



Torture in Kazakhstan



Photo: the Uralskaya Nedelya newspaper

A brief overview of the situation surrounding torture in Kazakhstan in 2013 and 2014

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1. Introduction

Statements by Kazakh authorities about intolerance of torture and willingness to cooperate with civil society in addressing this issue remain declarative and are not implemented efficiently in practice. The procedure of the National Preventive Mechanism is fairly strongly centralised, and its members are too dependent on the decisions and actions of the Ombudsman.

The number of instituted criminal cases in connection with torture is a tenth of the number of allegations of torture. Victims of torture and human rights defenders must exert a lot of effort in order to induce the prosecutor's office to open a criminal case against representatives of the police. In most cases, courts refuse to bring the allegations of torture in separate proceedings and they recognise testimonies obtained under torture as evidence (as in the case of Zhanaozen oil workers). On 21 October, 2014, a Kazakh court refused to comply with the decision of the UN Committee Against Torture in relation to the victim of torture, Oleg Evloyev.

The terms of punishment which the perpetrators of torture are sentenced to are significantly milder than the prison sentences of political prisoners. The authorities restrict the access of independent human rights activists to convicts who file statements of torture. Health workers are often dependent on the administration of a penal colony and do not provide adequate medical care to prisoners. The practice of forced psychiatric treatment (examination) is applied.

The Kazakh delegation faced harsh criticism from members of the UN Committee against Torture during the consideration of the periodic report. The Kazakh authorities' rhetoric refers to 'effective combat of torture', still focusing on legal changes rather than on the actual implementation of the assumed commitment to combat torture. Criticism during the meetings of the UN Council on Human Rights and the UN Committee against Torture has caused serious damage to the image of the Kazakh authorities, forcing them to release activist Roza Tuletayeva and human rights defender Zinaida Mukhortova.

2. Lack of an effective national preventive mechanism

The National Preventive Mechanism (hereinafter - NPM), which was established on 2 July, 2013, has not yet been implemented effectively in practice. The NPM is fairly strongly centralised, and for the time being, it is not a fully functional institution, as it wasn't established under separate law, but by amending certain regulations. The NPM does not cover all places of detention, including the specialised agencies of the National Security Committee. As the governing body of the NPM has no authority to determine the amount of public financing, the financial support of the NPM and the dates of visits to places of detention depend on government resources. The composition of the NPM is determined by the Ombudsman. There have been cases in which regional NPMs did not work for several months due to inaction and obstruction by the leadership of the NPM. [\[1\]](#), [\[2\]](#)

According to the procedure, participants of the NPM register complaints about torture in the manner determined by the Ombudsman, and then send this information to the Ombudsman for review (they may simultaneously send the complaint to the prosecutor). Still, the process of complaint consideration by public authorities remains inefficient and is often a lengthy one. Participants of the NPM are threatened with sanctions should they disclose obtained information about torture without the consent of the aggravated person.

The state centralisation and dependence on the Ombudsman's decision may adversely affect the efficiency and engagement of the NPM workers. The Ombudsman institution has not yet fulfilled its functions in accordance with international standards. The Ombudsman himself, being a public

servant, is sometimes fairly tolerant of the public system, even if civil society points to numerous serious human rights violations. For example, in August 2014, human rights activists repeatedly requested that the Ombudsman urgently intervene in connection with the lack of medical care provided to Aron Atabek. However, the Ombudsman refused to visit Atabek in prison, and only referred to the findings of the Prosecutor's Office and the Interior Ministry, whose workers did not detect any violations of the political prisoner's human rights.

3. Decisions of the UN Committee Against Torture in favour of the victims of torture in Kazakhstan

- On 24 May, 2012, a ruling was announced in favour of Alexander Gerasimov. On 18 November, 2013 and 23 January, 2014, a Kazakh court ordered the Department of the Interior of the Kostanai Province to pay the victim compensation in the amount of 2 million tenge (approx. 9590 euros).
- On 17 December, 2013, a ruling was announced in favour of Oleg Yevloyev, who had been severely tortured by Astana's police. The UN Committee demanded that Kazakhstan conduct a proper, impartial investigation in order to identify the perpetrators of torture and compensate him for the harm he suffered. However, on 21 October, 2014, the Saryarkinskiy District Court of Astana refused to comply with the decision of the UN Committee Against Torture. [3]
- In May 2014, a ruling was announced in favour of Rasim Bayramov whom the policemen of Kostanai Province had beaten, dragged by the hair, starved and deprived of sleep, in order to compel him to confess to a robbery. Following the issuance of the decision by the UN Committee against Torture, on 30 July, 2014, the Prosecutor's Office opened a criminal case under Article 141.1 (torture). The aggrieved party filed a lawsuit against the local Department of the Interior, demanding compensation for the harm inflicted. [4]

4. The authorities unduly react to the statements of torture

The number of statements regarding the use of torture in police stations and prisons is growing. Deputy General Prosecutor, Nurmakhanbet Isayev admitted that reports of torture continue to be submitted and that this undermines public confidence in the police. [5] Official statistics show that the number of criminal cases, instituted against law enforcement officers on charges of torture, is negligible compared to the number of statements on the use of torture. In 2011, in Kazakhstan, 52 allegations of torture were reported (18 criminal cases were opened), in 2012 - 602 allegations of torture were reported (18 criminal cases were opened), and in 2013, the NGO Coalition of Kazakhstan against Torture received 410 reports of torture (35 criminal cases were opened). [6], [7] It is common practice for criminal cases to be dismissed on the grounds that "the incident involving the use of torture has not been confirmed". In cases where criminal cases are instituted, investigations are carried out for a prolonged period of time.

Prison terms for those convicted of torture are relatively short. In 2013, 31 persons were convicted, 3 of received a punishment of up to 1 year imprisonment, 22 persons got from 1 to 3 years, 5 people – from 3 to 5 years, 1 person was ordered to pay a fine. [8] At the same time, law enforcement officials who exert torture do not face charges of torture, but of abuse of power and of official authority.

5. Forcible psychiatric treatment (examination) as a method of exerting pressure on those persecuted for political reasons

- On 2 July, 2014, human rights activist and lawyer from Balkhash, Zinaida Mukhortova, was forcibly isolated in a psychiatric hospital for the fourth time, despite the rulings of the courts of previous instances, which overruled compulsory treatment and the findings of several independent experts on the mental health of the human rights defender.
- Forced psychiatric examination was ordered also in the case of the imprisoned human rights defender, Vadim Kuramshin; 67-year-old pastor, Bakhtzhan Kashkumbayev, accused of extremism; as well as 62-year-old activist Alexander Kharlamov, who faced charges of inciting religious hatred.

6. Refusals to render due medical aid

- Roza Tuletayeva suffers from chronic mastopathy, low blood pressure (80/50), a growing cyst and deteriorating eyesight. In the colony, Roza Tuletayeva did not receive adequate medical care. She was one of the leaders of the strike movement of oil workers in Zhanaozen. Both she and her family reported that during interrogations Rosa was hung by her hair, strangled with a refuse bag and had her colon violated with a metal rod.
- Doctors of the detention facility diagnosed **Aron Atabek** with coronary heart disease, cerebroscerosis and osteochondrosis, but stated that "the general condition of the convict is satisfactory". The Ministry of Foreign Affairs and the office of the Kazakh Ombudsman also assure that Aron Atabek "receives all necessary medical care" in the correctional facility. Previously, for attempts to defend his rights, he was repeatedly placed in solitary confinement as a 'violateur'. Atabek claimed to have been beaten by the solitary confinement staff, but the Interior Ministry refused to open a criminal case due to a lack of evidence.
- Former President of the National Atomic Company 'Kazatomprom' **Mukhtar Dzhakishev** could die before proceedings have been concluded, as the judge and investigators ignored his critical health condition and refused to provide him with proper medical care. During the criminal proceedings, Dzhakishev had 14 episodes of hypertensive emergency.
- In 2014, Vadim Kuramshin was repeatedly compelled to go on hunger strike, demanding the provision of medical aid by the prison administration.

7. The authorities hinder human rights defenders and observers in their attempts to visit prisoners

- In September 2014, the human rights organisation 'Ar.Rukh.Khak' and the international PEN-club were denied a meeting with Aron Atabek. According to Atabek, the Committee of the Criminal Executive System stated that, reportedly, he had no wish to meet with human rights defenders and could 'pose a danger' to visitors, while Atabek himself was not even informed about the possible meeting.
- Human rights activist Bakhytzhan Toregozhina was denied a meeting with Vadim Kuramshin. Zinaida Mukhortova's counsel has been denied an opportunity to visit her in the psychiatric hospital several times.

- In June 2014, Chairman of the Committee on Democracy, Human Rights and Humanitarian Affairs of the Parliamentary Assembly of the OSCE Isabel Santos was not permitted to meet Rosa Tuletaieva in the colony she was being detained in.
- International observers have been repeatedly prohibited from visiting political prisoner Vladimir Kozlov. In 2013, the delegation of the Polish Bar Association in Poland and the EU Delegation in Astana were denied a meeting with Kozlov. In September 2014, the prison authorities refused journalists of 'Radio Liberty' a visit with Kozlov after the information about the pressure exerted on him by the administration had been released. It should be noted that due to the wide international publicity in 2014, Isabel Santos and representatives of the international PEN-club were permitted to see Kozlov. For a prolonged period, Vladimir Kozlov was serving time in a colony located far from his place of residence, in flagrant violation of the provisions of Kazakh law.
- On 19 March, 2010, the authorities did not permit Swiss cardiologists who had been mandated by the World Organisation Against Torture to visit Mukhtar Dzhakishev.

8. Conditions in detention centres in Kazakhstan are often life-threatening

- In recent years, the number of cases where prisoners have caused physical injury to themselves in protest against cruel prison conditions and abuse has significantly increased. According to recent statistics, in 2012, 340 such acts of self-mutilation were recorded. [\[9\]](#)
- On **11 September, 2014**, General Prosecutor Askhat Daulbaev stated: *"Over the last 10 years, against the backdrop of general decline in 'prison population', the 35% mortality rate of prisoners increased 1.5-fold... The shortage of personnel and skilled specialists, as well as the poor quality of provided medical treatment remain on the same level. When investigating into deaths of prisoners, MIA employees limit their actions to inspecting signs of violence, while the issues of quality and timeliness of medical care and the provided medical treatment are not considered. The committee for control of medical and pharmaceutical activity made an arbitrary decision to withdraw from this work"*. [\[10\]](#)

9. Reports of torture and ill-treatment in prisons and detention centres (some examples)

- On 21 May, 2013, 30 inmates of the prison AK-159/22 in the city of Karaganda of Karazhal Province cut themselves in protest against ill-treatment by the prison administration. [\[11\]](#)
- On 20 August, 2013, in the RU - 170/2 colony in Uralsk, more than 60 prisoners inflicted stab wounds upon themselves in protest against beatings by the administration. On 21 August, 2013, on the roof of one of the barracks, approximately 30 prisoners raised a banner reading 'HELP'. Several relatives, who had received permission to visit the prisoners, reported having seen bodily injuries. Instead of investigating the allegations of torture, the authorities charged seven prisoners with disobedience of the administration and intentionally causing harm to themselves. They were sentenced to 5-7.5 years in prison. [\[12\]](#), [\[13\]](#), [\[14\]](#)
- On 30 December, 2013, the Court of North Kazakhstan Province reclassified the case of policemen: Kairat Sarsenbayev and Ruslan Kozyrev from abuse of office to torture. However, the court reduced the prison sentences by six months for each policeman: Sarsenbayev was sentenced to 4 years in prison, while Kozyrev – to 3.5 years. The policemen tortured Ivan Rozhnov, which resulted in the necessity to amputate both his feet.

- Convicted lawyer Andrey Derkunskiy, who allegedly had evidence to prove his innocence, was found dead in his cell on 22 January, 2014. The cellmate of the deceased, Daniar Tolendinov reported that he had witnessed the authorities of the detention facility cooperating with the murderers. Soon after, the witness recanted his testimony due to the threat of vengeance being taken by the detention centre workers. The criminal investigation continues.
- In April 2014, a criminal case was instituted against the policemen of the Shardara city in South Kazakhstan Province on charges of torture. The aggrieved persons: Mukhtar Akhmetov, Asan Zharbayev and several more persons were severely beaten, strangled and starved in the detention facility. The results of the criminal case are yet to be announced. [\[15\]](#)
- On 30 April, 2014, in Almaty, two policemen who had beaten M. Kerimbayev and A. Esenov in order to obtain confessions were sentenced to 2 years' imprisonment, having been convicted of torture. [\[16\]](#)
- On 8 May, 2014, it became known that the forensic examination documented incidents of battery of two detained local residents suspected of stealing by the policemen of the Kostaray Department of the Interior. The prosecutor's office opened a criminal case on charges of torture, but, reportedly, it 'hasn't established' the identity of the perpetrators. [\[17\]](#)
- In July 2014, Dias Akshalov was sentenced to 3 years in prison, having been found guilty of burglary. While in detention, he contracted tuberculosis. Medical professionals of the detention facility began to treat Dias, after which his health condition deteriorated – he developed stomach ulcers, esophageal varices and cirrhosis. For a few months, Dias's parents were fighting for his hospitalisation in the city hospital, with no success. Doctors reported that Akshalov's health condition was very bad, and he needed constant medical supervision. The Ministry of Internal Affairs reported that Akshalov's health condition was 'satisfactory'. The Parents fear that their son will not survive in prison without proper medical care. [\[18\]](#)
- On 6 September, 2014, in the penal colony LA-155/8 in the village of Zarechniy (Almaty Province), a search was conducted with the assistance of internal troops. Relatives of inmates reported that from behind the gate of the colony they could hear cries for help, which may indicate that severe beatings were taking place there. The colony administration stated that they had 'isolated' prisoners who had "negative attitudes". [\[19\]](#)

10. Conclusions

On **17-18 November, 2014**, during the presentation of the report at the UN Committee Against Torture, Kazakhstan's delegation stated that the authorities adhere to the principles of democracy, human rights and conduct 'thorough investigations' into complaints of torture. Members of the UN Committee Against Torture (in particular, Felice Gaer and George Tugushi) criticised ***the inconsistency of statements by the Kazakh delegation on information presented by NGOs working in the area of human rights. A number of problems were pointed out, including:*** ineffective implementation of legislation to combat torture; a large number of complaints of torture and improper investigation into them; recognition by courts of evidence obtained through torture; the lack of an independent investigation into the torture of the Zhanaozen oil workers and others. Also, Felice Gaer cited the individual cases of Yevgeniy Zhovtis, Aron Atabek, Zinaida Mukhortova, Roza Tuletayeva and Bazarbay Kenzherbayev (detained after the Zhanaozen events, who died after being subjected to severe torture).

On **19 November, 2014**, Roza Tuletayeva was released from prison on parole. A few months ago, a court refused to release her, even though the prosecutor and the prison administration supported

the early release of the activist. And so, ***there is every reason to believe that the decision was made at the political level, in response to sharp criticism of Kazakhstan during the consideration of the Universal Periodic Review and the meeting of the UN Committee Against Torture.***

On **15 December, 2014**, lawyer and human rights defender **Zinaida Mukhortova** was dismissed from a psychiatric hospital. However, she remains under the observation of doctors and will have to report to the hospital on working days. [20] During the UPR review, Austria urged the Kazakh authorities to immediately release Zinaida Mukhortova from compulsory psychiatric treatment. However, representatives of the Kazakh delegation noted that there is no political motivation underlying the case of Mukhortova, and the question of her hospitalisation comes within the cognisance of the doctors. It is noteworthy that the decision to release Mukhortova was made on the initiative of the head physician of the Balkhash psychiatric hospital, Rysbek Iskakov, who had previously insisted, over a period of six months, that the human rights activist should receive inpatient care. [21]

Despite the fact that representatives of Kazakhstan repudiated most of the comments from the UN and human rights organisations, a desire to maintain the international image is forcing the authorities to go to the lengths of implementing single positive changes. Effective communication at the diplomatic level and a clear position regarding the inadmissibility of ignoring obligations in the area of human rights have their concrete results. We wish to emphasise that further exertion of international pressure from the EU, the OSCE and the UN can protect civil society activists and independent journalists from oppression and improve the fate of other political prisoners in Kazakhstan: Vladimir Kozlov, Aron Atabek, Mukhtar Dzhakishev, Vadim Kuramshin.

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The Open Dialog Foundation was established in Poland in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Foundation). The statutory objectives of the Foundation include the protection of human rights, democracy and the rule of law in the post-Soviet area, with particular attention devoted to the largest CIS countries: Russia, Kazakhstan and Ukraine.

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Cover photo: on 21 August, 2013, prisoners of the RU-170/2 penal colony in Uralsk placed a banner reading 'HELP' on the roof of one of the barracks. Photo: Raul Uporov, the Uralskaya Nedelya newspaper: <http://www.uralskweek.kz/>

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