

**Report**  
**of non-governmental human rights organizations of Kazakhstan on the implementation by the Republic**  
**of Kazakhstan of the provisions of the International Covenant on Economic, Social and Cultural Rights**  
**(for the submission to the UN Committee on Economic, Social and Cultural Rights)**

This report includes issues of compliance by the Republic of Kazakhstan with articles 6, 7, 8, 9, 10, 11, 12, 13, 15 of the Covenant. The report was prepared by leading human rights non-governmental organizations of Kazakhstan, such as: "Fund for the development of parliamentarism in Kazakhstan" Public Foundation, "Kadir-Kasyet" Public Association, "Aman-saulyk" Public Foundation, "Sana-sezim" Public Association, Public Foundation "Fund of Children", Public Foundation "Soyuz crises alliance", Public Foundation "Institute of Equal Opportunities", "Ecoforum of Public Organizations of Kazakhstan", Public Foundation "Azamat Auletti", Public Foundation "Institute of constitutional democracy development".

**Article 6. The right to work, the opportunity to earn a living by work that he freely chooses or to which he freely agrees**

The Constitution of the Republic of Kazakhstan and the Article 5 of the Labor Code of the Republic of Kazakhstan define the right of everyone to freely choose work or freely agree to work without discrimination or coercion, the right to dispose of their abilities to work, choose a profession and type of activity.

The Correctional Code of the Republic of Kazakhstan in paragraphs 1 and 5 of Part 2 of Art. 104 provides not the right, but the duty of convicts to "work at work determined by the administration of the institution", "carry out work on the improvement of the institution and improve living conditions". The point 4 of Art. 119 of Correctional Code provides for the right of convicts to engage in self-employment in the institution.

There are many facts of unemployment, migration, the outflow of young working-age population from Kazakhstan, the retirement age is raised, the working personnel is aging, not the conclusion of labor contracts, their formal conclusion (failure to fulfill obligations under the contract). Employees of large corporations fear losing their jobs and agree to any conditions of the employer; they are employed without labor contracts, unpaid wages often occur, official and non-official wages (in envelopes), there is no clear distribution of labor and regulatory burden, workers are exploited for 18 hours or more, but there is no official accounting of working time sent on leave with 50% of the content; rules of occupational safety are not complied with.

Kazakhstan has not ratified the Convention on the Protection of All Migrant Workers and Members of Their Families. There are massive violations of the rights of migrant workers from Central Asian countries. In addition to the above problems, the following are common with regard to migrants: they cannot trade on the markets legally without forming a legal entity, they cannot engage in business activities as a small business (individual entrepreneur), there are facts of forced labor without payment, beating and humiliation, foreigners' passports are seized by employers, poor living conditions, etc.

The Labor Code of the Republic of Kazakhstan adopted on November 23, 2015 provided employers with more rights.

Paragraph 3 of Art. 4 of the Labor Code of the Republic of Kazakhstan prohibits discrimination in the field of labor, forced labor and the worst forms of child labor, while Article 6 establishes equality of opportunity. Meanwhile, the absence of an anti-discrimination law, the definition of the term "discrimination", and sufficient procedural guarantees make judicial protection against discrimination impossible. There is an effect of reducing individual autonomy and a tendency to isolate women and persons with disabilities from employment (including when hiring). Labor inspection does not in every case properly respond to violations by the employer.

Children, ethnic minorities, young mothers, women over 40, young professionals, non-skilled workers, people released from prison, prisoners, the disabled, pensioners, Kazakhstani and foreign workers are subject to discrimination. They are last recruited and first dismissed. The retirement age is 63 years, while the President of the country is 76 years old (06.07.1940). For older workers there is no choice of work.

The rights of children in the sphere of services, in organizations of small and medium business, in construction, in domestic work / households, in rural areas are violated.

Victims of trafficking are still unprotected, without access to qualified legal assistance, and the perpetrators are unpunished.

The Article 7 of the Labor Code of the Republic of Kazakhstan prohibits forced labor, but it is not criminalized in criminal law. Convicted after hours on the basis of Art. 121 Correctional Code RK involved in unpaid work up to two hours a week for the improvement of premises and territory of the institution; to improve living conditions. Refusal to work entails penalties provided for by the PEC RK.

The recommendations of the UN Independent Expert on the Prevention of Slavery and Forced Labor of Gulnara Shahinyan are not implemented.

In connection with incomplete secondary education, graduates of special schools do not have the opportunity to receive secondary vocational education in technical and vocational education organizations of the Republic of Kazakhstan, as well as further employment in the professions and specialties obtained during college studies. Until the end of evening schools, technical and vocational education institutions are not available for them. Of the total number of graduates of 57 auxiliary schools in the country over the past 3 academic years, 44% entered technical and vocational education institutions, 6% were employed, 42% were not employed.

Implement the ICESCR provisions into national legislation.

Ratify the Convention on the Protection of all migrant workers and members of their families.

Inform foreign citizens when crossing the border on the procedure for employment and entrepreneurship.

Control the procedure for concluding labor contracts with migrants and their execution.

Create conditions for the actual access of graduates of special schools (orphans) to secondary vocational education in technical and vocational education organizations (VET).

Provide vocational education and employment for people with disabilities who need employment or retraining in accordance with their individual rehabilitation programs. To expand the network of organizations for vocational training and rehabilitation of persons with disabilities and their family members, as well as other categories of citizens in difficult life situations.

Ensure the observance of the labor rights of pensioners, children, pregnant women, the disabled, migrants.

Criminalize forced labor (exploitation), criminalize all types of discrimination.

Adopt a law banning discrimination. Provide effective means and mechanisms of legal protection for victims of discrimination (including labor).

Develop a system of measures to combat impunity for committing crimes, in accordance with Articles 128 “Trafficking in Persons”, 135 - “Trafficking in Minors”, 156 - “Violating Labor Safety Rules” of the Criminal Code of the Republic of Kazakhstan.

Implement the recommendations of the UN Independent Expert on Slavery and Forced Labor, Gulnara Shahinyan, proposed to the state based on the results of her repeated visits to the Republic of Kazakhstan.

Revise the migration policy of the state, with the priority of the legalization of labor of migrants, strict observance of their labor rights.

Eliminate the problem of the unequal position of citizens of Kazakhstan and foreigners at the legislative level, provide a real opportunity for migrant workers to engage in business activities as a small business entity - an individual entrepreneur in the Republic of Kazakhstan.

Enable prisoners to choose work and activities.

### **Article 7. The right to just and favorable working conditions, remuneration, ensuring fair wages and equal remuneration for work of equal value without any distinction**

According to Article 24 of the Constitution of the Republic of Kazakhstan, the right of everyone “to work conditions that meet safety and hygiene requirements, to remuneration for work without any discrimination, as well as to social protection against unemployment” is provided for. Persons with disabilities are discriminated against while reducing their workload, depriving them of additional earnings by increasing the workload and the impossibility of promotion. The minimum wage is 3.5-4.7 times less than the UN standard<sup>1</sup>. One survey showed that men in women's professions earn an average of 15% more than women.

There are cases of non-payment of labor, salary payments in other forms (bath salt, washing powder, ear sticks, sanitary pads, rotten potatoes and onions at a price higher than the market price - to farmers in Kostanay region and teachers in Shymkent in 2012) deductions from wages, wage cuts, disregard for the interests of workers, violation of collective labor contracts, non-observance of occupational safety and health in relation to citizens of RK and migrants. From the wages of kindergarten teachers, teachers in schools and workers of construction companies, deductions are made. Failure is fraught with dismissal.<sup>2</sup>

The events in Zhanaozen on December 16-17, 2011, the disregard by the administration of oil and gas companies of the interests of workers, unilateral violations on the part of employers of collective labor contracts indicate the inequality of the parties. Employers (especially in the private sector) reduce the wages of workers. In case of dissatisfaction, they were offered to resign voluntarily. The obligation to protect rights requires states to prevent violations of such rights by third parties. Failure to ensure that private employers comply with core labor standards can amount to a violation of the right to work or the right to fair and favorable working conditions, in accordance with paragraph 6 of the Maastricht Principles.

The conditions and causes of violations of the right to just and favorable working conditions, equal remuneration for work are the following factors: insufficient control by the state, failure to implement labor laws, corruption (the ability to buy certification, qualifications, profession, agreements through connections and money to promote service), non-execution of labor contracts, unequal wages. Employers do not quarterly index wages depending on the level of prices for goods and services, as required by law.

In civil and state services, a unified wage system has been developed that does not provide decent wages for young professionals. In industrial sectors, small and medium businesses are not complied with Art. 125 of the Labor Code of the Republic of Kazakhstan (on the organization of remuneration, uniform tariff and qualification characteristics).

Unfair wages, high unemployment<sup>3</sup> (mostly women<sup>4</sup>), poverty (especially in rural areas) cause and exacerbate the “social stratification of society”.

Relatively low incomes are forcing part of the population to look for an additional source in the informal sector (rental housing, private driving, trading in markets, repairing housing and household appliances, providing home services, etc.). For a part of entrepreneurs, it is not profitable to engage in legal business and pay all taxes. This forces them to work illegally.

Paragraph 2 of article 54 of the Labor Code of the Republic of Kazakhstan prohibits termination of an employment contract at the initiative of the employer with pregnant women, women with children under the age of 3 years, single mothers raising a child under the age of 14 (a disabled child under 18), other persons raising a specified category of children without a mother. However, many pregnant women are not employed for various reasons, they are discriminated against, including pregnancy tests during employment, dismissal, reduction or total lack of income.

The reluctance to hire young mothers after childbirth leads to female unemployment and poverty, loss of skills to return to workplaces, they become unprofitable workers and are gradually being squeezed out of enterprises.

Preserving the ability to carry healthy children is another problem. Working in night shifts leads to an increase in the duration of pregnancy and a reduction in the weight of newborns. Working pregnant women have the right to work in safe conditions. Women who come into contact with chemical and biologically active substances at work are at particular risk. Many women working in agriculture (those engaged in the commercial production of fruit, vegetables, or flowers) are exposed to toxic chemicals such as pesticides.

The number of self-employed in the country according to various estimates is 1-2.7 million people. One of the reasons for the inaccuracy of the figures is shadow employment, employed in the personal estate, unemployment. The authorities declared the

<sup>1</sup> In 2013, the minimum wage was 18,660 tenge, in 2016 - 22,859 tenge. The ILO Convention “On the establishment of a procedure for establishing the minimum wage” was ratified by Kazakhstan on April 7, 2014, No. 183-V.

<sup>2</sup> In violation of Article 9 of the Convention on the Protection of Wages, on the prohibition of wage deductions made by workers in favor of an entrepreneur, his representative or intermediary (for example, a contractor or recruiter), by direct or indirect remuneration, ensure that work is obtained or retained.

<sup>3</sup> In 2011, the high unemployment rate was recorded in the Mangistau Oblast and the city of Astana (5.8% each), the South Kazakhstan Oblast (5.7%) and the city of Almaty (5.6%). The number of unemployed in June 2014 amounted to 459.8 thousand people. The unemployment rate is 5% of the economically active population. In reality, this figure is more.

<sup>4</sup> Only in Almaty, they account for 60%. The level of female unemployment is 6.9%, which is 1.2% higher than male unemployment.

need for pension contributions to self-employed. According to clause 3 of Article 2 of the Convention on the Protection of Wages (ratified by the Republic of Kazakhstan), the authorities should exclude "from the scope of application of the Convention as a whole or some of its provisions, categories of persons who work in such circumstances and under such conditions that all or some of the provisions mentioned are inappropriate, and which are not employed in physical work or are engaged in household or similar work".

The youth practice common in the regions employs unemployed youth for 6 months and ineffectively contributes to the acquisition of professional knowledge and skills. The employer in rare cases gives the opportunity to young professionals to continue to work in production.

Much of the employment services is executed formally and does not affect the employment process. According to the General Prosecutor's Office, over 120 facts of inadequate training of specialists were revealed, which was the reason for their low qualifications. As regards the creation of social jobs and youth practice, facts are revealed when employers transfer their existing employees to social jobs, illegally receiving subsidies from the state.

Violations of labor rights, labor contracts, working conditions and labor protection, on wages (249, 267 and 258 legal entities and individuals brought to administrative responsibility, respectively) prevailed in Astana, Almaty, Karagandy, 2014.

The main part of labor migration to Kazakhstan is predominantly illegal (only highly paid foreign specialists in leading sectors of the economy are fully legalized).

Every year injuries in the workplace increase. 301 people died from industrial injuries in 2013. The highest rates of injuries are observed at construction enterprises (17.5%), mining and metallurgical (15.6%), agricultural industries (7.6%) and the oil and gas industry (5.7 %). In 2013, a high level of occupational injuries was in the Karagandy region, where 305 people were injured, 43 people died, WKO - 237 people suffered, 24 people died, Kostanay region - 233 people suffered, 23 people died. The number of fatal accidents has increased - 69 people. At the beginning of 2014, the number of workers employed in hazardous and hazardous working conditions in the republic was about 376 thousand, or one in five of the total number of employees.

Occupational injuries in the structure of morbidity of the population, temporary disability and mortality occupy the second place, on the primary exit to disability - the third.

According to Art. 120 Criminal Executive Code of RK, conditions and wages are carried out in accordance with the law. However, convicted in some cases do not receive wages from the employer, and it is not possible to independently recover it, since the convict is limited in the right to make claims to the employer due to the fact that according to Article 119 of the Criminal Executive Code of the RK he was employed by the administration of the colony. At the same time, the administration of the colony does not take the necessary measures to restore the violated labor rights of convicts.

In accordance with Part 1 of Art. 113 of the Penal Code of the Republic of Kazakhstan, convicted persons (held in institutions, as well as those left in a mixed security institution and sent to a full security institution for doing business) have the right to long-term trips outside the institution - for the period of annual paid leave (in the institution minimum security). However, this is not practiced and is not fully implemented, as required by art. 7 ICESCR.

Recognize the competence of the Committee on Economic, Social and Cultural Rights.

Expand the practice of accession to the ILO conventions, and bring legislative and other regulatory acts in line with the ICESCR.

Adopt the law banning discrimination with an effective protection mechanism.

Adopt legislation to protect workers from occupational hazards caused by air pollution and vibration in the workplace.

Ensure the implementation of occupational safety standards in production: exclude opportunities to conceal accidents at work, tighten labor safety controls and sanctions for violating safety and labor protection rules, involve trade unions in solving labor protection issues; to oblige employers to use modern methods of technological processes with the use of modern equipment in compliance with the standards for the safe operation of equipment; timely certification of workplaces to identify harmful and hazardous working conditions and appropriate wages; require employers to submit to labor control bodies plans of measures to reduce injuries and prevent occupational diseases with confirmation of material costs.

Solve the problems of inefficient employment in the economy, low quality of the labor force.

Solve unemployment issues in the framework of social partnership.

Take measures to eliminate wage discrimination.

Establish the possibility and mechanism for self-recovery from the employer of wages imposed on the person sentenced to imprisonment, and strengthen the employers' responsibility for non-compliance with the requirements of labor legislation.

Ensure strict control (prosecutorial, departmental, public) over the observance and protection of the labor rights of persons sentenced to imprisonment, including the right to leave the institution for a long time during the annual paid leave at the legislative level.

**Article 8. The right to form and join trade unions of their choice, the right of trade unions to form national federations or confederations, establish international professional organizations or join such organizations; the right of trade unions to function without any restrictions; right to strike**

The new law "On trade unions" entered into force on July 10, 2014. Comments by the International Bureau labor and labor unions are not taken. Kazakhstan has a permitting procedure for registration of legal entities. The registration fee for public organizations is equivalent to a fee for commercial organizations.

Clause 2, Article 10 of the Law provides for the obligation before the expiration of six months from the date of registration of the republican, territorial association of trade unions, sectoral and local trade unions to submit to the authority that registered it, copies of documents confirming compliance with the requirements of paragraph 3 of Article 11, paragraph 3 Art. 12, p.2 and 3 of article 13, paragraph 4 of article 13 of the Law, defining the organizational and territorial structure of the respective associations.

Legislation prohibiting national trade unions from receiving financial assistance from an international organization of workers violates the principles relating to the right to participate in international organizations of workers.

Workers' representatives can be both trade unions and workers who have been delegated this right to be representatives. This makes it possible not to recognize the trade unions, but to use representatives from the labor collective.

Due to the growth in the number of small and medium-sized businesses, the right of association is unavailable for this part of the workers, because the law obliges them to become part of a sectoral trade union.

There are refusals to register trade unions, dismissal, criminal prosecution of trade union leaders, non-fulfillment and cancellation of collective agreements.

In October 2010, representatives of the management of companies were asked questions at the request of employees of Karazhanbasmunay JSC, Tulpar Munay Service LLP and Argymak Trans Service LLP, including those relating to payroll wage of a territorial (district) ratio of 1.7 and industry coefficient of 1.8.

In November 2010, a conciliation commission was created, which was to consider these issues. Here a conflict began, which grew out of a labor dispute in protest in the city of Zhanaozen in December 2011. In 2016, in the Kostanay region, the trade unions of businessmen and Shakhtar received notifications about the need for re-registration due to new changes in trade union legislation, which does not exclude the threat of forced liquidation of trade unions.

There is a broad ban on strikes in rail transport, in civil aviation, at "hazardous industrial facilities" and other cases. This rule is not precise, not specific, and allows a broad interpretation.

The comments of the UN Committee on Economic, Social and Cultural Rights on the harmonization of national legislation in accordance with the Covenant and ILO conventions have not been implemented (for example, measures to change the strike organization procedure).

The labor conflict in 2011 in the city of Zhanaozen began with wage requirements, which changed due to joining the strike of workers in another city, and then - under the influence of near-political groups. The result was the shooting of workers and civilians on December 16-17, 2011.

- Protest sentiments took place both at large enterprises (ArcelorMittal Temirtau, Kazakhmys, Kazchrome, KSP Steel, Annensky mine, etc.) and among small groups (builders of the Premier residential complex in Almaty, a rally of car owners in Stepnogorsk, a strike by workers of the municipal enterprise Astana Tazartu LLP, a rally of truck drivers in Almaty, and others). In 2014 and in the beginning of 2015, 22 labor disputes were recorded at the enterprises of the construction, oil and mining industries.

The main reasons were the demand of workers for wage increase, its timely payment, in five actions - reduction in the number of employees<sup>5</sup> and working conditions; in others - the revision of the retirement age, watch time. The regions that account for the largest number of cases of labor disputes in 2013-2015 are considered: Mangystau region - 16, Atyrau region - 4, Karagandy region - 5.

- Unresolved labor disputes become one of the main centers of social tension and protest in the regions.  
 - The delay in labor disputes creates the risks of spontaneous protest actions as well as politicization.  
 - Lack of social dialogue contributes to the transition of conflicts in the active phase. The lack of feedback channels between the protesters and the authorities does not allow us to adequately assess the legitimacy of the requirements of labor collectives.  
 - To resolve labor disputes in a constructive field, effective social mediators in the face of trade unions are needed.  
 - Courts declare strikes illegal (clause 1 of Article 174 of the Civil Procedure Code established the 10-day period for consideration of cases on such claims).

- Leaders are prosecuted. Due to the closure of the decision of the court of the Confederation of Free Trade Unions in the west of the country, more than 400 workers declared a hunger strike, and the hunger strike itself was declared illegal by the court. Therefore, in January 2017, Amin Yeleusinov and Nurbek Kushakbayev were arrested and transferred from Aktau to the remand prison in Astana due to resumed criminal cases three years ago.

Article 402 of the Criminal Code of the Republic of Kazakhstan dated 03.07.2014 No. 226-V, which entered into force on 01.01.2015, criminalizes calls for continued participation in a strike declared illegal by the court, made publicly or using the media or information -communication networks, as well as bribing workers for this purpose. The punishment is provided for - imprisonment for up to three years (depending on the consequences). Also, severe punishment awaits those who lead the banned strike in wartime or emergency conditions, as well as hindering the organization's work in these conditions (imprisonment up to two years under Article 401 of the Criminal Code of the Republic of Kazakhstan).

According to Art. 304 of the Labor Code of the Republic of Kazakhstan, if the court recognizes the strike as illegal, the employees who participated in it may be brought to disciplinary responsibility. The law does not exactly state that employees may be held accountable for participating in a strike in the period before the court finds it illegal. However, from the analysis of art. 304 and para. 1 of Art. 74 of the Labor Code of the Republic of Kazakhstan, it follows that the employer has the right to impose a disciplinary sanction on the workers who participated in the strike until the court declared it illegal.

Eliminate the authorization procedure for the creation of trade unions, providing for a notification procedure.

Bring the Law "On Trade Unions" in accordance with ILO Convention No. 87, since outside the predetermined structure it is impossible to create an "independent" new trade union at the enterprise level (the right to form and join trade unions implies free definition of the trade union structure).

Repeal court decisions recognizing the liquidated trade unions as illegal, including the confederation of free trade unions of Kazakhstan.

Exclude threats and criminal prosecution of trade union leaders under Article 174 of the Criminal Code of the Republic of Kazakhstan on the initiation of social discord; release Amin Yeleusinov and Nurbek Kushakbayev from custody.

Bring in line with Art. 174 of the Criminal Code of the Republic of Kazakhstan in accordance with Art. 20 of the International Covenant on Civil and Political Rights; summarize court practice under art. 174 of the Criminal Code of the Republic

<sup>5</sup> In Almaty, 700 workers at 19 enterprises were reduced, in the East Kazakhstan region - 243 workers at 7 enterprises, in Astana - 235 workers at 26, in Atyrau region - 167 workers at 10 enterprises, in Kyzylorda region - 162 at 13 enterprises.

of Kazakhstan and adopt a Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan explaining the application of this article.

Implement the norms of the ICESCR in the Labor Code of the Republic of Kazakhstan on the right to strike.

Exclude from the Labor Code of the Republic of Kazakhstan “illegal strikes”, as well as the words “in organizations that are hazardous production facilities”.

### **Article 9. The right to social security, including social insurance**

Kazakhstan seeks to minimize budget expenditures, including by reducing maternity pay and raising the retirement age. Despite the constant increase in the rate of pension and social benefits in connection with the adjustment of the tenge due to the devaluation in Kazakhstan, the amount of benefits remains small. The annual increase in pensions does not correspond to the level of inflation.

There are problems with determining the size of the subsistence minimum, on the basis of which pensions, benefits, minimum wages are calculated. It does not maintain an adequate standard of living. According to one of the surveys in 2011, you can purchase one of the following lists for childbirth and childcare benefits up to the age of 1: 16 packages of cereal, 32 cans of puree, 7 packages of the mixture, 17 packages of shampoo, 6 rattles.

The retirement age in Kazakhstan for men was 63 years, for women - 58 years. 07/03/2013 with the introduction of the Law “On Pension Security in the Republic of Kazakhstan”, the retirement age of women in the Republic is gradually increasing. As a result of the imperfection of the pension methodology, pensions are unequally allocated. Pensioners held before July 1996 receive a lower pension than those who retired after this date (with the same length of service, wages).

The pension agreement does not indicate the financial obligation of the fund. The depositor does not know what pension or salary percentage he will receive at retirement, except that the pension depends on the amount of the accumulated sums. There are cases of failure to pay to the heirs the amount of pension savings of the deceased.

In 2016, the authorities seized pension savings of citizens, transferring them to the business for the construction of an entertainment center. In developed countries, the state, the enterprise and the citizen are responsible for the level of pensions. Since 1998, the state has performed only the function of control and supervision. The employer is exempt from caring for pensions.

One of the problems is the incomplete receipt of pension contributions. They are made at the source of income payments. Contributions by employers are withheld, but not listed immediately and not always. There are problems with the pension savings of self-employed, farmers, persons without formal income (unemployed, housewives, mothers of large families, volunteers, students who are out of work, employees whose employers do not deduct in full or irregularly pension contributions, citizens who are allowed errors in the calculation of pension contributions). There is no information about excluded from the accumulative pension system.

There is no uniform statistics on children and adults with disabilities. The ratification of the UN Convention on the Rights of Persons with Disabilities by the Republic of Kazakhstan did not lead to solving problems with education, vocational guidance and training, social adaptation and labor rehabilitation, as well as health protection and the implementation of all types of rights of citizens with disabilities.

There is no system of interagency cooperation in the provision of public services. Thus, government agencies on employment and social programs in Almaty are not aware of the exact number and categories of graduates of special educational organizations who need employment or retraining according to their individual rehabilitation programs. Citizens with disabilities from childhood upon reaching the age of majority do not pay more benefits.

The activities of educational institutions for children who have lost their parents or left without their care (orphanages) is not transparent. According to a pupil of an orphanage, a graduate of a special correctional school in Uralsk, children's rights to receive benefits are violated when opening bank accounts. The college graduate is issued a certificate, not a diploma.

Bring pension legislation in line with international standards, eliminate requirements that worsen the status of women. Change the method of pension accruals to ensure equality of citizens in obtaining pensions with the same work experience and wages.

Create conditions for the fulfillment of obligations for the timely accrual of pension contributions by employers.

Ensure the size of social benefits (including special) for the disabled and socially vulnerable groups of the population for an adequate standard of living.

Create a single database with reliable statistics on the number of children with special educational needs, persons with disabilities (by type of central database of persons with disabilities), by obtaining and summarizing data from each department.

Ensure the implementation of state employment policy by: supporting the creation of jobs through the development of entrepreneurial initiatives; providing social protection to the unemployed, job seekers; the establishment of a quota of jobs for persons with disabilities in the amount of from two to four percent of the number of jobs, excluding jobs in hard work, work with harmful, dangerous working conditions the establishment of a quota of jobs for the employment of citizens from among the youth who have lost or remained until the coming of age without the care of parents who are graduates of educational organizations.

Involve interested initiative groups of citizens and regulatory agencies, organize joint activities with them in the implementation of projects to improve the quality of life of citizens in difficult life situations.

In order to provide special social services for citizens representing groups of vulnerable groups of the population, to organize Daytime Employment Services, vocational guidance and vocational training, as well as Alternative services for organizing independent living in conditions of small houses and small-sized apartments.

When a disabled child reaches 18 years of age, to appoint the service of an individual assistant or caregiver due to the severity of the disease and the complexity of the disorder, regardless of registration in the psycho-neurological dispensary.

Revise the terms of retirement of parents raising children with disabilities from childhood, in connection with the employment of childcare throughout his life.

Expand the list of professions and specialties recommended for the vocational training and employment of persons with mental retardation, other disorders and combined mental disorders <sup>6</sup>.

Ensure timely receipt of social benefits from the state by the pupils of orphanages and providing them with housing in their places of residence.

### **The right to live**

The satisfaction of basic needs is necessary for the development of each individual. It is traditionally considered that a person has three basic needs: food, clothing and shelter. The right to life is guaranteed in any civilized society. The scope of this right includes the right to food, the right to clothing, the right to decent living conditions and housing. The human need for housing is characterized not only by the protection of the body, it is necessary to have such housing that will allow it to fully develop in all aspects - physical, mental and intellectual.

Article 15 of the Constitution of the Republic of Kazakhstan defines the right of every person to life. The death penalty is saved as a punishment. Cases of crimes for which this type of punishment may be imposed are tried by a jury. There is a moratorium on the enforcement of capital punishment.

There are occasional discussions in society about persons deprived of their liberty for life, serving a sentence in the only institution of this kind in the country in the remote village of Zhetikara, Kostanay oblast. At the same time, it is said that isolation for life is essentially a separate type of punishment. The conditions of detention of detainees and prisoners sometimes contradict articles 7 and 10 of the Covenant on Civil and Political Rights, and are far from the minimum standards reflected in the Mandela Rules. Mortality in custody occurs as a result of diseases, including lack of access to necessary medical care, torture, murder, suicide.

The functioning of the institute of public control in correctional institutions in the form of public monitoring commissions (POC) in each region of the country is characterized by a number of problems with the access of POC members to institutions. The Correctional Code of the Republic of Kazakhstan established a rule on warning the administration of the institution about the visit within 24 hours. Such an approach does not justify the goals of public control. POC recommendations are not implemented. The state does not reform the penal system, which, together with the medical service, is under the authority of the Ministry of Internal Affairs of the Republic of Kazakhstan. For 25 years of independence, the conditions of detention of prisoners in the majority, despite some changes, are still deplorable (insects, fleas, rats, sometimes lack of access to medical care).

131 262 people die annually in Kazakhstan <sup>7</sup> (more than 1,200 people die each year as a result of suicides, of whom between the ages of 20 and 35, 430 people; 4815 at working age from diseases of the circulatory system, 1460 - from neoplasms; 1570 - victims of crime<sup>8</sup>).

Self- arson (due to unfair judicial acts, inaction of the prosecutor's office, inability to repay a bank loan, lack of funds for living), negligent attitude of medical workers to children, pedophilia attract attention.

In 2016, there is a situation similar in signs from 2011-2012. At the same time, so-called "terrorist acts" are a characteristic and defining sign. In 2011, there were 4 such cases: May 17 in Aktobe (self-exploding in the building of the National Security Committee), October 31, in Atyrau (2 explosions in the National Security Committee, regional representation and in the courtyard of a residential building, the "Soldiers of the Caliphate" took responsibility ), On November 8 in Almaty (2 policemen were shot at point-blank), on November 21 in Taraz (killed police officers and shot at the DKNB building); intermediate period is not considered; 3 cases in 2012: July 11 in the Almaty region (an explosion in a house with extremists, the building caught fire), on August 14 in Atyrau (destruction of an extremist group), September 14 (shelling of a police officer, police department littered with incendiary bottles).

On June 5, 2016, in Aktobe, as a result of the seizure of a shuttle bus, an attack on 2 gun shops and military unit No. 6655, and the abduction of 17 firearms, 6 citizens were killed. A yellow level of terrorist danger was introduced in the country for the first 40 days, which was extended to mid-January 2017.

According to experts, the factors that influenced the described situation were the political, social, economic crisis, unemployment, marginalization, and corruption in the country. The circumstances surrounding these examples are: a long strike by oilmen in 2011 in Zhanaozen, peaceful mass protests on the "land issue" in April-May 2016. The authorities qualified the series of events as terrorist acts, but the only characteristic feature that unites them this is violence against the KNB, police, akimat, military unit. The real assessment demonstrates the inability of the state to cope with a crisis of various kinds, to fulfill positive obligations, to provide effective remedies.

The state assesses the cost of human life. There are no rehabilitation programs, the amount of compensation to victims of crimes ranges from 150 thousand to 1.5 million tenge for judicial acts. In this case, the problem is their non-payment.

Many citizens do not have their own homes. Most graduates of orphanages remain homeless, their rights are violated when placed on a waiting list for housing under the state program. Migrant workers live in degrading conditions.

Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, abolish the death penalty, excluding this type of punishment from the Constitution of the Republic of Kazakhstan and the Criminal Code.

Inform the public about measures to reduce mortality in places of detention and imprisonment, access of detainees and prisoners to medical care, sanitary and epidemiological situation in prisons of the penitentiary system of the Ministry of Internal Affairs of the Republic of Kazakhstan.

Create conditions of confinement, consistent with respect for human dignity and ensuring the right to life.

Remove the medical service from the subordination of the penitentiary system, and the latter - from the jurisdiction of the

<sup>6</sup> The list of technical and vocational specialties, post-secondary education, approved by order of the Ministry of Education and Science of the Republic of Kazakhstan.

<sup>7</sup> In 2015

<sup>8</sup> In 2016

Ministry of Internal Affairs.

Conduct investigations of every death in custody in a manner consistent with the principles of the UN Convention against Torture - independence, objectivity, thoroughness, speed, efficiency.

The low level of preparation and ineffective response to the protection of the right to life by the authorities, to threats of terrorist acts, ineffective policies, lack of access to judicial acts banning a number of religious organizations, necessitates focusing on the importance of creating safe state for everyone in Kazakhstan.

The lack of competent investigators affects the results of the work of the police, in connection with which it is important to increase the potential of police officers, to cultivate qualified personnel, thereby ensuring the effectiveness of solving crimes against life and protecting everyone's right to life.

#### **Article 10. The duty of the state to protect and help the family**

In the field of family protection the following issues are observed: the national plan of measures to strengthen family relations<sup>9</sup>, moral and ethical, spiritual and moral values in the Republic of Kazakhstan does not contain a section on strengthening economic independence and social support for families with indicators for assessing and monitoring the effectiveness of its implementation; all family assistance comes down to various kinds of payments in the form of allowances, which are issued for a one-time solution of problems, the satisfaction of the needs of its members, and are not aimed at integrated development, and the family's self-sufficiency. The social problems map of the Ministry of Health and Social Development of the Republic of Kazakhstan<sup>10</sup> does not contain an analysis of the impact on family development of monetary benefits from the budget and justify the compliance of the calculation of the "monthly calculation indicator" (hereinafter the MCI) to meet the minimum subsistence level.

Kazakhstan provides for a lump-sum allowance for the birth of a child and a monthly allowance for the care of a child up to 1 year. The size of the first in 2016 was 1982 tenge; for the first, second, third child – 66 620.61 tenge; for the fourth and more children –111034.35 tenge. Despite the constant increase in the rate of social payments, the amount of benefits is insufficient for the full maintenance and upbringing of children in the family.

More than half of the country's inhabitants refused to plan a child for the sake of work. For 8 years the number of families with four or more children increased by 7%<sup>11</sup>. One of the problems of families - the lack of their own homes. Many families are below the poverty line: with a monthly income of no more than 80 thousand tenge, 60 thousand tenge is paid for housing, the rest is for living. Due to the lack of registration at the place of residence, many families do not receive benefits from the state, medical services, or education.

#### **The right of the family to the protection of society and the state**

Article 27 of the Constitution of the Republic states: "marriage and family, motherhood, fatherhood and childhood are under state protection", but Kazakhstan makes weak attempts to access information and legal assistance on issues of family protection and support.

The E-gov portal is available to families that have an Internet; the material is presented in a difficult to understand presentation and comments. Dialing a single number of the contact center 1414 is possible only in regional and district centers. The experiment showed that in 20 minutes this service did not show consulting skills, clear response algorithms, legal information, which prevents citizens from accessing the necessary assistance.

Article 8 of the Law of the Republic of Kazakhstan "On State-Guaranteed Legal Aid" provides for the right to receive state-guaranteed legal assistance free of charge. Assistance is provided only during working hours, there is no counseling and support in case of emergency, at night, on weekends and public holidays, for example, in the case of bride abduction. At the village level consultation is provided by akim, whose competence is not enough. It is not possible to go to a district for 200-300 km for consultation to anyone in need of such assistance.

There are more than 5 million minors in Kazakhstan. More than one hundred thousand children do not receive alimony, the debt for which is several billion tenge. Judicial executors fail, and the state must create a single alimony fund for children from low-income families, with subsequent recovery from the debtor in favor of the state.

Family support programs apply only to families that have officially registered marriage with the justice authorities. There is no concept of a "single mother", and therefore a woman who is independently raising an illegitimate child, whose paternity is not established by the court or taking the child into care, receives payments of any allowances provided for by the legislation of the Republic of Kazakhstan on general grounds. If payments to a child are made monthly for 12 months, then after 1 year the mother cannot still go to work, because the child is small, they do not take him to kindergarten, and there are no payments.

Despite the order of the Ministry of Health of the Republic of Kazakhstan dated December 23, 2005 No. 637 "On approval of the List of types of diseases and certain categories of the population, during outpatient treatment of which drugs and specialized medical nutrition are given free of charge and on preferential terms, according to prescriptions" babies transferred to artificial feeding, put free baby food. However, many doctors deny this.<sup>12</sup> Free infant formula is issued by prescription in special pharmacies. The decision to transfer to artificial nutrition is made by the doctor, after the baby's mother declares that the baby does not have enough breast milk.

Optimal nutrition and feeding of infants and young children are factors that determine health and development. Rational principles and methods of feeding can prevent malnutrition and growth retardation. In children who are poorly fed, there is an increased frequency and severity of intestinal and other infections; they are at risk of premature death.

<sup>9</sup> Order of the Prime Minister of the Republic of Kazakhstan dated 28.11.2014, № 139-p "On approval of the National Action Plan to strengthen family relations, moral and ethical and spiritual and moral values in the Republic of Kazakhstan for 2015 - 2020 "

<sup>10</sup> [www.devapp.kz](http://www.devapp.kz)

<sup>11</sup> In 2013, the Minister of Labor and Social Protection of the Republic of Kazakhstan Gulshara Abdykalikova said.

<sup>12</sup> [www.forum.detki.kz](http://www.forum.detki.kz)

## Free and full consent of the future spouses to marry

Article 2 of the Code “On Marriage (Matrimony) and the Family” of December 26, 2011, defines the “voluntary nature of the marriage (marital) union of a man and a woman” who enter into marriage, when they reach the age of marriage — 18 years. Article 10 allows reducing the age of marriage not more than two years (during pregnancy, the birth of a common child).

Early marriages due to the pregnancy of minors are observed, so as not to prosecute the partner (the future father of the child) or “theft of brides”. Marriage of persons, at least one of whom has not reached the age of marriage, is permitted only with the written consent of the parents or guardians.

The desire of minors is not taken into account. There is an opinion (more often in rural areas) that in the case of “covering the head with a scarf” to a girl, she is considered the daughter-in-law and it is a shame to return to the house after this ceremony. It is advantageous to “steal the bride” in order to avoid cash costs, or to use it as a service staff. In case of refusal or resistance, she will face beatings and humiliation.

Over the past 2 years, no one has been prosecuted for “theft of the bride” (“Abduction of a person”, Article 125 of the Criminal Code of the Republic of Kazakhstan). For 3 months of 2012, six such complaints were registered in the South Kazakhstan region. Legal illiteracy, fear, shame, condemnation makes girls silent. If the family turns to the police, they will face bureaucracy and humiliation. Many parents “agree”, for a certain amount - “kalym” transfer the bride to her husband.

Of the more than three thousand who applied to the Sana Sezim PA for the help of women, 40% stole the current husband; the vast majority at the beginning of their family life was raped. Justification of these crimes by the customs of Muslims is contrary to the will of the God<sup>13</sup>: the Koran describes the conditions for marriage: the consent of the girl herself, her guardian (father, brother or uncle), the presence of two witnesses, the marriage gift (kalym). If one of them is not respected, the marriage is invalid and the girl is entitled to leave such a husband.

According to the UNO the number of early marriages in Kazakhstan was 7% in 2014, up to 30 000 women annually marry up to 18 years in the republic. 23.5% of minors account for 100 thousand parturients. A high birth rate among adolescents in the Zhambyl region is 50.5 - in 2014; in the Mangystau region 54.0 - in 2014

Develop an integrated family support model with measurable indicators and a specific budget.

After the birth of a child to introduce state subsidies for a mortgage loan for housing, which would significantly improve the conditions for raising children.

Introduce the “single mother” status into legislation, provide monthly payments for the care of a baby up to 3 years of age, preferential education (30% discount) in additional educational institutions, such as art and music schools; extraordinary preferential (50% discount) admission to preschool institutions; spa vouchers. Labor law guarantees (impossibility of dismissal, etc.).

Introduce maternity allowance aimed at improving housing conditions or purchasing apartments and houses for families, educating children, etc.

Provide free baby food to newborns up to 1 year of families in difficult life situations.

Consider the provision of support to families without Kazakhstan citizenship and ensure their protection.

Increase the size of social benefits to families with children in order to improve their standard of living and bring them beyond the poverty line.

To create a state returnable alimony fund.

## Article 11. The right of everyone to an adequate standard of living for him and his family, including adequate food, clothing and housing, and the continuous improvement of living conditions.

### The right to adequate food

The main reasons for limiting access to adequate food for certain groups of the population are the fall in oil prices, the devaluation of the tenge, low incomes (especially in rural areas), unemployment, and the lack of effective measures of state social support. The most vulnerable in this respect are rural residents, among whom there is a high birth rate, unemployment and low incomes of the population.

"When comparing the consumption of main types of food by the population in rural and urban areas in 2015, the greatest differentiation is observed in the consumption of eggs, bread products and cereals, fruits." In 2014, city dwellers consumed 1.3 times more eggs, 1.2 times more bread and cereals, 1.2 times more fruits and 1.1 times more milk and dairy products than residents of villages.<sup>14</sup>

The significant difference in incomes, the inability to fulfill and satisfy the vital needs in nutrition, health care, and education, cause a high level of internal migration directed from the countryside to the cities. The number of internal migrants in January-June 2015 increased by 33.5%.

It is more difficult for rural residents in RoK to realize their right to adequate food than for citizens. There is inequality in the economic, social status of citizens.

One of the most vulnerable categories of the population in the context of quality food provision is children and adolescents. At the expense of the local budget, hot meals in 2014 covered 83.6% of schools in the city and 63.2% in the village. From 2015 it is provided to students in grades 1-11 from socially vulnerable and low-income families. “Kazakhstanis themselves must pay for kefir and buns to their schoolchildren,” was the promise of N. Nazarbayev<sup>15</sup>. The average cost of school lunches from 300 to 400 tenge.

<sup>13</sup> Representative of the League of Muslim Women Alua Ibadullayeva

<sup>14</sup>

[https://www.kt.kz/rus/economy/v\\_2015\\_godu\\_naibolee\\_potreblyaemimi\\_produktsami\\_pitanija\\_v\\_kazhstane\\_stali\\_moloko\\_i\\_molochnie\\_produkty\\_1153620229.html](https://www.kt.kz/rus/economy/v_2015_godu_naibolee_potreblyaemimi_produktsami_pitanija_v_kazhstane_stali_moloko_i_molochnie_produkty_1153620229.html)

<sup>15</sup> <https://www.nur.kz/354414-besplatnye-bulochki-v-shkolah-vozmutili-nazarbaeva.html>

Not all parents are able to pay for hot meals. Not always free lunch meets the quality standards. Children sometimes remain without a full meal of hot food. Eating behavior of a child since childhood is focused on quick, dry snacks.

Proper nutrition at school age is directly related to the health of children and adolescents. In the "incidence rate" of Kazakhstani schoolchildren, there are diseases of the gastrointestinal tract (25%), eyes - 16.2% of the respiratory and hematopoietic organs.<sup>16</sup> Most students suffer from anemia, are deficient in calcium and folic acid. (It is proved that anemia in a child reduces IQ by 5-7 points.)<sup>17</sup>

The lack of modern equipment in many school canteens, which allows fast and high-quality cooking, many rooms are not spacious enough, they are not equipped with the necessary equipment for cooking hot meals, the quality of dry food leaves much to be desired; not equipped with centralized water supply and sewage; there is a problem with quality drinking water. There is no research on nutritional satisfaction in schools.

At the WHO recommended water consumption rate (2.2 liters for women and 2.9 liters for men), on average, Kazakhstanis consume between 1 and 1.5 liters of liquid per day. Lack of hydration leads to a number of diseases (memory impairment, brain activity, overweight and faster aging of the skin).<sup>18</sup>

One of the most vulnerable groups in ensuring the right to adequate food in the Republic of Kazakhstan is persons who are in places of detention. Revised nutritional standards, taking into account the energy value of food consumed. The legal basis for ensuring access to power has been created, but there is no systematic and permanent control over its observance. In the choice of food, the menu is limited not only by the majority of prisoners, but also by persons needing a special table, there is also no alternative menu, for religious reasons. At the beginning of 2016, the number of prisoners was 39.8 thousand people. The content of one prisoner per year costs more than 700 thousand tenge. It is necessary to begin with an analysis of data on government procurement and compare the availability of purchased products in the arsenals of institutions. According to lawyers and human rights activists, they do not have access to these documents. The difficulty lies in the fact that convicts in the Republic of Kazakhstan do not complain about such issues. Those who complain are called "sasyk" (from Kazakh means "bad smelly/noisome"). They are created obstacles, imposed penalties and so on. Problems arise when sending parcels of food to prisoners: reception time is limited to one hour, everyone does not have time to transfer. Receiving packages is directly dependent on the will and desire of controllers.<sup>19</sup>

The total number of detainees at the rally on 05/21/2016 - 1083 people.<sup>20</sup> At the same time, most of them spent more than 3 hours in law enforcement. In Almaty, none of the detainees during this period were provided with drinking water and food.

Solve the problem of rural employment, creating new jobs, measures of state support and stimulation of small and medium-sized businesses, implementation of training and retraining programs for rural youth, development and support of civil initiatives and public organizations whose activities are aimed at solving urgent problems for local communities can promote, including improved access to decent nutrition for rural residents.

Conduct explanatory work on the need for a balanced diet and its impact on human health.

Ensure access to hot meals in all educational institutions, especially in secondary general education institutions in rural areas. It is necessary to regularly assess and monitor schoolchildren's satisfaction with hot meals, the state of school nutrition units and their general standards, assess staff qualifications, promote healthy eating patterns and risks associated with eating disorders among adolescents and young people, the parent community. Each school should be provided with permanent free access to drinking water sources.

Take measures to improve the food supply of institutions of the penitentiary system, including by increasing their self-sufficiency. The procurement system for the needs of the penitentiary system needs transparency and efficiency. Alternative places should be provided in places of detention, including for religious reasons.

### **The right to an adequate standard of living**

Over the 4 years since 2010, the level of poverty in the village (compared to the city level) has increased from 2.6 to 3.7 times. Pensions are the main source of income for 14.5% in the village (in the city - 13.3%). There are 11.4% of pensioners in the country. Pensions are not enough to maintain an adequate standard of living, given the costs of housing and communal services, medicines, food and clothing.

Since 2010, the increase in pensions has not corresponded to the level of inflation. The share of the population with incomes below the subsistence minimum decreased by 4%.

There are problems with determining the size of the subsistence minimum (SM), it should be calculated taking into account the level of inflation (amounted to 7.97 - 13, 53%). SM does not cover the physiological norms of an adequate standard of living. The number of poor is more than the official statistics show. The poor authorities include those whose incomes are below the value of the SM. The consumer basket consists of 43 items (in Russia - 156).

In 2015, sales of food products decreased in comparison with 2014 from 9.3% to 0.8%, retail sales - from 10% to 2.8%, non-food products - from 10.8% to 3.7%. Retail sales in the village in November 2016 were decreased by 16%.

In 2015, the income of the population decreased by 1.6%, in 2016 - by 12.5%. Incomes of 34% of citizens are only enough to buy clothes and food. 5% of residents do not have enough money for food. In 2015, clothes went up by 32%.

In 2012, they consumed 239 kg of meat less than the recommended by WHO (959 kg). In 2013, the secured layers ate meat 3.7 times more than the poor. In 2014, over 200 thousand Kazakhstanis were undernourished (60.4 thousand villagers and 177.6 thousand citizens).

While in Europe 10% of income is spent on food, in Kazakhstan from 2011 to 2016. - 45.3%.

<sup>16</sup> <http://mk-kz.kz/articles/2016/02/23/v-kazakhstane-sostavlen-reyting-zabolevaemosti-shkolnikov.html>

<sup>17</sup> Там же

<sup>18</sup> <http://pharmprice.kz/article.php?ArticleID=296>

<sup>19</sup> <https://www.facebook.com/dosyms/posts/1033740586714347>

<sup>20</sup> [ewtimes.kz/obshchestvo/item/32201-realnoe-chislo-zaderzhannykh-vo-vremya-mitingov-21-maya-1083-cheloveka-tajzhan](http://ewtimes.kz/obshchestvo/item/32201-realnoe-chislo-zaderzhannykh-vo-vremya-mitingov-21-maya-1083-cheloveka-tajzhan)

Domestic labor migrants (about 1-2 million people) spend on rent more than half of their earnings. Acquisition, improvement of living standards is unattainable.

In 2013, the housing shortage was 28 million square meters, about 400 thousand families did not have their own housing (25% of Kazakhstanis are able to buy a home). With a UN standard on housing security - 30 square meters. per person, in 2010-2014 in Kazakhstan: 18.4 - 21.0 sq. m. per person (in cities - 23.8 sq. m. per person, in the village - 17.6 sq. m.). In Astana, Almaty 50% of housing is purchased for the purpose of investment.

In 2014, the Regional Development Program until 2020, 56% of Kazakhstani respondents considered the cost of housing under the Nurly Zhol program to be overestimated. According to the authorities, 1 sq.m. housing costs 1100-1200 dollars, but it is permissible to build social housing for 650 dollars per 1 sq.m.

In 2015, about 50% (about 2.657 million out of 5.325 million) families cannot save money for housing. More than 40% are not satisfied with the preferential instruments of state programs on affordable housing. The pace of construction - 0.4 square meters per person per year and do not change 10 years. According to the Program for the Development of Regions until 2020, the introduction of new housing is planned for 10 million square meters, which is not enough, given the rate of natural population growth.

In 2015, about 190 thousand people (3.6% of all households) were in the queues for housing. With the existing construction volumes until 2019, 10% of citizens will receive housing annually. At this rate, until the end of 2019, only about 42% of such Kazakhstanis will receive housing from the state, and those who are at the end of the line by 2025. This is on condition that the number of waiting lists and the volume of construction will not increase.

There are violations of housing rights: the rights of co-investors, people whose houses are confiscated, without a fair amount of damages, for state needs; people on mortgage loans, inability to pay them due to changes in the dollar exchange rate, decrease in their own incomes; low quality of commissioned residential buildings. As you know, during the reporting period in Kazakhstan there were a number of cases of the collapse of new houses built in violation of all norms.

Residential buildings in disrepair in 2015 - 5105 units, living in them - 120609 people. About 50% of housing is equipped with water supply, sewage, central heating, heating from individual installations, bath or shower, central hot water supply, hot water supply from individual water heaters and gas.

The availability of drinking water through the central water supply system in 2015 was 67.3%, in villages - 26.2% (in the South Kazakhstan region - 38.7% and 0.4%, respectively).

In 2015, life expectancy (LE) in Kazakhstan was ranked 152 out of 224 countries. If in 39 countries of the world life expectancy is above 80 years, in Kazakhstan - 68.98 - 70.55 years. By quality of life in 2014, Kazakhstan was in 70th place out of 188 countries.

An example of a violation of the right to an adequate standard of living is the context of the tragedy in Zhanaozen on December 16-17, 2011. The main factor in the strike was the low standard of living of families in the oil and gas industry in the region. The average wage of workers of Ozenmunaygaz was 170 thousand tenge excluding the coefficient for oil and gas industry employees dated January 1, 2009. Food prices are higher by 10–15% than in other regions. Only one person works in each large family of Zhanaozen people. The salary of 170 thousand tenge did not provide a decent standard of living. There was a shortage of drinking water in the city; in some areas of the city until the middle of 2016 its central supply was absent. In 2011, cold water was turned off for a whole week, and hot water was given two hours a day.

The highest poverty level in 2010 was recorded in the East Kazakhstan region - 8.4%, South Kazakhstan - 11.5% and in the Mangystau region, where Zhanaozen is located - 11.6% (in the village - the highest poverty level in the country - 21.2%).

### **The right to adequate housing**

The obligation to respect rights requires states to refrain from interfering in the enjoyment of economic, social and cultural rights. Thus, the right to housing is violated if the state conducts arbitrary forced evictions (paragraph 6 of the Maastricht Principles).

The legislation of Kazakhstan does not have the legal registration of a ban on forced evictions and protection from them required by international standards. The law lacks the concepts of “forced eviction”, “the right not to be subject to forced eviction”, “the right to protection against forced evictions”, “prohibition of forced evictions” and others. In contradiction with international law, the legislation contains the rules of forced evictions without the provision of alternative housing.

The state is not taking legislative measures to implement the right to adequate housing and to guarantee against the forced eviction of home owners and land, problem borrowers of second-tier banks. There is no effective system and protection mechanisms to ensure tight control over the conditions under which evictions are carried out. There are no measures to bring to justice those who committed violations during the implementation of evictions. The presence of a large number of state bodies (Akimat, the Committee on Land Resources, the Department of Architecture and Urban Planning, and others) leads to the absence of general reliable statistics on forced evictions.

There is a tendency of growth of violations of housing rights: citizens are evicted from their own housing, offering in return compensation disproportionate to its market value and insufficient for acquiring a different home; the state seizes land plots and forcibly evicts owners from their homes for state purposes; socially unprotected persons have lined up for dozens of years and cannot get housing; citizens are deprived of a single housing due to the inability to repay bank loans; There is no provision for the provision of alternative housing for all those who have been forcibly evicted.

Take legislative measures to implement the right to adequate housing and establish guarantees against the forced eviction of home owners and land, problem borrowers of second-tier banks.

Legislatively fix the definitions of the terms “forced eviction”, the right “not to be subject to forced eviction”, “to protection against forced eviction”, “prohibition of forced evictions”.

Create an effective system and mechanisms to protect the right to adequate housing, including tight control over the conditions under which evictions are carried out.

To form a unified state body for the protection of the right to adequate housing.  
Implement the recommendations of the Special Reporter on the right to adequate housing, Roquel Rolnik.

### **The right to own land and other property**

The legislation allows forcible alienation of property for state needs, and paragraph 3 of Art. 26 of the Constitution provides for the condition of equivalent compensation. However, in paragraph 2 of Art. 67 of the Law of March 1, 2011 on State Property, these guarantees have not been implemented. In case of non-use by appointment within three years from the date of the decision to grant land, it is also possible for the state to forcibly seize land plots from owners (paragraph 2 of article 92 of the Land Code of the Republic of Kazakhstan).

Oralmans and citizens of Kazakhstan are not equal in the right to own land and other property. The first land is granted on the right of temporary gratuitous use (paragraph 3 of Art. 23 of the Law of July 22, 2011 "On Migration").

For agricultural land the right of private property is provided for a fee (clause 2 of article 24 of the Land Code of the Republic of Kazakhstan). Taking into account the population of the country (more than 17 million people) and the area (2 million 724.9 thousand km<sup>2</sup>), a significant amount of land is accounted for each person.

In 2013 the Agency for Land Resources Management of the Republic of Kazakhstan was reorganized by joining the Ministry of Regional Development, which was abolished in 2014, and its functions were transferred to the Ministry of National Economy of the Republic of Kazakhstan. This ministry has a Committee on Construction, Housing and Communal Services, and Land Management. The number of specialists dealing exclusively with land issues has been decreased.

Since November 27, 2013 the President of the Republic of Kazakhstan orally declared a moratorium on the provision of land in the 30-kilometer zone around Astana, which is currently in force. In Almaty such a moratorium was imposed on November 21, 2009. More than 1000 people are registered in the queue for receiving free ten acres of land only in the Talapker rural district of the Tselinograd district of the Akmola region, of which there are those who have been waiting for the land since 2004 (13 years). As a result, hundreds of thousands of citizens cannot exercise the right to receive land from the state for free.

Announcement by the President of Kazakhstan in the summer of 2016 a moratorium on the sale of land to foreign citizens and legal entities as a result of spontaneous mass protests in April-May 2016 revealed a lack of explanatory work by local executive authorities and wide discussion on a matter of serious public interest. For organizing a rally in the city of Atyrau on April 26, 2016. On November 28, 2016 the court sentenced civil activists Max Bokaev and Talgat Ayan for "inciting social discord", "disseminating false information" by prior agreement with social networks, and in "violation of the order of organizing and holding meetings" (Criminal Code of the Republic of Kazakhstan, Articles 174, 274 and 400) to five years in prison with a ban for three years to engage in public activities and to fines of 250 MCI in the amount of 530 250 tenge (about 1500 Euro).

Bring the Land Code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan "On State Property" in accordance with Art. 26 of the Constitution of the Republic of Kazakhstan on reimbursement to the owner of equal value in the event of the forced alienation of property (or determine the price of land based on the market value).

Cancel the moratorium on the provision of land to citizens on a free basis in the territory of the cities of Almaty and Astana.

Provide land in reality, not limited to the formal placement of citizens in the queue.

Eliminate discrimination by giving oralmans the opportunity to receive land for their personal subsidiary farming, gardening, and country house construction on the right of private property (along with temporary gratuitous use).

To form a single central authorized body whose main function is to determine the resolution of land issues and land management.

Repeal the conviction and release from custody of civil activists Max Bokayev and Talgat Ayanov.

### **The right to water and sanitation**

The legislation of Kazakhstan is based on the Water Code,<sup>21</sup> the Environmental Code<sup>22</sup> and the Code of the Republic of Kazakhstan on public health and the health care system<sup>23</sup>. The state has signed the Declaration on achieving the Millennium Goals.

The implementation of the Drinking Water program for 2002-2010 (2 billion tenge) has been completed. Launched in 2011, the Ak Bulak Program (until 2020), since January 2015, has become part of the Program "Development of Regions".<sup>24</sup> Their goal was to provide high-quality drinking water and water disposal.

The Drinking Water Program showed the lack of transparency in the allocation of resources, abuse of power, poor construction and reconstruction of water lines, violation of repair and construction deadlines, failure to comply with public procurement procedures, lack of quality of drinking water, illegal transfer of state property to private individuals<sup>25</sup>; the increase in living standards and positive changes in the provision of high-quality drinking water and sanitary conditions, especially in rural areas, have not been taken into account.

There are differences between urban and rural areas and between areas in terms of adequate housing, sanitation and water supply systems. "As of 10/01/2016, out of 6 670 rural settlements (RS) only 3 616 or 53.8% are provided with centralized water supply."<sup>26</sup> In most parts of the country, water supply and water disposal services are provided on the basis of self-supply.

<sup>21</sup> Water Code of the Republic of Kazakhstan, No. 481-II, 9.07.2003, [http://online.zakon.kz/Document/?doc\\_id=1042116#pos=414;-299](http://online.zakon.kz/Document/?doc_id=1042116#pos=414;-299)

<sup>22</sup> Environmental Code of the Republic of Kazakhstan, No. 212-III, January 9, 2007 (with amendments and additions as of April 28, 2016) [http://online.zakon.kz/Document/?doc\\_id=30085593#pos=3722;-282](http://online.zakon.kz/Document/?doc_id=30085593#pos=3722;-282)

<sup>23</sup> The Code of the Republic of Kazakhstan "On the health of the people and the health care system", No. 193-IV, September 18, 2009, (as amended up to April 21, 2016), section 6, "Activities in the field of sanitary and epidemiological well-being of the population and public health", [http://online.zakon.kz/Document/?doc\\_id=30479065#pos=1;-307](http://online.zakon.kz/Document/?doc_id=30479065#pos=1;-307)

<sup>24</sup> Decree of the Government of the Republic of Kazakhstan "On Approval of the "Ak Bulak" Program for 2011-2020", No. 570, May 24, 2011, (Lost by Resolution of the Government of the Republic of Kazakhstan of June 28, 2014 No. 728), <http://adilet.zan.kz/rus/docs/P1100000570>

<sup>25</sup> <http://www.zakon.kz/kazakhstan/123048-v-ramkakh-realizacii-programmy-pitevaja.html>

<sup>26</sup> Murat Zhakeyev, "In half of the villages of Kazakhstan there is no centralized water supply", KazNews.kz, 18.10.2016, <http://kaznews.kz/news/54253>

Many RSs are in dire need of drinking water, improving sanitation, there is a health hazard, but they are not included in the program (the village of Manshuk, Tselinograd district, Akmola region, has worn out 50 years of operation, water is fed for 1-2 hours a day, while through the leaky water supply, drinking water flows out aimlessly.<sup>27</sup> Coca-Cola was attracted, which allocated funds for the preparation of design and estimate documentation (DED), but the akimat of Akmola region did not receive government funding through "Ak Bulak" program in 2016)

Water and sanitary conditions are not always available for vulnerable populations. After the delivery of the water supply, the villagers (due to the expensive cost of water supply and monthly payment for the metering device) use wells. The latter is worrying, since nobody is responsible for the quality and safety of water in private wells.

In rural areas for irrigation drinking water is used.

Information about the tariff setting of water supply and sewage services is not available or is presented in a complex form. There is a difference in tariffs by region. So, in the village of Kargaly of the Almaty region in the spring of 2014 the payment for water was increased, and the company was operating at a loss<sup>28</sup> (the old tariff was 11 tenge / cube, the new tariff was 30 tenge / cube). While in the Akmola region the cost for water is almost 5 times more expensive, it was 140 tenge / cu.

Public involvement in the implementation of water supply projects is limited to informing about the upcoming increase in water use tariffs and familiarity of residents with an estimate of water supply to homes only at the final stage of the project, when no changes can be made. At the stages of planning and implementation of programs and projects of water supply, there is no public participation. So, in 2015-2016 in the village of Tushkykudyk of the Atyrau region, in the village of Zhibek Zholy of the Akmola region, the outskirts of the countryside were not included in the state program, since objects for "Ak Bulak" approved in 2012.<sup>29</sup>

The problem of inconsistency of actions of various services. Thus, in 2015, in the village of Sarytogay of the Atyrau region, the water supply system was put into operation, but was damaged by the organization conducting the power supply networks. As a result, the water pressure is low; the water does not reach the margin.<sup>30</sup> In Zaporozhye, Akmola region, for more than a month, the energy-hosting organization did not sign the acceptance certificate, there was no sanitary doctor's signature (disinfection was not carried out due to the lack of electricity to start the pumps).<sup>31</sup>

There is corruption. Thus, 420 956<sup>32</sup> million tenge was allocated for the construction of water pipelines<sup>33</sup> in the village of Esengeldy, Atbasarsky District, Akmola Region for 2010-2012, but in 2016 the problem is still not resolved.

There is no legal mechanism for conducting high-quality economic expertise on the organization and conduct of exploration for groundwater, which creates conditions for corruption and failures in the process technology. In 2015, this competence was transferred to local executive bodies.<sup>34</sup>

In rural areas, the centralized sewage system is mostly absent. Waste water is collected in pits and absorbed into the ground (at best, it is pumped out by a special ass-machine, if there are septic tanks). After 20 years, the soil will be washed away, the property of absorption will decrease, and the risk of infection with infectious diseases will increase (through water, soil, products).

<p>Provide access to safe drinking water to everyone in the Republic of Kazakhstan. Introduce water saving technologies.</p> <p>Develop a "roadmap of public control over water supply projects"; involve the public at the stages of developing strategic documents, programs, projects, planning, implementation, commissioning programs and water projects.</p> <p>Provide high-quality expertise of projects; include public expertise in the cost of each project. To take into account the conclusion of public expertise, the rating of public evaluation of the work of contractors in further tenders.</p> <p>Provide public access to participate in the development of the project with the involvement of the customer, performer, balance sheet holders, designers, experts and public auditors.</p> <p>The allocation of funds for the construction of water supply should be distributed on the basis of the principle of justice - as urgent as necessary, in order of priority and reasonableness.</p>
<p>When planning and developing all water supply projects, it is necessary to take into account water disposal issues.</p> <p>Develop and implement a system to ensure the provision of services to insolvent, socially vulnerable groups of the population for water metering and monthly payment for a metering device, when setting water tariffs. Such cases are known in Almaty, Aktobe and Zhambyl regions.<sup>35</sup></p>
<p>Build a technical water supply system (river water) for irrigation in rural areas to solve the problem of unsustainable use of drinking water.</p> <p>To open access for citizens to information on the tariff setting of water supply and sewage services of public interest, and is also available for consumers to understand.</p> <p>Legislatively determine the responsibility for: using water from private wells, for ensuring the safety and uninterrupted operation of the commissioned facilities to the local executive authorities.</p> <p>To carry out a clear coordination of actions of various services, including in the development of design and survey works at the site of future construction, installation and connection of engineering networks and communications on the territory of</p>

<sup>27</sup> Angel NGO, Needs Assessment with Manshuk Tselinograd district, Akmola region ", 7.09.2014, <https://www.youtube.com/watch?v=gff1cc3-3eo>.

<sup>28</sup> Angel NGO, public monitoring in the village of Kargaly, Almaty region, 2014 [https://www.youtube.com/watch?v=aNlyYA\\_VgSI](https://www.youtube.com/watch?v=aNlyYA_VgSI)

<sup>29</sup> Angel NGO, public monitoring, 2014-2016 yy.

<sup>30</sup> Angel NGO, public monitoring, 2015 y.

<sup>31</sup> Angel NGO, public monitoring, 2015 y.

<sup>32</sup> Response to the request of NGO "Angel" of the Akmola Oblast Water Supply Department, 04/16/2012.

<sup>33</sup> Irina Morozova, "In the Almaty region was repaired water supply, which does not exist", 2.11.2015, the TV channel "KTK", <http://www.ktk.kz/ru/news/video/2015/11/02/64213>

<sup>34</sup> The Law of the Republic of Kazakhstan "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan Concerning the Distribution of Powers between Levels of Government", No. 239-V, 09.29.2014, [http://online.zakon.kz/Document/?doc\\_id=31609276#pos=26;-243](http://online.zakon.kz/Document/?doc_id=31609276#pos=26;-243)

<sup>35</sup> NGO "Angel", public monitoring in p. Kyzylzhar Aktobe region, and. Dihan-2, p. Zhetibay of Zhambyl region, g. Ushatobe Karatal district, p. Karabulak, Yeskeldy district of Almaty region, 2014 - 2015

the customer; landscaping and road construction; when passing the objects, agree on the consistency and logic of signing the act of acceptance of work by individual experts.

To create conditions for increasing the capacity and expert level of non-governmental organizations, and training representatives of the rural population.

Public councils should be given the right to monitor the implementation of budget programs together with NGOs and citizens.

Encourage social responsibility of business.

Eliminate the possibility of applying an amnesty to those who have committed theft in the field of water supply and sewage.

Increase human resource capacity of developers and implementers of programs and projects of water supply and sanitary and epidemiological well-being by increasing the number of educational grants for relevant specialties; to popularize professions in the field of design, construction and maintenance of water supply and sewage systems, sanitary services and engineers.

Differentiate the responsibility of akimats and the Committee of Geology and Subsoil Use. Local executive bodies should receive ready-made deposits of groundwater for water use, and everything related to the geological study of the subsoil, prospecting and exploration of mineral reserves, regardless of the type of mineral raw materials (hydrocarbons, solid minerals, groundwater, common minerals) should be under the jurisdiction and responsibility of the authorized body in the field of geology, which is the Committee of Geology and Subsoil Use of the MID of the RoK. Geology cannot be fragmented.

## **Article 12. The right to the highest attainable standard of physical and mental health**

The state does not ensure the physical and economic accessibility of medical facilities, goods and services without any discrimination, especially for vulnerable or marginalized groups. For many, trained medical and other qualified personnel are not available. Medical workers receive uncompetitive salary for their country. There are citizens who are starving, who do not have shelter and shelter. In one of the correctional colonies of the Karaganda region, prisoners manually clean the sewers. There is still no sufficient supply of safe drinking water for every inhabitant of the country. Every year in December, there is a shortage of drugs (including neuropsychiatric dispensaries), which is associated with disruptions in funding.

There are no guarantees of pediatric care in practice.

The right to receive free medicines by certain categories of citizens with certain diseases (conditions), which also include persons with cardiovascular diseases, is enshrined in Kazakhstan's legislation. Only in 2015, PF "Aman-Saulyk" received 33.7% of such complaints. The reasons for this situation are: lack of funding, the irregularity of government procurement and supply of drugs, lack of honesty and responsibility in the appointment and prescription of free medicines for patients who are registered with dispensaries.

Information about the main medical problems of the community, including methods of preventing and controlling them, is not widely available, as well as information about the real state of the environmental situation is not available.

Adequate training of health workers, including the theme "health and human rights" is not conducted.

The ecological situation is not healthy throughout the country, no real assessment is carried out, the recommendations of the Special Reporter on waste issues of Bashkut Tunchak have not been implemented.

Equal and timely access to basic medical services for the prevention and treatment of diseases, medical rehabilitation and health education is not ensured (migrants without identity documents are denied such access as their children born in Kazakhstan, because they are also undocumented and do not have it).

The right to seek, receive and disseminate information on medical issues is not protected. For example, a person with a mental disorder will not be given a medical card (for example, the case of lawyer Zinaida Mukhortova).

In the forensic field there is no forensic psychology, no qualified psychologists. Thus, in cases of torture, law enforcement officials appoint not "forensic psychological and psychiatric" expertise, but "forensic psychiatric examinations with the participation of a psychologist".

In the 2012 Bloomberg survey, Kazakhstan ranked 111 out of 145 countries in the ranking for the health of its inhabitants. Budget expenditures on the health care system in shares of GDP: 2010–2016 amounted to 1.7 - 1.4%.

The amount of free medical care guaranteed by the state does not have adequate financial security. People are forced to pay for medical care, including - informally, in public medical institutions.

Each of the obligations to respect, protect and fulfill rights contains elements of an obligation of conduct and an obligation of result. The obligation to conduct requires that reasonably calculated actions be taken to ensure the exercise of a particular right. For example, in the case of the right to health, an obligation of conduct may include the adoption and implementation of an action plan to reduce maternal mortality. The commitment of the result requires states to perform certain tasks in order to meet a detailed and important standard. For example, with regard to the right to health, the obligation to result requires a reduction in the maternal mortality rate to the levels established in 1994 at the International Conference on Population and Development in Cairo and in 1995 at the Fourth World Conference on Women in Beijing (paragraph 7 Maastricht Principles).

Provide effective control over the activities of the operator of a unified system of procurement and distribution of medicines for public medical institutions SK-Pharmacy in order to prevent interruptions in the provision of medicines in the framework of GFMC.

Provide an opportunity for medical organizations to independently determine the dosage forms of hospitals, based on specific needs.

Through the system of state social order to organize the work of telephone hotlines in NGOs to monitor the situation with the availability and quality of medical and pharmaceutical services.

To proceed from the needs of real beneficiaries of the GFMC in order to better meet the needs of patients in providing medicines and medical supplies.

Promptly and widely inform citizens about their rights to a guaranteed amount of medical and drug assistance.

### **Ensuring the reduction of stillbirths and infant mortality and the healthy development of a child**

In general in the republic and in Astana, the birth rate has increased. Monitoring of pregnant women (treated 8-9 times during pregnancy) is carried out in public and private clinics. There are a lot of women in public medical institutions, long queues; doctors do not always have enough time for every pregnant woman. In private clinics, pregnancy monitoring costs 180-200 thousand tenge at the Center for Motherhood and Childhood (ultrasound, examination, genetics, and hospitalization if necessary), the Center for Perinatal Prevention (200-250 thousand), Keruen Medicus (250-280 thousand), the most expensive observation in the capital is 300 thousand tenge.

The last 10 years have changed the criteria for live birth - this is one of the reasons for the increase in the infant mortality rate. If earlier the fetus and the child born after 20 weeks of gestation to a year of life weighing 500 grams, were not counted in the statistics, now they are included in the percentage of infant and child mortality.

Environmental factors, high urbanization, extra genital pathology have changed (the health index of young women is very low - adolescent girls start to hurt early, a lot of somatic - therapeutic pathology, the percentage of thyroid gland has increased, including due to study, improper distribution of physical and mental stress).

Despite the decline in the maternal mortality rate in the country as a whole, it remains high in the regions of Atyrau, Kyzylorda and Mangystau regions.

The health of the child is laid in the mother. If the mother is sick, the healthy child will not be born. Children under 5 years old get sick a lot, get a lot of drugs, immunity is low, high allergic background, a lot of stress.

The influenza virus mutates every year, the body is very susceptible to viral drugs and antibiotics (it does not help treatment, the process is delayed, it can periodically worsen, the food is bad - not natural, lack of vitamins, a lot of stress, there is no acceptable mode of rest and physical health, adults are busy earning money, no attention is paid to children's health).

Universities graduate general practitioners, pediatric faculties are closed.

The state should care more about young families. There is a low amount of allowance for the birth of a child under one year old (products are expensive, neither the young mother can afford to buy vegetables or fruit, sports sections are expensive and inaccessible).

There are no social free programs for young families in Kazakhstan. In Russia, for example, there is the "Maternity Capital", the certificate "Mother and Child" (insurance policy service), which provides financial assistance, the cost of medical services, allows the accumulation of funds.

To create conditions for reducing infant and maternal mortality while ensuring the availability of medical services for monitoring during pregnancy and childbirth in public and private medical institutions.

To implement the recommendations of the UN Special Reporter on Waste and Environment Bashkut Tunchak, who visited Kazakhstan in 2015; provide broad access to accurate information about the real state of the environment and ecology in the country.

To raise the health index of girls and young women in terms of extra genital, somatic pathology (thyroid disease), and allergies.

To develop and adopt a set of measures for the proper distribution of physical and mental stress in secondary schools, with an acceptable mode of rest and physical health for children.

To open in the medical institutions of higher education faculties of pediatrics.

To provide for such a size of allowance for the birth of a child up to one year that could provide sufficient for a healthy diet, the lives of young families.

To create conditions for the development and accessibility of free sports sections for children.

To provide for the creation of social programs for young families for medical care and assistance with the possibility of accumulating funds.

### **Children's access to medical care**

In comparison with Russia and Ukraine, the highest number of HIV-infected children in Kazakhstan. In 2015, 8 new cases of HIV infection were registered among children from 2 to 15 years old. In 2006, children were infected with HIV in the hospital in Shymkent, the number of whom today is 224. In June 2007, by conviction, 4 out of 21 defendants received a suspended sentence. In 2010, a quarter of children had the disease at the AIDS stage, due to the poor quality of medicines and the lack of a new device to determine the viral load in the blood; 14 children died. The amount of compensation to them (from 50 to 150 thousand tenge) is 10 times lower in comparison with the amount charged by the court from journalists in favor of the akim on the case of honor and business reputation protection.

According to the law, in relation to minors, their legal representatives (including on examination by a gynecologist, get contraceptives) consent to medical intervention, while the age of consent to sex is legally set at 16 years. Responsibility for one's health and lowering the age of informed consent are interrelated.

The UNICEF study "Violence against children in public residential institutions of Kazakhstan" in 2010 in 30 orphanages in Kazakhstan showed that 35% of children were sexually abused, 25% were physically abused, 15% were psychologically abused. Acts of violence are hinted at or silent. Violence leaves a psychological trauma (anxiety of close relationships, distrust of a partner, sexual dysfunctions), which in the future prevents a teenager from building a family.

Revise adequate, sufficient for the rehabilitation of the amount of compensation to families whose children are infected with HIV in a hospital in Shymkent in 2006; introduce long-term programs of care and reintegration of young people with HIV who have reached the age of majority.

Adopt legislation prohibiting discrimination against people living with HIV / AIDS, effectively implementing it.

Reduce the age at which a person has the right to independently give free informed consent to medical services to 16 years. Article 91 of the Code of the Republic of Kazakhstan "On the health of the people and the health care system" and Art. 11 of the Law of the Republic of Kazakhstan "On the reproductive rights of citizens and guarantees of their implementation» add the following content: "In the interests of health care, minors over 16 years of age have the right to voluntarily informed consent to medical intervention or to refuse it."

Eliminate the norm that prevents young people from accessing voluntary testing for HIV and STIs, in particular, special articles of the Criminal Code of the Republic of Kazakhstan, providing for responsibility for the transmission of HIV and STIs.

Develop and implement a program for teaching adolescents and young people to protect sexual and reproductive health within the framework of compulsory subjects of general education schools, institutions of secondary specialized education (colleges), and NGOs (through the state social order).

To increase the availability of information and medical services on the reproductive health of adolescents and young people; ensure that these issues are included in the work of the school's parent committees.

Provide secondary schools with psychologists with a specialization in child psychology.

Provide medical organizations of primary health care with adolescent health care, train teen physicians and put a "pediatric gynecologist" in the staffing table of polyclinics.

Increase the number of medical organizations, especially in rural areas. Young people should be informed about the availability of such centers and the list of services provided in them.

### Medical care for prisoners

The State party is required to comply with certain minimum standards for the treatment of prisoners, including the provision of medical care and the provision of care to sick prisoners. The situation with prisoners' access to medical care is unfavorable.

Medical workers of correctional institutions are subordinate to the penitentiary system.

Mortality in closed institutions is left without proper investigation and raises serious doubts about the availability of adequate medical care. Thus, "the fact of the death of three convicts in EC-166/26 of the Akmola region, which became the basis for a criminal case, is indicative. The facility is located 400 km from the regional center, which makes it impossible to provide qualified medical assistance to convicts and makes public control more difficult".<sup>36</sup>

Convicted to 8 years of imprisonment in 2009, Zhasslan Suleymenov was a wheelchair user, while serving his sentence in the institution of Stepnogorsk, complained about the lack of proper care for the treatment of wounds (which he was treated with dirty gloves); In general, his state of health behind bars has deteriorated. In May 2011, Dmitry Rakishev, after 10 days of detention in the temporary detention center of the Department of the Interior of Stepnogorsk, died due to the refusal of hospitalization (if there is a referral from the trauma specialist to emergency hospitalization). In 2015, the UN Human Rights Committee acknowledged that the state of health of the ex-head of Kazatomprom, Mukhtar Dzhakishiev, deteriorated after a long period of detention, the prison lacks the necessary conditions for providing him with urgent medical assistance during hypertensive crises and loss of consciousness.<sup>37</sup>

The obligation to exercise rights requires states to take appropriate legislative, administrative, budgetary, judicial and other measures in order to fully exercise such rights. Thus, the inability of the state to provide the necessary primary health care to those who need it can be equated with a violation (paragraph 6 of the Maastricht Principles). Many prisoners are without teeth, because teeth can be removed free of charge, and treatment is carried out at their own expense (if any). In accordance with the Decree of the Government of the Republic of Kazakhstan dated December 15, 2009 No. 2136 "On approval of the list of guaranteed free medical care" (with amendments and additions dated December 15, 2010), planned dental care (tooth filling) is not included in the guaranteed amount of free medical care. Not the same attitude in terms of treatment and medical care is provided for persons deprived of their liberty for life.

"The facts of non-admission of NPM participants to medical institutions of a closed type continue, incorrect behavior on the part of the staff of institutions, obstacles to the normal conduct of monitoring, recommendations, data on the results of visits in 2014 have not been eliminated. Despite the fact that torture was not found during visits to healthcare institutions, problems were identified related to other gross violations of human rights. Half of the institutions need capital repairs; the buildings do not meet sanitary and epidemiological standards: content in such institutions can be qualified as ill-treatment. Information about dirty and smelly toilets is found in almost every report. Often there is no access to cold or warm water. In one of the hospitals, women take a shower, watering themselves with water from a mug, and children are washed in trays for washing their feet. Practically all regional NPM groups recorded various complaints from persons held in institutions, moreover, a case of handcuffing was revealed in relation to the patient of the "Psycho-neurological dispensary of the NKO". The facts of the lack of adequate nutrition and proper medical aid on this background are losing their relevance, however, they are recorded almost everywhere," from the consolidated NPM report for 2015.

To bring legislation on access to medical care in conditions of detention and imprisonment in accordance with the Standard Minimum Rules for the Treatment of Prisoners (rule 22), in order to ensure the right to life, the right to humane treatment and respect for the inherent dignity of a person, as provided for in Articles 6 and 10 of the Covenant on Civil and Political Rights.

To remove the medical service from the subordination of the administration of the penitentiary system of the Ministry of Internal Affairs of the Republic of Kazakhstan.

To introduce forensic psychological and psychiatric expertise; to train psychologists in such a way as to cultivate qualified personnel.

<sup>36</sup> From the consolidated report of the National Preventive Mechanism for 2015.

<sup>37</sup> Clause 7.3 of the considerations of the Committee No. 2304/2013, adopted on October 19-06, 2015.

To eliminate all kinds of discrimination in terms of medical care and care for persons deprived of their liberty.

A comprehensive program is needed to assess the situation in all medical institutions of a closed type, to optimize and repair them, to equip them with equipment and furniture. Many institutions are overcrowded and new facilities are required. At the interim stage, there is no need to do without a strengthened prosecutor's control over the implementation of the recommendations of the national preventive mechanism (NPM) and in general the situation in medical organizations. The introduction of broad public control over the activities of these institutions will also contribute to changing the situation. Particular attention should be paid to the issue of improving medical care itself, the application of new approaches, respect for and observance of patients' rights in the work of medical staff.

### **Mental health**

Mental health is not part of public health. The competence of clinical psychiatry includes non-core functions (examination at military registration and enlistment offices, testing and examination of conditionally healthy populations, etc.), which leads to an increase in the burden on staff.

The legal framework does not meet international standards, in particular, the Principles for the Protection of the Mentally Sick and the Improvement of Mental Health Care of the United Nations, does not contribute to the protection of patients and the effective work of the staff.

Psychiatric institutions are funded on a residual basis.

The basis of violations of patients' rights is discrimination, stigmatization, lack of access to effective means of protection of rights.

For the rights enshrined in the Code of RoK "On the health of the people and the health care system": the choice of a medical organization, consent to treatment, provision of medicines, there are no conditions for implementation, including the legal framework.

Inadequate protection of patients' rights is ensured by medical organizations. Medical personnel and patients do not have sufficient knowledge of human rights. The state and public organizations do not interact effectively enough, or there is no cooperation.

There is no system for the rehabilitation of persons with mental disorders, a network of medical and labor workshops (with the exception of Astana), the number of day hospitals has fallen by half, and the social reintegration system is not developed. The only institutions capable of accepting persons with severe mental and mental disorders are medical and social institutions, the creation and implementation of alternative forms of social services are in an embryonic state.

The process of deinstitutionalization, the organization of alternative services and the integration into society of people (over 18 years of age) with mental health disorders will contribute to the observance of international standards for the psycho-social management of people with mental disorders. International experience proves the possibility of realizing one's own potential, coping with ordinary life stresses, working productively and fruitfully, as well as contributing to the life of one's community, under certain conditions.

Ensure respect for the rights of patients in psychiatric institutions in accordance with the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care of the United Nations.

Prevent discrimination, stigmatization, ensure access to effective remedies for the rights of mental patients.

Ensure the right to choose a medical organization, consent to treatment, provision of medicines; the provision of foster care for the chronically mentally ill; to establish benefits for a family member who is caring for a disabled person of the 1st group with mental illness in the amount of the average wage with retention of seniority; to secure the possibility of signing contracts for the care of patients in exchange for their property, with appropriate control by government agencies and the public.

Introduce international deinstitutionalization practices in the provision of psychiatric care, including the member countries of the Organization for Economic Cooperation and Development, and in accordance with the recommendations of the World Health Organization.

Develop long-term regional mental health programs.

Develop a non-state sector of medical and social services in the field of mental health (licensing system, qualification requirements, limitations in providing care); alternative services, a system of rehabilitation and social reintegration, create a network of medical and labor workshops, introduce alternative forms of social services; the system of child and adolescent psychiatric and psychotherapeutic care.

Develop programs and train labor instructors, social workers, psychologists in the field of mental health.

Conduct interdepartmental studies of direct and indirect costs and losses in the field of mental health of the nation and, on their basis, develop a state policy of rapid response in the field of mental health.

Ensure the availability of legal services and advocacy for people with mental disorders and their relatives.

Ensure that relatives are monitored for violations of the rights of people with mental problems in the family.

Eliminate the need for mental health certificates.

Solve the issues of employment and training of young people with mental problems.

Organize and develop genetic research centers.

Create regional crisis centers for patients with affective pathology and suicidal risk (in cities - for adolescents).

To expand the network of rehabilitation centers, day hospitals, low-capacity homes for patients with mental disorders.

Develop standards for the provision of social services for psycho-neurological patients.

To form a system for the provision of psychiatric and psychotherapeutic care: according to the vector, a family doctor is a mental health service - a psychiatric hospital; with medical organizations providing primary health care (PHC); to carry out deinstitutionalization of the psychiatric service with the expansion of the capacity of general practitioners, with the organization of neurosis departments, psychosomatic departments, etc. (in collaboration with specialized medical and non-medical institutions to ensure effective access and provide therapeutic and diagnostic assistance to people with mental health problems).

Prepare family doctors with knowledge of the basics of psychiatry to diagnose, treat, and monitor people with mental illness.

Provide openness to the public of the work of medical and psychological commissions.

Create a “sheltered accommodation” for people who do not need intensive assistance.

Open Hospice for dementia patients.

Open houses of small capacity in the countryside.

Establish institutions for the temporary stay of persons with mental problems (provide leave for relatives).

Create psychological support services for relatives of mentally ill patients.

Provide persons with mental disabilities the right to choose carers and social workers; increase pay for carers and social workers serving people with mental disabilities. To develop public organizations, associations of patients and relatives, professionals, funds for the protection of their rights, services for persons with mental disabilities.

To create mechanisms of public control in psycho-neurological orphanages through the creation of trusteeship and community expert councils.

Reduce the burden on the psychiatrist.

To improve the material and technical base of psychiatric hospitals.

To allocate the state social order for carrying out medical and diagnostic, rehabilitation and preventive, social kinds of activity to the non-state sector.

Develop an inclusive education system for children with disabilities.

To teach school psychologists, juvenile inspectors and other specialists of state and non-state organizations on the technologies of early detection and prevention of suicidal behavior.

Develop admission standards for children with mental retardation in secondary schools.

Strengthen the mental well-being of the population as a whole with the help of measures aimed at increasing the level of knowledge about mental health, reducing the causes of the development of mental problems, associated diseases and suicides.

Strengthen human resource capacity in line with approaches to mental health services, including NGOs.

To adopt the Law “On the prohibition of discrimination” (to combat stigma and discrimination, to ensure the protection of rights, equal participation in the life of society).

### **Epidemic prevention**

There is a concentrated stage of the HIV epidemic in the country. As of December 31, 2015, 26 690 HIV infections were registered in Kazakhstan.

In the penitentiary system (PS) of the Ministry of Internal Affairs of the Republic of Kazakhstan, opioid substitution therapy (OST) using methadone is not implemented. In 2014, the first 9 months of 2015, 63 cases of HIV infection were detected.

Over the past 5 years, HIV has spread sexually from people who inject drugs (59.0%). Since 2012, the opioid substitution therapy program has been carried out in 10 cities. The availability of OST for PWID is limited and given to 291 patients (0.23%), while the effect is achieved with 30–40% coverage of PWID OST.

The authorities oppose the introduction of OST, do not understand the essence and the police pressure does not coincide with the public health approaches, it is easy to buy drugs in correctional institutions; interruptions in the supply of methadone were observed, private clinics for PWID determine a large payment for treatment (up to 400 thousand tenge per month) and use forced labor of PWID; citizens and workers of primary health care do not have objective information about the OST program and methadone; stigmatization by medical staff; in patients of the OST program and their relatives, fear of closing the program; to the National Program for the Development of Healthcare of the Republic of Kazakhstan; Densauyk for 2016 - 2020 OST program is not included.

Continue funding the OST program, expand it to all cities of Kazakhstan; include it in the National Health Development Program of the Republic of Kazakhstan “Densauyk” for 2016–2020; reach 40% of PWID coverage from the national budget; implement an OST program in prisons.

Determine the reliable number of PWID needing OST.

Include methadone in the list of medicines included in the guaranteed amount of free medical care (GFMC); identify a single distributor for the purchase of methadone, storage, transportation (delivery) of the drug to the sites.

Provide OST to all those in need PWID, incl. and HIV-infected, who are not on the “D” account in narcological clinics in rural areas.

To ensure the availability of OST, provide methadone to patients through the primary health care network.

Introduce state control over the activities of private rehabilitation centers for PWID.

Take measures to combat police violence so that PWID want and can participate in the OST program.

To build or repurpose 1-2 specialized institutions for convicted PWID in which the introduction of the OST program is possible with its official approval (proposal by the DIA of Karaganda oblast)

Raise awareness of the OST program for the general public.

Allow OST patients to drive; assist them in finding employment as part of the Roadmap for Employment.

### **Forced sterilization**

General Comment No. 20 dated April 2, 2009 of the UN Committee on Economic, Social and Cultural Rights states that “gender identity is recognized as one of the prohibited grounds for discrimination. Persons belonging to transgender or intersex people face harassment at school or in the workplace”, 8 out of 41 respondents in 2015 experienced physical abuse, two thirds need to change the gender in the documents (but only 2 people managed to do this). In 2009, the Code of the Republic of Kazakhstan “On the health of the people and the health care system” was adopted, recognizing the right to change sex, the

implementation of which impedes sub-legal acts. Legislation requires sterilization and genital surgical correction to alter legal identity. If legal gender identity remains unchanged, they face problems in their daily activities (job search, opening a bank account, or even booking tickets). Forcing people to invasive surgery violates human rights, forcing transgender people to give up their reproductive rights, as well as undermining the right to family life and personal space.

Transgender people face strong societal prejudice and discrimination. The delusion of the police, medical staff and other officials means that transgender people can hardly count on asylum and help.

Modify the procedure for recognizing gender in Kazakhstan so that transgender people can change their legal gender in all documents on the basis of a personal statement and without any medical procedures and coercion.  
 Ensure the implementation of the right to protection against discrimination (based on sexual orientation and gender identity).  
 Exclude discriminatory provisions against LGBT people from legislation.

### **Right to a healthy environment**

The factors reducing the priority of environmental protection and public health in the country's policy and reducing budget expenditures are:

- program documents do not define a system of measures, their implementation with a delay (example: Concept of the transition to a "green economy");
- in August 2014, the Ministry of Environment and Water Resources was liquidated, the functions of which are distributed between the Ministry of Energy and the Ministry of Agriculture;
- the transfer of the functions of the sanitary-epidemiological service from the Ministry of Health to the Consumer Protection Committee under the Ministry of National Economy. At the local level, the main functions in the field of environmental protection are performed by the administration of natural resources and the regulation of oblasts and cities of Almaty and Astana; priority is given to issues of economic and social development;
- lack of developed approaches to solving environmental problems related to public health: there are no procedures and tools for resolving disputes between citizens, authorities and polluters. Examples: the villages of Berezovka (West Kazakhstan Oblast) and Kalachi (Akmola Oblast). Health problems in the village of Berezovka have been experiencing for more than a decade, and on November 28, 2014, 25 children fainted at school (severe cramps, dizziness, pressure jumps, severe headache, and malaise). This is associated with oil production, emissions and burning of pollutants at the Karachaganak field, but there is no official position on the reasons. In the village of Kalachi, residents are massively immersed in a sleepy state (encephalopathy of unknown etiology), from May 2013 to May 2015, 147 cases of "sleepy" illness of residents were recorded. The cause is carbon monoxide (carbon monoxide) emissions from a uranium mine. Initiated relocation of residents, but not completed.
- disputes about the amount of compensation related to relocation to safe places, the nature of relocation (mandatory or voluntary), the status and rights of relocated citizens. In October 2015, residents of the village of Kalachi were exposed to public threats from the head of the Akmola region;
- lack of effective legal remedies for the environmental rights of citizens as a result of environmental pollution and their right to receive compensation for damage to health;
- in the case of compensation for damage to health as a result of environmental pollution, there are no available means of proof in court of its causal connection with adverse effects on human health, which prevents them from going to court;
- the regions of the Aral Sea and the Semipalatinsk nuclear test site are excluded from the state policy in the field of environmental protection. Social payments to victims are minimized in the early 2000s. There are no data on measures and their results for improving the ecology and public health.
- Another resonant issue left without a decision regarding public health is periodic accidents of the Proton launch vehicle launched from the Baikonur cosmodrome. Since 2001, more than 10 accidents have occurred during the launch of Proton, including emissions of large amounts of heptyl fuel with a strong toxic effect. In particular, the environmental damage caused by the fall of the Proton-M launch vehicle on March 2, 2013, on the territory of the Baikonur complex, amounted, according to estimates from the Kazakh side, to about \$ 89 million.<sup>38</sup> However, when investigating accidents of this launch vehicle, it was never decided to compensate for damage to human health as a result of these accidents.

Paragraph 1 of Art. 31 of the Constitution of Kazakhstan defines "environmental protection, favorable for life and health" as a goal for the state, and not the rights of every person (recognized in Article 13 of the Environmental Code of the Republic of Kazakhstan). This factor also contributes to the violation of the right to freedom from pollution, environmental degradation and actions that adversely affect the environment, or threaten life, health, livelihood and well-being.

The reasons for violations of the human right to a favorable environment are: the lack of state environmental policy, the exploitation of natural resources, the collapse of the state system of nature protection, non-compliance with international and national legislation, the imperfection of national legislation, and systemic corruption.

State sources of environmental information do not contain information on the observance of the right to a healthy environment in Kazakhstan (National Report on the State of the Environment of the Republic of Kazakhstan, published in early 2015, and periodic newsletters). Information is available only from non-governmental organizations, reports of international organizations. Not all environmental information is subject to disclosure due to confidentiality. Data on environmental pollution, types and volumes of pollutants entering the environment from individual industrial enterprises remain inaccessible (in the report of the Special Reporter on the human rights implications of environmentally sound management and disposal of hazardous substances and waste Bashkut to Kazakhstan 26.03.2015 - 08.04.2015).<sup>39</sup> Monitoring of air pollution is related to the state

<sup>38</sup> MIA "Russia Today", <https://ria.ru/space/20131122/978984879.html>.

<sup>39</sup> [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A\\_HRC\\_30\\_40\\_Add\\_1\\_ENG.docx](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_40_Add_1_ENG.docx)

monopoly of the RSE “Kazhydromet”, which partially informs. The data of statistical reports on the pollution of individual enterprises - confidential information in accordance with Art. 8 of the Law of March 19, 2010 on State Statistics.

Decisions are made at the stage of strategic planning without public participation, since the procedure for the latter in adopting drafts of strategic environmental decisions (legal acts, plans and programs) is not defined by legislation. Discussion of decisions is limited to large environmental impact assessment projects (the South – West road reconstruction project and the construction of a ski resort). Frequent violations of public participation:

- publication of the incomplete text of the announcement of the beginning of the procedure and the holding of public hearings;
- insufficient time between the publication of the announcement and the date of the hearing, which does not allow the interested public to participate in them;
- providing access to the environmental impact assessment materials during or after the hearings, which does not allow them to be studied;
- selective approach to the selection of participants in public hearings, failure to ensure the conditions and places at the hearings for other persons wishing to participate in the hearings;
- public opinion is not taken into account when making a decision, there is no access to its text on the draft of the proposed activity, which does not allow it to be challenged on time;
- Minutes of hearings are advisory.

The selection of candidates and the election of members of public councils take place selectively, non-transparent, in the absence of clear criteria. This led to the exclusion of many environmental activists - state opponents (in Almaty and Atbasar, under the Ministry of Energy).

The main procedure for judicial consideration of cases is the proceedings on cases challenging decisions and actions (inaction) of state authorities and local self-government. The appeal of violations of environmental rights is limited due to the time and cost of funds, the unavailability of effective remedies. Claims of the Green Salvation Ecological Society are often not accepted for consideration by the courts, or the majority is denied.<sup>40</sup> Even in such resonant environmental cases as toxic poisoning of children in the village of Berezovka, the massive cases of "sleeping" disease in the village of Kalachi, regular drops of the Proton launch vehicle with emissions of heptyl, the findings and conclusions of the official commissions do not allow citizens to go to court for compensation damage to health. One of the barriers is the appeal of the conclusion of the state environmental review, which was not provided for by the current legislation. Amendments are made to articles 51 and 57 of the Environmental Code by the laws of April 8 and 25, 2016. There is no practice to compensate environmental harm to health and the environment in court, which is due to: a) the difficulty of proving, b) public associations are not entitled to initiate environmental lawsuits benefit of an unlimited number of persons, as well as on environmental damage. Pre-trial complaints are often considered by those who violated rights.

Bring current environmental legislation in accordance with international standards;

Implement the recommendations presented in paragraph 35 of the concluding observations of the Committee on Economic, Social and Cultural Rights.

Ensure the implementation of the International Covenant on Economic, Social and Cultural Rights, the Convention on Access to Information, public participation in decision-making and access to justice in order to protect the environment in 1998 (the Aarhus Convention), ratified by the Republic of Kazakhstan.

Establish the Ministry of Environmental Protection; determine the priority of ensuring the right to a healthy environment.

Develop a system of measures to protect the environment conducive to human life and health.

Provide effective legal remedies for citizens and public organizations, including by expanding the rights of non-profit organizations to go to court to protect the right of an indefinite number of citizens to a healthy environment, and citizens to receive compensation for harm caused to health as a result of violations of environmental requirements by enterprises and the state.

Adopt a normative resolution of the Supreme Court of the Republic of Kazakhstan on minimum international standards on the right to a healthy environment, compensation and compensation for environmental harm to citizens.

Provide free online access of the population to information on environmental pollution through the output of data from all stationary monitoring points of the RSE Kazhydromet to the Internet, as well as through the creation of a publicly available emission register and transfer of pollutants to the largest industrial enterprises.

Introduce an effective mechanism for involving representatives of the public in decision-making on environmental impacts, uniquely based on public opinion.

To conduct a review of the practice of public participation in environmental impact assessment, to develop measures to prevent violations of the relevant requirements of the Aarhus Convention and national legislation.

Provide for the administrative responsibility of officials for the removal and obstruction of public participation in the decision-making process in matters relating to the environment.

Create an independent system of extrajudicial consideration of complaints of citizens violating environmental rights by public authorities, which could act as environmental ombudsman, with the competence of making decisions that are binding on the relevant state authorities.

Introduce changes to the “About Public Councils” system, providing for the inclusion of all those who wish it, excluding the possibility of a state body to influence the formation of the composition.

### **Article 13. The right to education**

Budget expenditures on education in terms of GDP for 2010–2016 amounted to 1.2–1.0%. The Dakar Forum called on all

<sup>40</sup> <http://www.greensalvation.org/index.php?page=sudebnye-dela>.

governments to provide budget financing for education in the amount of at least 6% of GDP. During the study of functional literacy in the framework of the international program PISA in 2009, 2012 and 2015. schoolchildren have modest results.

The state program for the development of education and science for 2016–2019 includes the phased introduction of trilingual education from 2019. The latter is a matter of concern for parents, since children will not be able to adequately master any language and master the subject. Experts believe that in the specified time frame it is impossible to implement the system. Difficulties will face remote regions of the country.

With an overall increase in the availability of pre-school education for children, in 2015, the coverage of children aged 3 to 6 years old was 81.6% (2014 - 78%), from 1 to 3 years old - 53.8% (2014 - 16.4%). In the system of secondary education there are emergency schools, the proportion of schools with conditions for inclusive education was 45%. By 2015, 24% of state colleges are not equipped with modern teaching equipment.

Despite ratification by the Law of the Republic of Kazakhstan dated January 28, 2016 No. 449-V of the Convention against Discrimination in Education, one of the most acute problems is inequality in access to modern and high-quality education for children with disabilities; living in rural areas in areas of ecological disaster; non-citizens of Kazakhstan, from low-income families, etc. For example, in November 2012, two children were excluded from a private school in the city of Shymkent due to the fact that they are HIV-positive. The prosecutor's office investigated the case, but did not take action. 12/22/2016, the director of the school of the village of Koyandy, Tselinograd district of the Akmola region, refused to accept girls in classes 2 and 7 because they were wearing a headscarf, and their parents threatened with deprivation of parental rights if they did not remove the headscarf or send children to school.

Adolescents with pronounced deviations in physical development, with features of intellectual development do not have access to vocational education. The low skill level of graduates of special schools does not guarantee successful employment. The resulting specialties do not allow to find application in the labor market. For young people with hearing impairment, colleges and universities do not have staff sign language interpreters. After the graduation from school, pupils of correctional hearing classes do not pass the Unified National Testing and cannot enroll in universities. Homeschooling children with disabilities are not of high quality.

Despite the approval of the Order of the Minister of Education and Science of the Republic of Kazakhstan dated September 28, 2010 No. 468 (as amended on August 28, 2012) “Rules for obtaining pre-school, primary, basic secondary and general secondary education by foreigners and stateless persons permanently residing in the Republic of Kazakhstan”, many children of migrants in 2013 were able to go to schools in Kazakhstan, but due to their lack of an IIN (individual identification number), they were denied the right to receive free textbooks and free meals in lower grades.

A quarter of parents in a study in 2012 recognized that their children do not study due to the lack of a third of registration documents; in 2016, the children of immigrants were accepted, but expelled due to the parents not providing an IIN. Some Roma children are forced to register for relatives and neighbors due to the lack of birth certificates and IIN, and for parents of documents or registration at the place of residence due to the lack of permanent housing. In the birth certificates of children, non-actual parents are recorded as parents.

About two thousand children in the Kostanay region do not have citizenship of any state due to the lack of it from their parents. This excludes them from recipients of education and health services.

In recent years, when accepting children of oralmans in the first grade, there has been a weak preparation for school, or lack thereof. A lot of children with speech problems. This complicates the adaptation of the child in school, the work of the teacher. Payment for services in preschool institutions is prohibitively high for parents from this social group.

The problems of bringing children to schools in rural areas, the emergency state of schools, and the organization of the educational process in three shifts remain.

Despite the fact that some refugee children have been living in Kazakhstan for more than 10 years, they are considered as foreign nationals and do not have privileges when entering the university, because their status is temporary, which impedes the realization of their right to equal access to education.

Violence against children in schools, boarding schools is becoming the norm. Out of 8781 calls about the violation of children's rights for 2015 to the service of the National Telephone Helpline for Children and Youth, 5 738 calls concerned facts of violence at school. Children are afraid of revenge, and do not always inform adults. If they did, they often did not respond. To preserve the image of the school, violent students are transferred to another educational institution; the staff does not know how to detect the facts of violence, to build an algorithm of actions for the protection and rehabilitation of children; most children do not know how to protect their rights.

According to the results of a study in 2015, the education sector was named the most corrupt (21.3% of respondents). The systemic nature of violations during the Unified National Testing, the implementation of quality control of education, the development of budgetary funds, as well as in the activities of universities. In the field of education, the anti-corruption service registered 248 pre-trial investigations in respect of 151 persons. Most of them are heads of colleges, schools and universities, departments of education at akimats.<sup>41</sup>

Ensure equality in access to quality education. Eliminate existing discrimination against children from different categories. Adopt a law on guardians, inclusive education, and access to housing for children with disabilities.<sup>42</sup>

Bring national legislation in line with international standards on the rights and freedoms of juvenile offenders (accused, defendants and convicts), that is, minors deprived of their liberty (Article 14 of the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Beijing Rules) ensuring the rights of all minors to receive education.

Introduce additions to Part 4 of Article 30 of the Law of the Republic of Kazakhstan of 30.03.1999, No. 353-I “On the procedure and conditions for the detention of persons in special institutions that provide temporary isolation from society” (with

<sup>41</sup>From the speech of the Deputy Chairman of the National Anti-Corruption Bureau, Alik Shpekbaev. - See: Education called the most corrupt in Kazakhstan /<http://www.kazpravda.kz/tubric/obshestvo/sfera-obrazovaniya-nazvana-samoi-korrupsionnoi-v-kazahstane>

<sup>42</sup>Natalya Koloskova, President of the Raduga Mothers Association of Children with Disabilities. [https://bureau.kz/novosti/sobstvennaya\\_informaciya/npo\\_kostanaya\\_obsudili\\_problemy\\_s\\_pravami\\_cheloveka/](https://bureau.kz/novosti/sobstvennaya_informaciya/npo_kostanaya_obsudili_problemy_s_pravami_cheloveka/)

amendments and additions as of 01/10/2015 d) about receiving secondary education by minors in custody for the period of the pre-trial investigation.

Legislatively consolidate the education of children with autism in secondary schools.

### **Article 15 paragraph 1 b. The right to use the results of scientific progress**

The transition of the system of training of scientific personnel to the Western system: “Master's degree - PhD doctorate” did not completely solve the problem of violation of the rights of persons engaged in scientific activities.

In 2011, the Law “On Science” was adopted. Several dozens of by-laws were not publicly discussed; some of them contain norms with corrupt potential, and also violate or restrict the rights of scientists.

In higher education institutions, the faculty receives a low salary, a standardized high academic load for one academic year (from 600 hours and more, and to work out its rate should dial from 5 to 10 disciplines), which prevents a decent standard of living, buying literature, forcing to look for additional types of earnings, which makes it difficult to concentrate on a specific type of scientific activity.

A high level of corruption in the financing of science, secrecy and non-transparency of support for research projects remain. Of the allocated 54.7 billion tenge, about 94% was spent in violation of the law. There is a misuse of funds, violations in public procurement, unsuccessful funding of unnecessary projects (for example, the purchase by the Science Committee of the MES RoK of subscriptions to the free SciVerse Scopus database for 240 million tenge, the acquisition of a new administrative building and cars by ministry officials for 608 million tenge). On ineffective projects, the state lost more than 10 billion tenge. The leaders of 41 projects were interested members of scientific councils that regulated cash flows.<sup>43</sup>

Among the causes of corruption in the field of education are contradictions and gaps in the legislation; deficiencies in the management activities of subjects of the education system; inefficient, wasteful budget spending.<sup>44</sup> In 2015, in the field of education, the anti-corruption service registered 248 pre-trial investigations against 151 persons. Most of the subjects are heads of colleges, schools and universities, departments of education at akimats.

The forms of “entrepreneurial” science are actively developing, clans close to power are being formed, institutes, funds, research centers are being created, near-scientific activity and pseudo analytics have flourished, the results of scientific research are distorted to please customers. There is no connection between science and production, the selected research topics and scientific research itself are mostly not relevant and are of a formal nature; raw nature of the economy leads to the lack of scientific ideas.

Until March 30, 2013, the law did not contain the norm on compulsory full-time education, and the authorized body broadly interpreted the provision of paragraph 21 of the Rules for the award of academic degrees and unreasonably refused to scientists who defended dissertations abroad in the form of a candidate or correspondence doctorate in recognition of their academic degree.

The condition for obtaining the title of professor is to publish the results of scientific research in an international scientific publication, which, according to the information database of the company Thomson Reuters (ISI Web of Knowledge, Thomson Reuters), has a non-zero impact factor or is included in the Scopus database. The cost of publication is from 1 000 dollars. Such publications do not have a rating and are designed for profit<sup>45</sup>.

The main part of Kazakhstan scientific journals is not included in the database of Thomson Reuters or Scopus. At the same time, the scientific works of Kazakhstan scientists are not of interest to authoritative Western publications (on humanitarian cycles). The difficulty is experienced by doctoral students studying in the specialties of Kazakh philology or legal sciences on topics that are relevant and valuable for Kazakhstan.

To increase the size of the monthly premium for a scientific degree by making appropriate changes to the Law "On Science".

Create a single bank of research projects, developments and implementations, regardless of what scale they are and which areas of the economy or social life are affected.

Ensure the transparency of state funding of research projects, secure direct funding for individual research projects of scientists (or groups of scientists) through open discussion (including through social networks) of research projects in expert circles by independent scientists, with mandatory posting in the public domain on the official website of the authorized information on scientific projects, starting with the stage of applying for funding, until the completion of a scientific project.

Legally enshrine the rights of scientific institutions and higher education institutions independently: a) to carry out nostrification of diplomas on scientific degrees obtained by citizens of the Republic of Kazakhstan abroad, excluding such authority from the competence of the authorized body (the Committee on the Control of Education and Science of the Ministry of Education and Science of the Republic of Kazakhstan); b) to assign academic degrees and academic titles, excluding such authority from the competence of the authorized body (the Committee on the Control of Education and Science of the Ministry of Education and Science of the Republic of Kazakhstan); c) to recognize, in a simplified way, the scientific degrees of the candidate and doctor of science of those who defended dissertations abroad prior to the entry into force of the Rules for the award of scientific degrees, approved by Order No. 127 of the Minister of Education and Science of the Republic of Kazakhstan dated March 31, 2011, as new laws imposing New duties on citizens or worsening their situation should not be retroactive.

**The right to participate in government** is implicit in the International Covenant on Economic, Social and Cultural Rights - in Articles 8 (the right to freedom of association), 13 (on education) and 15 (on cultural life) and is expressly proclaimed in the International Covenant on Civil and Political of rights

In particular, development agencies are required to create opportunities for the participation of people affected by development activities in making decisions that can improve their social, political and economic conditions.

Article 33 of the Constitution of the Republic of Kazakhstan provides for the right of citizens only:

<sup>43</sup> <https://www.nur.kz/879963-vydelennye-na-nauku-50-mlrd-tenge-osvoen.html?noredirect=1>

<sup>44</sup> <http://today.kz/news/kazakhstan/2015-02-19/605778-kazdoe-sestoe-korrupcionnoe-prestuplenie-v-kazahstane-soverseno-rabotnikami-obrazovania/>

<sup>45</sup> <http://www.time.kz/articles/nu/2014/09/11/nauchnij-podkop>

- “to participate in the management of state affairs directly and through their representatives,
- to apply personally, as well as to send individual and collective appeals to state bodies and local self-government bodies;
- the right to elect and be elected to state bodies and bodies of local self-government, as well as to participate in a republican referendum;

- equal right of access to public service. The requirements for a candidate for the position of public servant, are determined only by the nature of official duties and are established by law. They do not have the right to elect and be elected, to participate in the republican referendum, citizens recognized by the court as incapable, as well as those held in places of deprivation of liberty by a court sentence.”

In Kazakhstan, a person is not allowed to appeal to the Constitutional Council of the Republic of Kazakhstan, but only to three branches of government and the President of the Republic.

The lack of membership in any party limits access to the realization of the right to participate through direct elections.

The Majilis of the Parliament of the Republic of Kazakhstan consists of 107 deputies elected under the proportional electoral system. The election of 98 of them is carried out on the basis of universal, equal and direct suffrage by secret ballot. The remaining 9 deputies are elected by a non-elected body - the Assembly of the People of Kazakhstan, which is formed by the President of Kazakhstan<sup>46</sup>, while paragraph 7.2. The OSCE<sup>47</sup> Copenhagen Meeting document requires: “free competition of candidates”.

Articles 7, 24 and 25 of the Constitutional Law “On Elections” are allowed by electors of maslikhat deputies (that is, not every member of the Assembly is an ordinary voter).

To pass a political party to the Majilis, you must collect 7% of the vote. Parties have no right to include non-members in the lists<sup>48</sup>.

The Constitutional Law “On Elections” establishes an additional criterion for presidential candidates, deputies, not enshrined in the Constitution (the absence of a convicted or canceled criminal record, a judicial act of culpability in committing a corruption offense and a corruption offense), and by Resolution of the Constitutional Council of RoK dated 09.04. 2004 is not recognized as discriminatory. It is similar to the additional type of criminal punishment prohibiting to hold a certain position or engage in certain activities.

Citizens do not have direct access to the realization of the right to participate in elections by regional akims, the cities of Astana and Almaty, since they are appointed by the President of the Republic with the consent of maslikhats. Candidates for akims of districts and villages are nominated only by akim after consultations with the local community, excluding self-nomination (the Constitution defined the establishment of a procedure for the election of these akims by sub-law)<sup>49</sup>.

In August 2013, 2457 akims of cities of district significance, rural districts, townships and villages outside the rural district were selected. For more than 2 years (until November 2015), the procedure for consultation with the local community has not been detailed. Article 39-3 of the Law of January 23, 2001 on Local Government and Self-Government in the Republic of Kazakhstan was supplemented. Now the meeting of the local community is authorized to coordinate the candidacies submitted by the akim to be included in the maslikhat of the district for the elections of akims of districts and villages. Within 5 days, the election commission registers the akim with the transfer of the decision to Maslikhat. Paragraph 58 of the Rules provides for “holding the post of akim after receiving positive results of a special audit.”

For a republican referendum, citizens need to: a) compile a list with the obligatory indication of their surnames, names and patronymic, place of residence and data of an identity document of a citizen; b) hold a meeting with a representation of 30 people from each region, he. Astana and Almaty, c) form an initiative group - 3 representatives from each region, he Astana and Almaty, d) collecting 200 thousand signatures (possessing the right to participate in a republican referendum and equally representing all regions, Astana and Almaty) only by members of the initiative group. Such a volume of signatures is not under the force to collect the specified number of members of the initiative group. D) to send to the President of the Republic of Kazakhstan, who has the right to, among other things, reject the initiative to call a referendum. This procedure does not allow citizens to fully realize the right to participate in the referendum.

The right to freedom of peaceful assembly is violated for a long time and on a massive scale, by the authorities this freedom is distortedly interpreted and confused with freedom of expression in the case of a single picket, a permissive procedure is in effect (a person is obliged to receive permission to meet 10 days before the expected date of the meeting by contacting the akimat - local executive body) is observed in different ways in different regions of the country, including with violation of the principle of non-discrimination (one example: in the cities of Balkhash, Karaganda, Pavlodar and Almaty, by the decisions of maslikhat officials are provided with central squares, and not having this status - outskirts; another example: in the case of a funeral, mass transport of the procession cars to the cemetery is not prohibited, as is the case with residents of houses going off to solve dormitory issues, meeting near their homes is not limited, but , if the subject of the meeting concerns legal relations with the state, regulations begin to operate - specific maslikhats arbitrarily determine meeting places, thereby exceeding the authority that the law permits solely on additional regulation of the procedure, and not on the organization of meetings), the law establishes a penalty both in administrative (warning, fine, administrative arrest) and in criminal procedure; the judiciary is not guided by the principles of proportionality, proportionality when considering this category of cases.

Equality of voting rights is recognized for active and passive subjects. Voters are endowed with the same number of votes during elections, and approximately equal in number constituencies are formed.

<sup>46</sup> In accordance with Article 7 of the Law of the Republic of Kazakhstan dated 10/20/2008 No. 70-IV “On the Assembly of the People of Kazakhstan”, the President of the Republic of Kazakhstan forms and reorganizes the Assembly; determines the direction of its activities; appoints and dismisses executive officers; convenes the Assembly Session; carries out other activities. The first President of the Republic has the right to lead the Assembly for life.

<sup>47</sup> From 29.06.1990 (hereinafter - the OSCE Copenhagen Document of 1990).

<sup>48</sup> Part 2, Section 2, Art. 87 of the Constitutional Law of the Republic of Kazakhstan “On Elections”.

<sup>49</sup> By the Decree of the President of the Republic of Kazakhstan No. 555 of April 24, 2013, the Rules for election to the position, termination of powers and dismissal of akims of cities of regional significance, rural districts, settlements and villages of the Republic of Kazakhstan that are not part of a rural district were approved.

On January 6, 2012, a resolution of the Constitutional Council was adopted that violated the principle of equal suffrage, but was later canceled.<sup>50</sup> The Council recognized as lawful the failure to hold elections in the territory of Zhanaozen, Mangystau oblast, due to the state of emergency. This did not allow candidates and political parties (except for one party) to conduct a full election campaign. The political situation with the decision of the Constitutional Council on the legality of the cancellation of elections in this area (expert circles expressed the opinion of the political commitment of the Constitutional Council), and later - the failure of the President's objections to this decision, pointed out the vulnerability of the institution of free elections in the country.

Inaccurate information about incomes and property (less than \$ 1) was used by the authorities to cancel the decision to register independent candidates for deputies of the Mazhilis of the Parliament of the Republic of Kazakhstan and maslikhats of all levels in January 2012 and March 2016. As a result, citizens were denied access to the voice, the voter's will was distorted and the communication of the population with the local representative authority has been lost. This led to the inability of the "elected" deputies to express the socio-economic interests of citizens, the radicalization of a significant part of the population, and a distrust of power.

The Constitutional Law of the Republic of Kazakhstan "On Elections" includes impracticable requirements restricting the right to campaign. Thus, it is prohibited to "conduct election campaigning using an image of a person without his written permission, and in the event of his death without the written permission of his heirs." For example, the desire of the communists to use the portrait of V.I. Lenin is impossible in the absence of written permission from the heirs.

The law of January 14, 2011, Part 2, Clause 5, Art. 42 of the Constitution of the Republic of Kazakhstan allowed a change in the referendum extension of the term of office of Elbasy. At his request, the Constitutional Council reviewed and declared this provision to be inconsistent with the Constitution.

According to the Constitution of the Republic of Kazakhstan, the powers of the Parliament are implemented through: a) joint sittings of the Chambers of Parliament, b) separate sittings of the Chambers by considering issues in the Majilis and then in the Senate, c) the exclusive powers of the Senate, d) the exclusive powers of the Majilis, d) through each of the Chambers Parliament independently, without the participation of another, e) powers of the Presidents of the Chambers of Parliament.

In accordance with paragraph 6 of Article 61 of the Constitution of the Republic of Kazakhstan, draft laws providing for a reduction in income or an increase in expenses can be introduced only if there is a positive opinion of the Government of the Republic.

Exclude the possibility of elections of deputies of the Mazhilis of the Parliament by maslikhat deputies.

Ensure at the legislative level the right of citizens to seek political or state posts in their personal capacity or as representatives or organizations without discrimination, and not just members of political parties. Alternatively, change part 2 of paragraph 2 of article. 87 of the Constitutional Law of the Republic of Kazakhstan "On Elections", by providing political parties with the right to include in the party lists people as well as non-members of this party.

To exclude from the constitutional law of the Republic of Kazakhstan "On elections" a provision restricting the passive electoral right of citizens with outstanding or uncorroborated convictions who have committed a corruption offense and a corruption offense, but, on the contrary, taking into account foreign experience, fix this information on the ballot.

To regulate the procedure for electing akims of cities of regional significance, rural districts, towns and villages in the constitutional law "On Elections", and not in a sub-legal act.

To provide for self-nomination of candidates in the mechanism of election of akims.

A special check should be carried out before the election of the akim (before the registration by the akim's election commission and the direction of its decision to the maslikhat).

In the constitutional law "On the republican referendum", the number of regional representatives in the initiative group on holding a republican referendum should be reduced to - "more than half of the regions (capital and cities of republican significance)".

Bring the Law of the Republic of Kazakhstan "On the procedure for organizing and holding peaceful assemblies, rallies, processions, pickets and demonstrations in the Republic of Kazakhstan" in accordance with minimum international standards, implement the recommendations of the UN Special Reporter on freedom of peaceful assemblies and associations, revise by-laws for compliance with the Covenant on civil and political rights.

Deputies of the Parliament of the Republic of Kazakhstan should actively use the provisions of paragraph 1 of Art. 61 of the Constitution of the Republic of Kazakhstan the right to initiate legislation and develop high-quality legislative acts, since the nature of the laws drafted by the government will contain elements of lobbying departmental interests of the executive branch.

## Right to development

The disadvantages of state programs<sup>51</sup> are: duplication of state support tools in the programs "Productivity 2020" and "CST 2020"; lack of a clear system of work with regional representatives; low efficiency due to the implementation of service tools in the form of innovative grants; high level of bureaucratization<sup>52</sup>, corruption<sup>53</sup>.

<sup>50</sup> The Additional Resolution of the Constitutional Council of the Republic of Kazakhstan dated January 6, 2012 No. 1 "On the interpretation of the resolution of the Constitutional Council of the Republic of Kazakhstan dated April 9, 2004 No. 5" On the Audit of the Constitutional Law of the Republic of Kazakhstan "On Amendments and Additions to the Constitutional Law of the Republic of Kazakhstan" On elections in the Republic of Kazakhstan "for compliance with the Constitution of the Republic of Kazakhstan" // <http://www.constcouncil.kz>

<sup>51</sup> State programs on accelerated industrial innovative development of the Republic of Kazakhstan for 2010-2014 (SPAIIDRK), "Business Road Map 2020", adopted to support domestic entrepreneurship BRM-2020, "Productivity 2020" (since March 2011).

<sup>52</sup> [http://bnews.kz/ru/news/albom\\_industrializacii\\_2012/astana/spetsproekti/albom\\_industrializacii\\_2012/plusi\\_i\\_minusi\\_programmi\\_proizvoditelnost2020-2012\\_11\\_07-727233](http://bnews.kz/ru/news/albom_industrializacii_2012/astana/spetsproekti/albom_industrializacii_2012/plusi_i_minusi_programmi_proizvoditelnost2020-2012_11_07-727233)

<sup>53</sup> In 2013, "76 criminal cases were initiated, the damage to the state amounted to over 8.2 billion tenge". With the implementation of the program of accelerated industrial-innovative development for 2010-2014. Out of 770 projects commissioned, 322 are functioning, 14 enterprises are idle, about two thousand jobs have

There are no results. The program "Roadmap employment - 2020" is ineffective, the material situation of the participants has not improved, has brought them losses. So, residents of Pavlodar region repay loans for business development, without starting it.

Financial support for the programs is provided from the state budget, the Unified Accumulating Pension Fund (UAPF) (to finance the real economy in order to develop industrialization and entrepreneurship in 2013), the National Fund in 2014 (KZT 1 trillion). Under the Nurdy Zhol program, over 100 billion tenge was allocated from the National Fund for the construction of rental housing, and 29.2 billion tenge was allocated under the Affordable Housing 2020 program. Of the planned 13.7 thousand people on the waiting list, in 2015 about 50% was provided with rental housing. The head of state indicated on the construction of rental housing with a purchase.

The basis for the creation of the National Fund was the use of funds to improve the quality of life of the population. Rental housing is instability and dependence on the landlord on the size and duration of the lease.

Inflation in Kazakhstan is steadily growing (in 2016 - 16.7%, in 2015 - 13.6%)<sup>54</sup>, due to the devaluation of the tenge. Pricing is not the same in the regions. The growth of wages (from -2% to 11.5%) did not reach the stated level of inflation.<sup>55</sup>

The increase in the number of Kazakhs was observed in the countryside, where oralman flows are directed. The unsolved questions of unemployment (65% of those employed), the low level of income in the villages forced the residents to migrate to large cities (these are Kazakhs - from 90 to 95%). But high prices for living conditions in the cities, inadequate wages for these conditions did not allow migrants to improve their financial situation. The majority of the socially vulnerable population are representatives of the title ethnoses (61.5%). Kazakhs - the majority in the groups of adults with disabilities, parents of children with disabilities, patients with tuberculosis, rural migrants, oralmans (60-90%)<sup>56</sup>.

Low rates of development of the state language. "For the first ten years, 60-70 million tenge was allocated from the state budget. In Kazakh language, 453 newspapers and magazines are published (in Russian – 2 203 publications and 5728 imported from Russia). 300 of them go to Shymkent, the remaining 153 in other cities. 70% of them are crossword puzzles, ads and newspapers." Kazakh language is applicable in the domestic sphere. It is harder for a Russian-speaking person than for a Kazakh-speaking person to get a high-paying job. There is a dissatisfaction of the Kazakhs with the ongoing course in the field of ethno politics, recruitment of personnel to government bodies.

In all program documents, there is a desire to develop a competitive country and nation. Meanwhile, studies of productivity and labor efficiency, characterizing the quality of employment, are absent. More than half of employed citizens do not work in their specialty. The system of continuing continuous vocational training is in the stage of initial formation, there is no coordination of its development. Work in the framework of state programs only for a while provides the opportunity for retraining.

Around the domestic system of higher education there is a high level of corruption. Foreign diploma has become the guarantor of employment and employment status.

There is an increase in the number of people leaving the country for other countries due to reasons of uncertainty about the future, poor ecology, low income.

In 2015, 30 080<sup>57</sup> people left the country (for one person who arrived in Kazakhstan, there were two people who left our country. The number of people willing to become citizens of Kazakhstan decreased. The influx was in 2005 — more than 75,000 people, and in 2014 the number of arrivals was about 16 000 people<sup>58</sup>.

Most of the Chinese who are in the territory of the Republic of Kazakhstan are in the status of temporarily staying. Meanwhile, Chinese business goes beyond the national framework - the number of managers and skilled workers in the oil and gas sector is increasing. The expansion of the Chinese presence in strategically important sectors of the Kazakhstani economy may lead to an increase in the externally legal migration flows of the PRC.

Improving the supply of Aktau, Astana, Almaty, Atyrau and partially - the cities of Ust-Kamenogorsk and Zhezkazgan will expand the supply of goods and reduce the growth rate of prices for various categories of goods. One of the methods can be the massive involvement of farms for product sales in these cities, bypassing intermediaries.

Conduct a systematic analysis for long-term planning of the needs of the employment market and a clear development prospects.

Diversify the economy.

### **The right to freedom of association**

Trade unions are denied the right to freely form and join labor organizations of their choice. In June 2014, a new law on trade unions was adopted. They were given one year to comply with the new rules. Provides for the mandatory inclusion of trade unions in regional or sectoral federations (ignoring the right not to be part of an association).

Article 489 of the new Code of Administrative Offenses establishes responsibility for directing (leading) the activities of unregistered public associations, participating in it or financing it.

In accordance with the law "On public associations" in 1996, all associations are required to register.

Amendments to the Code of Administrative Offenses<sup>59</sup>, the Tax Code, and the Criminal Code of the Republic of Kazakhstan introduced instruments of pressure on civil society: public organizations are obliged to report to the Ministry of Civil

not been created, timeliness of repayment of borrowed funds in the amount of 7.7 billion tenge provided by KazAgro has not been ensured. <http://www.zakon.kz/4583425-finpol-astany-vozbudil-76-del-po-faktam.html>

<sup>54</sup> <http://www.stat.gov.kz>

<sup>55</sup> <http://www.stat.gov.kz>

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<sup>58</sup> <http://www.stat.gov.kz>

<sup>59</sup> Code of the Republic of Kazakhstan on Administrative Offenses of July 5, 2014 No. 235-V (with amendments and additions as of 07.26.2016), Article 489: Failure to submit, untimely submission, as well as the submission of false or knowingly false information by non-profit organizations, branches and representative offices (separate subdivisions) of foreign and international non-commercial organizations operating in the territory of the Republic of Kazakhstan to the authorized body in the field of cooperation with organizations information about its activities, including its founders (participants), part of the property, sources of formation

Society and Religion on activities, notify government revenue agencies and report on their spending; Art. 403 of the Criminal Code<sup>60</sup> allow for an expansive, subjective interpretation of "interference in the activities of state bodies" and its "illegality"; the new subject of the crime - the leader of a public association (a term with almost no legal framework) is provided for in several offenses with a qualified sanction.

The reason for the suspension of the party are calls for "extremism" (the law does not contain a clear definition of the term). The reason for the elimination of the party may also be non-participation in elections 2 times in a row. The Law on Political Parties establishes burdensome registration requirements, including a large number of initial members, which prevents the creation of small parties, as well as the presentation of a large amount of documents, which is time and cost consuming. Thus, for the formation of a political party, an initiative group of at least 1 000 founding members is needed, representing two thirds of the regions, cities of republican significance and the capital, and the party must have at least 40 000 members.

Registration of political parties is carried out by the Ministry of Justice. In the absence of clear criteria, the law allows extending the time for consideration of an application of a potential party an unlimited number of times. Thus, 7 years of the "Alga!" Party refused to register<sup>61</sup> for reasons of "inaccuracies in some statements", "the need for additional checks" (until 2012, when the court recognized it as extremist). In December 2014, the court suspended the activities of the Communist Party due to inaccuracies in the list of its members.

Registration was repeatedly denied to a number of trade unions: "Zhezkazgan" - 3 times, "Zhanartu" - 8 times since 2010; the trade union of journalists for technical reasons, most recently in November 2014

The Law on Amendments and Additions to Certain Legislative Acts on the Activities of Non-Governmental Organizations has appointed an operator to provide grants to public associations and monitor their use.

The state social order does not reflect realities; there are no consultations on the compliance of the tasks of NGOs with the needs of society. There are no grants for projects in the field of human rights, political education, the rule of law, power reform, etc. NGOs receiving funds under the social order are dependent on the position of the state. State grants for social projects are often created for specific organizations, especially at the regional level.

NGOs feel a lack of qualified personnel, volunteers and support for initiatives by the local population, which is due to persecution, poor financial sustainability.

Apply the principles of restrictions of human rights and freedoms (Syracuse, Limburg, Johannesburg, Maastricht): legality, necessity, predetermination, proportionality and proportionality.

Cancel registration of public and religious associations, trade unions, and political parties. During the transitional period, entrust the registration of political parties with an organ independent of the executive branch of government.

Cancel the accountability of NCOs to the Ministry of Civil Society and Religion created in September 2016 (including the use of foreign funds) to ensure the constitutional principle of non-interference of the state in the affairs of public associations.

Bring the new law on trade unions in line with international standards (as noted by the International Labor Organization in the memorandum on technical comments on the draft law).

Legislatively establish the definition of the term "extremism", which would correspond to the convention one.

Exclude any risks, threats, harassment of human rights defenders and civil society activists, including the decriminalization of interference by public associations in the activities of state bodies, the exclusion of a special subject of the crime - "the leader of a public association"

and directions of spending money, warning entail. Actions (inaction) stipulated in the first part of this article, made repeatedly during the year after the imposition of an administrative penalty, entail a fine of twenty-five monthly calculation indicators or suspension of activity for a period of three months.

<sup>60</sup> Criminal Code of the Republic of Kazakhstan dated July 3, 2014 No. 226-V (with amendments and additions as of April 9, 2016), Article 403 warns associations against unlawfully hindering the legitimate activities of state bodies and from committing acts that cause significant harm to rights and the legitimate interests of citizens or organizations or the interests of society.

<sup>61</sup> <http://ru.odfoundation.eu/a/1049.partiya-alga-zapret-na-deyatelnost-i-presledovanie-aktivistov>