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Human Rights Committee

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Item 5 of the provisional agenda

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

List of issues in relation to the second periodic report of Kazakhstan

Addendum

Replies of Kazakhstan to the list of issues*

[Date received: 24 March 2016]

1. Please provide examples of cases in which the provisions of the Covenant have been referred to by national courts. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol to the Covenant, and provide information on measures taken to ensure full compliance with the Committee's Views adopted in relation to the State party in communications No. 2009/2010 (*Ilyasov v. Kazakhstan*), No. 2024/2011 (*Israil v. Kazakhstan*), No. 2104/2011 (*Valetov v. Kazakhstan*) and No. 2137/2012 (*Toregozhina v. Kazakhstan*).

1. Since the entry into force for Kazakhstan of the International Covenant on Civil and Political Rights, reference has been made to it in a court decision only once, namely to article 14 in the judgment of 2 October 2015 following the review of the appeal brought in the case of E. Narymbaev.

2. With a view to increasing judges' references to the provisions of the international agreements that have been ratified, strict compliance with the agreements is expressly stipulated in the definition of the principle of legality provided under the amended version of the Code of Civil Procedure, which entered into force on 1 January 2016.

3. This Code and the revised Code of Criminal Procedure, which entered into force on 1 January 2015, provide that ratified international agreements are directly applicable.

* The present document is being issued without formal editing.



4. The International Council attached to the Supreme Court began work in 2016 aimed at enhancing the implementation of international standards in judicial proceedings, with the participation of leading international experts.

5. As regards communication No. 2009/2010 (*Ilyasov*), the ban on his entry into Kazakhstan has been lifted.

6. As regards communication No. 2024/2011 (*Israil*), China provided written assurances that the rights of Mr. Israil were safeguarded and that he did not face the death penalty following his extradition. Similarly, with regard to communication No. 2014/2011, Kyrgyzstan provided written assurances concerning Mr. Valetov. In both cases, the state of health and conditions of detention of these foreign nationals were monitored by the countries' respective diplomatic representatives in Kazakhstan, who routinely visit their fellow citizens in places of detention.

7. As regards communication No. 2137/2012 (*Toregozhina*), the recommendations of the Committee are under consideration. The Office of the Procurator-General has submitted a set of recommendations on improving legislation governing rallies, meetings and peaceful marches to local representative and executive bodies. Specifically with regard to Ms. Toregozhina's claim for damages, it should be noted that an earlier judgment (on 16 March 2010) in administrative proceedings in which she was found guilty of the administrative offence of holding an unauthorized rally has entered into force. The administrative fine was paid by the guilty party. Her claim for damages in civil proceedings in 2015 was thus dismissed by virtue of the prejudicial effect of the earlier judgment.

2. Please report on measures taken to ensure the full independence of the Human Rights Commissioner (Ombudsman), in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular by addressing the issues relating to its establishment, limited mandate, selection and appointment and by providing its Office with adequate financial and human resources. Please explain whether steps have been taken to establish offices of the Ombudsman in all regions of the country.

8. The reply to this question is provided in paragraph 15 of the second periodic report on the status of implementation of the Covenant under the heading "Follow-up on recommendations by the Human Rights Committee".

9. The introduction of the "Ombudsman Plus" model at the local level through the inclusion of civil society representatives as members in the national preventive mechanism coordinated by the Commissioner for Human Rights has been a promising start towards addressing the issue.

3. Please indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination, including in the private sphere; prohibits direct, indirect and multiple discrimination; contains a comprehensive list of prohibited grounds for discrimination, including sexual orientation and gender identity; and provides for effective remedies in judicial and administrative proceedings.

10. The Constitution of Kazakhstan enumerates the principal social areas that are governed by laws. All other matters are regulated by subordinate legislation. For example, the issue of privacy is regulated under the Civil Code.

11. Regulations on the prohibition of any form of discrimination, without distinction between indirect, direct and multiple discrimination, are set out in the relevant laws. Establishing an exhaustive list of prohibited grounds for discrimination, as the Committee

has requested, seems impracticable, as the right of persons to bring proceedings before a court would be limited if they faced a form of discrimination not covered by such a list.

4. Please provide information on measures taken: (a) to address discrimination against, and social exclusion of, persons with disabilities, including limited access to inclusive education, delays and interruptions in the provision of social assistance and institutionalization of persons with mental disabilities; (b) to combat discrimination against persons based on their sexual orientation and gender identity; and (c) to combat social stigmatization of HIV-positive women.

12. Kazakhstan ratified the Convention on the Rights of Persons with Disabilities in 2015. The current Education Act is the first to stipulate that State general education standards must be set with due consideration for inclusive education. The State Programme for the Development of Education and Science for the period 2016-2019 has prepared the ground for further development of inclusive education.

13. The proportion of schools offering inclusive education has gone from 30.7 per cent (2,200 schools) in the 2014/15 academic year to 44 per cent (3,210 schools) in the 2015/16 academic year. There are plans to increase the proportion of such schools to 70 per cent by 2020 and to provide children with disabilities barrier-free access to 20 per cent of schools, which would make it possible to provide inclusive education to 50 per cent of all children with disabilities.

14. Standards have been adopted for the effective provision of social services to persons with disabilities.

15. The Government has set up the “Social Protection of Persons with Disabilities” information portal in conjunction with the United Nations Development Programme (UNDP). 2015 saw the introduction of composite electronic services, which now comprise nine types of public services.

16. In 2009, non-residential social services (including day-care divisions) were introduced for persons with neuropsychiatric disorders and mental illness.

17. Home help has been maintained for persons with such disorders. In early 2015, there were more than 17,000 persons with neuropsychiatric disorders receiving home care from 169 public home-care divisions and 900 persons from the private sector.

18. Gender discrimination is prohibited. The relevant guarantees are contained in the Constitution of Kazakhstan. On 18 May 2015, the Constitutional Council of Kazakhstan held that the bill on the protection of children against information detrimental to their health and development and the bill on amendments to a number of legislative acts of Kazakhstan on the protection of children against information detrimental to their health and development were inconsistent with the Constitution. The bills were found to be unconstitutional because of insufficiently clear wording that could lead to gender discrimination.

19. Kazakhstan holds public events aimed at building tolerance in society, removing stigmas and ending discrimination against persons living with HIV. It attaches high priority to strengthening reproductive health services and services for HIV-positive women and families affected by HIV/AIDS to ensure that their children are born healthy.

20. Under the Code of Public Health and the Health-Care System, persons who are HIV-positive may not be dismissed from work, barred from recruitment or denied admission to preschool institutions or educational establishments; their rights and legitimate interests, and the housing and other rights of their family members and relatives, may not be infringed.

21. A national network of women living with HIV is operating in Kazakhstan and, in 2014, two representatives of the network were included in the membership of the Country Coordinating Mechanism.

22. As part of awareness-raising and educational activities for the period 2011-2015, 505,891 events involving 14,385,953 people were held. During this period, 935 television broadcasts were devoted to the topic at the national level and 911 at the regional level; 860 radio shows were broadcast at the national level and 745 at the regional level; video clips were broadcast on 15,578,207 occasions; and 610 items were published in national and 3,316 in regional news outlets.

5. Please provide further information on measures taken and related progress with regard to: (a) increasing the representation of women in legislative and executive bodies, including regional administrations, and in the diplomatic service, especially in decision-making positions; and (b) reducing the wage gap between men and women.

23. Kazakhstan has set the objective of ensuring that 30 per cent of decision makers are women.

24. According to data for 2015, women made up 20 per cent of the total number of members of the Senate, the upper house of Parliament, and 6.4 per cent of the total number of members of the Majilis, the lower house.

25. They constituted an average 12.6 per cent of the membership of the local representative bodies in the provinces.

26. As at January 2016, 55 per cent (50,219) of all public servants were women, with 9.7 per cent (40) of them appointed to political office. Women made up 36.6 per cent of the diplomatic service, with 6 per cent holding decision-making posts.

27. There are no plans to prohibit gender pay gaps by law. However, according to official statistics, while the wages of civil servants were the same for men and women, in other spheres women's average salary was 96,545 tenge and men's 144,183 tenge. This represents a gender pay gap of 67 per cent. One reason for this gap is the difference in labour force participation rates: 65.4 per cent for women and 76.7 per cent for men.

6. Please report on measures taken to prevent and combat all forms of violence against women, including domestic violence, sexual violence and rape, inter alia with respect to: (a) ensuring effective investigation, prosecution and sanctioning of perpetrators and adequate remedies to victims (please provide relevant statistics); and (b) providing sufficient, safe and adequately funded shelters and suitable support services. Please indicate whether steps are being taken: (a) to adopt specific legislation criminalizing domestic violence; and (b) to expand the definition of rape; and to reclassify rape and other coercive actions of a sexual nature, and criminal acts related to domestic violence, to make them public prosecution cases and remove provisions related to any form of mediation or reconciliation with the perpetrator.

28. In the first 11 months of 2015, the courts convicted:

- 282 persons for rape (art. 120 of the Criminal Code), including 197 who were sentenced to deprivation of liberty, 64 who received a suspended sentence, 14 who were released from a penalty under an amnesty and on other grounds and 7 who were sentenced to restriction of liberty;
- 74 persons for sexual assault (art. 121 of the Criminal Code), including 71 who were sentenced to deprivation of liberty, 1 who received a suspended sentence and 2 who were released from a penalty under an amnesty and on other grounds;

- 19 persons for sexual intercourse or other sexual acts with a person under the age of 16 (art. 122 of the Criminal Code), including 9 who were sentenced to deprivation of liberty, 1 who was released from a penalty under an amnesty and on other grounds and 9 who were sentenced to restriction of liberty;
- 1 person for coercion to engage in sexual intercourse, sodomy, lesbianism or other sexual acts (art. 123 of the Criminal Code), who was sentenced to restriction of liberty;
- 28 persons for corruption of minors (art. 124 of the Criminal Code), including 27 persons who were sentenced to deprivation of liberty and 1 to restriction of liberty;
- 29,156 persons for wilful infliction of minor bodily injury (art. 108 of the Criminal Code), including 6,940 who were sentenced to deprivation of liberty, 8,312 to restriction of liberty, 3,329 who received a suspended sentence, 3,392 who were sentenced to community service, 6,194 to a fine and 61 to punitive deduction of earnings.

29. Certain acts committed in the home have been made into criminal offences. For example, battery and wilful minor bodily injury (arts. 108 and 109 of the Criminal Code) have become minor criminal offences. Penalties for the domestic violence offences have been increased. The period for restraining orders has been increased from 10 to 30 days. The perpetrators of such offences are not eligible for parole, a commuted sentence, shortening of a sentence, absolution or a postponement of sentence or release from a penalty in connection with the statute of limitations of the judgment of conviction.

30. Exemption from criminal responsibility in the event of reconciliation between the parties is prohibited for crimes of negligence that lead to the death of one or more persons and crimes against the sexual inviolability of minors.

31. The internal affairs agencies are actively engaged with NGOs, including in the social rehabilitation of victims of violence. There are 28 crisis centres. Victims of domestic violence receive assistance regardless of their place of residence.

32. Discussions are under way on a bill on a victims' compensation fund, which provides for compensation to victims of violence, torture and human trafficking.

33. A standard is being drafted for the provision of special social services to victims of domestic violence and crimes against the sexual inviolability of minors. If the national budget commission approves it, implementation of the standard is expected to begin in 2017.

7. Please report on measures taken to clarify the broad definition of “extremism” in the 2013 counter-terrorism legislation, inter alia as “inciting social or class hatred”. Please respond to reports that counter-terrorism activities continue to particularly target members or presumed members of banned or unregistered Islamic groups and Islamist parties, members of religious minorities, and asylum seekers, and that prisoners serve their sentences for terrorism-related offences in Shymkent and Arkalyk high security prisons under cruel, inhuman and degrading conditions.

34. Under the Anti-Extremism Act, “political extremism” covers incitement to social and class hatred. Accused persons may be criminally prosecuted for incitement to social and class hatred only if there is express malice.

35. The Act expressly prohibits establishment and work of organizations (and their branches and representative offices) whose purpose or activities are aimed at carrying out acts of extremism.

36. Organizations may be found to be extremist only by means of a judicial procedure.

37. Counter-terrorism activities are carried out only against persons for whom there is objective information on their involvement in terrorism.

38. Persons serving sentences for terrorist offences in prisons are detained in the prisons of Shymkent and Arkalyk on an equal basis with other persons serving sentences. There are now plans within the framework of a public-private partnership to begin construction of a new facility in compliance with international standards for 1,500 persons in Shymkent.

8. Please report on the progress made towards the abolition of the death penalty and clarify how the maintenance of the death penalty for 17 types of crime in the new Criminal Code enacted on 1 January 2015 is consistent with the policy of gradual reduction of the grounds for the imposition of the death penalty, as set out in the 2010-2020 legal policy concept paper. Please indicate whether steps have been taken to become a party to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

39. Gradual reduction of the grounds for the imposition of the death penalty is a key objective of the country legal policy framework for the period 2010-2020.

40. Under the second universal periodic review, Kazakhstan did not accept the recommendation on ratification of the Second Optional Protocol to the Covenant on the grounds that there was a need to complete the process of humanization of legislation and law enforcement practice while taking into account public opinion.

41. However, the Protocol is in fact being implemented. A moratorium on the use of the death penalty until it is fully repealed has been in force since 2003. The national courts have not imposed the death penalty since 2010. Life imprisonment was introduced as an alternative on 1 January 2004. In accordance with the new version of the Criminal Code, there are 17 elements of crime for which the death penalty may be imposed (while previously there had been 18).

42. Kazakhstan fully aligned itself with the statement of the European Union on the abolition of the death penalty and General Assembly resolution 62/149 and has taken part in the International Commission against the Death Penalty since 2010.

9. Please report on measures taken to ensure an independent, impartial, thorough and effective investigation of human rights violations committed in connection with the events in Zhanaozen on 16 and 17 December 2011, such as disproportionate and indiscriminate use of force by law enforcement resulting in deaths and serious injuries, mass detention, torture and ill-treatment of demonstrators and of defendants (R. Tuletayeva, M. Dosmagambetov, S. Aspentayev, T. Kalieyev and others) and witnesses (A. Bozhenko) in the trial of oil workers, and to bring those responsible to justice and provide adequate remedies to victims or their families.

43. From the outset and throughout the entire process of the investigation, Kazakhstan has sought to ensure that the investigation was as open and objective as possible. The investigation and trial were open to the public monitoring commission, members of Penal Reform International, the news media, diplomatic representatives from the United Kingdom of Great Britain and Northern Ireland and the United States of America, members of the European Parliament and representatives of NGOs.

44. All proceedings were carried out in strict conformity with the rules of national law. The participants in the proceedings, including the victims and their families, were provided with appropriate remedies.

45. The court passed sentence on 37 accused persons, including 13 persons who were sentenced to deprivation of liberty, 16 who received a suspended sentence, 5 persons who were exempted from punishment under an amnesty and 3 persons who were acquitted for failure of proof.

46. The Supreme Court subsequently commuted the sentences of 6 persons, including R. Tuletaeva, M. Dosmagambetov, T. Kaliev and S. Aspentaev, to conditional deprivation of liberty with a probationary period of 2 years. That period has now expired. Six former law enforcement officers are currently serving their sentences. A. Bozhenko died in 2012 as a result of serious bodily harm caused by other citizens in an assault that was not connected with the events in Zhanaozen.

10. Please provide information on measures taken: (a) to address the high rate of self-inflicted death (suicides), providing relevant statistics; (b) to prevent cases of death, including suicides, in closed institutions, including in police custody, as well as pretrial, penitentiary and medical facilities; and (c) to investigate, prosecute and bring to justice those responsible for such deaths (please include relevant data on the number of such cases since 2011, with an indication of the cause of death, as well as on investigations, prosecutions and sanctions imposed and on remedies granted to victims' families).

47. The current average suicide rate is 19 persons per 100,000 population.

48. According to statistical data, 3,714 suicides were reported in 2015, 2,957 in 2014, 3,209 in 2013 and 3,055 in 2012 (collection of official suicide data began on 1 January 2012).

49. In 2014, 33 persons involved in criminal proceedings committed suicide (and 27 during the first 11 months of 2015).

50. Suicide among children is still a pressing issue. Steps taken at the institutional level have resulted in reducing the number of suicides by minors by 35 per cent (from 314 in 2010 to 201 in 2015).

51. There has been a decrease in suicides in prisons, remand centres and temporary holding facilities in police stations over the past five years thanks to a set of comprehensive measures.

52. There were 49 cases of prisoners who committed suicide in penal colonies in 2011, 27 in 2012, 34 in 2013, 29 in 2014 and 22 in 2015.

53. Suicides in remand centres peaked in 2012 (16), whereas there were 10 in 2011, 11 in 2013, 8 in 2014 and 6 in 2015.

54. The main causes are loss of social status, family conflict, solitude, material hardship, broken family ties, serious illness, loss of loved ones, poor living conditions and others.

55. The relevant bodies conduct assessments of the causes of suicide on a regular basis and work out preventive measures, including with the involvement of NGOs, members of Parliament and the State agencies concerned.

56. With a view to preventing teenage suicide, the Ministry of Education and Science, Ministry of Health and Social Development and Ministry of Internal Affairs are implementing a cross-cutting programme on suicide prevention for the period 2015-2018 that covers risk identification and the provision of social, mental and physical health care. The United Nations Children's Fund has been involved in the implementation of the programme.

57. There has been systematic monitoring of the Internet and social networks with a view to identifying and blocking unlawful online content advocating suicide. Steps were taken at the start of the year to block access to 40 such virtual communities on the popular social network VKontakte.

58. Similar monitoring has been conducted in special and other institutions of the penal correction system.

- 11. Please indicate whether steps have been or are being taken (a) to amend the definition of torture contained in article 416 of the Criminal Code with a view to ensuring that it covers acts of torture committed by any “other person acting in an official capacity” and to removing the defence of physical and mental suffering caused as a result of “legitimate acts” of officials; (b) to ensure that sanctions for the crime of torture are commensurate with the gravity of the crime; and (c) to provide, in law and in practice, reparation to victims of torture, such as adequate compensation and rehabilitation, and civil remedies, independently of criminal proceedings. Please explain the reasons for the transfer of jurisdiction over all detention and investigation facilities, temporary detention facilities, pretrial detention facilities and prisons back to the Ministry of Internal Affairs.**

59. The concept of “torture” under national law is in full conformity with the Convention against Torture.

60. All elements of that crime are covered under article 146 of the Criminal Code.

61. Offenders may be not only law enforcement officers (investigators and persons conducting initial inquiries) but also other officials and persons who have used torture at the instigation or with the acquiescence of law enforcement officers.

62. The elements of the crime, including both mental state and conduct, are completely identical to those set out under the Convention against torture.

63. A new version of the Criminal Code was introduced on 1 January 2015 under which criminal responsibility has been significantly increased for acts of torture causing grievous injury or resulting in the accidental death of the victim, which now carry a penalty to up to 12 years’ deprivation of liberty.

64. Torture is included in the category of serious offences that are not covered by any statute of limitations and for which an amnesty may not be granted.

65. Victims of torture are entitled to free legal aid and access to social, mental and physical health services. Crisis centres that provide various services to victims of torture and ill-treatment have been set up and are running throughout the country.

66. A bill on a victims’ compensation fund has been drafted with a view to providing for full compensation to victims, including victims of torture.

67. The Committee on the Penal Correction System came back under the jurisdiction of the Ministry of Internal Affairs because of the need to enhance its ability to respond effectively to certain criminal elements and to protect the lives of prisoners.

12. **Please respond to reports that: (a) torture and ill-treatment, including sexual abuse and rape or threat thereof, is regularly perpetrated in prisons, as well as in temporary detention facilities and pretrial detention facilities, including for the purpose of eliciting information or “voluntary” confessions that are in practice used as evidence in court; (b) allegations of torture and ill-treatment are routinely referred for investigation to the authorities that are accused of perpetrating such acts rather than to independent prosecutors, and no independent investigation mechanism has been set up. Please also provide updated information, on an annual basis, on the number of reported cases of torture and ill-treatment, the investigations and prosecutions initiated, the number of actual criminal convictions, and the sentences imposed.**

68. No reports of torture and ill-treatment, including sexual abuse and rape in the detention facilities of the internal affairs agencies against persons detained in them have been registered.

69. The organization of the work of special procurators has been reviewed and their remit now extends to criminal offences committed by law enforcement officers while on duty, including torture.

70. Provincial procurators are competent to investigate allegations of torture reported to them if there are sufficient grounds for an investigation.

71. The internal affairs agencies or anti-corruption service may conduct a pretrial investigation only against persons who are not officials of those agencies.

72. In addition to procuratorial supervision, there are three regular mechanisms for public monitoring of places of deprivation of liberty, namely the Commissioner for Human Rights, public monitoring commissions and the national preventive mechanism established in 2013 based on the “Ombudsman Plus” model. The State provides financial support for the work of NGOs.

73. 2015 witnessed an increase in criminal cases, which is related to the fact that preliminary inquiries have been excluded from criminal proceedings.

74. In the first 11 months of 2015: (1) 564 reports of torture were filed (compared with 94 in 2014), 456 of which (compared with 40 in 2014) were dismissed on the grounds set out under article 35, paragraph 1 (1), (2) and (8), of the Criminal Code; (2) 11 cases (compared with 18 in 2014) were referred to the courts; (3) 13 cases (compared with 26 in 2014) were dropped; and (4) the courts convicted 24 persons for torture, with 18 sentenced to deprivation of liberty, 5 receiving a suspended sentence and 1 sentenced to restriction of liberty.

13. **Please respond to reports that, in practice, persons deprived of their liberty (a) are not duly informed of their rights upon arrest and detention, including their right to provide notification of their detention to relatives, have prompt access to a lawyer of their choice and a doctor, and to know the reasons for arrest and the charges against them, and (b) are often denied access to counsel, and are not ensured confidentiality in their meetings with counsel. Please indicate the measures taken to ensure that an arrested or detained person is informed promptly of his or her rights, and clarify whether, under the current criminal procedure legislation, the failure to provide such information is considered a violation of procedural rights.**

75. The new Code of Criminal Procedure, which entered into force on 1 January 2015, refers directly to the Miranda rule. In the event that a detainee is a foreign national, the person is read his or her rights with an interpreter and/or defence counsel present. The procurator must be informed of the detention within 12 hours of the arrest report.

76. Furthermore, the person conducting the pretrial investigation is required to notify without delay an adult member of the suspected person's family of his or her arrest and whereabouts or, if there are no immediate family members, other relatives or persons close to the suspect, or allow the suspect to give such notification.

77. Police must without fail call in civilian doctors and specialists for a medical check-up of detainees before and after investigation procedures are conducted.

78. According to the Guarantees of Legal Assistance Act, detainees enjoy the right to publicly funded counsel or any other defence counsel at their own discretion.

79. In accordance with the Act on Procedures and Conditions for the Custody of Persons in Special Temporary Detention Facilities, suspects and accused persons are entitled, from the moment of their detention, to meet with counsel in private and confidentially. There are no restrictions on the number or length of such meetings. The meetings are open to lawyers participating in the case as defence counsel, representatives of trade unions and other public defenders.

80. Wilful failure to inform a suspect's relatives of his or her detention and whereabouts, unlawful refusal to provide information on the place where a person is being held in custody to a person who has the right to receive such information and falsification of the time at which an arrest record was drawn up or of the time of the actual arrest are crimes punishable under article 414 of the Criminal Code.

- 14. Please indicate whether the State party has taken measures to ensure that persons detained are brought before a judge within 48 hours, and within 24 hours in the case of juveniles, and respond to reports that, in practice, inaccurate recording of the time of arrest and the detention of individuals in unregistered facilities is used to circumvent the existing 72-hour period. Please report on steps taken to ensure that judicial control of detention satisfies the standards required under article 9 (3) of the Covenant, and provide information, including statistics, on the use of non-custodial alternative measures to pretrial detention in practice. Please clarify: (a) the average duration of pretrial detention, providing statistics on the number of cases in which it exceeds one year, and the maximum period of pretrial and pre-sentence detention of juveniles, according to the law; and (b) whether legal assistance in proceedings on judicial review of the legality of detention (habeas corpus) is required by law.**

81. In a 2009 decision, the Supreme Court made it clear to the courts that a person suspected of a crime must be handed over to the investigator or the person conducting the initial inquiry without delay, but not later than three hours from the moment of the actual arrest, so that a decision can be taken on whether to detain him or her further.

82. To that end, in practice, when cases come to trial, the courts are required to establish the actual time, length and place of a person's detention and whether an arrest record was drawn up during the pretrial phase of criminal proceedings and other relevant circumstances. The detention period is considered to begin from the time of the actual arrest, when the person was forcibly prevented from moving freely and carrying out other actions at his or her discretion. The time of arrest, indicating hours and minutes, must be recorded in the arrest report by the investigator or person conducting the initial inquiry within three hours of the person's actual arrest.

83. If the judge finds evidence that the time of arrest of the suspect has been falsified, the judge must notify the procurator of the fact so that the procurator may verify the information.

84. The detained person must be released without delay within 72 hours from the time of his or her arrest if no court order authorizing the suspect's remand in custody has been received. The procurator must also be notified.

85. Deliberately unlawful arrest, detention or remand in custody is a crime punishable by up to 3 years restriction of liberty.

86. In determining whether a person has been unlawfully detained or detained for more than three hours, procuratorial officials carry out a preliminary inquiry and, in taking a decision to institute criminal proceedings, the investigation is carried out by special procurators.

87. As a result of the adoption of the new Criminal Code and Code of Criminal Procedure, the proportion of persons actually sentenced to deprivation of liberty during the first 11 months of 2015 decreased by 12.9 per cent as compared with the same period in 2014 (7,128 persons as opposed to 8,830 persons). The courts favour imposing restrictions on liberty, fines or community service. The number of persons fined in the first 11 months of 2014 thus increased by a factor of 7.5 (6,122 as opposed to 816 persons) and persons required to perform community service by a factor of 5.3 (3,202 as opposed to 606 persons). The number of persons remanded in custody fell from 10,878 to 9,006, or by 17.2 per cent.

88. The use of release on bail instead of remand in custody has increased. The share of cases in which bail was granted as a measure to secure the appearance of the defendant has increased from 0.9 per cent (as at October 2013) to 43.8 per cent (14,669 cases).

89. Remand in custody is chosen only in cases in which other preventive measures are not possible and persons may not be held on remand for more than two months except in the exceptional cases that are specified under article 151 of the Code of Criminal Procedure. In 2015, the courts extended the period of remand in custody to up to 12 months for 27 persons, with the majority of cases being referred to the courts before that time limit. The courts extended the period of remand in custody to up to 18 months for 1 person. In 2015, the courts extended the period of remand in custody of 12 minors to up to 3 months in connection with especially serious crimes.

15. Please explain how the practice of administrative arrest and detention of persons, with the approval of the prosecutor, for up to 30 days in temporary administrative detention centres on grounds of lack of permanent place of residence or documents verifying their identity is compatible with the State party's obligations under article 9 of the Covenant. Please comment on reports of forced psychiatric detention of human rights defenders, in particular on the case of lawyer Zinaida Mukhortova, who has been repeatedly subjected to involuntary psychiatric detention since 2009, and on the use of "preventive detention" against participants in planned protests.

90. No provision has been made to use "preventive detention" as a method of suppressing administrative offences. Preventive restriction of the freedom of movement of persons without a fixed place of residence and/or identity papers may be imposed, if their activities do not show evidence of a criminal or administrative offence and their identity cannot be established by other means, only with the court's authorization for a period of not more than 30 days.

91. During the judicial proceedings against Zinaida Mukhortova on the charge of false denunciation, the court concluded on the basis of a forensic psychiatric examination that she was not to be held criminally responsible and imposed compulsory medical treatment. She was subsequently prescribed outpatient treatment at home on the basis of a medical report. However, given that her state of health had deteriorated and the fact that her condition was classified as serious and she had avoided treatment since August 2013, the court once again took up the issue of compulsory treatment. It should be noted that this

person did not practice law and the fact of her illness was not disputed by her or other persons in court.

92. There are 170 persons who are being treated involuntarily for mental illness in Kazakhstan. Involuntary treatment is imposed only by a court decision on the basis of medical findings.

- 16. Please indicate what measures have been or are being taken to ensure that the penitentiary system is conducive to the rehabilitation of offenders and to their reintegration into society. Please report on measures taken to address: (a) the high number of persons in detention facilities; (b) violence among prisoners and self-mutilation by prisoners; (c) the poor conditions of detention, including poor food quality and quantity and inadequate medical care; (d) the lack of appropriate facilities for persons with disabilities; (e) the use of prolonged solitary confinement in prisons, including as punishment, and the denial of health care; and (f) the use of detention regimes that restrict prisoners' contact with the outside world. Please also report on the use of internal troops for security operations in prisons and respond to corresponding allegations of widespread violence against prisoners by such troops in the penitentiary facilities AP-162/3 (Pavlodar region) and OV-156/18 (East Kazakhstan region). Please indicate what measures are taken to ensure that public monitoring commissions and the national preventive mechanism function effectively; that the mandate of the national preventive mechanism extends to all places of deprivation of liberty, including police stations and closed institutions, such as orphanages, nursing homes and military barracks; and that the mechanism can undertake urgent and unannounced inspections without prior authorization and make its findings public.**

93. No later than six months before the end of a period of deprivation of liberty, the prison administration informs the local authorities and internal affairs agencies in the place of residence that the prisoner has chosen about his or her pending release, whether he or she has housing and his or her capacity to earn a living and line of profession.

94. Persons with disabilities in groups I and II, men over 63 and women over 58 years of age may apply in writing or may be recommended by an institution for placement in a facility for persons with disabilities and older persons.

95. Other persons in need of social assistance may apply in writing and or be recommended by institutions for placement in social rehabilitation centres. Employment centres are involved in finding employment for former convicted persons. Every year, the local authorities set quotas for the employment of persons released from prison. The independent recruitment of those persons by businesses is encouraged. Former prisoners have the right to unemployment allowances on the same basis as everyone else.

96. Recent amendments to the law aimed at reducing "repressiveness" have helped to reduce the prison population. For example, deprivation of liberty is reserved for only the most dangerous crimes, such as those committed by an organized group or leading to a person's death and especially serious crimes. Provision has been made for release on parole applied on condition that full reparation is made, with the exception of persons convicted of terrorist acts or intentional crimes committed while serving a sentence. As a result, the number of persons detained in prison establishments has decreased by 17 per cent and the number of persons released on parole has increased by 22.6 per cent.

97. Prison conditions have been substantially improved recently, with: (1) an increase in standard living space per person in places of detention of at least 2.5 m² for men and 3 m² for women and at least 3.5 m² for young people; (2) an increase in the number of food items covered by daily nutritional standards (based on the recommendations of the World Health

Organization and the Kazakh Academy of Nutrition) by 42 per cent, from 15 to 26; (3) improvements in water and sanitation; (4) a major renovation of buildings and facilities of five health-care institutions and sleeping and living quarters, bath and laundry facilities, canteens, dormitories and utilities.

98. The services of specialists with a command of sign language or Braille are offered in prison establishments for persons with disabilities; living conditions and nutritional standards are improving; and the right to receive additional parcels with medicines and medical items has been introduced. The prison system is working in close cooperation with social protection services to provide persons with disabilities with hearing aids, room chairs and wheelchairs, walking frames, incontinence products and orthopaedic shoes. Convicted persons with disabilities in group I are eligible for early release based on the findings of a special medical board.

99. Convicted persons may be transferred to solitary confinement for up to six months for gross violations of penal regulations, however this is an exceptional measure subject to the appropriate conditions.

100. Convicted persons may have visits, including short-term two-hour visits and long-term 48-hour visits on the prison premises. Short visits from spouses, relatives and other persons take place in the presence of a member of the prison administration and include the right to receive parcels. Long visits are offered to convicted persons, with the exception of persons suffering from tuberculosis, including the right to overnight stays with spouses, near relatives and partners with whom the convicted person has children in common and the right to receive parcels.

101. The National Guard is entrusted with monitoring penal institutions except prisons and remand centres intended for women or minors. There have been no operations of any kind by the National Guard that have involved violence against prisoners in the foregoing institutions.

102. The status, terms of establishment and work of the national preventive mechanism, including conditions for visits to places of detention and guidelines for the types of institutions that may be visited is regulated at the legislative level. Provision is made for periodic, interim and special visits. Periodic and interim visits are planned activities and are approved by the Coordinating Council reporting to the Ombudsman's Office. Special visits are conducted when there is specific evidence of violations, subject to the approval of the Ombudsman. In 2015, 531 periodic and 19 special visits were conducted. Pretrial investigations are now being conducted into eight incidents of torture on the basis of NGO reports. The matter of whether to include in the list of institutions visited by NGOs homes for older persons and children's homes is under discussion.

17. Please report on measures taken: (a) to improve efforts related to the identification of victims of trafficking, as well as investigation and prosecution; (b) to provide sufficient State-funded shelters and longer-term rehabilitation to victims of trafficking; and (c) to ensure that legal alternatives are available to foreign victims who may face hardship or retribution upon removal.

103. In 2014, the Ministries of Internal Affairs, Health and Social Development and Education and Science jointly approved a procedure for identifying victims of trafficking. Draft standards for the provision of special social services for victims of trafficking in persons developed by the Ministry of Health and Social Development are currently being discussed. There are plans to pilot a standard in 2016 in four areas: Kostanai province, South Kazakhstan province, Astana and Almaty. The standard is expected to be fully rolled out in 2017. Funding will be provided with the framework of State social procurement in

the form of earmarked transfers from the national budget. In 2016, 43,470 million tenge have already been allocated.

104. There are 18 non-governmental organizations in the country that provide legal aid and mental and physical health care to victims, representation in court and help with the reissuance of documents and repatriation. There are three shelters and one centre each in Almaty, Kokshetau, Petropavlovsk and Astana.

105. NGOs are funded with donor assistance. If the standard is adopted, funding for such NGOs will be provided on a regular basis.

- 18. Please indicate the steps taken: (a) to address the issue of domestic servitude, forced and bonded labour, in particular of migrant workers, in the tobacco, cotton and construction industries, forced labour in penitentiary institutions, and child labour, particularly on tobacco and cotton plantations; (b) to ensure that victims of forced and bonded labour are identified and recognized as such and are provided with shelter, as well as legal, financial and social support; (c) to clearly designate slavery and slavery-like practices, including domestic servitude, and forced and bonded labour, as crimes in the Criminal Code; (d) to address abuses against migrant workers in the cotton sector, such as poor and hazardous working conditions, delayed payment and confiscation of identity documents; and (e) to monitor the working conditions of migrant workers and to ensure that they are able to report on rights violations without fear of reprisal, and have access to effective judicial redress and compensation.**

106. Forced labour is prohibited in Kazakhstan. The use of forced child labour and any other form of exploitation of minors and adults is considered to be a serious crime and is subject to criminal penalties of up to 15 years' deprivation of liberty and the confiscation of property.

107. The protection of victims of human trafficking who take part in criminal proceedings is covered by the national budget. Victims have the right to claim compensation for material and moral injury. A bill on a compensation fund for victims that would guarantee compensation from the State without individual recourse to civil proceedings is currently being discussed.

108. In 2014, the Ministries of Internal Affairs, Health and Social Development and Education and Science jointly approved a procedure for identifying victims of trafficking. Draft standards for the provision of special social services for victims of trafficking in persons developed by the Ministry of Health and Social Development are currently being discussed.

109. Monitoring aimed at protecting the labour rights of minors is done by State bodies (Labour Inspectorate, Office of the Procurator and education authorities). At the end of 2015, State regional labour inspectors conducted 11,421 inspections, which represented an increase of 58.3 per cent (7,216 inspections) compared with the same period in 2014.

110. In the country as a whole, 19,587 violations were identified in the course of inspections, including 14,675 in the area of employment relationships (compared with 13,804 in 2014), 4,440 in the area of occupational health and safety (compared with 7,395 in 2014), and 472 in the area of employment (compared with 467 in 2014). As a result of the inspections, 7,797 violation notices were issued to employers and 4,296 administrative fines totalling 429.6 million tenge were imposed.

111. Unfortunately, the recruitment of minors for work does occur in Kazakhstan. Such recruitment is mainly found at facilities in the service, trade and agricultural sectors. Cases of child labour are uncovered by means of surprise inspections. As a result, the number of

children recruited for the cotton harvest has decreased every year in South Kazakhstan province (while in 2013 it was found that 699 pupils from 11 schools in the province engaged in the cotton harvest had not attended school, in 2014, 547 pupils from 10 schools had been recruited for the harvest and, in 2015, 400 pupils from 10 schools).

112. The Government interdepartmental commission to combat trafficking in persons operates on a continuous basis. The Government adopts a plan every three years to take measures to detect and prevent human trafficking, including through coverage in the media, and to improve legislation and practice, including through prevention campaigns, accession to international agreements in this field and the implementation of obligations undertaken under national law. Bearing in mind the specific nature of the crime of child labour, the Ministry of Health and Social Development has established an interdepartmental Coordinating Council to Combat the Worst Forms of Child Labour and is implementing a Plan of Action on the Elimination of the Worst Forms of Child Labour for the period 2016-2017.

- 19. Please provide information on the procedures and criteria for the selection, appointment, disciplining, suspension and dismissal of judges. Please report on measures taken: (a) to ensure, in law and in practice, the impartiality of judges and their full independence from the executive branch, including their security of tenure, and their freedom from any form of interference; (b) to address corruption in the judiciary; (c) to review the broad powers of the prosecution in the judicial process; (d) to ensure the full compliance of judicial proceedings with article 14 of the Covenant; (e) to ensure that State appointed lawyers are impartial and provide legal advice in the best interest of their clients; and (f) to address prosecutorial bias in criminal cases and the low rate of acquittal. Please comment on reports that: (a) torture-tainted evidence is in practice admitted in court to convict defendants; and (b) lawyers are subjected to threats or physical attacks, intimidation, interference in their work, including by judges and public prosecutors, and arbitrary disciplinary actions and disbarment.**

113. Judges are selected and administer justice independently of the executive. The Supreme Court does not form part of the Government. The independence of the judiciary is guaranteed under the Constitution.

114. Candidates for vacancies for judicial office are selected by the Supreme Judicial Council on a competitive basis. Candidates for judicial office are afforded equal employment rights, irrespective of origin, social and property status, racial or ethnic affiliation, sex, political views, religious beliefs and other circumstances.

115. A consistent policy is being undertaken to further strengthen the independence of the judiciary and the status of lawyers, increase the scope for mediation and other extrajudicial measures for the settlement of disputes and simplify approaches to reviewing civil cases.

116. The number of levels of jurisdiction has been streamlined with the transition on January 2016 to a three-tier court system (trial, appellate and cassational courts). Eligibility requirements and candidate selection mechanisms for judicial office have been made more rigorous and a new framework for court juries has been set up under the Supreme Court and Supreme Judicial Council. An International Council reporting to the President of the Supreme Court of Kazakhstan has been established in order to incorporate international standards into the justice system.

117. Steps are being taken towards greater judicial supervision, the involvement of judicial investigators in criminal proceedings, the introduction of plea bargaining and enhancement of the role and increase in the powers of lawyers. Concerning the low rate of

acquittal, in 2015 there was an upward trend in the number of acquittals; the number of persons acquitted by the courts increased from 478 accused persons in 2014 to 743 in 2015.

118. Studies have shown that the level of corruption-related crimes by the courts compared with other State bodies is very low, accounting for 0.08 per cent of such crimes in 2015. Furthermore, the Supreme Court is implementing a comprehensive plan to combat corruption in the judicial system of Kazakhstan in the following areas:

1. Selection and training of judicial staff and more stringent requirements for candidates for judges.
2. Strengthening of the independence of the judiciary as a prerequisite for effective and systemic anti-corruption efforts.
3. Further improvements to the legislation.
4. Enhancement of the effectiveness and transparency of periodic opinion polls conducted among participants in court proceedings.
5. Expansion of the use of up-to-date information technologies.
6. Stepping up of international cooperation in preventing corruption in the courts.
7. Enhancement of transparency in the work of the courts, including cooperation with the media.
8. Increases in the effectiveness of early warning and preventive anti-corruption measures.

119. Concerning the role of procurators in trials, it is worth noting that in 2016 the mandatory participation of a procurator has been eliminated for four categories of civil cases. Reform of the procuratorial system is currently under review, including the participation of procurators in trials. There is no evidence to substantiate allegations of interference in the work of lawyers, including intimidation by judges and procurators.

20. With reference to the Committee's previous recommendations (see CCPR/C/KAZ/CO/1, paragraph 18), please report on measures taken to bring the compulsory residence registration system (*propiska*) into line with article 12 of the Covenant.

120. Registration is for information purposes and is not contingent on any conditions. Registration does not restrict citizens' right to employment. The Constitutional Council's decision of 14 February 2007 showed that the constitutional right to work implies the freedom of every person to make independent use of his or her capacity for work regardless of place of residence.

121. The law allows for registration at the place of work or study in the event that it is not possible to register in the actual place of residence.

122. The main purpose of registration is to monitor internal migration flows and keep track of the number of residents in order to determine the potential capacity of each community when State and regional development programmes are being worked out. It is on the basis of such estimates that plans are made for job creation, the construction of schools and hospitals and the development of infrastructure.

123. Under the Civil Code, the place of registration is the citizen's legal address at which tax, military service and other records are kept.

124. Since 2013, registration is available on the Internet (through the e-government portal) or at public service centres, without any requirement to appear in person at migration police departments.

125. The number of documents required for registration of a place of residence has decreased from seven to three (including copies of the applicant's identity card, the identity card of the landlord and the owner's consent to such registration).

126. Deregistration formalities for the former place of residence are completed at the same time as the new registration (without requiring a record of departure from the previous address).

- 21. Please report on measures taken: (a) to guarantee accessible and effective procedures for determining refugee status at all border points, including at international airports and transit zones, and to establish an efficient referral procedure at all border points; (b) to end the practice of forcible return of asylum seekers before a decision on their asylum claims has been taken; (c) to ensure, in practice, the exercise of the right to an effective appeal, with suspensive effect, of expulsion/extradition by persons whose asylum applications have been rejected; (d) to ensure strict compliance with the principle of non-refoulement in practice, including while extraditing individuals on the basis of bilateral or multilateral extradition agreements or regional instruments, and to revisit the policy of reliance on diplomatic assurances to justify the return of foreign nationals to countries where they may face a real risk of torture or other form of ill-treatment.**

127. Asylum seekers may file a written application for refugee status in person or through an authorized representative within five calendar days of arrival in Kazakhstan or from the moment that they become aware that they are under threat of becoming a victim of persecution.

128. If the asylum seeker in question has not arrived in Kazakhstan, the applicant or an authorized representative may submit a request in writing for refugee status to the relevant diplomatic or consular mission of Kazakhstan.

129. When such persons cross State borders they may submit their applications at the immigration control posts.

130. In the event that persons detained for unlawful entry or stay in Kazakhstan declare their intention to apply for refugee status, the relevant authorities inform the authorized body within a day of the detention.

131. The authorized body takes two days to clarify the circumstances surrounding the arrival of the person in question in Kazakhstan and registers the application for refugee status. It should be noted that the forced return (or removal) of persons seeking asylum may not be carried out before a decision on the application for refugee status is taken. Persons who are declared wanted in their country of origin may also make use of the procedure.

132. The decision to deny refugee status is made when there are no grounds for concern that a person may be subjected to persecution on the basis of race, ethnicity, religion, nationality, membership of a particular social group or political opinion.

133. However, persons who are denied refugee status are registered for as long as is necessary for an appeal against the decision in court.

- 22. Please provide information about the legal safeguards in place against arbitrary interference with the privacy, home and correspondence of individuals, including with regard to the protection of personal data, and their observance in practice. Please report on measures taken to ensure that: (a) interception of private communications, retention of communications data (metadata) and other surveillance activities require prior judicial authorization and conform with the State party's obligations under the Covenant; and (b) such surveillance activities are subject to independent oversight mechanisms. Please respond to reports that anonymity and privacy online are restricted and that the monitoring of online activities has an adverse impact on the right to privacy and freedom of expression.**

134. The right to personal and family privacy and the protection of honour and dignity is guaranteed by the Constitution.

135. Under the Code of Criminal Procedure, covert investigations may be conducted with the authorization of a procurator and a list of investigative actions is expressly set out in the Code.

136. The new Criminal Code makes the following a criminal offence: intentional illegal access to protected information in electronic form, information systems or information and communication networks that constitute a serious violation of the rights and legitimate interests of citizens or organizations or of legally protected interests of society or the State; and unlawful distribution of electronic information resources containing personal data or other information to which access is restricted by law or the owner or holder.

137. It also provides for criminal liability for violations of privacy and legislation on personal data and personal data protection.

138. Under article 2 of the Media Act, freedom of speech, creativity and expression of one's views and beliefs in print or in other forms and the freedom to receive and disseminate information by any means not prohibited by law is guaranteed by the Constitution.

139. Furthermore, there are no laws that prohibit anonymity on the Internet.

- 23. Please provide updated information on the implementation of the Committee's previous recommendations on the recognition of the right to conscientious objection to military service (see CCPR/C/KAZ/CO/1, paragraph 23). Please explain how the restrictions imposed on the exercise of freedom of religion, notably by the 2011 Law on Religious Activity and Religious Associations — such as the mandatory registration (re-registration) of religious organizations and of missionary activities, the ban on unregistered religious activities, the restrictions on the importation and distribution of religious materials, and the penalties for violations of the legislation in question — are compatible with the State party's obligations under article 18 of the Covenant. Please comment on reports of derogatory remarks against Jehovah's Witnesses in the mass media, police raids and disruptions of their religious meetings, censorship and banning of their religious literature and arrests and convictions for missionary activities. Please explain how article 22 of the Constitution complies with article 18 of the Covenant. Furthermore, please report on the steps taken to amend the overly broad and vague definitions of offences contained in the 2014 Criminal Code, notably in articles 174 (or article 164 in the 1997 Criminal Code) and 404 (or article 337-1 in the 1997 Criminal Code), in the Code on Administrative Offences and in the 2005 Law on Countering Extremism, which are reportedly used extensively to curtail freedom of religion and belief and freedom of expression and association.**

140. Under the Constitution, citizens may not voluntarily decline to perform military service with the exception of cases provided for by law. Students attending religious

educational establishments are granted a deferment of compulsory military service and clergy in registered religious associations are granted an exemption from military service in peacetime. Citizens who have performed military or alternative service in another State are also exempted from compulsory recruitment for military service.

141. It is worth noting that registration requirements and procedures are transparent and fair and the same for all religious associations. They do not involve the imposition of any obligations on religious associations and persons that stand in the way of their missionary work and are not discriminatory.

142. State registration of religious associations is necessary in order to enhance the principle by which a legal entity's assets and liabilities are separate from its owner's and to facilitate their involvement in civil proceedings on their own behalf and the fulfilment of corresponding rights and obligations.

143. There has been no evidence of any restrictions on freedom of religion, conscience, expression or association as a result of "overly broad and vague definitions".

144. As regards the reports of "derogatory remarks" against the Jehovah's Witnesses in the news media, it should be mentioned that by law any religious association has effective remedies as a legal entity at a pretrial stage or before the courts against defamatory information or information that infringes on their rights and legitimate interests.

- 24. Please respond to allegations of harassment, intimidation, threats and arbitrary detention of human rights defenders. Please indicate how the following legal provisions and practices are compatible with the State party's obligations under article 19: (a) The criminalization of, and harsh penalties incurred for, defamation (art. 130 of the Criminal Code) and insult (art. 131), public insult or other encroachment on the honour and dignity of the President of Kazakhstan (arts. 373 and 375), public insult of a State official by the mass media or information communication networks (art. 378) and dissemination of knowingly "false information" (art. 274), and their extensive use against individuals exercising their right to freedom of expression; (b) Law No. 200-V of 23 April 2014, which allows the Prosecutor General or his deputies to instruct an authorized body to shut down or suspend a network or means of communication, the provision of communication services and access to Internet resources without a court order; (c) The blocking of social media, blogs and other Internet-based resources, allegedly for their extremist or otherwise illegal content; (d) Interference with professional journalistic activity and the shutting down of independent newspapers and magazines (e.g. *Respublika*, *Golos Respubliki*, *Assandi Times*, *Pravdivaya Gazeta* and *ADAM bol*), television channels (e.g. K+) and news websites for minor irregularities or on extremism-related charges.**

145. The right of citizens to defend their honour, dignity and good standing is a constitutional right. With this in mind, defamation continues to incur criminal responsibility, which is intended not to restrict freedom of speech but rather to prevent such freedom from being used against the legitimate rights and interests of the individual.

146. Slander means defamatory information known to be false or the dissemination of information known to be false affronting the honour and dignity of another person or damaging his or her reputation, with due consideration given to striking a balance between private and public interests in matters concerning criminal responsibility for defamation.

147. Insult falls under the category of private prosecution cases; such cases are considered by the courts on the basis of a complaint brought by an aggrieved party and the submission of the relevant evidence. In addition, a criminal case may be terminated in the event of reconciliation between the parties.

148. Since May 2014, Kazakhstan has established criminal liability for disseminating information known to be false in cases in which it threatens to disturb the public order or cause substantial harm to the rights and legitimate interests of citizens or organizations or to the legally protected interests of society or the State.

149. The Procurator General and his or her deputies have the right to issue directives to suspend the work of networks and communications in cases in which they are being used in order to harm the interests of persons, society or the State or to call for extremist or terrorist action, riots or participation in illegal mass (public) events. The pretrial mechanism for blocking networks and communications is very rarely used in practice.

150. According to the findings of a comprehensive psychological and linguistic examination of articles published in the newspaper *Golos Respubliki — kaleidoskop sobitii nedeli* and the news analysis portal Respublika, there is evidence of incitement of social hatred and advocacy of the overthrow of power by force.

151. In addition, the sentence handed down by the Aktau City Court on 8 October 2012 against V.I. Kozlov and other persons for incitement of social hatred, advocacy of the overthrow of power by force and undermining of national security entered into force on 19 November 2012.

152. In a judgment of the court, it is stated that the conceptual content of the stories on the television station K+, Internet portals Stan-TV and Respublika and newspapers *Respublika*, *Golos Respubliki* and *Vzglyad* was intended to give rise to social hatred.

153. An analysis of the subject matter of broadcasts by K+, news items in *Vzglyad* and *Golos Respubliki*, the Internet portals Respublika and Stan-TV, the weekly *Assandi Times* and other news media showed that they contained calls for seizing power by force and undermining national security.

154. In this connection, on the application of the procurator's office of Almaty, these news outlets were closed down. By decision of the Medeu district court of Almaty of 24 December 2014, the magazine *ADAM bol* ceased publication and its accounting certificate was revoked on the application of the Department of Internal Policy of the local administration (*akimat*) of Almaty.

155. The application was occasioned by the publication in No. 31 of the magazine of 29 August 2014 of an article entitled "Our People in a Foreign War" in which the complainant discerned evidence of war propaganda and agitation, which is prohibited under article 20 (3) of the Constitution. The author of the article justified and advocated war in the eastern part of Ukraine. The violation of this prohibition are the grounds for closing down the media outlet.

156. In a ruling of the Appeal Chamber of the Almaty City Court on 26 February 2015, the appeal of the respondent's representative S. Utkin was dismissed and the decision entered into force.

157. The respondent did not exercise its right to lodge a cassational appeal. Meanwhile, they retain the right to appeal under the supervisory review procedure.

25. **Please provide information on the implementation of the Committee's previous recommendations concerning article 21 of the Covenant (see CCPR/C/KAZ/CO/1, paragraph 26). Please explain how restrictions, both in law and in practice, on the exercise of freedom of peaceful assembly, such as those set out in the 1995 Law on the Procedure for Organizing and Holding Peaceful Assemblies, Meetings, Marches, Pickets and Demonstrations, including the following, are compatible with the State party's obligations under the Covenant: (a) the requirement of prior authorization to hold public events; (b) the broad powers of local representatives and local executive authorities to designate specific sites where authorized assemblies can be held and to decide on the time of such events; (c) the restriction of assemblies to certain permissible locations (usually remote sites); and (d) arrests, detentions and imposition of penalties, including criminal sanctions such as imprisonment, for the exercise of the right to peaceful assembly.**

158. Under the Act on the Procedure for Organizing and Holding Peaceful Assemblies, Rallies, Marches, Protests and Demonstrations in the Republic of Kazakhstan, the only condition for holding peaceful protests is to obtain prior authorization from the local authorities. Authorization is required when conducting meetings in public places, whereas in enclosed spaces no restrictions or conditions of any kind are imposed.

159. Furthermore, it should be noted that the legal regulations for organizing assemblies comply with the rules of international law, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and with the common practice of other countries. This legally established procedure is necessary to ensure public order and to protect citizens against any encroachment or gross violations of the public order that could result from unruly protests.

160. Article 10 of the Act on the Procedure for Organizing and Holding Peaceful Assemblies, Rallies, Marches, Protests and Demonstrations in the Republic of Kazakhstan provides that local representative authorities may further regulate how assemblies, rallies, marches, protests and demonstrations are conducted with due regard for local conditions and in compliance with the provisions of the Act.

161. This provision of the Act provides for the safeguarding of both the personal safety of participants in rallies, assemblies and marches and public safety when it comes to the functioning of strategic facilities such as railways, roads, pipelines, schools etc. For the organization and holding of peaceful assemblies and rallies, consideration is given first and foremost to safety issues, particularly the safety of the participants in the protests themselves. Moreover, the holding of rallies and assemblies must not in any way infringe on the rights and legitimate interests of other citizens who wish to travel, take walks with their children, engage in public works, including public services and amenities, or travel in special vehicles such as fire engines, ambulances and others.

26. **Please provide information on measures taken to guarantee, both in law and in practice, the free exercise of freedom of association, and explain how restrictions such as those set out below are compatible with the State party's obligations under the Covenant: (a) the mandatory registration of public associations and the wide discretion to deny them registration or close them down; (b) the criminalization and penalization of the legitimate activities of associations, including political parties, particularly under article 174 of the Criminal Code; and (c) the mandatory affiliation of trade unions to regional or sectorial federations under the 2014 Act on Trade Unions. Please also provide information on: (a) reasons for the introduction of "leader of the public association" in the 2014 Criminal Code as a separate category of offenders that incur stiffer penalties for a number of offences; (b) steps taken to clarify the vague and broadly worded key terms in article 403 of the Criminal Code, such as "interference in the activities of State bodies" and "illegal" interference; and (c) the status of the draft law regulating the allocation of grants to public associations, and its impact on the ability of non-governmental organizations to exercise their freedom of association.**

162. State registration of voluntary associations is carried out according to the "single window" principle (one-stop shop), which includes the processing of an electronic application submitted to the e-government portal over the Internet within 10 working days of the date of submission. Registration or re-registration of political parties takes place within no more than a month from the date of submission of the application.

163. State registration of parties is aimed at: certifying their establishment; maintaining a reliable and full national register of business identification numbers; and making information on their registration generally accessible. The law contains an exhaustive list of the permissible grounds for denying State registration; as such, there is no legal basis for wide discretion over denying registration, as the Committee suggests.

164. State registration may be denied in the event of: violations of registration procedures and requirements expressly provided for by law; irregularities in the registration documents; founding members who are declared missing or dead or have pending sentences or sentences that have not been served for offences involving business fraud or fraudulent or intentional bankruptcy; a decision by the courts, judicial officers or law enforcement agencies.

165. The activities of voluntary associations may be terminated only by way of legal proceedings.

166. With respect to the issue raised concerning the criminalization and penalization of the legitimate activities of associations under article 174 of the Criminal Code, it should be noted that criminal responsibility for establishing, leading or taking part in activities attaches only to illegal voluntary and other associations.

167. The distinction between regional and industry-specific trade union federations was introduced to build the capacity of the trade union movement and provide for greater representation of workers while taking into account the characteristic features of various sectors.

168. The concept of "leader of a public association" was introduced by virtue of the fact that, through their influence and authority, such persons are capable on their own of controlling the activities of public associations, in particular when it comes to the unlawful acts covered by the exhaustive list of the permissible grounds for denying State registration, six of which are expressly referred to in the Criminal Code.

169. Article 403 of the Criminal Code is applicable when substantial harm is done to the rights and legitimate interests of citizens or organizations or to the legally protected

interests of society or the State. Furthermore, such offences are categorized as minor criminal offences that do not entail a criminal record and for which the statute of limitations has been reduced to one year.

170. The Act amending certain legislative acts of the Republic of Kazakhstan on the activities of NGOs was passed on 2 December 2015. The Act is aimed at creating the most favourable conditions possible for increased resources for NGOs; ensuring transparency with respect to the procedures for allocating funding to NGOs; increasing their role in addressing social issues; and forming an effective system of cooperation between the State, foreign donors and Kazakh NGOs on a voluntary and transparent basis.

171. On the initiative of the Civil Alliance of Kazakhstan, NGOs were directly involved in the drafting of the Act. New forms of funding for NGOs in the form of grants and prizes have been introduced under the Act.

27. With regard to the Committee's previous recommendations (see CCPR/C/KAZ/CO/1, paragraph 27), please report on measures taken to revise the undue requirements for registration of political parties and clarify the broad grounds for the suspension or dissolution of political parties. Please provide information about the dissolution of the Democratic Choice of Kazakhstan political party on charges of political extremism, inciting social tension and threatening national security, by court order in January 2015.

172. Since 2010, a number of amendments have been made to the Political Parties Act, as follows:

- In 2012, the reasons for termination of membership in political parties and changes in the seat of the standing body and its data on its leadership were specified;
- In 2014, political parties' requirements for reporting on their financial activities to the tax authorities were specified;
- In 2015, the right of political parties to use their funds for charitable purposes was established.

173. The decision by the Economic Court of Almaty to dissolve Democratic Choice of Kazakhstan and close down its branches was taken on 6 January 2005 and not 2015.

174. On 15 January 2016, the court in Almaty ruled on completing the dissolution procedure for the Communist Party of Kazakhstan, which entered into force on 29 January 2016.

175. There have been no other judicial proceedings involving political parties.