



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Second periodic reports of States parties due in 2004

Addendum

KAZAKHSTAN* **

[19 June 2006]

* For the initial report of Kazakhstan, see CAT/C/47/Add.1; for its consideration, see CAT/C/SR.470, 473 and 482 and Official Records of the General Assembly, fifty-sixth session, Supplement No. 56 (A/56/44), paras. 121-129.

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I. INTRODUCTION

1. The present report is an additional report of the Republic of Kazakhstan to the United Nations Committee against Torture and is submitted in accordance with article 19, paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Kazakhstan acceded in accordance with Act No. 247-1 of 29 June 1998.
2. The report has been compiled in accordance with the United Nations general guidelines for preparing national reports under international human rights instruments and the conclusions and recommendations of the Committee against Torture concerning Kazakhstan's initial report, considered at the Committee's 470th, 473rd and 482nd meetings, held on 9, 10 and 17 May 2001, respectively.
3. The present report covers the period 2001-2005.
4. The report was prepared by the Ministry of Justice of Kazakhstan in cooperation with the Ministry of Internal Affairs and the Office of the Procurator-General.

II. GENERAL INFORMATION

5. Over the past five years, Kazakhstan has implemented a number of significant reforms with a view to improving national legislation to prevent torture and other cruel, inhuman or degrading treatment or punishment. Kazakhstan has thereby confirmed its commitment to observing the principles of democracy and protecting human rights, as well as its commitment to universal principles.
6. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have been ratified, the administration of the penal correction system has been transferred from the Ministry of Internal Affairs to the civilian Ministry of Justice, the programme for the further development of the penal correction system of the Republic of Kazakhstan for 2004-2006 has been approved with a view to improving the system for protecting citizens' constitutional rights and freedoms, the office of the Human Rights Commissioner has been established, and steps have been taken to humanize criminal punishment and strengthen interaction between the penitentiary system and civil society.
7. One of Kazakhstan's most important legal mechanisms for implementing the provisions of the Convention is the transfer of remand centres from the police authorities, which carry out investigations and initial inquiries, to the civilian Ministry of Justice. This is a major step forward in ensuring that legality is observed in criminal proceedings and that an optimum balance is achieved between the observance of human rights and interests of criminal investigation.
8. At present, questions relating to torture and the use of unauthorized methods of investigation are strictly monitored by the State, particularly by the heads of law enforcement agencies.
9. Law enforcement agencies have established special units to deal with questions of internal security.

10. Kazakhstan is making use of all available resources and opportunities to conduct a resolute, uncompromising struggle against all human rights violations, particularly torture.

11. There are now general-education and vocation schools in correctional institutions. Convicts have an opportunity to exercise their constitutional right to freedom of conscience and religion. There are functioning mosques, churches and prayer rooms on the grounds of correctional institutions. The prison system has become more open to the mass media.

12. Over the period 2001-2005, Kazakhstan has made persistent efforts to improve its legislation. It has adopted new laws and regulations and consolidated a number of important provisions with a view to further implementing the Convention; these include:

(a) The Act of 16 July 2001 on amendments and additions to certain legislative acts of the Republic of Kazakhstan concerning the reform of the penal correction system and the status of its employees, in accordance with which the penal correction system was transferred from the police authorities to a civilian ministry;

(b) Act No. 244 of 16 July 2001 amending the Act on procedures and conditions for holding persons suspected or accused of a crime in custody;

(c) Act No. 294 of 19 February 2002 on amnesty in connection with the tenth anniversary of the independence of the Republic of Kazakhstan;

(d) Act No. 304 of 18 March 2002 on the justice agencies;

(e) Act No. 338 of 10 July 2002 amending the Act on procedures and conditions for holding persons suspected or accused of a crime in custody;

(f) Act No. 363 of 21 December 2002 on amendments and additions to the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code of the Republic of Kazakhstan;

(g) Act No. 425 of 3 June 2003 on amendments and additions to the Lawyers Act;

(h) Act No. 25 of 29 December 2004 on amendments and additions to certain legislative acts of the Republic of Kazakhstan concerning justice agencies;

(i) Act No. 87 of 21 November 2005 ratifying the International Covenant on Economic, Social and Cultural Rights;

(j) Act No. 91 of 28 November 2005 ratifying the International Covenant on Civil and Political Rights;

(k) Act No. 113 of 9 January 2006 on amnesty in connection with the celebration of the Day of Independence of the Republic of Kazakhstan;

(l) Act No. 121 of 16 January 2006 on jurors (enters into force on 1 January 2007);

(m) Act No. 122 of 16 January 2006 on amendments and additions to certain legislative acts of the Republic of Kazakhstan concerning the introduction of criminal proceedings with the participation of jurors (enters into force on 1 January 2007);

(n) Presidential Decree No. 947 of 19 September 2002 on the establishment of the post of Human Rights Commissioner;

(o) Presidential Decree No. 949 of 20 September 2002 on the guidelines for a legal policy of the Republic of Kazakhstan;

(p) Presidential Decree No. 1255 of 23 December 2003 on measures for the further improvement of the State administration system of the Republic of Kazakhstan, in accordance with which the administration of remand centres was transferred from the Ministry of Internal Affairs to the Ministry of Justice;

(q) Government Decision No. 1376 of 31 December 2003 approving the programme for the further development of the penal correction system of the Republic of Kazakhstan for 2004-2006;

(r) Government Decision No. 1120 of 28 October 2004 on questions relating to the Ministry of Justice of the Republic of Kazakhstan;

(s) Government Decision No. 924 of 16 September 2005 approving the regulations governing the establishment of provincial (cities of national status, capitals) public oversight commissions;

(t) Supreme Court decision of 13 December 2001 on the referral of criminal cases by the courts for additional investigation;

(u) Supreme Court regulatory decision of 6 December 2002 on the observance of the principle of openness in criminal proceedings;

(v) Supreme Court decision of 19 December 2003 on courts' practice of issuing special rulings in criminal cases;

(w) Minister of Justice Order No. 148 of 11 December 2001 approving the internal regulations of correctional institutions;

(x) Acting Minister of Justice Order No. 245 of 27 August 2004 approving the internal regulations of remand centres administered by the Committee of the Penal Correction System of the Ministry of Justice;

(y) Minister of Justice Order No. 154 of 11 December 2001 approving the instruction on the supervision and protection of persons held in correctional institutions of the Ministry of Justice of the Republic of Kazakhstan;

(z) Ministry of Justice Order No. 155 of 27 May 2004 on amendments and additions to Minister of Justice Order No. 154 approving the instruction on the supervision and protection of persons held in correctional institutions of the Ministry of Justice of the Republic of Kazakhstan, registered under No. 1723.

III. INFORMATION IN RESPECT OF EACH ARTICLE OF PART I OF THE CONVENTION

Articles 1, 4 and 5

13. In accordance with the Act of 21 December 2002 on amendments and additions to the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code of the Republic of Kazakhstan, article 347-1 was added to the Criminal Code; the article criminalizes the use of torture, the definition of which is in full accordance with the wording of the Convention (paragraph 8 (a) of the conclusions and recommendations of the Committee against Torture).

14. In accordance with new article 347-1, entitled "Torture":

"(a) The deliberate infliction of physical or mental suffering by an investigator, the person conducting the initial inquiry or any other official in order to obtain from the person being tortured or a third party information or a confession, or to punish such person for an act that he or she committed or is suspected of having committed, and also to intimidate or coerce him or her or a third party, or for any reason based on discrimination of any kind,

"shall be punishable by a fine of between 200 and 500 monthly notional units or a fine equivalent to the convict's salary or other income for a period of from two to five months, or deprivation of the right to hold certain posts for a period of three years, or restriction of liberty for a period of up to five years, or deprivation of liberty for the same period.

"(b) The same act committed:

- (i) By a group of persons or a group of persons by prior conspiracy;
- (ii) More than once;
- (iii) With infliction of medium bodily harm;
- (iv) Against a woman, whom the accused knew to be pregnant, or a minor [paragraph 8 (j) of the Committee's conclusions and recommendations],

"shall be punishable by deprivation of liberty for up to seven years with deprivation of the right to hold certain posts or engage in certain posts for a period of up to three years.

"(c) The same act resulting in grave bodily harm to the victim or in the victim's death through negligence,

"shall be punishable by deprivation of liberty for a period of from 5 to 10 years with deprivation of the right to hold certain posts or engage in certain activities for a period of up to three years.

“*Note.* Physical and mental suffering caused as a result of legitimate acts on the part of officials shall not be recognized as torture.” [For example, when a person who has committed an offence is deprived of liberty for a prolonged period.]

15. The commentaries to the Criminal Code explain that the commission of torture is an offence to human dignity, insofar as the victim is subjected to beatings, cruel treatment or psychological pressure.

16. The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted by the United Nations General Assembly on 9 December 1975, states that “torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted ... on a person” and that “exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture”.

17. The objective aspect of torture involves the infliction of physical or mental suffering on a person. Torture should be understood as including various types of behaviour: infliction of physical pain on a person for a prolonged period (for example, by piercing the victim with a needle, beatings involving blows to the kidney area, neck or groin, twisting of the victim’s arms, use of painful devices, placing a hot iron on the victim’s body, depriving the victim of air (using a cellophane bag or gas mask), depriving the victim of water or food, etc.

18. The subjective aspect of torture is characterized by intent. The guilty party recognizes the socially dangerous nature of his act and wishes to commit it. With respect to the consequences of his act (if it occurs), the person’s guilt should be established on the basis of his (direct or indirect) intent and, in the event of the death of the victim, guilt should be established on the basis of negligence.

19. Article 347-1 of the Criminal Code describes the most common motives for committing this crime.

20. Thus, Kazakhstan’s criminal legislation has incorporated the crime of torture as defined in the Convention, with correspondingly severe penalties, and has broadened the concept and scope of offences involving the use of torture (para. 9 (a) of the Committee’s conclusions and recommendations).

21. In this connection, it should be borne in mind that, in accordance with the provisions of chapter 2 of Kazakhstan’s guidelines for a legal policy, which was approved by the Presidential Decree of 20 September 2002, criminal legislation must be based on recognition of the primacy and inalienability of human rights and freedoms as the highest social values protected by law.

22. Humanism of criminal sanctions means that, when the law is applied, persons who have committed offences are treated humanely and are not subjected to torture or bullying, and that criminal responsibility and punishment are applied with respect to such persons only when there are no lawful grounds for releasing them from criminal responsibility and punishment, and a

more severe form of punishment from among those prescribed for the commission of the offence is chosen only when it is deemed that a less severe form of punishment will not achieve the objectives of punishment.

Article 2

23. One of Kazakhstan's most important legal mechanisms for ensuring the implementation of the provisions of the Convention is the operation of the penal correction system and, in the first instance, remand centres administered by the Ministry of Justice, which substantially strengthens guarantees of legality in criminal proceedings and strikes an optimum balance between the observance of human rights and the interests of criminal investigation.

24. In accordance with the Act of 16 July 2001 on amendments and additions to certain legislative acts of the Republic of Kazakhstan concerning the reform of the penal correction system and the status of its employees, the penal correction system has been transferred from the Ministry of Internal Affairs to the Ministry of Justice (para. 9 (h) of the Committee's conclusions and recommendations).

25. In the context of humanizing criminal policy, unjustified restrictions and prohibitions concerning correspondence and the wearing of watches and sports clothes in free time have been abolished. The windows of prison cells have been widened and the metal blinds have been removed in order to let in daylight and fresh air, and wooden floors have been laid. The diet of convicts, including the diet of tuberculosis patients, pregnant women and sick convicts receiving in-hospital or outpatient treatment, has been improved. The variety of foods for patients has increased from 22 to 29 articles (para. 9 (g) of the Committee's conclusions and recommendations).

26. A significant step in humanizing penal enforcement was the adoption, on 21 December 2002, of the Act on amendments and additions to the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code. This Act introduced amendments to penalties for more than 40 offences, with a view to mitigating punishment. Thus, punishment in the form of deprivation of liberty has been removed from penalties for 13 offences, the upper limit of punishment in the form of deprivation of liberty has been lowered in penalties for 12 offences, and penalties for 13 offences have been supplemented by alternative forms of punishment.

27. The amendments to the Code of Criminal Procedure have made it possible to improve conditions in which sentences are served and to reduce the waiting period for parole, substitute a milder punishment for the unserved part of a sentence of deprivation of liberty, and transfer convicts to open prisons. The amendments to article 87 give convicts the right to an unlimited number of telephone conversations for up to 15 minutes each.

28. The adoption of the aforementioned Act has led to a significant reduction in the prison population. Previous reductions in the number of inmates in correctional colonies occurred only as a result of amnesties (art. 8 (h) of the Committee's conclusions and recommendations).

29. According to official information provided by the International Centre for Prison Studies (London), over the past five years there has been a steady trend towards the reduction of the prison population in Kazakhstan.
30. While in 2002 Kazakhstan held third place in the world for the number of persons being held in places of detention (prison index - 540 persons), by 2004 it had fallen to nineteenth place in the world (prison index - 386), having succeeded in reducing its prison population at a faster rate than many other countries. As at 1 March 2005, with a prison index of 342 persons per 100,000 of the population, Kazakhstan held twenty-fifth place in the world. This information is available on the Internet at the website www.prisonstudies.org.
31. Since 1 March 2005, the trend towards a reduction of the prison population has not abated, and has enabled Kazakhstan to move from twenty-fifth place to thirty-fifth place in the world (according to data covering the period up to 12 January 2006).
32. There are a total of 77 correctional institutions and 20 remand centres in Kazakhstan's penal correction system. These include:
- (a) 19 ordinary-regime colonies, including 3 women's colonies;
 - (b) 20 strict-regime colonies;
 - (c) 4 special-regime colonies;
 - (d) 21 open prisons;
 - (e) 8 tuberculosis hospitals;
 - (f) 4 young offenders' institutions;
 - (g) 1 prison.
33. In the penal correction system, convicted persons receive treatment in medical and general-health facilities (hospitals, special psychiatric and tuberculosis hospitals, medical units); convicts with an active form of tuberculosis are held and receive ambulatory care in correctional institutions with medical facilities that provide compulsory treatment.
34. The administration of a correctional institution is responsible for meeting the established sanitary and epidemiological requirements for protecting convicts' health.
35. Moreover, in order to regulate questions of medical treatment and ensure the sanitary and epidemiological well-being of persons held in correctional institutions and remand centres of the justice agencies of Kazakhstan, a joint order was adopted of the Ministry of Justice (No. 145 of 25 May 2004) and the Ministry of Health (No. 405 of 7 May 2004) approving laws and regulations concerning the medical treatment and sanitary and well-being of persons held in correctional institutions and remand centres of the justice agencies of Kazakhstan.
36. In the area of inmates' health, the Kazakh penal correction system is currently faced with the priority tasks of combating drug addiction, tuberculosis and HIV infection.

37. The total mortality rate per 100,000 persons has declined: in 2001, it stood at 589.2, in 2002 - 492.0, in 2003 - 590.0, in 2004 - 501, in 2005 - 417.2 (in absolute figures: in 2001 there were 422 cases, in 2002 - 324, in 2003 - 298, in 2004 - 267 and in 2005 - 218).

38. The tuberculosis mortality rate per 100,000 persons has declined: in 2001, it stood at 130.0, in 2002 - 100.0, in 2003 - 90, in 2004 - 80, in 2005 - 55 (in absolute figures: in 2001 - 174 cases, in 2002 - 134, in 2003 - 103, in 2004 - 74 and in 2005 - 41).

39. All inmates registered in treatment centres receive medicines free of charge.

40. Kazakhstan is cooperating with non-governmental organizations (NGOs) to improve medical services in institutions of the penal correction system.

41. In 2002, Kazakhstan discontinued compulsory HIV testing of prisoners and the isolation of HIV carriers in the places where they are serving their sentences; at the same time, it stepped up activities to prevent the spread of this infection. These activities were conducted in cooperation with territorial AIDS treatment and prevention centres and international organizations (para. 9 (f) of the Committee's conclusions and recommendations).

42. Persons held in institutions of the penal correction system are informed of their rights and duties. Convicted persons are issued pamphlets informing them of their rights and duties, and also receive visual instruction in the provisions of the law and promoting universal values.

43. Suspects, accused persons and convicts are given an opportunity to hold religious services in accordance with their religious traditions, wherever possible in premises specially equipped for this purpose. They are allowed to have religious literature and religious articles for individual use. They are allowed to invite ministers to provide spiritual counselling.

44. There are currently 29 functioning mosques and churches and 137 prayer rooms for various denominations in all correctional institutions of the penal correction system.

45. The Ministry of Justice is taking specific measures to ensure that the detention conditions of convicted and remand prisoners, including women, held in institutions of the penal correction system are in conformity with international standards and norms (para. 8 (j) of the Committee's conclusions and recommendations).

46. Article 29 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody sets out the procedure for holding women in custody.

47. In accordance with the provisions of article 29, female suspects and women who have been accused of a crime may keep children under the age of 3 with them.

48. The Government of Kazakhstan has established norms for providing better living conditions for pregnant women and women with children being held in custody. Women in custody receive specialized medical treatment, are given a more nutritious diet, and greater attention is given to their material needs.

49. The norms relating to free meals for suspects and accused persons, including pregnant women and women with children, category I and II disabled persons, and minors, and nutritional

standards and living conditions for convicted persons, as well as the regulations for providing assistance to convicts released from their sentences, were approved in Government Decision No. 889 of 2 September 2003.

50. Pregnant women and women with children are allowed to take walks for up to three hours.

51. Pregnant women and women with children may not be subjected to the disciplinary measure of placement in a punishment cell.

52. When necessary, the administration of the place of custody may, in accordance with the established procedure, apply for the temporary transfer of a child to relatives or other persons or for the placement of the child in a children's institution.

53. In accordance with article 75, paragraph 1, of the Penal Enforcement Code, correctional institutions provide separate facilities for men and women sentenced to deprivation of liberty, and minors are separated from adults.

54. The standard living space for one convict may not be less than 2 m² in correctional colonies, 2.5 m² in prisons and 3.5 m² in young offenders' institutions.

55. The standard living space for one convict in colonies for women may not be less than 3 m² (Penal Enforcement Code, art. 95).

56. Convicts are provided with individual bunks and bedding. They are given clothing, underclothes and footwear in accordance with the season, the sex of the convict, and climatic conditions.

57. Children's homes may be established in correctional institutions where women with children are serving their sentence. Children's homes provide the conditions necessary for children's normal development. Women prisoners may place their children under the age of 3 in children's homes in correctional institutions, and may visit them without restrictions in their leisure time. Women prisoners may be allowed to live with their children.

58. Pregnant women prisoners whose children are in children's homes in correctional institutions may receive additional parcels and hand-delivered packages in the amount and assortment determined by a medical opinion. Pregnant women prisoners, as well as women convicted at the time of childbirth and in the postnatal period, are entitled to special assistance.

59. Women prisoners with children in children's homes in correctional colonies may be allowed to leave correctional institutions for a short period in order to place their children in the care of relatives or in a children's home; women prisoners may be absent from correctional institutions for a period of up to seven days, not including the time required to make the journey and return. Women prisoners with minor children with disabilities may leave a correctional colony for one short period a year to visit their children for the same period of time.

60. Persons convicted to deprivation of liberty and who are employed are entitled to compulsory social insurance, and women receive allowances for pregnancy and childbirth in accordance with the usual procedure.

61. When women who have been sentenced to community service, punitive deduction of earnings or restriction of freedom are found to be pregnant, the director of the institution or penal correction body shall apply to the court for the deferral of punishment from the date on which pregnancy or maternity leave is granted.

62. The court may grant pregnant women and women with children under the age of 7, who are serving sentences in correctional colonies, a deferred sentence of up to one year or until the child reaches the age of 14.

63. In December 2003, the Government of Kazakhstan adopted the programme for the further development of the penal correction system of the Republic of Kazakhstan for 2004-2006, which contains priority areas for the penal correction system (safeguarding of the rights and legitimate interests of convicts in the enforcement of punishment, including improvements in conditions for serving sentences, medical treatment, reducing the density of the prison population in correctional institutions, creating centres for the social rehabilitation and adaptation of prisoners after their release, broadening of the functions of penal correction inspectorates enforcing sentences that do not involve the isolation of convicted persons from society, enhancing their legal status and increasing the authorized number of personnel, with the establishment of such services in each district).

64. In accordance with Kazakhstan's programme for the further development of the penal correction system, the transition to a mixed type of correctional institution, with individual and communal cells, has begun (para. 8 (h) of the Committee's conclusions and recommendations).

65. With a view to regulating the legal aspect of monitoring the activities of the penal correction system in order to ensure observance of the rights of persons being held in correctional institutions and remand centres, the Ministry of Justice is making efforts to broaden the participation of civil society in the work of the penitentiary system.

66. In particular, on 29 December 2004, the Act on amendments and additions to certain legislative acts of the Republic of Kazakhstan concerning justice agencies was signed. The Act provides for the organization of public monitoring of the observance of the rights, freedoms and legitimate interests of persons held in correctional institutions and bodies.

67. Public monitoring is carried out by voluntary associations in order to assist persons held in correctional institutions and remand centres in the exercise of their rights and legitimate interests relating to, in particular, detention conditions, medical care, employment, leisure and study, which are provided for in Kazakh legislation.

68. Government Decision No. 924 of 16 September 2005 approved the regulations governing the establishment of provincial (cities of national status, capitals) public oversight commissions to carry out public monitoring.

69. Moreover, in accordance with paragraph 11 of the programme for the further development of the penal correction system, the Committee of the Penal Correction System of the Ministry of Justice has prepared and sent to all public oversight commissions recommendations relating to monitoring the observance of the rights and legitimate interests of suspects, accused persons and convicts.

70. Thus, in addition to the legally established monitoring of local correctional facilities, judicial control, procuratorial oversight and departmental monitoring of the activities of institutions of the penal correction system, the Act provides for public monitoring (para. 9 (g) of the Committee's conclusions and recommendations).

71. Public oversight commissions have been established in 14 provinces to carry out public monitoring.

72. This measure will undoubtedly enhance the observance of the rights of persons in confinement at all stages of criminal proceedings, ensure the transparency not only of the penal correction system but also of criminal investigation bodies, which will unquestionably have an impact on the further humanization of the State's criminal policy.

Article 6

73. Within the framework of penal enforcement activities, the procedures and conditions for holding persons suspected or accused of a crime in custody, guaranteeing their rights and legitimate interests, and establishing the rights and duties of the staff of detention centres are governed by the Code of Criminal Procedure, the Act of 30 March 1999 on procedures and conditions for holding persons suspected or accused of a crime in custody, the internal regulations of remand centres and other laws and regulations of the Republic of Kazakhstan.

74. In accordance with articles 4 and 5 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, custodial measures are carried out in accordance with the principles of lawfulness, the presumption of innocence, citizens' equality before the law, humanism, respect for the honour and dignity of the individual, and the norms of international law, and must not be accompanied by acts intended to cause the physical or mental suffering of persons suspected or accused of a crime who are held in custody.

75. The grounds for holding suspects and accused persons in custody, when the preventive measure of arrest has been chosen for such persons, are the decision of the investigator or person conducting the initial inquiry, which has been approved by the procurator, or the decision of a judge or a court to apply the preventive measure of arrest; such decisions must be issued in accordance with the Code of Criminal Procedure.

76. In accordance with article 6 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, foreigners and stateless persons who are suspected or accused of a crime and are being held in custody in the territory of Kazakhstan have the same obligations and enjoy the same rights and freedoms as citizens of Kazakhstan, with the exception of the cases specified in the Constitution, the aforementioned Act and other legislative acts of Kazakhstan, as well as international treaties ratified by Kazakhstan.

77. In accordance with article 7, paragraph 4, of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, the person or body conducting criminal proceedings must notify, within 12 hours, a relative of the suspect or accused person of the place where such person is being held in custody or of a change in the place where the person is being held in custody, in accordance with the Code of Criminal Procedure.

78. The notification of the place - or change of place - where a foreigner suspected or accused of a crime is being held is sent, within the established time limit, to the Office of the Procurator-General, the Ministry of Foreign Affairs, the Ministry of Internal Affairs and the National Security Committee of Kazakhstan, and also to the embassy, consulate or other office of the State of which such person is a citizen.

79. In accordance with article 36, 1 (c), of the 1963 Vienna Convention on Consular Relations, to which the Republic of Kazakhstan acceded in accordance with the decision of the Supreme Council of Kazakhstan on 31 March 1993, “consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and arrange for his legal representation”.

80. In accordance with article 17 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, from the moment a suspect or accused person is detained, he or she is given an opportunity to meet with counsel in private and confidentially. There are no restrictions on the number or length of such meetings.

81. Official representatives of diplomatic missions of foreign States are entitled to visit a foreigner suspected or accused of committing a crime, who is a citizen of the relevant State.

82. In accordance with article 10, paragraph 10, of the Code of Criminal Procedure, foreigners who have been sentenced to arrest or restriction or deprivation of liberty have the right to maintain contact with the diplomatic missions and consular offices of their States, and citizens of countries that do not have diplomatic missions or consular offices in Kazakhstan are entitled to maintain contact with the diplomatic missions of the State that has assumed the responsibility of protecting their interests, or with international organizations involved in their protection.

Article 7

83. The rights of persons being held in remand centres administered by the Committee of the Penal Correction System of the Ministry of Justice are governed by chapter 2 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, and by the internal regulations of remand centres.

84. The internal regulations of remand centres establish the procedure for holding suspects and accused persons in custody, including their material welfare, the receipt and distribution of parcels and hand-delivered packages, the receipt and dispatch of telegrams, letters and money orders, the transmittal of suggestions, requests and complaints, the holding of religious services, medical care, the taking of daily walks and arrangement of meetings, ensuring that suspects, accused persons and defendants participate in investigations and court hearings, and the private meeting between suspects and accused persons and the director of the administration of the remand centre or any persons that the director authorizes to represent him.

Articles 8 and 9

85. As additional information to the initial report under article 8 of the Convention, it should be noted that, between 2001 and 2005, Kazakhstan concluded the Treaty between the Republic of Kazakhstan and Canada on Mutual Legal Assistance in Criminal Matters (in accordance with

the Presidential Decree of 23 June 2003); and the Treaty between the Republic of Kazakhstan and Georgia on Mutual Legal Assistance in Criminal Matters and the Protocol thereto (in accordance with the Act of 14 January 2006). During the same period, Kazakhstan ratified the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (in accordance with the Act of 10 March 2004); the parties to the Convention are the States members of the Commonwealth of Independent States. Kazakhstan also ratified the Agreement between the Republic of Kazakhstan and the United States of America regarding the surrender of persons to the International Criminal Court (in accordance with the Act of 4 October 2004).

Article 10

86. The Code of Criminal Procedure and the Penal Enforcement Code of Kazakhstan regulate the procedure for treating persons held in institutions of the penal correction system.

87. Article 20 of the Justice Agencies Act sets out the functions of justice agencies in the field of penal enforcement, including protection of bodies and institutions of the penal correction system and monitoring of their operational situation; ensuring the safety of staff, suspects, accused persons and defendants; holding and transferring of prisoners; ensuring the sanitary and epidemiological well-being and protecting the health of persons held in institutions of the penal correction system; preparation and implementation of programmes to develop, strengthen and improve the penal correction system; professional training; legal and social protection of staff; and coordination of research of State bodies and organizations in the field of penal correction activities.

88. In addition, the internal regulations of remand centres and the internal regulations of correctional institutions, which were approved by Ministry of Justice Order No. 148 of 11 December 2001, govern the right of convicted persons and persons held in remand centres to courteous - and not degrading - treatment by the staff of such institutions.

89. At present, the penal correction system includes the Kostanai Legal Institute, the Pavlodar Legal College, and the Training Centre in Taraz, which train specialists in the penitentiary system and ensure that they are familiar with international standards in the field of human rights protection and the treatment of prisoners (para. 9 (l) of the Committee's conclusions and recommendations).

Article 11

90. With a view to implementing article 11 of the Convention, which provides for the systematic review of the rules, instructions, methods and practices relating to the custody and treatment of persons subjected to any form of arrest, detention or imprisonment, Kazakhstan has adopted a number of laws and regulations, including:

(a) Government Decision No. 889 of 2 September 2003 approving norms relating to free meals for suspects and accused persons, including pregnant women and women with children, category I and II disabled persons, and minors, and nutritional standards and living conditions for convicted persons, as well as the regulations for providing assistance to convicts released from their sentences;

(b) Joint order of the Ministry of Justice (No. 109 of 8 April 2005) and the Ministry of Health (No. 176 of 13 April 2005) on measures to improve medical assistance to persons held in institutions of the penal correction system of the Ministry of Justice of the Republic of Kazakhstan;

(c) Ministry of Justice Order No. 146 of 11 December 2001 approving the instruction on the use of special means by staff of correctional institutions administered by the Committee of the Penal Correction System of the Ministry of Justice of the Republic of Kazakhstan;

(d) Ministry of Justice Order No. 154 of 11 December 2001 approving the instruction on the supervision and protection of persons held in correctional institutions of the Ministry of Justice of the Republic of Kazakhstan.

91. On 29 December 2005, the Ministry of Justice adopted Order No. 345 on amendments and additions to certain orders of the Ministry of Justice of the Republic of Kazakhstan, which provides for changes in detention conditions for persons held in institutions of the penal correction system. Such changes include the strengthening of guarantees of legality and the humanization of the enforcement of punishment, improvement of the legal and social protection of convicted persons, and reduction of the number of restrictions and prohibitions.

Article 12

92. Questions relating to article 12 of the Convention are considered by procuratorial bodies in the context of monitoring activities, particularly the monitoring of the observance of constitutionally guaranteed human and civil rights and freedoms in criminal proceedings.

93. The practice of procuratorial monitoring of the observance of constitutionally guaranteed human and civil rights in criminal proceedings is consolidated on a regular basis, most recently for the year 2005.

94. In accordance with 2005 statistical data, pursuant to article 132 of the Code of Criminal Procedure, criminal investigation bodies arrested 22,481 persons and placed them in temporary holding facilities; the number of persons arrested in 2005 was 7.3 per cent less than in 2004 (24,273 persons). In 2003, pursuant to article 132 of the Code of Criminal Procedure criminal investigation bodies arrested 26,389 persons; in 2002, 34,963 persons; and in 2001, 41,571 persons.

95. The aforementioned statistical data demonstrate that investigating bodies are taking a more considered approach to the use of the procedural measure of arrest and detention.

96. However, in many regions of Kazakhstan, the unjustified application of article 132 of the Code of Criminal Procedure is still widespread.

97. For example, along with the overall reduction in the number of detainees, in 2005 there was an increase in the number of persons released by procurators owing to insufficient grounds for arrest: 2,214 persons, or 9.8 per cent of the total number of persons arrested in 2005, were released.

98. Most of those persons came from the city of Almaty (370) and from the following provinces: Karaganda (362), Almaty (160), Zhambyl (143), South Kazakhstan (133) and West Kazakhstan (92).

99. There is ongoing monitoring of the observance by law enforcement personnel of the provisions of chapter 17 of the Code of Criminal Procedure in cells and temporary holding facilities, as well as procurators' observance of those provisions in official and other premises of criminal investigation bodies. Moreover, monitoring, sometimes with the use of video cameras, is also conducted at night and on holidays and days off.

100. Such monitoring is used to justify the detention of each suspect. If it is found that detention is not justified, the suspect is released immediately pursuant to a decision by the procurator who is directly involved in such monitoring.

101. It has been found that there are frequent violations of such provisions of the Code of Criminal Procedure as the conduct of an interrogation within a 24-hour period, detention prior to the institution of criminal proceedings, notification of relatives of the suspect or accused person of that person's detention within 24 hours, and the right to counsel.

102. During the 12 months of 2005, procurators released 15 detainees on the aforementioned grounds.

103. The observance of the constitutional rights of citizens is the most important task of the Ministry of Internal Affairs of Kazakhstan.

104. With a view to scrutinizing the activities of internal affairs offices with regard to the observance and protection of human rights and freedoms and ensuring cooperation with the Human Rights Commission attached to the Office of the President of Kazakhstan, a standing working group to monitor the activities of internal affairs offices of the Republic of Kazakhstan in the field of human rights was established pursuant to the Order of 28 December 2004 of the Ministry of Internal Affairs.

105. The criteria for evaluating the activities of internal affairs offices, and the honour code for staff of internal affairs offices (rules of professional ethics for police officers) have been revised and approved. In these documents, the main priorities are observance of citizens' constitutional rights and freedoms, registration of all reports of crimes and legality of the decisions taken in response to such crimes.

106. As a result of the foregoing measures, there have been positive developments in the protection of constitutional rights in the conduct of preliminary investigations and initial inquiries. The protection of citizens' rights and freedoms has begun to prevail in the detention of persons suspected of committing a crime and in the choice of arrest as a preventive measure.

107. Local disciplinary commissions in internal affairs offices have stepped up their efforts to investigate offences and to monitor professional ethics.

108. In March 2005, on the initiative of the Ministry of Internal Affairs, territorial internal affairs departments established public commissions which, as advisory bodies, contribute to the public monitoring of internal affairs offices, the transparency of police activities, interaction with civil society and the study of public opinion.

Article 13

109. The right of all persons to the judicial protection of their rights and freedoms is guaranteed by article 13 of the Constitution of Kazakhstan.

110. In accordance with articles 16 and 20 of the Act on procedures and conditions for holding persons suspected or accused of a crime in custody, suspects and accused persons being held in remand facilities have the right to make suggestions and requests, which may be submitted to the relevant court, concerning the legality of and the grounds for their detention, or violations of their legitimate rights and interests.

111. The suggestions, requests and complaints that suspects and accused persons submit to State bodies, local self-government bodies, voluntary organizations and the mass media are transmitted through the administration of the relevant custodial facility.

112. Suggestions, requests and complaints addressed to State bodies must be considered by the relevant custodial facility and transmitted within 24 hours following their receipt.

113. Complaints concerning actions and decisions of the court, the person conducting the initial inquiry, the head of the body conducting the initial inquiry, the investigator or the procurator are transmitted without delay in accordance with the procedure set out in the Code of Criminal Procedure.

114. Suspects and accused persons may not be harassed in any way for their submission of suggestions, requests or complaints in connection with the violation of their rights and legitimate interests. Officials of custodial facilities guilty of such harassment are subject to prosecution in accordance with the law of Kazakhstan.

115. Article 10, paragraph 2, of the Penal Enforcement Code regulates the right of convicted persons to make oral and written suggestions, requests and complaints to the administration of the relevant penal correction institution or body, to higher bodies responsible for the administration of penal correction institutions and bodies, to the court, to procuratorial agencies, to other State bodies, to voluntary associations and also to international organizations involved in the protection of human rights and freedoms (para. 9 (b) of the Committee's conclusions and recommendations).

116. The Committee of the Penal Correction System considers and examines communications from citizens. Thus, in 2005 citizens submitted 1,774 communications, which represents a 21.9 per cent reduction with respect to the number of communications received in 2004 (2,163); 1,822 communications were received from citizens in 2003, 3,177 in 2002, and 2,044 in 2001.

117. In the context of the reform of the penal correction system, Kazakhstan is taking measures to bring its penitentiary system into closer conformity with international norms and standards.

118. The bodies of the penal correction system cooperate with such international NGOs as Penal Reform International, People to People, Inc., and the Soros-Kazakhstan Foundation.
119. Cooperation with the aforementioned organizations is carried out in such areas as monitoring of human rights in penal institutions, alternatives to imprisonment, and the fight against tuberculosis in prisons.
120. Voluntary organizations provide assistance in implementing comprehensive educational, information and advisory programmes in the field of the observance of human rights.
121. Thus, under the project entitled “Human rights in penal institutions. Alternatives to imprisonment. The fight against tuberculosis in prisons”, which is intended to improve detention conditions of prisoners, Penal Reform International has supplied medicines and equipment for treating tuberculosis patients.
122. In cooperation with the international humanitarian foundation Mercy Corps, a relaxation room was opened in correctional institution LA-155/14, and preparations are being made for the construction of a summer sports ground. In addition, Mercy Corps representatives are providing English-language instruction to inmates.
123. In Pavlodar, the voluntary foundation “MO-NIKA” is carrying out a project entitled “Street Law”, which provides legal training to inmates.
124. The objective of the voluntary foundation Aglow International is to provide psychological support for women of Kazakhstan and Central Asia who have been deprived of their liberty.
125. In the presence of a psychologist and staff of the education department, representatives of the National Arts Therapies Association (Teris) conduct art therapy with convicts in four areas: drama therapy, dance movement therapy, music therapy and isotherapy.
126. Moreover, voluntary organizations provide charitable assistance by stocking libraries and supplying sports equipment in institutions of the penal correction system.
127. The aforementioned activities are being conducted with a view to increasing the active and fruitful participation of NGOs in upholding the interests of persons held in institutions of the penal correction system.
128. In addition, the Committee of the Penal Correction System has begun constructive cooperation with the mass media, as a result of which 4,941 materials dealing with the penitentiary system were published in 2005 (3,117 in 2004, 1,998 in 2003 and 1,438 in 2002). For example, the mass media has published information on the reforms being carried out in correctional institutions, relating to the humanization of the State’s criminal policy and the protection of prisoners’ rights and legitimate interests.
129. In order to ensure that any person has the right to submit a complaint to the competent authorities and to the prompt and impartial consideration of the complaint by those authorities, the Presidential Decree of 19 September 2002 established the post of Human Rights Commissioner (Ombudsman).

130. The Human Rights Commissioner (hereinafter referred to as “the Commissioner”) monitors the observance of human and civil rights and freedoms; within the scope of his competence, he has the authority to take measures to restore violated human and civil rights and freedoms.

131. In carrying out his activities, the Commissioner considers communications from citizens of Kazakhstan, and also from foreign citizens and stateless persons, concerning acts and decisions of officials and organizations that violate the rights and freedoms guaranteed by the Constitution and laws and regulations of Kazakhstan, as well as international treaties to which Kazakhstan is a party.

132. In accordance with the procedure established by law, the Commissioner has the right:

(a) To be received without delay by directors and other officials of State bodies and other organizations;

(b) With a view to protecting violated human and civil rights and freedoms, to take part in court proceedings in accordance with the procedure established by law;

(c) In accordance with the procedure established by law, to petition the court or the procurator’s office to review an enforceable court decision, sentence, ruling or decree;

(d) Based on the results of the consideration of complaints received from citizens of Kazakhstan, foreign citizens and stateless persons, and also when information relating to violations of their rights and freedoms is received by other means, to suggest that the chambers of Parliament hold hearings on these matters;

(e) To take part in the work of international human rights organizations and of NGOs involved in human rights protection;

(f) To involve, on a contractual basis, organizations and specialists in the conduct of expert examinations and consultations in order to prepare conclusions on circumstances relating to violations of human and civil rights;

(g) To take measures to protect violated human and civil rights and freedoms;

(h) Upon presentation of an official identification document, to enter and remain on the premises of State bodies and organizations, including military units and formations, and to visit places of deprivation of liberty and to meet and talk with inmates;

(i) To petition competent State bodies or officials to institute disciplinary or administrative measures or criminal proceedings against officials who have violated human and civil rights and freedoms, and to take measures to provide compensation for material or moral damage;

(j) To publish in the mass media official reports on the outcome of his investigations.

Article 14

133. In accordance with the statistical report of procuratorial bodies for the reporting period, proceedings against 54 persons arrested pursuant to article 132 of the Code of Criminal Procedure were terminated and the accused persons were rehabilitated.

134. From year to year, the number of persons released by procurators from the official premises of criminal investigation bodies continues to grow. The procurator's office and internal affairs offices are taking active measures to prevent violations of citizens' rights, as a result of which the detection and suppression of such negative phenomena has substantially increased.

135. In 2005, procurators released 571 citizens who were being unlawfully held on the official premises of criminal investigation bodies.

136. In 2001, 97 citizens were released; in 2002, 274; in 2003, 288; and in 2004, 470.

Article 15

137. Additions have been made to chapter 16 of the Code of Criminal Procedure concerning the submission of evidence.

138. In particular, one of the additions to article 116 of the Code of Criminal Procedure specifies that information obtained through the use of torture is inadmissible as evidence (para. 9 (d) of the Committee's conclusions and recommendations).

Article 16

139. In accordance with the Act of 21 December 2002 on amendments and additions to the Criminal Code, the Code of Criminal Procedure and the Penal Enforcement Code, article 107 (Cruel treatment) of the Criminal Code has been amended. The new version of article 107 reads:

“(a) The infliction of physical or psychological suffering through systematic beatings or other violent actions, if this does not entail the consequences referred to in articles 103 and 104 of this Code,

“shall be punishable by a fine in the amount of between 50 and 100 monthly nominal units, or in the amount equivalent to the salary or other income of the convicted person for a period of up to six months, or by arrest for a period of from three to six months, or by punitive deduction of earnings for a period of up to two years, or by deprivation of liberty for the same period.

“(b) The same act committed:

- (i) Against a person known to be a minor or a person known by the offender to be in a helpless state or to be materially or otherwise dependent on the offender, as well as a person kidnapped or seized as a hostage;
- (ii) Against two or more persons;
- (iii) Against a woman whom the offender knows to be pregnant;

- (iv) With the use of torture;
- (v) By contract;
- (vi) On the grounds of social, ethnic, racial or religious hatred or enmity;

“shall be punishable by restriction of liberty for a period of up to five years or deprivation of liberty for a period of between three to seven years.”

IV. INFORMATION ABOUT SPECIFIC CASES AND COOPERATION WITH NON-GOVERNMENTAL ORGANIZATIONS

140. This part of the report presents information about specific cases that took place in Kazakhstan and were publicized in the mass media.

141. In January 2004, at a correctional institution in Kostanai province, on the instructions of a supervisor, three prison guards beat five prisoners with rubber truncheons and with their arms and legs. During the beatings, the supervisor directed the prison guards' actions and surreptitiously videotaped the incident.

142. In connection with the beatings of the prisoners, in February 2004 the investigation department of the Arkalyk internal affairs authority instituted criminal proceedings against the aforementioned guards pursuant to article 308, paragraph 4, of the Criminal Code (Exceeding of powers and official authority).

143. The Arkalyk city court found all these persons guilty of an offence and sentenced them to six years' deprivation of liberty in an ordinary-regime correctional colony; the individuals in question were also deprived of the right to hold posts and demoted.

144. In addition, a number of officials of the Committee of the Penal Correction System were subjected to disciplinary action in connection with the case. The chairman of the Committee of the Penal Correction System and the administrative head of the Committee of the Penal Correction System for Kostanai province and his deputy were dismissed from their posts. The director of the aforementioned correctional institution and his deputy were also dismissed from the penal correction system.

145. Today, the Committee of the Penal Correction System is taking all necessary measures to prevent the recurrence of such incidents. The activities of subordinate units are being monitored.

146. Article 347-1 of the Criminal Code establishes criminal responsibility for the deliberate infliction of physical or mental suffering by an investigator, the person conducting the initial inquiry or any other official in order to obtain from the person being tortured or a third party information or a confession, or to punish such person for an act that he or she committed or is suspected of having committed, and also to intimidate or coerce him or her or a third party, or for any reason based on discrimination of any kind (punishable by deprivation of liberty for up to five years).

147. The following were prosecuted under article 347-1 of the Criminal Code:

- (a) In 2003, one police officer;
- (b) In 2004, three police officers;
- (c) In 2005, two police officers.

148. In April 2003, an inhabitant of the Zhosalý wintering ground complained to the provincial procurator's office that the director of the Karmaksha district internal affairs office, a police captain, beat him severely and accused him of offences that he did not commit. The provincial procurator's office instituted criminal proceedings pursuant to article 308, paragraph 3, and article 347-1 of the Criminal Code. The investigation was carried out by the Department of the National Security Committee. As a result, the police captain was dismissed from internal affairs offices. The criminal case was sent to the court, which sentenced the police captain to three years' deprivation of liberty pursuant to article 58 of the Criminal Code.

149. Officers of the Medeu criminal police office of the Central Internal Affairs Department of Almaty tortured a detainee with a view to forcing him to confess to theft and possession of narcotic substances. As a result, the detainee sustained physical injuries in the form of a ruptured spleen, internal bleeding and broken ribs. Criminal proceedings were instituted pursuant to article 348, paragraph 3, article 347-1, paragraph 2, article 259 and article 308, paragraph 4, of the Criminal Code; the case was subsequently referred to the court. The Medeu court sentenced the officers to three years' deprivation of liberty, suspended. By an order of the director of the Central Internal Affairs Department, the head of the criminal police department of the Medeu district internal affairs office was warned about improper conduct and the director of the Medeu district internal affairs office was relieved of his post.

150. The Ministry of Internal Affairs is currently developing a programme with a view to strengthening legality in the work of internal affairs offices and guaranteeing citizens' constitutional rights and freedoms. One of the programme's priority areas is the introduction of measures to train internal affairs officers, educate them in international human rights norms, and improve their professional skills, legal thinking and legal culture.

151. Questions relating to the protection of citizens' rights, freedoms and legitimate interests are monitored separately by the Ministry of Internal Affairs and the directors of local internal affairs offices, and officers who commit violations of citizens' legitimate rights and freedoms are severely punished.

152. In 2005, there were no reports of the use of torture in the Kazakhstan's penal correction system in the mass media, and no staff members of the penal correction system were convicted for engaging in torture.

153. In addition to the foregoing, it should be noted that, in November 2003, with the support of the Soros Kazakhstan Foundation, a working group composed of representatives of Kazakh NGOs was established to monitor the observance of the Convention against Torture and prepare an alternative report for submission to the Committee against Torture. The working group was headed by the voluntary association Committee for Monitoring Criminal Reform and Human Rights.

154. In 2003 and 2004, the working group, headed by the voluntary association Committee for Monitoring Criminal Reform and Human Rights, with financial support from the Soros Kazakhstan Foundation, monitored the observance of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

155. In accordance with the report of 4 October 2004 on such monitoring, as a result of Kazakhstan's reform of the penitentiary system and its policy of humanizing criminal legislation in order to reduce the prison population, significant progress was achieved in the observance of the human rights of persons held in institutions of the penal correction system.

156. In particular, the report took note of the existence of appropriate conditions for holding convicts, the openness of penal institutions to representatives of religious denominations and NGOs, the strengthening of discipline and legality among the staff of the penal correction system, the transfer of remand centres to the Ministry of Justice, the functioning within the structure of the Committee of the Penal Correction System of the department for the social and legal protection of persons held in institutions of the penal correction system, which was established to coordinate the activities of penitentiary services in protecting prisoners' rights.

157. Moreover, within the framework of the State programme for the development of the penal correction system, the Committee of the Penal Correction System is making efforts to reconstruct and build correctional facilities with a view to ensuring that detention conditions for prisoners in Kazakhstan meet, to the extent possible, the requirements of international standards. Prisoners with tuberculosis are held in special correctional institutions. The "open door" policy, which allows prisoners' relatives to visit them, is becoming a regular practice in correctional institutions.

158. In 2004, a public monitoring council was established by the Ministry of Justice to ensure the further democratization of the penal correction system. The members of the council include well-known legal scholars and representatives of international and national NGOs.

159. The council is focusing its activities on humanizing the State's penal enforcement policy, bringing the detention conditions of prisoners more closely into line with international standards, preventing violations of legality in the enforcement of punishment, and protecting the rights of persons held in places of deprivation of liberty, coordinating interaction between civil society and the penal correction system of Kazakhstan. The council has advisory status.

160. The Committee of the Penal Correction System has prepared draft guidelines for improving the penal enforcement policy of the Republic of Kazakhstan for 2007-2015 with a view to further developing the system of criminal sentences and the conditions in which they are served and physical infrastructure of the penal correction system.

161. The adoption of the aforementioned guidelines and their implementation will make it possible to formulate and adopt a long-term State policy on the penitentiary system, improve the system for enforcing criminal sentences and the conditions in which they are served, as well as bring Kazakhstan's penal correction system considerably closer to the requirements of international standards, which will make it possible to prevent torture and other cruel, inhuman or degrading treatment or punishment.