
4. Re-equip the PTDC NSC RK cells in Astana in order to bring the area in line with the minimum standards (2.5 sq. m per person);
5. Ensure observance of the remand detainees' rights to a daily one-hour walk in the PTDC in Almaty;
6. Create sports gyms or equip walking yards with sports equipment;
7. Include a staff psychologist to work with both the special contingent and the staff of the institution;
8. Include a psychologist in the PTDC staff to work with both the inmates and the staff of the institution;
9. Introduce in the training process for the training and professional retraining of the PTDC NSC RK staff, special courses to study the recommendations of the Nelson Mandela Rules, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the national legislation on NPM in connection with the prevention of torture and cruel degrading treatment and punishment and other fundamental violations of human rights;
10. Formulate the practice of holding training seminars in the training format, on effective interaction of the PTDC NSC RK staff and NPM members in the process of public control.



6

The situation of persons detained in facilities subordinated to the Ministry of Defense

Prepared by: Ibrayeva Anara Nurlybayevna

In accordance with paragraph 7 of Art. 5 of the Law of the Republic of Kazakhstan “On Military Police Bodies” one of 16 objectives is “the execution of detention of servicemen in the military detention/ confinement facilities, as well as the execution of administrative punishment in the form of administrative arrest as provided for in the legislation.”

Six NPM groups made 8 visits to facilities in 7 cities: Aktobe, Almaty, Astana, Karaganda, Semey, Taldykorgan, Shymkent, of which in Karaganda – they visited twice the same institution with an interval of 4 months; the NPM group for Almaty and Almaty region visited the military detention/ confinement facilities in Taldykorgan and Almaty.

The names of the confinement facilities of the Republican Governmental Agency (RGA) “Main Directorate of Military Police of the Armed Forces of the Republic of Kazakhstan”:

1. in the city of Karaganda - the confinement facilities of the military police department of Karaganda garrison

2. in the city of Aktobe - the confinement facilities of the military police of Aktyubinsk garrison

3. in the city of Taldykorgan - the confinement facilities of the military police department of Taldykorgan garrison

4. in the city of Shymkent - the confinement facilities of the military police of the Shymkent garrison

5. in the city of Astana - the confinement facilities of the RGA “Military Police Detachment of Akmola regional garrison” of the Ministry of Defense of the Republic of Kazakhstan

6. in the city of Semey - the confinement facilities of the military police of Semey regional garrison

7. in the city of Almaty - the confinement facilities of the military police department of Almaty regional garrison.

The activities of the military detention/ confinement

facilities regulated by the following basic legal acts:

1. The Standard Minimum Rules for the Treatment of Prisoners (adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders on August 30, 1955, approved by the Economic and Social Council at the 994th plenary meeting on July 31, 1957).

2. Law of the Republic of Kazakhstan “On Military Police Bodies” (as amended and supplemented on July 3, 2017).

3. Law of the Republic of Kazakhstan “On Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities” (as amended on July 11, 2017).

4. Law of the Republic of Kazakhstan “On Religious Activities and Religious Associations” (as amended on December 22, 2016).

5. RK Presidential Decree No. 364 of July 5, 2007 “On the approval of general military regulations of the

Armed Forces, other troops and military formations of the Republic of Kazakhstan” (as amended on May 05, 2017).

6. Order No. 182 of the Minister of Defense of the Republic of Kazakhstan dated July 3, 2000 “On approval and implementation of the Rules for serving criminal sentences by convicted military servicemen” (as amended by Order No. 378 of the Minister of Defense of the Republic of Kazakhstan dated November 06, 2003).

7. Order No. 366 of the Minister of Defense of the Republic of Kazakhstan dated July 20, 2017, registered with the Ministry of Justice of the Republic of Kazakhstan as No.15526 on August 23, 2017 “On the approval of the internal rules and regulations and the detention of suspects and accused at the confinement facilities of the Military Police of the Armed Forces of the Republic of Kazakhstan.”

8. Order No. 368 of the Minister of Defense of the Republic of Kazakhstan dated

July 20, 2017 “On the Approval of the Rules for Servicemen Serving Administrative Arrest at Confinement Facilities of the Military Police of the Armed Forces of the Republic of Kazakhstan.”

9. Order No. 972 of the Minister of Defense of the Republic of Kazakhstan dated December 13, 2012 (repealed).

10. Order No. 68 of the Minister of Defense of the Republic of Kazakhstan dated February 19, 2014 (repealed), etc.

Some military detention/confinement facilities are part of the military garrison complex (for example, in Semey). Others are located in specific buildings (as in Astana).

Dates when the confinement facilities were built: 1938 (Semey city); 1962 (Aktobe), 1974 (Astana), 1978 (Karaganda), 1999 (Taldykorgan, Almaty), 2002 (Aktobe), 2003 (Shymkent city). The building of the confinement facilities in Astana was not originally

intended for the military department.

The minor repairs (some renovations) in the confinement facilities were carried out: in 2015 (Karaganda), in 2016 (Astana, Shymkent), in 2017 (Aktobe, Semey, Aktobe), annually (Almaty); major repairs - in 2014 (Aktobe, Taldykorgan).

The limit of occupancy is as follows: 15 people (Karaganda, Taldykorgan), 22 people (Astana city), 26 people (Semey), 70 % of administrative block - 16 people (Almaty city), the NPM group in Shymkent did not provide the data.

On the day of visiting the confinement facilities (except for Semey), the servicemen were not detained there. Five people were detained in the confinement

facilities in Semey city, among them 3 regular soldiers (Pavlodar military garrison), 1 volunteer contract sergeant from Zaysansky border guard detachment of NSC RK border troops, officer of Semey military garrison.

In this connection, it was not possible for the 6 NPM groups to assess to the full extent the observance of the right to freedom from torture.

Prior to the date of NPM groups' visit to the confinement facilities, it detained: 19 people. - 2 officers and 17 soldiers (July 4, 2017, Karaganda), 32 (as of November 23, 2017, the city of Karaganda), 31 (September 15, 2017, Astana), 23 administratively arrested servicemen (4 officers, 2 - contract service volunteers, 17 - regular servicemen, June 9, 2017, Shymkent city). In 2016, 12 people were detained in the confinement facilities in Aktobe (2 officers, 4 contract soldiers, 6 soldiers, MoD - 5 people, internal military forces - 6 people, and NSC RK - 1 person). NPM groups in the cities of Taldykorgan, Semey and Almaty did not provide such information.

Of the 17 people according to the staffing table of the confinement facilities in Semei at the time of the NPM

group's visit - there were "3 vacancies - 2 people." One of the servicemen of the confinement facilities is a woman (the staffing position was introduced about a year and a half ago), which is a positive practice. In Almaty there is a vacancy of 1 soldier (Escort Officer).

The material support of the confinement facilities is carried out at the expense of the military units.

According to paragraph 22 of the Rules of serving administrative arrest by military servicemen in confinement facilities of military police bodies, approved by Order No. 368 of the Minister of Defense of the Republic of Kazakhstan dated July 20, 2017, the standard of living space in the cell for 1 arrested person is at least 2.5 square meters, for women - 3 square meters. There are no remarks from NPM groups regarding the size of the area of the cells.

	Karaganda	Aktobe	Taldykorgan	Astana	Semei	Almaty	Shymkent
Occupancy limit	15	7	15	22	26	70/16	Not mentioned
Number of cells	8	5	6	10	13	22	10

In the confinement facilities there are various types of equipment in the cells. So, in the city of Semey, the cells of the confinement facilities are equipped with tables and board beds; in the cities of Astana and Shymkent there are bedside tables, clothes hangers (in Astana there are some benches in addition, in Shymkent, bedside tables are only in women's cells).

In the corridor there are wooden lockers with compartments for storage of personal hygiene items of persons detained in the confinement facilities in Astana.

For women there is one cell in the confinement facilities in the cities of Aktobe, Almaty, Karaganda and Taldykorgan, while in Astana and Shymkent there are 2 cells, and in the city of Semey – 3 cells.

In the confinement facilities in Astana, there are no differences between the cells for the maintenance of officers, servicewomen, and soldiers. The only difference between the cell for servicewomen is that they are not locked. The atmosphere in the room is oppressive, because of the color of the walls (in the corridor they are grey, the doors of the cells are black) and lack of natural light.

The NPM group in Almaty noted the separate detention of detainees in accordance with military rank; "The placement in a solitary-confinement cell for more than one day is allowed on the basis of a reasoned decision of the head of the confinement facilities in accordance with Art. 31 of Law № 353-1 of the Republic of Kazakhstan dated March 30, 1999 based on a sanction

of the prosecutor. Currently, the basement is not used. So far, no decision has been made on its further use.”

In the cities of Semey and Almaty, the floors in the cells are made of concrete / cement, which is a violation of international standards and national legislation. In Semey - in 3 cells out of 13 there are no windows.

The availability of a paragraph on **cleaning of common communal areas in premises** is noted in the reports by NPM groups in the cities of Karaganda

and Aktobe. If in the confinement facilities in Karaganda cleaning is carried out by a “special staff member”, then in Aktobe cleaning is carried out (once a week) by “detainees under supervision of a guard accompanying convicts or a sergeant of the guard (duty shift).” Cleaning of the cells is done by servicemen (in Karaganda, Astana, Shymkent). Disinfection of premises is carried out once a week (in Shymkent), while in the city of Semey disinfection

measures are carried out according to the agreement dated 2013 signed between JSC “Eskeri Kurylys” and a medical facility “Preventive Disinfection”.

Temperature control is carried out by the administration (Semey), the confinement facilities paramedic (Shymkent), the confinement facilities attendant

and health care worker (Astana). Thermometers are installed in confinement facilities in the cities of Karaganda and Semey. “The temperature regime is observed, it is carried out on a regular basis” in the cities of Almaty and Karaganda; “In the cells the temperature is maintained not below +18°C in Aktobe; 20°C in Semey, 25°C in Shymkent.

Personal belongings are stored in: special lockers in the corridor of the confinement facilities, the number of lockers corresponds to the occupancy limit - for 15 people (in Karaganda), in the bedside tables near the

sleeping places in the living room (Aktobe, Astana).

Water supply is centralized (the cities of Karaganda and Semey), heat supply, water supply (cold water) and the sewerage system are centralized (Taldykorgan and Astana); they are connected to the city utility networks. There is hot and cold running water (Astana and Almaty), while hot water in Semey and Taldykorgan is made by means of a water heating device / electric storage water heater.

The WC (toilet, washbasins) is available in the cells of the confinement facilities in Karaganda and Shymkent (except for 1 cell for women), It is not provided for in Aktobe, Semey and Taldykorgan, so it is combined with the room for taking a shower.

“If necessary, the newly brought detainees are taken to the corridor to the staff toilet accompanied by a guard accompanying convicts” (2 WCs in Aktobe), the WC is “located in a dedicated room” (Taldykorgan city).

In the cells of confinement

facilities in Astana, the WCs in the cells are equipped with a bowl of Genoa (as in Shymkent), “water closet supply tanks are located in the corridor, flushing in the cell is carried out by using a cord passed through the wall from the water closet supply tank, which enables the confinement facilities duty officer to shut off the water in the tank (it is explained by space saving in the toilet room). Besides, there is a sink with a faucet, both serviceable.”

Cabinets for storage of toilet articles are located in the corridor (Astana, Karaganda). Toilet articles are given individually when escorting the detainee to the toilet, for washing, after which the articles are returned to the cabinet (Astana and Almaty). “According to Shymkent confinement facilities staff, washing means are not issued to detainees, in line with the Internal Rules and Regulations of the confinement facilities of military police of the Armed Forces of the Republic

of Kazakhstan” approved by Order No. 972 of the Minister of Defense of the Republic of Kazakhstan dated December 13, 2012 (repealed), detainees have their own hygienic and washing means. In the absence of the opportunity to purchase soaps and washing means, they are provided by the military unit in which the detainees serve. Sanitary towels are not provided for in the Charter.

The WC/ toilet area is equipped with a shower unit (one cubicle), wash basin, toilets for the accused and detainees, designed for two people. (Semey). The sinks and 6 toilets with partitions are clean; disinfectants are in good supply. (Almaty).

Servicemen are placed in the confinement facilities when the following documents are available: a detention report, a court-sanctioned resolution of the investigator, the person conducting an initial inquiry, or the judicial restraint in the form of detention, a copy of the verdict, an order for its

execution and a copy of the conclusion of the military medical commission on the suitability for military service for health reasons. (Shymkent). In the city of Karaganda, **admission** to the confinement facilities is not carried out according to the principle of a sanitary inspection room. All the consignment people take a shower and are examined by a paramedic. The wash schedule is approved (Karaganda).

Bathing takes place once a week (they take them to a bath house in Aktobe, Taldykorgan, Almaty, Shymkent cities), or 2 times a week for 15 minutes (Astana). When needed, women have a possibility to take a shower, wash their personal belongings. There is a hanger for personal clothes in the shower room (Karaganda city).

In Shymkent city, unlike in other regions, there is “a tiled tray with two mixers and *one shower head*”. *Shower cabins in the confinement facilities in Taldykorgan have no rubber*

mats, unlike in Almaty city. There is a tiled tray with two mixers but one shower head in the shower room there is a tiled pallet with two mixers, but one divider. There are no partitions between the shower stands (Shymkent).

On bathing days they change underwear and bed linen, as well as conduct a medical examination of servicemen placed in the confinement facilities (Almaty).

The bed linen is clean and is replaced once a week (Karaganda, Astana, Aktobe cities), it is received from military units (Karaganda), stored in a warehouse (Astana, Semey, Shymkent), or in special cabinets (Aktobe). Laundry is done in the bath and laundry complex of the military unit / garrison. On bathing days they change underwear and bed linen, as well as conduct a medical examination (Shymkent, Semey).

Lighting in the premises in Karaganda and Shymkent is sufficient. *In other cities*

- it is not, as "small windows are located under the ceiling, barred, in some cases, the windows are opened only from the outside without access from the inside." Thus, there are protected lamps in each cells, windows measuring 40x60 cm in all cells are barred (Aktobe); in the cells - two small windows located under the ceiling, barred (Astana); small windows are in the upper part of the wall, natural and artificial lighting is not sufficient (Semey); natural lighting is not sufficient for reading; according to the management of the institution, based on to the results of a recent SES audit, there were no comments on the lighting in the cells; it is impossible to enlarge window openings or change grids due to the lack of a normative document / order with approved sizes (Almaty); a window of "a closed type, which cannot be opened, without an opening mechanism, blocked by reinforced 5x5 cm grating, without access to the window"

(Taldykorgan); “at night time all cells have the lighting on, windows are of a sufficient size, for normal ventilation and lighting of cells, grilles are installed from the inside of the cells” (Shymkent).

There is forced **ventilation** available in the cities of Karaganda and Almaty. Natural ventilation is done during walks (Karaganda, Shymkent), or through the window (Taldykorgan); *there is no access to ventilating the cells from the inside, as the ventilation pans open from the outside thereere is no access to fresh air, the cells do not have input and output ventilation* (Aktobe); ventilation, which is a passive duct, is insufficient (built in 2016) (Astana city).

Access to drinking water in cells: there is a bucket (Taldykorgan city); a tank with boiled water at the rate of 2 mugs per day per person (Almaty city); galvanized wall pot for drinking water (Shymkent city); a jug and glasses (Semey city); a water tank and mugs were in the cooking room, due to

the absence of detainees (Aktobe).

Nutrition. In view of the absence of those arrested in the confinement facilities (with the exception of Semey), there was no possibility to check the quality of food.

Three meals a day are provided as hot meals, according to the number of detained persons, based on “Daily Food Ration” norms No. 1 per person per day. *The food is cooked in the confinement facilities in the city of Karaganda.* In other regions, food is delivered: from the military unit of the city of Taldykorgan (cooked by the employees of IP “Dostyk” in Aktobe); in thermos bottles – cooked by LLP “El-Orda Astana” (Astana, Shymkent); IP “LLP April” for the amount of 1,300 tenge (Semey), also from the military unit. The menu is available in the military unit (Taldykorgan).

The daily food ration norm for one person amounts to 1,225 tenge and the menu is approved by the head of the confinement facilities

(Almaty). *The meals are taken in the cells of confinement facilities of Almaty, Taldykorgan cities. There is a room to take food in Astana and Shymkent (for 10 seats in Astana).*

Food quality control is performed by a temporary paramedic (Karaganda city), a medical officer on the spot where the food is received (Taldykorgan), a sanitary instructor (Shymkent). There is a quality-control ledger. They maintain records of finished products (Karaganda).

Food distribution and dish washing are done by a specially assigned employee (according to the staffing schedule), who has a sanitary book and admission (Karaganda city). Food is distributed in a room fenced with plastic, where there are no conditions for food distribution, washing and disinfection of dishes (Aktobe). *There are separate rooms for food distribution in the cities of Almaty, Astana. There are conditions for food heating. During the visit, there was no menu (Semey).*

Dishes are available in sufficient quantity (in Karaganda, Taldykorgan, Almaty, Shymkent, Astana, Semey). The food is served to the arrested through the window. *There are no chairs in the cells, therefore the arrested person is forced to take food standing (Aktobe).* In Astana, pottery is ceramic; in Shymkent - metal cups and plates, plastic mugs.

Health services

Unlike other regions, there is a paramedic in the state confinement facilities in the cities of Karaganda and Taldykorgan. The provision of health services is assigned to a paramedic of the military police (Astana, Almaty, Semey).

There is a medical office in the cities of Karaganda (it was equipped after the first visit to it in 2017, as well as in Astana), Almaty and Semey. *In other regions - there are none.* "The paramedic's office is located in with the technical support office of the military police" (Karaganda).

“The medical office is the only medical facility in the administrative premises of the Semey military garrison. A paramedic, who works on a daily basis, had a limited list of medications. If required, it would be difficult for the medical worker to provide the necessary medical assistance” (Semey). There was no separate medical room (equipped after a visit by the NPM group) in the building of the confinement facilities in Astana, so when a serviceman is taken to the confinement facilities by a medical worker, an examination is conducted in the office of the on-duty-officer on the ground floor of the building.

The doctor’s bag for an ambulance and sanitary transport organization, according to Order №365 of the Minister of Health of the Republic of Kazakhstan dated 26.06.2013 *was available in the confinement facilities in Taldykorgan, Astana, Aktobe, Karaganda.*

A preliminary appointment to the doctor (for a medical

examination) is carried out “by a person filing an application at the time of transferring the duty by the guard (an on-duty shift) and conducting reconciliation; during the daily round of cells, and in case of an acute illness - to a confinement facilities employee. Medicines are handed over according to the prescription of the medical worker in established doses individually against a receipt. In order to identify cases of injuries (bodily injuries) received by convicts, employees of the confinement facilities with the participation of a medical worker (paramedic) conduct their physical examination on a daily basis” (Aktobe).

In emergency cases, an ambulance is called by the officer on duty at the confinement facilities. The medical examination is conducted both at the time of admission and release from the confinement facilities (Taldykorgan, Astana, Almaty, Shymkent).

A logbook of patient visits

is maintained. According to the staff, there is no shortage of medicines. Medical examinations are carried out in the polyclinic of Turksibsky district of Almaty (Almaty).

“Servicemen seek medical assistance from a medical officer of the military police unit during a daily inspection. In case of emergency medical assistance, the paramedic, with the permission of the head of the confinement facilities, delivers the arrested person escorted by the convoy to a medical facility. When placing a serviceman in a medical institution, the head of the confinement facilities immediately notifies the prosecutor, the judge and the command of the military unit. After recovery, the suspect, the accused, unless another credit is issued by the judge, is again escorted by the convoy to the confinement facilities. Outpatient care is provided to a serviceman placed in cells of the confinement facilities. Medicines are handed over according to the doctor’s prescription in established

doses individually against a receipt. At the time of the visit, the paramedic showed the patient’s visit logbook / the ledger of the admission of detainees. According to the paramedic in the confinement facilities, there are all the necessary drugs to provide primary health care. In the event of a physical injury, appropriate health care services are provided. With the involvement of a medical worker (paramedic), a medical examination is carried out within 24 hours, the results of which are recorded in the medical book of the arrested person to be placed in the confinement facilities. In order to identify cases of injuries (bodily injuries) of arrestees, employees of the confinement facilities with the participation of a medical officer (paramedic), conduct daily physical examinations. The prosecutor is notified in writing about every fact of the detection of bodily injuries to the detainees within 24 hours. Upon admission of the detainee to the confinement

facilities, the administration provides him with information about his rights, duties and restrictions on rights, as well as the rules of internal order for familiarization in writing again his/her signature” (Shymkent).

The logbooks for registration of applications for medical assistance are maintained in Astana, Shymkent (the logbooks of patient visits, the ledgers of admission of detainees).

Realization of rights. “As a result of amended legislation, the accused servicemen are kept in temporary detention cells; if found guilty, they shall be sent to a correctional facility. In this connection, the persons, who are found guilty under the administrative proceedings are placed in the confinement facilities. The main reasons for the placement of servicemen in the confinement facilities are: failure to comply with the order, open disobedience, absence (untimely arrival in the military unit without a notice). The admission to

a disciplinary military unit is one of the main types of punishment, and it is executed by the Ministry of Defense of the Republic of Kazakhstan” (Almaty).

The time of detention in the confinement facilities is not included in the total term of service and the allowance for this time period is not paid (Astana).

In connection with the absence of arrestees, convicted in confinement facilities in Karaganda, Aktobe, Taldykorgan, Astana, Almaty, Shymkent no interviews have been conducted.

Information boards with information about the rights of the arrested in two languages, with a daily schedule are available in cells of the confinement facilities in Karaganda, Almaty and Semey cities, in the foyer - the list of authorized items (Almaty), the “documentation board” (Taldykorgan), the rights and duties of the arrested, about the NPM (Shymkent). *There are no stands in the cells with information on the rights and*

duties of persons placed at the confinement facilities (Astana); there is one located in the corridor (Aktobe).

Materials about the activities of the NPM and other state human rights institutions are available in the confinement facilities of Semey city.

In the daily routine for detainees / convicts there are: a night sleep (not less than eight hours), time for morning and evening toilet, morning examination, military training, shoe cleaning and washing hands before meals, eating (three times a day) , the personal needs of servicemen, a daily walk (at least one hour). It should be noted that administratively detained / convicted persons are provided with: - the right to request a personal admission to the head of the confinement facilities; - the right to use things and objects, the list and number of which are determined by law; - the right to read newspapers and magazines at a set time; - personal

safety while in custody; - material and medical support; - an eight-hour sleep at night; - supply with food at the rate of basic general-purpose rations; - courteous treatment by servicemen serving in the confinement facilities; - A daily walk of at least one hour. Maintenance of the maintenance regime at the confinement facilities, and maintenance of internal order in them is entrusted to the officials of the military police and confinement facilities(Shymkent city).

Information about the activities of the NPM and other state human rights institutions are available in the confinement facilities of Semey city.

The daily routine for detainees/convicts envisages: a night sleep (not less than eight hours), time for morning and evening toilet, morning examination, military training classes, shoe cleaning and washing hands before meals, taking meals (three times a day), the personal needs of servicemen, and a daily walk

(at least one hour). It should be noted that administratively detained / convicted persons are provided with: *the right to request a personal meeting with the head of the confinement facilities; - the right to use things and objects, the list and the number of which are specified by law; - the right to read newspapers and magazines at a specified time; - personal safety while in custody; - material and medical support; - an eight-hour sleep at night; - meals based on the daily food ration; - courteous treatment by servicemen serving in the confinement facilities; - a daily walk of at least one hour.* The observance of the maintenance regime at the confinement facilities, internal management is the responsibility of officials of the military police and the confinement facilities (Shymkent).

Contacts with the outside world. *Radio, TV is not provided for in the guardhouses in Taldykorgan, Aktobe, Astana.* "It is explained by a short period of detention in the

confinement facilities, up to fifteen days." (Taldykorgan). But in the confinement facilities in Almaty each camera is equipped with a radio with a speaker.

Packages from relatives are received on a daily basis, according to the schedule, by their application (Karaganda). The NPM group indicated the right to receive packages when inspecting the confinement facilities in Almaty, and "not provided" - *in the report on visiting the guardhouse in Taldykorgan.* From the report of the NPM group in Astana: "For the past 2 years, no one has used this right, there was no need."

Meanwhile, paragraph 3 of Article 15 of the Law of the Republic of Kazakhstan "On the Procedure and Conditions for Maintaining Persons in Special Institutions Ensuring Temporary Isolation from the Society", as well as paragraphs 28-30 of Order No. 368 of the Minister of Defense of the Republic of Kazakhstan dated 20.07.2017 "On Approval of the Rules of

Serving an Administrative Arrest by Servicemen at a Confinement Facilities of the Military Police of the Armed Forces of the Republic of Kazakhstan” established the right to receive parcels.

Meetings of the servicemen “placed at the confinement facilities with relatives and other persons, are conducted under the supervision of staff of the guardhouse. For this purpose, the checkpoint has a room divided by a partition made of organic glass with holes to exclude the transfer of any objects; this partition does not interfere with a conversation and visual communication. Persons who have received permits to meet servicemen placed in confinement facilities shall not be allowed to bring and use technical means of communication, computers, film-, photo-, audio-, video- and copying equipment without permission from the head of the military police unit or the persons who replace them. In the event of early

termination of the meeting, the confinement facilities employee responsible for it shall report this in writing to the head of the confinement facilities with the indication of the reason for terminating the meeting. In the event of a short-term termination of visits to servicemen placed in the confinement facilities (in connection with a quarantine, the introduction of the special conditions regime), the head of the confinement facilities shall inform the prosecutor in charge of enforcing the law in the guardhouse, the relevant judicial and investigation authorities, and a notice shall be posted at the checkpoint of the military police unit” (Shymkent). Meetings with relatives are held at the confinement facilities of Karaganda, Astana, Almaty, Shymkent (15 minutes) on the basis of an application, in the visiting room, with no more than two adults according to the schedule approved by the head of the confinement facilities. At the confinement facilities

in Astana, communication with relatives takes place through the partition (made of glass), the room has a table and chairs. In Semey there is a room for investigative actions, in which meetings with the defender can be conducted; the confinement facilities is regularly checked by employees from the military prosecutor's office, and corresponding records have been made in a special ledger.

As the head of the institution explained, the meetings with relatives are rare, since the arrested do not want their relatives to get to know about their placement in the confinement facilities (Almaty).

Correspondence, the possibility of sending mail, correspondence is possible through the officer on duty in the confinement facilities (Karaganda). Once a month arrested persons are allowed to receive and send at their own expense letters and telegrams in accordance with Part 2 of Article 86 of the CEC

of the Republic of Kazakhstan (Aktobe). The report of the NPM group on EKO stated: "Not established".

The library in the confinement facilities is arranged in a mini-bookcase for storing books and periodicals ("Egemen Kazakhstan", "Kazakhstanskaya Pravda", etc.) (Karaganda); there are books, magazines, military regulations (Aktobe); "only 4 books, fresh Kazakh newspapers: "Egemen Kazakhstan", "Kazakhstanskaya Pravda", "Sarbaz", and "Aibyn" magazine" (Astana); a small library, books in good condition, neat filings of newspapers ("Kazakhstanskaya Pravda", "Egemen Kazakhstan", "Rudnyi Altai", "Sarbaz", etc.) (Semey); "there is the right to use the filing of newspapers and magazines in Kazakh and Russian languages" (Almaty); "they are granted the right to use the filing of newspapers and magazines in the state and Russian languages" (Shymkent).

As far as telephone conversations are concerned,

NPM groups in Karaganda, Aktobe, Taldykorgan, Semey, Shymkent were not noted. Telephone conversations

with relatives may take place with the administration's permission on the basis of a verbal request at the detention facility in Astana. "Use of mobile phones is prohibited. In exceptional cases people under administrative detention may approach the head of the detention facility with a request to call their relatives" (Almaty).

The open air yard consists of two premises –one for the convicted and one for persons under administrative detention, where there is a bench and a shed

(Karaganda). A pull-up bar and parallel bars are available in Karaganda and Astana, and only one pull-up bar in Almaty. In Taldykorgan and Shymkent (and detention facilities of other regions) there is not any sports equipment and the yard is fenced off with a 3m

fence with metal mesh and barbed wire at the top.

In Aktobe, Astana and Shymkent open air time lasts at least one hour (in Aktobe 1.5 - 2 hours), by cells, during daytime; for pregnant military servicewomen - no less than 3 hours.

"Based on the statements of the representatives of the detention facility, officers are kept separately from servicemen, and taken for open air separately.

The open air time is determined by the detention facility administration taking into account the internal schedule and weather conditions. Open air time of the convict is subject to the decision of the head of the detention facility, guard (shift) commander and may be terminated early should he violate the Rules" (Aktobe).

There is an open air yard for 10 servicemen (Semey).

During detention, servicemen continue to improve their combat training according to the set schedule. Training takes place at the

drill field (Almaty).

“In the open air yard of the Taldykorgan detention facility there is a meshed premise resembling a cage, equipped with a lock.

The accompanying person explained that this was a premise for violent detainees. For physical activities of those under arrest there is a special premise equipped like a sports hall with sports equipment and fitness machines; the premise is separate, located across the drill field from the detention facility yard. It was not possible to clarify whether this was really the case and whether persons under arrest had access to the sports hall because detainees were not there” (Taldykorgan).

Complaints procedures.

Based on the report from visiting the detention facility in Karaganda it appears that each detainee is acquainted with the rules of

detention and their rights. However nothing is stated in relation to the confirmation of the above (log, journal, decree etc.). Due to the

absence of detainees at the detention facilities, the NPM groups could not ascertain whether the servicemen were aware of their rights, the complaints procedure, the lost remuneration during detention and non-inclusion of detention time in the overall conscription time.

Complaints are filed during the daily cell rounds (Almaty, Shymkent), during a personal appointment with the head (Almaty, Shymkent),

by way of a registration in the Book of suggestions (in Almaty there have been no entries since 2016, Shymkent), prosecutor’s complaints boxes (Taldykorgan, Astana, Semey, Shymkent; in Almaty the box was located on a window sill), hot lines (Almaty).

In case a petition is filed, it is included in the detained serviceman’s personal record (Shymkent).

In Shymkent the Head of the detention facility also receives relatives of detained servicemen and other persons in his office according to the schedule posted at the

information stand.

In Almaty and Shymkent detainees are given paper and pen, according to the detention facility administration.

NPM groups have not recorded any complaints or suggestions.

In Almaty there was no book of reprimands and encouragements for suspects and the accused according to the form under the "Rules";

in Taldykorgan the box "does not ensure the anonymity of the complaining party" It was recommended to install it. In Shymkent this box was found in a location not accessible to the servicemen - at the checkpoint.

Right to religious practice.

Paragraph 6 of the Law of the RK "On religious activities and religious associations" of 11.10.2011 #483-IV states that: "Each person has the right to religious and other beliefs".

Execution (conduct) of religious rites and services, ceremonies and (or) other meetings, as well as missionary

activities, are prohibited on the territory and

within the buildings: of the Armed Forces, other forces and military formations, other services related to public security, and the protection of life and health of persons, according to sub-item 2 item 3 article 7 of the Law of the RK "On religious activities and religious associations".

According to part 4 article 7 of the Law of the RK "On religious activities and religious associations", "Persons kept in special institutions that ensure

temporary isolation from the society, penitentiary institutions, or patients of healthcare organizations offering hospital care, persons receiving social support in disability and elderly residential institutions, *shall at their request or at the request of their relatives in case of ritual needs have clergy invited* from the religious associations registered in the order established by the legislation of the Republic of Kazakhstan. At the

same time the execution of religious rites, ceremonies and (or) meetings must not hinder the activities of the said organizations or violate rights and lawful interests of other persons”.

There are no special premises for religious rites in the detention facilities in Karaganda, Aktobe, Astana, Semey, Shymkent. NKM groups have not noted this during their visits to Taldykorgan and Almaty; execution of religious rites locally is not prohibited in Karaganda. According to staff, “it is prohibited to execute religious rites in the armed forces of the Republic of Kazakhstan” (Aktobe, Taldykorgan). “Each detainee has the right to religion without violating the daily routine of the institution” (Astana). “Within the framework of restrictions imposed by the Law of the RK “On religious activities and religious associations” (Semey). “In response to the question about the opportunity to practice

religion, the accompanying personnel noted that their institution, daily routine, do not foresee a religious component” (Almaty). “According to the acting head of detention Zatybekov K.G., there have been no believers among the detainees” (Shymkent).

Personnel training within the framework of CST is conducted regularly (Karaganda, Taldykorgan; in Astana - “according to the schedule”), another report says: “not envisaged” (Karaganda). CST is conducted once per month (Aktobe, Shymkent), at least for one hour in Shymkent.

It is noteworthy that the NPM group in Almaty noted copy-books with notes which point to the studies of the detention facility staff.

Subculture was not noted (Aktobe, Taldykorgan, Astana). NPM groups have not discovered any cases of torture.

The main conclusion of the analysis of the NPM group reports is: there is no

uniformity of practice in the approach to ensuring and observing the rights of

persons kept in detention: one thing may be the norm in one region, but not in the other (this applies to the following issues: radio outlets, deliveries, religious rites, medical kits, medical offices, conditions for food preparation and eating, lighting). At the same time previous consolidated reports did not assess the persistent situation.

NPM groups have issued the following recommendations to the detention facilities administrations:

Karaganda - 1: set up a medical office in the detention facility of the military police of the Karaganda garrison and procure a standard medical kit for first aid purposes;

Aktobe - 6: place information stands with the information on rights and responsibilities; establish sanitary facilities, faucets and drinking water containers; dismantle windows that restrict air intake; equip the

yard with sports equipment; procure kitchen ware.

Taldykorgan - 5: equip the detention facility yard with minimal sports equipment (pull-up bars, parallel bars); install forced ventilation in cells; conduct

regular preventive talks with the personnel to prevent torture and other inhumane and degrading types of treatment and punishment; install a complaints box to collect complaints and suggestions in a place accessible for detainees, and re-equip the windows in the cells in a way for the detainees to be able to open ventilation windows on their own;

Astana - 3: allocate a premise for the medical office equipped with the necessary medications to offer medical aid, and ensure round-the-clock availability

of medical personnel in the institution during the detention of people in the facility; install waste bins in the yard; supply fiction, textbooks and paper-based information resources to the

library of the institution;

Almaty - 3: Ministry of defense of the RK: develop an Order on the standards and sizes for cell-based detention in line with international and national norms;

detention management - place information with telephone numbers and addresses of the Human rights ombudsman of the RK, participants of the NPM in Almaty and Almaty province, superior authorities and prosecutors offices on the information stands located in the cells and corridors; strengthen artificial lighting in cells where windows are facing a tall wall, surrounding the internal territory and preventing natural light;

Shymkent - 3: install technical security devices (video cameras), shower diffuser, boxes for confidential complaints in a place accessible for the detainees.

The response of the military police department # 1937 dated 21.06.2017 states that requests had been made to install technical

security devices # 4541 dated 30.12.2017 and # 185 dated 20.01.2017; two other recommendations were fulfilled.

On the execution of recommendations submitted to detention facilities in 2016

In 2017 all recommendations were executed by the detention facility in Karaganda (checked during an interim visit).

The detention facility in Shymkent did not install video cameras in line with the NPM group's recommendation in 2016.

In Aktobe problems persist in relation to the absence of kitchen ware, equipment for food heating, dish cleaning, sports equipment, sanitary facilities and access to drinking water, personal hygiene; to serve a one-day detention the servicemen have to travel from Aktau for two days.

In Astana the following issues remain unresolved since 2016: remoteness of the medical personnel from the detention facility; cells

for arrestees do not satisfy sanitary norms.

The detention facility in Taldykorgan has executed four recommendations: dividers, soap boxes and hangers for loofahs were installed in the shower room;

toilet paper hangers were installed in the toilets; arrestee cells were equipped with a separate drinking glass for each arrestee; medical kits were equipped with cordiamin and nitroglycerin. One recommendation was fulfilled partially: the box for complaints and suggestions was procured, but not installed. Two recommendations were not fulfilled: hinged windows and forced ventilation were not installed.

The detention facility in Semey fulfilled four recommendations: the yard was equipped with sports equipment; information stands were equipped with templates for complaints and petitions, telephone numbers and addresses of the military prosecutor's office,

human rights institutions and organizations in the Republic of Kazakhstan; three cells were closed due to the absence of windows (for convicted servicewomen - 1 person, temporary detention rooms - 2 persons; interrogation room); cell doors with bars were replaced with doors with wickets; filling of the skirting on the outside of the detention building was completed. Two recommendations were partially fulfilled: medical office was established, reporting to the head of the detention facility; all outside cell windows were enlarged in line with the standards. Four recommendations were not fulfilled: build a new generic detention quarter; install wooden floors in the cells instead of concrete; arrange the presence of medical personnel at the detention facility during weekends and at night time (round the clock); install a bio-toilet in the cells for night time use.

7

The situation of persons detained in the institutions subordinated to the Ministry of Health

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One of the main human rights is the right of citizens to the protection of health and medical care. The Constitution of the Republic of Kazakhstan stipulates these rights and guarantees the protection of health and the provision of free medical care as set forth in the legislation.

Fulfillment of the constitutional rights of the citizens of Kazakhstan to the protection of health, quality medical care and state benefits is one of the main streams of the state healthcare policy.

In 2017 the NPM participants organized 107 visits of healthcare organizations in the regions of the RK, including:

- TB dispensaries, hospitals and TB offices - 47;
- psychiatric hospitals - 32;
- narcological hospitals - 28.

Compared to 2016, when 167 institutions were visited, the number of institutions visited declined, which is associated with the reduction in funding.

107 reports with recommendations were studied, generalized and analyzed, developed by the NPM participants from 15 regions of the Republic of Kazakhstan. The analysis of the reports uncovers and paints a valid picture of the situation with human rights in institutions under the mandate of NPM, reporting to the Ministry of health.

NPM participants in the course of their preventive visits to healthcare institutions in 2016 did not discover any specific (proven) cases and facts of torture in these institutions. At the same time a number of problems related to the violation of human rights were identified.

NPM participants noted that one half of the institutions reporting to the Ministry of health, visited by the NPM participants, were located in buildings and premises in need of capital refurbishment or of a transfer to generic purpose-built medical buildings. Minor refurbishment is needed in 80% of the visited institutions. A large portion of the visited

institutions are located in the buildings built in the second half of the previous century, and are not in line with the contemporary sanitary and epidemiological norms for patient residency in medical institutions.

One of the most widespread problems of closed institutions are the unsatisfactory sanitary and hygienic conditions. Most managers of treatment and prevention institutions are in no hurry to apply the provisions of the sanitary rules "Sanitary and epidemiological requirements for healthcare institutions" #127 dated February 24 2015. At the same time it is important to understand that the insufficient number of sanitary facilities and sinks, lack of personal hygiene resources, presence of outside toilets in anti-sanitary condition and other limitations of the normal sanitary and hygienic conditions are one of the forms of cruel and degrading treatment.

Despite numerous petitions to the MH RK, the issue of extra pay for

psychological and emotional pressure remains unresolved - healthcare personnel continuously works in immediate contact with ill people, whose alcoholism and drug addiction are exacerbated by psychological disorders, but the healthcare professionals receive no mark-ups to the salaries. It is necessary to re-initiate the request to the Ministry of health to introduce extra pay for psychological and emotional pressure for healthcare personnel.

There are some positive changes in the equipment of healthcare institutions with infrastructure for people with special needs: separate rooms were equipped and routes were established for wheelchair users. At the same time healthcare institutions in the majority of cases have not responded to the recommendations of NPM participants on the establishment of a relevant entity for people with special needs.

Narcological organizations for mandatory treatment

Overall the situation with medical services in this type of institutions is considered satisfactory.

Monitoring of narcological institutions, conversations with the personnel and the patients make it possible to conclude that there are systemic problems in the treatment approaches to people with dependencies.

There is no individualized approach to the treatment of patients, and the psychological treatment approach is a formality. Priority attention is given to drug-based treatment. It is necessary to expand the application of ergotherapy, psychotherapy, social work with the patients, in other words, rehabilitation activities.

Based on the comments, the following narcological institutions may be noted: city narcological center of social and medical correction, Almaty. Of special concern to the NPM participants in the course of this visit was the situation of women undergoing mandatory

treatment in department #2, because the women are restricted in their rights to visits, walks, rest, work, sufficient living standards.

There are significant issues with the enforcement of such patients' rights to dignity and security of person on part of the personnel of the department.

Furthermore, all patients undergoing mandatory treatment at the CNCMSC continue to complain about insufficient enforcement of their right to communication with the outside world in the form of visits by relatives because such visits are limited in time.

For TSPE "East Kazakhstan oblast narcological dispensary" in Ust-Kamenogorsk, in the opinion of NPM, the building of the narcological dispensary does not satisfy sanitary norms which significantly narrows the opportunities for successful treatment of drug and alcohol addiction. In this connection the rights of the patients to information, quality meals, comfort and personal hygiene are not fully

enforced. NPM participants in East Kazakhstan province also made a suggestion to UZ EKP to consider replacing the management of the EKP narcological dispensary which failed to address problems related to the activities of this healthcare institution. The problems are not being resolved and recommendations are ignored. At the same the recommendations are not hard to fulfill: equip the dispensary with infrastructure for people with special needs (ramps). There is a call button for people with special needs at the doors, but there is no infrastructure for the movement of this category of citizens; place the menu in the cafeteria every day; make the entertainment rooms more appealing (board games); resolve the issue of quality cleaning in the rooms because disorder was noted in many rooms; equip the territory of the yards with benches, gazebos, install waste bins.

As for SPE REM "Oblast narcological dispensary" of the Almaty province, in

the opinion of the group members, patients' stay in such an institution cannot be productive. The premise itself is not up to the established standards, which is noted in the report. Expensive drug therapy does not generate results; in the opinion of specialists, patients relapse as soon as they return home, and many spend years in it. In the opinion of the group participants, the ministries of health and justice should pay special attention to this entity because it is in need of drastic changes. Same conclusions were made by NPM participants for NKP after visiting the "Oblast narcological dispensary" of the Akimat of North Kazakhstan province: Patients have low motivation to get well, the assistance of relatives is limited. Rehabilitation programs are needed.

One should note that based on the results of inspections in 2016 no problems were identified in GKP PHV "ONRC" "Department under the Akmola oblast narcological hospital", Seleta v., Ereymentaussy district.

Reorganization of the medical complex into a branch of TSPE “Oblast narcological rehabilitation center” under the Health department of the Akim of Akmola province led the healthcare institution which dates back to 1982 to the verge of closure, despite it being a town-forming government medical institution that provides stable employment to 105 people. The reorganization was caused by the outflow of a significant portion of healthcare personnel which led to increased psychological and physical pressure on the remaining healthcare professionals, abolishment of payment for night shifts and reduction of salaries. Since this institution is located in a “dead end” quite far from the oblast narcological center (more than 400 kms), its transfer to the Selety settlement, an administrative unit of the Eremeytaussky district, led to its degradation whereas its deprivation of its legal and financial autonomy dooms it to a slow extinction.

There are difficulties related to any decision

including economic issues and the treatment process. NPM participants note that it would be more reasonable to give back its autonomy to this institution.

Psychiatric hospitals

During visits to various psychiatric and neuropsychiatric institutions, the NPM members identified various problems that need to be resolved.

It should be noted that the number of violations of patients’ rights in Almaty region is very much bewildering, despite the existence of the Republican Scientific and Practical Center for Mental Health there (Almaty), whose management positions itself as the followers of the leading scientific community in the treatment of mental illness. In particular, the following violations were detected in the Republican Scientific and Practical Center for Mental Health in Almaty: lack of legally guaranteed rights for telephone calls, absence of walks in the winter as a violation of human rights

amounting to degrading treatment. Experience shows that such patients need socialization. Long stays in the hospital alone will not be of use even for healthy person.

Most patients undergo voluntary treatment according to papers, but in fact, at the relatives' wish, being not recognized incompetent.

Patients are not informed about the procedure for discharge. All respondents do not know their diagnosis, are not informed about the treatment, about given drugs, preparations, their side effects, which is a direct violation of Article 91 of the Code "On the Health of the People and the Health System". Most respondents reported that their health condition worsened after hospitalization. Also the NPM members demand to provide patients with the necessary hygienic supplies, namely toilet paper, soap for individual use, toothpaste and brush, to ensure that women are provided with hygiene products (this recommendation has been

ignored from 2015).

In the children's unit there are no toilet bowls and urinals for children. The sink is in the bathroom. There is no soap or towels. According to the staff, the children go to the toilet accompanied and they are given toilet paper, and then they are escorted to the bathroom for washing hands. However, during our visit a child aged about 4-5 years old went alone to the toilet unaccompanied, without toilet paper, and after the toilet he did not go to the bathroom and did not wash his hands. Thus, the NPM members found out that there was only one tap and sink in the unit, and only one toilet for girls and one for boys.

The shower rooms are dirty in the narcology unit. The ceiling is covered with mold. Unauthorized "smoking rooms" are arranged in the hallway of the shower room and the male toilet. It has an untidy look. It smells damp. The ceiling is covered with mold.

The signs on all of the doors of units are only in the state language. Also, stands

relating to safety measures are only in the state language, which infringes the rights of patients. The NPM members in the Almaty region gave detailed recommendations to the management of the Republican Scientific and Practical Center for Mental Health to eliminate violations.

Mental Health Center, Almaty: In the medical case histories of children from the corrective children's home "Zhanuya" it was indicated that they were hospitalized for the purpose of behavior correction. The number of hospitalization of children for correction amounts to 17, 13, 6 times. The NPM members in Almaty region think that the so-called "difficult children" need real help, and not chemical control which is used in a psychiatric hospital. Moreover, children's homes have a whole staff of educators, psychologists, speech therapists, defectologists who are authorized to solve the problem of children's behavior and find the true cause of children's problems. While problems in the child's behavior are considered

not as a pedagogical task entrusted to caregivers and an institution, but as a medical problem of the child himself, the frequency of hospitalization will continue. It is necessary to stop this practice.

When talking to patients, many do not know when they will be discharged, do not know about their rights, that in case of voluntary admission they have the right to be discharged on the basis of their own application, i.e., they are dependent on the will of relatives. Patients are not provided with the necessary hygienic supplies, namely toilet paper, soap for individual use, toothpaste and brushes, women are not provided with sanitary pads, and pieces of sheets are given out instead of sanitary pads.

Some patients told their stories of hospitalization. We are telling the most "ordinary" one: "A nurse began to pull me, then hospital attendants and a nurse caught me and led to another room. They began to undress me violently, one of the attendants was a man (here a girl was crying), I was

frightened and began to undress myself, because they threatened that otherwise they would give an injection. I feared for my baby, because I was pregnant”.

Thus, cruel and degrading treatment is practiced by personnel of emergency psychiatric care and personnel in the reception room. Sanitization (bathing) of patients should be done without the participation of employees of the opposite sex. These seemingly simple rules are unknown to the employees of the regional medical institution.

Many psychiatric hospitals are located in buildings of an outdated type that do not meet modern requirements; the State Municipal Management Organization “East Kazakhstan Regional Psychiatric Hospital in the village of Novo-Kanayka” can be given as an example.

The NPM members in Astana, when visiting the Medical Center of Mental Health, noted overcrowding in the wards of the unit, insufficiency of bedside tables. In connection with the

overcrowding of the MCMH with patients, if possible, it is necessary to increase the number of wards (provide a bed for each patient), equip them with furniture. Also it is required to bring the number of sinks and toilet bowls into accordance with the norms.

Similar problems were noted in the Rudnenskaya Psychiatric Hospital of Kostanay Regional Health Department. In particular, the hospital needs to expand the area and do repairs. The norms of quadrature per bed are not observed, the group psychotherapy is not systemic in nature, and there are no logs reflecting the dynamics of psychotherapeutic processes. The individual activities are not recorded. There are no laws regulating the work of a psychologist. The treatment basically has a monotonous medication character and there are no rehabilitation measures. There is serious lack of psychiatrists, and a high workload on the doctor, which directly may affect the quality of treatment. Patients of Kostanay Regional Psychiatric Hospital



Photo #1. "Main" entrance to EK PH in Novo-Kanayka



Photo #2. Sink in the women's unit #2



Photo #3. Toilet in the women's unit



Photo #4. Toilet in the men's unit

complained of ill-treatment by medical personnel.

It should be noted that it is in the psychiatric institutions that the rights of patients are most violated. This is most likely due to the underlying disease of these people and the inability to assert their rights.

TB institutions

In quantitative terms, most often the NPM members in 2017 visited institutions for the treatment and prevention of tuberculosis. As in the past year, violations were in the field of sanitation and hygiene, food, dilapidated buildings of medical institutions, etc.

The NPM members noted numerous violations of Order No. 127 "Sanitary and Epidemiological Requirements for Health Facilities" dated 24.02.2015.

In particular, paragraph 29 - in the infectious, tuberculosis, dermatological and venereological units it is necessary to install washbasins with elbow operated or non-contact taps in the locks of boxes, semi-

boxes and personnel toilets, as well as provide pedal release valves for flushing cisterns in all toilets. There are no pedal release valves on the toilet bowls and this does not concern the management of TB institutions, which naturally leads to the incidence of tuberculosis among health professionals themselves.

Numerous violations of paragraph 69 of the abovementioned order have been identified in the units of the Regional TB Dispensary - elimination of current defects (liquidation of leaks on ceilings and walls, traces of dampness, mold, cracks, holes, potholes, restoration of delaminated tiles, flooring defects, etc.).

Provisions for disabled wheelchair users are lacking in certain areas, and toilets are not equipped with special appliances in the form of staples built into the wall, and there are no ramps.

In face-to-face communication with patients, the NPM members in SKR have revealed that the quality of the prepared food

is unsatisfactory, and an insufficient quantity of meat is cooked for dinner. The menu does not correspond to the planned one (Regional TB Dispensary in Shymkent). Also the floors in the premises of the buildings are wooden or covered with old linoleum and in each building there is a shower room and water heater which has been inactive for 2 months. Bedding and bed linen are in poor condition. There are no ceiling lamps in the wards. Toilet facilities are in working condition, but require replacement.

When visiting the Hospice for TB Patients in Aitekebi district with departmental subordination to the Health Office of Aktyubinsk region, the NPM members have noted that the situation in the hospice can be assessed as unsatisfactory. The atmosphere is depressing. In addition, it is worth noting that the medical staff is not doing proper work with patients and there is no psychologist. In particular, some patients were drunk during the visit of the NPM group. The health workers

themselves did not know how patients brought alcohol into the institution. Moreover, one of the security officers, who was on duty during the monitoring, was also drunk. He smelled of alcohol. Thus, it can be concluded that security officers provide for the transfer of alcoholic beverages to the territory of the institution.

The problem with drinking water remains in the Temir District TB Hospital in Shubar village (this is a medical institution of an infectious profile!). Patients from remote areas of the region stay in a medical institution for a long time and relatives cannot always visit them provide them with drinking water, or periodic printing. For these reasons it is necessary to solve the problem of providing drinking water and newspapers.

TB sanatoriums do not always meet their intended purpose. According to the results of the visit, the following recommendations were given to Children's TB Sanatorium "Kunshuak" in Taldykurgan: solve the

problem with the repair of shower taps, buy mats for the bath so that children do not touch the concrete floor with their feet. Children's leisure in the open air is not organized in the institution of a sanatorium type. It is necessary to equip playgrounds (playgrounds and sports grounds are not properly equipped). The territory of the sanatorium should be improved since the territory adjacent to sleeping buildings is not well-developed and the asphalt paths are in a depressing state (pits and ruts). It is necessary to provide children with hospital linen (mattresses and pillows) in proper condition.

The problem of socio-psychological support of patients under compulsory treatment still remains. And given that the majority of patients have a concomitant diagnosis: mental and behavioral disorders due to alcohol and opioid use (diagnoses are determined and confirmed during passing the Centralized Medical Advisory Commission), behavioral disorders intensify against the background of a

lack of structured activity: there is no labor practice for sick people in the day regimen which leads to the destruction of work skills and personal structures that can lead to emotional outbursts and interpersonal conflicts between patients, between patients and medical staff, patients and security officers. In addition, the lack of the prospect of an early discharge from the hospital provokes a manifestation of psychosomatic symptoms: irritation, emotional fatigue from monotony, including food, a sense of being cornered, etc. By half of the period of compulsory treatment, patients are in a state of acute psychological crisis.

Conclusions and recommendations

The conclusions and recommendations of the NPM members who visited health facilities in the period under review are based on the norms of the current legislation of the Republic of Kazakhstan and international

standards.

Most of the recommendations of the NPM members are concrete proposals for the regional administration, administration of institutions and management of agencies to eliminate inconsistencies in living quarters, sanitary and hygienic conditions, medical services, food conditions, conditions for sport and communication with the outside world (access to media, visits, telephone conversations), etc.

It is submitted that a set of such proposals (recommendations) for the regions should be taken under the control of the Ministry of Health, the staff of the General Prosecutor's Office of the Republic of Kazakhstan to adopt measures of prosecution response provided by law.

The majority of problems in health facilities visited are related to the lack or underdevelopment of rehabilitation in patients' therapy. This is especially true for psychiatric hospitals where the system

of providing psychiatric care, despite significant improvements at the legal level, follows the historically established procedure when it performs the functions of controlling, deterring, limiting and isolating patients. Lack of activities by interests and passive pastime lead to further degradation of a person, loss of social, household and life skills. To date, very few measures have been taken to create alternative types of psychiatric services, as well as to de-institutionalize the existing system.

MINISTRY OF HEALTH AND ITS LOCAL UNITS:

1. It is necessary to continue constant information work among staff of both central authorities and subordinate, territorial, local units and institutions on the importance and significance of the national preventive mechanism for combating torture and degrading treatment. It is necessary to take administrative measures to the heads of medical

institutions who do not comply with the provisions of regulatory and legal acts of the Republic of Kazakhstan and allow themselves not to fulfill/ignore the provisions of the Code “On the Health of the People and the Health System”;

2. The management of medical institutions should strictly observe the rights of patients (Article 91 of the Code “On the Health of the People and the Health System”), the current SanPiN norms for providing patients with hospital linen and equipment, observe food standards, issue soap, detergents and other hygiene products. Furthermore, the management and medical institutions should not infringe patients’ right to daily walks and communication with the outside world, especially in psychiatric institutions where patients do not have the opportunity to communicate freely with relatives by telephone;

3. Administrations of medical institutions should bring the hospitals in line with the sanitary rules of

“Sanitary and Epidemiological Requirements for Health Facilities” approved by order No. 127 of the acting Minister of National Economy of the Republic of Kazakhstan dated 24 February 2015, especially sanitary units, plumbing communications and devices (both in quality and quantity);

4. The Ministry of Health should immediately consider the issue of including the elements of occupational therapy, psychotherapy, social work with patients, i.e. rehabilitation, in the treatment process. The Ministry should also increase the number of social workers and lawyers to strengthen the rehabilitation and help patients in case of violation of their rights (property, civil, etc.). It is known that people with intellectual disabilities and mental illnesses cannot often organize their lives, protect their civil, economic, educational, housing and other rights. Therefore, they need comprehensive support, including socio-legal, socio-pedagogical and other types of services. The services that people with mental

disabilities and psychiatric illnesses need include life escort and protection of rights, ensuring safety and, if necessary, household services, hygiene, technical aids and means of care. These services are important and should be included in the rehabilitation and patient care at the inpatient stage;

5. Medical institutions that have received the recommendations of the NPM members after a preventive visit should take all possible measures within the available budget to eliminate all deficiencies in the conditions of keeping and treatment of patients;

6. Conditions for wheelchair users shall be provided in all hospitals;

7. Administrations of medical institutions shall provide patients of psychiatric institutions with the right of patients to privacy. This right is enshrined in the Principles for the Protection of Mentally Ill Persons and the Improvement of Mental Health Care adopted by the UN General Assembly in resolution 46/119 dated

17.12.1991: "Any patient in a psychiatric institution has the right to privacy";

THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN:

8. The Ministry of Health shall submit proposals to the Republican budget for the construction of new buildings and premises for medical organizations located currently in unfit buildings that do not meet the profile requirements.

8

The situation with minors in institutions subordinate to the Ministries of Education and Science, Internal Affairs and Health of the Republic of Kazakhstan

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The situation of children in closed institutions under the mandate of the National Preventive Mechanism (hereinafter NPM) of the Republic of Kazakhstan includes an analysis of the situation of children in Kazakhstan in terms of conditions and risk factors for the positive development of the child. The issues relate primarily to the prevention of torture, cruel or degrading treatment and punishment, and directly affect health, child safety, access to education and comprehensive development.

Over the past 4 years, many things have been accomplished: infant and child mortality has decreased several times, a network of children's institutions has been rebuilt, new schools are being built, children are involved in new types of extracurricular activities and they have the opportunity to expand their horizons and skills in additional education organizations, through cultural events or

communication with nature, etc. In this regard, it is proposed to strengthen the work of existing institutions and units of local executive bodies and join forces in the best interests of the child in accordance with Article 6 of the Law "On the Rights of the Child". Legal protection covers all spheres of the life of minors: upbringing, education, health, labor, social security, leisure, as well as legal protection of children in the sphere of administration of justice. An effective policy of the best interests of the child under Article 3 of the UN Convention on the Rights of the Child, Comments of the General Order No. 14 (2013) of the UN Committee is impossible without systematic work and a unified strategy. After the completion of the state program "Children of Kazakhstan" in 2011 and up to the present, no strategy or national plan of action for children's rights has been adopted. In particular, the Plan of Action for Human

Rights and the Child has not been developed. The Civil Society prepared the National Action Plan for Human Rights for 2017-2021, which includes the Concept and 23 thematic sections, one of which is devoted to the rights of the child.

This report seeks to identify the situation regarding respect for the rights of the child in closed institutions subject to the NPM mandate in order to identify the necessary measures to improve the situation in the realization of the rights of children and protection of their interests. The NPM members on the prevention of torture in monitoring these institutions of the Ministries of Education and Science, Internal Affairs and Health of the Republic of Kazakhstan investigated the situation related to respect for children's rights in these institutions in terms of maintaining human dignity, the constitutional principle of its inviolability, consequences or conditions of cruel

or degrading treatment, punishment or torture.

This report was prepared on the basis of written reports on the visit in a form approved by the NPM Coordination Council under the Commissioner for Human Rights. The report has been signed by all members of the group who have made a preventive visit. The NPM members used a variety of methods to collect information about the conditions of stay and the attitude of staff towards minors in the institution, primarily by paying attention to respect for human dignity. Conversations are conducted with children kept in institutions and organizations subject to preventive visits and (or) their legal representatives without witnesses, as well as with employees; monitoring of the behavior of minors is carried out; the documentation on the management of the case (case) is studied, complaints and reports about the use of degrading treatment and

punishment are accepted; the answers of the Ministries of Health, Education and Science, Internal Affairs of the Republic of Kazakhstan on the implementation of the recommendations made by the NPM members for the creation of favorable conditions for the stay of minors in closed institutions and friendly attitude towards them are studied.

Resolution of the Government of the Republic of Kazakhstan No. 266 dated 26 March 2014 defines rules for preventive visits by groups formed from members of the national preventive mechanism, as well as types of preventive visits (periodic, intermediate, special).

The NPM members attending children's institutions show respect for minors who are in institutions and organizations, as well as for the staff of these institutions and organizations. The NPM members maintain confidentiality and do not disclose the personal data of persons which became

known during preventive visits. During visits the NPM members are guided by the legislation of the Republic of Kazakhstan, which regulates the NPM and act in the best interests of the child.

The dynamics of the birth rate of children in Kazakhstan shows its growth. According to the Committee for Statistics of the Ministry of National Economy of the Republic of Kazakhstan, the number of children aged 0-17 years was 5 623 387 children, with a ratio of 51/49 (boys / girls).

Number of children aged 0-17 years by regions, 2017.

In Kazakhstan, as of the beginning of 2017 in total 2 618 044 children (47%) lived in rural areas and 3 005 343 (53%) of the total number of children aged 0-17 years in the urban area. Most rural children lived in the South Kazakhstan.

Based on the content of the Optional Protocol (Article 4), the system of regular visits of NPM should cover all places under the jurisdiction and

Regions	General population			Urban population			Rural population		
	Total	girls	boys	Total	Boys	girls	Total	boys	girls
Kazakhstan	5623387	2 889 156	2734231	3005343	1 547 558	1457785	2618044	1 341 598	1276446
Akmola	196 956	101 073	95 883	93 510	48 185	45 325	103 446	52 888	50 558
Aktobe	261 022	134 536	126 486	160 604	82 958	77 646	100 418	51 578	48 840
Almaty	668 697	343 194	325 503	158 525	81 403	77 122	510 172	261 791	248 381
Atyrau	220 884	113 554	107 330	106 251	54 507	51 744	114 633	59 047	55 586
WKR	182 762	94 344	88 418	88 850	45 669	43 181	93 912	48 675	45 237
Zhambyl	414 730	212 819	201 911	159 524	82 114	77 410	255 206	130 705	124 501
Karaganda	368 208	188 586	179 622	285 265	146 165	139 100	82 943	42 421	40 522
Kostanay	205 593	105 410	100 183	105 395	54 278	51 117	100 198	51 132	49 066
Kyzylorda	287 083	147 442	139 641	126 543	65 040	61 503	160 540	82 402	78 138
Mangistau	245 315	126 535	118 780	99 219	52 487	46 732	146 096	74 048	72 048
SKR	1167684	598 956	568 728	512 242	263 577	248 665	655 442	335 379	320 063
Pavlodar	191 829	98 576	93 253	129 334	66 316	63 018	62 495	32 260	30 235
NKR	135 903	70 092	65 811	55 332	28 646	26 686	80 571	41 446	39 125
EKR	353 330	181 288	172 042	201 358	103 462	97 896	151 972	77 826	74 146
Astana city	298 360	153 197	145 163	298 360	153 197	145 163	-	-	-
Almaty city	425 031	219 554	205 477	425 031	219 554	205 477	-	-	-

Source: operational data of the Committee for Statistics of the Ministry of National Economy of the Republic of Kazakhstan

control of the State “where persons who are deprived of their liberty are held or may be held by order of the state body or at its direction, or with its knowledge or tacit consent (hereinafter referred to as places of detention)”. At the same time, “deprivation of liberty means any form of detention or imprisonment or placing a person in a public or private place of detention that this person does not have the right to leave of their own will, by order of

any judicial, administrative or other authority”. Today the institutions where juveniles are placed are under the NPM’s competence: penitentiary system (institutions of the penitentiary system, investigatory isolators of the NSC), internal affairs bodies (temporary detention facilities, special reception centers), public health institutions (psychiatric, narcological, TB hospitals), education (Centers for Adaptation of Minors, special

educational institutions for children with deviant behavior, with a special regime).

The NPM members when visiting closed children's institutions act in accordance with the legislation of the Republic of Kazakhstan in the field of the protection of children's rights: the provisions of the Constitution of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan "On the Rights of the Child in the Republic of Kazakhstan", and also the Codes of the Republic of Kazakhstan "On Health of the People and the Healthcare System", "On Marriage and Family", the Laws of the Republic of Kazakhstan "On Social and Medico-Pedagogical Correctional Support for Children with Disabilities", "On the Prevention of Juvenile Delinquency, Child Neglect and Homelessness", "On Education" and other legal documents.

The work is underway in the republic to implement the legal framework and apply

the provisions of international legal instruments in practice. Approximately 60 international human rights instruments have been ratified, 15 of them concern the protection of children's rights: the UN Convention on the Rights of the Child; the UN Convention on the Elimination of All Forms of Racial Discrimination; ILO on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor; the UN Convention on the Rights of Persons with Disabilities; "On Combating Discrimination in the Field of Education" and other.

Decrees and Resolutions in the field of protection of children's rights:

1. Resolution of the Government of the Republic of Kazakhstan No. 983 dated 18.09.2013 "On Approval of the Register of Public Services"

Resolution of the Government of the Republic of Kazakhstan No. 102 dated 3 March 2017 "On

Amendments to Resolution of the Government of the Republic of Kazakhstan No. 754 dated 20 July 2005 “On Approval of the List of Technical Auxiliary (Compensatory) Means and Special Means of Travel Provided to the Disabled”.

3. Resolution of the Government of the Republic of Kazakhstan No. 176 dated 6 April 2017 “On Amendments and Additions to Resolution of the Government of the Republic of Kazakhstan No. 1131 dated 23 October 2014 “On Approval of the Rules for Providing Socio-Legal Assistance to Persons who are Registered with the Probation Service”.

NLAs in the field of protection of children’s rights:

1. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 84 dated 24.02.2017 “On Amendments to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 198 dated 13 April 2015 “On Approval of

Standards of Public Services Provided in the Sphere of Family and Children”.

2. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 48 dated 6 February 2017 “On Amendments to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 557 dated 10 September 2015 “On Approval of the Minimum Social Standard of “Ensuring the Protection of the Rights and Interests of Children”.

3. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 251 dated 29.05.2017 “On Amendments and Additions to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 412 dated 30.06.2016 “On Approval of the Rules for the Acquisition of Goods and Services of Organizations that Perform Functions to Protect the Rights of the Child”.

4. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 285 dated 15.07.2017 “On

Amendments and Additions to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 198 dated 13 April 2015 “On Approval of the Standards of Public Services Provided in the Sphere of Family and Children”.

5. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 51 dated 6 February 2017 “On Amendments to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 528 dated 13 August 2015 “On Approval of Regulations of Public Services in the Sphere of Education and Science”.

6. Order of the Ministry of Education and Science of the Republic of Kazakhstan No. 60 dated 13 February 2017 “On Amendments to the Order of the Minister of Education and Science of the Republic of Kazakhstan No. 375 dated 17 September 2013 “On Approval of the Standard Operating Rules by Types of General Education Organizations (Primary,

Basic Secondary and General Secondary Education)”).

7. Order of the Ministry of Health of the Republic of Kazakhstan No. 39 dated 27 February 2017 “On Amending the Order of the Minister of Health and Social Development of the Republic of Kazakhstan No. 238 dated 7 April 2010 “On Approval of Model Personnel Establishment and Staff Standards of Health Organizations”.

8. Order of the Minister of Health and Social Development of the Republic of Kazakhstan No. 272 dated 27.04.2015 “On Approval of Standards of Public Health Services”.

9. Order of the Minister of Civil Service Affairs of the Republic of Kazakhstan No. 35 dated 16.02.2016 “On Approval of the Rules of State Control over the Quality of Provision of Public Services”

10. Order of the Ministry of Health of the Republic of Kazakhstan No. 41 dated 27 February 2017 “On Amending the Order of the Minister of Health and Social

Development of the Republic of Kazakhstan No. 85 dated 3 February 2016 “On Approval of the Standard for Providing Primary Health Care in the Republic of Kazakhstan”.

11. Order of the Ministry of Health of the Republic of Kazakhstan No. 423 dated 15 June 2017 “On Approval of the Rules for the Application of Chemical Castration” 6. Order of the Ministry of Health of the Republic of Kazakhstan No. 611 dated 16 August 2017 “On Sanitary Regulations of “Sanitary and Epidemiological Requirements for Education Objects”.

12. A draft road map for the development of the mental health service of the Republic of Kazakhstan for 2017-2018 has been developed within the framework of the State Health Development Program of the Republic of Kazakhstan “Densauyk” for 2016-2019. At present it is at the stage of coordination with the structural subdivisions.

Special educational organizations of the Ministry of Education and Science of the Republic of Kazakhstan for children with deviant behavior.

Members of the National Preventive Mechanism visit the Centers for Adaptation of Minors, special educational organizations and educational organizations with a special regime of keeping in accordance with the Law of the Republic of Kazakhstan “On the Prevention of Juvenile Delinquency, Child Neglect and Homelessness”. For the entire reporting period, all NPM members throughout the country assessed as satisfactory the situation in the visited institutions subordinated to the Ministry of Education and Science of the Republic of Kazakhstan.

In the educational system, 7 organizations of education for children with deviant behavior (Almaty, East Kazakhstan, Zhambyl, Karaganda, Kyzylorda, Mangistau, South-Kazakhstan regions) and 1 education organization with

special regime of keeping (Belousovka village, East Kazakhstan) are currently subject to attendance by members of the National Preventive Mechanism.

In Kazakhstan, special organizations for children with deviant behavior function and are managed by local executive bodies. Juveniles aged 11 to 18 years who systematically commit offenses involving administrative measures; evading systematically from the acquisition of primary, basic secondary and general secondary education; systematically making unauthorized withdrawals from the family and children's educational organizations; performing other antisocial actions are placed for a period of one month to one year in these organizations on the basis of a court order.

During the period of 2017, the NPM members made 7 visits to special educational institutions. Based on the results of visits of the NPM members to special educational organizations

for children with deviant behavior (hereinafter referred to as the "SEOCDB"), the situation is as follows:

The NPM members in Almaty city and Almaty region visited the Special Educational Organization for Children with Deviant Behavior in January 2017. The SEOCDB in Almaty rely on monitoring the implementation of the previous recommendations of the NPM members and the results of group and individual confidential meetings with children in the SEOCDB. When speaking with children, there were no complaints about the quality of medical care. According to the administration, the legitimate rights of children to study, work, communicate with loved ones are not violated. Relatives can visit children at any free time. Children cannot use their own cell phones, but they can use the city phone freely. In addition, they can make cell calls from the tutor's phone and there are no special obstacles to this. Children themselves confirmed this information.

It should be noted that the management of the institution carried out the recommendation of the previous visit - a stand with information on the rights and duties of children, and telephone hotlines and contact details of human rights institutions have been installed.

The atmosphere is healthy and there are no conflict situations between children and the pedagogical staff. One feels the attachment of children to a teacher, a respectful attitude towards teachers. The management of the institution shows sincere concern about the fates of children from orphanages, especially those who do not have home. It takes an active part in solving the issues of further education in the college and residence of minors with sports achievements. To date, the issue of reorganization of the SEOCDB is on the agenda.

As of 27 January 2017 by decision of the courts in total 47 children are being brought in the SEOCDB, of which:

boys - 24, girls - 23.

In the context of the regions, they came from:

- *Almaty* - 19
- *Almaty region* - 20
- *West Kazakhstan region* - 6
- *North-Kazakhstan region* - 2

The duration of each child's stay in the special educational organization is strictly observed: children are admitted to the SEOCDB only after the court decision comes into force and leaves strictly after the deadline specified in the court's decision. When the children leave the SEOCDB, in accordance with the requirements of the law, the administration of the special organization, not later than 1 month before the end of the period of stay, sends a notice to the Commission for the Affairs of Minors and Protection of Their Rights at the place of residence about children's leaving accompanied by characteristics-recommendations to monitor the behavior of these children and to assist them in further

household arrangements, training and employment. It is felt that the attachment of children to caregivers, respectful attitude towards teachers. The management of the institution takes sincere care of the fates of children in orphanages, especially those who do not have homes and it takes an active part in solving the issues of further education in the college and the residence of minors with sports achievements. The NPM members note that communication with relatives is not violated, but given that children come from different parts of the country, it is unlikely that relatives have the opportunity to come from West Kazakhstan or South Kazakhstan.

- *In the SEOCDB in Aktau* and other cities there is also positive situation. The NPM members note that torture and ill-treatment have not been detected. Conditions of keeping and educational process can be assessed as satisfactory.

- Another situation arose in *Kyzylorda Regional*

Boarding School for Children with Deviant Behavior, in which major repairs of the building had not been carried out since 2013. At the time of monitoring, current repairs of premises and sanitary units were being carried out. The building is maintained through cosmetic repairs. The territory is poorly landscaped. There are no ventilation systems in the rooms. The furniture is obsolete, children do not have enough chairs and there is a lack of wardrobes for clothes and shoes. Hot water is supplied through the Ariston water heating equipment. There is no sports hall. Children do not have access to computer technology or the Internet. Of particular concern was the fact that notwithstanding that in the warm season children could engage in physical exercise on the sports ground, in November it was revealed that, according to the children, they were not allowed to walk in the territory of the boarding school, which violated the rights of children. Communication

with parents and the outside world is not supported. Visits are practiced, according to the educators, parents visit their children very rarely. The management of the institution does not contribute to the establishment of such communication, which violates the rights of children to communicate with the outside world. Mobile phones are kept by educators, it is forbidden to talk with parents, which violates the rights of minors. For 9 months a minor D. had no connection with her parents, in March a minor A. was given 1 phone call for 1 minute by the city phone installed in the reception room. During a visit in March 2017, the temperature of the air in the sleeping rooms was below the norm of 17°C, children said that it was very cold at night. At the time of monitoring, hot water was turned off, due to the non-working condition of the bathroom. Accordingly, the children could not use the bathroom for a week. In the dining room there was a general

dispensary with drinking water, but the water bottle was empty, and there was no water or disposable glasses. There were no medicines to provide emergency care. The recommendations to landscape the territory, to revise the reduction of the number of children at boarding schools amounting to 30 people (taking into account the total area of sleeping rooms for boys and girls of 46.3 m², respectively, to 22 people (11 boys and 11 girls), to provide washbasins and towels in the dining room, to install a three-cell sink were not implemented. Also the recommendation to provide training and access for children to a computer with the Internet, appoint a responsible person for monitoring their use according to the approved plan was not implemented.

- As a result of the visit to the Municipal Public Institution *Boarding School for Children with Deviant Behavior in Kentau*, the NPM members in the South of Kazakhstan came to the

following conclusions: Housing conditions (living quarters) correspond to the norms for the residence of underage children, namely, there is control of cleanliness, ventilation, air temperature in the room, change of bed linen. However, the furniture in the boarding school is old and requires replacement. There is no isolator for primary admission of minors. Sanitary and hygienic conditions are satisfactory. The food conditions correspond to the general requirements of the institution for underage children. There are conditions for distribution and reception of food, schedule, cleanliness and adequacy of dishes, seats in the dining room, taking into account the age characteristics of children. The furniture in the dining room is old and requires replacement. Medical care is provided by a medical professional. Minors can easily use the services of medical personnel and medical equipment. In the boarding school there is a box for filing confidential complaints. There is no access

to external mechanisms for making complaints that are independent of the institution's management (national helpline for children and youth No. 150). The management of the boarding school does not prohibit minors from professing their religion and carrying out religious rites, but there are no special places for religious rites.

- Members of the National Preventive Mechanism in Mangistau region visited *the Regional Special Boarding School for Children with Deviant Behavior* of the Education Department of Mangistau region in August 2017.

The institution is in good condition, but the location of the institution is a matter of concern. The institution is located next to the building of the pre-trial detention center. The view from the windows overlooks the barbed wire and into the neighboring prison yard. Following the visit, the following recommendations were made: to resolve the

issue of installing a fence or removing barbed wire from the fence of a neighboring institution and equip the summer area.

- *Specialized Boarding School in Belousovka village.* The only Regional Specialized Boarding School in Belousovka village was created by the decision of the East Kazakhstan Akimat No. 330 dated 28.12.2002. The founder of the specialized school in Belousovka village is the East Kazakhstan Regional Akimat. The authorized body of the relevant industry, as well as the body exercising the functions of the subject of law in relation to the property of the institution, is the State Administration of Education of the East Kazakhstan region.

As part of the report prepared by the NPM members in East Kazakhstan, according to the administration of the Municipal Public Institution "Regional specialized boarding school for minors who committed criminal acts before they reach the age at which they are responsible"

for persons who have not reached their majority, the period of stay is from 2 months to 2 years.

Minors from all over Kazakhstan subject to the jurisdiction of this institution are referred to the Municipal Public Institution "Regional specialized boarding school for minors who committed criminal acts before they reached the age at which they are responsible". Given the large length of the territory of Kazakhstan, many families do not have the opportunity to maintain socially useful links with the child.

According to the NPM members in East Kazakhstan, children are kept in a closed institution, and the mail is compiled in the presence of a tutor or psychologist. Cell phones, piercing and cutting objects are prohibited. The reason for the ban of cell phones in the institution is explained by the fact that parents, acquaintances, relatives with their messages destabilize the psychological condition of children, which leads to violation of discipline,

provocation of shoots and suicidal tendencies. Given that children come to this institution from different parts of the country and they need to realize their right to communicate with the outside world, an individual approach is required when allowing or prohibiting the use of a cellular phone.

In the boarding school there are all conditions for the socialization of minors' adaptation. There is a computer class (5 computers), an annual comprehensive program for the labor camp and rest.

Most of the teenagers were brought up in disadvantaged families, many of them have a certain baggage of negative social experience and low level of social immunity formation. The psychologists of the boarding school Mukaeva Kuralay Toktarkhanovna conducts corrective classes, group trainings, tests for suicidal risk, and cognitive processes for studying and anxiety. The moral, psychological, emotional and behavioral

sphere of minors requires correction and positive motivation for development.

Due to the small area, the gym is not suitable for conducting such activities as volleyball, basketball. According to the polls of children in the winter they would like to engage in such sports indoors. A summer playground for these sports is available and children play sports on it all their free time.

The average general education of minors in the Institution is differentiated taking into account their age and individual characteristics, by socially useful work and a diverse network of circles. The equalization program is applied for minors with a large pedagogical neglect. According to the teachers, children entering specialized institutions often do not even have an initial educational base, although they reach the age of 11-18 years.

Children in institutions are familiar with the existing complaint mechanism. There is a stand "Childhood without cruelty and violence" with

telephone helplines. At the time of the inspection, there were no complaints about employees and other educational institutions. A team of teachers conducts systematic and purposeful work on the themes of counteracting torture, humiliating human dignity.

The NPM members have revealed that the distribution norms do not correspond to the actual needs of children (for example, socks - 3 pairs per year, pants, T-shirts - 2 pairs per year, etc.).

Unfortunately, in this Institution there is no communication with other educational organizations; career guidance work is not carried out with children. In the Institution there is a single room for labor training, complete with drilling and turning machines to train minors. Children are willing to engage in this type of activity, but they have virtually no ideas about other professions (welders, machine operators and other specialties). Communication with the existing college in

the village of Belousovka is not established.

According to the teachers themselves, there is a need to organize retraining and further training courses for working with this contingent of children.

Minors leaving the Institution ahead of schedule or due to the expiration of the period determined by the court are sent to the place of their further arrangement accompanied by parents or persons who replace them, and in case of their inability to arrive - accompanied by the employees of the Institution at the expense of the Institution.

When inspecting the organization, the NPM members did not observe any negative phenomena related to humiliation of human dignity and cruel treatment, punishment or torture. The relationship between staff and children is friendly.

Conclusions and

recommendations of the Ministry of Education and Science in the

1. Consider the possibility of analyzing the situation of the rights and legitimate interests of minors in a specialized boarding school and schools for children with deviant behavior (the grounds for the placement, including the judicial procedure, delivery and referral of a person to the institution).

2. Develop a Strategic Plan to improve the quality of life of children in Kazakhstan, based on the best interests of the child, providing for the creation of effective mechanisms for its implementation, provided with sufficient human, technical and financial resources, with mandatory inclusion of issues of improving juvenile justice.

3. Create family and living conditions close to the family type model: sleeping rooms for 2-3 children, increase the number of social educators, introduce best practices in the best interests of the child.

4. When making a decision

on the placement of a child in a specialized educational organization, the court must take into account the place of residence of family members or legal representatives in order to maintain contact with relatives, family members.

5. Ensure the exercise of the right to communicate with parents and the outside world through video communication, skype conferences and other forms.

6. Continue work on planning the conduct of classes with staff on this topic: not all institutions' staff are informed of the activities of the NPM, about its goals and objectives, there is no systematic training and skills development of specialists in working with children, developing communication skills, identifying victims of cruel and humiliating human dignity of treatment.

7. Carry out work on informing minors about their rights and obligations, the regime of the institution, the disciplinary requirements, the procedure for submitting proposals, applications and

complaints, the number of the National Helpline 150 for children and youth in two languages, the procedure for filing complaints and appeals with samples of applications to the relevant authorities, telephone hotlines, prosecutor's office, the Ombudsman for Human Rights and non-governmental organizations, NPM, by placing information stands in places accessible for daily viewing of children and their parents.

8. Train personnel to prohibit torture and other cruel, inhuman or degrading treatment or punishment, identify and respond to specific cases of torture and other cases of cruel or degrading treatment that may be inflicted on children in institutions (involving human rights experts).

9. Conduct surveys to identify the level of knowledge of minors when entering such institutions and adjust programs in accordance with the identified educational base, and also not to apply to them the programs of

general education school and the system of monitoring knowledge, skills, abilities in accordance with the standard.

10. Conduct training in child-friendly policy for staff of security services of institutions.

11. Revise the rules concerning the distribution of clothing, footwear, and textile products in accordance with the needs, taking into account the contingent of children in this Institution.

12. Conduct surveys to identify the level of knowledge when referring and admitting to similar institutions to determine the level of knowledge and adjust training programs in accordance with the identified education base.

Recommendations for a specialized boarding school in Belousovka

1. Akimat of East Kazakhstan region: review the plan for transferring this special school to the Kokpektinsky district of East Kazakhstan region (200 km from the regional center).

Redeployment of the special school will lead to the loss of the teaching staff of the educational institution, and with it the established traditions and experience with young offenders will disappear.

2. **MANAGING Employment and Social Programs of East Kazakhstan region:** to create a unified system of monitoring graduates in order to protect their interests (in retraining, vocational training and subsequent job placement).

3. **Management of the State Labor Inspectorate of the East Kazakhstan region:** in accordance with the Constitution of the Republic of Kazakhstan and labor legislation, everyone has the right to work. A graduate of a specialized institution that has reached the age of 18, having received certain skills and professions, needs an employment. In cooperation with the Office for Coordination and Social Protection of the Population, work out a system of employment for young

people who has graduated from the special schools.

4. **Department of Health of EKR:** The Health Department shall create a centralized distribution base of medical workers from medical institutions licensed for this type of activity. Considering the specifics of the work of the institution and the contingent of those who are being educated, many specialists do not go to work for this organization. There is a high turnover of medical staff.

5. **The guidance to the specialized boarding school:**

Consider the possibility of installing toilet room with doors.

MES RK Minors Adaptation Centers.

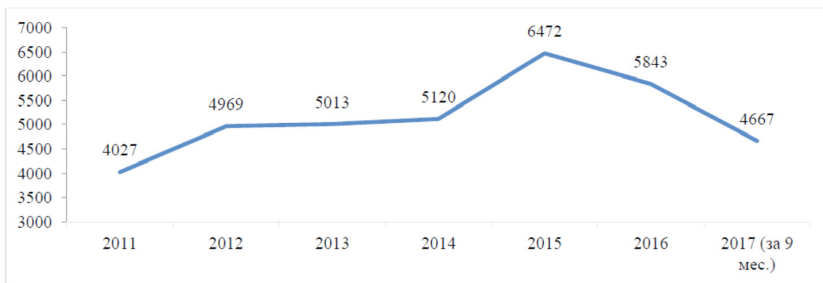
In the education system, 20 Minors Adaptation Centers (hereinafter referred to as the "MAC") are to be visited by participants of the national preventive mechanism, 13 of them in the regional centers, and 5 in the cities of Astana, Almaty, Semey, Zhezkazgan and Temirtau. The order of

the MAC activity is regulated by the order of the Ministry of Education and Science of the Republic of Kazakhstan dated June 18, 2013 No. 229 “On the approval by the standard operating rules of the types of educational organizations for orphans and children left without parental care” and “Model Rules for the Care of Minors in the Adaptation Centers” . The MAC provide reception and temporary care of watchless and homeless minors aged 3 to 18 years, left without the care of parents or persons who replace them,

In the dynamics for the period from 2011 to 2016, it can be noted that until 2015 the number of children has steadily increased, in 2016 there has been a slight decrease, according to the results of 9 months of 2017 the number of street children is 4667. During 2017, NPM participants made 20 visits to twenty MAC, all visits were of an intermediate nature

Neglected children and minors who were admitted to the MAC, 2011-2017.

In the regional context it is necessary to pay attention



Source: Committee for the Protection of Children’s Rights, MES KR, 2017

sent to special educational organizations and who are in a difficult life situation due to cruel treatment, which led to social disadaptation and social deprivation .

to the fact that the number of watchless and neglected children ending up at the MAC in the EKO for 10,000 children’s population account for 24 homeless children, in

Astana, 25 children per 10 thousand children. In the EKR, the relatively large number is accounted for by the large number of MACs available in the region - 4 institutions, Astana, as the capital, is the center of attraction for all, including the homeless children.

The number of the minors in the MACs is increasing. If in 2014 the number of children placed in the MAC was 6,356, in 2016 7,109, an increase by 11.8%. At the end of 9 months. 2017, 5,504 minors were placed in the MAC, including 675 left without parental care, 4,657 neglected and watchless, 110 referred to special educational organizations for children with deviant behavior, 52 minors in difficult life situations.

5422 children (98.2%) of the minors who entered the MAC, were organized:

4741 minors were transferred to families;

427 children with a new status of "social orphans" referred to the organization for orphans and children,

OOC;

89 children were placed under guardianship and patronage;

30 children will temporarily live in a guest family.

The further fate of the remaining 135 children is less benevolent: 107 minors referred to special schools for children of deviant behavior, 21 children transferred to the MAC of other regions, 7 children sent to organizations of the MAC type of other countries.

In the MAC the Family Support Service is engaged, whose activities are aimed at providing counseling, psychological, information and socio-legal assistance to children. Assistance was provided in the registration of documents to 93 parents and 104 minors, 118 parents and 125 children were consulted. Carried out visits to 32 families, 34 schools and 17 institutions for orphans and children left without parental care. The premises in the buildings where the Centers are located do not allow creating decent conditions

for the stay of minors in accordance with established norms and requirements.

Despite the recommendations of the Ministry of Education and Science of the Republic of Kazakhstan to improve the conditions of stay and treatment of the minors in the MAC, the complex situation remains:

- The majority of centers it is old, rundown, with faulty engineering systems of the building, high density of placed children and a lack of personal space for the children are observed. *MACs in the cities of Astana, Taraz, Karaganda region in the bedrooms from 2 to 2.5 meters instead of the prescribed 4 meters, children sleep in bunk beds. There are no rooms for physical culture, meetings with relatives, dance classes and general cultural events.*

Many MAC buildings in Kazakhstan have served more than 40 years, and require complete reconstruction and major repairs. Thus the Zhezkazgan city MAC (Karaganda region, the

building was constructed in 1970, the physical wear is 40%), the South Kazakhstan region (built in 1960). *The MAC of Ust-Kamenogorsk is still on the books of the Department of Interior of the East Kazakhstan region, there is no hot water supply.* The building of Taraz MAC found is in emergency state, the toilet is located in the street, it may cause dangerous consequences that threaten life and health of children, in spite of this, and children still use the building. The MAC of Taldykorgan is located outside the city, in the steppe, in an ecologically unfavorable region.

- There are few toys, erector sets designed to develop children in the game rooms.

after school hours, except for a visit to the library and view television programs most of the time the minors are left to their own (MAC Almaty). All the activities of the Center's staff is reduced only to ensure the care of children, meals preparation. There is a poorly organized

individual work with the child and his family environment, little attention is paid to social and psychological assistance to minors in overcoming a difficult life situation, a formal approach to educational work is noted, and modern approaches to working with the child are not used.

- in many institutions there is no information on the complaints filing mechanisms (minors and their parents, guardians are not informed about the organizations to which they can apply);

- not all MAC have conditions for keeping contacts with families, there are no private rooms to meet with children with parents, a limited meetings are established.

- children do not attend schools, education is received in the MAC in the cities of Taldykorgan, Almaty. This prevents the child's socialization, this causes society to receive not so much an educated person but a member of society who knows how to live in the society. It is in the school

environment where the laws by which adults live and ways of being in the framework of these laws are mastered (interpersonal relationships, social roles, moral norms and values).

2.2 Conclusions and recommendations of the Ministry of Education and Science in the Republic of Kazakhstan

Over the 4 years, year after year NPM members submit the MES RK the same recommendations to improve the performance MAC and create favorable conditions for the life of children and their development. About 80% of the recommendations have not been implemented, such as:

1. Develop a design of standard building with the design and estimate documentation for construction of new or renovation of existing buildings in accordance with modern requirements to the conditions of care, sanitation and hygiene of minors, with

a list of necessary technical equipment.

2. Develop a unified standard of quantitative and qualitative indicators of professionals needed to work with minors in this educational institution, determine the scope of the specialist's work, determine the hourly costs of its rehabilitation.

3. Develop information stands about children's rights, on complaint filing mechanisms, ensure access for dial-up service to minors "National helpline for children and young people No.150", with samples of how to file a complaint and appeals for parents or other legal representatives in Kazakh and Russian languages. The stands be placed at the level of readability.

4. Allocate additional budgetary funds for the salaries of specialists of the MAC Family Support Service, to ensure transportation for the organization of work with family members, taking into account the distances is provided.

The Republican State

Institution LA-155/6 of the Department of the Correctional System for Almaty, Ministry of Interior of the Republic of Kazakhstan. In the republic there is one medium security institution for keeping minors (Institution LA-155/6) and a local section for girls within the Institution LA-155/4. The institution LA-155/6 contained 49 (2016 - 44) minors serving a prison. In accordance with the penal enforcement legislation, general education is one of the main means of correcting inmates. A total of 49 underage inmates are being educated.

The building of the institution LA-155/6 of 1941 construction, the admission limit: 110 seats (Order of the Ministry of Interior of the Republic of Kazakhstan No. 239 of March 15, 2016). The total area of the Institution: 4.5 hectares It consists of administrative buildings, industrial zone and residential zone. In the residential area there are two two-storey residential buildings, a dining room building, a building of

the medical unit, a relaxation room, a high school No. 29, a club building. In the industrial zone there is a building of Vocational school No.02.

Violations of rights, rude treatment in relation to pupils were not established. All issues related to violations of the rules of the pupils (going out to the street without warning, etc.) are resolved directly during the conversation by educators, for a year, none of the pupils were placed in Facilities for Temporary Isolation (FTI).

From year to year, the children's prison population declines in direct proportion:

In 2009 - 427, in 2010 - 240, in 2011 - 155, in 2012 - 114, in 2013 - 123, in 2015 - 63, in 2016 - 38, in 2017 - 49.

The main goal of the impact on each child in the correctional facility must be to provide guardianship, protection, rehabilitation and education. The approach to the rehabilitation of the juvenile is interdisciplinary in nature, based on a variety of specialists skills, such as teachers, trainers and

psychologists.

Re-socialization in particular of minors is an integral part of their return to society.

The premises of the units are combined in one large two-story brick building. There are two units, with separate conditions of detention: light and regular. Each unit has a separate entrance. The bedrooms are light, there is enough natural light. Cleanliness is maintained by the juvenile inmates as per schedule on their own. The beds are very tidy and the bed linen is clean. The draws for keeping personal belongings are designed for 1-2 people. However, bed linens, although clean, have acquired a grayish shade, there are no carpets that were earlier there.

The broken furniture depresses, namely the wardrobes, which are also not enough (2 each for the whole unit), which is clearly not enough to store clothing for the unit members (17-18 people per unit).

The windows curtains

were replaced. The former coziness in the rooms was not noticed. On the walls there are different, low-taste paintings and prints and the design is completely missing, which does not contribute to the aesthetic upbringing of the detainees. To maintain comfort there are large ornamental plants in pots, but this only emphasizes the poor decor of the premises. TV is available in the relaxation room (Curriculum Office). Only national television programs are available.

Due to the repairs and the wide open doors in the corridors and rooms in the unit, where the pupils spend most of the time, it is cold and damp, which causes particular concern about the health of the pupils. The pupils are forced to stay indoors in jackets, and some in hats.

A sauna with a shower room for 100 people is located in the residential area. On the day of the visit, repairs were underway to completely replace the tiles on the walls. Part of the bath room was

repaired: the benches and part of the walls were tiled. Due to the repairs, the pupils are washed in the quarantine department, where repairs had already been completed. The room is cold, damp, there are no lockers for clothes and towels. In the unit the toilets were being repaired that were transferred for reasons of hygiene. In the renovated toilets, the flushing is normal, and the toilet paper is available. The cleanliness is maintained by the pupils themselves as per schedule. The laundry is located in the industrial zone. Washing and drying of laundry is in the laundry area.

The dining room for the inmates is located in the residential area, designed for 130 seats. A complete set of the necessary ancillary facilities is available according to sanitary norms and requirements.

Food products are delivered for two days from the storage facilities located outside the institution. Meals are organized in the common dining room as

per the schedule. The room is spacious and bright. The walls are tiled and there are tablecloths and crumbs on the tables. The utensils are available in the required quantity. Cleanliness in the dining room, kitchen block, and utility rooms is maintained. The menu is compiled separately for a general table and dietary food approved by the doctor. Food samples are stored in the refrigerator. Samples and quality of food are recorded in the log book on a daily basis. The meals are 3 times and the menu includes meat, fish products, and fruits. The quality of food meets the standards.

According to the Head of the institution, the complaint mechanism is well-established and all of the inmates are aware of their rights, and are familiarized with the procedure for filing complaints. In general, appeals are referred to the court or counsel on appeal before judicial sentence. No complaints were received related to the conditions

of detention, ill-treatment or facts of torture. The pupils are not aware of the right not to be subjected to torture or cruel and / or degrading treatment, but to the question of the NPM members if they are subjected to this treatment by the staff, all answered negatively. After preventive visit in the institution it became with a stand, but it does not contain the necessary and available information for pupils. It was recommended to fill the stand with information content about the rights of pupils; on the procedure for filing complaints and appeals; addresses and telephones of organizations to which they should apply. It was also recommended to hold conversations with pupils and additionally install boxes for filing complaints.

The pupils realize the right to education in the evening and vocational schools. Evening School No. 29 on the territory of the institution was founded in 1941 and is subsidized from the republican budget.

The school has 14 subject rooms equipped with subject stands, the state symbols, sets of educational and methodological literature, and didactics and handouts for each subject. There is 1 computer lab, complete with 8 new generation computers, as well as a scanner, printer and copier. The curriculum is designed to take into account the specifics of the work of the institution LA-155/6: students have no lessons in music, fine arts, technology, or physical education. The educational process is organized taking into account the education standards by the type of evening school in Russian and Kazakh languages.

Nº2 vocational school has been operating since 1 August 1973 and is a public institution to educate inmates with new skills, improve their qualification, up bring conscious attitude towards socially useful work. Pupils can be trained in three professions: turner, mechanic, and carpenter.

In the framework of the PRI

project activities, informatics courses are organized in addition to the educational process, courses on the production of confectionery and bakery products, as well as drawing courses. After passing the three-month courses, certificates are issued that can be claimed after the release. Also, the production of bakery products is organized and the production engages on a paid basis.

The institution has a library with a small reading room. The library fund consists of more than 10,000 books, mostly works of classics in Kazakh and Russian, historical novels. There are binderies of periodicals in Kazakh and Russian. 4 payphones are installed on the territory of the institution, their use is unlimited. There are also rooms for short and long visits.

After a preventive visit by the NPM Group in 2015, a separate office for the NPM was opened in the institution, which, in the opinion of the administration, is a sign

of special recognition and respect for the establishment of the NPM and the activities of its participants.

The leadership of the Institution and the children express concerns of their fate when they reach the age of majority and continue serving their sentence. As a rule, there are opportunities: conditional early release, replacement of the unserved part of the sentence with a softer one, which are considered in court at the request of the convicted person, or in the case provided for by part 5 of Article 478 of the Criminal Procedure Code of the Republic of Kazakhstan, according to which “they can be considered by the court at the request of the Prosecutor General, the Republic of Kazakhstan or his deputy, without participation of the convicted person”. If these opportunities are not available to the inmate, then he is transferred to an adult institution, which is fraught for his future fate. It is not a secret that to survive and keep one’s dignity, it is rarely

possible to take the path of correction to persons who have reached an adult colony, moreover, in an adult environment, and a convicted person acquires a negative experience of living according to “thieves’ traditions”, where he is even more criminalized. The society gets a person with a criminal past. It is more difficult for him to socialize in life, and some commit new, even more serious crimes and return to isolation.

Recommendations of the Ministry of Interior of RK

Despite the repeated recommendations of NPM to MIA RK during 4 years, the situation of organizing conditions for decent living of children has not changed.

- To create mini - locations: north - east - west - south - the centers for keeping juvenile inmates in the community, which will create conditions for communication with the family and increase the possibility of influencing the correction of the behavior

of minors and will positively affect the emotional and psychological state of children, will serve as a motive to further correct it, and also reduce the percentage of relapse.

- Create a bi cell custody system (maximum of 2 teenagers) in the room, with the ability to lock rooms at nights.

- Provide equal and 24/7 access to a desk phone to call the National Helpline line for children and youth, No.150. At any time convenient for a child (it will be available 24/7 and 365 days a year), a free call across Kazakhstan, therefore it is enough for the administration of the institution to provide a telephone with an encrypted code out for long-distance calls.

- Put in order all the institution's premises and repair the bath and toilet rooms.

- Re-equip sleeping rooms by replacing bunk beds to prevent the risk of violence between inmates, to create personal space.

BabyhomeintheInstitution RGU "LA 155/4" Department of correctional system of Ministry of Interior of Almaty region of Kazakhstan / at the Baby Home RGU "LA 155/4" the occupancy is up to 40 children at the age from birth to 3 years. At the time of the visit by NPM members there were 22 people.

The Baby Home is in an old, rundown building built in 1987, with a total area 772,75 square meters. It is a 2-storey building constructed from stone with a reinforced concrete frame. In the past 3 years, no major repairs of the building were carried out. In 2015, cosmetic repairs (partial plastering, lime and oil coating of walls, ceilings and panels) were carried out. The floor in the building is concrete, insulated with a flooring made of particleboard and covered with linoleum, covered with children's rugs - puzzles, paths and carpets. In 2016, the water pipe broke several times and flooded the first floor, this is why there is a smell of dampness. The building does not have a hot

water supply system. The windows of the building are completely glazed, made of metal-plastic construction with double window blocks, but it blows from the windows, as the frames let in cold air. In winter, the bedroom windows are covered with blankets to save heat. Because of the major crowding of children in the hardly ventilated closed premises, especially during the winter time, late autumn and early spring, infection circulation is suffered, and there is a high risk of it This is why most of the children are in a state of illness.

Despite the attempts to maintain the water supply, sewerage, heating and plumbing equipment in the working condition, utility facilities need major repairs.

Moms complain of shortage of diapers (4 per day) and their low quality. Diapers are received following tenders in certain quantities, and as part of the humanitarian aid.

Article 116 of the Correctional Code of the RK is violated, which explicitly determines the

mother living with the child. The administration of the institution cites a reason for several years that it is impossible to find a mother with a child under the age of 3 on a 24-hour basis, due to the lack of housing conditions in the Baby Home. Communication with the child is daily from 3 pm to 5 pm.

The meals are 5 times a day at the Baby Home. The food is cooked by a special chef, who works all day on 0,25 pay. Women are satisfied with the quality of food. Their complain is only on the monotony of the menu. They ask to include fruits and vegetables in the diet.

4.2. Recommendations for the Ministry of Internal Affairs of RK

1. Allocate funding from the budget of MIA for construction of a new building for the Juvenile Detention Center RGU La-155/4 which should be done in compliance with all regulations and

standards in order to create sound environment for juveniles.

2. Provide special conditions for accommodation, food, care and health services that would approach childrearing conditions outside of the institution as close as possible, to provide comprehensive physical, intellectual and social development.

TDC (Temporary Detention Centres) of MIA RK. TDC is a special center for detention of individuals, including minors, suspected of committing criminal offences.

Confinement of minors in TDC is regulated by the Law of the Republic of Kazakhstan "On procedures and conditions of detention in special institutions of temporary imprisonment" of 30-March-1999 (amended on 11-July-2017). Detainees in all TDC should be held separately according to sex, age, state of health, past professional activity, social danger of the crime

committed, form of guilt, criminal record. Accused or alleged minors must be provided superior housing conditions.

Minors are kept in small separated groups. In some exceptional cases they could be accompanied by good conduct reputed adults in their first time detention for non-grave offences, former police officers. This is a preventive measure and is only possible with consent of the supervising attorney.

CIDTP's visits to DTC' did not reveal any tortures or abuse, but uncovered poor housing conditions, which is a form of degrading conditions. This information was communicated to MIA of RK along with recommendations on improvements, but the administration demonstrated a failure to act due to either incapacity of management and strategic development, or intentional unwillingness to create ground for human rights enforcement. Thereto this failure to act constitutes a disregard of the Law of Republic of Kazakhstan (par.

1 Article 22, 30-March-1999, #353-I) “On terms and procedures of detention in special institutions”, which binds the administration to provide detainees with certain sanitation, hygiene and fire safety conditions.

Precinct TDC’ were built in

for the Ministry of Internal Affairs of RK

Make conformance inspection of DTC facilities to check compliance with the Law of Republic of Kazakhstan (30-March-1999, #353-I) “On terms and procedures

Condition class	2012	2013	2014	2015	2016	Percent change (%) 2012-2016
Neurological disorders	6110.4	6016.7	5969.1	5959.3	6055.8	-0.9

Source: Public Health and Healthcare Service of the Republic of Kazakhstan in 2016, MoH RK, Astana 2017

the 80s of the past century and were not designed to allow for special requirements and conditions for detention of minors. Therefore, as CIDTP reports, most buildings, including the Amangeldinsky district DIA DVD in Kostanai Oblast, have no proper shower rooms, no toilets and no potable water in the cells. The Zaisan district DIA DVD VKO was constructed in 1939 and doesn’t fit its purpose. Same applies to DTC of Tarbagatai precinct DIA, Djangeldinski precinct DIA, Kostanai precinct DVD, Kazalinski district DIA of Kysylorda Oblast *et alia*.

5.1 Recommendations

of detention in special institutions”, and allocate budget findings for building new DTC facilities that will comply with all norms and regulations on detention of minors.

Pediatric inpatient ward Mental Health Centre. Records of nervous system disease have grown up over the last year.

Table Morbidity rate 0 to 14 y.o. for 2012-2016

The numbers above indicate essentiality of mental hospitals and departments, in 2002 they were renamed into Mental Health Centres (hereinafter MHC). There are sixteen MHCs in Kazakhstan

that have departments for children and teenagers. They deliver emergency, in-office and inpatient, diagnostic and therapeutic, socio-medical, psychiatric and

30 to 40 in 2018.

**Outpatient care
Number of patients over
years**
Thirty bed pediatric

Age group	Registered (top of the year)			Deregistered			Registered (end of the year)		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
Children	1056	1062	1053	163	152	211	1062	1053	1048
Youth	302	318	285	28	23	23	318	285	349
Adults	9942	9809	9589	394	301	302	9809	9589	9329
TOTAL	11300	11189	10927	585	476	536	11189	10927	10726

psychotherapeutic medical care to the public.

Treated children statistics of the Pediatric inpatient department of MHC#5 Almaty show that the number of patients is growing every year. Nine months record in 2017 was 251 patients whereas in 2016 there were 220 patients over the same period. As a result the growth is 14%.

Increase of bed turnover is also observed: 19.4% (7.2 in nine months 2016 vs. 8.6 in nine months 2017)

It is planned to increase the number of beds in the Pediatric inpatient department of MHC#5 from

department: at the moment of inspection 29 children were present, 6 of them were from orphanages. Age 3 to 18. Rooms are equipped with wooden beds and bedside cabinets without doors. According to the personnel it is regulated for patient safety reasons. Children meet their visitors in the lounge. There is a game room with a TV set and toys (construction toys and art supplies). The floor is covered with a carpet. The department has a classroom. Schooling is done by the teachers of School#73 of Almaty. Each lesson is 45 minutes long.

Hospital charts of children

from Januya Correction Centre say that these children were hospitalized for behavioral correction purposes. Children commitment for correction purposes 17, 13 and 6. Staffs of orphanages are resourced with teachers, psychologists, speech therapists and speech pathologists that are capacitated to solve children's behavioral problems and find the true ground of children's problems. Rate of hospitalizations will not decrease until behavioral deviances are considered a health problem of the child, but not pedagogical challenge.

According to CIDTP, the pediatric departments in mental hospitals do not comply with norms and regulations oriented to favorable environment, rehabilitation and personality development of minors. For example, in the Kostanai Oblast Psychiatric Hospital the beds are very low and narrow (50cm wide). Talks with the children confirmed that the beds are

uncomfortable to sleep on. Some said they are giving them headaches. The rooms are cold. There are no cabinets in the rooms. In KGPK Pediatric Psychoneurologic Dispensary in Karaganda (Oblast Health Administration) there is no gymnasium or sports hall. Chronically ailing patients are deprived of physical exercises. The Dispensary in Karaganda was built in 1951 and the Pediatric wing requires a total building renovation. CIDTP also reports that hospital pavilions are detached and not linked, which presents difficulties for the patients and medical personnel when moving around the hospital, especially during bad weather and in the winter time. The building requires a total renovation.

Some departments are short of textbooks for the minors.

6.2. Recommendations for the Ministry of Healthcare of RK

1. Propose an amendment

to the Republic of Kazakhstan Code (18-Sep-2009, #193-IV) "On public health and healthcare system" which will regulate decision-making and patient examination for involuntary hospitalization when requested by a custodian, neighbors, relatives with involvement of attesting witnesses, audio and video recording. This is to prevent abuse from the medics and requestors.

2. Propose an amendment to the Republic of Kazakhstan Code (18-Sep-2009, #193-IV) "On public health and healthcare system" on expansion of independent experts community, authorized to establish diagnosis, patient examination and expert evidence i.e. "standalone mental specialists and organizations licensed to practice legal psychiatric evaluation".

3. Together with the Ministry of Education conduct a comprehensive assessment of hospitalization of orphanage children for behavior correction

purposes practice. Stop punitive psychiatry for orphans. Children are sent from orphanages to mental institution because of misbehaving and educational underachievement.

4. Together with the Ministry of Labor and Social Protection RK consider re-organization of pediatric departments of mental hospitals: fragmentation/downsizing and creation of home environment for the children. Arrange for socialization and rehabilitation programs in MHC due to inadaptability of many patients.

5. Monitor accessibility to services and social infrastructure for handicapped people in order to remedy statutory breaches in the Law of Republic of Kazakhstan (13-Apr-2005, #39-III) "On social protection of handicapped people in the Republic of Kazakhstan" (including all amendments as of 03-Dec-2015)

Children's

antituberculosis resorts of the Ministry of Health of RK.

CIDTP reports on inspection of children's antituberculosis resorts reveal that in the last four years none of them has been renovated. Most buildings were constructed in the 30-60s of the past century. The Rudenski Children's Antituberculosis Resort KGU (Kostanai Oblast Health Department) was built in 1964 as a standard design for kindergarten. It is located in the town centre near a busy road, which does not comply with sanitary regulations. Only half of standard footage is available per patient. 3 sq. meters instead of 6 sq. meters; boys and girls share the room. Play rooms are combined with bedroom. There is no equipped classroom and designated sportsground.

CIDTP reported that there are no toys in the play room or learning games for school and pre-school children. Like all children institutions in the healthcare system, the Children's Antituberculosis Resort of

Atyrau Oblast was built in 1962. There's no gym or sports hall. Lessons are given by visiting teachers from the School#21. Contact with the family is maintained and, for the sake of the effectiveness of patient treatment, conditions are created for meeting with visitors only on the street in places equipped with canopies and benches or in the foyer of the building.

Patient hospital records check in Building 1 revealed that the KSS (DOB 14.01.2006), an orphan, in legal custody of her grandmother BL (YOB 1968), was absent from the resort. According to the senior nurse S. she had flu and was sent home on February 17, 2017, in order to isolate them from other children. There was no record of discharge in the hospital chart as well as no discharge acknowledgement from the grandmother. Despite the fact that the KSS was absent from the resort from 17.02.2017, the journal on receiving medicines actually indicated that she took pills until

22.02.2017. The hospital chief administrator explained this by saying that the pills and vitamins were given to her at the time of discharge. CIDTP was concerned about the child absent without discharge record. Nobody could answer the question of who and when took the child from the resort. In the presence of CIDTP the director called the custodian on the phone and received a verbal confirmation on the girl's status.

The most favorable situation in terms of the right to decent treatment and the creation of conditions for the life and development of minors was noted by the CIDTP in the GKKP Burabay Inter-district Anti-tuberculosis Resort (Akmola Oblast Health Department). The 30-bed facility for children and youth is located in Bulandinski Rayon of Akmola Oblast in a pristine environment. Year-round treatment and rehabilitation of children with maximum provision of optimal conditions for health improvement of children and

social adaptation, including training in a local educational organization during the treatment period. During the academic year the children and youth have access to fully equipped classrooms and full-scale educational program. Resort educators conduct entertainment events and in the summer time organize tours to Borovoe. The resort has computer equipped classrooms, play room, music room and a gym.

The Akmola Oblast Anti-tuberculosis dispenser has 10 groups of employers working 24/7 (2 groups in Kokshetau, 2 in Akkol, 1 each in Zharkainski, Zhaksynski, Bulandinski, Zeredinski Rayons and in Stapnogorsk). According to CIDTP, some premises require significant renovation and are not suited for handicapped people. In the Children's Anti-tuberculosis Resort "Nur" in Satpaev (Karaganda Oblast), CIDTP witnessed children playing on the porch with no rails elevated 1 meter above ground. The promenade area is not big enough. No indoors

gym. Food is carried in enameled buckets 150-200 meters to the main building. Besides, the building is located near the narco-dispensary where drug addicts and alcoholics are treated. There is also a sobering house. This has a negative influence on children's' state of mind. Renovation needs, non-compliance of footage per patient are typical for most of institutions of UZKO in Saran, which includes the Children's' Anti-tuberculosis Resort "Saule".

7.2. Recommendations for the Ministry of Healthcare of RK

1. Make conformance inspection of pediatric anti-tuberculosis resorts to check compliance with the sanitary regulations "Sanitary-epidemiological requirements for resorts and healing facilities" (approved by the order of the Minister of National Economy of Republic of Kazakhstan on 19-March-2015 #233) and

modern technologies of treatment and prevention of tuberculosis, obligate all oblast and municipal administrations to allocate funding for building new pediatric health facilities.

2. Facilitate connection of minors to their families by providing rooms for meeting visitors.

3. Consider the possibility of employing in each pediatric anti-tuberculosis institution a full-time psychologist because according to such institution personnel, most children come from troubled families, have a shut-in personality, are timid or aggressive as a result of a psychological trauma and weak commutability.

4. Develop cooperation and partnership with NGOs that work on motivation and social aid to tuberculosis patients and their families. Set the number of partner NGOs as an efficiency criterion for healthcare.



Conclusion

The National Preventive Mechanism (NPM) completed the fourth year of its intensive work of all regional groups. Due to cuts in public funding, the NPM participants had fewer visits in 2017 than in the previous year (decreased by 100). However the number of visits is still high - about 2.5 visits by NPM participants to institutions in various regions of the country every day. Given the funding cuts, each NPM regional group tried to reduce the costs of visits evenly, but the situation analysis in the regions (oblasts) and the experience of previous visits indicated the institutions of the Ministry of Health of the Republic of Kazakhstan as the most "curtailed" ones. In general, the financial cuts for NPM visits have a very negative impact on systemic and overall performance of the new institution. Thus the previous financing scheme included only one annual preventive visit to the largest and most important institutions of the region. This means

very limited opportunities to monitor progress in the implementation of recommendations. The current scheme includes even more curtailed funding. In this regard, the main recommendation of an institutional nature is to return the funding for NPM expenditures.

In 2017, the number of special visits increased significantly from 15 to 24. As previously, most of them are based on complaints about penitentiary institutions. Full information about the detected facts of torture or cruel punishment is immediately transmitted to the Prosecutor General's Office of the Republic of Kazakhstan in accordance with the agreed rules between the institution of the Human Rights Ombudsman of the Republic of Kazakhstan and the Prosecutor General's Office of the Republic of Kazakhstan. However, there is no consolidated information on the results of the investigation of the

facts revealed. In this regard, the following measures are required: to introduce public report of the Prosecutor General's Office to investigate the facts, discovered by the NPM and analysis of the systemic problems in the NPM reports that lead to torture.

Recommendations analysis shows that problems with material conditions in institutions still exist. And there is still no clear vision of how country institutions will develop. Visits to temporary detention centres (TDC) and other institutions for people in custody showed that a thorough evaluation of their need should be done: in many regions these institutions were empty. Based on this assessment, a program on closing and reorganization of institutions, as well as the construction of the new ones for the old institutions that cannot be used due to a bad living conditions, should be developed.

In the correctional, medical, and social institutions -

regardless of the profile - NPM participants receive similar complaints on lack of respect for human dignity of patients. Relatives of persons in custody in TDCs or prisons often ask NPM to visit institutions because they cannot get any information about their relatives. The introduction of open and simple informing about the condition, needs and health of detainees would significantly reduce tension between relatives and institutions.

In practice, regardless of the institution profile, there is no concern with the further re-socialization of individuals: institutions stand separately not only from relatives, but also from social services, possible employment and education. Almost everywhere, there is no consideration for the needs of persons with disabilities, gender characteristics and needs of minors.

The institutions of screening and searches, removal, access to drinking water and proper sanitation

are the weakest and most sensitive in terms of the risks of committing torture and ill-treatment and punishment.

NPM participants assessed some institutions as extremely critical. However despite the implementation a number of the recommendations, these institutions still functioning. Closing of these institutions was recommended. This concerns, for example, the remand house of Almaty, Center for Adaptation of Minors in Taraz. There are critical detention conditions in the institution of medium security for the centres for adaptation of minors (institution LA-LA155/6) and the Children's Home "LA - LA-155/4".

The effectiveness of the NPM is hampered by the lack of a unified practice of using cameras and dictophones. Despite the fact that PECs and other legal acts include unambiguous norms allowing photo-fixation in case of the consent of the person, unfortunately, some heads of institutions continue to

impede admission of NPM participants. This limits the possibility of facts fixing on torture and ill-treatment.

Having summarized the work of the NPM participants, the NPM Coordination Council members agreed that a four-years activity resulted in accumulation of considerable amount of detailed information that require analysis and development of the new reporting forms. This analysis would allow automating processing of basic indicators and identify the most problematic areas for further visits. It is difficult to provide the sustainability and stability of the NPM work, coverage of all institutions and targeting of approaches considering annual renewal of the NPM composition by 30%, and the lack of platform and information management system. In this regard, the Coordination Council decided to extend the NPM members term to two years. This issue is currently being developed by the Ombudsman Office. In

addition, a request for funds allocation to solve the above-mentioned problems on lack of information management system, analysis of large data and automated reporting format, was formulated and sent to the Ministry of National Economy of the Republic of Kazakhstan. This request will be used to systematize and support the NPM work, and its approval will contribute to strengthening NPM even within the allocated funds. The request is under consideration now.

The NPM work does not solve all problems related to torture prevention. It can be effective if the government agencies, responsible for the operation of the institutions at the central and local levels, take a closer look at the recommendations outlined in this report and in the NPM periodic reports. The task of the NPM is to signal problems, while the state and society are to solve these problems jointly.

