REPORT
ON THE ACTIVITIES OF THE
HUMAN RIGHTS COMMISSIONER
IN THE REPUBLIC OF KAZAKHSTAN
IN 2016

ASTANA, 2017
REPORT
on the activities of the
Human Rights Commissioner
in the Republic of Kazakhstan
in 2016

ASTANA
2017
The report has been translated and published with the support of the OSCE Programme Office in Astana. This is not an OSCE report. OSCE is not responsible, nor does it necessarily endorse its content. Any views expressed are solely those of the Office of the Human Rights Commissioner of the Republic of Kazakhstan and do not reflect those of OSCE in Astana, OSCE or its Member States.
# CONTENT

## Introduction ................................................................................................................................. 4

1. General Description of Inquiries Received ............................................................................. 6

2. Powers Exercised by the Human Rights Commissioner in the Republic of Kazakhstan; Ombudsman’s Interaction with State Authorities, Civil Society, Mass Media ................................................................. 16

3. Right to Liberty and Security of Person ............................................................................... 22

4. Right to Judicial Protection and Fair Trial, Enforcement of Court Rulings ......................... 30

5. Citizen Right to Receive Public Services ............................................................................. 37

6. Right to Freedom of Movement, Conferment of Citizenship .............................................. 43

7. Property and Land Rights .................................................................................................... 51

8. Labour Rights ...................................................................................................................... 60

9. Right to Welfare and Pension Coverage ............................................................................. 67

10. Right to Health Protection .................................................................................................. 74

11. Rights of Persons with Disabilities ..................................................................................... 80

12. Children’s Rights ................................................................................................................ 86

13. Right to Freedom of Worship ............................................................................................. 97

14. Convicts’ Rights ................................................................................................................ 103

15. International Cooperation .................................................................................................. 114

## Conclusion ............................................................................................................................... 121

## Annexes .................................................................................................................................. 122

1. Inquiries ............................................................................................................................. 122

2. Recommendations ............................................................................................................... 132

3. Statistical Data on Handling Inquiries ................................................................................. 143

4. Activities of the Ombudsman in the Regions of the Republic ............................................ 147

5. Participation of the Human Rights Commissioner and Ombudsman’s Office in Public Activities ................................................................................................................................. 149

6. Participation of the Human Rights Commissioner and Ombudsman’s Office in International Events .......................................................................................................................... 158

7. Apperances of the Human Rights Commissioner and the Ombudsman’s Office in the Media ............................................................................................................................................... 164

8. Appraisal and Assessment Documents .............................................................................. 168
INTRODUCTION

This Report on the activities of the Human Rights Commissioner in the Republic of Kazakhstan (the Ombudsman) in 2016 was prepared in pursuance of paragraph 23 of the Regulation on the Commissioner for Human Rights (the Human Rights Commissioner) adopted by the Decree of the President of the Republic of Kazakhstan of 19 September 2002 No. 947.

This document provides a complete, structured and in-depth presentation of the work the national human rights institution had performed over the course of the specified year, including the information on the exercise of its powers, characteristics of received complaints on violations of human rights and the primary areas of work of the Ombudsman. The annex contains analytical documents of the institution, including inquiries, recommendations and other materials.

The Report is based on the handling and analysis of collective and individual inquiries and complaints submitted to the Ombudsman, face-to-face talks with citizens during appointments, coverage in mass media, materials of institution monitoring in regions, meetings with non-governmental and international human rights organisations, foreign partners, interactions with state authorities of the Republic of Kazakhstan, as well as research conducted by the institution.

In spite of the unprecedented threats to stability and prosperity, the year 2016 saw continued implementation of the policy for the progressive development and improvement of mechanisms of safeguarding personal and civil rights and freedoms in Kazakhstan.

The 25th anniversary of our nation’s independence in 2016 gave us a positive opportunity to analyse Kazakhstan’s achievements in human rights sphere and look for new growth trajectories.

When summing up the year under review, one needs to highlight, on the one hand, persisting trends of the preceding years, and on the other hand – new vectors of human rights efforts.

For instance, Kazakhstan’s active efforts on the global arena continued. The country was selected as a non-permanent member of the UN Security Council for the 2017–2018 period, which is a testament to the international recognition of Kazakhstan’s global achievements.

Large-scale modernisation of the structure of the Government and the central executive authorities of the Republic of Kazakhstan and the continued development of public governance as part of the Plan of the Nation “100 Concrete Steps to Implement Five institutional Reforms” have proven to be conducive to better upholding of civil rights in the provision of public services.

In 2016, Kazakhstan successfully defended its periodic reports at the UN Commission on Human Rights concerning the observance of the regulations of the International Covenant on Civil and Political Rights and at the UN Committee on Enforced Disappearances regarding the observation of the regulations of the International Convention for the Protection of All Persons from Enforced Disappearance.
The Office of the Ombudsman has continued its handling of complaints on human rights violations on the part of officials and organisations, analysis of the human rights situation in the country and interaction with all stakeholders in order to reinforce human rights mechanisms.

It is worth noting that the institution was engaged in fruitful cooperation with the President’s Administration, the Constitutional Council, the Supreme Court, the Parliament, the Government of the Republic of Kazakhstan and other state authorities throughout the entire year.

The Ombudsman was actively working on enhancing international cooperation with the UN, UNDP, OSCE, EU, International Coordination Committee, Asia Pacific Forum and the European Network of National Human Rights Institutions, as well as other organisations, rights advocates and ombudsmen around the world.

The presented document’s contents reflect the diversity of forms and methods of realising the mandate and the focus areas of work of the Ombudsman, while conceptually preserving the traditional structure of annual reports.

Its goal is to inform the Head of State, the Kazakhstani and international public, parliamentarians, representatives of state authorities, international and national human rights institutions, foreign partners of the ongoing work carried out by the Ombudsman.

The Report will be disseminated to the President of the Republic of Kazakhstan, Chambers of the Parliament, the Government, other state authorities, and to embassies of foreign nations and human rights organisations. Furthermore, the Report will be both print-published and distributed online on the Ombudsman’s website in Kazakh, Russian and English languages.
1. GENERAL DESCRIPTION OF INQUIRIES RECEIVED

Pursuant to paragraph 1 of the Provision on the Commissioner for Human Rights approved by the Decree of the President of the Republic of Kazakhstan of 19.09.2002 No. 947, the Ombudsman monitors the observance of human and civil rights and freedoms and takes measures to restore violated rights. One of the main ways the Ombudsman fulfils this duty is by handling inquiries and complaints from citizens regarding violations of rights and taking appropriate response measures.

Over the course of the reporting year, the Ombudsman received 1,070 written and 234 oral inquiries. In total, over the past five years the national human rights institution has received over 6,000 inquiries and complaints from the public.

In the year under review, compared to the previous year, individual inquiries were at a decline: 949 and 919 respectively. At the same time, there was a notable increase in the number of collective inquiries: 60 such inquiries were handled, with 1,541 signatures in total. In 2016 the Ombudsman received inquiries from 2,785 people in total.

Often in their collective inquiries, citizens bring up issues of seeking compensations for demolished dwellings, tardy commissioning of mortgage property, reclaiming of land shares, disbursement of insurance payments, labour and residential rights.
Of all the written inquiries received by the Ombudsman, 67% were acted upon with the engagement of state authorities. Inquiries beyond the competence of the human rights institution, or where no human right violation is established, amounted to 23.5% of the total number of written inquiries. 16% of inquiries were pending as at the close of the reported period because measures had not been taken toward them yet.

One of the indicators of high productivity of the national human rights institution is the timely response of state authorities to inquiries sent their way. In the reporting period, 1,526 requests were submitted to various state authorities, of which 9.6% were not handled within the time frames established by the current legislation.

In 2016, as in the preceding years, written inquiries were received from all regions of Kazakhstan. The majority of inquiries were received from the cities of Astana and Almaty, oblasts (provinces) of Almaty, South Kazakhstan, Karaganda, Kostanay, East Kazakhstan and Zhambyl. The regions submitting the least number of inquiries remain the same: Atyrau, West Kazakhstan and Mangistau oblasts.
Foreign inquiries were received from Austria, United Kingdom, Hungary, Germany, Israel, Canada, the Kyrgyz Republic, the Russian Federation, the US, Tajikistan, Czech and Uzbekistan.

Human rights institutions are charged with an important function of protecting the person from unsubstantiated and unlawful infringements both from individuals and from state authorities. Yet, it is especially alarming that complaints on the infringement upon citizens’ rights on the part of law enforcement agencies remain at the top of the list in 2016, amounting to 30% of the total number of inquiries received. According to citizens, the law enforcement continues to resort to unlawful detentions or ungrounded accusations, engage in torture and abusive treatment, abuse of office, bureaucratic red tape in investigation.

Also, inquiries submitted to the Human Rights Commissioner by convicts, their relatives, lawyers and other parties, indicate the continuing trend of human rights violations at correctional facilities of the Ministry of Internal Affairs. Complaints about unlawful actions on the part of penitentiary system personnel amounted to 9.4% of all written inquiries and mentioned unsubstantiated use of force and special equipment, imposition of punitive measures, delayed delivery of mail and so forth.
It is also important to note a significant increase in the number of inquiries protesting court rulings and complaints on action or inaction of court authorities – from 24.7 in 2015 to 28% in 2016. In this group, the most numerous inquiries relate to citizen’s discontent with being pronounced guilty of committing a crime, attempts to secure a release on parole or to have their punishment downgraded to a milder one. Also, citizens were in contention with rulings in civil and administrative proceedings. 2.7% of inquiries of this group contained complaints concerning action or inaction of court bodies in criminal and civil proceedings in reference to failures to comply with the court hearing procedures, red tape, judges’ refusal to accept appeals.

Citizens continue to submit inquiries voicing their dissatisfaction with public service provision, which is indicative of improper administrating on the part of state authorities (16.1%). Inquiries of this group mainly regard central and local executive bodies’ failure to properly control the quality and timeliness of service provision.

Inquiries concerning the use of torture and abusive treatment on the part of law enforcement officers decreased from 10% in 2015 to 9.1 in 2016, but their existence alone is proof that instances of torture and abusive treatment against specific groups still persist. According to citizens and inmates, the most common methods of torture are beatings, threats of physical violence, infliction of bodily suffering, illegal criminal prosecution and deprivation of liberty, planting of narcotics, bladed/blunt weapons and firearms, ammunition and other banned items and substances.

It is worth noting a certain increase in the number of inquiries regarding violations of children’s rights – 7.6% – referring to failures to enforce court rulings, use of violence against children,
disagreements among parents regarding child rearing, as well as issues related to education, healthcare and social protection.

In 2016, 6.9% of inquiries received by the Human Rights Commissioner were issues related to the provision of public-funded housing, violation of the rights of off-plan property project participants, disputes with developers, objections to banks’ refusal to refinance mortgage, and court rulings on real estate matters.

6.9% of inquiries were in reference to labour right violations, where complainants voiced their protests over firings, delayed payment of wages, refusal to compensate for occupational health damage, improper treatment by employers, and so forth.

One S.A. submitted to the National Centre for Human Rights a complaint about the failure of the management of TOO Kulager Construction Corporation to pay out wages for the completed volume of work and transfer compulsory pension contributions in full.

In the handling of the inquiry, the National Centre for Human Rights sent requests to competent authorities. The information provided indicates that the company is indebted to S.A. and other workers in the sum of 1,290,623 KZT in salary payments, of which 118,000 KZT are owed to S.A. For breaching paragraphs 1, 4 of Article 113 of the Labour Code of the RK, the company is found administratively liable under Article 87 of the Code of Administrative Offences of the RK, and the employer was administratively fined for 200 monthly calculation indices (MCI).

Furthermore, in accordance with the provided records and tax forms it was discovered that the company had calculated payments for the working crew to the total amount of 1,851,473 KZT for Q4 2015, as reflected in tax returns 200.00 of 4 May 2016, also calculating individual income tax to the amount of 121,900 KZT, social tax to the amount of 89,422 KZT, pension contributions – 185,143 KZT, social contributions – 74,494 KZT. Delayed transfers of compulsory pension contributions to the amount of 185,143 KZT and social contributions to the amount of 74,494 KZT were also uncovered.

Thus, the company was administratively prosecuted and fined for non-performance of duties specified in the legislation of the RK on compulsory social insurance, including the failure to make compulsory social contributions to the State Social Insurance Fund within the allotted time, as well as for non-performance of duties established by the legislation of the RK on pension coverage, namely: pension contributions to accumulated pension funds under articles 91, 92 of the Code of Administrative Offences of the RK over the period of 2011–2015 in the amount of 84,035 KZT. The company’s management served employees with a notice requesting them to report to the company’s accounting office to receive salary.

The second most common inquiries were those related to social and pension coverage of citizens (5.6%), voicing disagreement over amounts of pensions and the procedure of pension calculation, refusal to grant access to pension to former employees of restructured law enforcement agencies in the event of a change of permanent residence within the boundaries of CIS, assisting in receiving documents certifying work experience and salary amount, necessary for acquiring access to pension; issues were also brought up regarding non-payment of compensations for damage sustained at work, disputes over instances of enforcement agents and internal revenue services arresting citizens’ bank accounts used for pensions and social benefits.
2016 also saw a certain increase in the number of inquiries relating to the violation of the right to information: from 5.3% in 2015 to 5.5 in 2016. As before, citizens submit requests for assistance in obtaining information – for instance, information explaining regulations, competence of the Human Rights Commissioner and the procedure for appeals to international organisations, as well as assistance in gathering information on relatives and the acquisition of necessary documents.

The Human Rights Commissioner of the Astrakhan Oblast of the Russian Federation sought assistance of the Ombudsman on behalf of one B.A., requesting assistance in obtaining data certifying that specified organisations had paid insurance contributions for B.A. to pension authorities of the Republic of Kazakhstan, as well as with respect to statements of earnings at organisations of B.A.’s previous employment, necessary for the adjustment of pension payments.

As is evidenced from the request submitted by the Ombudsman of Astrakhan Oblast, B.A. had since 1997 been employed in Kazakhstan, at Parker Drilling Company International LTD, AO Aral Parker, Redfern Energy Services regional office in Atyrau Oblast.

At the request of the National Centre for Human Rights, a competent authority provided the corresponding statements and sent to the complainant’s address.

Inquiries regarding relations between natural persons amounted to 5.4% and concerned spouses’ disputes over the upbringing of their children and determining their place of residence; also regarding domestic violence, claiming alimony for the support of parents, children, division of property, repayment of debts. This group of inquiries is handled only if competent state authorities are not adequately assisting citizens in resolving their issues within the competence of said bodies.

Inquiries concerning actions of legal entities without state interest (5.1%), that constitute a separate group of inquiries, concern private employers’ violation of labour rights of employees, including non-payment of wages, unlawful firing, refusal to compensate damages sustained at work, second-tier banks’ refusal to refinance non-performing loans, and instances of fraud on the part of construction companies.

2016 saw a significant decline in the percentage of health protection right violations – from 6.1% in 2015 to 4.4 in 2016. At the same time, complainants reported inadequate medical care, non-performance of medical care, including under the state-guaranteed volume of free medical care, non-provision of medication, discrimination against mentally ill persons and so forth.

Complaints regarding failure to enforce court rulings amounted to 3.4% and pointed to inaction of public and private enforcement agents in enforcing court orders to recover alimony, damages, debts, wages, provision of housing.

Issues related to registration, conferment of citizenship, residence permits, execution of identification documents amounted to 2.8% of inquiries and complaints filed with the Ombudsman. Inquiries also concerned assistance in determining citizenship, execution of identification documents, issuance of permanent residence permits, conferment of citizenship of the RK and assistance in re-issuance of lost documents.

Issues regarding disabled persons’ rights were brought up in 2.1% of inquiries and referred to the issues of disabled persons’ exercise of the right to employment, health protection, education,
adequate housing and review of disability group (class), performance of social guaranteed by an employer when compensating for occupational health damages, provision of health resort therapy.

In 1.7% of inquiries, citizens requested assistance in transferring from one penitentiary institution to another. For instance, the Ombudsman received inquiries both from inmates themselves and their relatives, seeking assistance in transfer from one penitentiary institution to another to serve the sentence closer to the place of residence, as well as regarding disputes over transfers or denied transfer requests.

Compared to the previous year, land-related inquiry rate decreased from 2.7% in 2015 to 1.4% in 2016, in reference to issues in providing land plots, disagreements over withdrawal of land for public purposes, inaction of local state authorities in considering land problems of citizens.

Inquiries requesting help in receiving qualified legal assistance made up 1.4% of the total number of inquiries; these inquiries related to the provision of qualified legal assistance where inquirers are criminally prosecuted, or complaints about actions of lawyers representing their legal interests.

The number of inquiries on discrimination on the basis of psychiatric condition amounted to 1.2% of the total number; this group exhibits growth trends. As before, citizens, representing themselves or other citizens, complain about illegal commitment to a psychiatric institution and inadequate treatment there, as well as express disagreement with court rulings on legal incapacity.

1.1% of inquiries were lodged on behalf of inmates or by inmates themselves, expressing disagreement with court refusal to grant parole. Due to the fact the Ombudsman has no authority to handle inquiries pertaining to legal proceedings, these inquiries were answered with clarifications on the current legislation; some inquiries were referred to the Supreme Court for aggregation as part of a memorandum of cooperation entered into by the two institutions.

The Ombudsman also received inquiries on the encroachment on the right to liberty of religion and conscience (1.1%), where inquirers expressed deep concern over actions of specific officials of local executive and representative bodies, in form of inaccurate remarks toward religious associations, denial in exemption from conscription service for clergy members, or regarding lectures at educational institutions that were deemed intolerant toward some religious associations. Inquiries also touched upon the issues of civil and legal actions performed by religious associations in their daily operations.

In the year under review, the consumer right violation complaints amounted to 1.02%. Complainants expressed disagreement over increased utility tariffs, failure of local executive authorities and apartment owner cooperatives to remedy breakdowns and accidents in apartment buildings, to resolve issues of public amenities around buildings, conduct repairs of roads and driveways.

One S.N., resident of Akmola Oblast, used the Human Rights Commissioner’s website to submit a complaint on the inaction of local executive authorities of Shortandinsky District. S.N. reported that in said populated area the authorities had conducted work to rectify a water pipe leak, which resulted in the damaging of water supply systems in private houses, disrupting their water supply for 4 weeks. Yet, to this day the leak is not fixed.
The complainant claims that she had approached with this issue to akimats (local executive bodies) of the rural administrative divisions and municipal utility services, but her complaints did not have a positive outcome. As part of the handling of this complaint, the Ombudsman’s office did confirm that the water supply system servicing private houses along Kunayev street was indeed damaged. Finally, after the Ombudsman had sent an inquiry to the akimat of the oblast, all damages were fixed and water supply restored.

1.02% of inquiries related to women’s right violations referred to domestic violence on the part of a spouse, provision of social assistance to single mothers taking care of their children, complaints about law enforcement authorities’ treatment of pregnant women, labour relations of women raising small children.

One B.G., resident of West Kazakhstan Oblast, approached the Ombudsman with a complaint about repeated beatings, threats and retaliations on the part of her ex-husband. The latest beating took place on 1 May 2016 and was identified by emergency health services workers – there are photos of signs of bodily injuries resultant from beatings. However, when local community police officer visited her, she had to deny being a victim of domestic violence because of threats made by the ex-husband. The complainant also reported that beatings were done in presence of their under-age children, subjecting them to a serious psychological trauma and a constant state of anxiety.

As part of the handling of this inquiry, the human rights institution received information from the Committee of the Administrative Police of the Ministry of Internal Affairs of the RK with respect to the initiation of two pre-trial investigations into the ex-husband of the complainant under Article 126 of the CC (Illegal deprivation of liberty), under Article 107 of the CC (Premeditated infliction of bodily harm of medium severity). At present, criminal proceedings are underway, and the final ruling has not been made.

Furthermore, in order to ensure safety of the complainant, a restraining order against her ex-husband was issued on 24 October 2016 for the duration of 30 days (Article 20 of the Law of the Republic of Kazakhstan “On preventing domestic violence”); as such, the ex-husband was taken under preventive oversight and control by the local police service of the Office of Internal Affairs of the Burlin District (rayon). According to the restraining order, B.K. (the ex-husband) must not commit domestic violence, search, follow, visit, engage in face-to-face or telephone conversations or contact the protected person in any other way against her will.

Furthermore, the Ministry of Internal Affairs explained to the applicant that in the event of B.K.’s failure to comply with the rules prescribed by the restraining order, she is required to lodge the corresponding report with the local community police officer or with the closest internal affairs authority to hold the ex-husband administratively liable.

Inquiries related to entrepreneur right violations amounted to 0.9% and referred to objections to administrative charges of illegal commercial activities, increased utility tariffs, complaints about tax authority officers’ ungrounded imposition of income tax debt and penalty.

0.7% of inquiries concerned limitation or violation of the right to freedom of movement which were often resulted from unlawful actions of the personnel of competent authorities and flaws within the legal framework.
0.6% of the complaints were in reference to violations of Kazakhstan citizens’ rights abroad, specifically concerning actions of law enforcement agencies of the Russian Federation and China, as well as state authorities of the Kyrgyz Republic.

Violations of the right to education were brought up in 0.5% of inquiries, referring to access to education and low level of education at general education schools.

The Ombudsman received an inquiry from one S.Zh., a 2nd year student of the L. Gumilyov Eurasian National University (Astana), requesting assistance in her application for free-of-charge education or tuition payment subsidies. The inquirer reported that her mother had passed away and her father is seriously ill which affects his work. She is the only child in the family. Over the first two years of education, she had had best academic performance, and her second year was completed with highest marks. Due to the difficult financial situation, she was unable to pay the tuition bills. At the request of the National Centre for Human Rights, the Ministry of Education and Science of the RK reported that assisting children coming from low-income families, exemption from paying tuition fees or provision of tuition subsidies fall within the authority of the higher education institution concerned. At the same time, pursuant to the Resolution of the Government of the RK No. 58 from 23 January 2008 “On the adoption of the Rules of Awarding Educational Grants to Cover Higher Education Tuition Fees”, educational grants, vacated as a result of completed tuition, are provided during summer and winter holidays for the available vacancies on a competitive basis. Therefore, following the deliberation of S.Zh.’s application, the Commission of the Eurasian National University awarded her a 15-percent discount in tuition fees.

The Ombudsman also received complaints concerning harassment in the Armed Forces of the RK, violations of the right to privacy, protection of honour and dignity, freedom of speech, discrimination on the basis of ethnicity, pardon requests, rehabilitation of victims of mass political repressions, rights of oralmans, etc.

In 2016, the human rights efforts of the Human Rights Commissioner’s Office helped restore rights of 18.85% of the total number of complainants whose complaints were handled, which serves to affirm the need for the national human rights institution to be reinforced, corroborated also by all the thank you letters received both from those in need, and from their representatives, including ombudsmen from other countries.

Dear Askar Orazaliyevich. Desperate after witnessing inaction of anticorruption authorities, prosecutor’s office, Department of Internal State Audit of East Kazakhstan Oblast, I decided to approach you seeking help in finding justice. I received a response immediately, which led to a follow-up audit. Follow-up audit resulted in a fair and objective audit report. All false information was disproved.

Best regards, T.Z.
Dear Askar Orazaliyevich!

I'm sincerely grateful for your prompt assistance in finding and restoring B.V.’s birth certificate.

When approached by a person in a challenging life situation, and with a mental disability, at that, our duty – and not just in our professional capacity, but also simply as human beings – is to help him in restoring his rights. For a long time, the mental institution where B.V. is committed was attempting to find traces of this important document, but to no avail.

Unfortunately, it is often the case that people go from one office to another, engage in endless correspondence with state authorities that keep referring the inquiry among themselves, without taking any measures to assist in the recovery of violated rights. It is precisely this kind of “error”, this inaction that results in the aggravation of a situation. These errors need to be corrected. Such instances require careful attention on the part of the state. And this is exactly where the Office of the Human Rights Commissioner is able to contribute.

It is comforting that the ombudsman operations grow internationally. This is conducive to the improvement of the process of monitoring, protection and restoration of citizens’ rights. Public perception of the public right protection mechanism becomes positive, people get responses and, often enough, they also get solutions to issues that they had previously approached various offices with, numerous times with no results. People, realising that the only way for them to reach the government and state authorities is through the Human Rights Commissioner, receive not only qualified legal assistance, but also real help in the recovery of rights.

It is with your professional help that we were able to not only expeditiously confirm the registration of B.V’s birth in Kazakhstan, but also restore the copy of the certificate.

You have my deepest gratitude for your personal attention to my request. I am sincerely thankful for your dutiful attitude and understanding. It is my hope that our countries’ cooperation in the area of human rights protection continues to be fruitful in future.

Human Rights Commissioner in Leningrad Oblast of the Russian Federation

Analysis of inquiries submitted to the Ombudsman in 2016 is a testament to high demand of the national human rights institution in Kazakhstan, to the trust and hope still nurtured by the public, and to the fact that legal capacities and authority of this institution make it possible to pursue restoration of infringed rights and receive professional consultation.

Handling citizens’ inquiries enables the Human Rights Commissioner’s Office to identify systemic issues in the framework of respecting and observing citizen rights and freedoms, communicate those issues to the corresponding state authorities in order to see to it that those violated rights are restored and that violations do not recur in the future.
2. POWERS EXERCISED BY THE HUMAN RIGHTS COMMISSIONER IN THE REPUBLIC OF KAZAKHSTAN; OMBUDSMAN’S INTERACTION WITH STATE AUTHORITIES, CIVIL SOCIETY, MASS MEDIA

This section covers information related to the exercise of powers of the Human Rights Commissioner in 2016, interaction with state authorities, civil society and mass media outlets.

Pursuant to the current legislative framework and current law practice, the activities of the Ombudsman are not meant to replace the functions of other state authorities charged with the protection and restoration of citizen rights and freedoms. Instead, it contributes to the enhancement of their performance in this area, to the identification of existing flaws and gaps, including those related to actions or inaction of particular bodies and officials, facilitates the exercise of citizen rights in their relations with state authorities.

In 2016, the Ombudsman’s Office of Kazakhstan continued the performance of its primary function of monitoring the observance of citizen and human rights and freedoms. One of the main ways the Ombudsman fulfils this duty is by handling inquiries and complaints from citizens regarding violations of rights and taking appropriate response measures. During the reporting period, the institution handled both individual and collective complaints and inquiries received from citizens of the Republic of Kazakhstan, including those abroad, foreign nationals, stateless persons, members of the Parliament of the RK, legal entities, non-governmental organisations, foreign human rights institutions and international organisations. Moreover, taking into consideration the functioning of the national preventive mechanism, inquiries within the coverage of this mechanism are recorded separately.

In the handling of received inquiries and complaints under the authority of the Human Rights Commissioner, 1,526 information requests regarding instances of rights violation and their restoration were sent to central state authorities, local state authorities, courts, public prosecutor’s offices, the Accounts Committee, the Bar Association of Kazakhstan, the National Guard, the “Atameken” National Chamber of Commerce, the Bank Ombudsman, the Republican Notary Chamber, the State Archive, banks, state authorities of foreign nations.

Analysis of inquiries and information received from various sources within the scope of the Ombudsman’s activities enables the institution to reveal systemic factors leading to violations of human rights and develop recommendations and proposals for state authorities and officials, which, in turn, results in effective measures to improve the national human rights and freedoms protection framework.

In the reporting year, recommendations and inquiries submitted to the Prime Minister of the Republic of Kazakhstan, the Chairperson of the Supreme Court, Ministers of Education and Science, Internal Affairs, Defence, Healthcare and Social Development contained issues related to the improvement of the operations of the national human rights institution, exercise of citizen rights to relief in court and due process, modernisation of the system of preparation for service in armed forces, youth employment, reforming of pension coverage, and pension coverage of those formerly employed by law enforcement agencies, optimisation of the education system and other issues pertaining to the exercise of citizen rights and freedoms.
Traditionally, the President of the RK received a letter from the national human rights institution, describing its performance throughout 2015, containing descriptions of forms and methods, important challenges in the area of human rights protection and main outputs and outcomes in this sphere.

The Ombudsman sent an inquiry to the Prime Minister raising the issue of legislative reinforcement of the national human rights institution and bringing its status to maximum compliance with the Paris Principles.

Under the memorandum and based upon regular analysis of citizen inquiries, a letter was sent to the Chairperson of the Supreme Court of the RK in order to aggregate information on received complaints with respect to violations occurring in the administration of justice in the protection of residence, labour rights, rights of women, of the accused; provisions of civil and criminal procedure legislation.

In reference to a widely discussed and media-covered proposal issued by state authorities in regards to possible conscription of unemployed graduates of educational institutions, including the re-introduction of combat engineering units, the Human Rights Commissioner submitted a recommendation to the Minister of Defence and the Minister of Healthcare and Social Development to consider the possibility of developing a comprehensive programme for preparing future conscripts for the service in armed forces, subsequent professional and personal growth of young citizens and regarding the advisability of a systemic approach to military and patriotic upbringing of the youth and reinforcing the connection between the armed forces and the society.

Following the analysis of inquiries received from citizens residing in other countries, including former employees of law enforcement agencies, protesting the denial in granting service pension due to the change of permanent residence within the confines of CIS states, the Ombudsman submitted to the Minister of Internal Affairs a note urging to handle the issue of pension coverage of retired employees of law enforcement agencies of Kazakhstan who had moved to another CIS member state and were denied pension coverage in the country of residence.

Issues regarding the exercise of children’s right to education by means of the optimisation of school load and creating favourable conditions for education were included in the Ombudsman’s letter to the Minister of Education and Science of the RK.
It is notable that lately, state authorities react in a timely and objective manner to inquiries of the Human Rights Commissioner, as well as information requests coming from the institution. For instance, in 2016, 9.6% of requested information was provided by state authorities beyond the established deadline, whereas in 2015 the percentage of delayed responses was 10.7%, in 2014 – 10.4%, in 2013 – 12.8%, which demonstrates a positive trend in the way state authorities respond to human rights violations.

In the reporting year an international human rights conference was held with the participation of renowned international and national human rights experts; the event provided a platform for the discussion of the role and objectives of the Human Rights Commissioner, as well as the prospects of the development of the human rights institution in the context of the modernisation of the society.
The International Conference “Role and Objectives of the Human Rights Commissioner in the context of the modernisation of the society”

The monitoring efforts of the Ombudsman’s Office in 2016 were focused on visiting institutions for the most vulnerable citizens: children, disabled persons, the elderly. In the reporting period, 18 state institutions in 6 regions were monitored.

The Human Rights Commissioner’s monitoring efforts are significantly boosted by the authority of the National Preventive Mechanism (NPM) extends to a wide variety of closed institutions.

Over the course of the reporting period, 680 preventive visits were conducted, which resulted in recommendations that greatly influence the conditions at institutions and contribute to preventing torture or abusive treatment.

The reporting year saw the continuation of the activities of advisory councils operating under the umbrella of the Ombudsman.
At its meetings the expert council discussed issues of compliance of certain provisions of the Criminal Code of the RK with international human rights principles, decriminalisation of some articles of this code, legislative control of off-plan property development and other issues.

The coordination council established under the Human Rights Commissioner to coordinate the activities of the National Preventive Mechanism makes great efforts to improve the NPM's operation. For instance, another presentation of a consolidated report on the new format of a dialogue platform for state authorities and civil society took place in the reporting year. Expert recommendations were developed for the enhancement of the reporting procedures for preventive visits, monitoring of police stations, along with a code of ethics of NPM members.

Within its mandate of professional development of NPM members, the Ombudsman’s Office conducted a number of training seminars on preventive visits, interviewing and other aspects.

In 2016, for purposes of the fulfilment of the legislative improvement mandate, the Ombudsman submitted to the Mazhilis (lower chamber) of the Parliament of the RK proposals on further modernisation of the criminal, criminal procedure and penal legislations of the Republic of Kazakhstan, prepared in partnership with the Coordination Council and NPM members following the analysis of preventive visits. Furthermore, staff members of the National Centre for Human Rights regularly participate in working groups of the legislative body.

Under the constitutional proceedings on the matter of constitutional compliance of some rules for the execution of documents for moving out of the Republic of Kazakhstan for permanent residence abroad, the Ombudsman’s Office found these rules to be in compliance with constitutional norms, but at the same time, pointed at the need for adjustments to be introduced to the current regulations for the execution of documents necessary for moving out of the Republic of Kazakhstan for permanent residence abroad, along with bringing them into compliance with the current laws governing these matters.
An important mechanism of enhancing the human rights component in law making is the participation of the Human Rights Commissioner in the work of the Council for Legal Policy under the President of the RK, as well as its agencies, in the work of Inter-agency Commissions of the Government and central state authorities in various spheres of improving the legislation and practice of the realisation of civil rights, including the Dialogue Platform on Human Dimension of the Ministry of Foreign Affairs and as part of the Human Rights Dialogue between the RK and EU.

Interaction with civil society institutions is carried out through joint handling of inquiries, monitoring and research, participation in public events. Civil society representatives are the main actors in the NPM, activities of which are coordinated by the Human Rights Commissioner.

In the reporting year, the Ombudsman received 32 inquiries from non-governmental organisations. Moreover, the Ombudsman received 54 inquiries with regard to the operation of NPM, members of which are exclusively representatives of civil society and have unlimited access to closed institutions.

A rather important aspect of the national human rights institution’s operation within the context of constructive dialogue is its participation in public human rights events. In the reporting year, the Human Rights Commissioner and his institution's personnel participated in 145 national and 65 international events.

The institution itself organised and conducted 7 training events in 4 regions of the country, covering representatives of the entire country in the sphere of the protection of rights at closed institutions, their monitoring and preparation of reports and recommendations.

The national human rights institution’s staff members were actively engaged in the preparation of the defence of national reports on the implementation of the International Covenant on Civil and Political Rights and the Convention for the Protection of All Persons from Enforced Disappearance.

In order to raise public awareness of the operation of the Human Rights Commissioner and the National Preventive Mechanism, efforts were made to hold public presentations providing an effective platform for constructive dialogue between state authorities and civil society.

The Ombudsman's Office’s activities are sufficiently open to mass media. Events held by the institution received wide coverage in national press, radio and television, including TV channels Khabar and 24.KZ, newspapers Yegemen Kazakhstan and Kazakhstanyskaya Pravda, official websites Zakon.kz, Kazinform, Tengrinews, 365info, Today.kz, Radio Azattyk and others, and in social networks; comments and interviews were given to the mass media on human rights matters.

The official website ombudsman.kz is updated on a regular basis: over the course of the reporting period, some 50 press releases, quarterly bulletins, the aggregated NPM report and the annual report were published there in Kazakh, Russian and English languages. Information posted on the Ombudsman’s website is actively used by students, international experts and academia representatives engaged in human rights efforts.

In operational terms, the budget of the institution in 2016 was 81,569,000 KZT, including a budget programme “Services for the observance of human and citizen rights and freedoms” – 81,465,000 KZT, and a budget programme “Capital expenses of the National Centre for Human Rights” – 104,000 KZT. The budget funds were utilised in full.
3. RIGHT TO LIBERTY AND SECURITY OF PERSON

Right to liberty and security of person is enshrined in Articles 3 and 9 of the Universal Declaration of Human Rights (10 December 1948), Article 9 of the International Covenant on Civil and Political Rights (16 December 1966). “Everyone has the right to life, liberty and security of person” (Article 3 of the Declaration). “No one shall be subjected to arbitrary arrest, detention or exile” (Article 9 of the Declaration). Similar norms are contained in Article 9 of the Covenant. The aforementioned articles prohibit arbitrary arrest or detention.

Deprivation of liberty is only permissible on grounds of law, and said law must explicitly establish circumstances that warrant such deprivation or limitation of liberty, and said deprivation or limitation of liberty must be carried out in pursuance of certain guarantees – these are the elements that constitute non-arbitrary deprivation of a citizen’s liberty.

In this regard, one of the main objectives of a fundamental transformation of the society that is currently under-way in Kazakhstan consists in the building of a state of law, where human rights and freedoms are proclaimed as highest values. According to the Constitution of the Republic of Kazakhstan, human and citizen rights and freedoms may be limited only by virtue of laws and only to the extent necessary for the protection of the constitutional system, protection of public order, human rights and freedoms, health and morals of the population.

The state and all of its institutions must have a vested interest in the realisation of rights and freedoms of an individual because the degree at which these rights are realised and the legislative protection and guarantees of these rights serve as key indicators of the democratisation of a society, and prerequisites to the formation and the rise of a rule-of-law state.

In the executive government’s efforts toward promoting respect of rights and lawful interests of citizens, a pivotal role is played by law enforcement agencies. The special significance of these agencies comes from their obligation to protect an individual from unsubstantiated and unlawful infringements both from individuals and from state authorities resorting to violations of citizen rights.

It is worth noting that a significant human rights mandate is also fulfilled by law enforcement agencies because their manifold functions and objectives, as well as their proximity to citizens’ everyday life make them a linchpin of the system for the protection of citizen rights from illegal infringements.

In accordance with the Law of the Republic of Kazakhstan “On law enforcement”, one of the main duties of law enforcement officers, besides the duty to observe the Constitution and the legislation of the Republic of Kazakhstan, is the enforcement of observance and protection of rights and freedoms of the individual and the citizen.

At the same time, as is evidenced by inquiries received by the Ombudsman and information from mass media, there are still instances of arbitrary detentions, accusations, torture and abusive treatment, abuse of power and office, red tape in investigations and other violations on the part of law enforcement agencies (internal affairs authorities, prosecutor’s offices, anti-corruption service, customs control agencies) toward citizens of the country.

Of the total number of complaints and inquiries received in 2016 (1,304), complaints about illegal actions and inaction of law enforcement officers amount to approximately 30%.
Serving as an example of ungrounded criminal prosecution and ungrounded duration of investigation is a complaint submitted to the Human Rights Commissioner by a lawyer from the East Kazakhstan Oblast bar association, one T.V., representing interests of one M.V.

On 1 June 2014, acting on the report of a representative of AO Vostokshintro, one Sh.O., the Directorate of Internal Affairs of the city of Ust-Kamenogorsk launched a criminal investigation into grand fraud, against M.V. under par. 6 of part 4 of Art. 177 of the CC RK.

Numerous times the criminal case was found to be lacking elements of the crime and several rulings on its dismissal were made, only to be overturned by prosecutor’s offices on rationale of ensuring comprehensive and objective investigation – they were overturned also after petitions from the parties to the criminal proceedings.

On 3 February 2016, due to the oblast prosecutor’s office’s overturning of the decision to dismiss the case, pre-trial investigation was resumed.

The Ombudsman’s Office sent inquiries to the corresponding competent authorities requesting that appropriate measures be taken to resolve the prolonged issue, and, specifically, urging criminal authorities to take effective investigative actions and make a legal proceedings decision.

On 11 March 2016, the Directorate of Internal Affairs of the city of Ust-Kamenogorsk made a decision to dismiss the criminal case on account of the fact that M.V.’s actions lacked elements of the crime, and the prosecutor’s office of the city agreed.

The Ombudsman received a complaint from a resident of the city of Kentau, one T.T., regarding actions that he considers illegal on the part of the Department of Internal Affairs of the South Kazakhstan Oblast, including red tape and administrative obstacles in the consideration of his complaint on abuse of office by a platoon of the Road Patrol Police of the City Office of Internal Affairs of Kentau, as well as the inaction of the city and oblast prosecutor’s offices that submitted his complaint to the DIA SKO for deliberation.

On 6 February 2016, in performance of preventive actions, one U.E., a squad commander in a platoon of the Road Patrol Police of the Local Police Force of the Office of Internal Affairs of Kentau, stopped a vehicle driven by the complainant, on account of severe mud build-up obscuring the license plate of the vehicle.

Administrative offence report was drawn up against T.T., under part 1 of Art. 590 of the Code of Administrative Offences of the RK (driving a registered vehicle with an unreadable license plate).

Protesting the actions of the City Department of Internal Affairs of the city of Kentau, the complainant filed complaints several times, but those were handled by the personnel of the Local Police Force of the Department of Internal Affairs of South Kazakhstan Oblast and subsequently ignored.
After the intervention of the Office of the Human Rights Commissioner, oversight authorities discovered that the personnel of the Local Police Force of the Department of Internal Affairs of South Kazakhstan Oblast, in violation of the provisions of par. 1, 2 of part 1 of Art. 9 of the Law of the RK “On the procedure of handling inquiries from natural and legal persons”, failed to conduct objective and comprehensive investigation of the inquiry, thereby not taking measures to restore violated rights and freedoms.

Furthermore, significant breach of procedural regulations of the Code of Administrative Offences of the RK was identified, which provided sufficient grounds to overturn the resolution on the administrative case.

The Prosecutor’s office of the oblast sent to the Local Police Force of the Department of Internal Affairs of SKO an order to remedy the violation of law. On grounds of the aforementioned prosecutorial oversight documents, the illegal decision was overturned and the administrative proceedings cancelled (by the resolution of one T.E., the head of Kentau City Office of Internal Affairs). Strict disciplinary action was taken against those responsible.

The Human Rights Commissioner received a complaint from a resident of the city of Pavlodar, one B.G., regarding actions that he deems unlawful on the part of the Pavlodar Directorate of Internal Affairs Battalion of Road Patrol Police, namely K.I. and E.S. According to the complainant, during the drawing up of a traffic violation report, said officers, abusing their office, performed an unfounded seizure of vehicle registration certificate, acted discourteously toward the complainant, and so forth.

Upon a request sent by the Ombudsman’s Office to the Committee of Administrative Police of the Ministry of Internal Affairs of the RK, the local police service of the Department of Internal Affairs of Pavlodar Oblast conducted an inspection which confirmed a violation of regulations of administrative legislation on the part of police officers of the road patrol police battalion of the Directorate of Internal Affairs of the city of Pavlodar, namely: police first sergeant K.I and police sergeant E.S., with regard to unlawful institution of administrative proceedings by seizing vehicle registration certificate from the complainant.

Disciplinary action was taken against said police officers.

An example of red tape and inaction on the part of officers of the Directorate of Internal Affairs of Yesil District of Astana during fraud investigation is a complaint received by the Ombudsman from one I.G., a Class II disabled person.

According to I.G., the Directorate of Internal Affairs of Yesil District of the city of Astana had since 2015 conducted preliminary investigation of a fraud case where K.Zh., K.R. and I.D. were the suspects. It was only in July 2016 that the acts of the suspects were determined as criminal offences under Article 190 of the CC RK.
After an intervention of the Ombudsman’s Office, the prosecutor’s office of Yesil District ordered the criminal investigative unit to take all necessary measures in order to ensure exhaustive and comprehensive investigation, to complete said investigation and refer the criminal case to the district prosecutor’s office for deliberation on whether or not to bring charges and refer the case to court for consideration on the merits of the case.

The criminal case was referred to the Court No.2 of Yesil District on 24 November 2016.

Over the years of the independence, the national legislation has undergone a number of positive changes aimed at preventing torture. In 1998 Kazakhstan joined the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In 2002, the national legislation was amended to include a provision that prescribes liability for the use of torture in investigations of offences, as well as a provision on the inadmissibility of evidence gathered through torture. In 2005, the International Covenant on Civil and Political Rights was ratified, while in 2008 – the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2009 – the Optional Protocol to the International Covenant on Civil and Political Rights empowering citizens to submit individual complaints to the UN Human Rights Committee. In April 2014, the National Preventive Mechanism was established in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Yet, in our opinion, and in the opinion of the human rights community, the use of torture in criminal investigations remains a pressing issue.

S.N. accused four employees of a pretrial detention facility SI-18 of the city of Almaty (Institution code LA-155/18), where she had been detained, of group rape. This happened in August 2015. S.N. gave birth to a child after the rape. Forensic tests confirmed paternity of one of the employees of said facility, Kh.R. He was tried. Three other employees of the institution evaded liability.

During the proceedings, prior to court hearing, S.N. waved counsel. She managed to tell a layer U.A. that she had done this because of threats. Afterwards, S.N. declared a hunger strike, demanding protection and retraction of the right to counsel. As a result, the prosecutor’s office tended to the security of S.N., and initiated an inspection at a pre-trial detention facility SI-1 (institution code LA-155/1 in Almaty) where she was transferred to during court proceedings. Criminal investigation was launched against a number of employees of this institution.

At the last court hearing, the accused Kh.R. was issued a new charging document that had an additional charge – torture. Furthermore, a separate criminal investigation was initiated into neglect on the part of SI-18 officials.

The court found Kh.R. guilty under par. 4 part 2 of Art. 120 (Rape), par. 3 of part 4 of Art. 362 (Abuse of office), par. 2 of part 2 of Art. 146 (Torture) of the CC RK, and sentenced to 9 years of imprisonment at a standard regime penal colony.

Moreover, the court ruled that Kh.R. be permanently stripped of his special rank of major of justice and the right to hold public office.
It should be noted that the press coverage of the aforementioned incident resulting in massive public outcry was originally triggered by the victim’s complaint submitted to a member of the National Preventive Mechanism (NPM)’s Regional Group in the city of Almaty, Almaty Oblast in June 2016.

This matter was discussed at a meeting of the Coordinating Council under the Human Rights Commissioner and yet again indicated the need for systemic measures to prevent such offences from taking place.

At the instruction of the Coordinating Council, members of the aforementioned NPM regional group on 22 September 2016 visited S.N., explained to her what rights she has in the ongoing criminal proceeding, helped her obtain any additional legal assistance and informed her that the case had been taken under control of the NPM Coordinating Council.

The Coordinating Council developed and submitted to competent authorities the following measures to prevent similar offences at institutions covered by the NPM mandate:

- optimisation of video surveillance systems for maximum coverage of premises and facilities, enabling their permanent control by oversight authorities;
- introduction of crisis hotlines, building on existing best practices – particularly at closed children’s institutions in Russia;
- ensuring compliance with universally recognised international standard on treatment of women prisoners (the Mandela Rules and the Bangkok Rules) that prescribe special treatment and allow only female officers to be on these details;
- improvement of professional training of the personnel of institutions in question, based on the aforementioned standards.

It should be noted that since the NPM became operational (April 2014), its members have conducted 1,495 preventive visits (including 48 special visits) to mandated institutions and organisations, for purposes of preventing torture and other cruel, inhuman or degrading treatment or punishment.

However, instances of torture persist, as illustrated by mass media.

Two former police officers of Karabalyk District Office of Internal Affairs of Kostanay Oblast were found guilty of torture and received prison sentences. Criminal investigator N.S. and community police officer A.T. were using beatings and torture to coerce a 20-year old local resident L.D. to confess to a store theft. According to the case file, in April police officers transported L.D. to a police station where they proceeded to methodically beat her, which resulted in the damage to her eardrum. Also they threatened to register her as a alcohol abuser, revoke her driver’s license, cut off her fingers. At the time the woman was a nursing mother. In court, police officers testified that they had started monitoring L.D. after receiving a tip from a permanent informant. However, no evidence to this effect was provided in court. They never admitted their guilt. The court sentenced N.S. to 3.5 years of imprisonment and his accomplice A.T. – to 3 years of general regime penal colony. The offenders were taken into custody in the court room.

inform.kz
Zharkayinsky District court of Akmola Oblast sentenced four penal system officers for torture, Akmola Oblast court press service reported today. The lawsuit was brought against them by the wife of an inmate who died as a result of torture.

The oblast court reported that it had established the following facts: the convicts committed “premeditated infliction of physical and psychological suffering to inmates of the institution as a punishment for their actions, as well as to intimidate and coerce them and others, committed as a group in a conspiracy, which resulted in manslaughter of one such victim, and abuse of office.”

Found guilty of torture were one M.B. and one A.S. They were sentenced to eight years of imprisonment at a general regime penitentiary colony, stripping of the right to hold public office for the period of three years. One M.P. was also sentenced in this case. He was found guilty of torture and abuse of office. He was sentenced to imprisonment for 8 years and 6 months in person, with seizure of property, and a lifelong ban on holding public office. According to the court, these convicts were jointly fined for 1.5 million KZT to be paid to the victim as damages.

The fourth accused, one S.S., was found guilty of abuse of office, and sentenced to a fine in the amount of 2,000 monthly calculation indices (4,242,000 KZT), seizure of property “acquired in a criminal manner or using funds acquired in a criminal manner”, with a lifelong ban on holding public office. It is also reported that the mother of the deceased is granted the right to civil action to seek damages under civil proceedings.

Name of the deceased is not provided, and neither are the ranks and positions of the convicts. It is only reported that all four of them were stripped of their special ranks.

rus.azattyq

Police officers of the Office of Internal Affairs of Khromtau District, B.B., K.S. and K.B., acting in a group, committed acts that constitute premeditated infliction of physical and psychological suffering to the victim K.M., in order to coerce him to testify and provide information regarding fraud committed against one B.A. So as to secure a confession, police officers used physical force against the victim, inflicting severe bodily injuries to the victim.

Bodily injuries inflicted to the victim were confirmed in the forensic examination report. According to the court ruling, there was no cause to doubt the veracity of the victim’s testimony according to which he had been beaten in the facilities of the Office of Internal Affairs of Khromtau District by said police officers who demanded confession in engaging in fraud against B.A., because consistent testimony of the victim regarding the method of inflicting bodily harm and localisation of injuries is in full conformance with the testimonies of witnesses and other evidence examined in court.

The public prosecutor asked the court to find K.S., B.B. and K.B. guilty under Art. 146 p. 2 of the CC RK and sentence them to 5 years of imprisonment.
By the court decision of Khromtau District court of 17 October 2016, officers of the Office of Internal Affairs of Khromtau District, K.S., B.B. and K.B. were sentenced under par. 1 of part 2 of Art. 146 of the CC RK (Torture) to 3 years of imprisonment, with a 3-year ban on holding public office and working at law enforcement agencies. By the same decision, K.S., B.B. and K.B. were stripped of special armed forces ranks.

In our opinion – and this is corroborated by the aforementioned examples and the fact that the Ombudsman received 97 complaints regarding torture), beatings of prisoners remains one of the most common methods of torture used by police officers in investigations. However, beatings are often done without leaving any traces, which is confirmed by reports of the regional groups of the NPM. Such methods include strikes to the face and the head with the open palm or thick books, strikes targeting internal organs using specific objects like plastic bottles filled with water. The most popular tool used by officers for beating and intimidation is still the special PR-73 baton.

Among other methods are threats of physical violence, infliction of physical suffering, illegal criminal prosecution and imprisonment; planting of narcotics, melee weapons and firearms, ammunition and other prohibited items and substances.

In our opinion, this trend is a result of the lacking legal awareness of law enforcement officers. In this regard, it is impossible to combat torture in our country unless we increase the occupational fitness requirements for criminal investigation units, optimisation of human resources management, improvement of professional training, to name a few.

In his speech at the half-year board meeting, the General Prosecutor said “Torture remains an unresolved issue. Every year 600 complaints are recorded. Over the past 1.5 years, 4 people have died at prison colonies due to torture. This is why we have launched the “Torture-free Nation” project. We have all the institutions and NGOs involved. We already have measures set to remedy the situation.”

As we know, the scope of prosecutorial oversight includes ensuring the observance of human and citizen rights and freedoms. The General Prosecutor’s Office of the RK provides the following statistics for the reporting year:

- prosecuted under Art. 146 (Torture) of the CC RK: 23 law enforcement officers, of which 12 were convicted;
- prosecuted under Art. 362 (Abuse of office) of the CC RK: 49, of which 35 were convicted.
Prosecutors liberated 112 illegally and improperly detained persons from service and other facilities of criminal prosecution authorities. Following inspections conducted at temporary detention facilities, under Art. 128 (Grounds for detention) of the CPC RK, 426 detainees were assigned other punitive measures. 1,189 prosecutorial petitions to remedy violations were considered. Submitted 166 protests against decisions made by institution heads and officials.

Complaints and inquiries regarding torture used by law enforcement officers are often handled and verified either by internal security units or prosecutor’s offices. Such inspections can hardly qualify as independent and unbiased. Perhaps it is for this reason torture is characterised by high degree of latency. In many cases, torture victims do not report the incident due to mistrust toward law enforcement agencies.

Given that proper resolution of the objectives of the police requires public trust and support and in pursuance of the implementation of the 31st step of the 100 Concrete Steps to Implement the Five Institutional Reforms, the President signed a Law of the RK “On public councils” in November 2015.

We are convinced that the Public Council created under the Ministry of Internal Affairs will ensure public coordination on tackling issues relating to internal affairs mandate, the introduction of the principle of transparency and openness in the operation of the police, protection of rights and freedoms of citizens of the Republic of Kazakhstan.

Summarising the above, we believe that it is only with a comprehensive approach to resolving human rights issues, the formation of a corresponding legislative framework governing national and non-governmental human rights institutions, as well as active participation of all institutions of the political system of the society, coupled with enhanced legal activity of our citizens that we can hope to eliminate some of the gaps in the mechanism of state legal enforcement of citizen rights and freedoms.
4. RIGHT TO JUDICIAL PROTECTION AND FAIR TRIAL, ENFORCEMENT OF COURT RULINGS

Over the 25 years of its independence, the Republic of Kazakhstan has made significant strides in its development of the judiciary branch and has attained international recognition. This is also evidenced by a successful continuation of the reforms of the judiciary system specified in the Plan of the Nation “100 Concrete Steps to Implement the Five Institutional Reforms” which reflects the state’s resolute stance on the enhancement of the effectiveness of justice in the country.

At the VII Judge Conference of the Republic of Kazakhstan, the Head of State stressed that in the ongoing reforms of the country, the judiciary is a crucial link, without modernisation of which other measures might not work. At the opening session of the Parliament of the RK of the 6th Convocation, the President also noted that the Kazakhstani justice system has made progress in achieving openness and professionalism, and the level of legal remedies available for the protection of the rights of Kazakhstan citizens and business entities is now on par with the highest standards of the member-states of the Organization of Economic Cooperation and Development (OECD).

Over the past few years, our country has made strategic decisions contributing to the enhancement of the level and the status of the judiciary system and judges, as well as the quality of judicial staffing.

For instance, in the 2016–2017 Global Competitiveness Report of the World Economic Forum, the Republic of Kazakhstan ranked 68th in the “Judicial independence” indicator. Over the three preceding years, the country jumped 20 ranks (from 88th to 68th).

In the World Bank’s Doing Business 2017 rankings, Kazakhstan improved its standing from 41st to 35th place, by 6 positions. In the “Enforcing Contracts” indicator, the judicial system of Kazakhstan for two straight years has been among the 10 leading nations (9th place).

Among the important measures in support of state policy on the improvement of the investment attractiveness of Kazakhstan was the establishment of a specialised board and an International Council joined by international experts within the Supreme Court.

In 2016, a new Judicial Ethics Code was adopted in response to the higher requirements imposed by the society to the professional and moral character of a judge.

One of the best examples of accessibility and openness of justice is also the implementation of modern information and communication technologies at our courts. These technologies made it possible to reduce abuse on the part of dishonest parties to proceedings, while at the same time cultivate ethics and discipline of court workers and prosecutor’s office staff, thereby increasing public trust in the court system.
In the total number of inquiries submitted to the Ombudsman in 2016, **27.8%** are written inquiries protesting court rulings and complaints about actions or inactions of court authorities.

When broken down by case category, out of 270 inquiries regarding violations of the right to judicial relief, 174 were related to criminal cases, 77 – to civil cases and 19 – to administrative cases.

The Ombudsman received the majority of inquiries from Akmola, Aktobe, Almaty, Atyrau oblasts, and the cities of Astana and Almaty.

In pursuance of the requirements set forth in the Constitution and the current legislation of the Republic of Kazakhstan, the Human Rights Commissioner does not handle complaints about court rulings; however, the bilateral memorandum between the national human rights institution and the Supreme Court makes it possible to refer – for reference – the most remarkable inquiries regarding the right to judicial relief and due process.

The Ombudsman’s Office’s experience has shown that not all inquiries objecting to court rulings are well-founded. At the same time, low percentage of such protests indicates the existence of certain issues related to citizen’s exercise of the right to judicial relief.
In some cases, where upon examination of complaints a possible violation of proceedings regulations is revealed, the Ombudsman sends to the General Prosecutor’s Office requests to handle these inquiries in order to execute a protest against a court ruling.

A significant number of inquiries received in 2016 were related to the issues of protecting labour and housing interests, observance of the rights of women and the underage in the administration of justice, violations of regulations of civil, criminal procedure legislation in court proceedings, realisation of convict rights to commutation of a sentence, among others.

For instance, the national human rights institution routinely receives inquiries from citizens objecting to court rulings on labour disputes.

The Ombudsman received a complaint from one N.A. regarding the actions of the management of the City Polyclinic No. 9 State Enterprise consisting in illicit firing and non-performance of an agreement on dispute (conflict) resolution through mediation concluded in the process of out-of-court settlement.

Examination conducted by the National Centre for Human Rights revealed that this labour dispute was the matter of contention at a court of first instance.

The complainant was notified that pursuant to par. 1 of Article 1 of the Constitutional Law of the Republic of Kazakhstan “On the court system and the status of judges in the Republic of Kazakhstan”, inquiries, appeals and complaints subject to be handled in court proceedings may not be handled or monitored by any other authorities, officials or other persons.

Par. 3 of Article 1 of the aforementioned Law establishes that “no intervention into a court’s administration of justice shall be accepted, and shall incur a liability under the law.”

The complainant was given the appropriate reply informing her of her right to appeal the first instance court ruling.

One of the most relevant issues in inquiries submitted to the office of the Human Rights Commissioner is citizens’ objections against court rulings on housing issues.

The Ombudsman received an inquiry from one A.K. residing in the city of Kostanay (148 Gogol st., app. 39), requesting assistance in restoring her family’s rights to own domicile.

According to the inquiry, A.K. acquired this real estate in good faith on 1 March 2012 from one M.N. who, under purchase contract executed on 26 January 2012, acquired the apartment from one Sh.Zh.

Lawsuit claims of M.N., the original owner of the apartment, against Sh.Zh. for the voiding of the purchase contract were settled in M.N.’s favour by the ruling of the Kostanay City Court of Kostanay Oblast on 29 March 2016. Said court ruling was made on grounds of a sentence of the specialised inter-district criminal court of Kostanay Oblast from 20 March 2015 (effective 26 August 2015), according to which Sh.Zh. was found guilty of fraud and M.N. was found to be the victim. In this criminal case and court proceedings, A.K., who at the time held the title to the contested apartment, was not found to be the victim.
This circumstance subsequently resulted in a violation of the rights of A.K. (the inquirer) on the part of the court, where the Kostanay city court of Kostanay Oblast on 21 September 2016 made its decision with respect to the application of A.K. submitted to the Directorate of Justice of the city of Kostanay to find illegal the registration of M.N.’s title to the contested apartment, pursuant to which A.K.’s request was denied.

Pursuant to the certificate of registered title to real estate and its technical characteristics effective 27 July 2016, title to this apartment is concurrently held both by M.N. (individual ownership) and A.K. (joint/communal ownership).

At present, this apartment is the only home of the inquirer (A.K.) and she inhabits it with her three under-age children.

The above court rulings could be used as grounds for M.N.’s legal action to evict the inquirer (A.K.) along with her children form this apartment, resulting in a violation of their right to residence.

According to a message received from the General Prosecutor’s Office of the RK, in the process of oversight of precise and uniform application of laws in civil proceedings, prosecutor’s participation in the above category of civil proceedings was not mandatory and there was no ground to issue an act of prosecutorial response to the court ruling.

Pursuant to Article 11 of the International Covenant on Economic, Social and Cultural Rights, member states shall recognise an individual’s right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

It should be noted that the issue of forced eviction in Kazakhstan was examined by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. In her comments, the Rapporteur noted that “forced eviction may be justified only in exceptional circumstances and shall always comply with the adequate principles and procedures established in the regulations of international human rights law [...]”, and stressed that “the state must take all appropriate measures to prevent any situations that could render a citizen homeless or vulnerable to other infringements on human rights as a result of eviction, regardless of its legality.”

A significant portion of inquiries submitted to the Ombudsman contained objections to court rulings on the issues of early release on parole and the replacement of unserved portion of a sentence with a milder punishment, as well as regarding reviews of criminal cases referred by court for further investigation.

The Ombudsman received a complaint from a resident of the city of Semey, one Kh.K., regarding a groundless denial on the part of the Court No. 2 of Semey to release the complainant’s brother, Kh.M., on account of a disease.

According to the complainant, the penal institution failed to produce a full set of documents certifying his medical condition, and in particular, the discharge report from his patient’s file at the Regional Oncology Centre and the diagnosing physician’s report.
Examination revealed that as per a Special Medical Commission’s opinion issued on 3 December 2015, Kh.M. was diagnosed with a condition that precludes further special treatment and warrants the production of the materials in court for early release for medical reasons.

Pursuant to specialists’ findings report of 3 February 2016, the inmate Kh.M. was receiving palliative care under 4th clinical group at the Republican Somatic Hospital at the Facility OV-156/15 of the East Kazakhstan Department of the Correction System and the medical care was provided in accordance with the adopted diagnostics and treatment protocols.

On 14 December 2015, the Court No. 2 of the city of Semey ruled to deny a petition of the Institution OV-156/15 to release the inmate Kh.M. for health reasons.

By a ruling of a judicial board for criminal appeals of the East Kazakhstan Oblast court dated 18 February 2016 and the prosecutor’s findings report, the ruling of the Court No.2 of the city of Semey from 14 December 2015 was overturned, and the institution’s petition to release the inmate Kh.M. for health reasons was granted.

The same day the administration of the institution released Kh.M.

Unfortunately, since there is no legal possibility of handling complaints against actions and rulings of judges, the Ombudsman and the institution often provide explanations and clarifications to complainants regarding convicts’ right to repeat appeal, as well as parole, pardon and so forth.

In considering the possibility of parole or replacing the unserved portion of a sentence with a milder punishment, courts must use an individually tailored approach to each convict.

It is obviously the judge’s prerogative to make such decisions, and, therefore, in such court proceedings, they need to focus on the correction of convicts, prevention of recurrence of offences.

3.08% complaints about non-performance of court rulings out of the total number of inquiries and complaints submitted to the Ombudsman in 2016

The Ombudsman received the majority of complaints about non-performance of court rulings from East Kazakhstan, Akmola, South Kazakhstan, Karaganda, Pavlodar, Kyzylorda and Zhambyl oblasts, as well as the cities of Astana and Almaty.

In 2016, a significant portion of inquiries related to enforcement of court rulings raised the issues of the collection of alimony, non-payment of damages and debts, non-payment of compensation for health and moral harm, restoration in position after an illegal firing of an employee, and so forth.

In inquiries regarding non-enforcement of court rulings, citizens mainly complained about bureaucratic red tape and enforcement agents not taking full measures under the current legislation, loss of enforcement documents and the procedure for their restoration, incompetence and neglect by court enforcement agents, as well as their frequent rotation and inadequate management.
48.5%
Rate of the restoration of the rights of complainants raising the issue of non-enforcement of court rulings, out of the total number of inquiries and complaints of this type received in 2016

The national human rights institution receives citizen complaints about non-enforcement of court rulings on the recovery of pecuniary and non-pecuniary damage compensations.

The Human Rights Commissioner in the Republic of Kazakhstan received a complaint from a resident of the city of Karaganda, one B.N., regarding the inaction of law enforcement and justice authority officers in handling the enforcement of a court ruling on recovery of 1,000,000 KZT from one B.R. in favour of B.N.

According to the complainant, B.R., neither while being imprisoned, and after his release, did not make any effort to pay out the compensation.

The complainant has repeatedly approached law enforcement agencies, prosecutor’s office and justice departments in seeking to resolve this issue, but no real measures were taken.

According to the data provided by registration offices, the debtor holds no title to movable and immovable assets, and does not have any monetary funds in second-tier banks. Contributions are being withheld from the convict’s salary on a monthly basis. To date, 163,920 KZT have been withheld, with 2,095,155 KZT in outstanding debt.

On 20 December 2015, enforcement documents were returned to the complainant on grounds of par. 2 of part 2 of Article 48 of the Law of the Republic of Kazakhstan “On enforcement proceedings and the status of court enforcement agents”, due to the impossibility of recovery.

Following an internal investigation, disciplinary action in respect of inadequate investigation of the criminal case was taken against officials of the Directorate of Internal Affairs of Bukhar-Zhyrau District.

In the enforcement proceedings, the head of the department, senior court enforcement agent B.G. did not explore the possibility of holding the debtor B.R. administratively or criminally liable. B.G. faces disciplinary action for inadequate performance of duties. Pursuant to paragraph 3 of Article 138 of the Law, exclusive competence of private court enforcement agents includes the fulfilment of enforcement documents with respect to the recovery in favour of natural and legal persons, with the exception of enforcement documents for the recovery from the state or legal entities, fifty or more percent of whose voting stock is owned by the state and state-affiliated legal entities.

As such, the complainant was given a recommendation on his right to submit an enforcement document to a private court enforcement agent at the place of registration of a natural person-debtor, or at the place of his/her permanent residence, or at the place of his/her employment, expecting enforcement measures to be taken at the place of issue, as well as at the place of registration or location of his/her property.

In accordance with Article 127 of the Law, a decision and an action (or inaction) of an enforcement agent in the execution of an enforcement document or a refusal to act is grounds for lodging a complaint in court by the claimant or the debtor.
A violation that is characteristic of enforcement agents consists in missing the deadline established in the legislation for the execution of an enforcement document. Enforcement papers remain untended to for too long, which contributes to their delayed enforcement. In a number of cases, non-enforcement of court rulings is due to enforcement agents’ failure to take every enforcement measure against debtors, as prescribed in the Law of the RK “On enforcement proceedings and the status of enforcement agents”.

Of serious concern are instances of the loss of enforcement documents.

The Human Rights Commissioner received a request from one M.A. to assist in the search for her enforcement document on the recovery of alimony from a debtor B.M., issued by the ruling of Almatinsky District court on 12 February 2009. The inquirer claims that the enforcement document was served by an enforcement agent on time, but the enforcement had been delayed for a long period of time, and the debtor’s whereabouts were unknown.

According to the information provided to M.A. by the Department of Justice of the city of Astana on 18 February 2016, the enforcement document was not marked as received in their database within the period between 1 September 2012 through 1 February 2016. Yet, the inquirer states that the enforcement document was provided earlier that that.

Furthermore, at the recommendation of the Department of Justice, the inquirer approached the Almatinsky District court of the city of Astana to receive a counterpart of the enforcement document, which was met with the requirement to pay a state duty to the amount of 500%. At the time, the inquirer was in a difficult financial situation and could not afford to pay the duty.

In response to this inquiry, the National Centre for Human Rights sent a note to the Ministry of Justice to notify that the inquirer lodged an inquiry with the Department of Justice of the city of Astana that was never handled.

In a telephone conversation, the inquirer clarified that the Department staff were cooperative and provided her with a statement of her non-receipt of alimony, which was a prerequisite for initiating a legal action to strip her former husband of custody.

It should be noted that in some cases complaints about non-enforcement of court rulings were due to inattentiveness or negligence on the part of enforcement agents in performance of their duties, as well as generally inadequate level of professional capacity.

Experience has shown that the most common problem that citizens face when dealing with enforcement agents is still tardiness and, in some cases, indifference and unethical treatment.

Low efficiency of court ruling enforcement contributes to the growth of legal nihilism within the society, as well as the lack of respect toward the law and court, encouragement of illegal behaviour.

To summarise the reporting period, we should conclude that the reform of justice launched within the framework of the President’s Five Institutional Reforms and the 100 Steps for their implementation gives a powerful impetus to further development of the legal system of Kazakhstan, the continuation of the reinforcement and democratisation of the institutions of the state and the society for the purpose of ensuring the observance of rights and freedoms of an individual.
5. CITIZEN RIGHT TO RECEIVE PUBLIC SERVICES

Objectives and functions of the state are inextricably tied to the development level of the society at each of its stages, economic capacities, as well as needs and interests of the population. This is demonstrated clearly by the institution of public service provision that is perceived as an exceptional indicator of partnership relations between a citizen and the state. Public services those are able to fully meet the demands of citizen's function as a tangible proof of accountability and efficiency of the public administration system.

In his annual Addresses to the Nation of Kazakhstan, the President stresses the importance of enhancing the quality of public service provision. Here the main objective lies in the transition from unilateral autocratic approaches in the relations between state authorities and the people to effective and expedient provision of public services to citizens.

It is worth noting that over the past few years, the Kazakhstani civil service has undergone fundamental transformations. Important regulatory legal acts have been adopted, a number of various measures were taken to facilitate societal involvement in public administration, large scale efforts have been made to raise public awareness of public services available and ways of receiving them; finally, clear quality requirements have been established for public service provision.

Rendering of public services in Kazakhstan is carried out in pursuance of the Law of the RK of 15 April 2013 “On public services”. As part of the implementation of this Law, the corresponding subordinate acts governing the procedure for standardising and regulating public services, automating and optimising business processes involved in the provision of public services, carrying out of oversight of the quality of public service provision.

It should be noted that state authorities regularly work on standardising and regulating public services. The number of services is specified in the Registry of Public Services and is increased every year.

Over the past decade, Kazakhstan has made significant progress in reducing administrative barriers in receiving public services. A testament to this is the creation of a Public Corporation “Government for Citizens” in January 2016 that is designed to become a single provider of all public services in Kazakhstan using the one-stop shop principle, following the examples of Service Canada system in Canada and Centrelink in Australia.

Yet, it should be noted that despite the positive trends in the development of the public service provision, a number of pressing issues remain and require a comprehensive approach to their resolution.

As is evident from the analysis of the Ombudsman Office’s performance over the reporting period, it received 173 complaints and inquiries (87 regarding administration issues at central executive bodies and 86 – at local executive bodies).
The diagram above indicates a sizeable increase in the number of inquiries of this type in 2016 compared to preceding years.

The inquiry and complaint analysis makes it possible to single out and identify specific issues in the operation of both central and local executive bodies in matters of administration and provision of public services of adequate quality.

Local executive bodies comprising the single system of executive bodies of the Republic of Kazakhstan ensure the implementation of whole-of-government executive policy in concert with the interests and developmental needs of each individual territory.

Local executive bodies are charged with a number of objectives in the economic area, which includes the creation of favourable conditions for the growth of entrepreneurship, formation of social, engineering, transport and information infrastructures in each particular locality, taking into account interests of the people of each subnational entity.

Serving as an example of inadequate management of local executive bodies in this sphere are inquiries received from the director of TOO Otrar, one T.S.

_In his complaint submitted to the Ombudsman, one T.S. expressed objection to the actions of a local executive body – the Department of the Committee on Regulation of Natural Monopolies and Protection of Competition of the City of Astana and inadequate administering involved._

_The main line of business of TOO Otrar is providing services related to the unloading of lessees’ rail cars at the company’s own rail bay, as well as to the storage of lessees’ goods in warehouses and on an open platform. The company operates within the service zone of the rail station Sorokovaya (40th) of the Akmola section of the railroad owned by Kazakhstan Temir Zholy (“Kazakhstan Railways”) National Company, JSC._

_The Department conducted an unscheduled inspection of the operations of TOO Otrar on 19 January 2016 and drew up a corresponding Findings Report, according to which, in the period between 1 January 2013 through 9 December 2015, TOO Otrar had been illegally engaged in activities classified as pertaining to the sphere of natural monopolies, without being included in the Registry of Natural Monopoly Entities._
The inspecting agency substantiated the findings by citing paragraph 7 of part 1 of Article 4 of the Law of the Republic of Kazakhstan “On natural monopolies”, pursuant to which spheres of natural monopolies in Kazakhstan include services related to the access to rail sidings when no competing rail siding is available.

In accordance with the above law, the inspection was conducted using materials provided by TOO Otrar, Chief Transport Prosecutor’s Office and Kazakhstan Temir Zholy National Company JSC. Thus, using information provided by Kazakhstan Temir Zholy NC JSC it was established that there were no alternative rail sidings available to the clients of “Otrar”.

However, according to a clarification received from a Kazakhstan Temir Zholy NC JSC’s branch, “Akmola Rail Section” from 27 January 2016 No. 90-NODMD, besides the siding owned by TOO Otrar, the station Sorokovaya is outfitted also with other competing sidings engaging in loading and unloading of various freight.

The complainant’s arguments on the availability of over 30 competing rail sidings were dismissed by the Department’s officials and following the inspection of 21 January 2016, the Department officials drew up Protocol No. 6 on an administrative offence under par. 3 of Article 164 of the Code of the RK on Administrative Offences.

As such, the complainant expressed his deepest concern over the situation resulting from such actions on the part of the Department, and considered its actions illegal.

In order to gather necessary explanatory clarifying information, the Ombudsman’s Office sent corresponding information requests to the Committee on Regulation of Natural Monopolies and Protection of Competition at the Ministry of National Economy of the RK and the “Atameken” National Chamber of Commerce of the RK.

Atameken NCC issued a written notification regarding a number of measures taken to protect the rights and lawful interests as a commercial entity. At the NCC’s inquiry, Kazakhstan Temir Zholy NC JSC confirmed that TOO Otrar is in competition with a multitude of companies engaged in freight operations with a similar range of goods within the premises of the Sorokovaya station run by Kazakhstan Temir Zholy NC JSC.

According to the Committee, the administrative offence protocol No. 6 of 21 January 2016 was sent to a specialised inter-district administrative court of the city of Astana to be considered on the merits. The court admitted this protocol to consideration and authorised case proceedings.

Subsequently it was established that under a resolution of the specialised inter-district administrative court of the city of Astana from 1 March 2016 the case proceedings against TOO Otrar under part 3 of Article 164 of the Code of the RK on Administrative Offences was terminated.

In his public addresses, the President of our nation has time and time again brought up the issue of creating favourable conditions for doing business, noting that entrepreneurship development is a strategic priority of Kazakhstan. Over the past few years, unprecedented measures have been taken in a systematic fashion in order to provide comprehensive support to domestic business.
This has been demonstrated by the corresponding legislative enshrinement of the above priorities of the national development in the area of entrepreneurship. For instance, pursuant to Article 3 of the Entrepreneurial Code of the Republic of Kazakhstan, relations between business entities and the state are geared towards creating an enabling environment for the growth of entrepreneurship and society and encouraging entrepreneurial initiative in the Republic of Kazakhstan. According to par. 2 of Article 14 of the Code, in the process of state regulation of entrepreneurship no barriers shall be tolerated for the advancement of legal activities of business entities on the part of state authorities and their officials.

In another complaint, one T.S. expressed objection to the actions of the Department of the Committee on Regulation of Natural Monopolies and Protection of Competition of the City of Astana regarding an increase in tariffs for car spotting and pickup services.

In an inspection conducted by the Ombudsman’s Office it was established that by an order of a Chairperson of the Committee on Regulation of Natural Monopolies and Protection of Competition at the Ministry of National Economy of the Republic of Kazakhstan of 27 May 2016, the state registry of market entities of dominant or monopoly status on regulated markets was expanded to include the following entities: TOO AZhDKh Sever and TOO AZhDKh Sorokovaya under the line of business “car spotting and pickup to locomotive loading areas” with a total share of 70% with TOO Astaninskoie Zhelezdnodorozhnnoye Khozyaistvo (“Astana rail infrastructure”) and Kazakhstan Temir Zholy National Company JSC (Kazakhstan Railways) within the geographical boundaries of the city of Astana.

At the same time, TOO AZhDKh Sorokovaya submitted to the Department on Regulation of Natural Monopolies and Protection of Competition of the City of Astana information regarding selling prices, supplementing it with the price level for car spotting and pick-up to locomotive loading/unloading areas.

This was followed by an examination of the price based on the Pricing Rules for Regulated Markets, adoption and adjustment of an investment programme (project) of a regulated market entity, approved by the order of the Minister of National Economy of the RK of 29 December 2014 No. 174.

In determining the level of costs, the Department selected the actual income from services rendered as the cost allocation basis.

Subsequently the Department excluded costs that weren’t verified by documents and costs that weren’t connected with the regulated service (representation costs).

On grounds of the price examination, the Department reduced the prices projected by the TOO AZhDKh Sorokovaya to a price level substantiated under the pricing procedure, slated for enactment on 27 July 2016.

In the social and cultural area, local executive bodies, within the scope and the procedure established by the legislation of the Republic of Kazakhstan, shall handle issues of socio-cultural, medical, trade, public amenity and other public service provision.

Yet, this area also has its share of inadequate administration.
The Ombudsman received an inquiry from one B.Ye. in the interests of her daughter, regarding the issue of the provision of medication to people with disabilities. The Department of the Committee on the Oversight of Medical and Pharmaceutical Operations of Almaty Oblast conducted an unscheduled inspection of the Karasay District hospital on 1–2 March 2016.

It was ascertained that the daughter of the inquirer – the latter having a class I disability – is under supervision of a physician appointed to their place of residence. Since September 2015, on the physician’s instruction, she receives a drug called “Depakin Chrono”, 300 mg. Since February 2016 the daughter is provisioned with a drug “Keppra” at 0.025 and a drug “Epiks”.

Subsequently the aforementioned Committee indicated that B.Ye. had no complaints regarding medication provision at the out-patient level.

Based on the information provided by the Committee on the Oversight of Medical and Pharmaceutical Operations at the Ministry of Healthcare and Social Development of the RK, the Directorate of Healthcare of Almaty Oblast informed about a procurement of medications for the year 2016 in full, and access for patients was provided since the beginning of the year.

It should be noted that in accordance with the Code of the RK “On health of the nation and the healthcare system”, the guaranteed volume of free medical care, inclusive of the provision of medication, shall be provided to the citizens of the Republic of Kazakhstan at the expense of budget funds on a free-of-charge basis, including to persons with disabilities.

A separate group in the Ombudsman’s inbox is comprised of complaints about inadequate administration on the part of competent authorities in form of inattentiveness and negligence of employees in the performance of their duties and insufficient professional level.

The Ombudsman received a complaint from one M.D. about the actions of the Department of Justice of Pavlodar Oblast.

According to the complainant, justice authorities of Pavlodar Oblast put him on a list of debtors of the single registry of debtors under enforcement proceedings. Based on these data, M.D. is a debtor under enforcement proceedings instituted against him on 16 November 2011. However, in these enforcement proceedings the complainant was the claimant in a case that involved the claiming of damages from one K.A.

Also this registry contains erroneous data of the court ruling, namely: instead of a civil case ruling it returns a sentence, and the court decision was executed 4 years ago.

According to M.D., these unlawful actions on the part of justice authorities of Pavlodar Oblast involving his entrance into the above registry as a debtor under enforcement proceedings preclude him, in the capacity of a sole proprietorship, from accepting an invitation to participate in public procurement of goods (services, works).

An examination revealed that Ekibastuz city territorial office of the Department of Justice of Pavlodar Oblast had previously initiated enforcement proceedings of collecting from K.A. a sum to the amount of 64,851 KZT as damages in favour of M.D.

In the process of entering debtor data into the automated enforcement proceedings record keeping system, the “Debtor” field was erroneously filled out with the data pertaining to the claimant.
Finally, in the automated information system of enforcement proceedings authorities changes were introduced to debtor and claimant data. As a result, M.D. was taken off the single debtor registry.

Department of Justice of Pavlodar Oblast conducted an internal investigation into this incident and, as a consequence, the acting director of this Department, one T.A., issued an order No. 363-zh/k of 1 August 2016 to take disciplinary action against a court enforcement agent of Ekibastuz territorial office, one K.S., in form of “a warning on inadequate performance of duties”.

One I.O. submitted a complaint to the Ombudsman in regard to the negligence of the officials of the Directorate of Justice of the city of Ekibastuz in Pavlodar Oblast that resulted in the fact that the change of her daughter’s name from L.U. to I.U. in her birth certificate was not registered in the registration documents. The complainant received the original of the second birth certificate dated 2 April 2012 No. 2138151. However, the above issue was discovered only during the process of registering the child for school admission.

According to the Ministry of Justice of the RK, the Department of Justice of Pavlodar Oblast did indeed confirm the mismatch between the document in the complainant’s possession and the archived one. Taking into account the fact that it was impossible to establish the circumstances that had resulted in the error several years ago, due to the resignation of the issuer of the birth certificate in question, one Yu.R., the complainant was told that it was necessary to bring the documents into compliance. It was also recommended that the complainant approach the registering authority at place of residence to submit an application for the introduction of changes into the civil registration of birth, supplementing the complainant’s identification document and documents certifying the need for the introduction of changes. Furthermore, the Department of Justice of Pavlodar Oblast was ordered to assist I.O. within its competence.

The examples above expose the glaringly low performance discipline of certain competent authorities, which has a negative impact on administration effectiveness, which in turn leads to additional budget expenditure, hurts the public image of public authorities.

In this regard, it should be noted that quality assurance in public service provision remains an effective instrument of enhancing the quality of public service provision. Within the framework of such quality assurance, it is advisable that state authorities on a permanent basis conduct quality control actions and monitor the issues of good management, using appropriate performance indicators.

Each citizen has the right to demand an adequate level and quality of services that they are entitled to receive from state authorities upon request.

It would appear that an important work principle of the newly introduced State Corporation would be the transition to a comprehensive support of life situations that a citizen could face, since public services function as a universally beneficial activities and a mechanism for the realisation of citizen and individual values, rights and freedoms.
6. RIGHT TO FREEDOM OF MOVEMENT, CONFERMENT OF CITIZENSHIP

Right to freedom of movement enshrined in the Universal Declaration of Human Rights and evolved in the International Covenant on Civil and Political Rights as an inalienable human right, establishes that a state shall not limit its citizens' movement, both in the territory of the state and when crossing the national border.

With regard to the citizen right to freedom of movement in the context of national and international legal norms, it is worth noting that Article 21 of the Constitution of the RK guarantees everyone lawfully within the territory of the Republic of Kazakhstan the right to freedom of movement within its borders and freedom of choosing a place of residence, unless otherwise specified by law.

Article 12 of the International Covenant of Civil and Political Rights also grants everyone lawfully within the territory of a state the right to liberty of movement and freedom to choose his residence within that territory. Furthermore, pursuant to paragraph 3 of this Article, “the above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant”.

In the reporting period the Human Rights Commissioner received 8 complaints about the violation of citizens' right to freedom of movement.

Restriction or violation of the above-mentioned rights is often the result of unlawful actions on the part of competent authorities and flaws within the legislation framework, which is confirmed by complaints that the Ombudsman was receiving in 2016. These violations often have a serious moral and economic impact.

The Ombudsman received a request from the Ombudsman of Tajikistan to assist in returning one M.K. to his homeland.

The inquiry states that M.K. is a citizen of the Republic of Kazakhstan who on the 13th of September 2015 departed on train, along with his family, from the Russian Federation heading to the Republic of Tajikistan; however, at the national border between the Republic of Kazakhstan and the Republic of Uzbekistan he was detained by a border unit at the Beyneu checkpoint. M.K. is being detained at the checkpoint to this day.

Ombudsman’s investigative efforts revealed that on 15 September 2015, military personnel of the border control detachment “Beyneu-zheleznozodorozhnaya”, while conducting a passport check in the train No. 360 “Moscow–Khudzhant”, detected in a citizen of the Republic of Tajikistan, M.K., traces of forged impressions of date stamps of the “Zhaisan” transport/border control detachment of the military unit 2030 of the National Security Committee of the RK certifying a crossing of the national border.

In order to conduct appropriate check-ups, M.K. was removed from the train and taken to a facility of the “Beyneu-zheleznozodorozhnoy” checkpoint.
On the same day, following the preliminary check-ups, M.K. was released to the village of Beyneu, where he rented an apartment.

On 16 September 2015, after accumulating M.K.’s case file, the materials were registered and sent via mail to a subordinate line office of internal affairs at the train station Mangyshlak (city of Aktau); the office subsequently initiated a preliminary investigation under part 3 of Article 385 of the Criminal Code of the RK (use of a false document).

On 6 October 2015, military service members handed M.K. over to the personnel of the line office of internal affairs. On 30 December 2015, preliminary investigation into M.K. was discontinued due to the absence of the elements of the crime.

Pursuant to the data provided, M.K. on 1 January 2016 at 15:53 crossed the National Border of the Republic of Kazakhstan on the train No. 320 “Moscow – Dushanbe” heading towards the Republic of Uzbekistan.

The Ombudsman received a complaint from one B.Z. regarding border servicemen of the National Security Committee of the RK denying her departure from the country.

As part of the handling of the complaint, the Ombudsman’s office sent the corresponding information requests to the General Prosecutor’s Office and the National Security Committee of the RK, and received rather conflicting responses.

The Department of the National Security Committee of the RK of Aktobe Oblast informed that B.Z. was not placed under any restrictions on departure from the Republic of Kazakhstan.

At the same time, the Chief Military Prosecutor’s Office said that due to existing restrictions in the “Berkut” Single Information System, B.Z. was denied departure from Kazakhstan. The National Security Committee also confirmed the departure restriction.

The Ombudsman later received from B.Z. a request to withdraw the previously lodged complaint because a member of the border service of the Committee admitted their mistake, apologised and paid damages on a pre-trial settlement basis.

The Ombudsman received a complaint from one A.A. regarding infringement on his right to freedom of movement.

The complainant explained that he was a founder of TOO TASCOM-KZ, and one A.M. was its director (chief executive).

By the decision of a specialised inter-district economic court of Almaty Oblast dated 18 October 2013, TASCOM-KZ was compelled to settle a debt in favour of TOO KazTsementGroup-A to the amount of 22,700,000 KZT.
Due to financial difficulties of TASCOM-KZ, the enforcement of the above-mentioned court ruling was problematic. As a consequence, on 28 January 2014 a private court enforcement agent of Almaty Oblast, K.I., on grounds of an enforcement document No. 2-2134/13 from 18 December 2013 issued a ruling to initiate enforcement proceedings; however, according to the complainant, a copy of this ruling was not received by TASCOM-KZ.

On 3 June 2014, the above-mentioned court enforcement agent issued a ruling to temporarily restrict departure of the founder of TASCOM-KZ from the Republic of Kazakhstan. In turn, A.A. notes that the director of TASCOM-KZ, A.M., is not restricted in any way.

Upon request, the Ombudsman office received the following information.

Appellate division of the Almaty Oblast Court issued a court order on 21 October 2014, according to which the private complaint of A.A. to the actions of a private court enforcement agent K.I. regarding unlawful issuance of departure restriction was dismissed. At the same time, the ruling of a private enforcement agent of 3 June 2014 was left unaltered.

Pursuant to introduced changes to Article 33 of the Law of the RK “On enforcement proceedings and the status of court enforcement agents”, as of 1 January 2016, where a natural person who is a (acting) director/CEO of a legal entity that is a debtor fails to settle an active debt to the amount of over twenty monthly calculation indexes, as specified in the enforcement document, or for the period of over three months fails to perform obligations under enforcement documents on the collection of periodic payments, an enforcement agent may – and upon request of the claimant, shall – issue a ruling to place on the specified persons a temporary restriction of departure from the Republic of Kazakhstan.

In this regard, on 21 June 2016, K.I. with respect to A.A. issued a ruling to lift the temporary restriction of departure from the Republic of Kazakhstan.

Furthermore, on 2 July 2016, the claimant in TOO KazTsementGroup-A motioned to withdraw the enforcement document without its enforcement.

It bears singling out a group of inquiries regarding the legal status of foreign nationals. Pursuant to Article 16 of the Law of the RK “On the legal status of foreign nationals”, foreign nationals may freely move around the territory of the Republic of Kazakhstan if said territory is open to foreigners, and choose a residence under the procedure established by the legislation of the Republic of Kazakhstan. Restrictions of movement or choice of residence shall be established by acts of the authorised state bodies of the Republic of Kazakhstan where this is necessary for ensuring national security, protection of public order, health and morality of the population, protection of rights and lawful interests of the citizens of the Republic of Kazakhstan and other persons.
Via the website, the Ombudsman received an inquiry from an Uzbekistan citizen, one M.O., protesting the decision of migration services of the city of Rudnyi of Kostanay Oblast to reject M.O.’s application for permanent residence in the Republic of Kazakhstan. According to the inquirer, the reasoning behind the denial was that she did not have a divorce certificate – a document that was first introduced in Uzbekistan in 2010. At the same time, the inquirer provided a court ruling on the divorce from 2006; furthermore, the marriage certificate contains a divorce entry. The inquirer made multiple attempts to obtain the necessary document at competent authorities of Uzbekistan, but to no avail.

Thus, in the process of handling of the inquiry, the national human rights institution sent the corresponding information request to internal affairs authorities, a response to which confirmed the information received from the inquirer. As a result, disciplinary action was taken against competent officials that had demanded a document not included in the established list, thereby violating the order of the Minister of Internal Affairs of the RK of 7 April 2015 “On the adoption of standards of public services “Registration and issuance of permanent residence permits to foreign nationals and stateless persons”.

On 26 December 2016, the inquirer’s petition was accepted for consideration. Should the petition be accepted, M.O. will be registered as a permanent resident and will be issued a residence permit for a foreign national.

The inquirer expressed her gratitude to the office of the Human Rights Commissioner in the Republic of Kazakhstan for assistance provided in resolving the issue.

Freedom of movement and freedom of residence are among the inalienable elements of the legal status of an individual in a modern democratic state. Yet, objectives tackled by the state often require limitation of this freedom for the universal good of the society, such as: combating crime and terrorism, protection of the population from uncontrolled migration and others.

To this end, on 22 December 2016, the President of the RK N.A. Nazarbayev signed the Law “On the introduction of changes and additions to some legislative acts of the RK regarding the issues of combating extremism and terrorism”, in accordance to which adjustments were made to Article 51 of the Law of the RK “On migration” requiring citizens to register at the place of temporary stay (residence) in the Republic of Kazakhstan.

The next part of this section refers to the issues of determining citizenship and bestowal of citizenship, registration and the issuance of an identification document.

In 2016, the Ombudsman received 30 inquiries, including from 11 foreign human rights ombudsmen representing citizens, regarding issues related to the realisation of rights of this type.

Article 24 of the International Covenant on Civil and Political Rights establishes the right of each individual to obtain citizenship and be registered immediately after birth.

Law of the RK “On citizenship of the Republic of Kazakhstan” establishes that the citizenship of the Republic of Kazakhstan defines a stable political and legal connection of an individual to the state, incorporating a composite of mutual rights and duties and guarantees each individual the right to citizenship in the republic. Under no circumstances can a citizen of the Republic of Kazakhstan be stripped of citizenship, the right to change one’s citizenship or exiled out of Kazakhstan.
In the reporting year, the Ombudsman received requests for assistance in determining Kazakhstani citizenship from human rights ombudsmen in Sverdlovsk, Saratov, Smolensk, Samara and Volgograd Oblasts of the Russian Federation.

In the handling of this type of inquiries, the office of the Ombudsman faced a number of issues relating to powers and interactions of internal affairs authorities and the Ministry of Foreign Affairs and foreign missions of the republic.

It should be noted that in accordance with Articles 30 and 31 of the Law of the RK “On citizenship of the Republic of Kazakhstan”, competent internal affairs authorities shall determine Kazakhstan citizenship (or lack thereof) of individuals permanently residing in the Republic of Kazakhstan, while the Ministry of Foreign Affairs and foreign missions determine Kazakhstan citizenship of permanent residents abroad.

It should also be stressed that past instances of “passing the buck” with regard to the determination of Kazakhstan citizenship and the provision of ambiguous responses hurt the reputation of the country nationwide.

The Human Rights Commissioner of Samara Oblast of the Russian Federation submitted to the Human Rights Commissioner in the Republic of Kazakhstan a request for assistance in determining the citizenship affiliation of one M.N. currently residing in the Russian Federation with no citizenship status.

The HRO of Samara Oblast said that according to the Directorate for Migration of the Main Directorate of the Ministry of Internal Affairs of the Russian Federation for Samara Oblast, the Consulate of the Republic of Kazakhstan in Astrakhan provided conflicting information regarding M.N.’s citizenship affiliation to the Republic of Kazakhstan.

It was also reported that the HRO of Samara Oblast sent a letter to the Consul of the Republic of Kazakhstan in the city of Astrakhan, S.A., with the petition to determine whether or not M.N. has the Kazakhstan citizenship.

In order to bestow on M.N. the citizenship of the Russian Federation, the Russian competent migration authority needs accurate data on whether or not she is a Kazakhstan national.

In due handling of the inquiry, the office of the Ombudsman sent information requests to competent authorities.

Department of the Migration Police of the Ministry of Internal Affairs of the RK reported that should no other citizenship be found, M.N., pursuant to Article 3 of the Law “On citizenship of the Republic of Kazakhstan” will become a citizen of the Republic of Kazakhstan.

Department of the Consulate Service of the Ministry of Foreign Affairs of the RK reported that M.N. is not listed in the database of documented population of the RK. She was not issued an identification card or a passport of a citizen of the RK, registration of this person never took place in the territory of Kazakhstan, and no petition to receive the Kazakhstan citizenship was filed.

Yet, in order to receive a definitive answer, we submitted another request to the Ministry of Foreign Affairs of the RK on grounds of Article 31 of the Law of the RK “On citizenship of the Republic of Kazakhstan”, still awaiting a response.
The Human Rights Commissioner in the Republic of Kazakhstan (the HRO) received an inquiry from the Human Rights Commissioner of Sverdlovsk Oblast of the Russian Federation (Sverdlovsk Oblast HRO), M.T., representing one K.Yu. (born 2 November 1987) currently staying in the Republic of Kazakhstan, requesting assistance in arranging her return to the Russian Federation.

It follows from the request of the Sverdlovsk Oblast HRO that the consulate office of the Republic of Kazakhstan in the city of Kazan, citizen K.Yu. was issued a certificate for the return to Kazakhstan in order to receive a passport. Following her arrival to Kazakhstan it was discovered that K.Yu. is not a Kazakhstan citizen; as such, she was denied a passport, and she cannot return to Russia as she has no documents.

It should be noted, however, that a letter from the head of the Directorate of Migration Police of Aktobe Oblast of the Ministry of Internal Affairs of the RK from 12 July 2016 confirms that K.Yu. is indeed a Kazakhstan citizen.

In due handling of the inquiry, the office of the Ombudsman sent information requests to competent state authorities, and now awaits response.

The national human rights institution keeps receiving complaints regarding Kazakhstan migration police and national security authorities’ delayed handling of citizenship requests.

One G.S. submitted an inquiry to the Ombudsman in representation of citizens R.M. and F.Sh. in regard to obtaining the citizenship of the Republic of Kazakhstan.

The above-mentioned issue was the subject of a long-lasting correspondence between the Ombudsman’s office and internal affairs authorities and the National Security Committee of the RK.

As is evidenced from the latest information provided from the relevant authorities, currently the materials regarding the bestowal of citizenship of the Republic of Kazakhstan on R.M. and F.Sh. are submitted for additional scrutiny to the Commission under the President of the Republic of Kazakhstan on the Matters of Citizenship.

One of the problems in the context of this section is adoption, registration of an individual and release of identification documents.


According to Sh.Yu. herself, she is a citizen of the Republic of Kazakhstan. However, competent authorities of Karaganda Oblast, that one M.T. had approached to establish the identity of the above-mentioned individual, informed that no registration or de-registration of anyone matching Sh.Yu.’s information was found. Mrs M.T. believes,
however, that the young woman has a psychiatric condition that manifests itself in an inability to remember last names of people. In this regard, the HRO of Sverdlovsk Oblast does not rule out the possibility that she may have given erroneous identification data, including her last name.

It was concluded, therefore, that the individual born 8 May 1982 is a citizen of the Republic of Kazakhstan pursuant to Article 3 of the Law of the RK “On citizenship of the Republic of Kazakhstan”.

The national centre for human rights assisted Sh.Yu. in executing a new birth certificate to resolve any remaining documentation issues.

The Ombudsman received an inquiry from one Zh.K. representing her son Zh.A. (born 21 March 1998) requesting assistance in obtaining documents for the latter.

The inquirer said that due to certain circumstances she had missed deadlines of submission of documents necessary for her son to obtain an identification card. The inquirer also stated that upon reaching the age of majority, Zh.A. had approached a competent authority to apply for the issue of an identification card, but his document submission was denied.

When the National Centre for Human Rights requested information from the relevant authority, it was revealed that pursuant to Article 3 of the Law of the RK “On citizenship of the Republic of Kazakhstan”, Zh.A. was recognised as a citizen of the Republic of Kazakhstan and issued an identification card on 8 July 2016.

It is important to note that citizens stripped of their rights to receive identification documents may subsequently be find themselves at a disadvantage when attempting to exercise their social, labour, pension rights, and most importantly the right to medical care.

At the same time, it is not always the case that state authorities are to blame for citizens’ inability to exercise their right to identification documents, because in the majority of cases it is the citizens themselves that fail to approach relevant authorities upon losing documents or in other circumstances.

The Ombudsman received an inquiry from one Ch.T. representing an elderly citizen K.T. (born 29 May 1942) requesting assistance in obtaining documents for the latter.

The inquirer said that K.T. has been residing in the territory of the Republic of Kazakhstan since 1962. Under unclear circumstances her identification documents were lost. She only has her birth certificate. The problem is, without her identification documents, K.T. is unable to use medical and social services, including pension payments.

Upon the request submitted by the office of the Ombudsmen to competent authorities, relevant efforts were made to verify K.T.’s Kazakhstan citizenship claims.
It follows from the information provided that, based on the results of the handling of K.T.’s petition to establish her Kazakhstan citizenship by the relevant units of internal affairs authorities of the Republic, K.T. was pronounced a citizen of the Republic of Kazakhstan and issued an identification card of a citizen of the Republic of Kazakhstan.

Furthermore, upon the request of the office of the Ombudsman, Karasay District akimat (administration) workers visited the residence of K.T. A city district primary care physician arranged home care; she was examined by a general practitioner, cardiologist and neuropathologist. She will receive follow-ups and outpatient treatment at the place of residence. A social worker from the Karasay central district hospital was assigned to her residence.

It should be noted that in specific matters related to the issue of documents, the Ombudsman’s office interacts with the Branch of Kazakhstan International Bureau for Human Rights and Rule of Law in Astana, which, under the umbrella of a joint project of the Kazakhstan International Bureau for Human Rights and Rule of Law and the Office of the UN High Commissioner for Refugees “Providing Legal Assistance to Refugees and Stateless Persons”, has the capacity of close cooperation with foreign diplomatic offices and fund consulting services provided by said offices.

In 2016 the Ombudsman’s office received requests of assistance in recovery of documents, including those certifying work activities in Kazakhstan, as well as assistance in restoring lost birth certificates.

The Human Rights Commissioner in the Republic of Kazakhstan received an inquiry from the Human Rights Commissioner in Leningrad oblast of the Russian Federation representing One B.V., committed to a Russian psychiatric institution without identification documents, requesting assistance in establishing his identity and birth records.

Following the work conducted by a competent authority upon the request from the office of the Kazakhstan Ombudsman, it was established that B.V.’s birth was registered On 1 May 1962 in then Kokshetau Oblast (currently the territory of North Kazakhstan Oblast) of the republic. The Ministry of Justice of the Republic of Kazakhstan sent to the office of the Human Rights Commissioner of Leningrad Oblast a repeat issue of B.V.’s birth certificate.

The Russian counterpart extended their sincere gratitude to the Office of the Human Rights Commissioner in the Republic of Kazakhstan for expeditious assistance provided in finding and restoring the birth certificate of the citizen.

Analysis of incoming inquiries has shown that despite efforts made by the state to regulate matters related to the migration law, there are a number of problems that require a comprehensive approach. At the same time, one must bear in mind that against the backdrop of globalisation, new legal terms and challenges emerge, affecting also the matters of ensuring and observing citizen rights and freedoms.
7. PROPERTY AND LAND RIGHTS

Adequate housing is enshrined as a right to adequate standard of living in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights.

Provision of affordable housing to the people constitutes a key objective of the state. The country takes systemic measures to improve regulation and housing development sector, and supply the people with housing, including affordable housing.

Population growth, increased migration flows and state support of residential construction have contributed to annual increases in the number of citizens willing to improve their housing conditions.

Utilising public funds, in 2015 and over the course of 8 months of 2016, new housing was provided to 22,600 families, and in 2017 it is planned to build over 33,000 apartments.

Commissioning of new housing under all sources of funding in January-August of 2016 increased by 14% compared to the same period of the previous year. These circumstances are attributed to the positive effects of the measures taken under the Nurly Zhol State Programme and anti-crisis measures of the Government and the National Bank of the RK.

In order to protect the rights of the off-plan property development, on 10 October 2016 a new Law of the RK “On off-plan property development” was enacted, provided for additional methods of protecting the rights of participants, which includes deposit securities through the Fund of Guaranteed Residential Construction, project-based financing by second-tier banks, erection of building frameworks at the expense of developers.

In 2016, complaints regarding housing rights constituted 6.9% of the total number of complaints submitted to the Office of the Human Rights Commissioner. These inquiries related to the provision of housing out of the state housing stock, violation of off-plan property development participants, objections to the actions of developers, to banks’ refusal to refinance mortgages and court rulings on housing matters.

Analysis of inquiries received in the reporting year has shown persistent problems in acquiring housing by vulnerable groups who complain about long periods of waiting for housing provided from the state housing stock (9–10 years), absence of a transparent record keeping process that state authorities could use to track people who are in need of housing, or publishing of relevant information in mass media, public awareness raising.

Another issue that remains urgent is the accommodation of socially vulnerable groups in temporary housing until they can receive the own domiciles from the state housing stock. In this regard, it is important to keep building “social houses” that, while remaining in the state’s ownership, could serve as temporary housing for those in need.

It appears that effective implementation of state programmes in the area of affordable housing for the population would enable the nation to tackle the problem of housing queues that have grown over the years in the regions.

---

1 www.kazinform “В 2017 году построят свыше 33 тыс. квартир за счет госсредств” [In 2016 over 33,000 new apartments will be built at the state’s expense] 27.09.2016
The reporting year saw an increase in the number of complaints related to violations of the rights of those participating in off-plan property development. This topic has also been actively discussed in mass media.

Active off-plan residential construction with stakeholders has been implemented in Kazakhstan since 2003. In order to resolve the issues faced by development participants in the context of the global financial crisis, the state has made efforts to complete development projects abandoned by disreputable developers. In this regard, the decision to fund the completion of unfinished projects represents the highest values of a social state.

Analysis of complaints on this topic has also shown that developers do not comply with deadlines for completion of housing clusters, which forces stakeholders to wait years for their homes; many construction companies do not have licenses for construction works and raising capital; law enforcement’s criminal investigations into disreputable developers often get bogged in administrative red tape.

The now revoked Law of the RK “On investment in housing development” was aimed to minimise risks of natural persons willing to purchase an apartment in an off-plan project under construction. However, raising investor capital imposes a number of obligations on a developer, which has given rise to the practice of concluding civil contracts, as opposed to equity participation agreements (preliminary purchase agreement). It should be noted, however, citizens who they enter in agreements with are not treated as participants of off-plan development projects, but as investors.

According to the Ministry of National Economy of the RK, the total number of private investors who have signed investment agreements (or other types of agreements) with respect to non-performing residential construction projects equals some 8,000 people in 44 projects (including 11 non-performing projects of the Azbuka Zhilya Group).

Upon the Human Rights Commissioner’s request, the akimat of the city of Astana informed that the main problematic cluster of the city is represented by developers who had entered investment agreements, preliminary purchase agreements and joint venture agreements. These agreements are civil transactions closed mutually by parties, and local executive bodies do not have the power to regulate these civil relations.

As reported by the General Prosecutor’s Office of the RK, five regions of the republic have 59 non-performing residential construction projects.

It is therefore evident that local executive bodies tend to abstain from resolving the issues faced by investors and participants, yet these same authorities have been issuing documents of title to construction companies, providing land plots, approving designs and technical specifications.

*The Human Rights Commissioner received collective inquiries from citizens of the cities of Astana and Almaty who concluded investment agreements with the Azbuka Zhilya Group, requesting state assistance in completing the construction of their residential projects, as well as in possibly avoiding the law enforcement’s full investigation into the developers and their affiliates.*

*Over three thousand people ended up being taken advantage of the Azbuka Zhilya Group that owns 9 residential complexes.*
Upon request of the Ombudsman, the akimat of the city of Astana and the Ministry of Internal Affairs of the RK reported that the ongoing criminal proceedings have led to the identification of a number of suspects who were engaged in unlawful actions toward investors of the companies, and the arrests of companies’ property identified in the preliminary investigation. Suspects and representatives of newly formed housing associations (cooperatives) reached plea bargains and the materials were handed over to court.

As for the recovery of property of the companies as damages in favour of the deceived investors, the Akimat of the city of Astana said that it is not a party to these legal relations, and these relations between a legal entity and a natural person are regulated by contractual obligations and provisions of the Civil Code of the RK. The city Akimat explained to the citizens their right to seek relief at court or law enforcement agencies.

In their collective complaint, off-plan development participants of the Zhastar-4 residential complex object to the actions of a developer TOO Bakhyt-XI that had led to a delay in the commissioning and completion of the construction of the apartment building; they also voiced their dissatisfaction with the actions of law enforcement agencies which had reported to have had initiated a criminal investigation into fraud and theft of property. The developer initiated the erection of several parts of the residential complex without obtaining a full package of construction permits. According to competent state authorities, the inter-agency commission under the Akimat of the city of Astana advised the developer to resume construction and assembly operations on site. The case filed by the citizens was dismissed three times following a preliminary investigation. On 29 September 2016, the prosecutor’s office of the city of Astana issued the city’s Department of Internal Affairs an order to rectify violations of legal norms committed in the criminal investigation of the developer. The criminal investigation authority is currently conducting an investigation. The city’s prosecutor’s office is monitoring the progress of the preliminary investigation.

It should be noted that the citizens have been duly performing the assumed obligations under concluded agreements, and the construction costs have been paid in full. Yet, developers have not performed their obligation to complete the construction. The absence of any appropriate oversight of the process of off-plan development on the part of competent state authorities has led to a situation where tens of thousands of development participants were taken advantage by dishonest developers and are now unable to receive their apartments.

We feel that the existing institutions – including the inter-agency commissions on the matters of equity participation in off-plan property development under local executive authorities – must become a platform for joint development of effective mechanisms for resolving issues occurring in the area of residential construction faced by both equity participants and individuals who entered into other civil agreements.

A separate group is formed by inquiries regarding the failure to provide citizens with equivalent housing when the state takes their land for public use. When using the power to take private land for public use, it is important to take into account not only the value of the land itself,
but also that of residential buildings and other facilities situated on it. Often local executive authorities offer compensations in the amount calculated based on the understated cost of a square metre. Yet, the Law of the RK “On housing relations” establishes that whenever a residential building is demolished on grounds of compulsory alienation of land for public use, prior to the demolition of the domicile, its owner is offered a domicile with all amenities or a compensation to the amount of market value of the domicile.

It is apparent that in the real estate market environment, citizens are not always presented with the opportunity to look for available housing that would be equivalent to the one being alienated. In this process an important role is played by constructive dialogue between the parties, in order to reach a mutually acceptable decision.

The Ombudsman received a collective inquiry from residents of the village of Zhezkazgan of Karaganda Oblast expressing their objection to the amount of compensation, the procedure for the provision of housing following the alienation of land plots for public use under the implementation of the 2012–2020 Comprehensive Plan of Socio-Economic Development of the towns of Zhezkazgan, Satpayev and Ulytau District of Karaganda Oblast adopted by the Resolution of the Government of the RK of 3 November 2011. Upon the Ombudsman’s request, the Akimat and prosecutor’s office of Karaganda Oblast provided information regarding conciliative meetings held by the akimat of the city of Satpayev with all property owners, as a result of which, corresponding agreements were signed with a part of owners, including agreements on the introduction of changes and amendments into the draft agreement of land purchase. The akimat filed 91 claims to appraise the properties subject to demolishing. Also the akim gave instructions to restore parts of houses and infrastructure elements damaged during the demolition.

The Department of the Committee of Industrial Development and Industrial Safety of Karaganda Oblast conducted an unscheduled inspection of Eastern Zhezkazgan and Northern Zhezkazgan mines run by Zhezkazgantsvenmet and Kazakhmys Corporation which revealed a number of industrial safety violations; relevant officials were held administratively liable and recommendations were issued to stop explosive operations.

Certain inquiries were in reference to bureaucratic red tape of local executive authorities in the handling of housing issues of citizens.

One Z.N. in her inquiry expressed objection to the actions of local executive authorities of the city of Taldykorgan regarding the handling of the issue of the privatisation of her apartment from the state housing stock.

According to the inquirer, by the decision of the housing commission of the city of Taldykorgan of 16 April 2015, her family was given an apartment located in Taldykorgan, microdistrict Samal, bldg 10a, apt. 24, with a large number of debts. In November 2015, Z.N. submitted to the local executive authority apartment privatisation documents, but her issue has not been resolved within a year’s time.

Upon request of the Ombudsman, the akimat of Almaty Oblast reported that a draft resolution of the akimat of the city of Taldykorgan regarding unpaid privatisation of the above-mentioned apartment is currently being finalised. The utility service of the city of Taldykorgan (TOO Zhilishnaya Sluzhba) has no debt grievances toward the inquirer.
The Office of the Ombudsman has been engaged in certain efforts based on information publicised in mass media.

On 5 September 2016 information websites posted a story entitled “41-year-old mother of 14 children keeps approaching akimats to no avail”. This news story focused on a challenging life situation of a big family N. with 14 children. The situation was exacerbated by the absence of a dwelling. This family has been registered as a family in need of housing from state housing stock since 2010.
Upon the Ombudsman’s request, the akimat of Aktobe Oblast reported that N.A. has been on the list of those in need of housing from the state housing stock under the category “family with many children” since January 2010; her number in queue is 135, among the socially vulnerable groups – No. 1943.
In order to render assistance to the N. family, the akimat provided a three bedroom apartment in Kargalinsky rural okrug, Kargaly selo (village), Kargaly cluster, until the queue position is reached.

A standalone category comprises inquiries from citizens that object to banks’ refusal to refinance mortgage housing loans under the Programme for Refinancing of Mortgage Housing Loans, adopted by the resolution of the Board of Directors of the National Bank of the RK of 24 April 2015, aimed to ease loan repayment terms for the largest possible number of loaners, with priority given to socially vulnerable groups.

The Ombudsman received an inquiry from one A.A. requesting assistance in refinancing a mortgage loan given by AO AF Ipoteka.
According to the National Bank of the RK, a letter was dispatched to AO AF Ipoteka regarding the introduction of amendments and additions to the programme for Refinancing of Mortgage Housing Loans. In particular, the National Bank plans to expand the list of banks that participate in the Programme, thereby covering the debtors of AO AF Ipoteka.
Furthermore, the National Bank in its letter recommends suspending filings of debt claims, eviction claims and enforcements of securities of debtors.
The inquirer was recommended to lodge with AO AF Ipoteka an application of refinancing of the loan under the Programme following the corresponding enhancements introduced to it.

The Ombudsman received an inquiry from one K.I. requesting her inclusion in the Programme for Refinancing of Mortgage Housing Loans and assisting in preserving her only domicile.
As is evidenced from the inquiry itself and accompanying papers, the inquirer took a mortgage loan in 2007 and had been paying it off on a timely basis. However, as a result of a car crash that happened in 2009, K.I. acquired a Class 2 disability status, with a 75% general functional capacity loss. As such, the inquirer was no longer able to perform her repayment obligations on a timely basis.
A ruling of the specialised inter-district economic court of the city of Astana of 27 April 2010 instructed to collect from K.I. outstanding debt to the amount of 45,730,740 KZT. Subsequently she repaid 3,500,000 KZT.
When she applied to AO ForteBank for a refinancing of the loan, the bank denied the application on grounds of the non-compliance with the Programme requirements, namely, the living space of the pledged property is 198.5 sq.m., which exceeds the Programme restrictions, according to which the living space must not exceed 120 sq.m. At the same time, K.I. informed the bank that pursuant to the findings report of a technical examination dated 5 January 2016, technical data sheet (passport) of the property contained an error: such spaces as the hallway and two rooms in the basement were erroneously registered as auxiliary quarters. In order to help the inquirer to save her only domicile, the National Bank of the RK sent a petition letter to AO ForteBank requesting consent/permission to introduce changes into the technical data sheet of the domicile to convert erroneously registered living space into non-living space; then, following the introduction of changes into the Programme, promptly request from K.I. all the necessary documents in order to then have a competent body (loan committee) consider the possibility of refinancing the loan under the Programme on a case-by-case basis.

Another batch of inquiries concerned objections to certain actions of construction companies in the process of construction, as well as the functioning of industrial facilities affecting the living conditions of people in residential areas, environmental safety.

The Ombudsman received a collective complaint from people residing along the Kamysty street in the city of Astana, in reference to unsatisfactory sanitary and epidemiological situation resultant from survey and construction works conducted by TOO Business Time Astana in the area. An inspection conducted by the Akimat of the city of Astana at the request of the office of the Ombudsman revealed violations in the operation of the developer, which prompted authorities to draw up a report against said developer in pursuance of paragraph 1 of Article 463 of the Code of the RK “On administrative offences” (performing operations (construction) without prior notice of the commencement of construction and assembly works) and issue an order to suspend construction and assembly works on site until such time as said violations are rectified. Furthermore, the Directorate of State Architectural and Civil Engineering Control of the city of Astana issued to the developer an order to rectify issues related to melt and rain water disposal in private residential area and removing dumped inert material from areas adjacent to private houses. During a visit of representatives of local state authorities of the city of Astana on 17 November 2016 it was established that TOO Business Time Astana had conducted removal of soil and disposal of water from melt and rain water canals in autumn and spring. Obligations arising out of the order issued to TOO Business Time Astana to rectify the violations were successfully fulfilled.
The Ombudsman received a collective complaint from tenant of an apartment building located in the city of Astana, E10 street, building no. 4. The complainants reported that elevators installed in the building are often out of service; in particular, in the entrance No. 8 elevators malfunction every day. This is exacerbated by the fact that the elderly and children live in the building, and malfunctioning elevators are especially bothersome for these categories of people. Tenants are also concerned that unsatisfactory operation of elevators may result in accidents. Thanks to measures taken at the request of the Ombudsman’s Office, technical malfunctions of the elevator equipment have been fixed and the company servicing the elevators replaced.

Housing availability is one of the main elements of adequate standard of living, a crucial factor in building a family and raising children. Social well-being of citizens, enforcement of their rights to adequate housing are key indicators of advancement and development of the Kazakhstani society and state, which makes this progress a strategic priority within the context of the fulfilment of long-term objectives established by the President in the policy statements.

In the Republic of Kazakhstan, public and private land ownership is being recognised and protected equally. As the state introduces legislative and other measures of protecting citizens’ right to land, so arise disputes over the regulation of land relations.

In 2016 much controversy in mass media and the society was provoked by the introduction of amendments into the Land Code of the RK and events that ensued. At the instruction of the President, a Commission for Land Reform was established to discuss and clarify the provisions of the Land Code, as well as to develop recommendations. The Commission has conducted meetings in all regions of the nation, considered the opinions of citizens; following these consultations, the President approved the Commission’s proposal to extend by 5 years the moratorium on the application of some provisions of the Land Code. In December 2016, the President of the RK signed a Law that extends the moratorium on the application of some provisions of the land legislation until 2021.

The Human Rights Commissioner of the RK also received questions regarding this issue from international and Kazakhstani non-governmental organisations. A corresponding position of the Ombudsman was articulated in an official press release publicised in mass media, and also available on the Human Rights Commissioner’s website.

In 2016, 1.4% out of all complaints received by the Ombudsman were in reference to land-related issues. These inquiries raised issues of providing land plots, objections to the procedure of their alienation for public use, objections to the actions of local state authorities in handling land-related issues of the citizens.

Inquiries received, as well as reports in the media regarding land issues have shown that all too often the rights and lawful interests of land owners are being ignored by local state authorities.
The Ombudsman received a complaint from one I.S. representing one O.B. objecting to the actions of the Akimat and the office for land relations of the city of Kyzylorda in regard to a denial to provide a land plot.

The Ombudsman received a complaint from one I.S. representing one O.B. objecting to the actions of the Akimat and the office for land relations of the city of Kyzylorda in regard to a denial to provide a land plot.

The land commission under the Akimat of the city of Kyzylorda on 28 February 2014 approved the provision of a land plot to O.B. on grounds of his application from 28 July 2005 for acquiring a land plot for personal residential construction. However, the above-mentioned approval was subsequently reversed by the findings report of the housing commission from 1 July 2015.

At the request of the office of the Ombudsman, efforts were made on the part of relevant state authorities to conduct an examination which revealed the unlawfulness of the decision made by the local executive authority toward O.B.

On grounds of an order issued by the prosecutor’s office of the city of Kyzylorda (protocol of 31 March 2016), the land commission of Kyzylorda approved the provision of the land plot to O.B.

Inadequate operation of executive authorities in this area is exposed during inspections conducted by prosecution authorities. Burabay District Prosecutor’s Office conducted an inspection at an office for land relations of this district regarding the observance of land legislation of the RK. On 15 April 2016 the office held an auction sale of land plots to private owners: 11 plots were sold for a total of 25,100,000 KZT.

The inspection revealed that the above-mentioned plots were sold without detailed layout drawings, which is a violation of paragraph 8 of Article 44-1 of the Land Code of the RK.

The auction sale of 11 land plots to private owners was held prematurely, since land legislation provisions had been violated. An oversight authority of the district issued a petition to the Akimat of Burabay District to overturn the bidding results of the land auction and take disciplinary action against those who had violated the land legislation.

Specific complaints concerned the inaction of law enforcement agencies in investigating fraudulent actions when selling land plots.

The Ombudsman received an inquiry from one K.A. representing his wife S.A. and objecting to the inaction and bureaucratic red tape on the part of investigating personnel of the Bostandyk District Directorate of Internal Affairs of the city of Almaty in the investigation of a criminal case of one S.K. who had been illegally selling a land plot.

Following an inspection conducted by the Ministry of Internal Affairs of the RK, Prosecutor’s Office of the city of Astana it was established that in the preliminary investigation of the criminal case registered in the Single Registry of Preliminary Investigations at the Directorate of Internal Affairs of Bostandyk District under par. 3 of Article 190 of the Criminal Code of the RK based on the report filed by S.A., an investigator questioned S.K. as a suspect.

In a preliminary investigation of 14 April 2016, the victim in the S.A. case filed a countering application to conciliate with S.K. on account of the fact that she had been paid damages in full and she has no more claims.

Another separate category comprises objections to court rulings on land disputes. Given that, pursuant to the Provisions on the Human Rights Commissioner approved by the Decree of the President of the RK of 19 September 2002 No. 947, handling of such issues falls outside of the competence of the Ombudsman, the citizens were given appropriate clarifications and information on how to protect their rights.

Oftentimes, ordinary people are not able to make sense of the mechanisms of land relations on their own, as resolving land disputes requires knowledge in this subject matter, which makes it all the more important for competent authorities to consult citizens and raise their awareness on the issues of the provision of land plots, registration of documents of title, switching the purpose of a plot, among others.

In dealing with land and housing disputes, out-of-court resolution mechanisms become especially important. The national institution of mediation is developing into one of methods for parties to reach a compromise, with the help of a mediator. It is safe to assume that this type of dispute resolution could become more common among those involved in housing and land disputes.

In view of the above, it is crucial that all the participants of housing and land legal relations observe the provisions of the current legislation; that competent state authorities constantly engage in raising awareness among the population in this subject matter; that competent authorities' personnel undergo professional development; and, finally, that systemic monitoring of the observance of housing and land legislation.
8. LABOUR RIGHTS

Pursuant to Articles 6, 7 of the International Covenant on Economic, Social and Cultural Rights, adopted by the Resolution of the General Assembly on 16 December 1966 and ratified by the Law of the Republic of Kazakhstan on 21 November 2005, everyone has the right to work; to the opportunity to gain his living by work; to just and favourable conditions of work; fair wages and equal remuneration for work of equal value; safe and healthy working conditions; rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

The most fundamental guarantees of labour rights of citizens are enshrined in the Constitution of the country. Thus, Article 24 of the Constitution establishes that everyone shall have the right to freedom of labour, and the free choice of occupation and profession; the right to safe and hygienic working conditions; the right to just remuneration for labour without discrimination, as well as to social protection against unemployment; the right to rest.

The law shall guarantee to every working individual the length of working time, days-off and holidays, and paid annual leave. The right to individual and collective labour disputes with the use of methods for resolving them, stipulated by law including the right to strike, is also recognised by the Constitution.

In this regard, the President of our nation, N.A. Nazarbayev, in his address on 6 January 2016 ("The Plan of the Nation – The Path to the Kazakhstan Dream"), noted that in order for the economy to grow in leaps and bounds, special attention must be paid to the process of instituting a new type of labour relations.

To this end, a new Labour Code of the Republic of Kazakhstan was adopted and enacted on 1 January 2016, using as its foundation labour standards of the International Labour Organisation and the Organisation of Economic Cooperation and Development.

The Office of the Human Rights Commissioner in the Republic of Kazakhstan pays a great deal of attention to the issues of the respect of the right to labour.

In the reporting year, the Human Rights Commissioner received 74 written inquiries relating to labour right violations (6.9% of the total number of inquiries), and 29 citizens approached in person.

It should be noted that, year in and year out, the substance of these inquiries does not change. As before, the majority of those seeking the Ombudsman's assistance in 2016 were objecting to their firing, to their employers’ failure to pay out wages on time and in full, refusal to pay out a compensation for work-related health issues, inadequate attitude of employers and other issues.
Of 74 inquiries submitted to the Ombudsman in relation to labour legislation violations, 17 inquiries were successfully resolved, thereby restoring labour rights, and 11 inquiries are currently being handled.

It bears repeating that a timely and full remuneration of labour is one of the fundamental labour rights and the main duty of an employer. Yet, employers often violate the provisions of the labour legislation, especially when it comes to ensuring timely and full payment of wages.

The Ombudsman received a complaint from S.A., Ch.I. and A.I. regarding alleged violations of labour legislation on the part of the employer, TOO SAES Industry (located in the city of Almaty, 377 Tlendiyev, office 10).

The complainants reported that, in violation of the provisions of the labour legislation, the employer failed to pay out wages and transfer pension contributions for the period of work in full.

At the request of the Office of the Ombudsman, the Directorate of the State Labour and Migration Inspection and the Department of State Revenue of the city of Almaty conducted an inspection, following which the failure to pay out wages and pension contributions to the complainants was confirmed and all the outstanding amounts were successfully disbursed.

The National Centre for Human Rights received a complaint from one A.S. regarding a labour legislation violation on the part of the management of TOO MezhgortransPV in form of non-payment of wage arrears.

On request of the Office of the Ombudsman, the Directorate of Labour of Pavlodar Oblast reported that A.S.’s issue was successfully resolved.
There are instances where citizens work without any formalisation of labour relations which strips them of any guarantees and compensations provided for in the labour law.

Article 86 of the Code of Administrative Offences provides administrative liability for employers that engage persons in labour without concluding an employment contract. However, often neither a labour inspector, nor a court authority are able to establish the instance of non-conclusion of an employment agreement.

**The Ombudsman received a complaint from one B.O. regarding the failure to pay out outstanding wages on the part of TOO KAZPROF NS.**

The complainant reported that since December 2015 through March 2016, he had been working at KAZPROF as a welder with the salary of 150,000 KZT. However, the wages for the elapsed period of time weren’t paid to him in full. Also the complainant states that the management of the company did not provide him with a second counterpart of the employment agreement.

An inspection conducted by a state labour inspector of the Directorate of Employment, Labour and Social Protection of the city of Astana established that B.O. was hired by his employer without concluding an employment contract. As a consequence of this violation, KAZPROF was held administratively liable and served an order to prevent any such violations in future.

In order to claim the outstanding wages to the amount of 300,000 KZT, B.O. filed a lawsuit against the company.

When considering the above-mentioned lawsuit, the court did not take into account the findings of the state inspection regarding the KAZPROF director hiring B.O. without an employment agreement. At the same time, due to the plaintiff’s failure to produce documented proof of the performance of his work duties in the period from December 2015 through March 2016, the Saryaryka District Court of the city of Astana dismissed his claim.

In the context of the above, it should be noted that parties to labour legal relations must recognise the importance and value of a duly executed labour agreement, as well as raising public awareness on labour law matters.

A separate group comprises complaints about occupational safety rule violations.

Occupational safety and health rules are established in the legislative acts of the Republic of Kazakhstan. Specific provisions of the Civil and Labour Codes of the nation provide exhaustive explanation of the mechanisms of state and civil regulation in the field of occupational safety and health.

Analysis of the submitted complaints has shown that employers do not always follow the occupational safety requirements; in particular, in the majority of cases employers attempt to resolve issues related to workplace injuries without reporting them to competent state authorities.
Par. 2 of Article 187 of the Labour Code establishes that an employer must, within 24 hours of an occupational accident, report said accident to a local labour inspection authority, a law enforcement authority in the locality where said accident occurred. However, experience has shown that employers tend to ignore this provision of the labour legislation.

Inquiries received by the Ombudsman demonstrate that employers refuse to admit that an occupational injury took place at all, which means that they also refuse to compensate an injured worker for bodily harm that they had sustained.

The Ombudsman received an inquiry from one T.P. who revealed that on 25 May 2014 his daughter (born 22 December 1976), P.A., died serving as a physician of a medical service at Fire and Emergency Service of the Department of Emergency Situations of the city of Almaty, who was on a detail at a training polygon of the Ministry of Emergencies of the RK, located in Almaty Oblast, Iliysky District, Tamgaly-Tas. P.A. raised an underage child alone, who, following the death of his mother, was adopted by T.P. – the father of the deceased.

The inquirer objects to a findings report prepared following an internal investigation into the accident, and approved by the head of the Fire and Emergency Service of the DES of the city of Almaty. Pursuant to the findings report of the Commission that conducted the internal investigation, this accident is not classified as occupational.

At the request of the office of the Ombudsman, the Directorate of the Labour Inspection of Almaty Oblast conducted an inspection at the Fire and Emergency Service of the DES of Almaty, which revealed that the employer, in violation of the requirements of the Labour Code of the RK, did not report the accident to a local labour inspection authority. As a result, the employer was charged with an administrative offence.

A special investigation was launched into this accident, and it was established that this lethal accident was connected with work activities and must be accounted for at the Fire and Emergency Service of DES of the city of Almaty.

In this regard, pursuant to Article 66 of the Law of the RK “On law enforcement service”, the family of P.A. was paid a one-off compensation equalling to a sixty-month allowance of the last held position of the deceased, in the amount of 5,761,200 KZT.

It should be stressed that the Ombudsman receives collective inquiries from company or organisation employees complaining about their management’s compliance regarding the establishment of favourable psychological environment in the team and zero tolerance towards insulting directed at employees.

The Ombudsman received a collective inquiry from workers of the Kokshetau National Natural Park (republican public institution) of the Forestry and Wildlife Committee of the Ministry of Agriculture of the RK (“the Park”) complaining about the actions of the chief accountant of the Park, one Zh.U.
The collective complaint states that Zh.U. insults the honour and dignity of the employees, thereby fostering an unhealthy working environment. At the same time, the complainants claim that the general director (CEO) of the Park prioritises the interests of the above-mentioned chief accountant.

In due handling of the inquiry, the office of the Ombudsman sent information requests to competent state authorities. Thus, on grounds of this request, and in accordance with the order of the Forestry and Wildlife Committee of the Ministry of Agriculture of the RK ("the Committee") from 11 April 2016, a special commission was established to conduct an internal investigation. On 12–13 April 2016, the commission conducted an on-site inspection, following which the commission recommended the Committee to look into possibly holding accountable the general director of the Park, one S.Kh.

The Park’s management was instructed to take effective measures to improve the moral and ethical climate in the working environment. In compliance with the recommendations of the disciplinary commission, S.Kh. was given a reprimand.

Additionally, the Park held a meeting with the employees, that eventually led to a decision to prevent any more conflicts among staff members, while recommending the workers, who believe the actions on the part of Zh.U. had infringed on their rights or insulted their honour and dignity, to take legal action individually.

Furthermore, S.Kh., on grounds of his own petition, was relieved of his duties as the general director of the Park.

It is also important to note that whenever citizens lodge their complaints about their employers with state authorities, they become subjected to persecution by the management. Oftentimes, after being pressured by the management, complainants are forced to revoke their complaints.

The Ombudsman received a complaint from ones Zh.B. and N.A. regarding the actions of the management of the City Polyclinic No. 9 State Enterprise ("the Polyclinic") consisting in violating the labour legislation.

The complainants claim that counterparts of labour agreements concluded between the employer and employees were provided to them only following 11 months of active employment. Paragraph 3 of the agreements additionally established the 1-year term of the agreements. However, during the signing of said agreements, according go the complainants, agreements were concluded for an indefinite term.

Complainants said that after the Polyclinic staff members had lodged their complaints with state authorities, the majority of complainants withdrew their reports due to persecution, pressure and intimidation on the part of the management of the Polyclinic.

In due handling of the inquiry, the National Centre for Human Rights sent requests to competent authorities. Yet, violations of the labour legislations have not been verified.

The legislation of the republic prohibits forced labour, which constitutes any work or service that is demanded of an individual under the threat of a punishment, and that is not being voluntarily offered by said individual.
In the reporting period, the Ombudsman received two inquiries from representatives of victims of labour exploitation.

Despite the fact that the number of such inquiries is insignificant, their very existence indicates that citizens face bureaucratic obstacles whenever law enforcement agencies investigate instances of labour exploitation.

The Ombudsman received an inquiry from the general director of TOO NURSAN Legal Agency, one T.A., representing one K.A., complaining about the fact that the investigators of the Aitekebi District Office of Internal Affairs of Aktobe Oblast failed to enforce prosecutors’ decision to overturn the decision to dismiss a case on illegal exploitation of ones K.A., Ye.M. and his wife S.A.

T.A. in his inquiry reveals that an investigator of the Aitekebi District OIA, one K.A., on 21 December 2014 issued a refusal to initiate a criminal investigation into the above-mentioned instance.

This decision was overturned by the decision of the prosecutor of Aitekebi District of 22 January 2015, referring the case to preliminary investigation. However, an investigator Zh.R. of Aitekebi OIA on 26 March 2015 dismissed the criminal case in the absence of the elements of the crime.

This decision to dismiss the case was subsequently overturned yet another time by a decision of a senior prosecutor of the Second Branch of the Prosecutor’s Office of the oblast, one K.A. on 14 July 2015, approved by the Deputy Prosecutor of Aktobe Oblast B.K. For the third time the case was discontinued by a decision of the investigator Zh.R. on 14 August 2015, also in the absence of the elements of the crime.

On 14 August 2015, by a decision of a preliminary investigation unit, the criminal case was discontinued due to the fact that the actions of Ye.M and S.A. lacked crime elements specified in Article 128 of the Criminal Code of the Republic of Kazakhstan.

At the request of the office of the Ombudsman, on 13 April 2014, in light of new argumentation from the disadvantaged party, the above-mentioned proceedings decision was overturned by the oblast prosecutor’s office. The case was assigned to the Investigative Directorate of the Department of Internal Affairs of the oblast.

Furthermore, in light of K.A.’s arguments formulated in the complaint, the criminal investigation unit was instructed to perform additional investigative actions within this case.

On 20 May 2016, by the decision of the preliminary investigation authority, the criminal case was discontinued under paragraph 2 of part 1 of Article 35 of the Criminal Procedure Code – that is, due to the absence of the elements of the crime.

The Oblast Prosecutor’s Office did not find any violations of the legislation and agreed with the decision made.
The Ombudsman received a complaint from a lawyer of the Bar Association of the city of Astana, one T.A., representing his client S.Zh., in regard to the fact that the internal affairs authorities of Karaganda Oblast dismissed a criminal investigation into illegal exploitation of S.Zh. by the Y family.

In his complaint, T.A. revealed that the criminal investigation into illegal deprivation of freedom of S.Zh. for labour exploitation had been in progress by the Investigative Unit of the Office of Internal Affairs of Zhanaarka District of Karaganda Oblast, which was subsequently discontinued on the expiry of a large period of time.

At the request of the Ombudsman, law enforcement agencies reported that the deputy chief of the Office of Internal Affairs of Zhanaarka District, T.D., had been handling a criminal case of illegal deprivation of freedom of S.Zh. which was discontinued on 10 October 2016 due to the absence of the elements of the criminal offence.

On 2 December 2016, the Prosecutor’s Office of Zhanaarka District found the above-mentioned decision to be illegal and overturned it. The criminal case was transferred for additional investigation to the Office of Internal Affairs of Zhanaarka District.

As a result of bureaucratic red tape of the preliminary investigation, on 14 December 2016 the prosecutor's office of the district handed over all the investigative authority over the case to the investigative directorate of the Department of Internal Affairs of Karaganda Oblast. Currently this criminal case is being investigated.

In November 2016 the members of the office of the Ombudsman met with the director of the Human Rights Watch Europe/Central Asia, H. Williamson, and a Central Asia researcher M. Rittmann, to discuss the labour rights situation. Also the Human Rights Watch representatives presented a report on labour rights violations in Kazakhstan, which was based on interviews with over 50 trade union heads, labour activists and key industry workers.

In general, it must be acknowledged that labour right violation complaints submitted to the Ombudsman indicate a number of issues that citizens face when attempting to exercise their labour rights. Protecting citizen rights in the sphere of labour relations requires that competent authorities conduct public awareness raising campaigns on the right to labour and organise events on the matters of labour relations for the management of private companies and organisations in order to avoid labour rights violations.
9. RIGHT TO WELFARE AND PENSION COVERAGE

The Constitution of the Republic of Kazakhstan enshrines the right to social welfare and establishes that said right arises in the event of reaching a certain age, a disease, disability, loss of a bread winner, raising children and other circumstances associated with various social risks, loss of income or its insufficiency for securing an adequate living standard.

In socially oriented public policy of Kazakhstan, a key indicator is the ensuring of a high standard of living for citizens, which represents an important function of the state. Pension coverage is one of the important and sensitive socio-economic objectives of our state.

The country continues to implement the Concept of Further Modernisation of the Pension System of the Republic of Kazakhstan until 2030, approved by the Decree of the President of the RK of 18 June 2014, which provides for measures to ensure the adequacy of pension provision and the creation of a balanced financially stable system of pension coverage.

One of the innovations introduced by the Concept is the change of the procedure for admission to base pension on the basis of calculating the period of participation in the pension savings system once an individual reaches the established pension age.

Even in the context of the economic crisis, Kazakhstan made no compromises on any of the previously assumed social obligations, and implemented a number of measures to increase wages of public sector employees, pensions and social benefits.

In the 2011–2015 period, the percentage of population living below the poverty line decreased two-fold, from 5.5% to 2.7%. Per capita income for the same period increased almost by half on average, reaching 67,122 KZT.

In order to improve the living standards of pension-age citizens and socially vulnerable groups, the country conducts systematic measures to increase pensions and social benefits. On 1 January 2016, amounts of pensions were increased by 9%, social benefits for disabilities and loss of a breadwinner – by 25%; furthermore, pensions for public security agencies staff that were previously assigned in an incomplete fashion were re-calculated to account for length of service.

In order to provide social support to low-income families, local executive authorities render state targeted social support, benefits for children under 18, housing assistance and welfare benefits to specific categories of citizens upon the decision of local executive bodies.

The protection of the citizens' right to pension and welfare coverage is an important area of responsibility of the Human Rights Commissioner.


Handling complaints and reception of citizens constitute a first-priority area of responsibility of the Human Rights Commissioner in the Republic of Kazakhstan. In 2016, 5.6% of all inquiries submitted to the Ombudsman were in reference to the pension coverage of citizens, voicing displeasure with the amounts of pensions and the procedure of pension calculation, refusal to
grant access to pension to former employees of restructured internal affairs authorities in the event of a change of permanent residence within the boundaries of CIS, assisting in receiving documents certifying work experience and salary amount, necessary for acquiring access to pension; issues were also brought up regarding non-payment of compensations for damage sustained at work, disputes over instances of enforcement agents and internal revenue services arresting citizens’ bank accounts used for pensions and social benefits.

For the elderly, pension is the only source of income, which is why the amount of pension is so important to them. The majority of pensioners’ inquiries have something to do with their objection to the amount of pension. This trend in inquiries received from the elderly persists year after year.

One of the more pressing is the issue of social support of individuals receiving minimum pensions or partial pensions. Many pensioners were not able to produce a salary statement, due to the consequences of a transition period of the 90s, characterised by high unemployment and mass bankruptcy of public enterprises. Pursuant to the current pension legislation, if the required earnings statements are missing, or if monthly income is too low, an individual is assigned the minimum pension.

Subsequent re-calculations were not able to change this situation, and the aforementioned category of pensions is to this day limited to the minimum pension.

More often than not, in their inquiries, pensioners complain about violations of the principle of social justice, about the fact that the pension is not commensurable with labour provided and salary earned. Taking into account the typical health status, the pensions are not sufficient to cover the costs of medication, nutrition and utilities. Many pensioners believe that the pension legislation fails to sufficiently protect them, and does not provide a standard of living comparable to the one they had when they were able to work.

The Human Rights Commissioner has already raised these issues in a recommendation submitted to the Minister of Healthcare and Social Development of the RK.

It follows from the above that the currently ongoing modernisation of the national pension system will permit the nation to improve the standards of living of pensioners that receive minimum pensions or partial pensions.

Extracted content:

The Ombudsman received an inquiry from one Sh.L. objecting to the amount of minimum pension. At the request of the office of the Ombudsman, the Committee for Labour, Social Protection and Migration of the Ministry of Healthcare and Social Development of the RK reported that the calculation of Sh.L.’s pension took into account an accumulated period of work of 33 years 8 months and a monthly salary to the amount of 6,667 KZT registered on January 1995.

Due to the fact that the amount of the pension (4,867 KZT), as calculated based on accumulated period of work and wages, was found to be below the minimum pension, Sh.L. was granted the guaranteed minimum pension in the amount of 6,200 KZT.

Total amount of pension amounted to 38,827 KZT (pensions amount of 26,862 KZT, base pensions amount – 11,965 KZT). The minimum amount of pension was a result of the low level of earnings of the inquirer.
The Ombudsman received an inquiry from one P.Ye. regarding his objection to the amount of pension. After verifying the documents of the pension file, the above-mentioned committee reported that the total accumulated period of employment of P.Ye. was 8 years 5 months; additionally, income data was provided. In this regard, P.Ye. was granted a partial pension in the amount of 9,971 KZT and the base pension at 11,182 KZT, without the consideration of income.

Pursuant to the Law of the RK “On pension coverage in the Republic of Kazakhstan”, pension is granted to men if they have at least twenty five years of accumulated employment period as at 1 January 1998; women – at least twenty years as at 1 January 1998.

On the basis of an income statement for the period of employment at the Ushtobe Orphanage from 2012 through 2015 that the inquirer provided, her pension amount was revised. The total amount of pension of P.Ye. amounted to 23,911 KZT (pensions amount at 11,946 KZT, and base amount at 11,965 KZT).

The reporting year saw an upsurge in the number of former staff members of restructured internal affairs bodies who had moved for permanent residence to another CIS state or who had stayed in Kazakhstan, who submitted inquiries objecting to refusals in granting service pensions in a country of residence.

In accordance with Article 1 of the Treaty on the Procedure for Provision of Pensions and National Insurance to the Staff of Law Enforcement Agencies of the Member States of the Commonwealth of Independent States of 24 December 1993 (“the Treaty”), pensions for the above-mentioned individuals and their families shall be provided in accordance with the legislation of the member state of their residence. It should be noted that at the time of the Treaty’s enactment, the notion of “the staff of law enforcement agencies” in the former Soviet republics had the same exact meaning and covered the same people. However, currently the system of law enforcement agencies in member states of the Treaty is markedly different, which has also led to a change of the target audience that is classified as the staff of law enforcement agencies.

Furthermore, by the decision of the Economic Court of CIS of 13 May 2004 “On the interpretation of the Treaty of 24 December 1993”, it was established that in the event of a restructuring of the law enforcement agency system, states’ obligations to provide pensions shall remain intact. When conducting a restructuring of their systems of law enforcement agencies (transferring certain services and units into the structure of other ministries and agencies, or by creating standalone bodies), member states of the Treaty shall define which authorities are to provide pension coverage of pensioners newly arriving to their countries.

In light of the increasing number of inquiries from pensioners who had previously served at now-restructured law enforcement agencies and subsequently moved to permanently reside in another CIS member state, the Human Rights Ombudsmen issued a recommendation to the Ministry of Internal Affairs of the Republic of Kazakhstan on the need to adopt a mutually acceptable solution on this issue. The recommendation is included in the Annexes of the Report.

In turn, the Ministry of Internal Affairs of the RK has reported that it had been developing a proposal to introduce the necessary amendments into the Treaty under the umbrella of a meeting of experts of the ministries of internal affairs (police) of the CIS member states that took place in the city of Minsk. During the meeting, a proposal of the Kazakhstan delegation on the introduction of relevant changes into the Treaty did not receive support from the experts.
In order to highlight the need to regulate the issue of pension coverage of former employees of law enforcement authorities of the Republic of Kazakhstan who permanently reside in another CIS state and who have been denied pension coverage in the country of current residence, the Ministry of Internal Affairs has sent relevant proposals to the Ministry of Healthcare and Social Development of the Republic of Kazakhstan regarding the introduction of corresponding amendments into the current pension legislation.

A separate group of inquiries comprises requests of assistance in getting documents to certify the accumulated period of employment or remuneration, as a prerequisite for the granting or re-calculation of pensions. In a joint effort with the archives of competent state authorities, inquirers were provided with the necessary documents for the granting and re-calculation of pensions.

One of the important rights in social welfare is the observance of guarantees afforded to citizens that have sustained an occupational injury. Inquiries that the national human rights institution receives regarding this issue are often an indication that employers do not follow the provisions of the current legislation with respect to providing compensations of work-related health injuries.

The Human Rights Commissioner in the Republic of Kazakhstan received an inquiry from the Human Rights Commissioner of Chelyabinsk Oblast of the Russian Federation representing one L.R. in regard to TOO Dormash’s failure to pay out the monthly occupational injury compensation.

Following the intervention on the part of the Ombudsman’s office, L.R. was paid a compensation for an occupational trauma, for the period from August 2015 through August 2016 in the amount of 3,639.75 roubles at the rate of the National Bank of Russia.

Prior to that, on 4 August 2015, L.R. received an insurance payment in the amount of 47,474.557 roubles. In a letter correspondence, on 22 July 2016, TOO Dormash reported that it did not disclaim the obligation to provide L.R. with the insurance payment in compensation of bodily harm.

One A.N. who has a Class II disability, complained about the TOO Arsenal i K company’s failure to pay out compensations of bodily harm.

At the request of the office of the Ombudsman, the Directorate of the State Labour Inspection of Kyzylorda Oblast conducted an inspection and revealed that the employer did not pay out the compensation for the period from October 2015 through March 2016, which resulted in a debt to the amount of 157,020 KZT. TOO Arsenal i Ko was found in violation of the requirements set out in paragraphs 1 and 2 of Article 122 of the Labour Code of the RK. Following the inspection, the employer was instructed to rectify the detected violations of the labour legislation of the RK.

Yet, the employer did not comply with the instruction. At the request of the office of the Ombudsman, the state labour inspector lodged a statement of claim with the Kyzylorda City Court seeking compulsory fulfilment of the instruction issued to TOO Arsenal i Ko. On 5 August 2016, the same court ruled to uphold the claim and compel the employer to fulfil the requirements set out in the instruction of the state labour inspector.

In order to enforce the ruling, the enforcement document was sent to the regional chamber of private court enforcement agents of Kyzylorda Oblast for purposes of initiating enforcement proceedings.
Some inquiries concerned violations of the right to enjoy social benefits as a result of unlawful actions on the part of court enforcement agents, difficulty receiving social benefits due to bank account being sequestered by internal revenue authorities.

One K.R. in her inquiry expressed objection to the fact that a court enforcement agent had sequestered her bank account that she used to receive the loss-of-breadwinner benefit.

In the course of an inspection conducted by the Ministry of Justice of the RK at the request of the office of the Ombudsman, it was established that the enforcement agent acted in violation of paragraph 2 of Article 98 of the Law of the RK “On enforcement proceedings and the status of enforcement agents” according to which recovery is not enforceable on moneys received by the debtor in form of the benefit for the loss of a breadwinner.

As a result of the efforts made, the sequestration of an HalykBank account that the inquirer uses for her loss-of-breadwinner benefit was lifted.

The Ombudsman received an inquiry from one I.I. representing one P.T., expressing an objection to the fact that the Directorate of State Revenue of the city of Ust Kamenogorsk had suspended debit transactions on a bank account that she receives her pension through. In the process of handling this inquiry, the National Centre for Human Rights was engaged in lengthy joint efforts with the Committee of State Revenue of the Ministry of Finance, the Ministry of Healthcare and Social Development and the General Prosecutor’s Office of the RK.

Finally, it was established that P.T., being a sole proprietor, had an outstanding tax debt in the amount of 1,001,212 KZT.

Pursuant to sub-par. 25 of par. 1 of Article 20 of the Tax Code, state revenue authorities, in the event of an outstanding tax debt, shall engage methods of ensuring fulfilment of tax liability and recover the outstanding amount in a compulsory fashion in accordance with this code.

Articles 581, 611 of the Tax Code establish that in the case of a natural person registered as a sole proprietor, a state revenue authority’s decision to suspend debit transactions shall apply to all bank accounts, with the exception of accounts intended for benefits and social welfare disbursed from the state budget and the State Fund of Social Insurance.

At the request of the office of the Ombudsman, the Committee of State Revenue of the Ministry of Finance of the RK advised that pension does not fall within the category of social benefits and welfare, as specified in the legislation of the Republic of Kazakhstan. State revenue authorities’ suspension of debit transactions on a taxpayer’s bank account used for pensions is found to be lawful.

At the same time, the Ministry of Healthcare and Social Development of the RK reports that, pursuant to the provisions of the Law of the RK “On pension coverage in the Republic of Kazakhstan”, deductions from pensions can be made under enforcement proceedings, unless excessive pension amounts were disbursed due to calculation errors, deductions are made at the request of the recipient, or deductions are applied to the income of prison inmates.

In this regard, the Ministry is of the opinion that pensions are social in nature and serve as a substitution for pre-pension earnings lost upon occurrence of an insurance risk (reaching pension age).
At the request of the national human rights institution, the General Prosecutor’s Office of the RK advised that the legislation of the Republic of Kazakhstan does not contain a specific provision that would explicitly classify pension as a welfare benefit. Furthermore, in pursuance of sub-par. 9 of Article 581 of the Tax Code of the RK, upon the decision of a tax authority, banks are obliged to suspend debit transactions on a taxpayer’s bank accounts, with the exception of transactions intended for paying of outstanding debt on welfare contributions, compulsory pension contributions, compulsory professional contributions and other cases. In suspending debit transactions, state revenue authorities act within the boundaries of the tax legislation. At the same time, due to the fact that the state revenue authority had sequestered the bank account, the inquirer lost her guaranteed pension and means of subsistence. In accordance with Article 28 of the Constitution, a citizen of the RK is guaranteed the minimum amount of remuneration and pension, social welfare in the event of reaching a certain age, disease, disability, loss of a breadwinner or other legal circumstances. The office of the Ombudsman recommended that the inquirer seek legal remedy in court.

It should be noted that in written inquiries, at the office or by phone, pensioners and individuals of socially vulnerable groups report inadequate treatment on the part of the workers of regional offices of social protection, their unprofessional behaviour and unwillingness or inability to fully explain the provisions of the current social protection legislation. In this regard, it is important to offer training, lifelong professional development of those employed in the social protection industry in the regions.

Issues of enforcing pension and social protection rights should be handled in a comprehensive manner, and this includes issues faced by inmates of boarding houses. The Human Rights Commissioner and its office employees on a regular basis visit medical and social institutions across the nation. In 2016 the office of the Ombudsman conducted a monitoring visit to medical and social institutions for the elderly and the disabled in Kyzylorda and Atyrau Oblasts.
The purpose of the visits was to thoroughly investigate practical matters related to the protection of inmates’ right to adequate standard of living, protection of health, provision of special social services, education and so forth. Following the visits, the attention of the management of those institutions was called to the need for effective social and labour-related events aimed at the social integration of the disabled.

In view of the above, it is worth noting that the pension and social welfare-related inquiries received by the Ombudsman in the reporting year, human rights monitoring of social institutions, media reports all point to the need of improving the mechanism of granting and calculating pensions for individuals receiving minimal or partial pensions, their social welfare, as well as of having regional competent authorities conduct public awareness raising campaigns on reforming the social protection system, constant professional development of those employed in this system, observing of the right of socially vulnerable groups of people to receiving special social services, development of the activities of non-governmental organisations in the area of protecting social rights of the people.
10. RIGHT TO HEALTH PROTECTION

In Kazakhstan the right to health protection is a constitutional right of every individual. One of the principles of state policy in the area of healthcare is ensuring equality of citizen rights to receive safe, effective and high quality medical care.

Kazakhstan has fulfilled the majority of the Millennium Development Goals, including such objectives as reducing children mortality, improving maternal health, combating HIV/AIDS and tuberculosis.

Over the past years Kazakhstan has been actively developing highly specialised health care, annually increasing the number of unique surgeries formerly available only abroad. Every year some 40,000 heart surgeries and 35,000 neurosurgeries are performed in Kazakhstan. From 2012 through October 2016, Kazakhstan had had 1,011 organ transplantations from living relative donors and cadavers.

On 16 November 2015 the President of the RK signed the Law of the RK “On Compulsory Social Health Insurance” developed within the framework of the implementation of Step 80 of the President’s “Plan of the Nation: 100 Concrete Steps to Implement Five Constitutional Reforms”. The document envisages the implementation of a national system of health insurance developed using international best practices and based on the shared responsibility of the state, the employer and the individual.

Furthermore, at the close of the reporting year, the Senate approved a draft law on the postponing of the deadline of the introduction of health insurance in Kazakhstan from 1 July 2017 to 1 January 2018.

Disbursements from the Fund to cover medical care in the system of the Compulsory Social Health Insurance shall commence on 1 January 2018. Natural persons’ rights to receive medical care in the CSHI system and the selection of a healthcare provider, as stipulated by Articles 5, 6 and 7 of the Law of the RK “On the Compulsory Social Health Care”, shall also come into force on 1 January 2018.

Furthermore, this draft law is designed to introduce amendments and additions into the Law of the RK “On education” with respect to the handover of the functions of health care provision to students of secondary education institutions (except boarding schools) from the education system to the healthcare system – that is, to polyclinics.

In the reporting period the Human Rights Commissioner received 47 complaints about the violation of citizens’ right to health protection, which is a significant dip compared to previous years. The graph of inquiries received from this group over the period from 2012 through 2016 is presented in the figure below.

3 said Vice Minister of Healthcare and Social Development of the RK Aleksei Tsoy at the Central Communications Service on 13 December 2016.
Complainants reported inadequate medical care, non-performance of medical care, including under the state-guaranteed volume of free medical care, non-provision of medication, discrimination against mentally ill persons and so forth. The Ombudsman also received inquiries from convicts and civil society representatives.
Most numerous are inquiries regarding inadequate treatment or refusals to render medical care to sick people that have resulted in a disability or death. Oftentimes, the degree of guilt of medical staff and their treatment methods are difficult to accurately correlate with the worsening condition of patients.

The Human Rights Commissioner received a complaint from one M.L. regarding the actions of a central district hospital of the town of Ushtobe that she attributes to the passing of her small child M.B. on 11 February 2016 (born 25 December 2015). During the handling of this inquiry it became known that an unscheduled inspection of the Karatal District Hospital revealed that the hospital staff had put M.B.'s child on a drug called Bruzepam (diazepam) – not suitable for children under 3 years of age. To conduct a legal assessment of the medical doctors' actions and make a corresponding decision, materials of the inspection were handed over to a district-level office of internal affairs. A number of examinations were ordered and conducted on this case. A second forensic medical examination performed by the Almaty office of the Centre of Forensic Medicine of 17 August 2017 No. 103 established that in the period from 9 February 2016 through 11 February 2016, the child was being treated at the in-patient Central District-level Hospital of Karatal District. An examination of the medical chart of the patient revealed a twofold increase above the permissible level specified in Bruzepam instructions. As is evident from the minutes of the questioning of one A.N. and one D.B., Bruzepam was administered to the child in a dose distilled to the level of acceptable concentration. Yet, medical workers' testimonies raise doubts, as the medical chart of the inpatient No. 880 does not contain detailed descriptions of procedures; moreover, it contains the following: "orders: IV solution of Bruzepam at 0.5 5–2.0". At the same time, the expert commission could not distinguish and differentiate between the effects of Bruzepam and the impact of the underlying disease on the progression of life-threatening conditions, and, likewise, could not determine the degree of health damage sustained as a result of this large overdose of the above-mentioned drug. Furthermore, the expert commission also noted other flaws in medical care provision, such as incomplete and insufficient medical records, undervaluing of laboratory and instrumental test data, and so forth. These problems of medical care provision do not constitute health harm.

Therefore, the additional forensic medical examination did not establish the degree of impact that the Bruzepam medication and the main condition could have had on the progression of the aforementioned life-threatening condition of the underage M.B. On 28 August 2016 a decision was made to discontinue the criminal proceedings on account of the absence of the elements of the crime. However, following the mother’s petition to conduct an additional examination at the Centre of Forensic Medicine of the city of Astana, the above decision was overturned by the prosecutor’s office and on 15 September 2016 an additional comprehensive forensic medicine examination was scheduled at the Centre of Forensic Medicine of the city of Astana, results of which are not yet available.

Pursuant to Article 24 of the UN Convention on the Rights of the Child, the States shall recognise children’s right to have access to the most sophisticated services available in the healthcare system, the most sophisticated treatment and health recovery methods, and shall seek to ensure that no child is left deprived of their right to access to such healthcare services.
Whenever children are involved, especially small ones, only highly qualified medical professionals should be tending to them.

Next largest batch of inquiries was received from convicts or their representatives, regarding violations of their rights to medical care. Description of this group of inquiries is available in Chapter 14 “Rights of convicts”.

The human rights institution also keeps receiving inquiries concerning the issues of sufficient drug coverage of the population. These instances may point to the violation of citizen rights to receiving the guaranteed volume of free medical care, while also discrediting government efforts to provide citizens with critical medication, social support of vulnerable groups.

In accordance with the current legislation, the guaranteed volume of free medical care, inclusive of the provision of medication, shall be provided to the citizens of the Republic of Kazakhstan at the expense of budget funds on a free-of-charge basis, including to persons with disabilities.

Outpatients are provided with drugs in accordance with the List of Drugs and Specialised Health Products Intended for Free and/or Privileged Distribution to Certain Categories of Citizens with Certain Diseases.

The Ombudsman received an inquiry from one B. Ye. regarding the issue of the provision of drugs to people with disabilities.

The Department of the Committee on the Oversight of Medical and Pharmaceutical Operations of Almaty oblast conducted an unscheduled inspection of the Karasay District hospital on 1–2 March 2016.

The inspection ascertained that the daughter of the inquirer – the latter having a class I disability – is under supervision of a physician appointed to their place of residence.

Since September 2015, on the physician’s instruction, she receives a drug called “Depakin Chrono”, 300 mg.

After seeking our institution’s assistance, the daughter of the inquirer has been since February 2016 been provided with Keppra (0.025) and Epics medications.

A drug called Trileptal is not included in the List or in the state registry of drugs, medical products and equipment. Drugs not included in the List are to be procured by individuals at their own expense.

Based on the information provided by the Committee on the Oversight of Medical and Pharmaceutical Operations at the Ministry of Healthcare and Social Development of the RK, the Directorate of Healthcare of Almaty Oblast informed about a procurement of medications for the year 2016 in full, and access for patients was provided since the beginning of the year. The inquirer’s daughter is currently under constant monitoring of a healthcare institution at the place of residence.

Drug shortage is another issue that is frequently covered in the media. For instance, Tengrinews.kz⁴, reports that patients monitored in Almaty Oblast complain about interrupted supply of free drugs. Since August last year, cancer patients under management are not being provided with various chemotherapy drugs. TOO SK-Farmatsiya, the single distributor charged with procuring medical drugs using republican budget funds, attributed it to the fact that they had received additional drug orders in 2016 (in excess of the agreed upon volumes for 2016) that were at the time still being procured.

⁴ As of 21.10.2016
A break in treatment resultant from drug shortage or delayed delivery, according to medical professionals, does not contribute to treatment efficacy, and, indeed, can lead to an abrupt worsening of a patient's condition, and negatively impact their social life.

This year another distinct group of complaints concerned the actions of medical professionals who, in violation of the current legislation, diagnose psychiatric conditions and register citizens for clinical management, thereby violating the procedure established by the legislation.

The Human Rights Commissioner received a complaint from one O.O. representing one R.Ye. in regard to the staff of the Centre of Mental Health of the city of Almaty, who, according to the complainant, had illegally and groundlessly registered R.Ye. for clinical monitoring and management.

Subsequently, in the process of litigating with her granddaughter, R.Ye. was hospitalised at the above-mentioned institution for inpatient treatment. O.O. claims that R.Ye., a senior citizen, was provided inpatient and outpatient psychiatric care, examined, diagnosed with 9 different conditions, without her consent or any legal grounds, and physician-patient privilege was breached.

Investigation conducted by the office of the Human Rights Commissioner into this case confirmed the complainant’s claims. On 25 November 2015, by a decision of a medical consultation board No. 199A, and in light of repeated written petitions from P.Ye., the latter had been removed from the dynamic monitoring and moved to the consultation monitoring group.

This law infringement resulted in an administrative prosecution of a staff department employee of the Centre, one Zh.N., under Article 464 of the CoAO of the RK. Kh.M. did not have legal powers to make a commission decision to register R.Ye. for the dynamic monitoring (management), a decision that was subsequently found to be unlawful.

In this regard, the prosecutor’s office of Bostandyk District recommended the head of the Directorate of Healthcare of the city of Almaty to rectify the law infringement, and the inspection materials were sent to the Directorate of Internal Affairs of Bostandyk District of the city of Almaty for a proceedings decision under Article 186 of the Criminal Procedure Code of the RK.

Following the consideration of the recommendation lodged, Kh.D. was relieved of her duties as the deputy director.

Directorate of Internal Affairs of Bostandyk District registered this instance in the Single Register of Preliminary Investigations No. 167514031002465 and initiated a criminal investigation of the employees of the Centre under part 1 of Article 127 of the Criminal Code of the Republic of Kazakhstan (Illegal committal to a psychiatric inpatient facility), and a preliminary investigation is under-way.

In accordance with the provisions of the Code of the RK “On the health of the nation and the healthcare system”, psychiatric care and psychiatric examination shall be conducted upon request or under written consent of the subject of examination, or without the subject’s or his/her legal representative’s consent where the subject commits actions warranting suspicion of a severe psychiatric condition.

In this event, an illegal registration of the subject for patient monitoring/management for a psychiatric condition may have led to violations of other rights of the senior citizen in question, particularly, her housing rights.
A separate group of inquiries consists of complaints about failure to provide information on the state of health of complainants and their relatives.

The Human Rights Commissioner received a complaint from one I.V. in regard to the actions of the management of the Ekibastuz City Hospital failing to provide information regarding the treatment of his aunt Z.L. who had passed away in March 2016. The complainant is the only surviving relative and heir of the deceased. At the request of the office of the Human Rights Commissioner an internal investigation was conducted and revealed that the complainant indeed was not provided with the requested information on time. The delay was caused by inadequate fulfilment of duties on the part of responsible individuals. Following the internal investigation, disciplinary action was taken against the deputy chief physician for medical services quality assurance P.S., file clerk N.A.; additionally, the chief physician was instructed to intensify the control over the timeframes of handling inquiries and to avoid any such instances in future. Organisational measures were taken by the management of the hospital. The hospital management delivered the requested information to the inquirer (Z.L.’s clinical report).

In general it should be noted that inquiries submitted to the Ombudsman in reference to violations of the right to health protection are a clear indication of public dissatisfaction with the quality of healthcare provided.

A fundamental duty of the government in promoting the right to health consists in protecting and promoting human rights. In this regard, the state on a regular basis should raise public awareness on any changes made in the healthcare system, inclusive of measures being taken to enhance the availability of medical services, early screening, reinforcement of preventive healthcare, to name a few.
11. RIGHTS OF PERSONS WITH DISABILITIES

One of the main trajectories of the socio-economic modernisation of Kazakhstan is the building of social relation resting on the principles of law and justice.

Kazakhstan’s accession to the UN Convention on the Rights of Persons with Disabilities in 2015 entails the obligation to enforce the rights of the disabled to access to education, healthcare, labour, justice, participation in political, civil and cultural life. Since 2012 the country has been engaged in a phased implementation of the Action Plan for the Enforcement of Rights and Improvement of the Quality of Life for Persons with Disabilities in the Republic of Kazakhstan that contains a number of similar measures. Akims of all regions have an advisor on the matters related to persons with disabilities.

On 1 January 2016 Kazakhstan adopted the Law “On amendments and additions to some legislative acts of the Republic of Kazakhstan on the protection of rights of persons with disabilities”, which introduced amendments into 24 legislative acts. For the implementation of this Law in the reporting year subordinate legislation was amended in the area of road, railway, air transport, social protection, healthcare, employment, education, internal affairs, housing and information.

For purposes of establishing uniform requirements for equipment and workplace of a person with disabilities and accelerated creation of such jobs, workplace standards for special needs workers have been introduced.

According to the data of the Ministry of Healthcare and Social Development of the RK, there are 651.9 thousand persons with disabilities nationwide, of which 62.8% are of working age, 25.0% – of pension age and 12.1% – under 18.

2016 saw the beginning of the third stage (2016–2018) of the above-mentioned Plan under which measures continue to be taken in order to ensure that basic living environment facilities are accessible to the disabled. Namely, social and transport infrastructure facilities undergo adaptation for special-needs individuals. According to the data of the Ministry, regions with the lowest percentages of accessible facilities of social infrastructure against the target indicators are Mangistau Oblast (35.9%), Karaganda Oblast (47.2%), North Kazakhstan Oblast (55.8%), West Kazakhstan Oblast (60.1%), Zhambyl Oblast (60.7%) and the city of Astana (55.9%). Only 66% out of the total number of athletic facilities nationwide are accessible to persons with disabilities.

In 2016, 3,965 traffic signs and direction signs were installed in the vicinity of organisations aimed at servicing persons with disabilities, and 155 pedestrian crossings were equipped with sound devices.

According to the Ministry of Education and Science, 55% of schools have inclusive education capacities (3,905 schools), in 161 vocational schools (20% of the total number) equal conditions and barrier-free access were created for students with special education needs, allowing them to receive technical and vocational training.

Protection and promotion of the rights of persons with disabilities is one of the important areas of the Ombudsman’s activities. Persons with special needs can submit their inquiries to the Human Rights Commissioner via post or email, get personal appointments with the Ombudsman or the staff of his office, communicate their questions by telephone or during the Ombudsman’s
monitoring visits to social facilities in regions. In 2016, of the total number of written inquiries received by the Ombudsmen, 2.1% concerned the issues of persons with disabilities. Those were in reference to the issues of disabled persons’ exercise of the right to employment, health protection, education, adequate housing and review of disability group (class), performance of social guaranteed by an employer when compensating for occupational health damages, provision of health resort therapy.

An important role in the system of rehabilitation and integration of special-needs individuals is played by the medical and social examination. However, the incoming complaints about the actions of medical and social examination commissions when it comes to the procedure for determining disability, failure to consider citizen inquiries regarding objective worsening of health all indicate a need for a more attentive approach to the issues of determining and establishing disability.

The Ombudsman received an inquiry from one Zh.A. objecting to a decision of a medical and social examination resulting in the annulment of a disability class, medical treatment and employment assistance.

According to the inquirer, the medical and social examination found him healthy, while he can only use the left side of his body. Zh.A.’s health complaints weren’t taken in account by the commission.

At the request of the office of the Ombudsman, the inquirer’s medical records were examined by the Ministry of Healthcare and Social Development of the RK, according to which, during a re-examination conducted on 27 June 2016, and in consideration of the data provided by the healthcare provider, Zh.A. was not given a disability class.

On 18 October 2016 Zh.A. was invited to the Oblast Medical Centre for an additional examination, upon the results of which a decision will made on the advisability of referring him to medical and social examination.

Additionally during a commission visit of a local executive authority, the inquirer was offered to participate in community service in Topar village. The Directorate for Employment and Social Programmes reported that Zh.A. had been hired as a community worker at the office of the akim of Topar village.

Some inquiries concern the right to health protection and social services for individuals with disabilities or occupational injuries.

The Ombudsman received a complaint from one S.Z. with a Class I disability, regarding the failure on the part of her employer, Samruk-Kazyna Sovereign Wealth Fund, to follow the provisions of the current legislation on compensation for bodily harm and violation of her labour rights.

S.Z. suffered an occupational injury; she was assigned Class I disability, 90% occupational capacity loss, with 100% employer’s culpability.

At the request of the Ombudsman’s office, the employer covered the cost of Lee Free adult diapers (36 pcs), acquired by the inquirer for 97,988 KZT; furthermore, temporary disability leave certificates were paid for.
In order to fully comply with the instruction of the state labour inspector and the findings report of the medical and social examination and the medical consultation board, the above-mentioned Fund has decided to arrange S.Z.’s treatment and rehabilitation at a clinic in Germany.

The Office of the Ombudsman has been engaged in certain efforts based on information publicised in mass media in regard to the rights of persons with disabilities. Pursuant to the Provision on the Commissioner for Human Rights, approved by the Decree of the President of the RK on 19 September 2002, the Ombudsman (Commissioner) is entitled to verify the data on instances of human rights violations communicated to him through mass media.

In light of a media story entitled “A disabled young woman from Almaty is asking to be euthanised”, the National Centre for Human Rights issued an information request to the akimat of the city of Almaty.

The aforementioned article reported about the situation of one B.G. with a Class I disability, who is unable to move on her own. She has been obsessed with euthanasia for over three years. According to B.G., she is not being visited by healthcare workers at home, no appropriate medical examination is conducted, she hasn’t been outside for over 3 months, and she is being neglected by her relatives.

As a result of measures taken at the request of the Ombudsman’s office, to render B.G. assistance, a psychologist was dispatched to her home. Additionally, she has been provided with outpatient examination at home, inpatient-replacing therapy, daily socio-psychological assistance. The Almaty Akimat instructed the management of the polyclinic to place B.G. under follow-up monitoring.

Other inquiries point to the existence of problems in providing social services to special-needs persons, lack of control of this work on the part of local executive authorities.

The Ombudsman received a collective inquiry from personal assistants of persons with Class I disability residing in Karabulak village of Eskeldi District of Almaty Oblast regarding non-payment of wages.

Their inquiries to the Office for Employment and Social Programmes of Eskeldi District yielded no results.

Following an intervention on the part of the office of the Ombudsman, the Directorate of Labour Inspection of Almaty Oblast conducted a joint inspection with the Prosecutor’s Office of Eskeldi District that confirmed the non-payment of wages to personal assistants of the disabled persons since August 2016.

In pursuance of the Code of the RK on Administrative Offences, administrative charges were brought against the Office for Employment and Social Programmes of Eskeldi District and it was issued an order to rectify the violations of the current legislation of the RK.

The Almaty Oblast Akimat has placed this issue under monitoring. The outstanding debt in wages shall be included in the budget for the year 2017.
Provision of adequate housing to persons with disabilities remains a pressing issue. In the majority of inquiries, special needs persons complain about long wait times for apartments from the state housing stock, lack of means to afford apartment rent, since their primary source of income are small disability welfare payments.

Persons with disabilities also have some issues with the fact that local executive bodies do a poor job of developing customised rehabilitation programmes persons with disabilities that are designed to include a set of rehabilitation measures, conditions, working hours of disabled persons, the need for training or re-training, arrange for the provision of prosthetics, special means of locomotion and so forth.

For instance, in the design of a customised rehabilitation programme authorities do not take into account personal needs of persons with disabilities, warranting specific technical means of rehabilitation; preparation of social, medical and occupational sections of a programme is often merely a formality; furthermore, concerns are raised over the professional qualification of social workers that prepare these programmes – all these issues are relevant since an adequately designed customised rehabilitation programme is crucial for such an important process as that of rehabilitation and social integration of a person with disabilities.

Personalised approach is also necessary in, for example, the provision of wheelchairs. Wheelchairs are not tailored for recipients’ anatomical and functional features, apart from the seat width. Yet, global experience has shown that a big role in quality wheelchair support is played by occupational therapists – specialists that measure and evaluate any traits and features of an individual user in order to better select a means of rehabilitation, including wheelchairs. Personal rehabilitation programme completeness and elaboration can be a quality indicator to assess the level of availability of rehabilitation and social services for disabled people. To make matters worse, public procurement is ruled by the minimal price principle which adversely affects the quality of the supplied means of rehabilitation.

A crucial factor in integrating disabled persons into the society is their exercise of the right to labour. More often than not, employers refuse to hire people with disabilities, convinced that they would not be able to perform their duties, or that hiring them would require significant expenses and creation of special occupational conditions. Such attitudes are rooted in fears and stereotypes that tend to draw more attention to a disability rather than actual professional skills of an individual.

In a free market and without active involvement of the non-government sector, persons with disabilities are unable to fully realise their potential as active members of society, and companies should follow non-discriminatory and equal provisions in regard to persons with disabilities.

Employers should focus on the professional potential and not functional limitations of persons with disabilities. People with disabilities are most commonly employed by specialised companies under the umbrella of associations of persons with disabilities. All across Kazakhstan there are over 30 active training and production enterprises of the Kazakhstan Blind Association and Kazakhstan Deaf Association, whose main fields are clothing manufacturing, manufacturing of electrical and plastic products, furniture, provision of printing services. At the same time, human rights monitoring conducted by the Human Rights Commissioner’s office staff has shown that in some regions, the aforementioned enterprises offer unsatisfactory working conditions for persons with disabilities, as well as poor physical infrastructure. This makes it all the more important to support such companies within the framework of business social responsibility.
On 2 July 2013, the President of the RK signed the Law of the RK “On the introduction of amendments and changes into some legislative acts of the Republic of Kazakhstan concerning the creation of a National Preventive Mechanism aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment”. Under coordination and supervision of the Ombudsman, civil society actors monitor the observance of human rights of inmates of the facilities of the public penitentiary system, law enforcement, healthcare, education, military and the National Security Committee.

In 2016, the National Preventive Mechanism members’ visits to penitentiary and healthcare facilities revealed violations of the rights of persons with disabilities enshrined in the Convention on the Rights of Persons with Disabilities and the national legislation. For instance, the following facilities did not offer persons with disabilities any enabling means of accessibility, such as ramps and special equipment: AP-162/2 of the Pavlodar Oblast’s Department of the Correctional System (DCS), ES-164/3 of the North Kazakhstan DCS, temporary detention facility of the city of Pavlodar, Office of Internal Affairs of Aktogai District of the Pavlodar Oblast DIA, TDF of Zhelezinsk District Office of Internal Affairs, TDF of May District OIA of Pavlodar Oblast, TDF of the OIA of Zhambyl District of the North Kazakhstan Oblast DIA, TDF of Rayimbek District OIA of Almaty Oblast, TDF of Sarkand District OIA of the Almaty Oblast DIA, Reception Centre of the Directorate of Internal Affairs of the city of Shymkent, Temir District Tuberculosis Hospital of Aktobe Oblast. Furthermore, issues concerning the referral of convicts for establishment of disability and execution of the appropriate documentation for social protection were discovered at facilities LA-155/14 of the Almaty Oblast DSC and ZhD-158/1 of the Zhambyl Oblast DSC. Following the visits, the National Preventive Mechanism participants issued corresponding recommendations to the managing bodies of the above-mentioned institutions. In coming inquiries from persons with disabilities, monitoring of institutions and mass media reports all point to the fact that persons with disabilities face difficulties in exercising their rights in healthcare, education, employment and transport, access to infrastructure facilities and information.

In this situation, it becomes especially important to ensure actual integration of the provisions of the Convention on the Rights of Persons with Disabilities into the national legislation, effective law enforcement and compliance practices as well as general observance of the rights of persons with disabilities.
12. CHILDREN’S RIGHTS

Children’s right issues are given top priority in our country. In 2002 the Law of the RK “On children’s rights” was enacted, the country is a member of the corresponding UN convention, and in 2006 a Committee for the Protection of Children’s Rights was established. Mechanisms of the protection of children’s rights are functioning and constantly reinforced; the corresponding legislation is being dynamically improved. At present the country is actively developing systems of juvenile justice and inclusive education, while the systems for delivering special social services for children are undergoing reforms.

This year the institution of the Children’s Rights Ombudsman in the Republic of Kazakhstan has become a logical and timely development of the well-aimed policy of the President N.A. Nazarbayev. Mr Nazarbayev has pointed out the need for an effective public policy aimed towards the reinforcement of the institution of family, mother and child care, adequate safety net for the elderly.

International experience is a testament to the fact that many countries have successfully utilised children’s ombudsmen as an auxiliary mechanism for the monitoring and protection of children’s rights, as the rights of this particularly vulnerable group of people receive special attention within the global human rights process.

It should be noted that over a number of years, the office of the Human Rights Commissioner in the Republic of Kazakhstan has been engaged in systemic efforts to improve the system for the protection of children. Additionally, a number of projects, research and other measures have been undertaken in the area of preventing child abuse, observing their rights in the family, schools and boarding houses, vulnerability of children in the urban environment, elimination of all forms of child labour and exploitation, to name a few.

One of the focus areas of the office of the Human Rights Commissioner is the handling of inquiries received from citizens. In 2016, the Ombudsman received 81 inquiries concerning violations of children’s rights in various domains of children’s life.

There is a recurring trend of the prevalence of the cities of Almaty and Astana in the breakdown of inquiries; also, Almaty and Zhambyl oblasts sent more inquiries that they did in the previous year. The Ombudsman also received inquiries from Russia, Uzbekistan, Hungary and Kyrgyz Republic.
Inquiries received by the Ombudsman from the aforementioned countries mainly deal with the issues of family relations and disputes over joint custody of children in mixed families. Our society to date has not been prioritising the interests of a child. It is concerning that in these situations it is the children that suffer the most, because they are often separated from one of the parents.

As before, children in inquiries are represented mainly by parents and legal guardians; on top of that, the office receives inquiries from other ombudsmen and state authorities of other nations, representatives of civil society. In isolated instances inquiries are received from the under-age citizens whose rights were violated. In 2016 the Ombudsman received three such inquiries.
Broken down by gender, inquiries representing boys were slightly outnumber those representing girls. Moreover, there were inquiries representing whole groups of children – for instance, children suffering from certain diseases, studying at educational institutions and so forth.

![Gender breakdown of children with rights violated, 2016](image)

In 2016, the Ombudsman received 5 collective inquiries, with 152 signatures. These inquiries concerned issues of violations of children's rights at boarding institutions, low quality of rural education.

The Human Rights Commissioner received an inquiry from foster children of a SOS Children’s Village of the city of Almaty regarding the violation of their rights on the part of the institution’s director, one K.K., whom foster children accused of negligence toward the children, insults, unethical treatment on the premises of the institution, creation of conflicts among teens, broaching expulsion from SOS-foster care for the tiniest of infractions.

Previously, as part of the UNICEF’s Kazakhstan representative’s investigation into this inquiry, at the request of our institution, the Committee for the Protection of Children’s Rights under MES RK created a commission consisting of experts from the Committee, Directorate of Education of the city of Almaty, SOS Children’s Villages of Kazakhstan and the Republican Council of Heads of Foster Care Institutions.

The commission’s inspection confirmed the instances of the laying off of the mother of the family No. 12 and internal investigation against her. The commission noted that the firing of the mother of the family No. 12 had a negative impact on the psychological well-being of children in foster care of this family. During the internal investigation, children were effectively separated (the youngest ones were moved to another family). Furthermore, the Children’s Village’s management had failed to conduct sufficient work with the alumni of the youth home to facilitate their integration into the society.
According to additional information of the Committee, for purposes of preserving a family environment, foster children of the family No. 12 were subsequently moved to the family No. 8. The management of the Children’s Village devised a plan for director’s, physician’s and social worker’s monitoring of the family; interviews with children were conducted on a regular basis. In an attempt to psychologically rehabilitate the foster children, the Village commissioned a psychologist, candidate of medical sciences, head of the Aist Centre for Family Protection, N.E.

At the same time, in their second inquiry, foster children of the institution reported that during the inspection, all children were subjected to psychological pressure both on the part of the director, K.K., and on the part of the National Director, U.A. When contacting us, the foster children said that they were afraid of signing the inquiries because of constant pressure and threats from the management.


In light of the violations uncovered, the Prosecutor’s Office of Medeu District of the city of Almaty instructed State Labour Inspection and Migration Directorate of Almaty and the Education Directorate of Almaty to rectify the uncovered infractions.

Following the review of the prosecutorial oversight report, the Education Directorate NOU of the city of Almaty took measures to protect the housing rights of the foster children of the Children’s Village B.V. and K.D. On grounds of the instruction recommendation) issued to the State Labour Inspection and Migration Directorate of the city of Almaty, the legal entity SOS Children’s Village of Almaty was prosecuted on administrative charges under Articles 87 p.1, 93 p.1, 6 of the Code of the RK on Administrative Offences, and fined for 169,680 KZT. Following the inspection, the management of the institution was instructed to rectify the detected violations and prevent them in future.

Furthermore, based on the order of the acting National Director of the SOS Children’s Villages of Kazakhstan Corporate Fund of 27 June 2016, the Director of SOS Children’s Village of Almaty, K.K., was relieved of his duties on 17 July 2016 following the termination of his employment agreement.
Particulars of the reported violations of children’s rights have not changed in any significant way compared to the previous years. Issues in the field of education, healthcare and social welfare remain relevant. Yet, compared to 2015, there was a larger number of inquiries concerning child abuse, complaints about law enforcement agencies, disputes between parents regarding joint custody and upbringing.
As in the previous year, a large number of inquiries regarding children’s right violations are complaints about non-enforcement of court rulings, the majority of which concerned child support payments. The state and the society take various measures to motivate dodgers to fulfil their obligations before their children. For instance, alimony dodgers’ photos are now posted in social networks and on billboards and banners. Such inquiries are submitted to the Ombudsman very frequently.

The Human Rights Commissioner received a complaint from one A.M. regarding the actions of a private court enforcement agent of the city of Almaty, K.A., that resulted in non-enforcement of a court order of the Ust Kamenogorsk City Court of East Kazakhstan Oblast of 1 March 2016. Child support alimony was ordered to be collected from one G.S., to the amount of 1/4 of all forms of earnings starting from 1 December 2015.

The complainant noted that she did not have any information on the outstanding alimony debt, because the private enforcement agent K.A. failed to inform the complainant of the rulings to initiate enforcement proceedings, determination of outstanding alimony debt and referral of enforcement documents to the workplace of the debtor. Moreover, the complainant claimed that K.A. behaved inappropriately and unprofessionally, did not answer her calls, and did not tend to her enforcement proceedings duties.

As part of the handling of this inquiry, the private enforcement agent was issued rulings to determine outstanding alimony debt, which, as of 26 April 2016, amounted to 787,176 KZT, as well as to enforce collection of 505 of the salary and other earnings, of which 25% as alimony and 25% as repayment of outstanding alimony debt, toward the full repayment of the entire outstanding alimony debt to the amount of 787,176 KZT; after the repayment of the debt, 25% of the debtor’s salary is to be collected as alimony until the child comes of age.

These rulings and a copy of the enforcement document were sent by post on 26 April 2016 to the debtor’s place of employment at AO Eurasian Foods Corporation. On 6 May 2016, AO Eurasian Foods Corporation withheld from the debtor’s salary a sum in the amount of 225,075 and transferred to the account of the complainant, which is certified by a bank transfer order No. 39408 from 8 May 2016.

It was discovered, however, that in violation of par. 1 of Article 36 of the Law, the private enforcement agent included the debtor’s information into the Single Registry of Debtors on 4 May 2016, while the enforcement proceedings had been initiated on 26 April 2016. In this regard, the Department of Justice of the city of Almaty issued an instruction to the Regional Chamber of Private Court Enforcement Agents of the city of Almaty on taking disciplinary action against the enforcement agent in question.

At the same time, it is impossible to verify claims regarding the agent’s violation of ethics standards in form of rough treatment, on account of the absence of objective information that could corroborate this claim (audio/video recordings or witness testimony acquired under the current legislation).

In many cases, inquirers raise the issue of pressing criminal charges against debtors, even though in practice such instances are rare. Children that the alimony is being collected for often come of age having yet to receive child support from one of the parents.
The next biggest group comprises inquiries concerning disputes over joint custody and upbringing and choosing the place of residence among the parents and grandparents following divorce proceedings or a death of one of the spouses.

As noted above, these issues are the most common for citizen inquiries from other countries. However, our citizens also sometimes have trouble reaching a consensus in determining a place of residence of children under joint custody. Despite issued court rulings, parents steal their children from each other and then harbour them in concealment.

Pursuant to par. 2 of Article 73 of the Code of the RK “On marriage (matrimony) and family”, place of residence and legal address of a child under separate residence of the parents shall be established by an agreement of the parents. Where no such agreement is reached, the dispute between the parents shall be resolved through mediation or in court with the participation of a custody and guardianship authority, at the request of the parents, based on the interests of the child and taking into account his/her opinion.

The Ombudsman receives inquiries requesting assistance in returning a child where this issue was not brought before the court. In such circumstances, the inquirers are given explanation of the provisions of the legislation and the procedure for applying to competent or court authorities.

Furthermore, the Ombudsman receives inquiries requesting the return of children where court rulings have already been issued, and where the child’s place of residence has been already agreed upon with the parent who has submitted the inquiry to the national human rights institution.

The Human Rights Commissioner received a complaint from one F.Z. regarding the actions of a court enforcement agent of Talgar District of Almaty Oblast, one B.M.: according to the complainant, the agent did not take steps toward the enforcement of a ruling of the Specialised Inter-District Juvenile Court No. 2 of Almaty Oblast of 10 September 2015, according to which a place of residence of the complainant’s daughter (born 29 September 2008) had been agreed upon with the complainant. Yet, the father of the child, T.Zh., was illegally keeping the child at his place of residence.

In the process of handling this inquiry it was established that the debtor, T.Zh., refused to comply with the enforcement document, explaining this by the fact that the court ruling didn’t contain any language compelling him to “hand over the child to the mother”.

In this regard, pursuant to Article 51 of the Law, the enforcement agent issued a recommendation to the Specialised Inter-District Juvenile Court No. 2 of Almaty Oblast on 12 February 2016 calling for explaining the procedure of the drawing up of this court ruling which was left without consideration.

On 4 March 2016, the Talgar Territorial Office of the Department of Justice of Almaty Oblast received an application from a representative of the complainant, K.A., requesting to cease the enforcement proceedings on account of the fact that the court ruling’s demands had been fully met.

As a result, on 28 March 2016, in accordance with the provisions of Article 47 of the Law, the enforcement proceedings were discontinued, and the enforcement document was returned to the court.
By the order of the head of the Department of Justice of 4 February 2016 No. 1, disciplinary action was taken against the chief enforcement agent of the Talgar Territorial Office, K.A., in form of “reprimand on professional inadequacy” for inadequate control over the activities of enforcement agents.

The work that the office of the Ombudsman has been jointly conducting with UNICEF in Kazakhstan since 2010 to comprehensively assess the situation with violence against the under-age individuals at boarding institutions, schools and families enables us to mainstream this issue.

Compared to the previous year, there is a larger number of inquiries concerning the use of violence against children both at boarding institutions and in families.

The Ombudsman received a complaint from a citizen of the Russian Federation, one K.L., with regard to her former neighbour in the city of Almaty who systematically beat her under-age daughter.

Afterwards, the egregious incident involving the beating of a 9-year-old girl by her mother, that took place in the city of Almaty in October of that year, sparked public outrage. According to the media reports, the girl had received numerous haematomas and bruises which necessitated her prompt hospitalisation.

This family came into the sight of education authorities as early as in October 2015, which is documented in the correspondence of the office of the Human Rights Commissioner between the education and law enforcement institutions in the process of handling an inquiry received from neighbours in January 2016.

During the handling of this inquiry, the office of the Human Rights Commissioner received information from the MIA on the discontinuation of pre-trial proceedings under Article 140 of the CC RK due to failure to obtain evidence corroborating the alleged violence against the child. On top of that, the school gave positive feedback regarding the family.

According to the data provided by the Directorate of Education of the city of Almaty, during a juvenile commission meeting in May 2016, mother’s abuse toward her daughter was confirmed by the school, and the case file against the mother were sent to the Specialised Inter-District Juvenile Court of the city of Almaty for administrative proceedings. Furthermore, it was reported that the management of the school had visited this family every week.

Afterwards, according to media, preliminary investigation was launched against the mother for beating her daughter, thereby failing to fulfil her duties of raising a minor, and was sentenced by the court to 200 hours of community service. However, it has become known that this ruling has not come into force due to a submitted appeal petition.
In this particular case we are witnessing negligence on the part of the very authorities serving to protect the rights of the minor – school’s management, commission for juvenile matters, city district police inspector – who had both failed to evaluate risks incurred by the girl and the degree of her safety at home, which resulted in a late response and a late prevention of child abuse.

Moreover, lately the media regularly report of frequent unacceptable cases of domestic violence against children.

One such case of a minor being beaten by own mother occurred in the city of Pavlodar; a video of this incident, shot by the mother herself, was posted on social networks and provoked a massive public outrage. A preliminary investigation against the girl’s mother was launched under part 2 of Article 140 of the CC RK “Failure to perform one’s duties of raising a minor”. Court authorities temporarily suspended the good-for-nothing mother’s parental rights and handed the girl over to her father.

These egregious instances of children’s right violations on the part of parents are deeply concerning and demonstrate how insufficient and ineffective competent authorities’ efforts are in regard to detecting and timely responding to instances of violent abuse of children.

In 2015, the UN Committee on the Rights of the Child expressed concern over coercive disciplinary measures used in families, schools and foster care institutions in Kazakhstan. It was recommended to take immediate measures to prohibit all forms of corporal punishments at home, at foster care institutions and kindergartens, and take steps toward the cultivation of more positive, non-abusive and interactive forms of upbringing and disciplining of children among parents, teachers, employees of children’s institutions and kindergartens and other specialists engaged with children and for children.

In 2016, the Human Rights Commissioner in the Republic of Kazakhstan jointly with the United Nations Children’s Fund (UNICEF), with the assistance of the Delegation of the European Union in the RK, conducted a study entitled “Knowledge, attitudes and practice in the area of domestic violence and justice for children”, results of which were publicised on 13 December 2016.

Data was collected in 9 regions of Kazakhstan by surveying 2,400 adults, 1,829 school children, 76 children at foster care institutions, 89 children protection specialists, 31 mass media representatives and 13 central state authorities’ officials, in order to assess the knowledge, attitudes and practices of the public and children specialists in the field of justice and domestic violence against children.

The results demonstrate that more than a half of adults nationwide consider it important to refrain from using violence when dealing with minors who committed a crime. At the same time, 75.4% of adults and 46.1% children protection specialists and judicial workers, as well as 54.8% of mass media representatives support corporeal punishment to discipline and control children in the family.

Along with adults, 53.9% of children in children’s institutions and 34.4% of children in schools approve of the use of corporal punishment of children in the family. These data show that the approval of corporal punishment as a means of maintaining discipline and cultivating in children the respect for the adults has taken root in our society.
As the data suggest, children at foster care institutions (35.5%) are twice as likely as school children (16.3%) to think that parents sometimes need to resort to corporal punishment for discipline and control.

From the very early childhood, children in our society are taught that corporal punishment is an acceptable and normal means of disciplining and controlling children. This “normalisation” of domestic violence against children propagates cycles of domestic violence and abuse against children arising out of the generational gaps.

International studies indicate that violent forms of discipline are more often used toward younger children. Physical fragility of infants, in particular, becomes the key factor in their vulnerability, and they remain extremely vulnerable for the first years of their life (ages 0–4). Violent forms of discipline have a tendency to peak during the ages of 5–9, and then gradually subside at the ages of 10–14.\(^5\)

The data also shows that 56.2% of school children (out of 1,829 respondents) shared that they were having trouble learning as a result of a disability, issues with eyesight or hearing or walking. In view of the fact that children reported about their disabilities and learning difficulties themselves, there is a high likelihood of school personnel not being aware of that. Children do not always communicate these issues to school staff and teachers, and schools do not always screen children for these problems. Domestic violence against children can have a negative impact on their ability to concentrate and lead to bad performance in school.

Another troubling tendency is that adults, including justice and children’s rights experts, share the opinion that under-age victims of crimes need to be institutionalised, or all the way to detaining them at police departments.

Study results indicate that an effective prevention and response to violence, as well as effective enforcement of children’s rights require a strategic and interdisciplinary approach. It is, therefore, necessary to continue comprehensive efforts to combat various forms of violence against children by means of establishing standards, building capacities and raising public awareness. There is a need to adopt a coherent approach to dealing with the issue of violence against children and guarantee violence-free childhood, develop a comprehensive national strategy for children’s rights and elimination of all forms violence against children.

Constant human rights monitoring at institutions is conducted both under the aegis of the National Preventive Mechanism for Torture Prevention, established in Kazakhstan under the supervision of the Human Rights Commissioner.

---

At present, the NPM mandate covers centres of adaptation of minors, special educational institutions (including the special regime ones), educational colonies, juvenile detention cells at pre-trial detention facilities and temporary detention facilities, police departments, children’s wards at psychiatric and tuberculosis hospitals, child care centres at female prison colonies.

The Ombudsman raised the issue of extending the mandate of the National Preventive Mechanism in order to fill out the monitoring list with all the types of children’s institutions. This means adding 200 more institutions, which include children’s homes, medical and social institutions for children with disabilities, correctional boarding schools, orphanages and others. Thus, the intention is to give a special place to children’s rights under the umbrella of NPM, which is especially important in the context of preventing violence against children.

We believe that our institution, in cooperation with our partners, was able to make a significant contribution to the growth of the fledgeling human rights mechanisms geared towards the detection of violence against children and the identification of priority issues in this field.

This year, the office of the Ombudsman has continued its participation in the 3-year project of the Penal Reform International “Reducing violence against children in detention in Central Asia” that includes efforts to monitor the children’s rights situation, culminating each year in the annual *Children’s Voice* publication.

In 2016, a second report on the intermediate results of this study was published, bringing to light such issues as detention of minors together with adults at police departments; use of violence
or abusive treatment toward minors at trouble with the law, on the part of the police, institution
staff or other children; children’s lack of awareness of complaint lodging mechanisms; lack of
opportunities for institutionalised children to keep in touch with their relatives.

In 2016, in partnership with our institution, the Penal Reform International in Central Asia held a
Central Asian symposium devoted to the issue of eliminating violence against children at closed
institutions of Central Asia. This event brought together representatives of state authorities and
non-governmental organisations from Kyrgyzstan, Tajikistan, New Zealand, United Kingdom,
India, Georgia and other nations.

The Ombudsman’s office’s cooperation with UNICEF as well as other international and non-
governmental organisation on the issues of combating violence against children has allowed us
to accumulate valuable institutional experience that has proven instrumental for international
partners.

Enforcing and protecting children’s rights is one of the priority public policy issues and is in
the centre of attention for the society and every individual family. Indeed, all the stakeholders
must take all the necessary measures to build a better system of children protection. This can
be accomplished through cooperation between central state authorities, non-governmental
organisations, local authorities and experts working with children.
13. RIGHT TO FREEDOM OF WORSHIP

In declaring itself a secular state, the Republic of Kazakhstan guarantees everyone the enjoyment of the right to freedom of conscience and religious affiliation.

Articles 19 and 22 of the Constitution of Kazakhstan afford everyone this right, which is also enforced under Article 18 of the International Covenant on Civil and Political Rights ratified by the Republic of Kazakhstan, according to which, each has the right to freedom of worship, no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

This right implies the freedom to choose a system of spiritual values, abide by a religion or belief, which includes the right to abstain from such religions or beliefs, while exercising this right both personally and collectively with others.

The Republic of Kazakhstan welcomes free development of all religious denominations in the country, which, in turn, represents interfaith harmony in the nation.

At the initiative of the President of Kazakhstan N. Nazarbayev, in 2016, the UN General Assembly convened the Religions for Peace high-level dialogue. The idea of the Head of State received wide support from the UN Secretary General, the Organisation of Islamic Cooperation, UN Member States, leaders of religious denominations and international non-governmental organisations.

The President of the UN General Assembly Mogens Lykketoft stressed the timeliness of the Kazakhstan-initiated topic, which, correspondingly, enables world religions to make a significant contribution and constructive exchange of opinions among respected leaders in this area.

A significant role in our nation’s religious policy is played by the regularly held convention of the leaders of world religions, designed to facilitate intellectual exchange among the representatives of various denominations, which symbolises Kazakhstan’s experience and success at reaching interfaith harmony.

On 13 September 2016, the Head of State signed a decree “On the measures of further improvement of the public governance system of the Republic of Kazakhstan”, in pursuance of which a Ministry for Religious and Civil Society Affairs was established, which, in turn, predefined the increasing significance of religious and interfaith relations in the country.

It should be noted that the legislation of the Republic of Kazakhstan adequately guarantees the realisation of the right to worship, which is also corroborated by the significant number of inquiries and complaints submitted to the Human Rights Commissioner in the Republic of Kazakhstan regarding the exercise of the right to freedom of conscience and worship. Over the reporting period, only 12 such inquiries were registered.

In these instances, complainants expressed their deep concern over the actions of specific officials of local executive and representative bodies, in form of inaccurate remarks toward religious associations, denial in exemption from conscription service for clergy members, or regarding illegal lectures at educational institutions that were deemed intolerant toward representatives of some religious associations. Inquiries also touched upon the issues of civil and legal actions performed by religious associations in their daily operations.
The Human Rights Commissioner received a complaint from a minister of the Christian Centre of Jehova’s Witnesses religious association in regard to the refusal of the chief of the Directorate of Defence of the city of Aktobe to grant exemption from military service to a clergyman and the unfounded transfer of the file to law enforcement agencies to initiate criminal proceedings under Article 387 of the Criminal Code of the Republic of Kazakhstan “Draft evasion”.

According to the complainant, the Directorate of Defence of the city of Aktobe did not have legal grounds for such a decision, as the legislation of the RK does not specify any requirements for the verification of the ecclesiastical capacity by means of various documents, and neither does the legislation designates a clergyman as a founder of a religious association.

The National Centre for Human Rights – the office of the Human Rights Commissioner – conducted an examination of the argumentation presented in the complaint.

It was revealed that following a preliminary investigation, A.N.’s affiliation with a registered religious association Jehova’s Witnesses had been confirmed which prompted a criminal investigation authority to dismiss the criminal investigation due to the absence of the elements of the crime.

On grounds of the proceedings ruling of the Directorate of Defence of the city of Aktobe, under sub-par 6 of par. 1 of Article 36 of the Law of the RK “On military service and the status of servicemen”, A.N. was exempted from the draft.

The military prosecution authority of the Aktobe Garrison issued a letter to the Department of Defence of Aktobe Oblast communicating the unacceptability of such instances in the future.

The issue of the capacity to refuse military service on grounds of personal religious beliefs is very prominent in the human rights circles. Article 36 of the Constitution declares the defence of the Republic of Kazakhstan as a sacred duty of each of its citizens, and the Republic’s citizens serve under the procedure and categories established by the law.

Therefore, pursuant to sub-par. 6 of par. 1 of Article 36 of the Law of the RK “On military service and the status of servicemen”, only clergymen of registered religious associations shall be exempt from military draft in peacetime. At the same time, in accordance with par. 7 of Article 3 of the Law “On religious activities and religious associations”, no one may refuse to fulfil the duties established in the Constitution and the laws of the Republic of Kazakhstan on grounds of their religious beliefs.

Here it is apparent that the affiliation to a religious denomination itself does not constitutes legal grounds for granting a conscript the draft deferment, or let alone grounds for exemption from the draft, with the exception of clergymen of registered religious associations.

The UN Human Rights Committee, overseeing the implementation of the International Covenant on Civil and Political Rights, offered interpretation of the right to freedom of thought, conscience and religion and its exercise in the refusal to serve in the military for reasons of conscience, in its General Comment No. 22 (1993), stating that the Covenant does not explicitly provide the right to refuse to serve for reasons of own beliefs.
Yet, the Committee is of the opinion that this right should be removed from Article 18 of the ICCPR, because duties connected with the use of weapons may heavily contradict the freedom of conscience and the right to practice a religion or a belief.

Also in its Comment, the Committee comes to a conclusion that, in principle, it is possible to practically implement such alternatives to military service that would not undermine the foundations of the principle of universal compulsory military service, and yet could yield equivalent value to the society and impose equal requirements for each individual, thereby eliminating unjust inequality between those who serve under compulsory draft and those enrolled in alternative service.

Considering the fact that the legislation of the Republic of Kazakhstan does not explicitly provides for a civil alternative for military service in peacetime, we deem it necessary to deliberate this issue at the legislative level in order to prevent possible legal incidents in the future, should a citizen express his desire to refuse compulsory military service for personal religious beliefs.

In the reporting period there were a number of inquiries from local religious associations from various regions of the country complaining about discrimination on the part of local executive authorities in connection with biased and inaccurate opinions regarding the activities of registered religious associations.

The National Centre for Human Rights received a complaint from the Chairperson of a local religious association called the Christian Community of Jehova's Witnesses of Kostanay Oblast, one B.M.

According to the complainant, with the complicity or assistance of the Directorate of Education of Kostanay Oblast, the region systematically hosted lectures expressing discriminatory views on the above-mentioned religious association, thereby violating the guarantees of the right to worship and the prohibition of discrimination, both enshrined in the Constitution and international legal commitments of the country.

The National Centre for Human Rights – the office of the Human Rights Commissioner – proceeded to examine of the argumentation presented in the complaint.

The data provided by the Ministry of Education and Science of the RK confirmed that, indeed, on 24 April 2015, for the 6–10 grade students of the secondary school No. 13, under the state procurement procedure initiated by the Domestic Policy Office of the Akimat of the city of Rudnyi, a seminar entitled “Pseudoreligious Organisations as a Threat to the Family and the Society” was conducted.

Unfortunately, the Ministry of Education and Science could not provide additional details. At the same time, taking into account the very name of the event, containing such wording as “pseudoreligious organisations” and “threat to the society and the family”, it can be inferred that it had already contained a negative view dictated with the consent of the Domestic Policy Office.

Following the handling of this inquiry, the Committee for Religious Affairs of the Ministry of Culture and Sport of the RK sent to the Directorate for Religious Affairs of Kostanay Oblast a letter in regard to informing the Domestic Policy Office of the city of Rudnyi that propaganda of religious intolerance is unacceptable in any awareness raising activities. M.A. – the organiser of the seminar in question – was warned that such critical remarks toward registered religious associations are unacceptable.
The Association of Practising Psychologists of the Republic of Kazakhstan (NGO) – the organisation responsible for the seminar – was advised to cease value judgements toward such religious associations.

The Ombudsman received a complaint from the chairperson of the community council of the Christian Community of Jehova’s Witnesses of East Kazakhstan Oblast religious association, one A.D., wherein he complained about awareness-raising groups for religious affairs at the Akimat of East Kazakhstan Oblast that conducted lectures that offended and discredited worshippers at educational institutions.

A.D. elaborated that said group, in their awareness raising efforts, held meetings with the employees of state and private enterprises, students of city schools, employees of the city police department, officials of the Akimat. In total, 12 such meetings were held, covering 454 people. Meeting participants were handed out information materials in form of brochures and booklets.

The complainant expressed his deep concern over the situation, noting that at those meetings, members of the above-mentioned group used religious propaganda to create a negative image of the officially registered religious association. The rhetoric involved drawing comparisons between religious associations and dissemination of knowingly inaccurate information about the religious association of Jehova’s Witnesses.

A member of the group – a catechist of the Host Restoration Cathedral of the city of Semey of Ust Kamenogorsk and Semipalatinsk Eparchies, – Ya.V. made a number of inaccurate value judgements against the religious association of Jehova’s Witnesses.

The Human Rights Commissioner’s office’s analysis of the materials of the complaint detected unacceptable value judgements, subjective and unprovable conclusions regarding the nature of the religious denomination in question. This was also corroborated by the response of the Committee for Religious Affairs of the Ministry of Culture and Sport of the RK.

Following the handling of the inquiry, the Committee recommended the Directorate for Religious Affairs under the Akimat of East Kazakhstan Oblast to eliminate Ya.V. from the group on account of his inappropriate speech. Furthermore, it was proposed to conduct additional educational work with the members of the awareness raising group. The Committee also noted that the instances mentioned in the complaint could also indicate insufficient refinement of the awareness raising efforts at the community level.
The Human Rights Commissioner received a similar complaint from the chairperson of the community council of the religious association of the Christian Community of Jehova’s Witnesses of East Kazakhstan Oblast, in regard to the fact that a member of the District Maslikhat of the city of Akkol, M.A., at a meeting of an awareness-raising group, expressed negative views on the operation of the religious association.

The inquiry states that on 28 April 2016, at the state institution of the Children and Youth Sports School of the city of Akkol, an awareness raising group of Akkol District held a meeting with the participation of minors (school students) and their parents. In her address, a member of the Maslikhat (local representative body), one M.A., resorted to inaccurate and value judgements towards the religious association in question.

At the request of the Ombudsman, the Akkol District Maslikhat conducted an investigation into M.A.’s actions at the meeting of the permanent commission for social policy, rule of law, public order and deputy ethics. The Maslikhat member M.A. was advised to ensure maximum level of appropriateness in her public speeches. Furthermore, she was terminated from the awareness raising group for religious affairs under the Akkol District Akimat.

The violation, therefore, was confirmed and efforts were made to rectify it.

One should be reminded that should internal policy departments become aware of any threats to the society and family values originating from religious associations, they must immediately act within their authority to thwart such activities. Otherwise, public expenditure on events promoting discriminatory behaviour toward legally registered religious associations can be construed not only as negligent and inappropriate performance of one’s duties, but also concealing unlawful actions, which raises the question of competence and legal liability of officials involved.

In his addresses, the Head of State time and time again stressed that it is unacceptable to incite social tensions within the country; in the context of certain notorious incidents, this zero-tolerance policy demands that each public official act appropriately and legally.

Efforts made during the handling of the aforementioned inquiries raise the question of whether or not Oblast Akimat officials are sufficiently qualified in their duties as public officials, and whether or not appropriate measures should be taken to respond to situations illustrated in the inquiries, and detect and prevent on a timely basis.

It should be noted that the above-mentioned cases involved interests of religious associations that operate under the corresponding permits issued by the state, and following the completion of the appropriate registration procedures.
These instances are a testament to the fact that local authorities – often stepping outside of their competences – resort to unlawful and illegal measures, whereas if they had evidence of illegal activities of the organisations concerned, they could have been entitled to utilise the existing legal mechanisms provided for by the law and the relevant international standards.

It then follows that there is a need for appropriate work to be conducted with local executive bodies in order to prevent any breach of law that governs the operation of religious associations.

A relatively small number of incoming complaints indicates that the legislation of our country has been conducive to fostering a favourable environment for inter-faith harmony.

Credit should be given to the efforts of the so-called religious association clubs operating in all oblasts of the country, created at the initiative of the Committee for Religious Affairs of the Ministry for Religious and Civil Society Affairs; on top of that, still actively operating are regional religious councils that discuss available proposals and requests from religious associations that have pertinence to their everyday operations.

These examples are a testament to the state’s openness and willingness to provide comprehensive support to religious associations in their legal operations.

In this regard, the Ombudsman's office regularly cooperates and participates in experience exchanges the area of ensuring the rights to freedom of worship within the framework of the OHCHR, ODIHR/OSCE, Venice Commission of the Council of Europe and others.

In summary of the reporting period, it should be stressed that in the Republic of Kazakhstan infringement upon freedom of worship is not a systemic phenomenon, but is rather a product of unlawful actions of certain individuals and warrants an appropriate legal response.

In recognition of the fact that ensuring peaceful co-existence and inter-faith harmony is the cornerstone of the national security of our country, it is therefore proposed that the potential of existing state and non-governmental entities and civil society be realised to the maximum extent in order to observe and respect the international standards of human rights to freedom of conscience and worship, with the sole purpose of preventing any possible religious conflicts in the future.
14. CONVICTS’ RIGHTS

The observance of human rights at correctional facilities is one of the most explicitly regulated issues of the legal system in our country. These rights are fully guaranteed by the Constitution and the current penal legislation of the Republic of Kazakhstan, as well as such international acts as the Universal Declaration of Human Rights (1948), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules, 2015).

As we know, the criminal punishment in form of deprivation of freedom is one of the most severe forums of government coercion having a major impact on the legal status of a certain group of citizens. The correctional legislation is based on the Constitution of the Republic of Kazakhstan and the universally recognised principles and norms of international law.

Institutions of various levels of security are state bodies that constitute the penitentiary system charged with the execution of prison sentences for a specific term and life sentences as a means of convicts’ correction and determent of new crimes, as well as the enforcement of order and lawfulness in their activities, security of inmates and staff, engagement of inmates in labour, provisions of elementary, basic secondary, general secondary and technical and vocational education, protection of inmates’ health.

As of 1 January 2017, in 86 correctional facilities of the country 36,343 inmates were held, of which:
- in mixed security institutions (pretrial detention facilities) – 6,376;
- in female facilities – 2,185;
- in juvenile facilities – 38;
- in medical facilities – 1,185.

Also, inquiries submitted to the Human Rights Commissioner by convicts, their relatives, lawyers and other parties, indicate the continuing trend of human rights violations at penitentiary facilities of the Ministry of Internal Affairs of the Republic of Kazakhstan. These include unfounded use of physical force and special tools, imposition of sanctions, late delivery of correspondence.

Over the reporting period, the Ombudsman received 100 complaints about unlawful acts on the part of the penitentiary system staff.

Paragraph 4 of part 1 of Article 10 of the Penal Code of the Republic of Kazakhstan establishes that “inmates have the right to the recognition of their human dignity, protection from torture, violence or other abusive or degrading treatment or punishment”. At the same time, the office continues to receive complaints about illegal actions on the part of officers and managers of correctional institutions.

The third chapter of this report provides a case where torture had been used against one S.N., a female inmate, who had been subjected to violence on the part of the staff of a pretrial detention facility of the city of Almaty; as a result, court found a staff member of said facility, one Kh.R., guilty under paragraph 4 of part 2 of Article 120 (Rape), paragraph 3 of part 4 of Article 362 (Abuse of power or office), paragraph 2 of part 2 of Article 146 (Torture) of the Criminal Code of the RK, and sentenced to 9 year of imprisonment in a general regime colony.

Another example of abuse on the part of a criminal investigation unit and a pretrial detention facility personnel of the city of Petropavlovsk is illustrated in a complaint lodged by one A.G. representing her son A.Zh.
According to the complainant, her son was subjected to psychological and physical pressure on the part of criminal investigation units in order to force him to confess in crimes that he has not committed.

According to the data provided by the prosecutor’s office of North Kazakhstan Oblast, at our request, on 2 December 2015, the Kyzylzhar District Court sentenced A.Zh. to a two-month detention.

As for the allegations of the use of torture by police officers against his person, the prosecutor’s office of Kyzylzhar District, on 19 December 2015, initiated a pretrial investigation under paragraph 1 of part 2 of Article 146 of the CC RK (torture perpetrated by a group).

On 19 February 2016, the prosecutor’s office of Kyzylshar District decided to cease proceedings of this criminal case for the absence of the elements of the criminal offence in the actions of the police officers.

Yet, A.G. sent a repeat complaint where she accuses law enforcement officers of not taking timely measures to prevent her son’s suicide attempt (or, according to the complainant, an intentional homicide of her son).

According to the complainant, after becoming aware of threats issued to her son, she turned to all the law enforcement services, but no measures to prevent the death of her son were taken. Forensic examination of his body revealed numerous haematomas and bruises, even missing skin in several areas of his arms, which indicates the use of torture against A.Zh.

The complainant petitioned to monitor the investigation into her son’s death, and, if perpetrators are found guilty, hold them accountable under the strictest criminal procedure.

Pursuant to p. 2 of the Provision on the Commissioner for Human Rights approved by the Decree of the President of the Republic of Kazakhstan of 19.09.2002 No. 947, the Human Rights Commissioner shall operate to complement the existing state legal remedies for the protection of human and civil rights and freedoms, without substituting or limiting their authority.

As such, pursuant to sub-paragraph 1 of paragraph 15 of the Provision that establishes the right of the Human Rights Commissioner to request any information pertinent to the handling of a complaint from officials and organisations, under the procedure established by law, the Ombudsman’s office conducted joint efforts with the General Prosecutor’s Office, MIA RK and their territorial subdivisions for the period of 9 months, as part of the handling of the inquiry.

According to the information provided at our requests, the Oblast’s prosecutor’s office, after taking into account numerous inquiries from A.G., instructed to hand over the criminal investigation into torture against A.Zh. and into negligence on the part of the personnel of the ES-164/1 Detention Facility, to the Directorate of Special Prosecutors of the Prosecutor’s Office of North Kazakhstan Oblast.
The Directorate of Special Prosecutors conducted an array of investigative procedures to ensure the completeness and objectivity of the investigation. Arguments from the criminal proceedings were verified, proceedings prosecutors were designated, and the progress of the preliminary investigation was monitored by the oblast prosecutor’s office.

On 21 October 2016, the criminal case regarding the torture of A.Zh. was discontinued due to the absence of the elements of the criminal offence. The decision was accepted by the oblast’s prosecutor’s office.

On 15 December 2016, the Petropavlovsk City Court found a controller of the ES-164/1 Facility, Sh.R., guilty of negligence resulting in A.Zh. suicide. He was sentenced to 2 years and 6 months of imprisonment, with the subsequent release from punishment under amnesty.

According to the data provided by the Committee for Legal Statistics and Special Records of the General Prosecutor’s Office of the RK for the year 2016, against officers of the correctional system 2 preliminary investigations were launched under Article 146 of the CC RK (Torture):

1) On 19 January 2016, the Directorate of Internal Affairs of the city of Stepnogorsk launched a preliminary investigation into the involvement of deputy chief for regime and operations affairs of the EC-166/18 Facility, one Ye.B., chief of the operations department, one I.S., deputy chief of the operations department, one M.A., investigators R.Sh. and O.M., in the use of torture against a convict Ye.R., that resulted in the death of the latter.

On 21 September 2016, a court of the city of Stepnogorsk found Ye.B. guilty under para. 1 of part 2 of Article 146, part 2 of Article 361, Article 58 of the CC RK and issued him a withheld 4-year prison sentence; I.S. was given a withheld 2-year prison sentence; R.Sh. was found guilty under Article 146 of the CC RK and received a withheld 4-year prison sentence. All of the involved were stripped of their right to hold public office for life;

2) on 26 June and 2 July 2016, the Internal Investigations Division of the Department of Internal Affairs launched preliminary investigations into the involvement of the investigators of the operations and regime units of the EC-166/26 Facility, captains of justice A.T. and R.Ye. in the use of torture against a convict N.Zh., resulting in the death of the latter.

On 8 December 2016, the Zharkayin District Court of Akmola Oblast found R.Ye. guilty under part 1 of Article 146 of the CC RK and sentenced him to 3 years of imprisonment, stripping him of the right to hold public office for the period of 3 years. Materials of the preliminary investigation into A.T. are currently being deliberated in the same court.

These examples illustrate the fact that the use of torture and abusive treatment against inmates, despite not being systemic phenomena, is still a recurring one.

Current penal legislation is in compliance with the international standards, namely ones that prescribe imprisonment of convicts within the territory of their places of residence and conviction. Analysis of inquiries leads us to conclude that the Committee of the Correctional System of the MIA RK violates this right often.
The Ombudsman received an inquiry from Ust Kamenogorsk residents named Ch.N. and Ch.P., representing their convicted son, Ch.Ye., at the time serving his sentence at ICh-167/9 Correctional Facility of the South Kazakhstan Oblast Department of Corrections, requesting assistance in his transfer to a correctional facility at the place of the family’s residence.

According to the inquirers, income and health conditions of close relatives did not allow them to visit Ch.Ye. in the other region of the country. As such, the inquirers ask that he continue serving his sentence at a facility in East Kazakhstan Oblast.

Citing the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), adopted at the 24-th Session of the UN Commission on Crime Prevention and Criminal Justice on 21 May 2015, according to which prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation (Rule 59), as well as Article 88 of the Penal Code of the RK (Those sentenced to imprisonment shall be allocated to an institution that can accommodate for maintaining socially significant relations, ensure security and prevent them from committing new offences), the Ombudsman’s office approached the Committee of the Correctional System of the MIA RK with a request to handle this inquiry in consideration of the fact that previously the Ch. family had sent a transfer request to the competent authority, but it was denied. However, the provisions of Article 88 of the Penal Code of the RK were not taken into account.

It follows from the information received that the competent authority had granted the request of the inquirers. A convict Ch.Ye. was convoyed to OV-156/2 Correctional Institution of the East Kazakhstan Oblast Department of Corrections.

Under similar circumstances, the Human Rights Commissioner received an inquiry from a resident of the city of Satpayev, I.L., representing her convicted son, B.A., at the time serving his sentence at the ES-164/9 Correctional Facility of the North Kazakhstan Oblast Department of Corrections, requesting assistance in his transfer to a penal settlement at the place of the family’s residence – in the city of Astana.

According to the inquirer, the victims of a car accident he was convicted of do not have any more grievances with B.A.

Following an inquiry submitted by the Ombudsman to the Correctional Committee of the MIA RK, this request was granted. The convict B.A. was transferred to the EC-166/22 Correctional Facility of the Astana Department of Corrections.
The Ombudsman received an inquiry from a convict S.O., serving his sentence at the UK-161/2 Correctional Institution of the Kostanay Oblast Department of Corrections of the Committee of the Correctional System of the MIA RK, requesting participation in a court hearing on his transfer from a maximum security facility to a full security facility, as well as reception for a personal issue.

Pursuant to p. 2 of the Provision on the Commissioner for Human Rights approved by the Decree of the President of the Republic of Kazakhstan of 19.09.2002 No. 947, the Human Rights Commissioner shall operate to complement the existing state legal remedies for the protection of human and civil rights and freedoms, without substituting or limiting their authority.

The Human Rights Commissioner’s scope of duties does not include ensuring monitoring of the investigation of criminal or other cases under the jurisdiction of competent state authorities.

In the event of a violation of the rights of citizens, they are entitled – in accordance with the current national legislation – to seek legal remedy at departmental or judicial control authorities, prosecutorial oversight authorities, as well as public control associations.

On top of that, the National Centre for Human Rights (the office of the Human Rights Commissioner in the Republic of Kazakhstan), pursuant to the current legislation, is not considered a party to a proceedings and, therefore, is not entitled to assess legality of criminal cases.

In view of the above, as well as the fact that there are no regional (oblast-level) branches, the office of the Human Rights Commissioner requested the prosecutor’s office of the city of Kostanay to visit the above-mentioned facility and receive the convict S.O.

According to the information provided by the competent authority, the oblast prosecutor’s office staff arranged a personal appointment for S.O. on their premises.

During the interview, S.O. explained that he objects to the management’s recommendation to transfer him to a full security facility, and asked to intervene in its deliberation.

Following the court hearing conducted with the prosecutor, the facility head’s recommendation regarding S.O.’s transfer to a full security facility was found to be premature and was returned without deliberation.

The issues of inmate transfer to other oblasts of Kazakhstan fall within the competence of the Committee of the Correctional System of the MIA RK. Taking these circumstances into account, citizens' complaints about unlawfulness of the serving of sentences in facilities remote from the original place of residence or sentencing, were forwarded by the Ombudsman to the central office of the Committee of the Correctional System, for examination. Unfortunately, in the reporting year positive outcomes were reached only for 3 complaints out of 18 total.
It should be specifically noted that in the current socio-economic circumstances that our country finds itself in, a convict’s serving of his/her sentence several thousand kilometres away from home practically denies them the opportunity to see his/her relatives, which constitutes a major violation of his/her rights.

Issues relating to release on parole and release for health reasons remain pressing.

The Ombudsman received a complaint from a resident of the city of Semey, one Kh.K., regarding a groundless denial on the part of the Court No. 2 of Semey to release the complainant’s brother, Kh.M., on account of a disease.

According to the complainant, the penal institution failed to produce a full set of documents certifying his medical condition, and in particular, the discharge report from his patient’s file at the Regional Oncology Centre and the diagnosing physician’s report.

The office of the Ombudsman approached the General Prosecutor’s Office of the RK with this issue.

According to the data provided, prosecution authorities had previously checked the arguments contained in the inquiry, with the participation of the specialists of the East Kazakhstan Oblast Department of Medical and Pharmaceutical Operations (“the Department”).

Examination revealed that as per a Special Medical Commission's opinion issued on 3 December 2015, Kh.M. was given the following diagnosis: “Cancer of the left tonsil, stage 2 (T2 Nx Mx), malignant neoplasm Prolongatio morbi (progressive disease); Ms process generalisation of the bones of the base of the skull and neck vertebrae; metastases into neck lymphatic nodes; systemic effect of the tumour on the organism”; the diagnosis precludes further special treatment and warrants the production of the materials in court for early release for medical reasons.

Pursuant to the Department’s specialists’ findings report of 3 February 2016, the inmate Kh.M. was receiving palliative care under 4th clinical group at the Republican Somatic Hospital at the Facility OV-156/15 of the East Kazakhstan Department of the Correction System and the medical care was provided in accordance with the adopted diagnostics and treatment protocols.

On 14 December 2015, the Court No. 2 of the city of Semey ruled to deny a petition of the Institution OV-156/15 to release the inmate Kh.M. for health reasons.

By a ruling of a judicial board for criminal appeals of the East Kazakhstan oblast court dated 18 February 2016 and the prosecutor’s findings report, the ruling of the Court No.2 of the city of Semey from 14 December 2015 was overturned, and the institution’s petition to release the inmate Kh.M. for health reasons was granted.

The same day the administration of the institution released Kh.M.
The Ombudsman received an inquiry from one K.K., representing her daughter N.K. at the time serving her sentence at the EC-166/24 Correctional Facility of the Akmola Oblast Department of Corrections. The inquirer revealed that her daughter has a newborn baby (born 9 December 2015) who is being breastfed. K.K. received a letter from the EC-166/24 Correctional Facility dated 23 February 2016 requesting that the baby be taken prior to the daughter’s release. At the same time, the inquirer claims that the separation of the mother and the child can negatively impact both the psychological state of the baby and that of her daughter, which had at the time half a year of the sentence left to serve.

Article 3 of the UN Convention on the Rights of the Child establishes that in any action towards children, regardless of whether it is done by state authorities or private organisations engaged in social support, courts, administrative or legislative authorities, priority should be given to the best interests of the child.

Furthermore, regarding the optimal feeding of infants, the World Health Organisation and UNICEF recommend exclusively breastfeeding during the first six months of the child’s life. Breastfeeding of infants is one of the important ways of increasing children’s survival rate and contributing to their healthy growth and development.

Taking the above into account, the office of the Ombudsman approached the Committee of the Correctional System of the MIA RK with a request to explore the possibility of arranging that the baby live with the mother or grandmother not far away from the above-mentioned facility, so that the convict N.K. could resume breastfeeding the child, or advise an alternative course of action.

The Akmola Oblast Department of the Correctional System was instructed to consider and – legal grounds permitting – resolve this issue favourably under part 5 of Article 143 of the Penal Code of the RK.

The possibility of living with her family on rented or owned premises of N.K. was not considered due to the fact that on 29 February 2016 she petitioned the court of the city of Kokshetau to substitute the unserved part of her sentence with a milder sentence under Article 73 of the Penal Code of the RK.

On 4 April 2016 her release on parole petition was granted.

A clear indicator of human rights violations at correctional facilities is the fact that the Human Rights Commissioner continues to receive complaints regarding unlawful disciplinary action, including the placement of an inmate in a disciplinary holding facility.
The Ombudsman received an inquiry from the executive director of the Human Rights Chapter NGO, Turgamambetova Zh.U., and the chairperson of the Council of the Kazakhstan International Bureau for Human Rights and Rule of Law, Zhovtis Ye.A., in which they stated that the current criminal penal legislation lacks provisions related to legal repercussions of a cancellation of an order to take disciplinary action against a convict under a prosecutor’s office act or a court ruling, if said convict has been under strict conditions and has been found by the facility commission to be a repeat offender of prison discipline, which also includes unlawful – according to the inquirers – incarceration conditions of a victim K.V.

At the request in favour of the convict K.V. regarding the instances of unlawful actions on the part of the personnel of the LA-155/14 Correctional Facility, the office of the Ombudsman sent requests to the General Prosecutor’s Office and the Ministry of Internal Affairs of the RK.

According to competent authorities, by the decision of the commission of the LA-155/14 Correctional Facility of the Almaty Oblast Department of Corrections of 2 August 2016, K.V. was transferred to normal incarceration conditions.

On 5 August of the same year, prosecution authorities issued a recommendation to rectify violations, eliminate any contributing causes and conditions, and explore the possibility of taking disciplinary action against those responsible.

Furthermore, allegations of illegal placement of K.V. under strict incarceration conditions were confirmed.

The prosecution authorities believe that, considering the nature of the uncovered violations, the consideration of the possibility of introducing amendments or additions to the current legislation is not necessary.

In this particular case, the prosecution authorities that are charged with the highest oversight of precise and uniform application of the Constitution, laws and decrees of the President of the Republic of Kazakhstan and other regulatory legal acts, established that the convict K.V.’s rights were indeed violated, and took measures of prosecutorial response to rectify any violations of the rule of law, thereby affirming the notion that the current legislation does indeed enable one to find correctional facility personnel’s actions unlawful. At the same time, the broached issue of the need for an improvement of the legislation requires additional analysis of existing practice.

Also, according to the information provided by competent authorities, on 4 August 2016, the Kapshagai City Court released K.V. on parole from serving the remaining 2 years, 11 months and 4 days of the sentence.
The Ombudsman received a complaint from one Sh.O., representing her convicted spouse N.V. at the time serving his sentence at the UK-161/3 Correctional Facility of the Kostanay Oblast Department of Corrections, regarding the actions of the personnel of the correctional facility.

The complainant expresses concern over the life and well-being of her husband. In a telephone conversation that took place 18 May 2016, a convict N.V. asked his wife to approach a human rights organisation of some sort on account of the fact that this institution violated his right to lodge complaints – to oversight authorities in particular – regarding the issue of unlawful disciplinary action.

Pursuant to Article 10 of the Penal Code of the RK, convicts have the right to come forth with oral and written proposals, applications and complaints to the management of a penal institution or authority, to their superior authorities, courts, prosecution authorities, other state authorities and public officials, non-governmental organisations as well as international human rights and freedoms organisations, in pursuance of the legislation of the Republic of Kazakhstan.

In due handling of the inquiry, the office of the Human Rights Commissioner sent requests to relevant competent authorities.

The audit of the legality of disciplinary action against the convict N.V. revealed violations. Following a protest lodged by the prosecutor of Zhitikarin District, the illegal disciplinary action was overturned. The UK-161/3 Correctional Facility of the Kostanay Oblast Department of Corrections conducted an inspection, following which the appropriate action was taken against and reprimands given to the relevant officials.

It should be noted that the penal legislation of the Republic of Kazakhstan is, for the most part, compliant with the main international standards in regard to medical care provision to inmates and their health protection. As a result of the reforming of the correctional system, over the past few years there has been a decline in mortality at correctional facilities. Comparing 2015 and 2016, by 30%, including by 50% tuberculosis-related.


At the same time, there are recurrent complaints coming from inmates regarding their rights to health protection and medical care. Over the reporting period, only 19 such inquiries were registered. Intra-agency oversight agencies conducted inspections and audits for these inquiries, at our requests, following which inquiry claims and assertions were not confirmed.

However, by means of analysing the causes of violations of inmates’ rights to medical support at facilities, as well as referring to mass media reports, it becomes evident that the system of medical support of inmates – and this was stressed time and time again by the Ombudsman at round tables – is, in some aspects, detached from the universal healthcare system of the country, which prevents the authorities from adequately ensuring inmates’ right to health protection.
For purposes of moral development of the society and the reduction of its criminalisation, the state criminal policy needs to change its course toward the expansion of the range of measures alternative to imprisonment. In this regard, as part of the implementation of Step 33 of the Plan of the Nation “100 Concrete Steps”, in December 2016 the President of the Republic of Kazakhstan signed the Law of the RK “On amendments to some legislative acts of the Republic of Kazakhstan concerning probation”, designed to bring the legislation into compliance with the Law of the RK “On probation”.

On top of the two already implemented types of probation – sentence probation and postpenitentiary probation – the law sets out two more probation models – pretrial and penitentiary.

Penitentiary probation consists of conducting on-site re-socialisation work with an inmate to prepare him or her for the life outside, one year prior to the close of the sentence. This implies that the probation service jointly with the management of a facility are to prepare personal tailor-made programmes for the preparation of an inmate for the release and subsequent adaptation and readmission into the society.

It should be noted that in future efforts shall be made to resume the cooperation between the Human Rights Commissioner and the management of the Committee of the Correctional System of the MIA RK regarding the issues of incarceration conditions. Inspections conducted by the representatives of the Ombudsman in correctional facilities often reveal violations of the rights of convicts. Unfortunately, these instances do not always receive due notice from the management.

The status of the national human rights institution has been significantly strengthened over the past years, especially with the successful accreditation at the International Coordinating
Committee for National Institutions, accession to the Asia Pacific Forum of national human rights institutions and the adoption of the Law on the creation of the National Preventive Mechanism in accordance with the Optional Protocol to the Convention Against Torture.

The Ombudsman's mandate within the NPM is enshrined in 4 Codes, including the Penal Code, and 4 laws and appropriate regulating subordinate legal acts. The Ombudsman coordinates the NPM and ensures its capacity building, which includes training.

The NPM participants cast from the memberships of public supervisory commissions and non-governmental organisations engaged in the protection of human rights and lawful interests, as well as legal experts, social workers and physicians continue monitoring visits of correctional institutions, as there is a need to strengthen the oversight of the correctional system on the part of civil society institutions.

In 2016, under the umbrella of the NPM, 134 monitoring visits were made to correctional institutions, including 12 special ones.

Following preventive visits aimed at preventing torture and degrading treatment, recommendations are given to the management of a facility.

The Human Rights Commissioner on a case-by-case basis strives to react promptly to inquiries from the people. Jointly with the management of the Committee of the Correctional System of the MIA RK, measures are taken to restore violated rights.

Unfortunately, the Ombudsman has to admit that at present certain gaps in the national legislation and imperfections of regulatory enforcement practices in the area of corrections create obstacles preventing citizens from exercising their rights and lawful interests to the fullest extent.
15. INTERNATIONAL COOPERATION

International cooperation continues to play a major role in the operations of the Human Rights Commissioner in the Republic of Kazakhstan. To this end, in 2016 the office of the Ombudsman was engaged in close cooperation with international human rights organisations, including many national human rights institutions, and active membership in international and regional networks of national human rights organisations was maintained.

Kazakhstan’s successful defence of its periodic reports at the UN Commission on Human Rights concerning the observance of the regulations of the International Covenant on Civil and Political Rights and at the UN Committee on Enforced Disappearances regarding the observation of the regulations of the International Convention for the Protection of All Persons from Enforced Disappearance is a testament to our country’s commitment to the policy of observance, promotion and protection of human rights. The office of the Ombudsman directly participated in the aforementioned fields by providing all the necessary and relevant information on the comprehensive efforts undertaken.

Kazakhstan delegation during the defence of the 1st periodic report of the Republic of Kazakhstan on the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance (Geneva, Switzerland)

Kazakhstan started the year 2016 with a concrete programme aimed at mitigating the complicated global political and economic environment – the President’s Manifesto “The World. The 21st Century”, thereby opening a new page of global peace dialogue.

Using the Manifesto, the President once again underlined Kazakhstan’s aspiration to develop initiatives of peaceful international cooperation, rallied toward the rejuvenation of the role of global organisations. The proposed initiatives are designed to play a key role in reinforcing the principles of international law that have been losing their force with every new conflict since the beginning of the 21st century.
The Manifesto voices the position of all progressive forces of the global community and should form the foundation of a new concept of global development based upon just global competition in all areas of foreign relations.

The role of the office of the Ombudsman in the implementation of the principles established in the Manifesto with regard to international politics in the area of human rights is largely defined. In turn, the wide variety of international partners of the Ombudsman's office has remained intact for many years, while also expanding onto new dimensions. In 2016, active efforts were being made to cooperate with the International Coordinating Committee for National Human Rights Institutions, the Asian Pacific Forum of National Human Rights Institutions, the Office of the High Commissioner for Human Rights (OHCHR) and the Central Asian branch of OHCHR, UN Astana Office, Organisation for Security and Cooperation in Europe and OSCE Programme Office in Astana, UNICEF and its Kazakhstan Office, Penal Reform International, and the Central Asian PRI Office, the European Union, Delegation of the EU in the RK, Council of Europe, human rights institutions, foreign governments and parliaments, as well as other partners.

In 2016, the Ombudsman held a number of fruitful official meetings for information exchange with the high-ranking representatives of international human rights organisations and diplomatic missions, including the Ambassador of India to the Republic of Kazakhstan Harsh Kumar Jain; Secretary General of the Norwegian Helsinki Committee, Bjorn Engesland; Head of the OSCE/ODIHR Election Observation Mission Boris Frlec; director of the Europe & Central Asia division of Human Rights Watch, Hugh Williamson; Central Asia researcher Mira Rittman.

A meeting between the Human Rights Commissioner in the Republic of Kazakhstan and the newly appointed Head of the OSCE Programme Office in Kazakhstan, György Szabó, was held in March.

Taking into account the productivity of the above-mentioned format of interaction with OSCE, and giving positive feedback to its unquestionably high results, it appears prospective and advisable to continue this cooperation in future.

Such dynamic interaction has enabled the office of the Ombudsman to fully realise its role as a source of unbiased information on the human rights situation in the republic for our foreign partners, gain access to international best practices in the area of human rights, ensure that this knowledge is disseminated among Kazakhstani human rights activists and state authorities, as well as disseminate the Kazakhstani experience abroad.

2016 saw the continuation of the cooperation with the Asian Pacific Forum of National Human Rights Institutions. In April, the Ombudsman's office staff participated in a seminar "Communication Networks of the Asian Pacific Forum of National Human Rights Institutions" held in the city of Kathmandu (Nepal).

It should be especially noted that a first-ever interaction between the office of the Ombudsman and the European Network of National Human Rights Institutions took place, jointly with the OSCE/ODIHR and the office of the Ombudsman in Georgia, with a Kazakhstan Ombudsman's office staff member participating in a training event entitled "The Academy of National Human Rights Institutions 2016" in the city of Tbilisi (Georgia).

Under the OSCE chairmanship of Germany, the Ombudsman Askar Shakirov, in June, participated in an extended OSCE conference "Parliamentary Control and Oversight of the Security Sector", held in Berlin. During the course of a visit organised with the assistance of the Embassy of the Republic of Kazakhstan to the German Federal Republic, the Ombudsman...
conducted a number of bilateral meetings with Special Representative of the Federal Government of Germany for the OSCE Chairmanship, Gernot Erler, member of the security committee of the Bundestag, Hans-Peter Bartels; vice-president of the PA OSCE, Bundestag Deputy Doris Barnet, as well as ombudsman counterparts from a number of OSCE countries.

Head of the National Centre for Human Rights – the office of the Ombudsman – attended the 117th Session of the UN Human Rights Committee to defend the 2nd periodic report as part of the fulfilment of obligations under the International Covenant on Civil and Political Rights in Geneva, Switzerland.

It should be noted that during the event, a side event was held to discuss the operation of the National Preventive Mechanism used to prevent torture in Kazakhstan, and give a chance to the head of the National Centre for Human Rights to present the corresponding results of the two-year efforts of this mechanism.

In the reporting period, a high level of interaction with the UN human rights institutions was maintained, namely with the UN Office of the High Commissioner for Human Rights (OHCHR in CA). An introductory meeting was held between the Ombudsman and the newly appointed OHCHR Regional Representative in Central Asia, Richard Komenda. In 2016, this UN human rights body continued major efforts to support the national human rights institution in the issues of enhancing the institutional capacity and professional development of its personnel.
Of special note is the fruitful work conducted during the reporting year in close programme cooperation with the European Union and the Council of Europe.

On 28 June a regional conference was held jointly with OHCHR in Central Asia to discuss the roles and objectives of national human rights institutions in the environment of societal modernisation, arranged as part of the programme of cooperation between the Republic of Kazakhstan and the European Union “Support to the Kazakh Authorities in Improving the Quality and Efficiency of the Kazakh Justice System”.

Under the umbrella of this partnership, other events were also held with the participation of the personnel of the National Centre for Human Rights: in September the Kazakh delegation went on a training visit to Strasbourg (France), participated in the 8th round of Human Rights Dialogue: the Republic of Kazakhstan – European Union and the 14th meeting of the Sub-Committee for Justice and Public Order in Brussels (Belgium).

In 2016, the Ombudsman's office cooperated with UNICEF in the implementation of the 2016–2017 Operational Plan for Cooperation with UNICEF “Child-friendly Social Environment”, which involved the head of the National Centre for Human Rights joining the Kazakhstan delegation in its visit to Norway, 6–11 June 2016.

An important moment in the visit was a meeting with the Children’s Right Ombudsman of the Kingdom of Norway Ann Lindbo who introduced the Kazakhstan delegation to the history and operations of this institution.

The Human Rights Commissioner in the Republic of Kazakhstan, jointly with the United Nations Children’s Fund (UNICEF), with the assistance of the Delegation of the European Union in the RK, conducted a study entitled “Knowledge, attitudes and practice in the area of domestic violence and justice for children”.

As part of the September official visit of the delegation of the UN Subcommittee on Prevention of Torture and other Cruel and Inhuman or Degrading Treatment or Punishment to the Republic of Kazakhstan, the Ombudsman met with the members of this Subcommittee.

It should be noted that over the last few years a number of joint projects were implemented, focusing on the protection of rights and freedoms of citizens in Kazakhstan and further improvement of the operation of the national human rights institutions.

In October the Ombudsman took part in the annual ODIHR meeting of the Association for the Prevention of Torture consisting of national human rights mechanisms of the OSCE region, in Vienna, Austria.

In the same month the Ombudsman also held a high-level meeting with the delegation of the Parliament of the United Kingdom of Great Britain and Ireland that was visiting Kazakhstan.
During the meeting, A. Shakirov informed the foreign delegates of the human rights situation in Kazakhstan and the main areas of operation of the national human rights institution, its role and position in the state legal system, and described inquiries that the institution receives.

Also in October the employees of the Ombudsman’s office took part in an international conference entitled “National System for Ensuring Reliable Protection of Human Rights and Freedoms in Uzbekistan: Achievements over the Course of Independence”, commemorating the 20th anniversary of national human rights institutions of the Republic of Uzbekistan, in the cities of Tashkent and Samarkand.

In November, with a view of discussing the prospects of human rights cooperation, at the invitation of the newly appointed Human Rights Commissioner of the Russian Federation Tatiana Moskalkova, the Human Rights Commissioner in the Republic of Kazakhstan visited Moscow.

The Ombudsman’s meeting with the delegation of the All-Party Parliamentary Group for Cooperation with Kazakhstan of the Parliament of the United Kingdom of Great Britain and Ireland
In November, the Ombudsman participated in a conference under the 30th Session of the UN Subcommittee for the Prevention of Torture, commemorating the 10th anniversary of the adoption of the Optional Protocol to the Convention against Torture and other Cruel and Inhuman or Degrading Treatment and Punishment, in Geneva (Switzerland).
It is worth noting that on 25–27 November, the Human Rights Commissioner in the RK also took part in a conference “Human Rights and Sustainable Development Goals” in Kabul, Afghanistan, as well as in regional consultations of national human rights institutions of Central Asia, in Istanbul, Turkey.

Afterwards, the staff of the Ombudsman’s office took part in a conference “The Role of National Human Rights Institutions in the Implementation of the 2030 Sustainable Development Programme and the Achievement of Sustainable Development Goals”, Istanbul, Turkey.

In 2016, a staff member of the office of the Ombudsman also completed a 3-year internship at the Department of Foreign Human Rights Policy of the German Human Rights Institute in Berlin, as part of the cultural exchange programme for young specialists, with the assistance of the Foreign Relations Institute of the Ministry of Foreign Affairs of Germany.

In the following year, the national human rights institution will continue its efforts to protect and promote human and civil rights and freedoms, covering the range of civil, political, economic and social rights.
CONCLUSION

The anniversary year of 2016 marked a number of important achievements reflecting the successes of our nation, which includes human rights protection. Despite unprecedented threats to stability and prosperity, the year 2016 saw continued implementation of the policy for the progressive development and improvement of mechanisms of safeguarding personal and civil rights and freedoms.

Favourable results of the implementation of the Five Institutional Reforms and the 100 Concrete Steps for the implementation of said reforms, as well as the instructions of the President, in general, created a noticeable impetus for the public efforts to protect human rights. Instructions to enhance accountability of state authorities before the society and improve the quality of public services rendered were issued and successfully completed. It was these instructions that became the jumping-off point for the commencement of the corresponding joint efforts of the state and the society in the area of rights protection.

It should be noted that the above-mentioned efforts fully correspond with the conclusions and pressing issues pinpointed by the Ombudsman in his annual reports submitted to the President, as well as in the recommendations and communiques on the most pivotal human rights issues.

The office of the Ombudsman continues working within its mandate to monitor the observance of human rights and cooperate with state authorities, civil society and other partners. Efforts are made to reinforce human rights mechanism, including the National Preventive Mechanism, further integrate Kazakhstan into the international human rights community, as well as to extend help to vulnerable population groups.

Inadequate governance within state authorities remains a significant problem, both at the central and local levels. In this regard it should be noted that the procedure for the redistribution of powers among branches of government, as introduced in the Five Institutional Reforms, will make it possible to adequately address a number of pressing issues in this area. This is further demonstrated by the practice of the national human rights institution, and making these efforts to reinforce discipline within the civil service, which includes, among other things, educating officials in the matters of human rights, is of paramount importance.

Without a doubt, in the following year, the national human rights institution will continue its efforts to protect and promote human and civil rights and freedoms, covering the range of civil, political, economic and social rights.

Kazakhstan started the year 2017 with a concrete programme aimed at mitigating the complicated global political and economic environment. Measures are taken to overcome new challenges. In this connection it is symbolic that in its anniversary year, Kazakhstan won its seat at the UN Security Council, positioning itself in a new global peacekeeping role.

In conclusion, the Ombudsman would like to extend his deepest gratitude to the Constitutional Council, the Supreme Court, the General Prosecutor’s Office, members of the Parliament, the Government and state authorities, as well as international and national human rights organisations, for their contribution into the joint efforts to protect civil and human rights and freedoms.
REPORT
on the activities of the Human Rights Commissioner
in the Republic of Kazakhstan in 2016

ANNEXES

1. Communique

Attn.: President of the Republic of Kazakhstan,
Nazarbayev N.A.

Dear Mr President!

In pursuance of the current legislation, I submit to you the current Report on the Work of the Human Rights Commissioner for the year 2015.

In the reporting period, the area of human rights in our country was marked by a number of key events directly impacting the operation of the national human rights institution. Overwhelming public support of the President in the election, as well as his initiatives on the Five Institutional Reforms and the 100 Concrete Steps for their implementation, are perceived in the human rights perspective as a sign of approval of the national strategy for the protection of the entire range of human rights and freedoms.

A significant impetus for modernisation in the area of human rights was given by the enhancement of the national legislation. For instance, in the reporting period, the country adopted new editions of the Criminal Code and the Penal Code, the new Criminal Procedure Code, the Labour Code, key laws “On access to information”, “On public councils” and “On civil service”, and ratified the UN Convention on the Rights of the Disabled. As far as institutional matters are concerned, the new Ministry of Civil Service Affairs of the RK was created, as well as the positions of business ombudsman, investment ombudsman and government ethics ombudsman.

Substantive work was conducted on 3 issues discussed and approved during our in-person meeting.

The newly adopted Labour Code incorporated individual concepts of the Ombudsman’s office, including the optimisation of labour relations through collective employment agreements, as well as the liberalisation of labour relations, mechanisms of the protection of the right to labour. The recommendations prepared by the Working Group for Social and Labour Monitoring under the Ombudsman contributed to the active involvement of the appropriate state authorities in eliminating existing issues, including the ones relating to the AO Arselor Mittal Temirtau company.

In order to extend and promote the rights of people with disabilities and their maximum integration into the society, amendments were introduced into 24 codes and laws. In the context of the upcoming parliamentary and local elections, the Ombudsman’s proposal regarding the need for the involvement such persons in the public governance was also acted upon. It is evident that the attitudes toward this group of people are changing and are now more open to the idea of realising these people’s potential in the development of the Kazakh society and state.

Considerable attention was given to the monitoring at correctional facilities, which includes efforts under the umbrella of the National Preventive Mechanism for the Prevention of Torture and other Cruel and Inhuman Forms of Treatment and Punishment (NPM), coordinated by the
Ombudsman. As part of the implementation of the 100 Steps, special attention is paid to the observance of international standard rules of the treatment of prisoners and their employment as one of the effective preventive measures of eliminating the breeding grounds for extremism in correctional facilities. A contributing positive factor in this regard is the commencement of the construction of penitentiary institutions of a new type under a public-private partnership.

The NPM conducted 528 monitoring visits across the country, covering such institutions as the correctional facilities, compulsory treatment institutions, temporary detention facilities, centres for adaptation of minors, special education organisations and others. Management of the visited facilities and state authorities were issued recommendations for the improvement of imprisonment conditions. A testament to the NPM's effectiveness is the fact that in five regions the NPM's efforts made it possible to completely avoid protests, self-mutilation and the use of special means during rounds and searches. This indicator demonstrates the effectiveness of preventive measures compared to the punitive ones.

In the reporting period, the Ombudsman received 1,340 written and oral inquiries regarding human rights issues, primarily from the cities of Astana and Almaty, and Karaganda, Almaty and East Kazakhstan oblasts.

The majority of complaints were in reference to rights violations committed by law enforcement agencies (25.1% of the total number), actions and rulings of courts (24.7%), penitentiary bodies (13.2%) and torture (10%), violations in public administration (13.1%). 9.4% of inquiries referred to the issues of the respect of labour rights, 6.5% – children’s rights, 6.2% – housing rights, 5.8% – right to social and pension coverage, 3.9% – failure to enforce court rulings, 2.2% – rights of persons with disabilities. These statistics fully reflect the issues that the already ongoing implementation of the 100 Steps aims to resolve.

Each received complaint was handled in the prescribed manner, and in 18.9% of the cases we were able to confirm rights violations and resolve the case.

Systemic efforts were being undertaken to analyse current issues and prepare the corresponding proposals and recommendations to relevant officials, and the effectiveness of these efforts in the reporting period was greatly increased thanks to the implementation of the Plan of the Nation.

A report letter has been dispatched to you, offering an analytical overview of the human rights situation nationwide, as well as a joint address of the Ombudsman and the chairperson of the Constitutional Council of the RK regarding the prospects of the development of the cooperation mechanisms in the area of human rights on the Eurasian continent.

The Prime Minister of the RK, the Chairperson of the Supreme Court, the General Prosecutor, the Deputy Chairperson of the Mazhilis of the Parliament, ministers of justice, healthcare and social development, Akims of regions were issued communiques and recommendations on the issues of administrative legislation, justice, prosecutorial oversight, development of the national human rights institution, enforcement of court rulings, support of persons with disabilities (including children), as well as other human rights concerns.

Cooperation with state authorities and civil society was especially fruitful during the reporting year. Interaction with government bodies was made possible through joint handling of complaints about rights violations (1,544 requests sent) and participation in advisory structures, primarily under the President of the RK, as well as the Dialogue Platform on Human Dimension of the Ministry of Foreign Affairs and as part of the Human Rights Dialogue between the RK and the EU.
In the reporting year, the Human Rights Commissioner and his institution’s personnel participated in 212 national and 53 international events. The institution itself organised and conducted 12 training events in 7 regions of the country, covering representatives of the entire country in the sphere of the protection of the rights at closed institutions, monitoring, children’s rights and the rights of other vulnerable groups.

At the international level, active cooperation was maintained with all major global and regional human rights organisations, as well as foreign counterparts, including the UN, the UNICEF, the OSCE, the EU, the Council of Europe, the International Coordinating Committee for National Human Rights Institutions and many others. Meetings were held with the management of the International Committee of the Red Cross, the International Organisation for Migration, the UN Committee on the Rights of the Child, the UN High Commissioners for Human Rights and for Refugees, the Organisation of Islamic Cooperation, human rights institutions of the Netherlands, Norway, UAE, the United Kingdom, Russia, as well as UN Special Rapporteurs on various issues.

For our foreign counterparts, meetings with the Ombudsman proved to be important opportunities to receive impartial and objective information on the human rights situation in Kazakhstan. In this vein, efforts were focused on the promotion of the positive and to a certain degree advanced practices of Kazakhstan – for instance, in the areas of combating discrimination, torture, protecting economic, social and cultural rights, children’s rights and others. A high-level meeting with colleagues from neighbouring countries, as well as Norway and the United Kingdom with a view to share the Kazakh Ombudsman experience in the area of monitoring children’s institutions. During the Asian Pacific conference in Ulan-Bator, much interest was attracted to a regionally unprecedented access the Kazakhstani civil society organisations have to closed institutions under coordination of the Ombudsman. The Baku Ombudsman Conference discussed the experience fo effective cooperation with state authorities, while the 7th International Conference of Ombuds-Institutions for Armed Forces (7ICOAF) in Prague focused on monitoring of defence institutions.

Work and events conducted by the Ombudsman have been actively covered in the national media, including the Khabar channel, social networks; at the Central Communications Service under the President of the RK press conferences were held, comments and interviews were given to the media regarding the human rights issues. The official website ombudsman.kz is updated on a regular basis: over the course of the reporting period, some 60 press releases, quarterly bulletins, the aggregated NPM report and the annual report were published there in Kazakh, Russian and English languages.

The institution’s work covered other areas as well.

Experience has shown that human rights violations to a large extent are linked with lacking regulatory compliance practices on sites, and that it is possible to significantly reduce the violation rate by having public officials utilise every available legal means of rendering public services. This matter was brought up in a petition to the Prime Minister of the RK with the initiative to develop a fundamentally new law (code) of administrative procedures, that would become a kind of a “workbook” tracking interactions between public officials and citizens, and a tangible means of assistance in the operations of the “Corporation for Citizens” Corporation. The proposed act – regarding which the Head of the Government issued a corresponding instruction – would make it possible to minimise the problem of corruption and low legal literacy of the general populace.
It should also be noted that there is a need for a more active implementation of international standards and recommendations of international organisations in the operations of state authorities, which would significantly contribute to the efficacy of the ongoing national reforms.

The area “Business and Human Rights” promoted in your instructions to create favourable conditions and a new system of communications for investors and business, communicated at the XVII Convention of the Nur Otan Party, is deemed essential. This issue today is in the focus of the international human rights community, and its continued promotion could also help face today’s challenges.

Dear Mr President!

In general, the 2015 public policy was fully fixated on further protection and realisation of the constitutional rights and freedoms in Kazakhstan. In spite of new challenges, the trajectories that you set allowed us to maintain steady advances in the previously existing mechanisms and introduce for our citizens new forms of exercising their rights.

The Human Rights Commissioner’s office actively participated in fulfilling this task, acting as an intermediary between state authorities and civil society.

Furthermore, in light of the Five Institutional Reforms and the 100 Concrete Steps that you introduced, complete elimination of all limiting factors in the area of human rights becomes a priority today.

The national human rights institution will continue its efforts to contribute to the implementation of the public policy aimed at protecting human rights and fulfilling international legal commitments of the Republic of Kazakhstan.

Best regards,

Human Rights Ombudsman
in the Republic of Kazakhstan       A. Shakirov

Attn.:  Prime Minister
of the Republic of Kazakhstan,
Chairperson
of the National Commission
on Modernisation
Massimov K.K.

Dear Mr Massimov!

On 1 July 2015, the Human Rights Commissioner sent a letter to the National Commission on Modernisation presenting a rationale for the need of bringing the national human rights institution of the Republic of Kazakhstan – the institution of the Human Rights Commissioner – into compliance with the Paris Principles (universally recognised principles relating to the status of national institutions promoting and protecting human rights, approved by the Resolution 48/134 of the UN General Assembly on 20 December 1993). This letter was subsequently included in the 2015 Report on the Work of the Human Rights Commissioner, considered and approved by the President (attached).
The Office of the Human Rights Commissioner, in view of the fact that it has no right to present legislative initiatives and the need for a natural development of the institution, among other factors, has been refraining from actively promoting this issue.

Yet, at present, this topic has become especially relevant in light of the defence of the report of the Republic of Kazakhstan on the fulfilment of the International Covenant on Civil and Political Rights at the UN Human Rights Committee on 22–23 June 2016. During this substantially important event for the perception of the Republic of Kazakhstan, it was once again recommended to Kazakhstan that the republic should develop its national human rights institution and grant it the necessary resources for successful fulfilment of its duties.

Incomplete compliance with the Paris Principles (most notably, the absence of the legislative framework) is a limiting factor that prevents the institution from receiving the A accreditation status from the International Coordinating Committee for National Human Rights Institutions operating under the UN’s aegis (currently the institution has the B status). The A status gives the right to permanent and fully competent participation in the UN Human Rights Council and other conventional bodies of the UN, and grants practical access to Kazakhstani representatives to UN human rights agencies.

It should also be noted that to date the office of the Human Rights Commissioner in the RK is the only institution in CIS and one of the few in the world whose status is not enshrined in the legislation (in 44% this status is constitutionally established).

In view of the above, I hereby petition to consider the possibility of drafting a Law “On the Human Rights Commissioner in the Republic of Kazakhstan”.


Best regards,

Human Rights Ombudsman
in the Republic of Kazakhstan

A. Shakirov

Attn.: Chairperson of the Supreme Court of the Republic of Kazakhstan, Mami K.K.

Dear Mr Mami!

The Office of the Human Rights Commissioner in the Republic of Kazakhstan (the Ombudsman’s Office), in performing its function of monitoring the observance of human rights and freedoms nationwide, strives to provide full assistance in conducting the court reform and ensuring fundamental human rights to judicial protection and due process of law.

Despite not having the power to handle complaints about court rulings, but in view of the memorandum of cooperation signed between the Human Rights Commissioner and the Chairperson of the Supreme Court, analysis of incoming complaints regarding violations of their rights in the administration of justice is conducted on a regular basis, and the results of said monitoring are subsequently submitted to the Supreme Court.
The analysis revealed that a part of complaints objecting to court rulings were found to unsubstantiated. Yet, the high rate of complaints indicates that there exist significant obstacles for the citizens to exercise their rights to judicial protection.

The analysis covers the periods from 1 October 2015 through 1 October 2016. In this period, the Ombudsman received 247 complaints objecting to a court ruling, which constitutes 24% of the total number of inquiries received. Compared to a similar period of the years 2014–2015, the current period saw 11 fewer such complaints, although the percentage of these complaints increased by 1.2%.

Of the complaints and inquiries received, 163 concerned criminal cases, 66 – civil cases and 18 – administrative cases. The majority of inquiries comprise complaints from individual citizens – 222; collective complaints only numbered 13; inquiries from NGOs – 8; from deputies – 1; from other bodies – 3.

Over the reporting period, 16 of the total number of inquiries, together with the copies of contested court rulings, were sent to the Supreme Court, and 62 – to the General Prosecutor’s Office.

A large number of objections to court rulings can be subdivided into the following groups.

**Protection of housing rights in court** – a class of matters most commonly referred to in inquiries.

For instance, the Ombudsman received an inquiry from one T.M. regarding his eviction from his apartment on grounds of a ruling of the Pavlodar Oblast Court. The court found the purchase of the apartment illegal. According to the complainant, she fell victim to fraudulent actions of other persons, as well as neglect on the part of state authorities in the process of state registration and cadastral number assignment. The complainant also revealed that she belongs to the vulnerable group of people and is a senior citizen.

A similar issue was described in a collective inquiry from a group of inhabitants of a boarding house (dormitory) located in the city of Astana, Prigorodny village, 2a Sarytorgai st. Inquirers express their objection to a court ruling upholding a claim of the Gorodskaya Nedvizhimost state enterprise demanding their eviction without the provision of other housing. According to the inquiry, the Akimat of the city of Astana in 2008 provided them with alternative rented accommodations in the above-mentioned dormitory in return for land plots and houses previously sequestered for public needs. Inquirers’ accommodation was done based on a residential lease agreement. Yet, during the accommodation process, an oral arrangement was made with the management of AO Kvartirnoye Byuro that was to grant the inquirers property rights to the rented rooms under the privatisation procedures following the commissioning of the boarding house. However, the new owner, GKP Gorodskaya Nedvizhimost, took legal action to evict the inquirers who were satisfied with the court ruling. As is evident from the inquiry, some families among those subject to eviction belong to socially vulnerable groups of the population.

It should be noted that the issue of forced eviction in Kazakhstan was examined by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. In her comments, the Rapporteur noted that “compulsory eviction can only be justified under exceptional circumstances and must always follow the appropriate principles and procedures established in the provisions of the international human rights law...”, and stressed that “the state must make all reasonable efforts to make sure that its citizens never become homeless or vulnerable persons with respect to violations of other human rights as a result of the eviction, regardless of its legality”.

---

The analysis revealed that a part of complaints objecting to court rulings were found to unsubstantiated. Yet, the high rate of complaints indicates that there exist significant obstacles for the citizens to exercise their rights to judicial protection.

The analysis covers the periods from 1 October 2015 through 1 October 2016. In this period, the Ombudsman received 247 complaints objecting to a court ruling, which constitutes 24% of the total number of inquiries received. Compared to a similar period of the years 2014–2015, the current period saw 11 fewer such complaints, although the percentage of these complaints increased by 1.2%.

Of the complaints and inquiries received, 163 concerned criminal cases, 66 – civil cases and 18 – administrative cases. The majority of inquiries comprise complaints from individual citizens – 222; collective complaints only numbered 13; inquiries from NGOs – 8; from deputies – 1; from other bodies – 3.

Over the reporting period, 16 of the total number of inquiries, together with the copies of contested court rulings, were sent to the Supreme Court, and 62 – to the General Prosecutor’s Office.

A large number of objections to court rulings can be subdivided into the following groups.

**Protection of housing rights in court** – a class of matters most commonly referred to in inquiries.

For instance, the Ombudsman received an inquiry from one T.M. regarding his eviction from his apartment on grounds of a ruling of the Pavlodar Oblast Court. The court found the purchase of the apartment illegal. According to the complainant, she fell victim to fraudulent actions of other persons, as well as neglect on the part of state authorities in the process of state registration and cadastral number assignment. The complainant also revealed that she belongs to the vulnerable group of people and is a senior citizen.

A similar issue was described in a collective inquiry from a group of inhabitants of a boarding house (dormitory) located in the city of Astana, Prigorodny village, 2a Sarytorgai st. Inquirers express their objection to a court ruling upholding a claim of the Gorodskaya Nedvizhimost state enterprise demanding their eviction without the provision of other housing. According to the inquiry, the Akimat of the city of Astana in 2008 provided them with alternative rented accommodations in the above-mentioned dormitory in return for land plots and houses previously sequestered for public needs. Inquirers’ accommodation was done based on a residential lease agreement. Yet, during the accommodation process, an oral arrangement was made with the management of AO Kvartirnoye Byuro that was to grant the inquirers property rights to the rented rooms under the privatisation procedures following the commissioning of the boarding house. However, the new owner, GKP Gorodskaya Nedvizhimost, took legal action to evict the inquirers who were satisfied with the court ruling. As is evident from the inquiry, some families among those subject to eviction belong to socially vulnerable groups of the population.

It should be noted that the issue of forced eviction in Kazakhstan was examined by the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. In her comments, the Rapporteur noted that “compulsory eviction can only be justified under exceptional circumstances and must always follow the appropriate principles and procedures established in the provisions of the international human rights law...”, and stressed that “the state must make all reasonable efforts to make sure that its citizens never become homeless or vulnerable persons with respect to violations of other human rights as a result of the eviction, regardless of its legality”.

---
In another collective inquiry submitted to the Ombudsman by the residents of the “7 Kontinent” housing complex, objection is made to a ruling of a specialised inter-district economic court of the city of Astana that upheld the claim of AO Nurbank to recognise illegality of alienation of property on the part of TOO Shyryn LTD and TOO Capital Petrol. According to the inquirers, they became victims of a dispute between the above-mentioned legal entities, since they had been legal owners of their apartments in the 7 Kontinent housing complex.

One M.V. submitted a complaint regarding a violation of his property rights, claiming that during his long business trip, the apartment owners cooperative lodged a lawsuit to declare his apartment abandoned. The lawsuit was upheld in court and due to the expiry of the appeal period, the court transferred the ownership of the complainant’s apartment to the Akimat of the city of Temirtau. In this case, as in the preceding case, the complainant became a victim of circumstances. In the process of administrating justice, fair practices of parties and the damage factor were not taken into consideration. Such cases give rise to deep concern over the state of citizens’ legal protection.

The following group of inquiries refers to the protection of labour rights in court. This category is closely related to the right to adequate standard of living and free development of one’s personality. Furthermore, employment and unemployment issues directly affect the economic security of a state. In current circumstances, issues related to violations of labour rights of citizens can have a tendency of escalating social tensions.

The Ombudsman received an inquiry from one K.Ye. with an objection to a ruling of the Bostandyk District Court of the city of Almaty that rejected his civil claim for restitution of wages owed by the employer. According to the inquirer, during the court proceedings he requested to conduct a handwriting examination of signatures on payrolls that allegedly belong to the inquirer. The request was ignored, which prompted K.Ye. to commission an independent handwriting examination that confirmed that the signatures do not belong to him. Upon new discovery, K.Ye. requested to initiate a review of court rulings, but the request was denied.

The Office of the Ombudsman is monitoring an inquiry from one S.Y. that objects to court rulings to dismiss her claim against the employer (TOO Zhondeu) of her deceased husband for a compensation for the loss of the breadwinner. As is evident from the inquiry, the inquirer’s husband died as a result of an occupational injury. Following the investigation of the industrial accident, an investigation report was drawn up and the employer’s guilt was ascertained. The AO Strakhovaya Kompaniya SAYA insurance company that TOO Zhondeu had previous had a contract with was avoiding the obligation to disburse compensation to S.Y. The insurance company was subsequently restructured into TOO SAYA-PRESTIGE. TOO Zhondeu took legal action in favour of the family of the deceased worker to claim compensation from TOO SAYA-PRESTIGE, which was upheld by the appellate judicial division for civil and administrative cases of the Almaty City Court. The court decision entered into force but was not enforced, as it was impossible to recover the compensation from the company that, as it turned out, was not engaged in insurance.

As a result, S.Y. several times approached court authorities with legal claims against TOO Zhondeu for damages as a result of the loss of the breadwinner on grounds of absence of insurance payments, but those claims were dismissed.

Another labour rights-related complaint that stood out was that of one U.U. According to her, the Almalinsky District Court of the city of Almaty upheld only the minimal claims that she had lodged against the employer who, through illegal actions, forced her to quit her job. The inquirer reveals that her claims for restitution of wages owed, non-pecuniary damages and
All reinstatement in office were not upheld. Moreover, the appeal court dismissed her claim. As such, U.U. appealed to a court of cassation, but the appeal was dismissed by the cassation board.

Protection of women’s rights in the administration of justice requires special attention due to the role that women play and their social responsibility related to family and children. It is well known that one of the indicators of the well-being of any state is the way the authorities and the society treat women’s rights.

The Ombudsman received an inquiry from a female detainee A.Zh. held at the AK-159/1 Facility of the Karaganda Oblast Department of Corrections, who expressed objection to a decision of an investigative magistrate of the Kazybekbi District Court of the city of Karaganda to replace her original bail sentence with that of detention in custody for the period of 2 months. According to A.Zh., she is 6 months pregnant with complications associated with chronic conditions, and, according to a petition from the medical staff of the detention facility, is in need of constant monitoring at an inpatient obstetric unit.

In this regard attention should be drawn to the fact that the criminal legislation contains provisions relating to the rights of pregnant women. Paragraph 1 of Article 74 of the CC RK establishes that the court can postpone the serving of a sentence by up to one year. This provision preconditions the need to create favourable conditions for a woman so that she could give birth and care for the child.

The exercise of a convict’s right to a milder (commuted) sentence is an important criterion of the level of development of a penal system. This category of inquiries comprises issues regarding the release on parole and replacement of the unserved portion of a sentence with a milder punishment. The Ombudsman received an inquiry from a convict O.M. at the time serving his sentence at the LA-155/1 Correctional Facility of the City of Almaty Department of Corrections, regarding his objection to a court ruling on his sentencing that was done without taking into account the already served sentence for committing a similar crime. O.M.’s inquiry indicates that on 19 October 2010 he was taken into custody and charged with 11 counts of a crime under paragraph 6 of part 3 of Article 177 of the CC RK

On 14 march 2011, a judge, Ovcharenko M.V. of the Almalinsky District Court of the city of Almaty found O.M. guilty on 2 counts and sentenced to 5 years of imprisonment, while for the other 9 counts the criminal case was transferred for additional investigation that had lasted until 19 June 2015. During the serving of the sentence, O.M. was limited in his right to release on parole due to the ongoing investigation.

According to the inquirer, the decision of an appellate judicial division for criminal cases of the Almaty City Court of 8 October 2015, pursuant to sub-paragraph 2 of paragraph 2 of Article 55 of the CC RK, the sentence given to O.M. in form of 6 years and 1 months of imprisonment was reduced to 4 years and 8 months of imprisonment. However, the disposition part of the sentence missed language regarding the need to apply towards the convict O.M the already served sentence in the duration of 4 years, 9 months and 15 days.

The Ombudsman's Office transferred this request to the General Prosecutor’s Office of the RK. According to the information provided by prosecutorial authorities, based on the O.M.’s petition, the prosecutor’s office of the city of Almaty lodged a cassation protest with the cassation judicial division of the Almaty City Court in favour of the release of O.M. from the correctional facility on account of having served the sentence imposed. The cassation judicial division of the Almaty City Court upheld the cassation protest of the prosecutor of the city of Almaty.
Another inquiry of this category that warrants attention was received from a convict V.M. serving his sentence at the ES-164/4 Correctional Facility of the North Kazakhstan Oblast Department of Corrections voicing his objection to a court decision upon examination of his petition for release on parole. According to the convict, he was denied release on parole on grounds of partiality of his argumentation conflicting with regulatory legal acts.

In his inquiry, the author revealed that he had been awarded the third positive stage of behaviour, seven commendations for diligent labour, for participation in cultural and sports events. No deliberate violations of the order or disciplinary actions. Despite all this, the Esil District Court of North Kazakhstan Oblast denied his request for release on parole. According to the inquirer, the court referred to his lack of housing and the refusal of his relative to cohabitate with him, as well as issues with employment after release.

Afterwards V.M. appealed to the North Kazakhstan Oblast Court, after having requested and obtained a notarised statement from his mother-in-law in which she gives consent to registering him as a permanent cohabitant, as well as the official response from the Akim of the city of Petropavlovsk to the prisoner’s request to assist in employment. However, the judicial division for criminal cases of the North Kazakhstan Oblast Court again dismissed the special appeal of V.M.

The inquirer insists that the decision is unfounded as there is no language in the current legislation of the RK that would suggest that “relations with close relatives and employment opportunities” need be taken into account in considering a request for release on parole.

It should be noted that international experience has shown that release on parole or replacement of a punishment with a milder one not only contributes to the dwindling of prison population, but also gives prisoners an incentive to behave appropriately, which leads to a faster adaptation and re-socialisation after release.

Violations of civil and criminal procedure regulations in the administration of justice undermine the very foundation of the legislatively established case proceedings and usually lead to citizens’ mistrust towards the judicial system.

A convict S.V. serving his sentence at the OV-156/6 Correctional Facility of the East Kazakhstan Oblast Department of Corrections submitted a complaint to the Ombudsman regarding a gross violation of the criminal procedure legislation. According to the convict, at the appeal hearing, an investigator M.E. was questioned as a witness and he admitted that, by mistake, he failed to include in the investigation documents the decision to investigate the criminal case against S.V. in the manner of expedited pretrial investigation. As the investigator himself had previously explained to the convict, whenever expedited investigation is chosen, the sentence may not exceed a half of the maximum sentence.

Despite the fact that the appeal hearing was audio recorded, the convict S.V. identified inconsistencies between the recording and the court decision that he received. The sentence was left without change, and the fact that the investigator admitted his mistake, as well as the fact that the investigation was expedited, were not taken into account.

Moreover, the appeal lodged by the prosecutor of the city of Aksu of Pavlodar Oblast protesting the court hearing that violated the criminal procedure legislation and requesting a change of the sentence for S.V. was dismissed by the judicial authorities. Presented as grounds for this are violations committed by the investigator during the investigation.
In accordance with paragraph 2 of Article 8 of the Criminal Procedure Code of the RK, “the legislatively established procedure for criminal proceedings shall ensure protection against unsubstantiated accusations and adjudications, unlawful stripping of human and civil rights and liberties...”.

The Ombudsman received a complaint from a convict R.T. detained at the EC-166/23 Correctional Facility of the Akmola Oblast Department of Corrections objecting to a decision of the Zerendy District Court to replace the unserved portion of the restriction of liberty sentence with imprisonment. According to R.T., the probation control personnel had inflicted psychological pressure on him. In particular, due to his poor command of the Russian language and unavailability of an interpreter, as well as due to his legal illiteracy, his signatures in some of the documents were obtained through deception.

Dear Mr Mami!

Over the 25 years of its independence, the Republic of Kazakhstan has made significant strides in its development and has attained international recognition. However, according to international observers, the human rights situation requires further improvement. This is also evidenced by the planned reforms of the judiciary system specified in the Plan of the Nation “100 Concrete Steps to Implement the Five Institutional Reforms” which reflects the state’s resolute stance on the enhancement of the effectiveness of justice in the country.

At the VII Judge Conference of the Republic of Kazakhstan, the Head of State stressed that in the ongoing reforms of the country, the judiciary is a crucial link, without modernisation of which other measures might not work.

Experience of the Office of the Human Rights Commissioner in the RK has shown a stable and relatively high rate of inquiries from natural and legal persons voicing their objections to court decisions. Over the reporting period, these inquiries took up almost a quarter of the entire volume of inquiries. In most cases this can be explained by the fact that in any litigation one of the parties loses, as well as low legal literacy of the general populace. On the other hand, the increasing rate of these inquiries confirms the existence of certain violations on the part of judicial authorities in the administration of justice.

In view of the above, without contesting grounds for court rulings and not aiming to interfere with the process of the administration of justice, in accordance with paragraph 25 of the Provision on the Commissioner for Human Rights approved by the Decree of the President of the Republic of Kazakhstan on 19 September 2002 No. 947, I hereby request that, based on the inquiry samples and materials presented herein, you consider the possibility of taking measures within the boundaries of the judicial system to prevent such violations of human and civil rights.

Annexes:
1. Copy of T.M.’s inquiry, 2 pages;
3. Copy of the collective inquiry of the tenants of the 7 Kontinent housing complex located in Astana, 16 Gabdullina St., 4 pages;
4. Copy of M.V.’s inquiry, 2 pages;
5. Copy of K.Ye.’s inquiry, 1 page;
6. Copy of S.Y.’s inquiry, 6 pages;
7. Copy of U.U.’s inquiry, 2 pages;
8. Copy of A.Zh.’s inquiry sent to the email address of the Ombudsman, 3 pages;
9. Copy of O.M.’s inquiry, 3 pages;
10. Copy of the convict V.M.’s inquiry, 7 pages;
11. Copy of the convict S.V.’s inquiry, 5 pages;
12. Copy of the convict R.T.’s inquiry, 2 pages;

Best regards,

Human Rights Ombudsman
in the Republic of Kazakhstan

A. Shakirov

2. Recommendations

Attn.: Minister of Foreign Affairs of the Republic of Kazakhstan
Kasymov K.N.

Dear Mr Kasymov!

The right to pension coverage is one of the important social rights enshrined in the fundamental international documents and the Constitution of the Republic of Kazakhstan.

I receive inquiries from former employees of restructured law enforcement agencies who object to refusals in granting service pensions when moving to another place of residence within the Commonwealth of Independent States.

In accordance with Article 1 of the Treaty on the Procedure for Provision of Pensions and National Insurance to the Staff of Law Enforcement Agencies of the Member States of the Commonwealth of Independent States of 24 December 1993 (“the Treaty”), pensions for the above-mentioned individuals and their families shall be provided in accordance with the legislation of the member state of their residence. Until such time as these parties enact the appropriate legislative acts, this matter shall be resolved under the terms and conditions established by the legislation of the former USSR.

It should be noted that at the time of the Treaty’s enactment, the notion of “the staff of law enforcement agencies” in the former Soviet republics had the same exact meaning and covered the same people. However, currently the system of law enforcement agencies in member states of the Treaty is markedly different, which has also led to a change of the target audience that is classified as the staff of law enforcement agencies.

At the same time, Article 7 of the Basic Agreement on Guarantees of the Rights of Citizens of the Member States of the CIS in the Sphere of Pension Provision of 13 March 1992 establishes that whenever a pensioner moves to another member state of the Agreement, pensions shall be no longer disbursed at the old place of residence if a pension of the same type is provided for in the legislation of the country of the new place of residence of the pensioner.

I received an inquiry from one S.T. who expressed her objection to the fact that the Department of Internal Affairs (DIA) of Karaganda Oblast refused to continue disbursing her service pension on account of her moving to the Russian Federation for permanent residence. The inquirer had
since January 1997 through August 2009 worked at the Karaganda Oblast Department for Combating Economic and Corruption Crimes. On 11 September 2009, the Karaganda Oblast DIA granted her service pension. Afterwards, due to her move to the Russian Federation for permanent residence, the pension payments to S.T. was discontinued.

At present, the inquirer is a citizen of the Russian Federation, lives in Moscow Oblast, and on account of poor health is not able to work. Chief Directorate of the Moscow Oblast Ministry of Internal Affairs of the RF refused to grant her pension because according to the Russian legislation financial police authorities do not belong to the internal affairs authorities. The inquirer appealed this refusal in court, but the Tver District Court of the city of Moscow of 20 May 2015 dismissed her claims for the granting of pension.

In this court decision it is also noted that in accordance with Article 7 of the Basic Agreement on Guarantees of the Rights of Citizens of the Member States of the CIS in the Sphere of Pension Provision, whenever a pensioner moves to another member state of the Agreement, the provision of pensions can be continued by a pension authority at the previous place of residence in the event that the new country of residence does not have legal grounds for awarding a pension of the same type.

In the response your agency gave to the inquirer on 8 January 2016 it reads that in accordance with the Law of the RK of 21 June 2013 “On pension provision in the Republic of Kazakhstan”, in the event of a move for permanent residence to another country, service pension payments shall be disbursed through the month the permanent residence registration is annulled. As such, due to S.T’s move to the Russian Federation for permanent residence, she does not have legal grounds to expect pension payments in the Republic of Kazakhstan.

As another example: an inquiry from one B.V. who was a pensioner of the State Service for the Execution of Sentences under the Government of the Kyrgyz Republic. After moving for permanent residence to Zhambyl Oblast of the Republic of Kazakhstan, the pension unit of the Department of the Correctional System of this Oblast denied him a service pension.

At the request of the national human rights institution, the Committee of the Correctional System of the Ministry of Internal Affairs of the RK (MIA) informed that there are no grounds for the awarding and disbursing of pensions to pensioners who had been employed by the State Service for the Execution of Sentences under the Government of the Kyrgyz Republic in the event of their relocation to a new permanent residence in the Republic of Kazakhstan. B.V. was recommended to seek assistance with this issue at the State Service for the Execution of Sentences under the Government of the Kyrgyz Republic.

Pursuant to the Decree of the President of the Kyrgyz Republic of 24 October 2001 “On measure of further improvement of the penal system of the Kyrgyz Republic”, institutions and agencies of the corrections under the Ministry of Internal Affairs were handed over to the Ministry of Justice of the Kyrgyz Republic. This committee reported that for purposes of resolving the current issues with the pension coverage of former employees of now-restructured law enforcement agencies, the MIA RK, jointly with ministries of internal affairs of the CIS member states were looking into a proposal to introduce appropriate amendments into the Agreement. The proposals were to be presented at the meeting of the Council of the Ministers of Internal Affairs of CIS member states.

However, Kazakhstan delegation’s proposal to introduce changes into the Agreement in order to regulate the procedure for pension coverage of employees of agencies formed as a result of the reorganisation of law enforcement agencies was not approved by the experts on account
of the failure to reach a consensus on the issue. By majority vote, the issue was removed from the agenda of the above-mentioned meeting.

At the same time, the recurring complaints of pension-aged former employees of reorganised law enforcement agencies about refusals to award service pensions upon moving for permanent residence to another CIS nation indicates the need to make a decision on the matter.

It should be noted that the CIS Economic Court, in its decision dated 13 May 2004 “On the interpretation of the Agreement of 24 December 1993” noted that at the time of the adoption of said Agreement, the issue of the reorganisation of the law enforcement system did not exist. The majority of states upon later encountering this issue have resolved the resulting collisions, providing pension coverage to immigrating pensioners, as is evident from the information provided by the ministries of the member states to the Agreement. In some states, however, immigrating pensioners were denied pension coverage due to the fact that prior to retiring they had served in agencies that did not constitute their current systems of internal affairs.

It should be noted that this situation involves a violation of citizens’ rights to pension coverage.

In accordance with the above decision of the CIS Economic Court, in the event of a restructuring of the law enforcement agency system, states’ obligations to provide pensions shall remain intact. When conducting a restructuring of their systems of law enforcement agencies (transferring certain services and units into the structure of other ministries and agencies, or by creating standalone bodies), member states of the Treaty shall define which authorities are to provide pension coverage of pensioners newly arriving to their countries. Along with that, in order to avoid collisions of national legislations, member states should utilise a mechanism established in Article 6 of the Agreement – that is, by entering into bilateral or multilateral agreements.

A decision of the CIS Economic Court of 26 November 2015 establishes that service pension provision to pension-aged ex-employees of law enforcement agencies can be continued by the country of previous residence that previously granted this type of pension. This mechanism is used whenever a state of new residence denies such a pensioner service pension due to non-compliance with the terms of awarding such pensions established in the country (the maximum service age is not reached and/or current length of service not sufficient for admission to pension).

The same court provides as an example a letter of the MIA of the Russian Federation dated 6 October 2015, regarding pensioners from the ranks of law enforcement agencies of the Russian Federation who moved to another CIS member state and were denied pension coverage for reasons cited from the national legislation. According to the document, pension provision to this category of citizens shall be done taking into account the provisions of Article 7 of the Basic Agreement in the Area of Pension Coverage of the CIS Member States of 13 March 1992, using budgetary funds of the Russian Federation.

Certain member states of the Agreement consider the issue of the continuation of service pension provision as associated with the return of former employees of law enforcement agencies to the country of previous residence or do not envisage any legal grounds for the continuation of service pension provision.

The CIS Economic Court notes that the absence of legal grounds for pension provision at the new place of residence does not strip this group of citizens of their right to previously awarded service provision, nor prevents the previous country of residence from paying out the pension.
It then follows that the existing practice of refusing pension provision to pensioners of restructured law enforcement agencies upon moving to a new place of permanent residence within CIS constitutes a violation of their right to pension coverage enshrined in the Constitution and the CIS agreements in the area of pension coverage.

In view of the above, and based on paragraph 25 of the Provision on the Commissioner for Human Rights approved by the Decree of the President of the Republic of Kazakhstan of 19 September 2002 No. 947, for the purpose of protecting the right to pension coverage of pension-aged ex-employees of law enforcement agencies of the Republic of Kazakhstan who move for permanent residence to another member state to the Agreement and are refused service pension coverage for reasons of the national legislation, I humbly request that you consider the possibility of continuing their service pension coverage, or look into another appropriate solution. I kindly ask that you inform me of the results.

Annex: in the text, ____ pages.

Best regards,

Human Rights Ombudsman
in the Republic of Kazakhstan

Attn.: Minister of Education and Science of the Republic of Kazakhstan

Dear Mr Sagadiyev,

Education is fundamental to achieving the goals of the Five Institutional Reforms and the One Hundred Steps put forward by the President of the Republic of Kazakhstan N.A. Nazarbayev, which brings about the priority given to this issue. Thus, the instruction to introduce a five-day school week at schools, given by the President at the opening of the first session of the Parliament of the sixth convocation on 25 March 2016, corresponds to the 76th step of the Plan of the Nation aimed at updating the standards of school education.

From a human rights perspective, this initiative improves the conditions for the enforcement of children’s right for education through optimizing the workload, creating favorable conditions for education, and bringing the education system in line with the standards of the developed countries.

The society and the media start discussions and express various points of view regarding the certain actions taken in this connection by the competent public authorities. Obviously, the order of the Head of State to increase the accountability of the state apparatus in the context in question requires that the activities to implement this order be transparent, and its motivation be exhaustively convincing. This issue becomes especially important in the light of the fact that it affects virtually every family in Kazakhstan. The overwhelming majority of parents and
families of the schoolchildren follow the educational process and changes in the education system.

At the same time, the absence of a visible dialogue with civil society, schools, students and their parents in this process has now become the object for criticism on the part of certain stakeholders.

Strong public reaction was caused by the news that the school year is to be prolonged and the summer vacations at schools are to be reduced. Opposing opinions were expressed among the teachers, parents and other segments of society in this regard. Moreover, they were reported to have started the collection of signatures against this measure using, inter alia, the social networks. The heated debates in the absence of dialogue with the competent authority adversely affect the public image of the introduced measure.

Of course, just as any other directive of the Head of State, this order requires a systematic approach, a preliminary analysis, and a high level of planning and organization. The public authorities shall pay special attention to accurate, well-adjusted and consistent implementation thereof.

It is evident that today the school curricula are overloaded with subjects, some of which may need to be abolished or integrated. However, the essence of the reform on the transition to a five-day academic week shall not be reduced to plain redistribution of the study and vacation days. On the contrary, it shall result from the revision and optimization of the program.

It is also clear that the process of transition to a new format of education shall be an object of a professional scientific study rather than a reason for agitation. It shall be based on the opinions of the competent specialists that take into account age, cultural, climatic and many other factors. In this matter, it is necessary to analyze the best international practices of the countries that have successfully implemented educational reforms. Without denying, for example, a potential connection between the length of the holidays and the level of child crime, it seems that this issue could be solved by developing the availability of children's camps, sports sections, school clubs and other forms of amateur arts in line with strengthening the efforts of the law enforcement agencies, rather than by reducing the time of vacations.

Unfortunately, the Ministry has not yet provided comprehensive information to the public on the results of such analysis, which gives grounds to conclude that such work is not being carried out.

Finally, in view of the above, it seems appropriate to conduct broad and inclusive consultations on this issue, which would provide an opportunity to listen to the opinion of the civil society institutions, as well as children themselves, who, in accordance with Articles 12 and 13 of the Convention on the Rights of the Child, have the right to freely express their opinion and views on all issues affecting the child, taking into account his / her age and maturity. The society is exceptionally sensitive to the lack of openness on the child-related matters.
Dear Erlan Kenzhegaliyevich,

In connection with the foregoing, I ask you to use all possible means to address and analyze the issue under consideration, including in the framework of the public councils under the jurisdiction of the public authorities (at the central level) and parent committees (at the school level), to ensure openness and involvement of the public. Otherwise, the failure to timely and sufficiently develop the required steps can become an obstacle to achieving the set goals.

Best regards,

Human Rights Ombudsman
in the Republic of Kazakhstan       A. Shakirov

Attn.: Minister of Defence
of the Republic of Kazakhstan
Tasmagambetov I.N.

Dear Mr Tasmagambetov,

The proposal, announced publicly by the Ministry of Health and Social Development of the Republic of Kazakhstan on the possible recruitment of the unemployed graduates of the educational institutions in the Armed Forces, including the revival of construction battalions, caused certain response among the society and the mass media.

It is needless to say that this proposal shall be considered as one of the measures to address the problems of unemployment and social activation of the young people. At the same time, in order to overcome these problems, the Head of State has already given specific orders set out in paragraph 88 of the Plan of the Nation “100 Concrete Steps to Implement Five Institutional Reforms”, the “Kazakhstan-2050” Strategy, the Address to the People of Kazakhstan of 30.11.2015, the State Programme for the Development of Education of the Republic of Kazakhstan for 2011–2020 and other policy documents.

One of these orders is the task given by the Head of State to the Government and the local authorities to raise the prestige and popularity of working professions and vocational and technical education that meet the requirements of the state policy of industrialization, having ensured the appropriate adjustments to the professional education.

The implementation of the proposal of the Ministry of Health and Social Development of the Republic of Kazakhstan, subject to a number of conditions that exclude unlawful coercion in accordance with the constitutional norms and international legal obligations of Kazakhstan, could contribute to increasing the social mobility of the young people and solving the problems of employment.
Moreover, from the human rights perspective, the proposed procedure of recruiting for military service can create a false impression of a punishment or residual employment of those who could not find employment in civic life.

Article 36 of the Constitution of the Republic of Kazakhstan directly indicates that the protection of the Republic is a sacred duty and obligation of every citizen. Consequently, service in the Armed Forces shall have the appropriate prestige and respect in the society.

Both the history of our country and the world practice show that such service is one of the universally recognized and effective ways of exercising the rights of citizens in the economic, social and other spheres.

As an example, we can cite the recent Soviet experience, where special and notable quotas for preferential admission to any higher educational institution of the country, including such flagships as Moscow State University of Foreign Affairs, Moscow State University, Moscow Higher Technical School, etc. were provided for excellence in military skill and citizenship training. One could also mention numerous examples of how the military service paved the way for individuals to becoming eminent scientists, engineers, journalists and diplomats.

This experience was implemented consistently, which provided for a close and natural connection between the army and the society. Respect for military duty and army service was instilled at the school age, including through participation in the DOSAAF (Voluntary Association for Assistance to the Army, Aviation and Fleet), the passing of the GTO standards (Ready for Labor and Defence), the All-Union game Zarnitsa, etc.

The contemporary international practice deserves special attention. For example, in the United States, a special contribution to training of the young people for the army is made by the Scout Movement, which aims at fostering patriotism, developing discipline and civic responsibility. The organization of scouts has branches in all states of the country, covering millions of boys and girls of the age from 8 to 18.

In the United Kingdom this task is handled similarly within the framework of social and training programmes of the so-called Cadet Forces, which include young people from 12 to 22 years old.

In Israel the general initial military training of schoolchildren is carried out within the framework of the youth paramilitary organization GADNA (the abbreviation of the Hebrew words “Youth Battalions”). Every year, high school students undergo two-week military trainings, led by officers and sergeants, where they wear army uniforms and get trained in shooting, physical training and drilling.

Undoubtedly, today the Armed Forces of Kazakhstan meet all modern requirements and challenges. According to the experts, they are rightfully acknowledged to be most effective and defensible not only in the former Soviet Union.

I believe that the army, as a “school of life,” could also play an important role in solving social problems by instilling in the younger generation a sense of patriotism, braveness and nobility.
Of course, in order to accomplish such a task, we need a significant support of the state both in the institutional, legal and material terms.

At the same time, in the context of the foregoing, there are also a number of factors that require serious analysis and solution.

In accordance with the Law of the Republic of Kazakhstan “On military service and the status of servicemen,” the conscription into the Armed Forces is carried out to the extent sufficient for the Armed Forces. However, there are certain problems associated with significant imbalance in the number of conscripts by regions. For example, in the Akmola oblast, the number of conscripts in 2015 amounted to more than 27% of the total number of citizens to be recruited, while in the South Kazakhstan oblast this figure is more than 10 times lower, only 2.5%. It should be noted that the above-mentioned imbalance is observed in the regions that require, in the context of the recent events, an increased attention in preventing the spread of various radical ideologies (South Kazakhstan oblast – 2.5%, Kyzylorda oblast – 5.4%, Aktobe oblast – 8.2%).

Certain aspects of the applicable Law on Military Service deserve special attention and, possibly, amendment or revision. Thus, the fact that the law virtually allows for the paid exemption from military service generates a number of issues related to human rights, pertaining social equality in the implementation of this mechanism.

According to the members of the military, the political educational work with the adolescents and youth, which has to be interdepartmental, requires improvement. 2,193 military patriotic clubs established at schools and lyceums across the country, function on a voluntary basis in the absence of an appropriate legal framework and systemic funding.

Negative reaction is evoked by the cases of death of soldiers in the Armed Forces, usually attributable to suicide and causing anxiety and mistrust of the society. At the same time, the death of a military member as a result of suicide does not at all relieve the responsibility of the state, which undertakes to protect the rights, including the right to life, of every conscript of the Armed Forces. Every incident of suicide in the army shall raise the issue of professional suitability of all officials responsible for the soldiers.

Military service shall create conditions for further professional and personal development of the citizens, without giving grounds for a sense of “disengagement” with the army and, accordingly, with the public authorities, which has negative consequences for the whole society. It can become one of the most effective social elevators for the young people, including those from rural areas, in order to prevent them from falling into criminal and extremist circles.

Former army conscripts shall form one of the active groups of the Kazakh society, which makes a positive contribution to the development of the country.

The issues related to military service and the subsequent socialization of the young people have become paramount today and require the improvement of the activities of the competent authorities. The most important is to establish a systematic interaction between the Ministry of Defence, the Ministry of Health and Social Development, and the Ministry of Education and Science. The interaction shall also be supported by other central and local public agencies.
In particular, the Head of State especially pointed out that it is necessary to systematize work in the sphere of military training and patriotic upbringing, and to establish communication between the army and the civil population.

Summarizing the above, I am approaching you with a proposal to consider the development of a comprehensive programme that would include the preparation for military service, enhancing its prestige, improving the interaction of defence bodies with the society, protecting the rights of military members, including their life and health, their full integration in the society, including further socialization, employment, higher and professional education, with the coverage of both military members and persons preparing for military service and those who completed it.

Best regards,

Human Rights Ombudsman in the Republic of Kazakhstan

A. Shakirov

Attn.: Minister of Health and Social Development of the Republic of Kazakhstan

Duysenova T.K.

Dear Mrs Duysenova,

The proposal, announced publicly by the Ministry of Health and Social Development of the Republic of Kazakhstan on the possible recruitment of the unemployed graduates of the educational institutions in the Armed Forces, including in connection with the revival of construction battalions, caused certain response among the society and the mass media.

It is needless to say that this proposal shall be considered as one of the measures to address the problems of unemployment and social activation of the young people. At the same time, in order to overcome these problems, the Head of State has already given specific orders set out in paragraph 88 of the Plan of the Nation “100 Concrete Steps to Implement Five Institutional Reforms”, the “Kazakhstan-2050” Strategy, the Address to the People of Kazakhstan of 30.11.2015, the State Programme for the Development of Education of the Republic of Kazakhstan for 2011–2020 and other policy documents.

One of these orders is the task given by the Head of State to the Government and the local authorities to raise the prestige and popularity of working professions and vocational and technical education that meet the requirements of the state policy of industrialization, having ensured the appropriate adjustments to the professional education.

The implementation of the proposal of the Ministry of Health and Social Development of the Republic of Kazakhstan, subject to a number of conditions that exclude unlawful coercion in accordance with the constitutional norms and international legal obligations of Kazakhstan, could contribute to increasing the social mobility of the young people and solving the problems of employment.
Moreover, from the human rights perspective, the proposed procedure of recruiting for military service can create a false impression of a punishment or residual employment of those who could not find employment in civic life.

Article 36 of the Constitution of the Republic of Kazakhstan directly indicates that the protection of the Republic is a sacred duty and obligation of every citizen. Consequently, service in the Armed Forces shall have the appropriate prestige and respect in the society.

Both the history of our country and the world practice show that such service is one of the universally recognized and effective ways of exercising the rights of citizens in the economic, social and other spheres.

As an example, we can cite the recent Soviet experience, where special and notable quotas for preferential admission to any higher educational institution of the country, including such flagships as Moscow State University of Foreign Affairs, Moscow State University, Moscow Higher Technical School, etc. were provided for excellence in military skill and citizenship training. One could also mention numerous examples of how the military service paved the way for individuals to becoming eminent scientists, engineers, journalists and diplomats.

This experience was implemented consistently, which provided for a close and natural connection between the army and the society. Respect for military duty and army service was instilled at the school age, including through participation in the DOSAAF (Voluntary Association for Assistance to the Army, Aviation and Fleet), the passing of the GTO standards (Ready for Labor and Defence), the All-Union game Zarnitsa, etc.

The contemporary international practice deserves special attention. For example, in the United States, a special contribution to training of the young people for the army is made by the Scout Movement, which aims at fostering patriotism, developing discipline and civic responsibility. The organization of scouts has branches in all states of the country, covering millions of boys and girls of the age from 8 to 18.

In the United Kingdom this task is handled similarly within the framework of social and training programs of the so-called Cadet Forces, which include young people from 12 to 22 years old.

In Israel the general initial military training of schoolchildren is carried out within the framework of the youth paramilitary organization GADNA (the abbreviation of the Hebrew words “Youth Battalions”). Every year, high school students undergo two-week military trainings, led by officers and sergeants, where they wear army uniforms and get trained in shooting, physical training and drilling.

Undoubtedly, today the Armed Forces of Kazakhstan meet all modern requirements and challenges. According to the experts, they are rightfully acknowledged to be most effective and defensible not only in the former Soviet Union.

I believe that the army, as a “school of life,” could also play an important role in solving social problems by instilling in the younger generation a sense of patriotism, braveness and nobility.

Of course, in order to accomplish such a task, we need a significant support of the state both in the institutional, legal and material terms.

At the same time, in the context of the foregoing, there are also a number of factors that require serious analysis and solution.
In accordance with the Law of the Republic of Kazakhstan “On military service and the status of servicemen,” the conscription into the Armed Forces is carried out to the extent sufficient for the Armed Forces. However, there are certain problems associated with significant imbalance in the number of conscripts by regions. For example, in the Akmola oblast, the number of conscripts in 2015 amounted to more than 27% of the total number of citizens to be recruited, while in the South Kazakhstan oblast this figure is more than 10 times lower, only 2.5%. It should be noted that the above-mentioned imbalance is observed in the regions that require, in the context of the recent events, an increased attention in preventing the spread of various radical ideologies (South Kazakhstan oblast – 2.5%, Kyzylorda Oblast – 5.4%, Aktobe Oblast – 8.2%).

Certain aspects of the applicable Law on Military Service deserve special attention and, possibly, amendment or revision. Thus, the fact that the law virtually allows for the paid exemption from military service generates a number of issues related to human rights, pertaining social equality in the implementation of this mechanism.

According to the members of the military, the political educational work with the adolescents and youth, which has to be interdepartmental, requires improvement. 2,193 military patriotic clubs established at schools and lyceums across the country, function on a voluntary basis in the absence of an appropriate legal framework and systemic funding.

Negative reaction is evoked by the cases of death of soldiers in the Armed Forces, usually attributable to suicide and causing anxiety and mistrust of the society. At the same time, the death of a military member as a result of suicide does not at all relieve the responsibility of the state, which undertakes to protect the rights, including the right to life, of every conscript of the Armed Forces. Every incident of suicide in the army shall raise the issue of professional suitability of all officials responsible for the soldiers.

Military service shall create conditions for further professional and personal development of the citizens, without giving grounds for a sense of “disengagement” with the army and, accordingly, with the public authorities, which has negative consequences for the whole society. It can become one of the most effective social elevators for the young people, including those from rural areas, in order to prevent them from falling into criminal and extremist circles.

Former army conscripts shall form one of the active groups of the Kazakh society, which makes a positive contribution to the development of the country.

The issues related to military service and the subsequent socialization of the young people have become paramount today and require the improvement of the activities of the competent authorities. The most important is to establish a systematic interaction between the Ministry of Defence, the Ministry of Health and Social Development, and the Ministry of Education and Science. The interaction shall also be supported by other central and local public agencies.

In particular, the Head of State especially pointed out that it is necessary to systematize work in the sphere of military training and patriotic upbringing, and to establish communication between the army and the civil population.
Summarizing the above, I am approaching you with a proposal to consider the development of a comprehensive programme that would include the preparation for military service, enhancing its prestige, improving the interaction of defence bodies with the society, protecting the rights of military members, including their life and health, their full integration in the society, including further socialization, employment, higher and professional education, with the coverage of both military members and persons preparing for military service and those who completed it.

Best regards,

Human Rights Ombudsman in the Republic of Kazakhstan
A. Shakirov

### 3. Statistical Data on Handling Inquiries

#### Number of Written and Verbal Inquiries

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Inquiries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written inquiries</td>
<td>1070</td>
</tr>
<tr>
<td>Verbal inquiries</td>
<td>234</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1304</strong></td>
</tr>
</tbody>
</table>

#### Results of Consideration of Inquiries

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Inquiries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation of human rights is not established</td>
<td>413</td>
</tr>
<tr>
<td>The rights are restored by the public agency</td>
<td>94</td>
</tr>
<tr>
<td>The claims of the applicant are settled, but not in full</td>
<td>21</td>
</tr>
<tr>
<td><strong>Infringement of rights is confirmed, but the rights are not restored</strong></td>
<td><strong>20</strong></td>
</tr>
</tbody>
</table>

Percentage of the positively considered inquiries to the total number of the accepted inquiries is **18.85%**
**Inquiries not Accepted for Consideration**

<table>
<thead>
<tr>
<th>Name</th>
<th>Number of Inquiries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anonymous</td>
<td>1</td>
</tr>
<tr>
<td>Ambiguous</td>
<td>1</td>
</tr>
<tr>
<td>Wrong addressee</td>
<td>8</td>
</tr>
<tr>
<td>Letter of proposal</td>
<td>2</td>
</tr>
<tr>
<td>Documents returned</td>
<td>73</td>
</tr>
<tr>
<td>Inquiries recalled</td>
<td>1</td>
</tr>
<tr>
<td>Withdrawal request</td>
<td>2</td>
</tr>
<tr>
<td>Letter of gratitude</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>98</strong></td>
</tr>
<tr>
<td>Repeated inquiries</td>
<td>79</td>
</tr>
</tbody>
</table>

**Information about Complainants**

<table>
<thead>
<tr>
<th>Type of Inquiries</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual addressed by women</td>
<td>440</td>
</tr>
<tr>
<td>Individual addressed by men</td>
<td>479</td>
</tr>
<tr>
<td>Collective</td>
<td>60</td>
</tr>
<tr>
<td>number of signatures thereon</td>
<td>1541</td>
</tr>
<tr>
<td>Inquiries addressed by:</td>
<td></td>
</tr>
<tr>
<td>parliamentary deputies of the Republic of Kazakhstan</td>
<td>1</td>
</tr>
<tr>
<td>NGOs</td>
<td>32</td>
</tr>
<tr>
<td>other organizations</td>
<td>58</td>
</tr>
<tr>
<td>Verbal inquiries</td>
<td>234</td>
</tr>
<tr>
<td>Total number of citizens who addressed their inquiries to the Ombudsman</td>
<td>2785</td>
</tr>
</tbody>
</table>

**Human Rights Ombudsmen from other countries who addressed their inquiries – 37**

**Written Inquiries by Regions**

<table>
<thead>
<tr>
<th>Region</th>
<th>Number of Inquiries</th>
<th>In Percentage to the Number of Applicants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Astana</td>
<td>160</td>
<td>14.9</td>
</tr>
<tr>
<td>Almaty</td>
<td>117</td>
<td>10.9</td>
</tr>
<tr>
<td>Akmola Oblast</td>
<td>58</td>
<td>5.4</td>
</tr>
<tr>
<td>Aktobe Oblast</td>
<td>33</td>
<td>3.1</td>
</tr>
<tr>
<td>Almaty Oblast</td>
<td>88</td>
<td>8.2</td>
</tr>
<tr>
<td>Atyrau Oblast</td>
<td>16</td>
<td>1.5</td>
</tr>
<tr>
<td>East Kazakhstan Oblast</td>
<td>69</td>
<td>6.4</td>
</tr>
<tr>
<td>Zhambyl Oblast</td>
<td>67</td>
<td>6.3</td>
</tr>
<tr>
<td>West Kazakhstan Oblast</td>
<td>16</td>
<td>1.5</td>
</tr>
<tr>
<td>Karaganda Oblast</td>
<td>73</td>
<td>6.8</td>
</tr>
<tr>
<td>Region</td>
<td>Number of Inquiries</td>
<td>In Percentage to the Number of Applicants</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Kostanay Oblast</td>
<td>72</td>
<td>6.7</td>
</tr>
<tr>
<td>Kyzylorda Oblast</td>
<td>42</td>
<td>3.9</td>
</tr>
<tr>
<td>Mangystau Oblast</td>
<td>19</td>
<td>1.8</td>
</tr>
<tr>
<td>Pavlodar Oblast</td>
<td>48</td>
<td>4.5</td>
</tr>
<tr>
<td>North Kazakhstan Oblast</td>
<td>42</td>
<td>3.9</td>
</tr>
<tr>
<td>South Kazakhstan Oblast</td>
<td>81</td>
<td>7.6</td>
</tr>
<tr>
<td>From abroad</td>
<td>69</td>
<td>6.4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1070</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Public Agencies and Organizations to Which the Inquiries Were Addressed**

<table>
<thead>
<tr>
<th>Name of the Agency</th>
<th>Number of Inquiries</th>
<th>Number of Responses Provided out of Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Prosecutor’s Office</td>
<td>527</td>
<td>53</td>
</tr>
<tr>
<td>Ministry of Internal Affairs</td>
<td>325</td>
<td>33</td>
</tr>
<tr>
<td>Ministry of Health and Social Development</td>
<td>59</td>
<td>4</td>
</tr>
<tr>
<td>Correctional System Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan</td>
<td>31</td>
<td></td>
</tr>
<tr>
<td>Akimats (local administration bodies)</td>
<td>118</td>
<td>14</td>
</tr>
<tr>
<td>Oblast Directorates of the State Labor Inspection</td>
<td>65</td>
<td>6</td>
</tr>
<tr>
<td>Ministry of Justice</td>
<td>100</td>
<td>10</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>14</td>
<td>2</td>
</tr>
<tr>
<td>State Revenue Committee of the Ministry of Finance</td>
<td>29</td>
<td>2</td>
</tr>
<tr>
<td>Ministry for Religious and Civil Society Affairs</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Ministry of Education and Science</td>
<td>19</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td>20</td>
<td>2</td>
</tr>
<tr>
<td>Ministry of Defence</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Ministry of National Economy</td>
<td>15</td>
<td>2</td>
</tr>
<tr>
<td>Ministry of Agriculture</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Culture and Sport</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Ministry of Information and Communications</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Ministry of Investments and Development</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Agency for Civil Service Affairs and Anti-Corruption</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>National Anti-Corruption Bureau</td>
<td>48</td>
<td>9</td>
</tr>
<tr>
<td>National Security Committee</td>
<td>23</td>
<td></td>
</tr>
<tr>
<td>Maslikhats (local representative bodies)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Accounts Committee</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Banking Ombudsman</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Bar Association of Kazakhstan</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>National Guard</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>National Chamber of Entrepreneurs Atameken</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Republican Notary Chamber</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Courts</td>
<td>45</td>
<td>2</td>
</tr>
<tr>
<td>Public Record Office</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Banks</td>
<td>17</td>
<td>1</td>
</tr>
<tr>
<td>Public agencies of foreign states</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Name of the Agency</td>
<td>Number of Inquiries</td>
<td>Number of Responses Provided out of Time</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>TOO, AO, OAO, etc. (partnerships, joint stock companies)</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>NGOs, PMCs</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1526</td>
<td>147</td>
</tr>
</tbody>
</table>

**Nature of Questions in Inquiries**

<table>
<thead>
<tr>
<th>No.</th>
<th>Nature of Questions</th>
<th>Number of Questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Administration issues in central executive bodies</td>
<td>87</td>
</tr>
<tr>
<td>2</td>
<td>Administration issues in local executive and representative bodies</td>
<td>86</td>
</tr>
<tr>
<td>3</td>
<td>Disagreement with court decisions</td>
<td>270</td>
</tr>
<tr>
<td>4</td>
<td>Actions and omissions of judicial authorities</td>
<td>29</td>
</tr>
<tr>
<td>5</td>
<td>Non-compliance with court decisions</td>
<td>36</td>
</tr>
<tr>
<td>6</td>
<td>The right to receive competent legal assistance</td>
<td>15</td>
</tr>
<tr>
<td>7</td>
<td>Appeal for pardon</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td>Actions and omissions of law enforcement agencies</td>
<td>332</td>
</tr>
<tr>
<td>9</td>
<td>Torture, violence, and other cruel or degrading treatment and punishment</td>
<td>97</td>
</tr>
<tr>
<td>10</td>
<td>Actions and omissions of prison authorities</td>
<td>101</td>
</tr>
<tr>
<td>11</td>
<td>Transfer from one penitentiary facility to another</td>
<td>18</td>
</tr>
<tr>
<td>12</td>
<td>Release on parole</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>Hazing in the Armed Forces of the Republic of Kazakhstan</td>
<td>2</td>
</tr>
<tr>
<td>14</td>
<td>Freedom of conscience</td>
<td>12</td>
</tr>
<tr>
<td>15</td>
<td>The right to privacy, personal and family secrets, protection of honor and dignity</td>
<td>2</td>
</tr>
<tr>
<td>16</td>
<td>The right to privacy of personal deposits and savings, correspondence, telephone conversations, postal and telegraphic messages</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>Freedom of speech and creativity</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>The right to receive information</td>
<td>59</td>
</tr>
<tr>
<td>19</td>
<td>The right to free movement</td>
<td>8</td>
</tr>
<tr>
<td>20</td>
<td>The right to private property</td>
<td>8</td>
</tr>
<tr>
<td>21</td>
<td>The right to participate in the management of state affairs</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>The right to elect and be elected</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>The right to access to public service</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>The right to freedom of association and assembly</td>
<td>5</td>
</tr>
<tr>
<td>25</td>
<td>Discrimination on the basis of nationality</td>
<td>3</td>
</tr>
<tr>
<td>26</td>
<td>Discrimination due to psychiatric illness</td>
<td>13</td>
</tr>
<tr>
<td>27</td>
<td>Issues related to registration at place of residence, citizenship, residence permit, registration of identity documents</td>
<td>30</td>
</tr>
<tr>
<td>28</td>
<td>Pensions accounting and payment</td>
<td>28</td>
</tr>
<tr>
<td>29</td>
<td>Social security for various reasons</td>
<td>32</td>
</tr>
<tr>
<td>30</td>
<td>The rights of persons with disabilities</td>
<td>23</td>
</tr>
<tr>
<td>31</td>
<td>Housing right</td>
<td>74</td>
</tr>
<tr>
<td>32</td>
<td>Land entitlement</td>
<td>15</td>
</tr>
<tr>
<td>33</td>
<td>Labor rights</td>
<td>74</td>
</tr>
<tr>
<td>34</td>
<td>The right to a healthy environment</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Issues of rehabilitation of victims of mass political repressions</td>
<td>1</td>
</tr>
</tbody>
</table>
REPORT on the activities of the Human Rights Commissioner in the Republic of Kazakhstan in 2016

<table>
<thead>
<tr>
<th>No.</th>
<th>Nature of Questions</th>
<th>Number of Questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>The right to protection of health</td>
<td>47</td>
</tr>
<tr>
<td>37</td>
<td>Consumer rights</td>
<td>11</td>
</tr>
<tr>
<td>38</td>
<td>The right to education</td>
<td>5</td>
</tr>
<tr>
<td>39</td>
<td>The rights of the child</td>
<td>81</td>
</tr>
<tr>
<td>40</td>
<td>The rights of women</td>
<td>11</td>
</tr>
<tr>
<td>41</td>
<td>The rights of oralmans</td>
<td>1</td>
</tr>
<tr>
<td>42</td>
<td>The rights of entrepreneurs</td>
<td>10</td>
</tr>
<tr>
<td>43</td>
<td>Violation of the rights of the citizens of Kazakhstan abroad</td>
<td>6</td>
</tr>
<tr>
<td>44</td>
<td>Complaints against actions of legal entities without state participation</td>
<td>55</td>
</tr>
<tr>
<td>45</td>
<td>Issues of relationships between individuals</td>
<td>58</td>
</tr>
<tr>
<td>46</td>
<td>Letters with requests of their communication to other public authorities</td>
<td>2</td>
</tr>
<tr>
<td>47</td>
<td>Proposals of amendments and additions to the legislation</td>
<td>1</td>
</tr>
<tr>
<td>48</td>
<td>Other</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>1785</td>
</tr>
</tbody>
</table>

Public Agencies Referred to in the Inquiries and Recommendations

<table>
<thead>
<tr>
<th>Public Agency</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>1</td>
</tr>
<tr>
<td>Supreme Court</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Education and Science</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Internal Affairs</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Defence</td>
<td>1</td>
</tr>
<tr>
<td>Ministry of Health and Social Development</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>6</td>
</tr>
</tbody>
</table>


The city of Almaty 04.03.2016

Monitoring visit of a penitentiary facility by the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov:
- Medium security facility LA-155/6 (for children)

Mangystau oblast – the city of Aktau 27.06. – 01.07.2016

Monitoring visits of several facilities by Senior Expert of the National Centre for Human Rights A.K. Urazbayeva:
- Centre for adaptation of minors
- Regional special boarding school for children with deviant behaviour

Zhambyl oblast – Korday border crossing point 02.09.2016

Monitoring visit of Korday border crossing point (in Zhambyl oblast) by Senior Experts of the National Centre for Human Rights D.E. Ospanova and G.A. Aukasheva
Atyrau oblast – the city of Atyrau 07 – 08.11.2016
Monitoring visits of medical and social facilities by Head of the Department R.A. Rakhimov and Senior Expert of the National Centre for Human Rights D.E. Shoranov:
• Public Institution “Children’s home specialized for children with organic lesions of the central nervous system”
• Akbota children’s home
• Youth house
• Atyrau oblast boarding school for mentally retarded children
• Public Institution “Atyrau oblast home for the elderly and disabled”

Kostanay oblast – the city of Kostanay 07 – 08.11.2016
Monitoring visits of medical and social facilities by Senior Experts of the National Centre for Human Rights A.K. Urazbayeva and D.M. Shokanova:
• Municipal Public Institution “Kostanay children’s home Dolphin”
• Kostanay oblast children’s home
• Kostanay oblast youth house
• Public Institution “Kostanay children’s psycho-neurological boarding house of the Department of Employment Coordination and Social Programs under the Akimat of Kostanay oblast”
• Public Institution “Kostanay psycho-neurological boarding house”

Kyzylorda oblast – the city of Kyzylorda 10 – 11.11.2016
Monitoring visits of medical and social facilities by Senior Expert of the National Centre for Human Rights G.A. Aukasheva and Expert A. Baytursyn:
• Municipal Public Institution “Oblast specialized children’s home”
• Boarding school named after Makarenko
• Centre of social adaptation of youth
• Municipal Public Institution “Children’s psycho-neurological boarding house of the Department of Employment Coordination and Social Programmes of Kyzylorda oblast”
• Municipal Public Institution “Home of the general type for the elderly and disabled of the Department of Employment Coordination and Social Programs of Kyzylorda oblast”

Mangystau oblast – the city of Aktau 10 – 12.11.2016
Monitoring visits of several facilities by Senior Expert of the National Centre for Human Rights A.K. Urazbayeva:
• Centre for support of child victims and witnesses of crime on the basis of Meyerim Public Association
• Specialized inter-distRICT juvenile court of Mangystau oblast

In accordance with the legislation on the National Preventive Mechanism (hereinafter – the NPM), the Human Rights Commissioner in the Republic of Kazakhstan coordinates the activities of the NPM participants, whereby 680 monitoring visits (including 15 special visits) were carried out in 2016 to various facilities, including:
• temporary detention facilities – 156;
• penitentiary facilities and pretrial detention facilities of the Ministry of Internal Affairs – 135;
• reception centres – 24;
• special detention centres – 31;
• centres for adaptation of minors – 23;
• out-patient psychiatric facilities – 39;
• narcological dispensaries – 39;
• TB dispensaries – 89;
• special educational institutions – 10;
• pretrial detention facilities of the National Security Committee – 5;
• military detention facilities of the Ministry of Defence – 9;
• police stations – 60;
• regional Internal Affairs Departments – 60.

5. Participation of the Human Rights Commissioner and Ombudsman’s Office in Public Activities

<table>
<thead>
<tr>
<th>Participation</th>
<th>Event Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.S. Kypshakbayev in the round table discussion of the results of the research “Study of the level of tolerance to the LGBT community in Kazakhstan”</td>
<td>12 January, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the interdepartmental working group on preparation of information for the protection of the first periodic report on the fulfillment of the obligations of the Republic of Kazakhstan under the Convention for the Protection of All Persons from Enforced Disappearance</td>
<td>14 January, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the Scientific-Practical Conference “Problems of the formation of a strong and successful state in the conditions of a new global reality”</td>
<td>20 January, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A. Baytursyn in the meeting of the working group on the preparation of the Law of the Republic of Kazakhstan “On amendments and additions to the Code of the Republic of Kazakhstan on Administrative Offences”</td>
<td>21 January, Astana</td>
</tr>
<tr>
<td>Participation of the head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Consultative and Advisory Body “Dialogue platform on human dimension”</td>
<td>22 January, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Shoranov in the workshop “Resolution of disputes related to restricting access to information on the Internet. International experience”</td>
<td>22 January, Astana</td>
</tr>
<tr>
<td>Meeting of the Commission on Election of Coordinating Council Members under the Human Rights Commissioner</td>
<td>27 January, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the XVII Congress of Nur Otan Party</td>
<td>29 January, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the expanded meeting of the Board of the Ministry of Justice of the Republic of Kazakhstan on the results of 2015 and the definition of the Office tasks for 2016</td>
<td>5 February, Astana</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A. Baytursyn in the discussion “Relevant issues of compliance with Article 14 of the International Covenant on Civil and Political Rights: trends and prospects”</td>
<td>5 February</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights A.K. Urazbayeva and D.M. Shokanova in the round table “Practice of application of the legislation on crimes and prevention of domestic violence in Kazakhstan”</td>
<td>10 February</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnii in the round table “Problems of providing free legal assistance to victims of trafficking in human beings”</td>
<td>11 February</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnii and G.A. Aukasheva in the round table “Quality of life of people with disabilities”</td>
<td>16 February</td>
</tr>
<tr>
<td>Meeting of the Expert Council under the Human Rights Commissioner in the Republic of Kazakhstan</td>
<td>19 February</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the Coordinating Meeting on the practical implementation of probation for minors in the format of an extraordinary expanded meeting of the Commission on Minors' Affairs</td>
<td>22 February</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in presentation of the results of the family support services documenting</td>
<td>24 February</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnii and A.K. Urazbayeva in the Conference “Cross-sectoral approaches to enforcement of the rights of minors in Kazakhstan: gender aspect”</td>
<td>25 February</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the meeting of the Legal Policy Council under the President of the Republic of Kazakhstan</td>
<td>25 February</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the meeting of the Commission on Pardons under the President of the Republic of Kazakhstan</td>
<td>26 February</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnii in the 388th meeting of the Interdepartmental Commission on Legislative Drafting Activities</td>
<td>29 February</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights R.S. Kypshakbayev and D.E. Ospanova in the training on monitoring of detention facilities and police stations</td>
<td>13-16 March</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the training on monitoring of detention facilities and police stations and the Experts’ Conference “Means of civil-legal protection of victims of torture and ill-treatment”</td>
<td>13-18 March</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnii in the meeting of the Coordinating Council on Interaction with NGOs under the competent authority</td>
<td>14 March</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnii in the expanded meeting of the NGO Council under the Ministry of Education and Science of the Republic of Kazakhstan</td>
<td>15 March</td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Interdepartmental Commission on Combating Illegal Export, Import and Trafficking in Human Beings</td>
<td>25 March, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the round table “The UN Convention on the Rights of the Child as an international mechanism for the protection of children's rights”</td>
<td>31 March, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 390th meeting of the Interdepartmental Commission on Legislative Drafting Activities</td>
<td>5 April, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A. Baytursyn, in a videoconference meeting to discuss recommendations on the ICCPR prepared by the international NGOs and the civil society of the Republic of Kazakhstan</td>
<td>15 April, Astana</td>
</tr>
<tr>
<td><strong>Meeting of the Coordinating Council under the Commissioner for Human Rights in the Republic of Kazakhstan on the NPM issues</strong></td>
<td>15 April, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the International Conference “On the preliminary results of the implementation of the Strategy for Gender Equality in the Republic of Kazakhstan for 2006–2016”</td>
<td>22 April, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the interdepartmental working group on the issues of probation</td>
<td>25 April, Astana</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnyi and G.A. Aukasheva in the report meeting of the Minister of Education and Science of the Republic of Kazakhstan</td>
<td>27 April, Astana</td>
</tr>
<tr>
<td>Public speech of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi as lecturer at the Academy of Public Administration under the President of the Republic of Kazakhstan</td>
<td>27 April, Astana</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnyi and A.K. Urazbayeva in the meeting of the working group to discuss the methodology and scope of the study in the field of justice and domestic violence against children “Knowledge, attitude and practice”</td>
<td>28 April, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in a memorial dinner in connection with the death anniversary of A.V. Konstantinov</td>
<td>29 April, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the presentation of the research project results “Exploring the experiences of female leaders in civil service in Kazakhstan” organized by the Graduate Scholl of Public Policy of Nazarbayev University</td>
<td>29 April, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the meeting of the working group of the Committee on Statistics of the Ministry of National Economy of the Republic of Kazakhstan on systematization of statistical indicators characterizing the situation of children</td>
<td>29 April, Astana</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnyi and R.S. Kypshakbayev in the meeting of the Consultative and Advisory Body of the Ministry of Foreign Affairs of the Republic of Kazakhstan “Dialogue platform on human dimension”</td>
<td>3 May, Astana</td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group on improving the procedure for release and use of the information of special surveys</td>
<td>4 May, Astana</td>
</tr>
<tr>
<td>Presentation of the Consolidated Report on the results of preventive visits in 2015</td>
<td>5 May, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in a gala concert dedicated to the Defender’s Day</td>
<td>6 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the training for the NPM participants in report writing following the preventive visits</td>
<td>6–7 May, Pavlodar</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in a wreath-laying ceremony at the Victory Monument</td>
<td>9 May, Astana</td>
</tr>
<tr>
<td>Speech of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi with a report on the progress of arrangement of records management and departmental archives in the Archive of the President of the Republic of Kazakhstan</td>
<td>10–11 May, Almaty</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the Scientific-Practical Conference “Ensuring the rights of the individual in modern conditions”</td>
<td>12 May, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Public Council on the Activities of Justice Agencies</td>
<td>12 May, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the teleconference on the issues of the national preventive mechanism</td>
<td>13 May, Astana</td>
</tr>
<tr>
<td>Lecture of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi for the employees of the National Security Committee on the issue of activity of the Human Rights Commissioner in accordance with the international standards of human rights and freedoms</td>
<td>17 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the meeting of the interdepartmental working group on the development of a unified position on the issue of legislative empowerment of correctional facilities with the right to produce goods, works and services for the purpose of the employment of convicts</td>
<td>17 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the meeting of the Coordinating Council on Combating the Worst Forms of Child Labor</td>
<td>18 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the round table on the issue of reforming of the specialized institutions of education for children with deviant behaviour</td>
<td>20 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the round table on prevention of torture and other inhuman, degrading treatment and punishment</td>
<td>20 May, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the extended meeting of the Academic Council dedicated to the 20th anniversary of the L.N. Gumilyov Eurasian National University</td>
<td>25 May, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Maryina in the meeting on improving the archive-keeping</td>
<td>25 May, Astana</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Presentation of the Report on the activities of the Human Rights Commissioner</td>
<td>27 May,</td>
</tr>
<tr>
<td>in the Republic of Kazakhstan in 2015</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights</td>
<td>1 June,</td>
</tr>
<tr>
<td>V.A. Kalyuzhnyi and R.S. Kypshakbayev in the meeting of the Consultative and</td>
<td>Astana</td>
</tr>
<tr>
<td>Advisory Body of the Ministry of Foreign Affairs of the Republic of Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>“Dialogue platform on human dimension”</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A.</td>
<td>3 June,</td>
</tr>
<tr>
<td>Maryina in the seminar-meeting on interpretation of the new legislation and the</td>
<td>Astana</td>
</tr>
<tr>
<td>newly adopted acts related to civil service</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A.</td>
<td>8 June,</td>
</tr>
<tr>
<td>Maryina in the meeting of the Minister for Civil Service Affairs of the Republic</td>
<td>Astana</td>
</tr>
<tr>
<td>of Kazakhstan with the population</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.</td>
<td>9 June,</td>
</tr>
<tr>
<td>Baytursyn in SAP Forum “Astana on the way to the digital economy”</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E.</td>
<td>14–15 June,</td>
</tr>
<tr>
<td>Ospanova in the training in effective and independent investigation of allegations</td>
<td>Almaty</td>
</tr>
<tr>
<td>of torture</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the meeting of</td>
<td>16 June,</td>
</tr>
<tr>
<td>the Legal Policy Council under the President of the Republic of Kazakhstan</td>
<td>Astana</td>
</tr>
<tr>
<td>Speech of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the</td>
<td>16 June,</td>
</tr>
<tr>
<td>XVIII meeting of the Interdepartmental Commission on Affairs of Minors and</td>
<td>Astana</td>
</tr>
<tr>
<td>Protection of Their Rights</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the 1st</td>
<td>17 June,</td>
</tr>
<tr>
<td>session of the Parliament of the Republic of Kazakhstan of the 6th convocation</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the Commission</td>
<td>17 June,</td>
</tr>
<tr>
<td>on Pardons under the President of the Republic of Kazakhstan</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K.</td>
<td>20–21 June,</td>
</tr>
<tr>
<td>Urazbayeva in the training for the supervisors of the Data Processing Centre of</td>
<td>Astana</td>
</tr>
<tr>
<td>the Committee on Statistics of the Ministry of National Economy of the Republic</td>
<td></td>
</tr>
<tr>
<td>of Kazakhstan in data collection</td>
<td></td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights R.A.</td>
<td>20 June,</td>
</tr>
<tr>
<td>Rakhimov and K.M. Agbayeva in the 12th meeting of the Republican Budget</td>
<td>Astana</td>
</tr>
<tr>
<td>Commission under the chairmanship of the Prime Minister of the Republic of</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan on consideration of the budget requests for 2017 – 2019</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head and the employee of the National Centre for Human Rights</td>
<td>24 June,</td>
</tr>
<tr>
<td>V.A. Kalyuzhnyi and A.K. Urazbayeva in the Republican Conference on the</td>
<td>Astana</td>
</tr>
<tr>
<td>implementation of recommendations of the 70th session of the United Nations</td>
<td></td>
</tr>
<tr>
<td>Committee on the Rights of the Child for 2016 – 2020</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K.</td>
<td>27 June–1</td>
</tr>
<tr>
<td>Urazbayeva in the training for the supervisors of the National Research Campaign</td>
<td>July,</td>
</tr>
<tr>
<td>on data collection and testing</td>
<td>Aktau</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov, the Head of the</td>
<td>28–29 June,</td>
</tr>
<tr>
<td>National Centre for Human Rights V.A. Kalyuzhnyi and the employees of the National</td>
<td>Astana</td>
</tr>
<tr>
<td>Centre for Human Rights in the Conference dedicated to the role and tasks of the</td>
<td></td>
</tr>
<tr>
<td>national human rights institutions in the context of modernization of society</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi</td>
<td>28 June,</td>
</tr>
<tr>
<td>in the interdepartmental meeting on the prevention of domestic violence</td>
<td>Astana</td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the training for the NPM participants in report writing following the preventive visits</td>
<td>29 June – 1 July, Almaty</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the 1st session of the Parliament of the Republic of Kazakhstan of the 6th convocation</td>
<td>30 June, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Coordinating Council in the field of social protection of people with disabilities in the format of a teleconference</td>
<td>30 June, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the meeting of the working group of the Committee on Statistics of the Ministry of National Economy of the Republic of Kazakhstan on systematization of statistical indicators characterizing the situation of children</td>
<td>7 July, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the public hearings “Prevention of torture in the correctional system of the Internal Affairs Agencies”</td>
<td>15 July, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the training for the NPM participants in report writing following the preventive visits</td>
<td>2–3 August, Aktobe</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 32nd meeting of the Interdepartmental Commission on Combating Illegal Export, Import and Trafficking in Human Beings</td>
<td>4 August, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 400th meeting of the Interdepartmental Commission on Legislative Drafting Activities</td>
<td>5 August, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.S. Kypshakbayev in the meeting on discussion of the draft Action Plan to implement the recommendations made through the UPR mechanism</td>
<td>5 August, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the Conference “Actual issues of implementing the national mechanism for the protection of human rights defenders in Kazakhstan”</td>
<td>23 August, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the Expert Meeting to discuss the development of special education and legislative changes related to the rights of the child</td>
<td>23 August, Almaty</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Consultative and Advisory Body of the Ministry of Foreign Affairs of the Republic of Kazakhstan “Dialogue platform on human dimension”</td>
<td>24 August, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the round table “Life without fear: stop impunity for rape”</td>
<td>25 August, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the celebration of the Olympic athletes with the participation of the President of the Republic of Kazakhstan</td>
<td>26 August, Astana</td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 401st meeting of the Interdepartmental Commission on Legislative Drafting Activities</td>
<td>26 August, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the International Conference “Building a world without nuclear weapons”</td>
<td>29 August, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the International Scientific and Practical Conference “Constitution as a basis of dynamic and stable development of society and state”</td>
<td>29 August, Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Republican Budget Commission under the chairmanship of the Prime Minister of the Republic of Kazakhstan</td>
<td>29 August, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the 2nd session of the Parliament of the Republic of Kazakhstan of the 6th convocation</td>
<td>1 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the joint meeting of the Public Council for Culture and Sports and the Public Council in charge of the law enforcement agencies of internal affairs “Gender-sensitive public consciousness (elimination of gender stereotypes)” and “Eradication of gender-based violence”</td>
<td>7 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the working group of the Mazhilis Committee for Legislation and Judicial Reform on the review of the draft Law of the Republic of Kazakhstan “On introducing amendments and additions to certain legislative acts of the Republic of Kazakhstan on the issues of the correctional law”</td>
<td>8 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group of the Committee of Finance and Budget of the Mazhilis of the Parliament of the Republic of Kazakhstan on the review of the draft Law of the Republic of Kazakhstan “On collector activity”</td>
<td>8 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the working group of the Committee for Legislation and Judicial Reform of the Mazhilis of the Parliament of the Republic of Kazakhstan on the consideration of the issues of improving the correctional law</td>
<td>15 September, Astana</td>
</tr>
<tr>
<td>Meeting of the Coordinating Council under the Human Rights Commissioner in the Republic of Kazakhstan on the NPM issues</td>
<td>20 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group of the Committee of Finance and Budget of the Mazhilis of the Parliament of the Republic of Kazakhstan on the review of the draft Law of the Republic of Kazakhstan “On collector activity”</td>
<td>20 September, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the working group of the Committee for Legislation and Judicial Reform of the Mazhilis of the Parliament of the Republic of Kazakhstan on the consideration of the issues of improving the correctional law</td>
<td>22 September, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the meeting of the Commission on Pardons under the President of the Republic of Kazakhstan</td>
<td>30 September, Astana</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date/Month, Location</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the VII Judicial Convention of the Republic of Kazakhstan with the participation of the President of the Republic of Kazakhstan</td>
<td>7 October, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the round table “Social partnership for women and children”</td>
<td>7 October, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the public discussion of the draft Law of the Republic of Kazakhstan “On fingerprint and genomic registration”</td>
<td>14 October, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the working meeting on improving the work of public agencies when handling the citizens’ complaints</td>
<td>21 October, Astana</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights D.E. Shoranov and D.M. Shokanova in the training on monitoring of police stations</td>
<td>24–25 October, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group of the Committee of Finance and Budget of the Mazhilis of the Parliament of the Republic of Kazakhstan on the review of the draft Law of the Republic of Kazakhstan “On collector activity”</td>
<td>27 October, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the training on monitoring of police stations</td>
<td>27–28 October, Almaty</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in part I of the round table “Rights of the child: non-discrimination”</td>
<td>1 November Astana</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights R.A. Rakhimov and D.E. Shoranov in monitoring of medical and social facilities in Atyrau oblast</td>
<td>7–9 November, Atyrau</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights A.K. Urazbekova and D.M. Shokanova in monitoring of medical and social facilities in Kostanay oblast</td>
<td>7–9 November, Kostanay</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights G.A. Aukasheva and A. Baytursyn in monitoring of medical and social facilities in Kyzylorda oblast</td>
<td>10–12 November, Kyzylorda</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.M. Shokanova in the round table “Children with special needs”</td>
<td>10 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the 3rd visiting meeting of the Coordinating Council on the Programme “Strengthening of the justice system for children and protection of their rights”</td>
<td>10–12 November, Aktau</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.Zh. Aliyeva in the round table to discuss the results of the study on sexual harassment at the workplace</td>
<td>11 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.M. Shokanova in part II of the round table “Rights of the child: non-discrimination”</td>
<td>15 November, Astana</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group of the Committee of Finance and Budget of the Mazhilis of the Parliament of the Republic of Kazakhstan on the review of the draft Law of the Republic of Kazakhstan “On collector activity”</td>
<td>17 November, Astana</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights R.A. Rakhimov and D.E. Ospanova in Parliamentary hearing on the improvement of criminal, criminal procedure and correctional legislation</td>
<td>18 November, Astana</td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights D.E. Ospanova and A.K. Urazbayeva in the meeting with the students of the L.N. Gumilyov Eurasian National University and KazGUU (Kazakh Humanitarian Law University) on the issues of legal education in the field of human rights and freedoms and the competence of the Human Rights Commissioner in the Republic of Kazakhstan</td>
<td>18 November, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the VII Judicial Convention</td>
<td>21 November, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the joint meeting of the Chambers of Parliament of the Republic of Kazakhstan</td>
<td>23 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the Conference “Actual issues of improving the legal status of persons exercising public control in custodial facilities”</td>
<td>24 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the meeting of the working group of the Committee of Finance and Budget of the Mazhilis of the Parliament of the Republic of Kazakhstan on the review of the draft Law of the Republic of Kazakhstan “On collector activity”</td>
<td>24 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the round table on the issue of promotion of the types of punishment alternative to death penalty in Kazakhstan and presentation of the study on the issue of life imprisonment</td>
<td>28 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the meeting of the Consultative and Advisory Body of the Ministry of Foreign Affairs of the Republic of Kazakhstan “Dialogue platform on human dimension”</td>
<td>29 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.M. Shokanova in the Conference on family planning</td>
<td>29 November, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the presentation of the survey on human rights</td>
<td>6 December, Astana</td>
</tr>
<tr>
<td>Meeting of the Coordinating Council under the Human Rights Commissioner in the Republic of Kazakhstan on NPM issues</td>
<td>8 December, Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the round table “Human rights activities of the state and the civil society institutions”</td>
<td>8 December, Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the Festival with the participation of the President of the Republic of Kazakhstan</td>
<td>9 December, Astana</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A.</td>
<td>9 December,</td>
</tr>
<tr>
<td>Aukasheva in the annual meeting on criminal justice in 2016 “Implementation</td>
<td></td>
</tr>
<tr>
<td>of the provisions of the Plan of the Nation 100 Concrete Steps in terms of</td>
<td></td>
</tr>
<tr>
<td>improvement of the jury trial”</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A.</td>
<td>12 December,</td>
</tr>
<tr>
<td>Rakhimgov in the meeting of the Constitutional Council of the Republic of</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan on the consideration of the issue of compliance of sub-paragraph 3 of</td>
<td></td>
</tr>
<tr>
<td>paragraph 7 of the Rules of Departure from the Republic of Kazakhstan to the</td>
<td></td>
</tr>
<tr>
<td>Constitution of the Republic of Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>Expert meeting to discuss the perspectives and implement specific activities</td>
<td>14 December,</td>
</tr>
<tr>
<td>in the context of consolidating common efforts and opportunities in the</td>
<td></td>
</tr>
<tr>
<td>implementation of the NPM</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A.</td>
<td>14 December,</td>
</tr>
<tr>
<td>Rakhimgov in the announcement of the decision of the Constitutional Council of</td>
<td></td>
</tr>
<tr>
<td>the Republic of Kazakhstan on the issue of compliance of sub-paragraph 3 of</td>
<td></td>
</tr>
<tr>
<td>paragraph 7 of the Rules of Departure from the Republic of Kazakhstan to the</td>
<td></td>
</tr>
<tr>
<td>Constitution of the Republic of Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.</td>
<td>21 December,</td>
</tr>
<tr>
<td>Baytursyn in the presentation of the report “Discrimination and inequality in</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan: review of the situation, problems and recommendations”</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the</td>
<td>22 December,</td>
</tr>
<tr>
<td>meeting of the Commission on Pardons under the President of the Republic of</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the</td>
<td>23 December,</td>
</tr>
<tr>
<td>meeting of the Legal Policy Council under the President of the Republic of</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E.</td>
<td>28 December,</td>
</tr>
<tr>
<td>Ospanova in the Conference “Actual issues of implementing the national</td>
<td></td>
</tr>
<tr>
<td>mechanism for the protection of human rights defenders in Kazakhstan”</td>
<td></td>
</tr>
</tbody>
</table>

### 6. Participation of the Human Rights Commissioner and the Ombudsman Office in the International Events

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi</td>
<td>15 January,</td>
<td>Astana</td>
</tr>
<tr>
<td>in the meeting of the working group of the Strategic Partnership Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>between the Republic of Kazakhstan and the United States on the issue the rule of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>law</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights R.S.</td>
<td>19 January,</td>
<td>Astana</td>
</tr>
<tr>
<td>Kypshakbayev and D.E. Ospanova in the working meeting with the Project</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coordinator of the Council of Europe and European Union Joint Programme L.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zhdanova</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the</td>
<td>20 January,</td>
<td>Astana</td>
</tr>
<tr>
<td>Ambassador of India in the Republic of Kazakhstan Harsh Kumar Jain</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the</td>
<td>26 January,</td>
<td>Astana</td>
</tr>
<tr>
<td>reception of the Ambassador of India in the Republic of Kazakhstan on the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>occasion of the 67th anniversary of the Republic Day of India</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
<td>Location</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>---------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the visiting meeting to discuss ways to implement the main Plan of Operations between the Government of the Republic of Kazakhstan and UNICEF for the period 2016–2020</td>
<td>26–27 January</td>
<td>Akmola oblast, Borovoye village</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the working meeting with the Expert on the evaluation of the PRI project activities T. Tretyakova</td>
<td>27 January</td>
<td>Astana</td>
</tr>
<tr>
<td>Meeting of the employee of the National Centre for Human Rights D.E. Ospanova with the representative of the Office of the United Nations High Commissioner for Human Rights in Kazakhstan L. Dyuyskova and Director of PRI A. Shambilov to discuss the issues of further collaborative work on the projects</td>
<td>1 February</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov and the employee of the National Centre for Human Rights A.K. Urazbayeva in the working meeting of the National Human Rights Institutions of Central Asia and the round table “Combating impunity for torture and ill-treatment of minors in detention / custodial facilities”</td>
<td>15–16 February</td>
<td>Bishkek (Kyrgyzstan)</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the working group on the preparation of the National Report of implementation of the Madrid International Plan of Action on Ageing</td>
<td>19 February</td>
<td>Astana</td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the Secretary General of the Norwegian Helsinki Committee Bjorn Engesland</td>
<td>26 February</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the protection of the first Progress Report of the Republic of Kazakhstan on the measures taken to implement the International Convention for the Protection of All Persons from Enforced Disappearance</td>
<td>8–12 March</td>
<td>Geneva (Switzerland)</td>
</tr>
<tr>
<td><strong>Meeting of the Human Rights Commissioner A.O. Shakirov with the Head of the OSCE / ODIHR mission to oversee early parliamentary elections in the Republic of Kazakhstan Boris Frlec</strong></td>
<td>9 March</td>
<td>Astana</td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 15th meeting of the Cooperation Committee between the Republic of Kazakhstan and the European Union</td>
<td>10 March</td>
<td>Astana</td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the Head of OSCE Programme Office in Kazakhstan Dyerd Sabo</td>
<td>11 March</td>
<td>Astana</td>
</tr>
<tr>
<td>Event</td>
<td>Date</td>
<td>Location</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Meeting of the Head and the employee of the National Centre for Human Rights V.A. Kalyuzhnyi and A.K. Urazbayeva with the representatives of UNICEF in Kazakhstan to discuss the work plan for 2016–2017</td>
<td>24 March, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head and the employees of the National Centre for Human Rights V.A. Kalyuzhnyi, R.S. Kypshakbayev and D.E. Ospanova in the working meeting to discuss the implementation of the Project of the Council of Europe and the European Union</td>
<td>29 March, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov and the Head and the employees of the National Centre for Human Rights V.A. Kalyuzhnyi in the presentation of the Project of the European Union “Enhancing criminal justice in Kazakhstan”</td>
<td>8 April, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.S. Kypshakbayev in the workshop “ATF communication networks”</td>
<td>24 March–2 May, Kathmandu (Nepal)</td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the UNICEF International Consultant Robin Haar</td>
<td>26 March, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception on the occasion of the King’s Day of the Netherlands</td>
<td>29 April, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Kazakh delegation to protect the 2nd Progress Report within the fulfillment of the obligations under the International Covenant on Civil and Political Rights in Geneva</td>
<td>20 May, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the celebration of the Independence Day of Georgia</td>
<td>27 May, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A. Baytursyn in the training “Academy of the National Human Rights Institutions 2016” held by the European Network of the National Human Rights Institutions in cooperation with the OSCE / ODIHR and the Ombudsman Office in Georgia</td>
<td>28 May–5 June, Tbilisi (Georgia)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the Conference “Parliamentary control and supervision in the field of security” under the chairmanship of the OSCE Parliamentary Assembly</td>
<td>2–3 June, Berlin (Germany)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Kazakh delegation to protect the 2nd Progress Report within the fulfillment of the obligations under the International Covenant on Civil and Political Rights</td>
<td>3 June, Astana</td>
<td></td>
</tr>
<tr>
<td>Fact-finding visit of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the Kingdom of Norway within the EU and UNICEF Programme for 2014–2017 “Strengthening of the justice system for children and protection of their rights”</td>
<td>5–11 June, Oslo, Drammen (Norway)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception of the of Ambassador of Great Britain Caroline Brown in celebration of the birthday of Queen Elizabeth II</td>
<td>9 June, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception in celebration of the Day of Russia</td>
<td>14 June, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the meeting of the Kazakh delegation to protect the 2nd Progress Report within the fulfillment of the obligations under the International Covenant on Civil and Political Rights in Geneva</td>
<td>15 June, Astana</td>
<td></td>
</tr>
<tr>
<td>Event</td>
<td>Date/Location</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Participation of the Head of the National Centre for Human Rights V.A. Kalyuzhnyi in the 117th Session of the UN Human Rights Committee on the protection of the 2nd Progress Report within the fulfillment of the obligations under the International Covenant on Civil and Political Rights</td>
<td>22 – 23 June, Geneva (Switzerland)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the third meeting of the Steering Committee of the Joint Programme of the European Union and the Council of Europe “Support to the Kazakh authorities in improving the quality and efficiency of the Kazakh justice system”</td>
<td>30 June, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in celebration of the Independence Day of the USA</td>
<td>1 July, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights of A.K. Urazbayeva in the working meeting with the representatives of the UNICEF to discuss technical and organizational issues of the survey on domestic violence and juvenile justice</td>
<td>20 July, Astana</td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the Regional Representative of the UN OHCHR in Central Asia Richard Komenda</td>
<td>31 August, Astana</td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the Special Representative of the US Government on the protection of the rights of LGBT people Randy Berry</td>
<td>13 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov the Head and the employee of the National Centre for Human Rights A.K. Urazbayeva in the meeting of the Commissioners for Human Rights in Central Asia</td>
<td>14 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov and the employee of the National Centre for Human Rights A.K. Urazbayeva in the work of the Central Asian Symposium on the abolition of violence against children in detention in Central Asia</td>
<td>15 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employees of the National Centre for Human Rights of R.A. Rakhimov and D.E. Ospanova in the meeting with the representatives of the European Union for the purpose of discussing the future development of the Academy of Law Enforcement Agencies and enhancement of the capacity of law enforcement officers and public confidence in them</td>
<td>15 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov, the members of the Coordinating Council under the Human Rights Commissioner in the Republic of Kazakhstan on the NPM issues and the members of the NPM with the delegation of the UN Subcommittee against Torture</td>
<td>20 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Study visit of the employees of the National Centre for Human Rights D.E. Ospanova, D.E. Shoranov and D.M. Shokanova in Strasbourg (France) within a joint Programme of the European Union and the Council of Europe “Support to the Kazakh authorities in improving quality and efficiency of the Kazakh justice system”</td>
<td>27 September – 1 October, Strasbourg (France)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the meeting with the members of the UN Subcommittee against Torture</td>
<td>29 September, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the 15th meeting of the Cooperation Council between the Republic of Kazakhstan and the European Union</td>
<td>3 – 6 October Brussels (Kingdom of Belgium)</td>
<td></td>
</tr>
<tr>
<td>Event</td>
<td>Date and Location</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the members of the delegation of the Parliament of the United Kingdom of Great Britain and Northern Ireland</td>
<td>6 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the annual meeting of ODIHR / APT (the Association for the Prevention of Torture) of the National Preventive Mechanisms from the OSCE region</td>
<td>12 – 15 October, Vienna (Austria)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Shoranov in the working meeting with the foreign Expert Jim Fitzgerald</td>
<td>19 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights R.A. Rakhimov in the International Conference dedicated to the 20th anniversary of the National Institutions for Human Rights in Uzbekistan “National System of insuring protection of human rights and freedoms in Uzbekistan: achievements during the years of independence”</td>
<td>20 – 21 October, Tashkent, Samarkand (Uzbekistan)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception in celebration of the United Nations Day</td>
<td>21 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception in celebration of the National Day of the Czech Republic</td>
<td>27 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in the round table “Situation of the rights and interests of children in Kazakhstan based on the results of the UN Committee on the Rights of the Child recommendations performance monitoring”</td>
<td>28 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception on the occasion of the 93rd anniversary of the Republic of Turkey</td>
<td>28 October, Astana</td>
<td></td>
</tr>
<tr>
<td>Visit of the Human Rights Commissioner A.O. Shakirov in Moscow at the invitation of the Commissioner for Human Rights of the Russian Federation to discuss the perspective of the cooperation for the protection of human rights in the Eurasian Economic Union</td>
<td>6 – 7 November, Moscow (Russia)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the Conference within the 30th session of the UN Subcommittee against Torture dedicated to the 10th anniversary of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</td>
<td>16 – 19 November, Geneva (Switzerland)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights G.A. Aukasheva in the working meeting to discuss the efficiency of the UN Country Team in Kazakhstan</td>
<td>18 November, Astana</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.M. Shokanova in the sub-regional workshop “Family planning in consideration of gender aspects and human rights”</td>
<td>21 – 24, November Bishkek (Kyrgyzstan)</td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the reception dedicated to the visit of the Minister of Foreign Affairs of the Czech Republic</td>
<td>21 November, Astana</td>
<td></td>
</tr>
<tr>
<td>Activity</td>
<td>Date/Location</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights</td>
<td>22 – 24 November, Brussels (Kingdom of Belgium)</td>
<td></td>
</tr>
<tr>
<td>R.A. Rakhimov in the 8th round of the Human Rights Dialogue between the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Republic of Kazakhstan and the European Union and the 14th meeting of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the Subcommittee on Public Order and Justice between the Republic of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kazakhstan and the European Union</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner A.O. Shakirov with the Director</td>
<td>23 November, Astana</td>
<td></td>
</tr>
<tr>
<td>of the Human Rights Watch’s Europe and Central Asia Division Hugh</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Williamson and the Central Asia Researcher Mihra Rittmann</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the</td>
<td>25 – 27 November, Kabul (Afghanistan)</td>
<td></td>
</tr>
<tr>
<td>conference “Human rights and sustainable development goals”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner A.O. Shakirov in the</td>
<td>28 November – 1 December, Istanbul</td>
<td></td>
</tr>
<tr>
<td>regional consultations of the National Human Rights Institutions of the</td>
<td>(Turkey)</td>
<td></td>
</tr>
<tr>
<td>Central Asia countries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting of the Human Rights Commissioner in the Republic of Kazakhstan</td>
<td>2 December, Astana</td>
<td></td>
</tr>
<tr>
<td>A.O. Shakirov with the Ambassador Extraordinary and Plenipotentiary of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canada in Kazakhstan Sean Style</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights</td>
<td>5 December, Istanbul (Turkey)</td>
<td></td>
</tr>
<tr>
<td>D.E. Ospanova in the conference “Role of the National Human Rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institutions in the implementation of the Sustainable Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Programme 2030 and the achievement of the sustainable development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>goals”</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights</td>
<td>6 – 7 December, Istanbul (Turkey)</td>
<td></td>
</tr>
<tr>
<td>D.E. Shoranov in the training on monitoring and research on the human</td>
<td></td>
<td></td>
</tr>
<tr>
<td>rights protection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meeting of the employees of the National Centre for Human Rights D.E.</td>
<td>12 December, Astana</td>
<td></td>
</tr>
<tr>
<td>Ospanova and A.K. Urazbayeva with the UNICEF International Consultant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robin Haar</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner in the Republic of</td>
<td>12 December, Astana</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan A.O. Shakirov in the reception organized by the Head of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OSCE Programme Office in Kazakhstan Dyerd Sabo dedicated to fruitful</td>
<td></td>
<td></td>
</tr>
<tr>
<td>cooperation in the current year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner in the Republic of</td>
<td>13 December, Astana</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan A.O. Shakirov and the employees of the National Centre for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Rights D.E. Ospanova, A.K. Urazbayeva and D.M. Shokanova in the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>presentation of the preliminary results of a study on domestic violence and justice for children conducted by the Office of the Human Rights Commissioner in the Republic of Kazakhstan in cooperation with UNICEF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation of the Human Rights Commissioner in the Republic of</td>
<td>13 December, Astana</td>
<td></td>
</tr>
<tr>
<td>Kazakhstan A.O. Shakirov in the reception on the occasion of the 70th</td>
<td></td>
<td></td>
</tr>
<tr>
<td>anniversary of UNICEF</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 7. Appearance of the Human Rights Commissioner and the Ombudsman Office in Mass Media

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>Information message about the meeting of the Human Rights Commissioner A.O. Shakirov and the Ambassador of India in Kazakhstan Harsh Kumar Jain (ombudsman.kz, newsline.kz, nomad.su, inform.kz)</td>
</tr>
<tr>
<td>January</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the renewal of the Coordinating Council of the National Preventive Mechanism against Torture (ombudsman.kz, bnews.kz)</td>
</tr>
<tr>
<td>January</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the election of the members of the NMP Coordinating Council (ombudsman.kz)</td>
</tr>
<tr>
<td>February</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about monitoring of the children's home in women's detention facility in Almaty oblast which revealed violation of children's rights (ombudsman.kz, nomad.su, kt.kz, ratel.kz)</td>
</tr>
<tr>
<td>February</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the establishment of the Children's Ombudsman in the Republic of Kazakhstan (ombudsman.kz, akorda.kz, nomad.su, inform.kz, centrasia.ru, zakon.kz, pravo.by)</td>
</tr>
<tr>
<td>February</td>
<td>Information message about the meeting of the Human Rights Commissioner A.O. Shakirov and the representatives of the National Human Rights Institutions of Central Asia and the round table “Combating impunity for torture and ill-treatment of minors in detention / custodial facilities” in Bishkek (ombudsman.kz, kazpravda.kz, inform.kz, nomad.su)</td>
</tr>
<tr>
<td>February</td>
<td>Information message about the meeting of the Expert Council under the Human Rights Commissioner in the Republic of Kazakhstan and discussion of the application of the international standards in the criminal law of the Republic of Kazakhstan (ombudsman.kz, nomad.su)</td>
</tr>
<tr>
<td>February</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the orders of the President of the Republic of Kazakhstan following the review of the Ombudsman Report for 2015 (ombudsman.kz, akorda.kz, nomad.su, newtimes.kz, eurasnews.ru)</td>
</tr>
<tr>
<td>February</td>
<td>Information message about the meeting of the Human Rights Commissioner A.O. Shakirov and the General Secretary of the Norway Helsinki Committee for Human Rights Bjorn Engesland (ombudsman.kz, kazpravda.kz, inform.kz, online.zakon.kz)</td>
</tr>
<tr>
<td>February</td>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the fact that two teenagers killed in the USA had been adopted in Kazakhstan (ombudsman.kz, tengrinews.kz, nur.kz, ria.ru, в-деталях.рф)</td>
</tr>
<tr>
<td>March</td>
<td>Information message about the visit of the Human Rights Commissioner A.O. Shakirov to the country’s only young offenders’ institution (ombudsman.kz, inform.kz, zakon.kz)</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner A.O. Shakirov with the Head of the OSCE / ODIHR Mission to oversee early parliamentary elections in the Republic of Kazakhstan Boris Frlec</td>
<td>March</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>(ombudsman.kz, newsline.kz, nomad.su, inform.kz, bnews.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the investigation of murder of the teenagers adopted in Kazakhstan in the USA</td>
<td>March</td>
</tr>
<tr>
<td>(ombudsman.kz, nomad.su, regnum.ru, novoteka.ru)</td>
<td></td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner A.O. Shakirov with the new Head of OSCE Programme Office in Kazakhstan Dyerd Sabo</td>
<td>March</td>
</tr>
<tr>
<td>(ombudsman.kz, nomad.su, postsovet.ru, kazpravda.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the trainings on monitoring of police stations and temporary detention facilities held in the city of Almaty</td>
<td>March</td>
</tr>
<tr>
<td>(ombudsman.kz, kazpravda.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message about the participation of the Human Rights Commissioner A.O. Shakirov in the human rights activities in Geneva</td>
<td>March</td>
</tr>
<tr>
<td>(ombudsman.kz, inform.kz)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights A.K. Urazbayeva in a TV social and family programme “Our Home” – “Destiny of Children Who Left Abroad” on Khabar TV channel</td>
<td>March</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan on a number of cases of eviction of large families</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz, nomad.su, meta.kz, today.kz, tengrinews.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the response of the Ministry of Healthcare and Social Development to the issue of ensuring the rights of people with disabilities</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message about the address of the Human Rights Commissioner A.O. Shakirov to the Minister of Education and Science E. Sagadiyev about the reform of school education being implemented</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz, nomad.su, regnum.ru, thenews.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the results of the meeting of the Coordinating Council of the National Preventive Mechanism against Torture</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message about the discussion of the Human Rights Commissioner A.O. Shakirov of the issues of child justice with the Experts of UNICEF</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz, zakon.kz, gurk.kz)</td>
<td></td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the juvenile justice study in cooperation with the Experts of UNICEF</td>
<td>April</td>
</tr>
<tr>
<td>(ombudsman.kz, inform.kz, kazpravda.kz)</td>
<td></td>
</tr>
<tr>
<td>Participation of the employee of the National Centre for Human Rights D.E. Ospanova in the interview for Kazakh TV channel on the issue of violence and labor slavery against children</td>
<td>April</td>
</tr>
<tr>
<td>Event Description</td>
<td>Date</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the presentation of the Consolidated Report of the participants of the National Preventive Mechanism against Torture on the result of the activities in 2015</td>
<td>May</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the situation with unauthorized demonstrations on the land issues</td>
<td>May</td>
</tr>
<tr>
<td>Information message about the presentation of the Report of the Human Rights Commissioner in the Republic of Kazakhstan on the results of 2015</td>
<td>May</td>
</tr>
<tr>
<td>Information message about the signing by the Human Rights Commissioner in the Republic of Kazakhstan of the cooperation plan with UNICEF for 2016 – 2017</td>
<td>May</td>
</tr>
<tr>
<td>Information message about the participation of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov in the OSCE Conference in Berlin “Parliamentary Control and Oversight of the Security Sector” within the German OSCE Chairmanship</td>
<td>June</td>
</tr>
<tr>
<td>Information message about the holding by the Human Rights Commissioner in the Republic of Kazakhstan in cooperation with the Council of Europe, the European Union and the Regional Department of the of the United Nations High Commissioner for Human Rights for Central Asia of the High-Level International Conference “On the role and tasks of the Human Rights Commissioner in the conditions of the society modernization”</td>
<td>June</td>
</tr>
<tr>
<td>Information message about the address of the Human Rights Commissioner in the Republic of Kazakhstan to the Minister of Defence and the Minister of Healthcare with the proposals on the issues of interaction between the military department and the society and the socialization of military members</td>
<td>August</td>
</tr>
<tr>
<td>Information message about the address of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov to the Prime Minister of the Republic of Kazakhstan, the Chairman of the National Commission on Modernization K.K. Massimov with a letter about the improvement of the Ombudsman Office</td>
<td>August</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Regional Representative of the United Nations High Commissioner for Human Rights Richard Comenda</td>
<td>August</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the monitoring of Korday border crossing point</td>
<td>September</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Special Envoy of the US Government for the protection of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) Randy Berry</td>
<td>September</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Ombudsman of the Kyrgyz Republic Kubat Otorbayev and the discussion of the cooperation for the protection of human rights in the Eurasian Economic Union</td>
<td>September</td>
</tr>
<tr>
<td>Information message about the meeting of the Coordinating Council of the National Preventive Mechanism and about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the members of the UN Subcommittee against Torture</td>
<td>September</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Ombudsman of the Kyrgyz Republic Kubat Otorbayev and the discussion of the cooperation for the protection of human rights in the Eurasian Economic Union</td>
<td>September</td>
</tr>
<tr>
<td>Information message about the meeting of the Coordinating Council of the National Preventive Mechanism and about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the members of the UN Subcommittee against Torture</td>
<td>September</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the situation of women in the detention facilities</td>
<td>September</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the delegation of the All-Party Parliamentary Group of the United Kingdom and Northern Ireland</td>
<td>October</td>
</tr>
<tr>
<td>Information message about the participation of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov in the annual meeting of the National Preventive Mechanisms of the OSCE countries in Vienna</td>
<td>October</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Commissioner for Human Rights of the Russian Federation Tatyana Moskalkova in Moscow</td>
<td>November</td>
</tr>
<tr>
<td>Information message about the meeting of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov with the Deputy Regional Representative of the Office of the United Nations High Commissioner for Human Rights in Central Asia Beatrix Ferenci</td>
<td>November</td>
</tr>
<tr>
<td>Information message of the press service of the Human Rights Commissioner in the Republic of Kazakhstan about the selection of participants of the National Preventive Mechanism aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment</td>
<td>November</td>
</tr>
<tr>
<td>Information message about the participation of the Human Rights Commissioner in the Republic of Kazakhstan A.O. Shakirov in the conference and a number of events dedicated to the 10th anniversary of the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment in Geneva</td>
<td>November</td>
</tr>
</tbody>
</table>
8. Appraisal and Assessment Documents


for the Criminal Code of the Republic of Kazakhstan:

1. In order to expand the scope of application of criminal penalties not related to deprivation of freedom, including the exclusion of punishments in the form of deprivation of freedom from individual sanctions or reduction of maximum periods of deprivation of freedom, it is necessary to expand the development and scope of application of community service.

Community service, along with the fines, is economically justified in a number of cases, in particular, in case of the insolvency of a person held liable, and grounded in terms of the so-called “redemption of public debt.”

2. The Criminal Code of the Republic of Kazakhstan provides for criminal liability for a number of crimes of a sexual nature.

These are the crimes under Article 120 “Rape”, Article 121 “Violent acts of a sexual nature”, Article 122 “Sexual intercourse or other sexual acts with a person under the age of sixteen”, Article 123 “Forced sexual intercourse, sodomy, lesbianism or other acts of a sexual nature”, Article 124 “Corruption of minors.”
These articles provide for various sanctions: from three to five years of imprisonment to life imprisonment, depending on the qualifying characteristics and severity of the consequences.

However, none of these articles contains such a qualifying feature as a crime of a sexual nature committed by an official or a person in the capacity of an official or at their instigation or with their consent or acquiescence in respect of persons held in pretrial detention facilities and places of deprivation of freedom.

Regulatory Resolution No. 4 of the Supreme Court of the Republic of Kazakhstan of 11 May 2007 “On certain issues in the classification of crimes related to rape and other violent sexual actions” does not address this issue either.

The issue of classification of such crimes against persons held in pretrial detention facilities, places of deprivation of freedom, closed medical facilities and other care and guardianship institutions is of fundamental importance.

Victims of such crimes reside in public institutions in conditions of deprivation or restriction of freedom and dependence on the officials of the public agencies and institutions.

Such crimes committed in the above-mentioned institutions are proposed to qualify under Article 146 of the Criminal Code of the Republic of Kazakhstan “Torture.”

Section D. “Survey and examination following specific forms of torture” of paragraph 8B of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol, issued in 2004 by the Office of the United Nations High Commissioner for Human Rights, says: “Torture of a sexual nature, including rape.”

Further, paragraphs 215 – 232 list the forms of torture and the specifics of conducting investigations and examinations, which implies an obvious classification of this criminal act.

The Istanbul Protocol is the main document developed by the Office of the United Nations High Commissioner for Human Rights with a view to implementing the international standards for the effective investigation of torture that is prohibited under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this interpretation, crimes of a sexual nature committed by an official or a person in the capacity of an official or at their instigation or with their consent or acquiescence in respect of persons held in pretrial detention facilities, places of deprivation of freedom or institutions within the competence of the National Preventive Mechanism on Prevention of Torture shall unequivocally qualify as “torture” in the form of “torture of a sexual nature, including rape,” as defined in the Istanbul Protocol.

For the Penal Code of the Republic of Kazakhstan:

1. The facilities of the correctional system with mixed type of security contain special areas for the detention of persons depending on the type of regime to which they were convicted (from general to special). Such persons are sent to these facilities as part of law enforcement activities (in accordance with paragraph 6 of Article 92). At the same time, the prisoners, including those detained in the local pretrial detention facilities, are deprived of the possibility of exercising their rights as determined by the court verdict (extended visits, receipt of parcels, involvement in educational activity and work).
It is necessary to specify the legal basis for the confinement of prisoners in (referral to) such institutions (local facilities), and ascertain the rights provided for by the current correctional legislation in accordance with the type of regime established by the court.

2. In addition, the legislation does not provide for a period of stay in the facilities with mixed type of security and referral to a facility of appropriate security determined by the court verdict.

3. Thus, Article 89 is partially inconsistent with the objectives of the correctional legislation: sub-paragraph 1) of paragraph 2 erroneously refers facilities with different types of regimes to the facilities with mixed security. Paragraph 10 excludes such qualification.

It is proposed to amend the Penal Code of the Republic of Kazakhstan, which provides for the status of “various security”, rather than “mixed security” for facilities where prisoners serve a sentence as per the court verdict (this refers to the assignment to the facility of a status AK-159/24).

4. Problems of persons serving life sentence (including those for whom death penalty has been replaced by life sentence):

1) Problems in legislation and in practice: access to adequate medical assistance

In accordance with the international standards all prisoners, including those serving life sentence, shall have access to adequate medical assistance.

According to Rule 27 of the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) “All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.”

According to the correctional legislation of the Republic of Kazakhstan, prisoners serving life sentence and those for whom death penalty has been replaced by life sentence cannot be taken out of the facility even for treatment: all treatment is organized intra muros.

Recommendation:

In this regard, we believe it is advisable to amend the applicable Penal Code of the Republic of Kazakhstan and the Internal Regulations so that prisoners sentenced to life have access to adequate medical care without any discrimination on equal terms with other categories of prisoners. To this end, custodial facilities for people with medical conditions and tuberculosis that function as health care facilities shall have a local unit for persons sentenced to life and those for whom death penalty has been replaced by life sentence since the specialized prison hospitals have equipment, facilities and medicines, as well as qualified medical personnel required for proper medical care of patients and their treatment.
1) **Solitary confinement**

The practice of solitary confinement as a disciplinary punishment is widespread in the Penal Code of the Republic of Kazakhstan.

According to the international standards, prolonged solitary confinement can be considered as cruel treatment or torture. In 2011, the UN Special Rapporteur on torture indicated that solitary confinement can amount to cruel, inhuman or degrading treatment or punishment and even torture. He underlined that this measure shall be used in very exceptional cases, for as short a time as possible, and only as a last resort. The particular concern of the Special Rapporteur is a prolonged solitary confinement lasting longer than 15 days. According to Article 131 of the Penal Code of the Republic of Kazakhstan, disciplinary action includes transfer to a single confinement cell for a period of up to six months. In accordance with Rule 43 of the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) “In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: […] prolonged solitary confinement.”

In view of the above, we suggest revising the provision in the Penal Code of the Republic of Kazakhstan on the application of solitary confinement as a disciplinary action for up to 6 months.

2) **Search**

Regulatory legal acts governing searches of prisoners and their cells shall comply with the international standards, taking into account the need to ensure security in a prison facility in question. Searches shall be conducted in such a way as to ensure respect of the human dignity and privacy of the person being searched, as well as compliance with the principles of proportionality, legality and necessity.

According to the reports on preventive visits, the NPM participants revealed the following practice: some prisoners report that they were stripped naked on arrival at the facility, with up to 8 officers present in the room besides the doctor. After undressing, the prisoners were forced to crouch and bend over. Some of the prisoners report the use of video cameras in some cases.

Persons sentenced to life imprisonment are stripped naked during the search, while remaining in a mask and handcuffs, which means that they do not see what is happening around and how many people are present during the search. Prisoners are forced to bend and crouch.

National legislation does not regulate this procedure now; therefore, sometimes it is arbitrary in nature.

We propose to regulate the procedure for documenting strip searches at the legislative level by requesting prison administration to indicate the reasons for such searches, so that the supervising authorities could at any time have access to and verify the need therein to prevent this procedure from being arbitrary.

Also, at the sub-legislative level, it is necessary to amend the Internal Regulations so that the procedure for search, especially for inspection associated with stripping and body cavity examination is carried out under special conditions, in a separate location, out of sight of other employees or prisoners. The procedure shall be carried out under adequate sanitary and hygienic conditions. The number of employees present during the search plays an important
role in assessing the correctness of its conduct or the presence of signs of humiliation. As a rule, security needs do not require the presence of several employees. In the ideal case, the search shall be carried out by one employee. Searches associated with complete stripping shall be carried out only in case of emergency.

5. Proposals for the development of an effective complaint mechanism in correctional facilities.

We propose to amend the legislation and extend the rule on a confidential complaint (without censorship) of persons held in institutions and organizations that include isolation from the public, addressed to the prosecutor’s office and the court, as well as to the Human Rights Commissioner. To this end, it is proposed to make changes and additions to paragraphs 3 and 5 of Article 14 as follows:

P. 3 Appeals of persons convicted to arrest, deprivation of freedom or death sentence addressed to the public agencies that control and supervise the activities of penal institutions and bodies, as well as to the Human Rights Commissioner, are not subject to control and shall be sent to the addressee no later than within one day.

P. 5 Persons convicted to arrest, deprivation of freedom or death sentence can address their complaints about torture and other cruel, inhuman or degrading treatment or punishment through the members of the national preventive mechanism without censorship.

6. It is proposed to exclude the concept of “voluntary organizations of convicts” from the Penal Code.

It is proposed to exclude membership in voluntary organizations from the criteria for assessing the behavior of convicts. This criterion does not reflect the degree of correction of the convicted person. Moreover, as practice shows and the participants of the national preventive mechanism point out, the so-called voluntary assistants of the administration (hereinafter referred to as VAA) among the convicts are used by the administration to settle conflict situations. Besides, there are cases of the delegation of power to the “activists” (for example, in the women’s detention facility of the Department of Penal System of Karaganda Oblast, female convicts must obtain permission from the VAA to go to the toilet. According to the NPM participants, crimes in places of deprivation of freedom are committed with the participation of such assistants. A vivid example of this is the death of a convict in a detention facility of the Pavlodar oblast. In practice, the penal system of is based on fears and denunciations.

7. It is necessary to reconsider at the legislative level the issue of drill practice in correctional facilities for convicts, including the participation therein of disabled people who are not kept in the medical unit of the correctional facility.

The proposals were made taking into account the opinions of the members of the Coordinating Council under the Human Rights Commissioner in the Republic of Kazakhstan and participants in the regional groups of the National Preventive Mechanism.

Recommendations on the need to strengthen the human rights functions of the Human Rights Commissioner in the Republic of Kazakhstan (hereinafter – the Ombudsman) announced in the Addresses of the Constitutional Council of the Republic of Kazakhstan, are still not fully implemented.

The draft Law “On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the issues of ensuring the activities of the Human Rights Commissioner” was included in the Government's Draft Law Plan for 2011, but was not developed in that period. The relevant Plans for the subsequent years contained no regulatory legal acts on the activity of the Ombudsman.

It should be noted that paragraph 11 of the Action Plan of the Government of the Republic of Kazakhstan on the implementation of the recommendations of the United Nations Member States in the framework of the Universal Periodic Review of Human Rights for 2011–2014, specified the task to formulate proposals for implementing the recommendations of the UN Human Rights Council on bringing the status of the Ombudsman in compliance with the Paris Principles.

In 2012, the Ombudsman received status “B” in the International Coordinating Committee of the National Human Rights Institutions (incomplete conformity with the Paris Principles).

Taking into account the fact that the Ombudsman does not have the right to legislative initiative, bringing the Ombudsman Office in full compliance with the Paris Principles (status “A”) is beyond his competence. In this regard, the Ombudsman has submitted proposals to the Administration of the President of the Republic of Kazakhstan on this issue.

Nevertheless, as far as the establishment of the National Preventive Mechanism (NPM) is concerned, intensified efforts have been made towards the adoption of the NPM Law. The plan of legislative works of the Government of the Republic of Kazakhstan for 2012 provided for the development of a draft Law “On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the issues of establishment of the NPM to prevent torture and other cruel, inhuman or degrading treatment or punishment.”

On 2 July 2013 the above Law on the National Preventive Mechanism was signed by the President; thus, a national preventive mechanism was established for the first time in Kazakhstan in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Regarding the issue of making proposals on the measures to strengthen constitutional legitimacy and improvement of legislation in the sphere of the supervised branch of public administration, it is necessary to note the following:

1) It is deemed appropriate to discuss the position expressed in the Address of the Constitutional Council of 2012 on the unjustifiably frequent introduction of amendments and additions to existing laws and other regulatory legal acts.

Frequent changes in the legislation may indicate deficiencies in normative and monitoring procedures, in particular those that shall ensure the thorough and comprehensive preparation of draft legal norms and analyze the consequences of their adoption.
Another relevant issue related to the above, is the need for maximum synchronization of the publication of legislative acts and the accompanying subordinate regulatory legal acts.

In practice, the state bodies generally do not apply the norms of law directly until the relevant by-laws have been adopted. The adoption of such subordinate legislation is often stretched in time, which is difficult to explain given that a significant part of the relevant draft laws are developed by the executive authorities. In this connection it seems necessary to discuss the mechanisms that would either synchronize the activity on issuing by-laws or ensure the direct application of the norms of laws before the relevant by-laws have entered into force.

2) The position expressed in the Address of 2012 about the obligation of the public authorities, including the courts of the Republic, to refer to the relevant provisions of the Constitution, is still not implemented.

The experience of the National Centre for Human Rights in handling complaints related to human rights violation shows that the citizens as a whole are more likely than civil servants to base their arguments on the norms of the Fundamental Law.

The fact that the public authorities do not largely centre their actions and decisions around the provisions of the Constitution of the Republic of Kazakhstan in response to such complaints, has a negative impact on the public opinion regarding the supremacy of the Fundamental Law.

It is necessary to implement the position expressed in the Message of the Constitutional Council of 2012, that it is not only the list of restrictions on human rights and freedoms that needs to be consolidated in the laws, but also the mechanisms for their application, as it follows from paragraph 1 of Article 39 of the Constitution. Also, there is a need to elaborate the concept of “private right” contained in paragraph 1 of Article 18 of the Constitution.

National Centre for Human Rights
Conclusion of the Office of the Human Rights Commissioner in the
Republic of Kazakhstan Regarding the Submission of the Temirtau City Court
to Recognise Unconstitutional the Sub-paragraph 3) of Paragraph 7 of the Rules
for Issuing Documents for Departure from the Republic of Kazakhstan for
Permanent Residence Approved by the Resolution of the Government
of the Republic of Kazakhstan of 28 March 2012 No. 361

The Chairman of the Temirtau City Court raised the issue with the Constitutional Council of the
Republic of Kazakhstan to recognize unconstitutional the sub-paragraph 3) of paragraph 7 of the Rules for Issuing Documents for Departure from the Republic of Kazakhstan for Permanent Residence approved by the Resolution of the Government of the Republic of Kazakhstan of 28 March 2012 No. 361.

The issue consists in the role of the court in determining the validity of objections from a person entitled to receive alimony from the person departing from the Republic of Kazakhstan for permanent residence. Paragraph 2 of Article 21 of the Constitution of the Republic of Kazakhstan guarantees everyone the right to depart from the Republic of Kazakhstan. The International Covenant on Civil and Political Rights (ratified by the Law of the Republic of Kazakhstan No. 91 of 28 November 2005) also calls for the right of everyone to depart from any country, including his / her own.

As the Court of Temirtau argues, a substantiated refusal for departure from the state for permanent residence is not a subjective opinion (objection or consent) of a family member, but objective data about the existence of an unenforced maintenance obligation existing at the time of obtaining a permission for departure.

Paragraph 3 of Article 27 of the Constitution of the Republic of Kazakhstan defines the obligation of adult able-bodied children to take care of the disabled parents. This constitutional obligation is also fixed in paragraph 1 of Article 145 of the Code of the Republic of Kazakhstan “On marriage (matrimony) and family.” Paragraph 2 of this Article establishes the legal recovery of alimony in the absence of an agreement to pay the alimony.

At the same time, paragraph 5 of the said Article of the Code of the Republic of Kazakhstan “On marriage (matrimony) and family” releases the children from the obligation to pay allowance to their disabled parents in need of assistance if the court finds that the parents have earlier evaded their parental duties with respect to these children.

The constitutional right of every person to depart from the Republic of Kazakhstan is expressed in paragraph 1 of Article 55 of the Law of the Republic of Kazakhstan “On migration of the population.” Paragraph 2 of this Article defines the competent authority for processing the exit documents (internal affairs bodies).

Article 56 of the Law of the Republic of Kazakhstan “On migration of the population” establishes a clear list of grounds for the refusal to grant permission to a citizen of the Republic of Kazakhstan to leave the country for permanent residence.

This list includes, in particular, evasion from performance of the obligations assigned by court, before the termination of these obligations.
In the context of the discussed issue, the competent authority to make decisions about the departure from the territory of the Republic of Kazakhstan in accordance with the Law of the Republic of Kazakhstan “On migration of the population” is the internal affairs bodies. Examination of grounds for refusal to depart from the Republic of Kazakhstan is also assigned to the said competent authority.

Based on the abovementioned, the procedure stipulated by sub-paragraph 3) of paragraph 7 of the Rules for Issuing Documents for Departure from the Republic of Kazakhstan for Permanent Residence approved by the Resolution of the Government of the Republic of Kazakhstan of 28 March 2012 No. 361, according to which the court can resolve to obtain from the persons residing in the Republic of Kazakhstan who have the right to receive alimony from the departing persons, a statement that they have no objection to departure, enters into legal conflict with the norms established by the Laws of the Republic of Kazakhstan “On marriage (matrimony) and family” and “On migration of the population.”

We believe that sub-paragraph 3) of paragraph 7 of the Rules for Issuing Documents for Departure from the Republic of Kazakhstan for Permanent Residence, approved by the Government of the Republic of Kazakhstan of 28 March 2012, No. 361, require adjustments and harmonization with the abovementioned laws.