



**National
Preventive
Mechanism**
for the Prevention of Torture

CONSOLIDATED REPORT

**of the National Preventive Mechanism members
on the preventive visits carried out in 2015
(Annual report)**

Astana
2016

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1. On some organizational issues of the activities of the National Preventive Mechanism in 2015

Constitution and current legislation of the Republic of Kazakhstan defined a complete ban on the use of torture, violence and other cruel, inhuman or degrading treatment or punishment.

All measures taken by Kazakhstan, aimed at creating in society and state bodies of the atmosphere of “zero tolerance” of torture. This principle is the basis for most of the reforms carried out in recent years.

In 2012, on the initiative of the President of Kazakhstan a strategy of development of Kazakhstan till 2050 was adopted, where special attention is paid to the modernization of the national human rights protection system.

An important achievement in this area is the creation of a national preventive mechanism in our country.

Creating NPM in Kazakhstan is the obligation of our state for the implementation of the Optional Protocol to the requirements of the UN Convention against Torture. In 2008, Kazakhstan ratified the Optional Protocol to the Convention against Torture. In 2013, we were among the few countries that at the legislative level, set up a national preventive mechanism to prevent torture.

It should be noted that the integration of mechanisms of public control in real-time protection of persons deprived of their liberty, does not necessarily mean that in prisons there are serious problems, or that the public does not trust the persons engaged in the maintenance of such facilities.

Social control mechanisms allow reducing the risk of ill-treatment and regulating the use of any emergency measures applicable to persons deprived of their liberty. To solve the main tasks of national preventive mechanism activity to prevent torture, NPM group is formed annually for all regions of the country, terms and a list of institutions and organizations to be proactive visits this year are defined. In selecting members of the NPM, preference is given to applicants with professional knowledge, experience and skills in the field of monitoring of closed institutional establishments with appropriate competence in the field of human rights and the specifics of the visiting institutions and organizations.

Members of the NPM have the rights and duties enshrined in law, which introduced amendments and additions to the four Codes: Criminal Procedure, Criminal Executive, on administrative violations of people’s health and the health care system, and in four of the Law: 1) “On the procedure and conditions detention of persons in the special. Institutions that provide temporary isolation from society”; 2) “On the prevention of juvenile delinquency”; 3) “On the compulsory treatment of alcoholics and drug addicts”; 4) “On the Rights of the Child.”

Since the beginning of 2015 Criminal Executive Code in the new edition entered into force, which introduced a wide range of regulations rights of convicted persons, defined the mechanism of public control in the penitentiary (prison) system (including the national preventive mechanism), aimed at improving the level of transparency of prisons and the protection of the rights and freedoms of convicted persons serving a sentence of imprisonment.

In accordance with the legislation regulating the activities of the National Preventive Mechanism in the Republic of Kazakhstan, the Coordinating Council of the human rights ombudsman prepares a consolidated annual report of the members of the national preventive mechanism on the basis of reports by results of preventive visits.

As a result of preventive visits in 2014, consolidated annual report of the participants of the national preventive mechanism was placed on the site and sent for consideration to state bodies by the Coordinating Council.



The meeting of the Coordinating Council of the Ombudsman in the Republic of Kazakhstan

Analysis provided by governmental authorities, as a whole, reveals willingness of public authorities to the perception of the recommendations of the NPM members. The authorized bodies take timely measures to eliminate shortcomings in terms of content, consumer, medical support, etc.

By the state bodies during the year, measures were taken to inform the subordinate institutions of the NPM: the General Prosecutor's Office held a meeting with representatives of the structural divisions on effective interaction with the regional groups of the NPM, the Committee of the penitentiary system for its employees regular training sessions with the participation of representatives of the National Center for Human Rights and members of the NPM, the Ministry of Health and Social Development holds video conference with territorial units for interaction with members of the NPM.

Government officials are regularly invited to meetings of the Coordination Council to discuss implementation of NPM in our country.

During 2015 members of the National Preventive Mechanism 528 of preventive visits, including 19 special visits were carried out.

As statistics show, in comparison with last year, the number of preventive visits increased almost twice.

In total, during the reporting year members of the NPM conducted 151 visits to temporary detention, 28 – detention centers, 103 – correctional facilities, 25 -, valves receivers, 26 – special receivers 19 – adaptation centers for juveniles, 5 – special educational institutions, 33 – mental health, 31 – drug treatment, 62 – TB organizations

6 – KNB detention centers, 9 – guardhouses of military police, 30 – police stations (including departments of internal affairs room).

Of the 20 special visits: 8 – correctional facilities, 9 – detention centers, 1 – temporary detention, 1 – special receiver, 1 – juvenile adaptation center. The results of the visits of the NPM in 2015 are attached (Appendix 1).

The results of the special visits materials on the identified violations, factors contributing to the creation of cruel and degrading treatment, were sent to the depending on the contents to the prosecuting authorities and the competent authorities.

Of course, the increase of complaints in connection with the beginning of activities of the national preventive mechanism should be noted. Thus, within 2015, during preventive visits 48 complaints were addressed to Commissioner for Human Rights that were accepted by his institution for consideration.

Within his competence, the Ombudsman sends requests to the authorized state bodies on the facts set out in the complaints of citizens, and on the reports submitted by the NPM members. However, not always the received complaints are confirmed, by the inspections of prosecution authorities, the initiated criminal proceedings are terminated for lack of evidence.

During the year as a result of 13 special visits, materials are transferred to the competent authorities for inspection. By the fact of the use of unlawful methods of investigation through the use of unlawful physical violence based on a special visit to the institution RU – 170/1 against an employee of the Office of Criminal Police Department of Internal Affairs WKO criminal case was initiated, today a judgment to a police officer was passed.

It should be noted that the activities of the national preventive mechanism, in accordance with the provisions of the Optional Protocol, has a preventive nature, aimed at systemic prevention of torture and ill-treatment, rather than the investigation of the facts of their application.

During the reporting year special attention was paid to an operating time of visits, monitoring skills. Unfortunately, there is a problem of insufficient quality preparation of reports on the results of preventive visits to individual members of the regional groups; some members of the NPM are not sufficiently informed about the objectives and purposes of the mechanism. At the same time before the beginning of the practical implementation of NPM a large database of normative legal acts has been prepared, measures are being taken to improve the professional skills of members of the NPM and corresponding recommendations have been made by the Coordinating Council.

Studying the work of the NPM group it should be indicated that when planning the annual work necessary to analyze the work of the previous year, to evenly distribute the institutions and organizations for visits. To take into account the types of conducted visits: periodic or intermediate, and plan each visit in conformity with the kind of the visit and the previously submitted recommendations. It is also necessary to pay attention to the distribution of roles among the members of the NPM group during preventive visits and reporting. Each member of the NPM should understand that he is involved in the activity of an important human rights mechanism, associated with the implementation of the State's international obligations.

The activity of the national preventive mechanism is in constant attention and is assessed by international human rights organizations and experts.

It should be noted that in late 2014 Kazakhstan had the successful first defense of the Universal Periodic Review at the UN Human Rights Council, a further report on the implementation of the provisions of the Convention against Torture, the Committee against Torture, in 2015, the Convention on the Rights of the Child, where international experts discussed the creation of the national preventive mechanism in our country, in general, its current activities at the stage of its formation in Kazakhstan is assessed positively.

At the same time, in mass media, there were publishing and criticizing of the activities of the NPM in Kazakhstan, in particular, the former Special Rapporteur M. Novak. Of course, any constructive criticism is essential to the effective development of any institution and activity. However, criticism should be objective and be directed to assist in solving problems. These judgments of critics were commented by the Commissioner for Human Rights, where the results achieved at the stage of preparation for the launch of the NPM, and in the course of its implementation, were noted, as well as open discussed issues in the effective operation of the NPM, the joint achievements of civil society and public authorities.

Also in the reporting year, the Ombudsman sent an open letter to the participants of the national preventive mechanism on the inadmissibility of distorting the essence of the activities of the NPM, drawing attention to the need for non-discrimination and the exclusion of any politicization in the implementation of their activities and powers (Appendix 2).

Commissioner for Human Rights and its agencies are taking measures to ensure the necessary capacity and skills of participants in the NPM. The implementation of NPM provide substantial support to international organizations such as the European Union, Council of Europe, the OSCE Centre in Astana, the regional office of the Office of the High Commissioner for Human Rights in Central Asia, PRI representative in Central Asia and Kazakhstan NGOs.

With the involvement of international organizations within the PRI in 2015, OSCE, OHCHR series of trainings on the practical aspects of the functioning of the NPM for its participants and government officials with the participation of international experts were conducted (A. Danielyan – member of the UN Subcommittee on Prevention of Torture). In a joint program of the European Union and the Council of Europe for support government agencies in strengthening the justice system the activities for three years for the development of the NPM in Kazakhstan are included. As part of the program for NPM participants, the trainings on monitoring of psychiatric institutions, police stations, involving experts of the European Committee for the Prevention of Torture were conducted (M. Gnatovski, Zakharov, I. Puce). In the course of training experts observed activity and preparedness of members of the NPM and gave a positive assessment of the overall top NPM in Kazakhstan.

Public Association “Kadir Kasiet” (Anar Ibraeva) with the support of the Human Rights Ombudsman’s Office conducted training courses on the subject of security of persons carrying out the monitoring of closed institutions.

Analyzing the activity of the Coordination Council, acting under the Commissioner for Human Rights, with the purpose of coordinating the activities of the NPM, it's necessary to note its effectiveness and adopted on its meetings solutions: in particular, within two years recommendations for preventive visits were developed, the recommendations of Coordinating Council on the work of the NPM with the media and visiting police stations were worked out and communicated to the participants.

During 2015, 4 meetings of the Coordinating Council were held out, 1 meeting was held in the consolidated presentation format of the report prepared on the basis of preventive visits for 2014. Presentation of the consolidated report, conducted with the participation of top managers of the competent authorities interacting within the framework of the NPM, a member of the UN Subcommittee on Prevention of Torture, the members of the Commission, the Coordinating Council of the Commissioner for Human Rights, heads of regional groups of the NPM, representatives of international organizations.

The results of the special visits carried out by the regional groups of the NPM, received complaints on the actions of state bodies against NPM members, proposals to improve the situation in prisons, the preparation of the next consolidated report, as well as various organizational issues of the NPM activities, including the organization of training courses for its members, the development of recommendations for improving the NPM activities were discussed at the meetings.

On December 22, 2015 according to the decision of the Coordinating Council members, new NPM members were elected for 2016. Participants underwent significant changes, thereby expanding the involvement of the wider public of the various fields of activity in the national preventive mechanisms.

Financial support for the activities of the NPM is carried out from the republican budget, governed by the relevant regulations.

In accordance with the legislation regulating the activities of the National Preventive Mechanism in the Republic of Kazakhstan, reimbursement of participants of the national preventive mechanism for preventive visits carried out from the budget in the order established by the Government of the Republic of Kazakhstan.

In accordance with paragraph 5 of the Resolution of the Government of April 2, 2014 N^o 301 "On Approval of the participants reimbursement of national law preventive mechanism for preventive visits", the participants of the National Preventive Mechanism by the administrator of the budget program shall be reimbursed the costs associated with the departure of member of a national preventive mechanism in another location, including participation in the work of the Coordinating Council:

- 1) for each day of stay at the place of preventive visits participant of preventive mechanism are paid daily allowances in the amount of two monthly specified rates;
- 2) hiring of premises on presentation of supporting documents; in the absence of supporting documents the cost of hiring premises shall be reimbursed at a rate of 50 per cent of the DSA rates;
- 3) travel to the place of stay and back to the place of permanent employment on the basis of the presented travel documents;
- 4) expenses related to the preparation of a report on results of visits, including the processing of the collected materials, preparation of proposals and recommendations

for the information of the annual consolidated report on the results of preventive visits in the amount of one minimum wage to each participant of the national preventive mechanism;

5) overhead costs include the cost of purchasing office supplies, for the use of telephone, internet and postal services, in an amount not exceeding twice the minimum monthly specified rates on each member of the national preventive mechanism, carrying out preventive visits.

It should be noted that the basis for reimbursement of expenses of participants NPM norms were laid down, established for reimbursement of travel expenses for government officials and institutions.

Financial report on the NPM for 2015 is attached (Appendix 3).

However, handling the leaders of individual groups of the need to use a car or vehicle rentals to save time and direct (direct and expectations) directions to institutions of preventive visits to the institution of the Ombudsman carried out (so far in the process of negotiation and discussion) extensive work on conforming and conviction of the authorized bodies on amendments and additions to the existing legal acts. At the same time, the norms established by the legislation on the use of funds from the state budget do not allow today to make changes on the use of private vehicles (the car) members of the NPM. In addition, the budget allocated for financing the NPM, are used strictly in accordance with regulations only for reimbursement of participants of the national preventive mechanism associated with the preventive visits. At the time of the report an alternative version of the draft of the amendments to the regulations on reimbursement for the rental vehicle expenses has been worked out with adjusted calculations of the budget program. However, any changes to the regulations related to expenses from the state budget are submitted to the consideration of the Republican Budget Commission.

2. The situation of persons detained in institutions, subordinated to the Ministry of Internal Affairs

2.1. In correctional institutions of CCES MIA of RK

General provision

Activities of National preventive mechanism in the Republic of Kazakhstan is based on regulations of international human rights standards, including, in the sphere of criminal justice, as well as on the norms and Institute of National criminal justice legislation of Kazakhstan. The system of international legal instruments created under the auspices of the UN, of particular importance are the new United Nations Standard Minimum Rules for the Treatment of Prisoners (“Rules of Nelson Mandela”), adopted 21.05.2015, the need to modernize and reflective approach to the treatment of prisoners at preserving traditional humanitarian values enshrined in international human rights standards. In the preamble of the mentioned international instrument “repeatedly expressed wish of the United Nations for the humanization of criminal justice and human rights” is considered, the attention is drawn to “the importance of human rights in their daily activities on criminal justice and crime prevention.” Thus, the fundamental values of human rights are embodied in the “letter” and “spirit” of the new Standard Minimum Rules for the Treatment of Prisoners (hereinafter – the “Rules of Nelson Mandela”). These rules are designed to “take into account the latest scientific knowledge and best practices in the field of work correctional institutions in order to ensure the safety and humane conditions for the prisoners.”

To solve the problems of reintegration, resocialization of convicts held in penitentiaries, “Rules of Nelson Mandela,” based on the need of humane treatment of persons deprived of their liberty. A key condition for this, according to the Preamble of the “Rules of Nelson Mandela”, is “respect for human dignity and human significance of prisoners” and “investigate any evidence of torture or inhuman or degrading treatment or punishment of prisoners.”

Thus, combating torture and ill-treatment, respect for human dignity is one of the means of re-socialization of prisoners. “Rules of Nelson Mandela” are advisory in nature, however, they can be compared with the doctor’s recommendations, the neglect of which is unacceptable, and they include provisions for the investigation of torture, on the treatment of prisoners in the detention center, detention center with the convicts in prisons, on civil society participation in the re-socialization convicts in prisons. Their instruments are necessary for effective implementation of the NPM.

The Penal Enforcement Code of the Republic of Kazakhstan sets out the basic rights of prisoners (art. 10 PEC of RK), among which the right to the recognition of human dignity, protection from torture, violence and other cruel, degrading treatment or punishment, personal security while serving their sentence (p. 4, 5, Art. 10 PEC of RK), the right to health care and qualified medical care, psychological support (p. 8, 9, Art. 10 PEC of RK). In accordance with Art. 13 PEC of RK “prisoners are guaranteed the right to freedom of conscience and religion ... The administration of the institution or body carrying out the sentence, creates the conditions for performance of religious rites, as well as providing personal security clergymen” (p. 5, Art. 13 PEC RK). In

accordance with the objectives of the NPM to ensure those rights of convicted persons is a crucial condition for compliance with international obligations of Kazakhstan in the field of combating torture and ill-treatment. The given Consolidated Report is dedicated to the complex of these questions prepared on the basis of the information provided in the reports of the NPM members by results of their visits to correctional institutions in the Republic of Kazakhstan. In accordance with Art. 42 PEC of RK, members of the National Preventive Mechanism shall have the right to have access to information relating to the treatment of prisoners contained in the institutions and bodies carrying out sentences to be preventive visits, as well as their conditions of detention. Therefore, the drafters of this report based on the presumption of good faith of persons providing reports on the results of preventive visits that do not exclude the possibility of recommendations to improve their content.

Assessment of the situation

In the period from January to December 2015 103 visits to penal correctional institutions of Kazakhstan were carried, among which there were periodic, intermediate and special visits. It should be noted that for the period there were 7 special visits (IS-EC166/5 Department of the Correctional System of Astana – 08.01.2015, 05.03.2015, 08.29.2015, ZK-169/5 Department of the Correctional System of Kyzylorda region – 18.04.2015; Correctional Institution-161/2 Department of the Correctional System in Kostanay region – 05.14.2015, AP-162/3 Department of the Correctional System in Pavlodar region – 15–06.16.2015, LA – 155/14 Department of the Correctional System in Almaty and Almaty region – 07.21.2015). Accessing materials of reports allows comparing the situation of human rights in specific prisons of Criminal correctional system of Kazakhstan with the recommendations of the “Rules of Nelson Mandela” and the provisions of the national preventive penal legislation.

According to Rule 51, provided for the “Rules of Nelson Mandela,” “searches should not be used for the purpose of intimidation, deterrence or unjustified encroachment on the privacy of the prisoner.” On the production of inspections and searches in places of isolation of the individual from society (Art. 98 PEC of RK) the provisions of p.4 Article 10 of PEC of RK apply in full on the recognition of human dignity of the convicted, protection from torture, violence, cruel, inhuman or degrading treatment or punishment. However, in some reports of the NPM members such cases as a gross violation of Art 10 PEC RK, and “Rules of Nelson Mandela” were noted. In particular, in the report on special preventive placement agencies AP-162/3 of Department of the correctional system in Pavlodar region, held on 15–16 June 2015 it was stated that in the course of events inspection in a residential area of the detachments of all personal belongings of 80–100 convicted were taken and dumped in one pile, “prisoners were ordered for 2 minutes to disassemble their stuff, who did not find their belongings, left without personal belongings.” It is clear that such “support force” search is completely contrary to the UN Standard Minimum Rules for the Treatment of Prisoners and penal legislation of the Republic of Kazakhstan.

It should be noted that the “rules of Nelson Mandela” indicate that the prisoner should not “be exposed to any risk of retaliation, intimidation as a consequence of application or complaint” (p. 2 Regulation 57). In the above report on special preventive

visits to the institution-AP 162/3 a convicted named J, who in an interview with members of the NPM, during their visit to the prison was “in a state of nervous and mental excitement, facial expression and her hands showed that he was afraid for his life. Convicted cried, saying that on the way to the NPM’s room, he was threatened by staff who accompanied him., Convicted J as well as another convicted of the correctional institution A., informed the NPM of beatings convicted during the search, and after the meeting. It is obvious that in such a situation of grossly violation of the provisions of Art. 12 of PEC RK, stating that ‘in determining a threat to life, health or dignity of the convicted, by the administration of institution or body carrying out the sentence, immediate actions to resolve it are to be taken”

In the described cases, the sources of threats to convicted became the illegal activities of employees of the correctional institution that inherently conflicts with the p. 5, Art. 10 of PEC of RK on the right of convicted to personal security while serving their sentence.

Worthy of note is the fact that the leitmotif “Mandela Rules”, as, well as the generally recognized international norms and principles, is an absolute prohibition of torture and other incompatible with human dignity forms of treatment. According to the “Rules of Nelson Mandela,” “All prisoners should be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, all prisoners should be protected from torture and no circumstances may be invoked to justify them,, (Rule 1). It is obvious that the realization of this ban and related to the human dignity of prisoners as an absolute social value, should be an integral part of the mentality of every employee of the correctional system of Kazakhstan. It should be noted that the prohibition of torture and ill-treatment – is not recommendatory but peremptory norm is versatile and universally recognized by the international community and implemented into national criminal and penal legislation of Kazakhstan. Judging from the report on special preventive visits in the institution-AP 162/3 of Department of the Correctional System in Pavlodar region, they administration do not ‘know’ about it. According to this report, provided by members of the NPM, in the establishment of the AP-162/3 have been identified, such methods of torture and ill-treatment, as beatings of prisoners (by members of the NPM ‘photos of 15 convicted were made, who at the time of visits had remained visible damage’), coercion do sit-ups, ‘to take the emphasis lying down’ strikes by a plastic bottle and a pair of boxing gloves in various parts of the body, committing ‘rapes by baton.’ In case of refusal by the convicted from the toilet cleaning, ‘these persons were threatened with urination forcibly dipped their heads in the toilet. by staff” Thus, we practiced not only beating, but also quite aggravated forms of violence and repression of human dignity of prisoners. In such circumstances, it is clear we can not speak about any prospects of re-socialization of convicted.

In this regard it should be noted that, according to the “Regulation of Nelson Mandela”, “allegations of torture or other cruel, inhuman or degrading treatment or prison penalties should immediately be considered and become the subject of an urgent and impartial investigation by an independent public authority” (p. 3 Regulation 57). In other words, it should ensure prompt consideration of complaints

of torture of prisoners. Moreover, it is a competent, independent authority shall ensure immediate and impartial investigation into these complaints (appeals). This is necessary to prevent torture and bring those responsible for torture and ill-treatment in the criminal and other legal responsibilities.

According to the “Rules of Nelson Mandela”, “regardless of the start of an internal investigation, the director of the prison establishment shall immediately notify about any case of death, disappearance or serious injury in prison the court or other competent authority, which is independent of the prison administration and tasked to carry out an urgent, impartial and effective investigation of the circumstances and causes of such incidents. The prison administration should co-operate fully with that authority and to ensure the safety of all the evidence “(p. 1 of Regulation 71). However, according to members of the NPM of Akmola region, in June-July 2015 in the establishment of the EC-166/26 Department of the correctional system of Akmola region three convicted died. According to the information prepared by a group of medical provision of the convicted MIS Department of Akmola region, as the causes of death among prisoners were indicated:

N.K., the diagnosis: “Acute violation of the coronary circulation is not excluded as a result of blunt trauma to the chest and bruised heart muscle.”

Zh.D., the diagnosis: “Acute coronary circulation disorder with chronic coronary heart disease.”

A. V., the diagnosis of “Hepatic impairment due to cirrhosis of the liver in patients with HIV infection.” In August 2015 it was carried out forensic examinations in the various regional offices of the medico-legal assessment of Akmola region, according to the expert opinion of forensic medical diagnoses were shown:

1) N. K., born in 1987, “Blunt trauma of the chest.” Conclusions: The death of a convicted N. K. was caused by an acute violation of the coronary circulation, that is not excluded as a result of blunt trauma to the chest and the heart muscle injury, which ultimately led to cardiac arrest and breathing, cessation of the central nervous system function, as indicated by the data of the corpse examination and laboratory findings. In the case of the establishment of a traumatic nature, given the pathological condition to be qualified as serious bodily injury, as being in the causal link with death;

2. Zh.D., death was caused by acute disorders of coronary circulation that developed on the background of chronic ischemic heart disease. Discovered injuries have no causal connection with the death and are qualified as a light injury on the basis of the short duration of its disorder;

3. The cause of death of A. V. was a liver failure, which developed as a result of the disease – cirrhosis of the liver, which, in turn, had been evolved as a result of hepatitis C in patients with HIV infection, which could be a factor of contributing to the progression of the main disease. Injuries of A. V. were not detected. Thus, according to experts, at present two of injuries of the convicted, which could be the cause of death.

NPM members of Akmola region Information about the death the convicted in the establishment of EC-166/26 did not received from the IU administration and medical service of the Department of the correctional system of Akmola region, but from third parties. NPM members of Akmola region after receiving information sent

an official appeal to the authorities of prosecutor's office of Akmola region. Currently, upon the death of the convicted criminal case was initiated. According to the participants of the NPM of Akmola region, the prison administration — is inviolable and isolated caste, which spread the principle of solidarity, even against those who commit violence, utilizing their official position. In addition, often the remoteness and isolation of some correctional facilities hampers control over their activity on the part of the prosecutor's office and public organizations. Remoteness of institution EC1-66 / 26 from the regional center (more than 400 km one way) does not allow in a timely manner providing qualified medical care to convicted patients, as well as the institution is actually "deprived" of control by the civil society in Kazakhstan. Members of the NPM in Kazakhstan pay attention in their reports to the fact that much of the prisons of Kazakhstan are located in the remote and sparsely populated regions of the country. In this regard, there are problems of personnel maintenance of correctional institutions, employment of convicted persons and the possibility of providing qualified medical assistance to convicts. Thus, the already "closed" prison community becomes even more closed society of Kazakhstan because of their physical distance and indifference of citizens. In addition, the "Rules of Nelson Mandela" set the algorithm of the investigation of torture and ill-treatment (Regulation 71). The administration of the penitentiary, is responsible to preserve evidence of torture (The materials of the report on the visit to the institution AP-162/3 were mentioned, for example, boxing gloves 'Shinki', batons, plastic bottles, clothing of convicted with traces of blood, etc., that, in the event of prosecution, could be considered as evidence). In accordance with p. 2 of Regulation 71, a legal obligation to investigate torture occurs 'in all cases where there are reasonable reasons to believe that in prisons there are acts of torture or other cruel, inhuman or degrading treatment or punishment, irrespective of official complaint. It is obvious that the subject filing a complaint can become not only the convicted person or his close surrounding, but a lawyer or a member of the NPM, discovered cases of torture (or their consequences) during a visit to the prison. With regard to the penal legislation of Kazakhstan, it provides that <the participants of the National Preventive Mechanism are required to register the received reports and complaints of torture and other cruel, inhuman or degrading treatment or punishment in the manner determined by the Commissioner for Human Rights> (Article. 43 PEC RK). Thus, an algorithm of the NPM's participation in the investigation of torture is enshrined in the national legislation of Kazakhstan. Unfortunately, the report on the visit of establishments AP-162/3 did not reflect the circumstances and results of the investigation of complaints relating to torture. Nothing is reported about the reaction to these complaints by the Human Rights Ombudsman, the adoption by public authorities to combat torture measures of criminal prosecution of those responsible for them. The aforementioned visit that took place in June 2015 and in December 2015, nothing is known about the official reaction of the state bodies. Anyway, the report does not contain this information. It should be noted that in respect of one of the members of the NPM, making a report on the visit to the institution-AP 162/3 of the Department of the correctional system of Pavlodar region, Semenova E. A. is currently under criminal prosecution. Thus, the risk of bringing to justice the members of NPM members are not eliminated.

Reduction of these risks aims to promote the principle of non-prosecution of citizens in connection with its participation in the implementation of public control (p. 9 Art. 31 PEC RK). However, in this case, the norm of PEC of RK aimed at protecting the NPM member has not been used. During 2015 with special rooms were equipped for confidential discussions of the NPM members with convicted in prisons of Kazakhstan. However, it should be noted that «NPM room» equipped with metal bars separating the members of the NPM from convicted. Thus, at the initiative of the administration of institutions is artificially created physical and psychological barrier between the independent inspections and convicted.

One of the key conditions for ensuring human dignity of convicted is the availability of qualified medical care. This is clearly evidenced by the “Rules of Nelson Mandela.” In particular, under Regulations 24, “the provision of health care to prisoners is the responsibility of the state. Prisoners should be provided with the same health-care standards that exist in society, and they should be provided with free access to essential health services without any discrimination on the basis of their legal status. „At the same time, in Sec. 8, Art. 10 PEC RK provides for the right of convicted to health care and qualified medical assistance in accordance with the legislation of the Republic of Kazakhstan in the field of public health. However, as follows from the members of the NPM reports, the right to medical care were among violations. For example, according to a visit to a psychiatric hospital, acting on the basis of the institution LA-155/14 Department of the correctional system in Almaty and Almaty region, ‘severely violated sanitary requirements for patients suffering from chronic psychiatric disorders, the rules of detention of patients (mattresses are thin, bed has a hard coating, insufficient bedding). «In addition, when visiting of the NPM members in the given the institution “inappropriate conditions of detention of patients” were found (no toilet drain, showers and sinks were out of service). The medical center did not operate in the correctional facility AP-162/10 in Pavlodar region for six months. There was no doctor and only as a result of interim visit to this clinic a paramedic was hired. Thus, at this institution for prisoners, conditions of qualified medical assistance were not provided. At the same time, “convicts of the establishment –158/2 of the Department of the correctional system (DCS) of Zhambyl region has complained that the medical unit for treatment is difficult to get there, although some of the convicted were unreasonably there for months.” Apparently, some of the convicts illegally used a “treatment facilities”, making it impossible to obtain the services by prisoners in need of medical care.



Quarantine section EC-166/11

In reporting materials based on the results of visits correctional institutions RH-156/2, UK1-61 / 4, OV-156/13, EC-166/26-154/4, there were complaints about the quality of care, as well as in violation of the terms of registration and extension of disability. The report also notes that "...in all prisons there are problems of movement of convicted persons with disabilities on the territory of the institution." This became clear in the absence of ramps, deterioration in wheelchairs. There are cases of failure to provide the actual conditions for the provision of medical care. For example, one report states that "in the institution LA-155/4 DCS in Almaty and Almaty region, hospital is deployed on 11 beds, and on the day of the monitoring in the hospital 21 women needed treatment", that is, 10 convicted women could not receive the necessary hospital treatment just because it there were no sufficient beds. Thus, the discrepancy between the recommendations of the "Mandela Rules" and the provisions of the penal enforcement legislation of the Republic of Kazakhstan, in the activities of the penitentiary system is in the insufficient number of trained medical personnel, lack of diagnostic tools, disorders associated with the procedure of conducting medical documentation, registration deadlines disabilities, inadequate sanitary conditions of detention of patients. There is no doubt that the lack of qualified medical personnel is a key problem, determining violations of the right to receive medical care. The reports states that "... vacancies are engaged by part time doctors, working under contract and visiting institutions from 1-2 times a week 1-2 times a month ..." Of course, this can not but affects the quality of rendered medical services of convicts. Contrary Regulation 26 of the UN Standard Minimum Rules for the Treatment of Prisoners, the confidentiality of the information contained in the medical records, in the EC-164/6 DSC the North-Kazakhstan region was identified in case of "free access to medical records." In fact, this led to a violation patient confidentiality and privacy.

Much attention is international standards for the treatment of prisoners pay nutrition, material and social maintenance of persons serving a sentence of imprisonment. This, in particular, according to "Rules of Nelson Mandela." According to Rule 22, "... the prison administration should be at the usual hours to provide each prisoner food of

nutritional value adequate for health and strength, of good quality, well prepared and served.” In addition, “every prisoner should have drinking water when the need arises.” There is no doubt that the right to get food of adequate quality and access to drinking water sources are the integral part of the recognition and respect for the human dignity of prisoners. The participants of the NPM in the reports based on the results of visits of correctional institutions noted violations related to the unsanitary state of dining, the menu layout mismatch products with their actual output. These violations, as stated in the reports were found in 8 institutions of Penal Enforcement System (PES) (in reporting documents the following prisons are mentioned JD-158/5 AK-168/3 OB-156/13 EC-164/3 UK-161/11, AP-162/2, JD-158/2).



Plates and dishes of dining establishments, JD158/2

In addition, NAM participants drew attention to the fact that in prisons only cold water centrally supplied. In 4 institutions even its supply was insufficient. It was noted that “according to its chemical composition, the water does not meet sanitary standards (excess salts, increased stiffness) and might be used only in boiled form (almost in all institutions of Karaganda region).” The poor quality of drinking water generates undoubted risks to health of prisoners.



Separate toilet cubicles in the establishment of the AP-162/2

In the context of the right to the inviolability of human dignity essentially important is the right to have appropriate conditions of detention. It is necessary

to take into account, that in accordance with the “Rules of Nelson Mandela,” “every prisoner should be provided with a separate bed in accordance with local or national standards, and with separate sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness” (Rule 21).

Article 10 of the Criminal Code the right to material and social support is not named in the list of the convicts’ rights. However, p. 11, Art. 10 PEC of RK called the right to rest, and to the legal regime of the material providing of a convicts is dedicated art. 115 PEC of RK.

Unfortunately, these rights of prisoners in the actual practice of correctional institutions are not immune to violations. In particular, participants in the reports of the NPM noted barracks principle of detention of prisoners (due Colonia model of the penalty of deprivation of freedom).

The correctional institution LA-155/14 DSC in Almaty and Almaty region under stringent conditions of detention (CMS) were 23 prisoners and at the same time there were only 20 beds. Consequently, the three convicts were not even provided with bunks. Participants of the NPM also noted the existence in the sleeping areas of concrete floors, lack of bedding.



Condition of internal toilets in the institution LA-155/14 DSC in Almaty and Almaty region

In addition to the improper state places of recreation of convicted, there is the problem of the normal functioning of the sewerage network in offices and maintenance of proper hygienic condition places of physiological needs of prisoners. Needless to remind that the observance of the right of human dignity includes segments such as personal hygiene, satisfying the needs of a physiological nature. Report makers noted that in the washrooms of the correctional institution there were no doors and therefore “intimate space” was not closed, when visiting the prisoners of these rooms. The fact that a similar situation exists in the “women’s colonies” (AK-159/9 LA-154/4), aggravates the picture of this incompatible with human dignity treatment.

Moreover, in prison of AK 159/6 DSC in Karaganda region “in some detachments handmade toilets were used, made of cement, which is a violation of sanitary norms and requirements.” This is a blatant case of violations of the rights of convicted. It should be noted that certain reports provided by members of the NPM, some of the types of rights of prisoners were not reflected, violations of which are incompatible with human dignity and create obstacles to the re-socialization of convicted. In

particular, this refers to the right of convicted to freedom of conscience and religion. It is the constitutional right of a citizen.

Through religion, spiritual self-identification is performed. Freedom of conscience promotes the establishment of human dignity and disclosure of human spiritual potential. “Nelson Mandela Rules” provides that “if in a prison facility in which a sufficient number of prisoners of the same religion, a qualified minister of cult should be appointed or he/she should be allowed to do the appropriate rites” (Rule 65). In accordance with p. 2 of Art. 65 Regulation 65 “qualified clergymen, appointed or approved under prison facility, should have regular opportunities to worship in the time allotted to visit the prisoners periodically, who belong to his confession for discussions on religious issues.”

No less attention is paid to the right of conscience and religion freedom in Penal Code of the Republic of Kazakhstan. According to Part. 1, Art. 13 PEC of RK “convicted are guaranteed the right to freedom of conscience and religion.” Unfortunately, contrary to the Constitution of the Republic of Kazakhstan, and the foregoing warranty, created p. 1 Art. 13 PEC of RK, in prisons rooms for worship are closed. Whatever the motive was conditioned, it has been a violation of p. 5, Art. 13 PEC of RK, conferring on the administration of the institution or body carrying out the sentence, a legal obligation to create the conditions for worship (to these conditions, of course, the opening and operation of appropriate facilities is related). It should be noted that the ban on the construction of religious buildings (structures) in the territory of the institutions and bodies, carrying out the sentence (p. 6, Art. 13 PEC of RK) does not contradict the obligation to create conditions for worship (Art. 5, Art. 13 PEC RK). Providing space for prayer is not identical to the construction of places of worship. Obviously, if these places will not be provide for convicted, the prisoners will not be able to carry out religious rites in accordance with the religious canons and clergy will have no place necessary for meeting with the prisoners.

Also, not in all the reports the right of convicted to receive social assistance at parole, the right to receive psychological help was noted. It is expedient to take greater account in the preparation of reports on visits of correctional institutions, drawing attention to the need for a systematic approach to drawing up such a document, with in-depth analysis of the situation and the conclusions of the forecast, scientifically based nature.

One of the negative facts is that the institutions and bodies executing the penalty of deprivation of freedom, as if reborn “militaristic principle”, manifested in spreading among of convicted marching drill, duties assigned to them to stand at attention and perform songs on the parade ground. There have been cases when the lyrics in the state (Kazakh) language proposed to convicts who do not speak the state language, in a short period of time before their performance memorize. The sleeping places of convicted are forced to make beds in “army way” and even a scheme for their “right” making is worked out. It makes no sense from the point of view of re-socialization of convicted, their correction and can be regarded as a form of degrading treatment, capable of provoking tension in prisons, the negative attitude towards the state language and alienation of convicted of staff of the correctional system. In a consolidated report on the results of preventive visits carried out in 2014, attention was drawn to

the given problem (p. 25 Consolidated report, Astana, 2015), however, no changes for the better have happened. We believe that the Human Rights Commissioner in the Republic of Kazakhstan and the management of CCES RK MIA should pay particular attention to this vicious practice, with a view to its eradication.

Attention is drawn to the existence of cases of no ensuring of conditions for unimpeded access of participants in the correctional facilities. This is manifested in particular in excessive and abusive registration of a special pass to the territory of institutions, while the identity of the NPM participant confirmed its identity, which is sufficient for the passage to the relevant territory. There have also been cases in which members of the NPM were not allowed to visit the correctional institution or expelled outside the institution, referring to the end of the working day.

Alarming is the fact that often the correctional officers, and especially soldiers of the National Guard of MIA RK, empowered to make searches of persons, their belongings and vehicles on the territory of penal institutions, they are not aware of the nature of the NPM, its objectives, principles and the legal status of the participants. This creates risks not only to conflicts, but also torture of prisoners. According to the instructions of Ministry of Internal Affairs of Kazakhstan, in the thematic plans for training on socio-legal studies personnel, the main provisions of legal acts of the NPM are included; we believe that soldiers of the National Guard are to be familiarized with these provisions, conducting security prisons and using force against prisoners.

Conclusions and recommendations

In connection with the above, on the basis of paragraph 1 p.2. Art 47 PEC of RK, the following recommendations for improving the conditions of treatment of prisoners, the prevention of torture and other cruel, inhuman or degrading treatment or punishment are offered:

1) to take into account the importance of new UN Standard Minimum Rules for the Treatment of Prisoners (“Rules of Nelson Mandela”), adopted 05.21.2015, the, in order to create a modern image of the penitentiary system of Kazakhstan and its development, it is advisable to develop a mechanism for the implementation of the “Rules of Nelson Mandela” in the activities of the institutions and bodies carrying out sentences of imprisonment;

2) to carry out training activities for establishment of a mechanism of realization of the “Rules of Nelson Mandela” and the provisions of the penal legislation of Kazakhstan in the field of prevention of torture and cruel or degrading treatment or punishment;

3) conduct seminars in the training format for effective interaction of correctional institution employees and members of the NPM in the implementation of public control;

4) taking into account the decision of Security Council of the Republic of Kazakhstan 25.05.2011 on the construction of new correctional institutions with cell basis detention, it is necessary to continue work on the modernization of housing complexes, to repair of sanitary facilities, expansion of beds for normal conditions corresponding to the social standards of living of convicted in prisons;

5) to take into account the importance health care and to attract qualified professionals in the field of medicine in activities to provide medical services to

convicts, to develop a mechanism to attract doctors and other medical personnel of civil health care by promoting their work, providing various benefits and higher wages, equating working days correctional institutions to the night shift and to work on weekends and holidays;

6) to ensure the confidentiality of keeping and storing medical records in correctional institutions, as well as to continue work on the creation of conditions of access of convicts kept in correctional institutions to the civil health care services;

7) in order to improve the prevention of torture and ill-treatment of prisoners to provide legal access to the Internet, as well as the use of video conferencing, “a Skype-technology” to facilitate greater ‘transparency’ conditions of detention of convicted;

8) to take into account the social importance of the constitutional right to freedom of conscience and religion and its role in the prevention of torture and ill-treatment and the implementation of the re-socialization of convicted, to consider lifting the ban of functioning facilities for worship in the correctional Institutions (CI) and an invitation of priests to the convicted, representing the traditional confessions in Kazakhstan;

9) taking into account the high risk of torture and ill-treatment while carrying out searches and examinations of convicted, also in terms of their escorting, provide video recording of actions of MIS personnel carrying out search and (or) inspection of convicted, as well as their support in the process of escorting;

10) in connection with the corruption risks associated with the distribution of convicted to guide them on the stage, post it is necessary to inform the NPM members on available at the stage convicted, characterized negatively. As these prisoners may be subjected to ill-treatment, in order to prevent it, the participants of the NPM are advisable to have the initial data of such convicts as are in risk group of torture and ill-treatment;

11) to supplement Art. 42 PEC of Kazakhstan on the rights of members of the NPM, Part 3 reading as follows: “NPM party can not be prosecuted for opinions expressed and estimates related to the implementation of its activities”;

12) to exclude the possibility of granting a disciplinary or other authority with the consent of the administration of one CI of convicted in relation to other prisoners;

13) to develop and approve, as an official document the algorithm and the gathering of evidence of torture and ill-treatment, investigation of their application and participate in the investigation of representatives of the NPM, the PMC independent authorized state bodies;

14) to abandon the practice a special room equipped with metal separating bars in CI intended for confidential conversations of convicted with members of the NPM. To the authority of CCES MIA of RK to develop a breadboard model the office for meeting convicted with members of the NPM in CI using advanced security technologies;

15) to develop a program of social, psychological, victimological, legal assistance to convicts, victims of torture, and to implement them in prisons of Kazakhstan.

2.2. In pre-trial detention MIS MIA RK

General provisions

Pre-trial detention — a special facility designed for holding persons suspected or accused of committing a crime for which as a preventive measure was elected detention, as well as the convicts left to perform household activities or aiming to provide law and order in the prison and transferred in accordance with the procedure provided for in Article 88 of the Criminal executive Code of the Republic of Kazakhstan, temporarily staying in escorting the further place of deprivation of freedom or convicts transported to detention centers for the production of investigative actions on new episodes of criminal activity.

A preventive measure in the form of detention is used only with the approval of the court and the basis for placement in a pre — trial detention center is a court verdict.

In accordance with Article 8 of the Law of the Republic of Kazakhstan dated March 30, 1999 № 353-I “On the procedure and conditions of detention of persons in institutions that provide temporary isolation from society” pre-trial detention centers are created in the penal system and institutions of the national security of the Republic of Kazakhstan.

By the Decree of the President of the Republic of Kazakhstan dated July 26, 2011 № 129 “On the penitentiary system of the Republic of Kazakhstan” there was the formation of Committee of criminal executive system of the Ministry of Internal Affairs of the Republic of Kazakhstan (hereinafter — the CCES RK MIA) by abolishing the Committee of criminal executive system of the Ministry of Justice of the Republic of Kazakhstan. Thus, the detention of suspects and accused persons in detention centers CCES RK MIA means that the organization and control of the execution of this measure entrusted to the Ministry of Internal Affairs of Kazakhstan, which is also a body of pre-trial investigation. In connection with the above, there is a risk of torture of persons held in detention by the prosecuting authorities or by the administration of detention centers in the interests of the prosecuting authorities.

The vast majority of suspects and accused persons held in pre-trial detention centers come from the temporary detention as soon as the court sanctions a preventive measure in the form of detention. In contrast to the short-term isolation in the temporary detention (72 hours) in the detention center, according to the Criminal Procedure Code of the Republic of Kazakhstan, the suspects and the accused kept for a long time — up to eighteen months at the stage of pre-trial investigation and twelve months from the date of the case to the court and to the sentencing, however, this restriction does not apply to cases of particularly serious crimes.

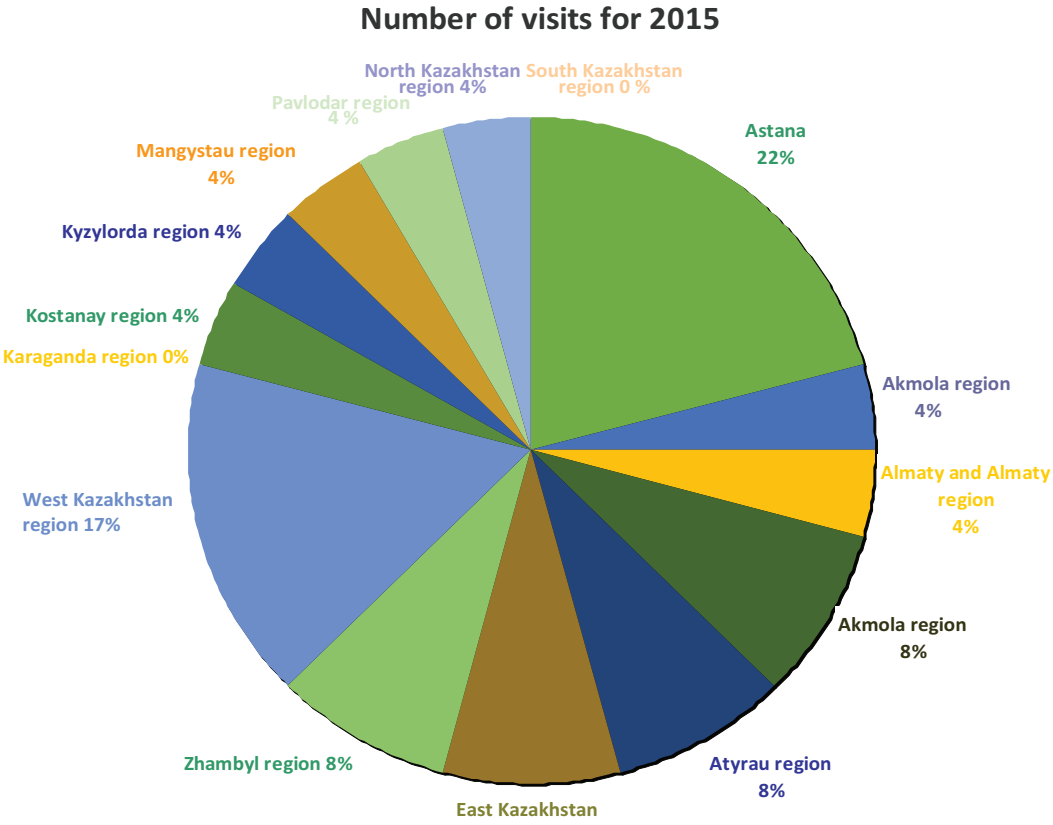
Thus, detention of suspects, accused persons and defendants in pretrial detention may be of very long-term nature, which leads to the obvious importance of and the need for constant monitoring of detention conditions of persons detained, to identify signs and prevention of torture to them.

The situation assessment

During the year, by the members of the NPM 28 (twenty eight) attendance of verification activities in pre-trial detention centers (hereinafter — PTDC), 19 (nineteen)

of them are periodic and interim preventive visits, and nine (9) of them are special visits.

In the context of the regions of Kazakhstan the statistics of visiting PTDC) are as follows:



Brief description of the PTDC. Many buildings of the PDC were built in the XVIII, XIX and XX centuries in the middle and are in an improper condition. Current and even major repairs can not bring them back to normal due to dilapidation. According to the report of the NPM team members of Zhambyl region from 11–12 June 2015, the building number 1 of PTDC of Taraz was put into operation in 1870 and its actual depreciation was 64%; building number 2 was put into operation in 1967, the actual depreciation was 72%; building number 3, commissioned in 1983, the actual depreciation was 40%.

The building of institutions OV-156/19 of Semey city was built in 1773, reconstructed in 1996 and, despite this, the regime building number 1 of this establishment is in critical condition and closed on the proposal of the General Prosecutor’s Office in 2006. Access is denied. The main barrier of this institution is also in poor condition. As noted in the reports of NPM members, due to the planned construction of a new PTDC, existing institutions are not allocated with the necessary funds for the reconstruction and repair of buildings and facilities that can not provide the necessary conditions for contingent. This leads to systematic complaints and disturbances of persons staying in the given PTDC. The members of the NPM, visited Semey in May 27, 2015, recommended DSC of EKR and CCES of RK MIA finalize the documents for the construction of a new building of PTDC that meets international standards for

the treatment of prisoners. They mentioned in their recommendations that before the construction of a new PTDC it is necessary to overhaul of the plumbing and sanitation in all areas of PTDC and also emphasized the need in the shortest time to complete the implementation of measures to improve the ventilation system of cameras.

According to the participants of the NPM of EKR, the conditions of prisoners in investigative detention center in Semey degrades their human dignity (Report on preventive visits to institutions OV-156/19 of Semei DSC of EKR of 27 May 2015).

The establishment of the SC-168/1 in Aktobe founded in 1949. All buildings, municipal facilities were built 66 years ago and do not meet the international standards required for repairs of sewerage and water supply in the units and institutions throughout the territory. As a result of a visit from 17–18 February 2015 members of the NPM recommended to decide in this institution issues related to the overhaul, with improved access of contingent to artificial and natural light, fresh air, replacement of toilets and sinks.

Buildings of regime detention facility in Ust-Kamenogorsk were built in 1720. The members of the NPM check out this institution, it is recommended to prepare design and estimate documentation (ED) for the construction of a new building of PTDC in the city of Ust-Kamenogorsk.

Date of construction of buildings of the PTDC in Uralsk is 1858.

The building of the PTDC of Kyzylorda was redesigned after overhaul October 15, 2000, i.e., is relatively new. Despite this, members of the NPM of Kyzylorda region made comments concerning the housing and living conditions of prisoners: it is very stuffy in chambers, no forced ventilation; windows in the cells of life imprisonment are small, do not meet the standards (in all — 45x60 cm) and have to be of a size 80x100 cm with metal bars and shield-blinds on the outside. From the inner side, the window is isolated by grid with a cell 5x5 cm.

Relatively in satisfactory condition is the building of PTDC in a number of areas. In particular, this applies to the PTDC in Almaty. As a member of the NPM noted, the visited institution, “building SU LA-155/18 is up to date, the cameras, where investigative and arrested convicted are kept, equipped according to the order of the Minister of Internal Affairs of the Republic of Kazakhstan from March 29, 2012 № 182 “On some issues of criminal-executive system of the Ministry of Internal Affairs of the Republic of Kazakhstan”, provides reliable insulation from the external environment and adjacent spaces “(Report on preventive visits to the institution LA-155/18 of the Department of MIS in Almaty and Almaty region of Kazakhstan Ministry of the Interior of 19 February 2015).

Despite the satisfaction of building condition on the whole of the detention facility, the NPM members made a series of recommendations relating to municipal contingent living conditions: to eliminate the leakage of water in the taps and showers; repair the wagon door to the toilet chamber, where they are not closed; increase the lighting in the chambers. Natural light penetrates poorly and insufficient lighting; and to provide hot water. Radiators are quite cold; for walking in the TB department (1st floor) to work over solar lighting. TB patients need light and fresh air; sockets in some cameras of 3 floors are to be repaired; due to the fact that there is no hot water and cold radiator, the temperature is the low chambers. Moreover, the lack of

sufficient natural lighting and daylight leads to the fact that most of them are cold and some people are forced to be in the chambers in outerwear. The members of the NPM noted that almost all PRDC served only cold water, which significantly worsens the living conditions of detention, especially in winter.

In its Report of October 23, members of the NPM on the Astana write about the need to review the list of allowed items specified in Annex 6 to the internal rules of the detention centers CCES RK MIA for the № 182, as the list of content remained practically unchanged since the 90s of the last century despite repeated reissue the order. According to the experience the Federal Penitentiary Service (FSIN) of the Russian Federation proposed to allow the storage and use of about 14 items, such as electric kettles, nail clippers, cotton swabs and drives an electric blood pressure monitor, glucometer, hearing aids, supplies and batteries for them, a sponge for washing dishes, helium pen, bring their own bedding and towel, sleeping mask, and others.

The building of the detention facility (EC-166/1) of Astana was built in 19751–976 years. In its recommendations, the members of the NPM in Astana city presented the following proposals concerning the housing and living conditions of prisoners: in the planning of major repairs to consider the establishment of special conditions for the maintenance of the disabled, including the availability of ramps and reasonable accommodations in accordance with international standards (report the preventive visiting of institution EC-166/1 on DSC of Astana CCES MIA of RK of 6 May 2015).

Results of preventive visits by groups of NPM PTDC have shown that they are mainly provided with sanitary conditions of detention. Cleaning is carried out in all the DC themselves under investigation, according to the existing leadership of institutions schedule. Control of the sanitary standards is entrusted to the health workers and the duty outfit.

However, the records of the preventive visits of DC by members of the NPM noted the identified deficiencies. Many of them, as noted above, are associated with deterioration due to the time of the buildings themselves. “Due to the fact that the building is old, sewerage practically all became unfit; blockages are frequent, after cleaning they become clogged again. Flushing the toilet sewage is carried out at the supply of water in the sink. The chamber for women’s does not contain hygiene room, there are no conditions for washing of personal things, laundry of personal belongings carried out when visiting bath. Hot water in the cells is missing. In chambers, in the absence of hot water there were no detergents, though they were available in stock. In the chambers there is a lack of toiletries, not all prisoners have towels “(*Report of the members of the NPM in Zhambyl region on June 11–12, 2015*).

NPM members fixed the facts of improper nutrition to provide prisoners: on this occasion the complaints from prisoners were received (Report on 11–12 June 2015 the members of the NPM in Zhambyl region), in some of the PTDC, canteen staff don’t have medical books or they are expired (PTDC, Taraz, and Kyzylorda) which creates epidemiological threat under condition of isolation from society.

International standard requirements for medical care of prisoners in PTDC of the Republic of Kazakhstan, on the whole, are respected. In many PTDC regular doctors, paramedics and nurses are available. Health workers are aware of the need to fix any signs of violence and immediately inform Head of the institution.

Preventive visits of PTDC by NPM members have identified a number of problematic issues and shortcomings relating to the medical care of prisoners.

At the same time, there is still the problem of insufficient medical staff personnel in PTDC. As it is noted in the report of the NPM group in the visited establishments EU-164/1 in Petropavlovsk there is an acute shortage of doctors. Therapist, TB doctor and a psychiatrist working at part time rate, so they come only two days a week. Shortly before preventive visit, a dermatologist, venereologist was hired for full time. In some cases, the prison authorities try to hide the problem of incompleteness of medical staff, which is reflected negatively on the solution of this issue all over the country. Thus, the participants of the NPM visited on 19 February 2015 the institution LA-155/18 DSC in Almaty and Almaty region, despite repeated requests, have not received yet any information on the number of medical staff in the facility.

According to our estimates, the problem of insufficient staffing of medical personnel PTDC caused by the fact that there is a high degree of staff turnover, a large amount of work in the ratio of contingent of persons held in custody, to the standard number of qualified medical personnel, the working day is not normalized. In addition, certified personnel's (health workers who do not have a special justice or police rank) salary is small and, in the case of working in PTDC on a full-time, they do not have the physical possibility of additional earnings.

When visiting PTDC in Aktobe Region and in Astana by the members of NPM, there were received complaints of poor quality of medical care, irregular inspection of persons suffering from chronic diseases, and the lack of regular access of females to the gynecologist.

The implementation of the rights of prisoners, provided by law.

Rights of suspects and defendants are regulated by Article 16 of the Law "On procedure and conditions of detention of persons in institutions that provide temporary isolation from society" of March 30, 1999 № 353-I of, the Criminal Executive Code of the Republic of Kazakhstan dated July 5, 2014, as well as:

— The internal regulations pretrial detention facilities MIS MIA RK, Annex 6 to the Order of the Minister of Internal Affairs of the Republic of Kazakhstan dated March 29, 2012 № 182;

— Rules of protection and supervision of persons in pre-trial detention of the penitentiary system, Annex 5 to the order of the Minister of Internal Affairs of the Republic of Kazakhstan from March 29, 2012 № 182;

— Internal Rules of pretrial detention facilities MIS MIA RK, list of foodstuffs, daily necessities, shoes, clothing and other industrial products that suspects and accused persons are to carry, store, receive in parcels, and to acquire by bank transfer, Annex 6;

— Internal Rules of pretrial detention facilities CCES MIA RK, the list and the procedure for the provision of additional paid services, Annex 8;

— Internal Rules of pretrial detention facilities CCES MIA RK, description exercise yards, Annex 13.

In all remand prisons visited by the members of the NPM in 2015, the statutory rights of prisoners and freedom are generally respected.

According to the internal regulations, all chambers contain information about the schedule of cleaning the room, schedule, code of conduct, the rights of suspects or convicts, the list of products allowed to be transmitted.

Arrested are entitled receive parcels everyday, as well as enjoy the right to receive visits. Prisoners receive parcels and visits in accordance with the norms of the Criminal Executive Code. In the case of misconduct or disobedience contained may be placed in solitary confinement. With placement in PTDC all newcomers undergo personal searches.

According to paragraph 19 of the Procedure of reception to the detention facility all the suspects and accused persons should be informed of the rights and obligations, regime of detention, disciplinary requirements, the procedure for submission of proposals, applications and complaints. This information shall be provided both in writing and orally.

As it was noted in the report of the NPM group, during their visit to the institution LA-155/18 on the city of Almaty and Almaty region on February 19, 2015, in a confidential interview with suspects and accused persons did not remember whether the procedure explaining their rights and obligations when entering the PTDC took place, also there is no practice of broadcasting rights and obligations of prisoners on the radio.

Communication with the outside world. According to Annex 6 to the Order of the Minister of Internal Affairs of the Republic of Kazakhstan dated March 29, 2012 № 182 of the Internal Regulations of remand centers of the Committee of the correctional system of the Ministry of Internal Affairs of the Republic of Kazakhstan, suspects and accused persons are provided for personal use of books and magazines from the library of the detention facility. The specified property shall be issued free of charge for temporary use during the period of detention.

For general use in the chamber in accordance with the rules of natural material and social provision of suspects, accused and convicted persons, approved by the resolution of Kazakhstan Government dated September 2, 2003 № 889, and based on the amount of its residents the newspaper are provided. Newspapers from the detention facility of the library are given in chamber as they arrive at the rate of one newspaper for 10 people or the chamber, if it contains at least 10 people.

Chambers of detention centers are equipped with radio speaker for broadcasting national program.

To write proposals, applications, complaints, suspects and accused persons on their request are provided with stationery (paper and pen). Exchange of books and magazines from the library of the detention facility is carried once a week. Rules for the use library subscription are approved by the chief of the detention facility.

As it was shown by preventive visits, these covenants are kept. All chambers are usually equipped with a radio. At the request of the accused, they are given writing materials. There is a library, where new books are purchased constantly. Such periodicals as “Kazakhstanskaya Pravda”, “Order and Law”, “On Guard” and others are prescribed. However, in some cases it was found that periodicals can be used by only convicts held in the remand prison and suspects are deprived of such right

(when visiting institution LA-155/18 by members of the NPM in Almaty February 19, 2015).

Physical education and sport. According to the Standard Minimum Rules for the Treatment of Prisoners (p. 21), all prisoners are not employed in outdoor work shall have the right day, at least one hour per day of suitable exercise in the courtyard, if the weather permits.

Young prisoners, and others of suitable age and in an appropriate physical condition, shall receive physical and recreational training during the exercise. To do this, it is necessary to have the appropriate space and equipment. By Articles 15 and 16 of the Act dated 30 March, 1999 № 353-I “On the procedure and conditions of detention of persons in institutions that provide temporary isolation from society” provides for the right of suspects, the accused placed during the investigation in the detention centers, in the daily walks of no less than one hour. Moreover, Art. 35, p. 1, subp. 4 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” daily walks duties assigned to suspects, accused, detainees, and the release of the walks are allowed only by order of the Chief of the medical institution. Meanwhile, only juvenile suspects and accused persons in detention are provided with physical exercise and sport games by the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society”. Accordingly, in the internal regulations of remand centers, enacted by order of the Minister of Internal Affairs of Kazakhstan dated 29 March 2012 № 182, the ability to engage in physical activity and sport is provided only for minors (Rule number 150). Thus, the content of the rules of the Act and the Regulations do not comply with international standards, and these regulations should be brought into line with the Standard Minimum Rules for the Treatment of Prisoners.

The situation, which does not allow persons under suspects to be engaged in physical exercises and sports, is noted in all visited detention centers in 2015. In a number of the detention centers, there is an opportunity to be engaged in physical exercises and sports only for convicted performing work on the maintenance of the institution. According to members of the NPM, investigative and arrested, that, according to the UN Standard Minimum Rules, “presumed innocent” to the Court and whom “should be treated as such”, must have the unconditional right to physical education and sports.

As noted in the Report of the group, contained in the institution LA-155/18 convicts left to perform chores enjoy notable privileges in comparison with the accused. So, in terms of the possibility of physical culture and sports, Convicts serving a sentence in the institution LA-155/18 involved in household activities, according to the administration of the institution, have the opportunity to even play football outdoors. According to members of the NPM, such a difference in the position of the contingent does not speak in favor of the presumption of innocence and should be eliminated. Arrested on the investigation, the accused shall also be entitled to a full walk and keep physical form.

Submission of complaints and the possibility of prisoners to use it. In accordance with subparagraphs. 1, p. 1, Art. 16 of the Law “On procedure and conditions of detention of

persons in institutions that provide temporary isolation from society” dated 30 March, 1999 N° 353-I, suspects and accused persons should be informed of the procedure for submission of proposals, applications and complaints. Also, according to subp. 8 p.1, Art. 16 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society”, investigative detainees have the right to conduct correspondence.

To ensure the confidentiality of the accused appeals to the prosecutor and the court, in pursuance p. 2, Art. 20 of the Law dated 30 March 1999 on the prevention of censorship against the proposals, applications and complaints addressed to the prosecutor and the court, NPM members noted the lack of opportunities for persons in detention; receive an envelope for drawing and reversing the direction of the prosecutor’s office and / or court.

In general, during visits defendants have the opportunity to express their complaints, to members of the NPM on violations of their rights. The exception is noted in the report of members of the NPM, visited June 24, 2015 DC in Kyzylorda. In this institution the Deputy Head on the regime prevented the members of NPM to hold a confidential meeting with the prisoners appealed. In addition, he did not provide the requested documents for public procurement of food products in the establishment, referring to the contrived secrecy of the documents. Such actions of personnel are in direct violation of law about the activities of the members of the NPM.

The right to practice their religion. In accordance with the Standard Minimum Rules for the Treatment of Prisoners in the establishments in which there is a sufficient number of prisoners of the same religion, a qualified minister of cult should be appointed or allowed to perform appropriate rites. If the number of prisoners justifies it and conditions permit, the appointment should be on a full time.

Visiting of detention centers in 2015 showed that the right of prisoners to practice their religion is not prejudiced, they are allowed to be in possession of religious literature. As required in priests are invited to worship. Some institutions organize the visit of clergymen on a regular basis.

Conclusions and recommendations

1. Many detention centers buildings in Kazakhstan were built in the pre-soviet and Soviet periods and therefore have a dilapidated condition, which can not be repaired, and even by the current or capital repairs. During the construction of these buildings a number of them were not specifically designed to hold prisoners, and even those that were built for that purpose, comply with representations of the state of human rights of that period. Currently, our country needs modern building of remand centers. The desire of the state to comply with international standards of treatment of prisoners, placing them into the existing old and sometimes dangerous buildings, can not be productive. That is why many deviations from international standards related to the poor condition of the material base of remand centers. It goes a long stay in unsanitary, not adapted for keeping people indoors diminishes human dignity (see .: Report of the 06–07 May 2015 in the city of Aktobe).

The lack of hot water in chambers, the problems associated with washing clothes of convicts, the lack of proper ventilation in the chambers, and natural lighting are based on the same cause — dilapidated buildings of remand centers.

2. During the visits, the need to revise the list of allowed items specified in Annex 6 to the internal rules of the of remand centers CCES RK MIA for the number 182, is revealed as the list of content remained practically unchanged since the 90s of the last century, despite repeated reissues order (Report dated October 23, 2015 by NPM group members on Astana).

3. The problem of insufficient staffing of medical personnel of Detention centre due to the fact that there is a high degree of staff turnover, a large amount of work in the ratio of contingent of persons held in custody, to the standard number of qualified medical personnel, the working day is not normalized. In addition, certified personnel's (health workers who do not have a special justice or police rank) salary is small and, in the case of work in detention centre (DC) on a full-time, they do not have the physical possibility of additional earnings on the profile of specialty.

It is recommended to provide a measure of material incentives for health personnel of DC.

4. By the members of the NPM during visits of the DC were noted facts of ignoring by the leadership of these institutions the recommendations of the Standard Minimum Rules for the Treatment of Prisoners (p. 21) that all the prisoners are not employed in outdoor work, are entitled to daily, for at least an hour suitable exercise in the courtyard, if the weather permits. According to this document, the minor and others of suitable age and in an appropriate physical condition shall receive physical and recreational training during the period of exercise. To do this, it is necessary to have the appropriate space and equipment.

According to norms of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” of 30 March 1999 daily walks are assigned to the duties of suspects, accused, detainees, and the release of the walks are allowed only by order of the Head on medical institutions. Meanwhile, only juvenile suspects and accused persons in detention are provided with physical exercise and sport games by the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society”.

Thus, the content of the rules of the Act and the Regulations do not comply with international standards.

2.3. In detention centers, reception centers, special receivers of MIA RK

General provision

The general condition, food, sanitary conditions are evaluated by participants preventive mechanism carried out preventive visits, in most cases satisfactorily. However, there are a number of problems, the solution of which will contribute to improving the situation for the maintenance of human dignity in detention centers, reception center and specials. receivers of MIA RK.

Pretrial detention centre of MIA RK (hereinafter – PDC) designed for content of arrested and persons serving an administrative penalty in the form of administrative arrest.

At the reception centers of internal affairs bodies, there are persons who are not having a certain residence and (or) identity documents, the absence in their actions of administrative offenses and crimes and the inability to establish their identity in other ways.

Staying in these facilities increases the risk of infringement of the rights of the detained person. Typically, such places are not intended for long-term detention, at the same time, it is probable that police officers abuse their powers as well as the existence of unsatisfactory conditions of the detention center.

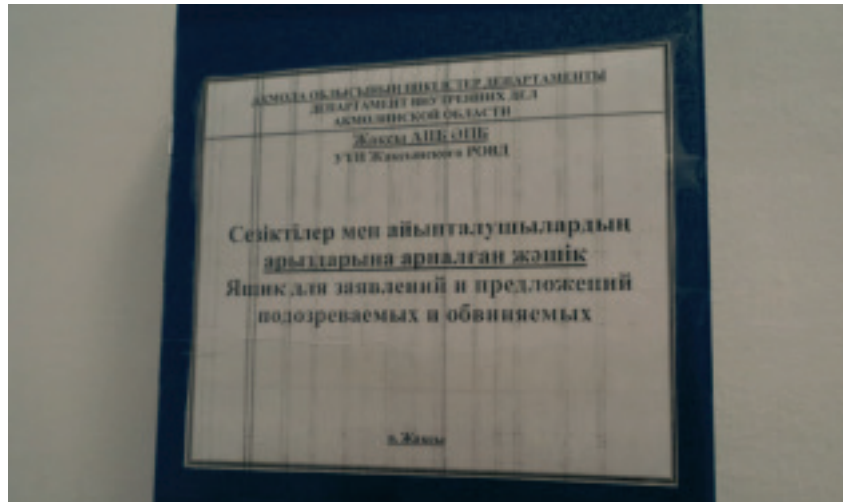
Special receivers – special institutions of internal affairs for receiving and detention of persons under administrative arrest. Placement in special receivers individual subjected to administrative detention, carried out by order of a judge of their arrest. The special receivers set regime, which provides clock duty and eliminates the possibility of unauthorized departure of detainees outside the institution.

Assessment of the situation.

Totally by participants in of the NPM in the reviewed period 151 visits to PDC were carried out, of which 101 periodicals, 49 intermediate, 1 special.

Medical care, accommodations, the lack of an effective complaints mechanism, as well as having a lack of space associated with the arrangement of walking yards, toilets cause complaints from the side of NPM participants.

For example, after the interim visit of PDC of Almaty on February 24, 2015, participants of the NPM concluded that “the facilities, objects, situations, the nature of the relationship with the institution personnel cause or may cause negative symptoms associated with the humiliation of human dignity, abuse, punishment or torture. “Moreover, all of the above can be taken into account and take corrective measures in the recommendations of the NPM members after periodic visits without waiting for an intermediate one.



Box for statements and offers of suspected and accused persons of Zhaksynsk police department of Akmola region

Some PDC (Saran, Karaganda region, city of Balkhash of Karaganda region) have significant drawbacks for the area of residential premises (chambers) and natural light. Insurmountable circumstances connected with the peculiarities of the building structure, do not allow to reconstruct and remedy the deficiencies recorded by members of the NPM at each visit. PDC of Shuchinsk, Akmola region, according to participants of the NPM, generally should not be used for its intended purpose. A serious problem for all institutions of MIA of RK is the connection with the outside world (media, periodicals, the presence of the library collection, phone calls, visits). The problems are systematic and must be solved at both the local and regional level.

In some institutions dampness, failure to comply with hygiene standards for lighting, ventilation, housing, maintenance of temperature is marked. There is a necessity of the current and capital repairs. Particularly noteworthy are the disadvantages associated with medical care. Mostly they are connected with the economic planning: the lack of medicines in the first quarter of this year, due to late funding. However, there are shortcomings in the qualification of health workers, lack of internal monitoring of the condition and maintenance of medical journals and other documentation, the terms of medicines expiration. There is a lack of the necessary medical equipment and simple blood pressure monitors.

Also, as an example, it is necessary to bring the fact of absence of beds for administrative arrested in police station detention center of Akzhaiksk WKO noted last year. People slept on the floor in the detention center, there were no basic conditions for eating, sleeping, drinking. Already in March of current year the participants of the NPM saw that their recommendations were effective: the situation has changed radically and deficiencies that took place earlier were eliminated.

In general, the reaction of officials at the recommendations of the NPM is satisfactory, without negative manifestations and deserves a positive assessment.



The room for the distribution of food in the detention center of Bulandy police station, Akmola region

Public displays of humiliation, abuse, punishment, torture in these facilities during the visits were not observed. At the same time, we should not forget about the negative manifestations to the arrested from the side of investigators who don't belong to PDC staff.

Totally, by members of the NPM, 25 visits to receivers-distributors were held in the reporting period. The results of the visit allow to conclude that the authorities have taken steps to improve the human rights situation in places of temporary isolation from society, new buildings put into operation for the detention of persons in custody, conditions of detention are improved, a series of recommendations to improve the conditions of detention are carried out, which were obtained as a result visits to the NPM, but in general, these are the recommendations, the conditions of their implementation depend on local units of the RK Ministry of Internal Affairs and do not require additional costs. At the same time, there are recommendations that require system changes and the adoption of normative – legal acts at the state level.

The obvious facts of cruel and degrading treatment are inadequate conditions of buildings and premises, some of which require major repairs and is in critical condition. For example, the receiver – distributor in Kokshetau (Akmola Region Department of Internal Affairs), where, according to the opinion of the members of the NPM, it is categorically impossible to accommodate people; receiver – distributor of Almaty, where the use of building institutions for the intended purpose is not currently possible, as conditions of detention is a direct violation of human rights and an example of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The receiver-distributor of Kazalinsk police station in Kyzylorda region, was marked for the absence of personal and general hygiene products, exercise yard, sanitary unit. The detainees have no personal belongings, windows (panes) are small, the detainees do not have access to clean drinking water.

Analysis of reports submitted by the NPM participants showed that not all employees of distributors receivers are aware of the NPM, the mechanism and the powers of its activities, there are some cases of prohibition to visit such institution by NPM members (e.g. detention center of Taldykorgan), some issues remain unresolved: deficiency of health care workers, the movement of disabled, almost no institutions

of this type have periodicals, books, radio sets, the possibility of making a phone call at their disposal.

There are also some facts related to non-compliance with standards of accommodation are also found, overcrowding (Almaty), creating more comfortable conditions for certain categories of persons (the camera N^o 1 receiver – distributor of Kyzylorda).

Dehumanizing factor is not the isolation of places of natural needs, the lack of drinking water in the chambers, which is also noted in the reports of the NPM group. The above conditions are contrary to international and national legal norms of treatment. NPM reports analysis also showed that in the current period, when visits were made, none of the visited-distributors receivers can be marked as a corresponding to standards and requirements, according to the current national and international legislation.

Visits to special receivers for persons subjected to administrative detention, (hereinafter – SRAT) (in 2015, 26 were visited by SRAT) members of the NPM have shown that not all buildings of SRAT are new and meet international and national standards in terms of detention conditions. For example, a building in the city of Shymkent, where the reception center and a special receiver are located, built in 1971; in the city of Taraz in one and the same building the receiver – allocator and a special receiver are located.

Building of SRAT of the Department of Internal Affairs of Almaty was built in 1963. It is necessary to build a new building in accordance with international standards and national standards for the area of administrative detainees, as well as the rules of lighting, food, medical care, security, and communication with the outside world, the opportunity to meet with their relatives and lawyers, compliance with the rights of detainees.

Premises of SRAT of the Department of Internal Affairs of Kostanay, where persons are subjected to administrative detention, are in need of major repairs. The situation is similar in the Department of Internal Affairs of Atyrau, Zhanaozen, and other regions.



Women's chamber in the detention of the Department of Internal Affairs of Kostanai region

A major shortcoming is the lack walking yards in SRAT of Aksu, Department of Internal Affairs of Pavlodar region, SRAT of Kazaly police department of Kyzylorda

region. There is no walking yard in a special receiver, the Department of Internal Affairs of Turkestan, where walks are carried out only with the permission of the Head of Temporary Detention Facility.

Open displays of humiliation, abuse, punishment, torture in these facilities during the visits were not observed.

Conclusions and recommendations

Conclusions and recommendations of the NPM participants, visited the Ministry of Internal Affairs of Kazakhstan institutions in the reporting period, based on the norms of the current legislation of the Republic of Kazakhstan, including the departmental regulations. Also, to assess the situation in these institutions, Standard Minimum Rules for the Treatment of Prisoners (hereinafter — SMT) and the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (mission to the Republic of Kazakhstan 5–13 May 2009) were used.

Recommendations of the NPM are concrete proposals of special administration. institutions and Interior Ministry Leadership to eliminate inconsistencies of premises, sanitation, health care, nutrition conditions, conditions for sports and communication with the outside world (access to the media, visits, telephone calls) to departmental regulations and SMT. Set of such proposals should be taken to control by the staff of the General Prosecutor's Office of Kazakhstan for adoption stipulated by the law of prosecutorial response.

This report should reflect some of the recommendations directly related to the inviolability of human dignity and prevent ill-treatment, punishment and prevention of torture in the institutions of MIA RK:

— To the Ministry of Internal Affairs — undertake a number of incremental steps to close and re-profiling special. institutions, bring which to the norms, ensuring the rights of persons in custody, is not possible because of the design features used in buildings. Among the measures, to envisage plan for the phased closure and construction of new buildings, as well as the closure of special institutions, the use of which is impractical due to the small number of persons subject to placement in institutions;

— To the Ministry of Internal Affairs to take under special control, the issues of health care, sanitation and hygiene of special institutions, as reflected in the recommendations of the NPM members on the results of visits carried out in 2015, with obligatory notification of the Ombudsman in the Republic of Kazakhstan on the measures taken;

— As part of the training for military and service training with staff of Interior Ministry of Kazakhstan, carrying out protection of the outer perimeter and escort, as well as performing the duties of supervisors, with the staff of penal institutions and detention facilities, with the staff of Department of Special Institutions and Convoying — on a continuing basis study the normative legal acts of the NPM, national and international standards of conditions of detention, as well as criminal law, and other matters relating to the prevention of torture and the inviolability of human dignity. In addition, there should be classes, to prevent professional “burnout” and professional “deformation” of employees;

— To the General Prosecutor's Office of the Republic of Kazakhstan and its divisions to hold working meetings with members of the NPM, with the members of the NPM Coordinating Council at the national and regional levels, including the invitation of the heads of government departments and agencies to discuss the recommendations and decisions of the issues in the working order;

— To the Coordinating Council of the NPM it is necessary to organize meetings and meetings with the heads of regional groups of the NPM for the exchange of experiences, improvement of qualification of participants of the NPM, raising level of preparedness for the upcoming visits to institutions of various departments and to bring the work of the NPM to a single standard;

— According to the participants of the NPM in activities of PR the re-socialization function of detainees should be laid down. To do this, it is necessary to review the functional accessory institutions with the possibility of being sent to the civilian agency. Instead, the cameras there must be room for 2–4 people, the staff must be from a number of psychologists and social workers (NPM WKR);

— There is an unresolved problem in the quality of goods purchased through e-procurement on the basis of price proposals request. Thus, the purchase of mattresses for institutions is carried out by means of e-procurement, and the competition wins by the supplier providing the lowest price, while the quality of the product is poor. Despite the fact that according to the Law of RK dated 21.07.2007 "On public procurements" expert committee should determine the best technical specification of the goods provided by potential suppliers, in fact, the Commission is guided by the low price but not by the best specification of the proposed supplier of the goods;

— There is a problem for citizens of Uzbekistan and other countries of the former Soviet Union after leaving the reception center. Thus, the citizens of these countries after receive a document stating that they were contained in the receiver, however, the document does not allow them to buy a train ticket. Thus, to restore identity documents, these citizens somehow have to get to the embassy in Almaty or Astana, on the way from Almaty and Astana, they may also be detained and again sent to the receiver-distributor. It is necessary to establish a mechanism for the recovery of documents data of the citizens after leaving the reception center;

— To pay attention to the improvement of working conditions and social security of employees, distributors receivers, it is necessary to introduce a system of social insurance of employees of PR;

— To place the legal information at the stands or on the doors in the chambers with the example of writing complaints, appeals in two languages — Kazakh, Russian. In the chambers to post information about the procedures for filing complaints and addresses of human rights organizations, to make complaints samples in national human rights institutions in accordance with p. 2 of Art. 20 Constitution of RK;

— To provide for the right of administrative detainees to communicate with the outside world: the radio, the possibility of telephone conversations with relatives; develop and implement a mechanism for handling complaints of violation of their rights and interests in the field of temporary isolation from society;

— To provide effective complaint channels.

3. The situation of persons detained in facilities under the jurisdiction of the National Security Committee

3.1. General provisions

According to Art. 3 of the Law “On the National Security Bodies” legal basis of the national security agencies are: 1) The Constitution and laws of the Republic of Kazakhstan; 2) the given Law; 3) other normative legal acts of the Republic of Kazakhstan in part not contradicting and not regulated by this Law;

4) International agreements and other obligations of the Republic of Kazakhstan; 5) regulatory resolutions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan; 6) the Regulation of the National Security Committee, the approval of the President of the Republic of Kazakhstan.

The man, his life, rights and freedoms are protected by national security force p. 8, Art. 1 of the Law “On the National Security of the Republic of Kazakhstan.” subpar. 7 p. 2 of Art. 19 of the same Act of the Republic of Kazakhstan defines avoiding making decisions and taking actions, obviously leading to unjustified restriction of the rights and freedoms of man and citizen.

According to para. 10 Art. 13 of the Law “On the National Security Bodies”, the national security agencies to perform the duties assigned to them have the right “to have a temporary detention, pre-trial detention of persons, according to the legislation of the Republic of Kazakhstan against whom such preventive measure as detention, arrest or detention by national security authorities on suspicion of committing crimes are elected..

In some cases, in agreement with the national security authorities — arrested and detained by law enforcement agencies and the courts, as well as the convicts.”

According to the List of State Committee for National Security of the Republic of Kazakhstan about institutions financed from the republican budget, there are four detention facilities in the cities of Astana, Almaty, Karaganda and Shymkent. In 2015, four detention facilities in Astana, Almaty, Karaganda and Shymkent were visited by NPM participants 6 times (4 periodicals, 2 intermediate visits):

07/14/2015 — periodic visits DC of National security agency office in Karaganda region;

07/22/2015 — periodic visits DC of National Security Committee of RK, Astana;

09/11/2015 — intermediate visit DC of National security agency office in Karaganda region;

26/11/2015 — periodic visit DC of National security agency office in South-Kazakhstan region;

26/11/2015 — intermediate visit DC of National Security Committee of RK, Astana;

04/12/2015 — periodic visits DC of National security agency office of Almaty and Almaty region.

The sequence of dates National Security Committee DC buildings construction as follows: in Almaty — 1936, the date of construction of headquarters building DC of National Security Committee in Astana — 1954, other buildings — in 1985 (the institution was established by order of the Chairman of Kazakhstan National Security Committee of 23.06.1998), in Shymkent — in 1973 (major repairs were carried out in

2010–2011, current repairs — March 2015), in the city of Karaganda — in 1993 (the repair was in 2011, the current one is planned for July 2015, but moved to end of September 2015).

3.2. Assessment of the situation

In Astana at the time of visiting the DC of NSC RK there were poisoned 6 citizens of the Republic of Kazakhstan, all men (with the limit of placement 40 at the time of a visit 07/22/2015) and 9 people (converted to 25 people — 11.26.2015); in Almaty — 13 people (with the limit of placing 118 persons) in the last 2 years women were not placed; in Karaganda on 07.14.2015 4 people were placed (with the limit of filling 30 people), 11/09/2015 — 7 people, the information about the number of “arrested” women is unknown; in Shymkent — 9 people (with the limit of 27 persons).

In Astana the chamber for 2–4 people — with the area of 10–12 square meters (bunk beds), in Almaty from 44 chambers 22 are designed for 1–2 people, in the city of Shymkent cameras are for 5–6.

Unlike DC of National security agency in Karaganda, where each chamber has access to running hot and cold water in the DC of NSC of RK in the cities of Astana and Shymkent — access is only to cold water. In Astana — with the caveat: “all in poor condition”, “general characteristics of bathrooms are poor. The rim, separating WC, is very narrow width of less than 50 cm from the homemade walls of chipboard, the paints are peeling; the chambers walls are of gray-orange color and shabby, all requires repairing. “In the DC of National security agency of Almaty — “The chambers have no sinks and lavatories, suspects and accused persons twice a day are allowed to use the toilet for hygiene procedures (washing, brushing teeth); 2 plastic buckets are provided for excrement needs”; “due to the lack of sanitation in the chambers bad smell is spread”; “shared toilet is not divided by partitions”; “tiles in the shower are to be replaced.”

The floors in cameras are wooden in the DC of NSC in the cities of Almaty and Shymkent, in Almaty — “covered with linoleum,” Astana floors are concrete, “1 laid linoleum is worn and torn in some places.”

In the DC of NSC in Astana, “the shower rooms are to be repaired,” no “shower heads in the spray guns” in the cities of Astana and Karaganda.

Rooms for meetings with lawyers are available in the cities of Astana, Almaty, Shymkent.

Unlike Almaty and Shymkent, where the library is not provided, but “there is a literary fund, newspapers are provided free of charge, on a regular basis, and books are changed on Wednesdays” (Almaty), “there is a bookcase with library fund about 150 books in Russian and Kazakh languages, which is located in special area” (Shymkent). In Karaganda — no wired-radio outlet and radio receiver, but there is “a room equipped with a library with a small number of books.” In the DC of NSC of RK in Astana library fund is comprised of 637 books.

In comparison with the DC of NSC of RK in Astana, where there is a payphone, in Almaty there is no such facility

In the DC of National security agency office in Karaganda there was no window in a chamber, where a man was placed and in DC of NSC of RK in Astana “artificial lighting is extremely insufficient, as the chambers are very dark and are lit maximum

of 10–20%” (22.07.2015), “It is very damp in chamber#8 and it affects the prisoner’s state of health. In all chambers due to the small size of the windows, natural and artificial lighting is not enough. There is poor ventilation, humidity in chambers. Due to faulty wiring, there is not a ceiling lamp, but only a table lamp is in chamber # 9 “(/26/11/2015). In DC of NSC of RK in Astana there are no “ramps and reasonable accommodation for persons with disabilities”

In contrast to the DC of NSC of RK in Astana, Almaty, where cleaning is carried out by the detainees in Shymkent “cleaning, according to the facility administration is carried out by regular cleaning lady, who is a part of staff.”

In the DC of NSC of RK in Astana, “the dining room” requires repairing; refrigeration and other equipment are old.”

In the DC of National security agency in Karaganda “no hygiene packs are available for arrested women” and this recommendation for 2 months between periodic and interim visits haven’t been carried out. Receiving of arrested newcomers is not carried out on the basis of sanitary inspection. The Conditions for sports are not found in any DC of NSC / DC of National security agency, but in Astana, the gym equipped with supplies for the establishment staff is available.

In Karaganda complaints of detainees “are registered by attendant of DC of National security agency in the journal”, in Almaty — “every morning the complaints are transferred by the controller to the chancellery “in Astana -” through a special accounting department. ““Book for complaints” is available in the DC of National security agency in the cities of Astana and Shymkent, in Karaganda — a journal in where complaints are registered by attendant of DC of National security agency. During periodic visits by the NPM group in Astana a statement of defender on the fact of failure of state agency response “about the charges of his client” within the statutory period. There are some boxes for complaints in the cities of Astana, Almaty, Shymkent, however, there is no information about the access of arrested to this box.

If in Karaganda and Shymkent religious rites are provided “in accordance with the internal regulations” (“locally it is not forbidden” in Karaganda), in Almaty it is possible only “in a specially allotted time.” In Astana, “according to the chief of the National Security Committee detention center, detainees are not prevented to practice their religion, have the last religious expertise, religious literature, invite priests to worship.”

In Almaty, Karaganda the recommendations of DC of National security agency in Karaganda haven’t been implemented in the period of 2 months between visits, in Shymkent — “there are no stands as well as the information for the prevention of torture and humiliation of human dignity”, in Almaty “hotlines of prosecutors and public human rights organizations” are not available. Classes on the theme of the prevention of torture, according to DC of NSC administration, are held in each of the 3 institutions. Thus, the “DC of NSC staff provided participants of the NPM in Astana with lecture notes on the prevention of torture. There are no subcultures in prison of DC of NSC, because the detainees sit separately, often one in the chamber. “Exception is DC of National security agency in Shymkent: “there is no information on planning such seminars this year.” In the DC of National security agency in

Shymkent, there is no shelter from the rain and trash bins in walking yard, while in Karaganda the shelter is available.

In the DC of National security agency in Shymkent “at an exit in the walking yard on the left in the hallway there are two small-sized room so-called “cups”, but the chief said that they are used as storage for storing household items.”

From the report of members of the NPM, only in Astana a punishment cell can be met “an iron bed, on chains fastened to the wall. Window 20 x 20 cm², toilet, sink, only cold water, dustbin, iron table with wooden top coating, cement floor covered with linoleum; battery – 6 sections; area is 1.7 x 3 m; 1 lamp, natural and artificial lighting is not enough; vent is available.” Group members of the NPM in Shymkent noted the absence of punishment cell.

About availability of dietary menus and food is reported only in the report on the results of periodic visits of DC of National security agency in Almaty.

During visits two cases of appeal of detainees took place: – 04/12/2015 -Appeal of ill-treatment in the institution LA-155/1 DC of National security agency in Almaty and Almaty region. The detainee explained that when entering the DC of National security agency in Almaty, festering wounds due to bites of rats were recorded.

- 26/11/2015 in to DC of NSC in Astana, “the prisoner informed about the absence of medicines for his diagnosis of gastritis and heart failure. According to the attendant, the provider gets only the list of drugs, which is regulated by the Provision of the Republic of Kazakhstan dated April 7, 2012. № 430 “On Approval of Rules of rendering of medical aid to citizens whose liberty has been restricted, as well as serving a sentence by a court sentence in prison, placed special institutions.”

Lacking medications must be purchased by the prisoners at their own expense and at the expense of their relatives. But neither detainee nor his family has opportunity to get medicines.”

On the basis of reports on the results of preventive visits by members of the NPM, Commissioner for Human Rights with a request to initiate disciplinary or administrative action or criminal proceedings against the person infringing the rights and freedoms of man and citizen in accordance with Art. 46–20 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” did not appeal in 2014–2015.

3.3. Conclusions and recommendations

In total for 2015 during visits to DC of NSC 39 detainees were noted by NPM participants in four regions (perhaps fewer because of the detention of the same people that is not possible to determine in the reports). In this regard, maintenance of four institutions for such a number detainees is a waste of budgetary funds and it is recommended to consider creating local sites in pre-trial detention of the Committee Ministry of Internal Affairs of the correctional system of Kazakhstan for detention of NSC detainees.

Before resolution of the issue it is offered:

– Taking into account the proximity to the capital, detention in the basement (in one chamber there is no natural light, but it contains the detainee), not adapted generally for this type of closed institutions, lack of conditions for the reception of

new arrivals on the principle of sanitary inspection, the cost of the state budget for the 27 employees of DC of National security agency in Karaganda (27 people), basing on the limit of fullness of facilities (30 people) and the number of citizens placed (4 and 7 people 14/07/2015 and 11/09/2015 respectively), to close DC of National security agency in Karaganda region and to convoy the detained in DC of NSC in Astana;

- urgently to convoy detainees from the building of DC of National security agency in Almaty to another institution corresponding to the Standard Minimum Rules for the Treatment of Prisoners¹, to repurpose the building or premises or replace DC of National security agency building in Almaty, as it was built in 1936, and there is no water sanitation, no access to water in chambers¹, detainees are given a plastic bucket doing personal needs (f. eg. urinating and etc), which contributes to strong bad smell. There are no partitions in general toilet, which is a treatment prohibited by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Articles 7 and 10 of the International Covenant on Civil and Political Rights, Rules Mandela, p. 111 of the Rules of the protection and surveillance of persons who are in DC of National Security Departments of RK.

Considering that DC of National security agency in Almaty contains not convicted, and in rare cases – condemned by the verdict citizens and non-citizens of the country, limited only in freedom, but not in the other rights and freedoms, their treatment should be corresponding;

– To reequip the of DC of NSC in Astana in order to bring the area into compliance with minimum standards (2.5 m to 1 delayed), to carry out repairs (including cooking and eating room), to equip with ramps and other special facilities for persons with disabilities, to replace concrete floors on wooden, toilets, showers and refrigeration equipment, electrical wiring, to expand the size of the windows and to take measures to bring the lighting according to the SNIP 3, eliminate dampness and high humidity;

– To conduct radio receiving in DC of National security agency in Karaganda region, to form a full-fledged library DC of National security agency in Almaty and South Kazakhstan region, to equip payphone in DC of NSC of Almaty in order to ensure communication with the outside world of detainees in accordance with rule 58 of the Mandela Rules;

– In pursuance of p. 108 of the Rules of the protection and surveillance of persons in the DC of National Security Departments of RK. (approved by order of the Chairman of Kazakhstan National Security Committee of 6.4.2015 number 19), set the shelters and urns in the walking yard in DC of NSC in Astana and the DC of National security agency in South Kazakhstan region;

¹ 13. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Rule 14. In all places where prisoners live and work: a) The windows shall be of sufficient size to enable the prisoners to read or work by natural light, and shall be designed so as to provide access to fresh air, regardless of whether or there is artificial ventilation; b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Rule 15. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Rule 16. Bathroom and shower installations shall be adequate to enable every prisoner may be enabled and required to have a bath or shower, at a suitable temperature for each climate and as often as necessary for general hygiene conditions, taking into account the time of year and the geographical area, that is, in any event at least once a week in a temperate climate.

Rule 18. 1. Prisoners shall be required to keep their persons clean. To this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

— To close two rooms — “cups” in DC of National security agency in South Kazakhstan region, a punishment cell which is not stipulated by the current legislation of the Republic of Kazakhstan;

— In all prisons: to equip the premises in order to give detainees the opportunity for sports, to provide an effective complaints procedure, to equip the stands with information on the prevention of torture and other ill-treatment or punishment, a telephone hotline with prosecutors and public organizations, to conduct trainings with the staff in the presence of representatives of NGOs and members of the NPM;

- solve the problem of lack of necessary for the treatment of detainees medicines, hygiene kits for detained women².

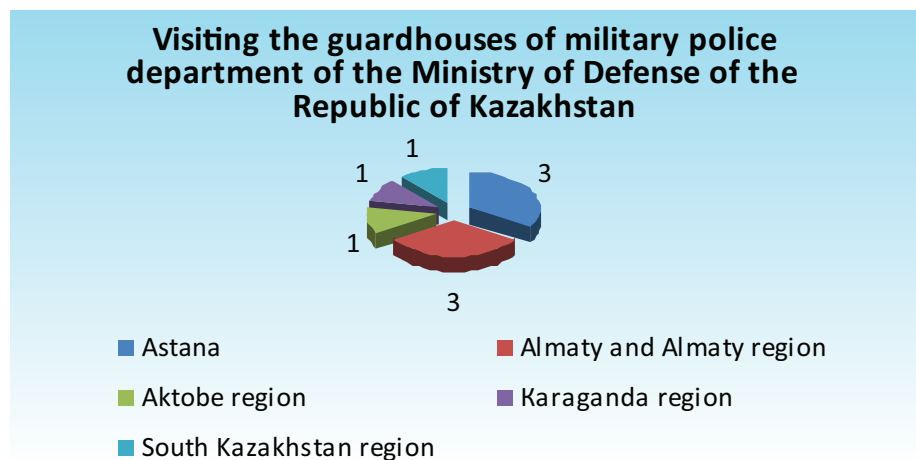
Recommendations for improvement of the legislation are attached (Annex 4).

² Rule 24 of the Mandela Rules: “The provision of health care to prisoners is the responsibility of the state. Prisoners should be provided with the same standards of health care that exist in society, and they should be provided with free access to essential health services without any discrimination on the basis of their legal status. 2. health care should be organized in close cooperation with the system of public health authorities and thus to ensure continuity of treatment and care, including HIV, tuberculosis and other infectious diseases, and drug addiction.”

4. The situation of persons detained in institutions, subordinated to the Ministry of Defense

Assessment of the situation

The overall situation in the institutions for persons contained in the guardhouse of the Military Police Department of the Ministry of Defense of the Republic of Kazakhstan is characterized by members of the NPM in general as satisfactory. Manifestations of abuse or torture are not fixed by members of the NPM. The NPM members visited 9 guardhouses of the Ministry of Defense of the RK.



After analyzing the reports of the NPM members about guardhouse, a number of complaints were identified. At the visual inspection of the NPM participants revealed that in the guardhouse there are problems with natural and artificial light, due to the insufficient size of windows and sunlight penetration. Artificial lighting should be sufficient to enable the prisoners to read or work without injury to eyesight. It should be noted that the windows must be of sufficient size to enable the prisoners to read or work by natural light, and shall be designed so as to provide access to fresh air, regardless of whether an artificial ventilation system is functioning.

Regarding rendered medical services in institutions (guardhouses), members of the NPM also identified the problem and put forward concrete proposals to improve the delivery of health services. For example, members of the NPM Almaty revealed the absence of a refrigerator chamber for storage of medicines in accordance with the Resolution of the Government of the Republic of Kazakhstan dated December 23, 2011 № 1595 “On approval the rules of the drug storage and transportation, medical devices and medical equipment in the conditions, ensuring the preservation of their safety, effectiveness and quality “(temperature control for storing serum); tripod; couch (for injection). Participants of the NPM in Aktobe region revealed the absence of medicines necessary to provide first aid.

As a result of visits the absence of partitions for sanitary unit was revealed. For example, during a visit to the institution, it was on the capital repair. Panel visual inspection of the premises has been carried out, which are under repair. Participants of the NPM in Karaganda at the visual inspection indicated that the equipment of toilets in the chambers for women and officers is planning, and as for the rest of

chambers, the equipment of toilets is not planning, they will use a shared bathroom in a separate room that constitutes discrimination. The NPM members in Aktobe region revealed that there was no hot water, sanitary – hygienic accessories: soap, toilet paper and towels. Cleaning of premises is done by technicians; the chambers are dirty and dusty.

In the reports of the NPM members the limitations of communication with the outside world is noted. Most reports indicate the absence or lack of access to information about legal rights and interests of the arrested and convicted, order and procedures for their appeals to state bodies and human rights organizations, the lack of an effective complaints procedure.

There were cases in the city of Taldykorgan: lack of awareness of individual employees of guardhouse about NPM activities, its goals and objectives. It should be noted that the admission of members of the NPM through the registration of the appropriate pass in the area of institutions (guardhouses) does not fully comply with the legislatively enshrined the concept of “free access.” In Aktobe region on the information board there is not a list of members of the NPM.

4.2. Conclusions

Position of guardhouses of the Departments Military Police of the Ministry of Defense allows evaluating the situation, first of all, with the conditions of detainees on suspicion of committing military crimes. Members of the NPM found no concrete evidence of torture and other ill-treatment in the institution (guardhouses). However, members of the NPM designated the following problems for solving:

- in most of institutions (guardhouses) there is a lack of natural light and the presence of unregulated day and night lighting in the chambers, limited access to natural ventilation and its regulation;

- remained unresolved the problem of insufficient medical and medicamental support;

- One of the most common problems among institutions (guardhouses) is poor sanitary conditions;

- The limitations of communication with the outside world (no or minimal availability of institutions of periodicals, books in the public domain, radio sets, arbitrary reduction of the time of telephone conversations with relatives);

- Lack of awareness of individual employees on the mechanism of the institutions, its goals and objectives.

4.3. Recommendations

Recommendations of the NPM visited the guardhouse of Military Police of MoD of RK, based on the norms of the current legislation of the Republic of Kazakhstan and international standards, which is to prevent torture and other ill-treatment, which can lead to humiliation of human dignity.

Recommendations of the NPM members are the concrete proposals for the regional level of administration, the administration of institutions and management agencies to eliminate inconsistencies of premises, sanitation, medical care, supply conditions, conditions for sports and communication with the external world. The

recommendations on areas must be taken to control for the adoption of measures provided by the law, because such non-compliance, directly or indirectly affect the human dignity of persons in detention in the guardhouse of Departments of Military Police of the Ministry of Defense.

5. The situation of persons detained in the institutions subordinated to the Ministry of Health and Social Development

5.1. General Situation

One of the basic human rights is the right of citizens to health care and medical assistance. The Republic of Kazakhstan Constitution enshrines these rights, guaranteed health care and statutory free medical care.

Compliance with the constitutional rights of citizens of the Republic of Kazakhstan on health care, obtaining quality medical services and providing them with state guarantees are among the main areas of public health policy.

However, there are a number of health care institutions, in which involuntary coercive measures of a medical nature are applied. Patients, who are subject to these types of health care services, receive medical services in stationary institutions of closed type. This is specialized TB organizations, narcological dispensary and psychiatric hospitals

In accordance with the Code of the Republic of Kazakhstan “On people’s health and the health care system,” the participants of the NPM visit the following medical organizations, in which the treatment is compulsory: specialized TB organizations, narcological dispensary and psychiatric hospitals.

In 2015, 128 were carried out into medical organizations, representing more than 24% of all visits carried out by members of the NPM in the current year, including:

- TB dispensaries, hospitals and TB offices — 62;
- Psychiatric hospitals — 33;
- Addiction hospitals — 31.

126 reports, that the participants NPM developed of the 15 regions of the Republic of Kazakhstan were studied, summarized and analyzed. The analysis of report opens and shows a reliable picture of the situation of human rights in the institutions, subject to the mandate of the NPM, subordinated to the Ministry of Health and Social Development.

In 2015, the failure to conduct preventive visits became less. But, nevertheless, the number of failures and problems on admission in these institutions remains high in comparison with visits to institutions of other departments. NPM groups also meet most altercations and misconduct on the part of executives of the institutions subordinated to the Ministry of Health and Social Development.

National preventive mechanism aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment, have been functioning for more than 2 years. During this time, heads of medical institutions should have been informed of the scope of the Law of the Republic of Kazakhstan from July 2, 2013 N^o 111-V “On introducing amendments and addenda to some legislative acts of Kazakhstan on the establishment of a national preventive mechanism aimed at preventing torture and other cruel, Inhuman or Degrading treatment or punishment.”

One of the cases of ignorance of the law on NPM were demonstrated by the Director of GCE “West Kazakhstan Region TB Dispensary” M. B. NPM members had to conduct preventive visits to the institution on November 28, 2015. Despite of all

trying of NPM members to clarify the provisions of the law and regulations, they did not succeed. All the arguments and the reasons of the NPM members were ignored.

“In November 28, 2015 approximately at 10:30 a.m., participants of NPM for WKO (T. A. A. G. A. G. and P. M.), in accordance with the plan of preventive visits approved by the Human Rights Commissioner in the Republic of Kazakhstan, arrived in the GCE “West Kazakhstan Region TB Dispensary” Health Authority of West Kazakhstan region, the departmental subordination of the Ministry of Health and Social Development of the RK.

The doctor on duty B. A. directed us to the senior nurse and explained that there were nobody from the management, and he could not explain anything. Senior nurse repeated the words of the doctor on duty and explained that she had no seal and she could not give us any explanation.

The participants of the NPM explained the provisions of the Law of the Republic of Kazakhstan “On amendments and additions to some legislative acts of Kazakhstan on the establishment of a national preventive mechanism aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment” on July 2, 2013.

Employees of GCE “West Kazakhstan Region TB Dispensary” were warned about the responsibility for obstructing the activities of the NPM, after which the participants of the NPM asked to call the director, but the latter, according to a senior nurse, asked to come on Monday. All employees of the GCE “West Kazakhstan Region TB Dispensary” showed a complete ignorance of the law to combat torture. That day, we did not draw up a report on preventing and transferred visiting on Monday, Nov. 30, 2015.

November 30, 2015 approximately at 15 o'clock the participants of NPM WKO (A. G. and P. M.) arrived in the GCE “West Kazakhstan Region TB Dispensary” of Health Authority of West Kazakhstan region. At the checkpoint, we were written out passes and went to the director of GCE “West Kazakhstan Region TB Dispensary” M. B.

Despite the clarification of the law, the director refused to let us visit the GCE “West Kazakhstan Region TB Dispensary” and said that it was necessary to coordinate with the Health Authority Deputy Aymurzina, without it, he could not let us get an access to GCE “West Kazakhstan Region TB Dispensary”.

Director GCE “West Kazakhstan Region TB Dispensary” was warned about the responsibility for obstructing the activities of NPM, however, he reiterated the need to discuss the visit. Director GCE “West Kazakhstan Region TB Dispensary” and his employees showed a complete ignorance of the law to combat torture. We believe such actions are impeding the legitimate activities of the NPM in WKO.

After numerous clarifications to Director, we had to compile No Admission Act. This Act was signed by the Director GCE “West Kazakhstan Region TB Dispensary”⁵.

These actions of the Director of GCE “West Kazakhstan Region TB Dispensary” of Health Authority of West Kazakhstan region M. B. are falling under Article 507 of the Code of Administrative Offences of Kazakhstan from July 5, 2014 N^o 235-V (with changes and amendments as of 01.01.2016) “Interference with the activities of

⁵ From the report of the group NPM members WKO preventive visit SCE on PVC “Regional TB Dispensary” Health Department of West Kazakhstan region..

members of the national preventive mechanism” and entail penalties in the amount of forty monthly calculation indices.

In addition to “no admission” in the organization of compulsory treatment, an access in the institution with a time delay due to lack of awareness of employees of medical institutions about the NPM activities took place. Access to NPM group was made only after telephone consultations with the regional offices of Health and the National Centre for Human Rights.

NPM group arrived with preventive visit in the GCE “Kostanay Regional Drug Dispensary” Center of medical and social rehabilitation, “VITA” of Department of Health Kostanai region.

“At the entrance to the center the nurse who was on duty, restricted access to the institution. After inviting the Head of the center P.L.F., participants were allowed to go only in the premises of the 1st floor corridor.

Center Administration required waiting for permission to get access to the center for participants of the NPM only after consultation with the higher administration (Regional Drug Dispensary). Also, claims were made in the address of the NPM about an inconsistent visit to the institution with the management of the regional hospital.

Monitors had to take efforts and time for another explanation to representatives of the state authorities on the mandate and rules of law governing the activities of the NPM in Kazakhstan”⁴.

The following case of prohibiting the access to the establishment for preventive visits was recorded in the Aktobe region. A group of participants of the NPM15/09/15 was not allowed into the GCE ,A specialized treatment – preventive enterprise”, the head of which is Sh.N. “NPM members on arrival at the monitoring object could not get to a medical facility within 50 minutes. Neither guards nor medical staff had an idea about the NPM.

At moment of inspection of the institution, there was no chief physician there. Head of Department flatly refused to let in for members of the group without the permission of the chief physician. During the conversation with the head of the group chief physician Sh.N. demanded to leave the health facility, referring to prosecutors with whom he allegedly consulted about our visit. According to him, they told him that our visit was illegal, and he had the right not to let us in.

The head of NPM group tried to convince him of the legality of verification and after numerous agreements with the management, I. let us enter the institution. However, the group had to wait for chief doctor soon for another half an hour. In total, for 1 hour and 20 minutes, group could not start inspection.”

In 2015 the following curious situation took place. Despite the fact that employees of “Regional Specialized Medical and Neuropsychiatric Institution” of Saran had known about the NPM activities, the admission to establishment was obtained only after a lengthy telephone conversation with the director of the Institution J.R.

The negotiations were held by the director with NPM group in the hard and unpleasant authoritarian form. J.R. threatened to appeal to the prosecutor’s office, arguing that “it is so often visited, so he adjusted the institution to corresponding

⁴ From the report of the group NPM members Kostanai region on preventive visits to the SCE PVC “Kostanay Regional Drug Dispensary” Center of medical and social rehabilitation, “the VITA” Department of Health Kostanai region.

norm”, accusing the group of the NPM i that “we are obliged to warn him about the upcoming visit to the institution. Staff of institutions was suppressed, they were afraid to take any decision (permission for our visit is meant here) and give participants of the NPM necessary information”⁵.

As a result, after creating a stressful situation to participants of the NPM and staff offices, the group was allowed to carry out preventive visits.

When visiting State Municipal Management Organization “Medical Center of Mental Health Problems” in Astana, Director of the Center E.M. allowed the participants of the NPM to visit only those departments, where at the moment of inspection were patients with a forced form of therapy, which is also contrary to the provisions of the NPM. As a result, the preventive visits were not carried out in full.

At the same time, despite some violations, the situation itself with a admission of members of the NPM in health care organizations has improved compared to the 2014 year.

5.2. Assessment of the situation

The NPM members during preventive visits to health care institutions in 2015 did not reveal any specific cases, and cases of torture and other ill-treatment in these institutions. However, the problems, associated with serious violations of human rights have been identified.

The participants of the NPM noted that 51% of the establishments located in buildings and areas that require major repair or transfer to a typical building, specially constructed for medical purposes. Cosmetic repair is required in 92% of the visited establishments. Most of the visited establishments are located in a building of the constructed in the second half of the last century and are not designed for modern sanitary-epidemiological rules of staying patients in hospitals.

Unsatisfactory living conditions, reflected in overcrowding, shortage of bed linen, the old furniture, weak forced ventilation system (due to poor access to air in the rooms there was an unpleasant smell), the absence of natural light in the wards, non-compliance with the size of living space per person as well as lack of bedside tables for storage of personal belongings, are a form of cruel treatment.

In general, the wards have a depressing form – often broken (if available), tables, uncomfortable beds with the flabby, sunken nets, worn, faded bed linen, tattered leaky walls and linoleum flooring, all look untidy. Most agencies did not have cosmetic repairs.

One of the common problems of closed institutions is unsatisfactory sanitary conditions. Compulsory treatment institutions are not exception.

It is important to understand that an insufficient number of lavatories, sinks, lack of personal hygiene, the presence of latrines that are unsanitary, and other restrictions in the normal sanitary and hygienic provision is a form of cruel treatment, degrading human dignity.

A number of institutions refer to unsanitary conditions because of the lack of funding from the state budget; however, the maintenance of existing sanitation and hygiene components in a neat condition does not require significant financial costs.

⁵ From the report of the group NPM members in Karaganda region on preventive visits “Regional specialized medical and neuropsychiatric institution,” city Saran.

In general, the situation with health care in such type of facilities is estimated at 80% as satisfactory.

Monitoring of psychiatric and narcological dispensary, interviews with staff and patients allow drawing conclusions about the systemic nature of problems in the approaches to the treatment of persons with mental illness.

No individual approach to treating patients, the psychological approach to the treatment is the formal. The dominant priority is given to medical treatment. It is necessary to expand the use of occupational therapy, psychotherapy, and social work with patients, i.e, the rehabilitation approach.

The problems of staff shortages, lack of channels of submission complaints, information posted on the stands is not always accessible and understandable for patients, is typical for a number of visited establishments.

Labor instructors in the psycho-neurological clinic are mainly engaged in attracting patients to clean the territory. Employees of institutions need to take into account that labor therapy is not an elementary, primitive, monotonous work, it must be filled with meaning and contribute to recovery process.

Everything else is, at best, can be regarded as time killing therapy and, at worst, if the patient does not receive remuneration for it, adequate to expended efforts, it is the exploitation of sick people.

Almost all of the visited organizations are characterized by a complete lack of leisure activities, including the conditions for physical culture and sports. In some institutions there is a sports equipment, but suitable only for men.

Walking yards of institutions are hardly equipped. Sports ground (if available) and the path to it is overgrown with grass. On the territory there is no greenery. In rare exercise yard sports facilities are found, despite the fact that the provision of seating and sports equipment is stipulated.

Considering that patients are on long-term treatment, it is reflected in the hospital regime that is broken. In particular, in Kyzylorda region TB sanatorium for adults at the time of monitoring several patients of the sanatorium were in the state of alcohol intoxication.

According to WHO, the health of every single person on 50% depends on his lifestyle, so where treatment protocols involve prolonged inpatient treatment, it is necessary to develop social and psychological direction.

It is necessary to use this situation as an opportunity to prevent further recurrences of the disease, creating a positive life scenario, the development and support of social relationships, new social psychological traits (personal growth).

There are incidents of unauthorized exit of patients beyond TB of institutions with compulsory form of treatment, as well as penetration into the territory of other persons, which violates n. 14, p. 18, Ch. 5 Rules of the organization of compulsory treatment of patients with infectious tuberculosis and the regime stay in the specialized TB organizations, approved by order of the Acting RK Minister of Health on November 17, 2009 № 729.

Monitors marked facts of poor nutrition. Most members of NPM talked about the poor quality, monotonous, no calorie, not tasty food, which is mainly dominated by cereals and pasta, and no dairy products, vegetables, fruits, fish.

Due to these circumstances, patients themselves are trying to solve this problem by preparing food in the wards on portable electric range that breaks the rules of fire prevention and is a potential danger of mass death of patients in case of fire.

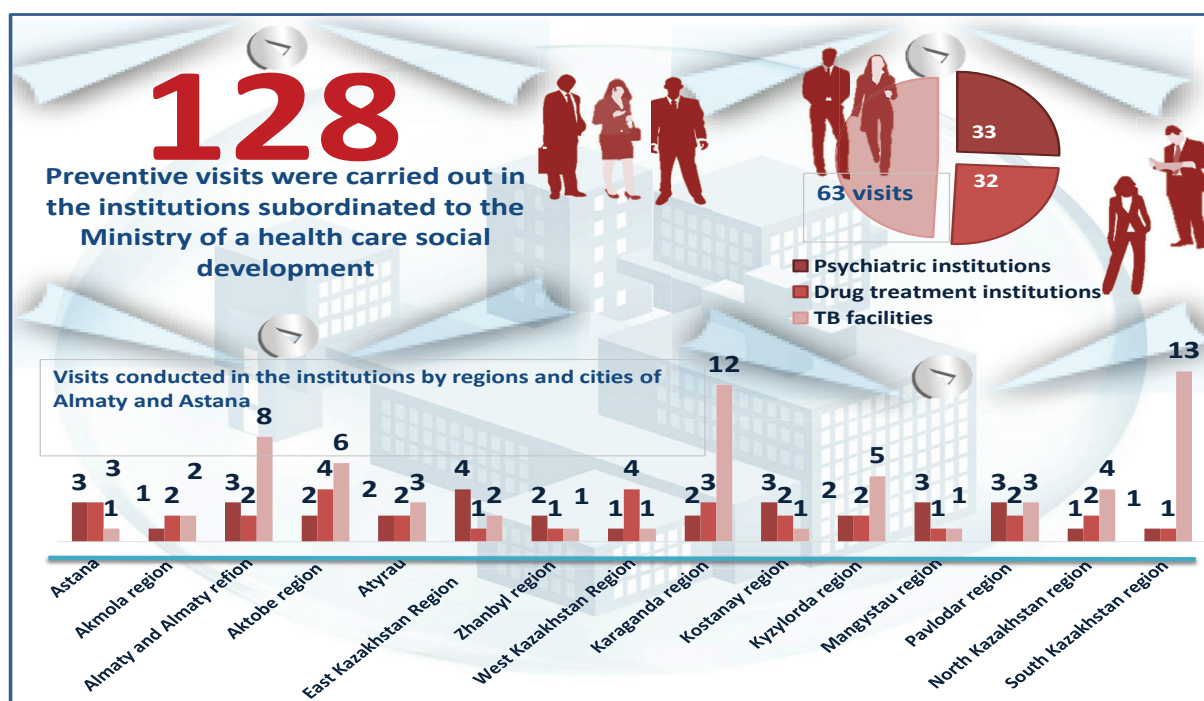
Here heads of institutions should think about the equipment common rooms for patients, equipped with kitchen appliances and supplies for cooking.

In many of institutions visited by NPM there is no regular access to safe drinking water. There are facts of failure to provide patients with individual hygiene items (toothbrushes, toothpaste, soap, washcloth), warm bathrobes, slippers, etc. Almost everywhere in the wards and corridors of the hospitals, no provisions for wheelchair users, in accordance with p. 57 of sanitary regulations “Sanitary-epidemiological requirements to health facilities.”

We would like to draw special attention to the prevention to interview with patients from the part of hospital staff. As a consequence, obtaining of full and objective information is difficult. To eliminate such cases, it is necessary to clarify to the heads of medical institutions about the mandate of NPM.

According to Article 184–4 “Rights member of the national preventive mechanism” of the Code “On people’s health and the health care system” NPM members can “conduct interviews with persons detained in institutions subject to preventive visits, and (or) their legal representatives, without witnesses, either personally or if necessary, through an interpreter, as well as with any other person who, in the opinion of participants of the national preventive mechanism, can provide the relevant information.”

It is necessary to take measures to comply with the norms of the law “On tobacco use in the Republic of Kazakhstan.” In almost all medical establishments there is no smoking room, which by law must be equipped with a ventilation system. At the moment, patients are smoking, either while walking on the street, or in the toilets, which violates the rights of non-smoking patients.



Narcological organization for compulsory treatment

The NPM group identified the following facts when visiting the medical and social rehabilitation center in Astana. “In the women’s section where limit is 35, there were 40 women. On the 2nd floor in the corridor 7 beds were placed. The wards do not have doors. According to hospital staff, firstly it was envisaged by the construction plan, secondly, for security purposes.

On the second floor there are second male department, despite of its overcrowding, there are only 4 toilets. In the ward number 8 dampness in the ceiling area of 4 m². The windows can not be opened as it is not necessary. There are about 10 beds in the ward. In the 2nd men’s section there are 2 toilets on the 1st and 2 on the 2nd floor. In the medical detoxification center, a woman and a man were placed in one and the same ward. According to the chief doctor, a separate chamber for females is not provided”⁶.

From the report of the group of NPM State Enterprise “Regional narcological dispensary” in Aktau: Plumbing pipes changed, but it flows, so the washrooms water is only available after the general faucet is turned on. After each washing faucet is closed. Toilets with partitions and doors, their sanitary condition is poor, poor lighting, flush-water tank is on the wall, no device for flushing. Doors in toilets are punched.

Major repairs are required for all the chambers, it is necessary to change the bathroom, furniture offices, and dining room. Drinking water is not available in all the wards and is brought by relatives of patients”⁷.

“Center of temporary adaptation and detoxification” at State Enterprise “Narcological center” of the Department of Health of Kyzylorda region: “According to the Center employees, all patients delivered to the Center by Internal affairs agencies’ staff and having an average degree of intoxication, are placed only in the premises number 8 and 9, which are equipped with a video surveillance system.

However, in these areas completely lacking any furniture and bathroom. Patients spend time adaptation and detoxification on the wooden floor. In all premises

for patients, except №№ 7, 8 and 9, there is no toilet and wash basin. In other areas, where there is toilet and wash basin, at the time of visiting the water was not too”⁸.

Patients undergoing compulsory treatment as a punishment are placed in disciplinary isolator. Municipal Utility Service “Specialized health care setting” with the subordination of Health Office of Aktobe region village. Zhana Konys: “Disciplinary Isolator is located in the basement of the institution. In the terrible inhuman conditions 8 people were placed there.

Three people in alcoholic intoxication slept on wooden boards in a cold room. Another three people for 10 days were placed in the chamber, where also were no conditions. It was cold in chambers, and as a result the three men caught a cold, but they didn’t get any medical care ... one shower for 30 people, there were no disinfectants.”

This institution violated the rights of patients to receive medical care, “the process of recovery is disrupted by doctors, physicians do not respond to the complaint, in the tuberculosis ward patients were in alcoholic intoxication, there were lice in disciplinary detention, but the staff did not conduct sanitization”⁹.

⁶ From the report of the group of NPM visit the medical and social rehabilitation center in Astana.

⁷ From the report of the group of NPM State Enterprise “Regional narcological dispensary” in Aktau.

⁸ Center of temporary adaptation and detoxification” at State Enterprise “Narcological center” of the Department of Health of Kyzylorda region.

⁹ From the report of the group NPM members of Aktobe region after visit the SCE “specialized health care institution” with subordination of Health Office of Aktobe region village. Jean Konys

There are cases of poor medical care. State Municipal Enterprise “Atyrau regional narcological dispensary”, Inderbor Village: “Patients could not name the exact date of the last visit of doctors, name of the attending physician. In private conversations, patients admitted that they spit out drugs that are given to them, “put the drug in the mouth and then spit in the toilet.”

Patients could not name their diagnosis. According to the patients, they are interested in the names of drugs, but don't get an answer: — “We are told these are vitamins, which is for a headache, but we want to know exactly, but we are not told.” None of the studied “inpatient medical records” indicate who is a doctor; there is no signature of the head of the department.”¹⁰

This institution violated the rights of patients to make complaints: “According to some of the patients interviewed, sometimes they have a desire to write a complaint against the staff of the institution, but they do not know how to do it, to whom and how to transfer treatment. One of the patients interviewed said that he was afraid to write complaints”¹¹.

In West Kazakhstan region narcological specialized health facility of Uralsk link with the outside world is broken, the right of citizens to appeal the acts against officials in violation of paragraph 10 part 1 of article 88 of the Code of RK “On people's health and the health care system”, is not fully realized, there is no information about the human rights of governmental and nongovernmental organizations.

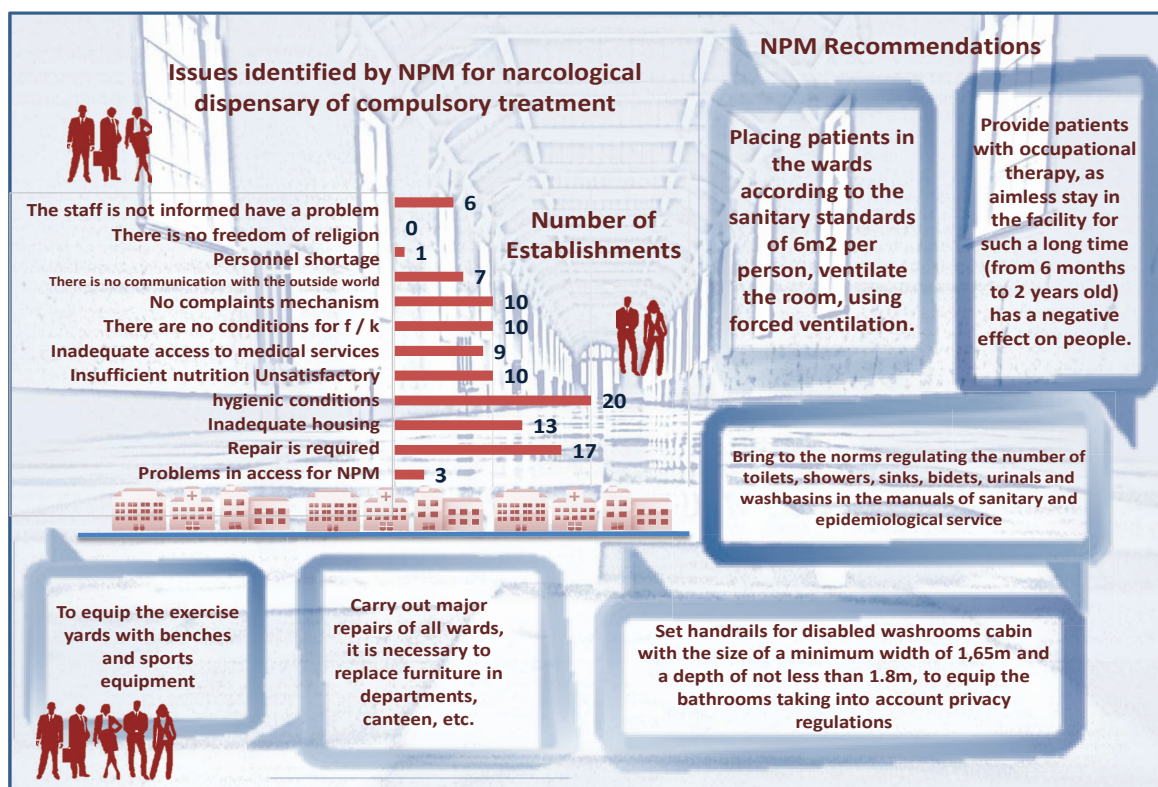
Patients have to use outdoor toilets and bath, a condition of which should be regarded as degrading. In addition, members of the NPM on the WKO believe that SMMO administration ignores the recommendations made during the periodic visits.

In “Kostanay region narcological clinic” Coercive treatment center in village Zatobolsk full examination for admission is conducted with violations, i.e., inspection shall be conducted by a person of the same sex.

In the whole building there is moist, stuffy smell. On the ceiling in some places there are spaces of mold, the ceiling sags in the women's ward. Special ward (for offenders) is cold and it is very small, designed for 4 people, but space does not correspond to the norm. Patients do not get clothes, shoes according to the season for some it is a big problem, because they have no contact with their families.

¹⁰ From the report of the group NPM to State Municipal Enterprise “Atyrau regional narcological dispensary”, Inderbor Village.

¹¹ From the report of the group of NPM State Enterprise “Regional narcological dispensary” in Aktau: Plumbing pipes changed, but it flows, so the washrooms water is only available after the general faucet is turned on. After each washing faucet is closed. Toilets with partitions and doors, their sanitary condition is poor, poor lighting, flush-water tank is on the wall, no device for flushing. Doors in toilets are punched.



Psychiatric hospitals

During his visit to various psychiatric and neuropsychiatric institutions by NPM members, following problems, requiring solution, have been identified. At State Enterprise “Almaty regional center for mental health and substance abuse disorders” in Talgar, patients are placed not only in densely wards for two or three people, but in the hallways. In one of the rooms for 12 people there are only three bedside cabinets which are broken. It is allowed to have essential items (toothbrush and other personal belongings) on the bedside table. There is an old, dirty table in the ward. The working TV is set on the wall. In other wards there is a shortage of bedside tables, no TV. All rooms have no doors.

In many places on the walls of the ward, there is no plaster coating down to the concrete. The floors are deteriorated: linoleum is old and faded; there are huge gaping holes in some places. The ceiling tiles crashed, exposing the wiring. The building is in poor condition, which does not exclude fire danger situation.

In the men’s section in the toilet there is a terrible smelling, for 87 patients there are only two washbasins with a broken taps. No handles in the taps. The bathroom has a boiler to heat hot water. The washing is one time per week according to the schedule posted in the washing compartment. Each patient is allocated 20 minutes for bathing.

In the women’s section the shower is not working. Washing is possible only by pouring from a mug. Participants noted the unsanitary condition of the only toilet for 76 women¹².

During the visit of SMMO “East Kazakhstan Regional Psychiatric Hospital in New Kanayka” of NPM team, following problems were identified. “Great overcrowding of patients throughout the hospital was noted that, in all departments, the head

¹² From the report of the group of NPM at State Enterprise “Almaty regional center for mental health and substance abuse disorders” in Talgar.

physician mentioned the shortage of area for a person: while the standard of 6m² per person, it is actually – 3.2 m² per person in this very hospital.

In the women's section, there are 3 beds, located directly in the hallway. The rooms are cramped; passages are narrow between the beds, some beds pushed together, as there is not enough space. The wards have one bedside table in each. Personal belongings are not observed. No personal toothbrushes, soap, toothpaste. At the hospital an average of 1 toilet is up to 70 patients.



Man's and female toilets of the East Kazakhstan regional mental hospital of the village of New Kanayka

Hot water is not available. The cauldrons with for water-heating are set. Cauldrons are available in the room bathroom. They are open and dangerous for patients. Full inconsistency with Sanitary Rules and Regulations. Patients of all departments have complained about the lack of food (quotes from conversations of patients' "not enough food" "yesterday was a thin soup of vermicelli", "meat is not given", "yesterday in the afternoon a small apple was given for three patients", "no sugar", "they say the stews with meat but no meat was found", "porridge is without milk and oil-free").

Many people by their appearance are underweight. Many patients have no teeth, especially those who are at long staying in the hospital. Many patients have the signs of periodontal disease, which could be evidence of a lack of vitamins in the diet, and the specifics of medications. Also, there is a great problem with clothes"¹⁵.

In State Institution "Rudny City Psychiatric Hospital" Kostanay region of the Ministry of Health Department of Health of Kazakhstan "in the tuberculosis department the area norm for one person is not maintained. The room is clean, no odors. Clearly hygiene is observed. The size of the chambers is about: 8.75 m² for 3 people, 38 m² for 10 people, 49 m² for 8 people and 14.5 m² for 5 people. In general, the ward is bright and spacious, but there are some where lighting is poor and space is not enough.

The process of integration and rehabilitation of the treatment is not available. Patients are in hospital for years. There are no available practice complaints supply, patients do not have access to pen and paper, the existing boxes for complaints are not verified in a timely manner and are not always available for patients.

Patients are experiencing discomfort associated with lack of bedside tables for storage of personal belongings, bathrooms, sinks, toilets, no drinking water containers.

¹⁵ From the report of the group of NPM members after preventive visit of SCE "East Kazakhstan Regional Psychiatric Hospital New Kanayka village."

Squaring per bed are not corresponding the norm. Patients are deprived of privacy conditions in toilets.

In the women's section, patients have almost all day to sit on the couches along the walls in the hallway (to be in the field of vision of nursing). Such treatment can be equated to abuse"¹⁴.

Group of NPM in Aktobe region during a preventive visit to the SMMO "Mental Hospital of Aktobe region" with the subordination of Health Office of Aktobe region has revealed the following facts of human rights violations. In the mental hospital created the conditions that are not conducive to the recovery of patients, and, on the contrary, in our view, can aggravate their condition.

Particularly difficult is the situation in the children's ward, where children are forced to spend days watching TV.

There are violations of SanPiN requirements on the number of toilets, sinks and showers, lack of containers for drinking water in all departments.

According to the patient R, nurses forced patients to wash the floors, beat; during bathing they pour dirty water on them from the dirty buckets. Patients, some of whom are seriously ill, are forced to fetch and serve food. In addition, the young woman says that doctors forced her to do abortion. She reads the prayer, but for this, according to her, there are no conditions, moreover, the staff mocks her and teases her by calling "Allah Mallah."

According to her, many patients are forced to give bribes through family to the doctors for referral for Commission (MSEC) and receiving disability pension. In particular, her sister passed health care provider, his name she does not know, the reward in the amount of 50 thousand tenge, after which in October 2014 the pension was appointed to her.

According to her in a clinic for a long time an orphan is receiving treatment for a long time, "she has nowhere to go, and she is forced to wash personal items of nurses."¹⁵

Group of NPM of Kyzylorda region in SMMO "Kyzylorda Regional Psycho neurological Hospital" Department of Health Kyzylorda region has established the facts of unjustified use of restraints with respect to hospital patients. "During the visit towards two patients in the second and seventh departments, measures of physical restraint, by tying both hands to the bed were used.

However, no form of records, the date and time of application of physical restraint were available. At the same time, one patient has the right eyebrow arched cut about 2.5–3 cm, which is treated with a solution of "brilliant green."¹⁶

In SMMO "Akmola regional psychiatric hospital" under the Health Department of Akmola region, Alekseevka village the violations are as follows: "The overcrowding of patients: in the wards with a small area 12–14 beds were located. The staffing of children's department of the hospital there are no pathologists, speech therapists, child psychologists and social workers. Previously existing positions were reduced. Thus, the right of children to education and social development, especially such an

¹⁴ From the report of the group of NPM members in Kostanai region on preventive visits SI "Rudny City Psychiatric Hospital" Kostanay region of the Ministry of Health Department of Health of RK.

¹⁵ From the report of the group NPM members in Aktobe region of MSPE "mental hospital Aktobe region" with the subordination of Health Office of Aktobe region.

¹⁶ From the report of the group of NPM members in Kyzylorda region on preventive visits SPU "Kyzylorda Regional Psychoneurological Hospital" Department of Health Kyzylorda region.

important and significant for this category of children with special needs, mental health problems, with mental retardation is not respected.

Children's dishes in the hospital canteen are metal, rough. It should be replaced by modern, ecologically clean, unbreakable dishes, intended for children"¹⁷.

In SI "Almaty regional center for mental health and substance abuse disorders", Almaty region, Talgar in the men's department in the toilet there are no partitions between the toilets, suffocating odor, unsanitary conditions, there is no handle on the door. The door does not close tightly, so the odors are distributed in wards.

For 87 patients, there are only two washbasins with a broken faucet. In the women's section for 76 patients, there is only one toilet.



Almaty regional center of mental health and substance dependence disorder, Almaty region, Talgar

In the women's section there are two TVs, none of them are in working condition. There is no library, no filing periodicals. Violated the right of patients to daily walks (according to the women, they were deprived of walking for more than two months).

The patients are not provided with warm clothing during transportation to other agencies for counseling and the performance of work in the territory of the institution. In the offices there are no conditions for sports and physical exercises¹⁸.

Group of NPM of NKO during the preventive visit to SI "mental hospital of NKO" revealed insufficient sanitary facilities and installations, which in turn leads to the creation of a queue in the morning and evening hours and is degrading treatment.

Monitoring of institutions leads to the conclusion about the absence of information on the legal assurances of patients¹⁹.

The group was faced with the fact of staying in the facility of the patient under guard. It is necessary to resolve the issue of the stay in the establishment of patients under guard because staying of such a category of persons in the facility requires compliance with conditions in a specially equipped room, and without the use of special tools. Such identified case (see. Photo) is contrary to the UN Convention against Torture and can be qualified as torture.

¹⁷ From the report of the group of NPM members in Akmola region on preventive visits SCCE "Akmola regional psychiatric hospital" under the Department of Health Akmola region v.. Alekseevka..

¹⁸ From the report of the group NPM members of Almaty region on preventive visits of SI "Almaty regional center for mental health and substance abuse disorders", Almaty region, Talgar.

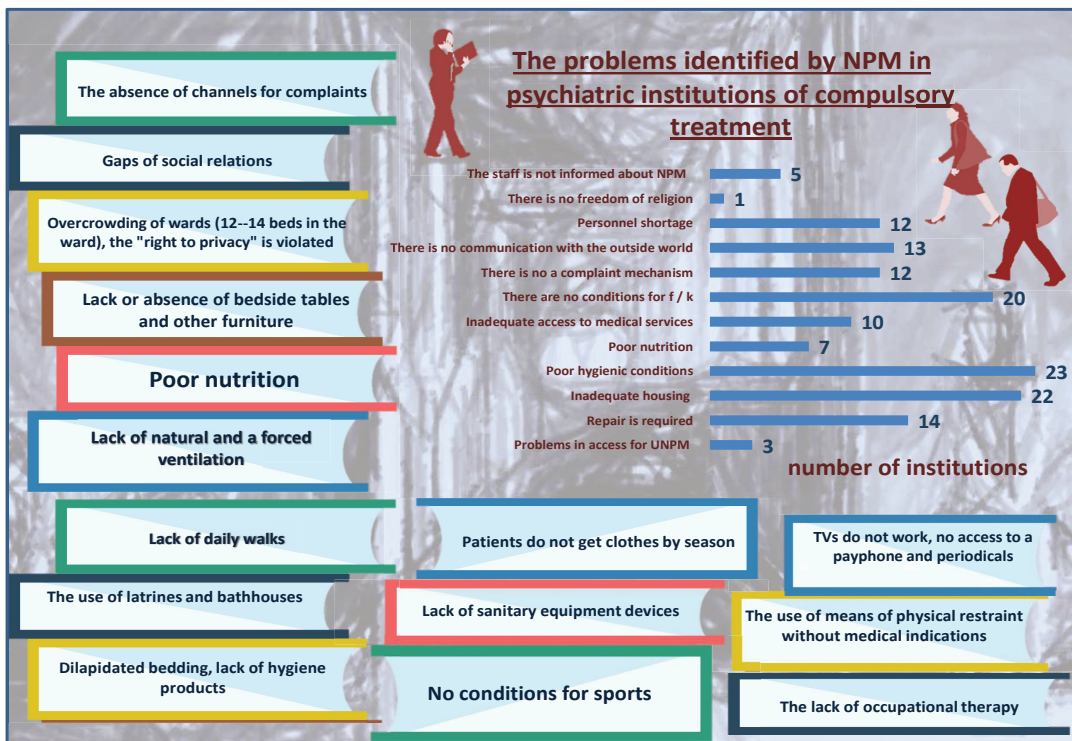
¹⁹ From the report of the RMS group of NPM members preventive visits SI "mental hospital RMS."



«Psychoneurologic dispensary of the North Kazakhstan region», the patient in handcuffs

More detail situation with the psychiatric institutions in Kazakhstan is set out in the reports of the NPM members by region. Each head of medical institution was sent recommendations for improving found violations.

Considering the fact that the Republic of Kazakhstan ratified the Convention “On the Rights of Persons with Disabilities”, and has committed itself to many other international legal instruments that protect the rights of patients with mental health problems, it is necessary as soon as possible to eliminate the comments the presented by NPM members.



TB organizations

At the preventive visits of interdistrict TB dispensary of Bulaevo, M. Zhumabaev region, monitors revealed the following violations of the rights of patients: the ward is meant for 2 persons, but area of wards in average is 11.5 m². In the wards there are no handle on the windows, patients can not ventilate the room independently, and they ask the medical staff. Some windows are insulated to open or do not work.

The wards are stuffy, artificial ventilation is not working. Head doctor explained that there is no maintenance of the ventilation system.

There is an only shower room for two departments — for 50 patients. There is no disinfectants in the shower room. Redecorating of building is required. Patients smoke in the toilet rooms.”²⁰.

SI “The TB dispensary” Karazhal city, Karaganda region: All branches of the premises do not correspond to the status of an infectious department walls dilapidated. There is a sufficient set of buildings, but none of them meet sanitary standards and requirements...

Hot water is not available. There are water heaters, but due to lack of water (no water in Karazhal) they are practically not used, the lack of opportunity to comply with infection control measures (due to lack of funding, lack of water and building dilapidation).

The detergents are not allocated for a long time. Medical personnel at their own expense wash their special clothing. The sanitary condition of all objects of the institution relatively satisfactory. Cleaning is done without detergent”²¹.

In the SI “Kyzylorda Region TB sanatorium for children and adolescents,” of the Department of Health of Kyzylorda region the ward area is 28–33 m². There are 6 wards in each department; there are 7–8 beds in each ward. Ward area does not meet the requirements of norm. Wards are light, ventilation and light are natural, but there are no mosquito nets.

Floor is carpeted with linoleum, which is torn in some places. For 42 beds there are 3 sinks in all and one toilet (norm is 1 unit for 15 persons), lack of hot water. In the department for boys (middle and senior group), for 35 beds there are 3 toilets in all and one sink, hot water is available. Shared shower room (3 showers and 3 bathrooms) in the number does not match the requirements.

On the second floor washing dishes does not meet the requirements, it is equipped with bath-cavity only. Facilities for washing personal belongings in the offices are not provided.”²².

The SMMO of “Kyzylorda Region TB Dispensary” of Kyzylorda regional health department in the wards sized 15 m² there are 4 patients. In some wards are up to 7 of patients. There is no drinking water and tank for drinking water in all wards.

Toys, furniture are old, worn, old linoleum is worn and sealed with tape, bedding changed 1 time in 15 days, in the wards there are no shells. The lack individual cups for each child in the room. In the department for 27 of patients there is 1 bathroom (no shower mixer), 1 toilet without lights, no timetable for cleaning and sanitizing”²³.

The SI “Kyzylorda Region TB sanatorium for adults” Kyzylorda the furniture and old-style medical equipment are in poor condition, requiring replacement. Electric safety requirements are violated. At the time of monitoring several patients of the sanatorium were in the state of intoxication”²⁴.

²⁰ From the report of the RMS group NPM members preventive visits to inter-district TB dispensary of Bulaevo, M. Zhumabaeva area.

²¹ From the report of the group NPM members Karaganda region on preventive visits to SI “The TB dispensary of Karazhal”, Karaganda region.

²² From the report of the group NPM members Kyzylorda region on preventive visits CCU “Kyzylorda Region TB sanatorium for children and adolescents,” the Department of Health Kyzylorda region.

²³ From the report of the group of NPM members in Kyzylorda region on preventive visits SCCE “Kyzylorda Region TB Dispensary” Kyzylorda regional health department.

²⁴ From the report of the group NPM members in Kyzylorda region on preventive visits CCU “Kyzylorda Region TB sanatorium for adults”, Kyzylorda.

In SMMO “Turkestan Interdistrict TB Dispensary” of Health Department of South Kazakhstan region in all the wards there showers do not work. The toilets in the corridors are not suitable for wheelchair users.

In the ward number 5 for 2 months there is one patient, a toilet in her room is completely closed. She has to use the toilet for men, located in the corridor. The same situation is in the ward number 4.

Hospital staff explained that the toilets are closed for repair. Also they mentioned located outside toilet. There are no bathhouses in the hospital there. The only place for bathing of patients — is the emergency room, rubber floor mats as well as detergents have not been found there.”²⁵

In SMMO “Almaty regional TB dispensary” in Talgar, village Shymbulak, there are boxes of 6 to 8 per m² -for two beds. At the time of checking, the radiator branches were slightly warm, whereby the indoor temperature is below 18 degrees. Children and adults sat in warm sweaters and jackets.

The wards are equipped with washrooms and toilets. Toilets and showers are clean, they are in every room, but in most of the toilets there are no toilet seats on the toilets. In the children’s ward in the general toilet (ward number 3) was a fetid smell. Access to the shower is free, however, almost all the equipment in poor condition²⁶.

SMMO “Hospice for tuberculosis patients of Ayteke Bi District” of Karabutak Aktobe region: Situation in the hospice is depressing. There are violations of the requirements of SanPiN — number of bathrooms toilets, showers, and lack of containers for drinking water in all departments.

The establishment is located in one of the most remote settlements of the region, where residents live for years with all the districts of the region. As a rule, their relatives come to visit rarely and can not periodically provide them with drinking water, newspapers and food. In this connection it is necessary to strengthen nutrition, drinking water and newspapers. Also it is urgently needed to add the position of psychologist.

The patient Sh. complained on food quality, she is in the hospice for 1.5 years, according to her, the food is prepared on the water, especially on weekends. There are a calorie supply problems, due to which the patients are hungry. For this reason, patients have to prepare their own meals. Meat is rarely can be found in menu, she said, patients twice sent a collective letter to the medical institutions management, of the hospice on the improvement of the quality of food, but the issue has not been resolved.

At the time of visiting the establishment three patients were undocumented. Immediate documentation of TB patients for assessment of their social benefits should me provided.”²⁷.

SMMO “Interdistrict TB dispensary” in G. Musrepov district of North Kazakhstan region — the territory of clinic is separated by rods of 1.5m height. It is time to replace the metal fence surrounding the area with the high capital fence with constant guard at the entrance, so that patients could not leave the territory without the permission of the hospital.”²⁸.

²⁵ From the report of the group SKO NPM members the preventive visiting KSU “Turkestan interdistrict TB Dispensary” Health Department of South Kazakhstan region.

²⁶ From Almaty region group a report on a preventive visit to KSU “Almaty regional TB dispensary” Talgar village Shymbulak.

²⁷ From the report of the group NPM members in Aktobe region on preventive visit SCE “Hospice for tuberculosis patients Ayteke Bi District” of Karabutak Aktobe region

²⁸ From the report of the RMS group NPM members preventive visit SCE on “inter-district TB dispensary” G. Musrepov district of North Kazakhstan region.

SMMO “Maktaaral TB Dispensary” of SKO, Maktaaral district, Yntymak village, is recommended to consult with the proposal in the SKO Department of Health for the construction of a new clinic building, corresponding to modern medical requirements.

During the heating season dispensary premises are heated by furnaces for coal laid down in the street under the eaves of buildings at the clinic²⁹.



«Maktaaral tuberculosis clinic», Southern Kazakhstan region, Makstaaral area, Yntymak village

SI “Saryagash district TB dispensary” SKO – Patients complained about the quality of food. There is no connection with the outside world. Patients are forced to bring TVs for themselves from home. The clinic suffers from the lack of bedpan, urinals, strollers and diapers for adults.

The management and medical staff are not aware of the activities of NGOs. In the offices of the clinic there are no boards with excerpts from the Code of the Republic of Kazakhstan “On people’s health and the health care system” specifying the rights and duties of patients, as well as information about NPM. There are no boxes for filing complaints by patients³⁰.

For SMMO Otrar District Department of Health TB Hospital in South Kazakhstan region, Shoulder village – to establish the organization of adequate nutrition of patients, to conduct explanatory work with chefs about the need to prepare a delicious high-quality food with fresh ingredients, to conduct general cleaning in the nutrition unit.

In the wards to forbid cooking and the use of electric cookers and electric kettles for the patients and medical staff. The hospital wards have no conditions for wheelchair users, in accordance with p. 57 of sanitary Regulations “Sanitary-epidemiological requirements for health facilities”³¹.

SMMO “Aktobe regional TB dispensary” with departmental subordination to Aktobe Health Office -It is necessary to carry out major repairs of departments, to equip with modern equipment and furniture (beds, bedside tables, indoor sports equipment). In the children’s departments, there are no toys, literature.

Poor diet of dispensary does not meet sanitary requirements: monotonous diet lacking fruit and vegetables. There is no access to safe drinking water. Bathrooms, showers, sinks are not functioning normally.

It is worth noting that there is an unhealthy atmosphere in the team. From the side of the head there is an incorrect attitude towards subordinates. During the

²⁹ Report on preventive visits to KSU “Maktaaral TB Dispensary” SKO Maktaaral district, Yntymak.

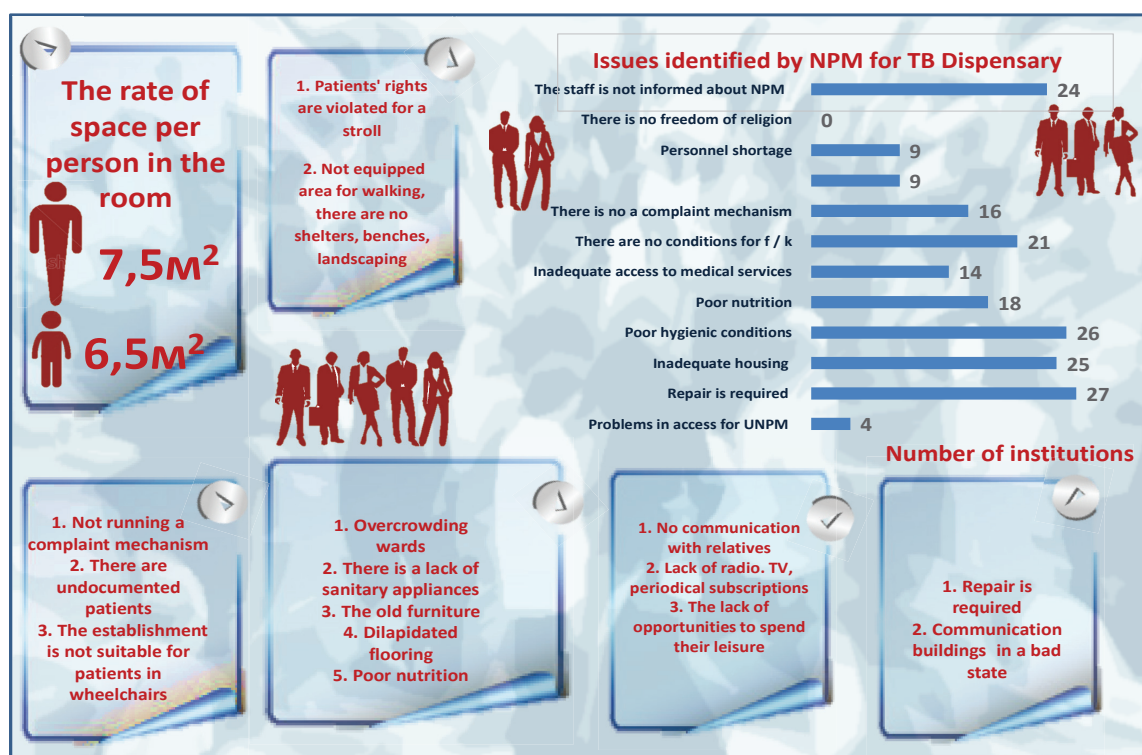
³⁰ Of the group NPM members SKO report on preventive visits to KSU “Saryagash district TB dispensary” SKO

³¹ From the report of the group SKO NPM members of preventive visits

discussion, the violations from the side of the chief doctor are identified. In the office of chief doctor, medical on duty tried to answer the question, but the chief doctor Tatimov E. A. roughly cut him off, saying, “Shut up, shut your mouth!”³².

SMMO “Pervomajskij tuberculosis sanatorium for children”, EKO, Shemonaikha district, Pervomaiskij village – children have no personal hygiene items, pajamas. It is necessary to equip a playground for outdoor activities for children in the sanatorium to enable walks at any time of the year, to provide shelter from rain and sun in the summer.

It is necessary to provide professional counseling and psychotherapy for children, run diagnostics and psycho-correction work with children using a variety of techniques: relaxation sessions, workshops, art therapy, sand therapy, correctional and educational classes, etc..



To provide conditions and organize the activities of the patients (internet, periodicals, literature)³³.

5.3. Conclusions and recommendations

For two years, the NPM participants visited the institutions subordinated to the Ministry of Health and Social Development of the RK. In 2014, a number of human rights violations were identified. Violations were summarized, for their elimination, recommendations have been developed, which were then transferred to medical institutions and sent to the prosecutor. The recommendations are based on international and Kazakhstan legislation.

The conclusion suggests itself – the leaders of the institutions in which preventive visits are committed to be the mandate of the NPM, were to take remedial measures.

³² From the report of the group SKO NPM members of preventive visits. From the report of the group NPM members Aktobe region on preventive visit SCE “Aktobe regional TB dispensary” with the subordination of Health Office of Aktobe region.

³³ Of the group NPM members report on preventive visits MSPE “Pervomajskij tuberculosis sanatorium for children”, EKR, Shemonaikha district, p. Pervomajskij.

And even in the absence of additional financial subsidies, if possible, lead institution in the proper form, update the codes of ethics, to examine the documents themselves, and to oblige them to (ethical codes) to explore its employees. To investigate the sanitary and epidemiological requirements for health care facilities, train staff and, finally, begin to apply them in practice.

But in fact, it turned out wrong. This can be seen from the intermediate visit report. It follows from the report that the situation has changed very little, and in some institutions – remained the same³⁴.

1. Access the NPM group was hampered in 10 health facilities, are subject to the NPM mandate. As a result of one act of not admission was made.

2. Buildings, in which the institution is located, are subjected to repairs. TB dispensaries are often lacking the fences, appropriate sanitary and epidemiological requirements to the health facilities. There are no ramps for wheelchairs.

3. Living conditions in the wards do not withstand criticism- large overcrowding; there are wards in which there are 12–14 people. Patients are placed in the corridors.

4. Health standards in the toilets, showers and bathrooms do not meet the established standards. Unsanitary conditions in visited establishments are – dirty toilets, sinks, bathtubs, cleaved tiles or its absence, the lack of disinfectants. The bathrooms have no partitions between the toilets. Showers and bathrooms are not working due to lack of water or because of the disrepair of sewer and plumbing communications. Sanitary facilities are not suitable for wheelchair users.

Toilets in premises are closed by personnel in order to save water; the patients have to use outbuildings. Latrines in even worse condition than domestic – dirt, the stench. In a hospital the woman take a shower, spraying her with water from a mug. Children wash in trays for washing feet.

Patients of a TB clinic due to lack of water and lack of showers lead to a neighboring village to the bath, thus, subjected the villagers at risk of contracting tuberculosis.

5. The next problem is expressed in poor nutrition. Group members of the NPM did not evaluate compliance with standards and norms of products really attributable to a single patient. According to other indicators, violations were identified.

Meals are not tasty, monotonous, low-calorie. The diet lacking fruit, vegetables, dairy products, fish, although these products are covered by regulations laid down by Ministry of Health of the Republic of Kazakhstan. The staff of canteens usually is representatives of companies won the tender, does not want to deal with perishable products and buy those products that have a longer storage for future use.

Patients complain that they are fed tasteless food, boiled porridge on the water, without oil or butter, chicken meat is mainly used for cooking and that is not enough.

For this reason, and because of long stays in hospitals patients often have to cook for themselves, using portable electric stoves, boilers and it leads to violation of fire safety of patients.

³⁴ 2) interim preventive visits, conducted in the period between periodic preventive visits for the purpose of monitoring the implementation of recommendations of the previous periodic preventive visits, as well as the prosecution of those warnings, which the participants of the national preventive mechanism were interviewed, from the administrations of institutions subject to preventive visits; Article 21-7. Types and frequency of preventive visits. Law of the Republic of Kazakhstan from July 2, 2013 № 111-V “On amendments and additions to some legislative acts of Kazakhstan on the establishment of a National Preventive Mechanism”.

The heads of such institutions should strengthen control over the preparation of food for patients are also worth to consider and implement alternatives to strengthen the supply to patients.

6. Not at the best level the attitude of medical staff to patients, particularly of neuropsychiatric and drug treatment facilities. Crony attitude, abuse, doctors do not respond to the complaints of patients neglect their duties (no daily rounds). Patients are unaware of their diagnosis; the doctors conceal drugs prescribed to patients.

7. Another problem in the 22 establishments – staff shortage. This problem is typical for institutions located in regional centers and capital cities.

8. In all institutions the mechanism of filing complaints and suggestions is not working Boxes for complaints and help lines are in hard to reach places. The patients of 36 institutions have no such opportunities at all.

9. Connection with the outside world is difficult for patients in 29 institutions. Lack of periodicals, radio sets, broken televisions, inaccessible payphones, the ban on mobile communications in drug and neuropsychiatric establishments, restricting visits from relatives, leads to social deprivation of patients, rupture of social ties.

10. The lack of sports fields, recreational furnished courtyards, exercise equipment, leisure activities, warm clothing for walking breaks therapeutic protocol of patients and adversely affects the rehabilitation activities.

Regarding the non-fulfillment of some of the recommendations of 2014

Recommendations of the consolidated report of 2014 remained unfulfilled, and have not lost their relevance. They are shown here for that reason:

Recommendation 2014

Firstly, it is necessary to conduct a number of activities for training in the use and in the activities of knowledge: the departmental normative legal acts to perform their functions in full; NPM norms of law; international and national standards of health conditions of enforcement measures; rules of criminal law, and other matters relating to the prevention of torture and the constitutional principle of the inviolability of human dignity.

In addition, employees of medical institutions should be prepared to identify and respond to specific cases of torture and other cruel, inhuman or degrading treatment that may be exposed to patients in institutions.

Secondly, the given the number of facts of refusing members of the NPM in the institutions that took place in the described period, so it is extremely important to continue ongoing information work among employees as the central organs and subordinate, regional and local offices and agencies of the importance and significance of established mechanisms to combat torture.

Third, health facilities, which received the recommendation of the participants after the NPM preventive visits, to take all possible measures within the available budget to correct deficiencies in the conditions of detention and treatment of patients.

Fourth, considering the fact that the institutions are described under the direct subordination not of the Ministry of Health and Social Development, but local akimats, so to the local governments to take all possible measures for the financing and control of implementation of the recommendations sent by the NPM establishment.

Fifth, for the Ministry Health and Social Development to take all possible measures to implement long-term recommendations addressed to the establishment by the participants of the NPM.

Mostly recommendations of NPM groups who have carried out preventive visits to health care facilities, are specific proposals directly to the heads of administration and medical institutions, administrations and regional level management agencies to eliminate the problem.

The problems related to housing, health and hygiene standards, the provision of quality health care, of adequate nutrition, opportunities for sports and other forms of activities, communication with the outside world (access to current periodicals, dating, phone calls), etc are required solving.

Recommendation 2015

1. To oblige Ministry of Health and Social Development of the Republic of Kazakhstan to carry out an information campaign among the administration and employees of medical institutions, which are subject to the mandate of the NPM legislation on the activities of the national preventive mechanism.

2. Recommendations from preventive visits are to send not only the institution itself and the prosecutor's office, but to the regional department supervising the institution. To oblige healthcare institutions, where preventive visits have taken place, to make a comprehensive action plan to eliminate problems identified by the groups of the NPM. Control on the execution of the presented plan is to be taken by the regional prosecutor's office.

3. To consider the possibility of reducing beds in institutions in which the size of wards does not correspond to the sanitary regulations "Sanitary-epidemiological requirements to healthcare facilities", approved by Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated February 24, 2015 number 127. Taking the above mentioned regulation into account, to take the conversion of the wards.

4. For administrations of medical institutions to bring in line with sanitary regulations "Sanitary-epidemiological requirements to healthcare facilities", approved by Order of the Acting Minister of National Economy of the Republic of Kazakhstan dated February 24, 2015 № 127, sanitary, plumbing and communication devices. To oblige nurses to carry out qualitative, daily and general cleaning of rooms and sanitary facilities.

5. For Prosecutor's Office, the administrations of health facilities to verify compliance with the decision of the Government of the Republic of Kazakhstan dated January 26, 2002 № 128 "On approval of rules of natural food and the minimum standards of equipment soft inventory of public health organizations of the republic."

6. For Prosecutor's Office, the administrations of health facilities to monitor counteracting abusive relationship to patients. Treating physicians should inform patients about diagnosis and notify of the assigned treatment and drugs for rehabilitation. To include in treatment process elements of occupational therapy, psychotherapy, social work with patients, i.e., rehabilitation direction.

7. For Coordination Council under the Ombudsman to develop an effective complaints mechanism of the health facilities to be the mandate of the NPM.

8. For the Ministry of Health and Social Protection to consider the possibility of introducing in the staffing of social workers, those owning methods of working with social deprivation. Administrations of medical institutions to prescribe periodicals monitor the serviceability of TVs and radio.

9. For the administrations of medical institutions to evoke patients' interest in arrangement of recreational areas through competitions "The best flower bed", "alpine slide", "walking", etc. Provide patients with required daily walks.

10. In the hospitals to provide the conditions for wheelchair users, in accordance with p. 57 of Sanitary Regulations "Sanitary-epidemiological requirements to the health facilities."

11. For the Ministry of Health and Social Development to take all possible measures for the implementation of long-term recommendations addressed to the participants in the establishment of the NPM.

12. For the administrations of medical facilities to provide patients with mental health facilities the right to privacy of patients. This right is enshrined in the Principles for the Protection of mentally ill persons and the Improvement of Mental Health Care, adopted by UN General Assembly Resolution 46/119 of 17.12.1991: "Any patient in a psychiatric institution has the right to privacy."

6. The situation of persons detained in the institutions subordinated to the Ministry of Education and Science

6.1. General provisions

In accordance with the Law “On prevention of juvenile delinquency and prevention of child neglect and homelessness” from educational institutions, participants of the national preventive mechanism attend the center of adaptation of minors, special education organizations and education organizations with a special regime of detention.

In the education system in a given period 7 education institutions for children with deviant behavior, one institution with special regime of detention and 18 minors adaptation centers (hereinafter – MAC), of which 13 – in the regional centers, 5 – in the cities Astana, Almaty, Semey, Zhezkazgan and Temirtau are subjected to be visited by members of national preventive mechanism. The order of the MAC activities is regulated by the order of MES RK from June 18, 2013 N° 229 “On approval of the Model Regulations activity types of educational institutions for orphans and children left without parental care” and “Standard rules of juvenile detention centers in the adaptation of minors.” Minors adaptation centers provide reception and temporary maintenance of neglected and homeless minors between the ages of 3 and 18 years, left without care of parents or persons substituting them sent to the special organization of education and are in a difficult situation as a result of ill-treatment.

During the reporting period, the NPM participants realized 19 visits of eighteen MACs, 8 of which were periodic visits, 10 – intermediate and 1 – special. Special schools for children with deviant behavior, unfortunately, have not been fully covered. Thus, during the reporting period only 5 preventive visits took place, i.e one visit 5 of 8 schools.

By the participants of the National Preventive Mechanism (hereinafter – NPM members) a series of recommendations with specific proposals to change the situation immediately were sent to MAC administration and the Ombudsman of Kazakhstan, which in turn transferred to the Ministry of Education and Science of the Republic of Kazakhstan (hereinafter – MES). And on August 17, 2015 a reply N° 3907–4–5257 / 12–3 signed by MES Vice Minister E. Imangaliev to recommendations of NPM members groups was received which noted that some of the recommendations had been made, further work is carried out to improve the conditions of detention of minors and the order of their stay, the involvement of civil society in MAC, the elimination of low-lying and traumatic bars (CAN SKO). MES in 2016 proposed to include in the list of sites to be visited by members of the NPM educational organizations for orphans and children left without parental care, in order to spread the NPM mandate for a greater number of organizations. This proposal is a positive step towards improving the situation of child rights in Kazakhstan and shows the openness of the Ministry of Education and Science of the Republic of Kazakhstan.

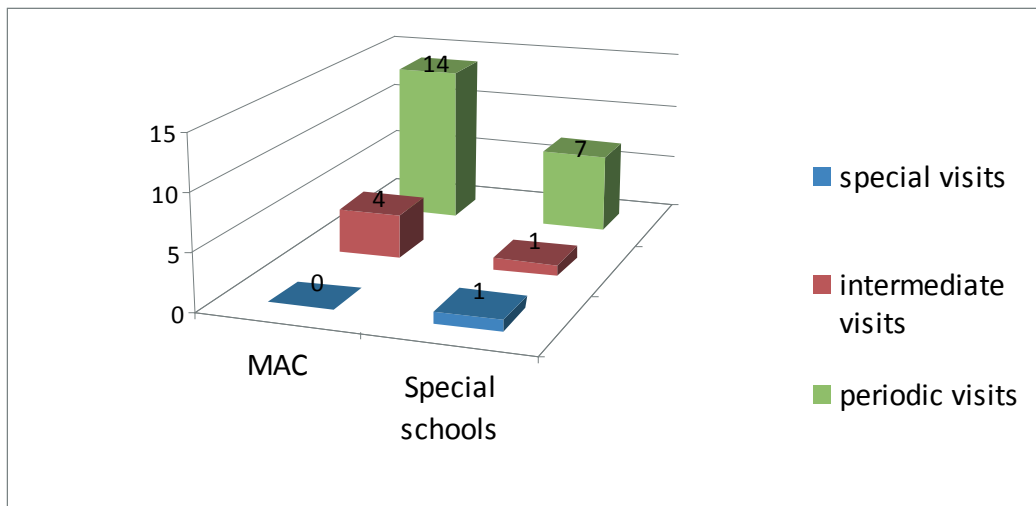
During the reporting period one preventive visits to institutions of education in the period from May to September was held, respectively – South Kazakhstan, Mangistau, Kyzylorda, East Kazakhstan, Karaganda regions, i.e. 5 visits. Compared with last year the number of visits has decreased. So, in 2014 there were 9 visits, 2 of them are intermediate in Almaty and Zhambyl region, and 1 special visit to the

institution of Kyzylorda region (on the basis of a visit, a criminal case was initiated in 2014).

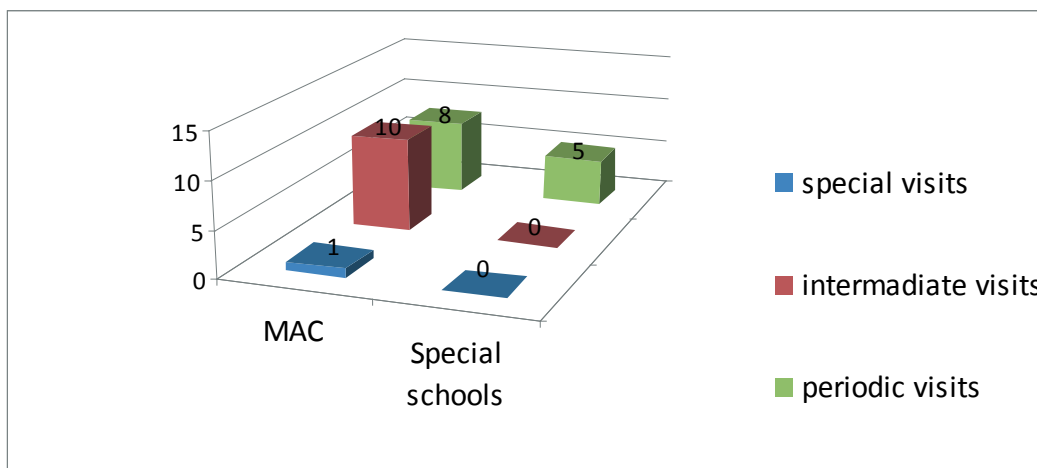
Below is a chart of visits of educational organizations.

When visiting these establishments by members of the NPM for the Prevention of Torture, the situation on the rights of children in these institutions in terms of human dignity, the constitutional principle of the inviolability of his, or the consequences of the conditions of cruel or degrading treatment or punishment or torture was investigated.

Visits in 2014



Visits in 2015



6.2. Assessment of the situation

The situation in the visited institutions subordinated to the Ministry of Education and Science, members of the NPM were mostly assessed as satisfactory.

Center for Adaptation of Minors

In the center of adaptation of minors NPM participants found no concrete evidence of torture and other ill-treatment. At the same time, members of the NPM designated the following problems that require attention and attracting substantial budget to

bring in line, first of all premises, for the construction of new buildings, appropriate medical support, material conditions of detention.

The absence of uniform standards of quantitative and qualitative indicators of specialists required for work with juveniles in the institution of education, shows a lack of standards on the amount of work of one specialist per 1 child, the work is built without taking into account the child's needs and the time spent on his/her rehabilitation. For example, in staff of MAC of Aktobe region 32 units (10 – pedagogues, 22 – technicians, 3 nurses) on 45 children are approved; MAC of Zhezkazgan (Karaganda region) for 30 children – staffing was approved in the amount of 53 units, On 6/25/15 the position of physician pathologists was vacant; MAC of Pavlodar region is designed for 20 children with a standard number of employees – 28 (20 out of which have special education); MSC of Almaty region 30 / 44.5 staff positions; MAC of Astana – 40/25 professionals (8 – teachers, 4 – nurses). MAC of Kyzylorda – region for 40 children there are 38 experts, including 1 pediatrician, MAC of Almaty – 57 employees (3 guard, 1 janitor, electrician, and educators for 31 children, MAC of Semey (East Kazakhstan region) on 25/23 employee, including 12 – service personnel. MAC of West Kazakhstan region for 35 children there are 35 experts (including 10 educators, a Methodist, a psychologist, a chief accountant, a doctor, two nurses, 8 – technicians). At the same time NPM members note the lack of psychologists to work with children, for example for MAC of Aktobe and North-Kazakhstan regions a family psychologist is required. No conditions for the work of psychologists with children are provided, for example, in MAC of the Almaty region a social worker, a psychologist and an assistant on educational work are located in the small office, that can not provide a personalized, confidential work with the child. The psychologist is provided with a table and no teaching materials are purchased to work with children (3 to 18 years). None of them (social worker and psychologist) can talk individually. This situation restricts the work with children, they talk less and rehabilitation is ineffective. Children in front of strangers can not reveal.



The Room for the social educator, psychologist and Deputy on educational work (MAC Almaty region)

It is necessary to carry out continuous training of psychologists of MAC on the specifics of communication with minors, conduct conversations not with decreptive methods, but with assertiveness techniques, which will allow children to communicate better about their intrapersonal problems with the psychologist, and the psychologist, in turn, to choose an effective method of help to each individual child. Conduct permanent training seminars and trainings for all employees of MAC on the Rights of the Child. It is important to understand for all that all rights and freedoms are interrelated and dependent. It is important that staff working with and for children, had knowledge of the general principles of the Convention on the Rights of the Child (Art. 2, Art. 3, Art. 6 and Art. 12), the Law “On the Rights of the Child” Art. 10 and others.

The study of staff and interviews from the part of NPM revealed that many professionals do not have the skills to work with minors, so for example, the director of the Almaty region MAC took the post of tutor to his nephew with a technical education.

Despite the fact that the NPM has been working in Kazakhstan for two years, some employees of MAC still do not know about the activities of the National Preventive Mechanism, its goals and objectives (MAC of Zhezkazgan, Karaganda region, MAC of Almaty region).

In MAC the freedom of children formally is limited (in accordance with the regulations MAC belong to a closed institution) they can not leave the MAC territory. However, limiting performed tactfully (no bars and other means of visual limitations, besides high concrete fence). Only in MAC of Astana there are some grids on windows on the 1st floor, which causes negative attitude in minors and is a violation of their rights, despite the fact that MES responded that they are “decorative, freely open, the lock is not fixed.” NPM, members insist on the necessity to dismantle grids. In MAC of Semey (East Kazakhstan region) July 11, 2015 children in detention center, had been locked with a key, which is a limitation of their rights and freedoms.

Some MAC have no information booths about children’s rights, on complaint mechanisms, no dial-up access for minors to the service of “the National helpline for children and youth number 150”, with samples of writing complaints and applications for parents or other legal representatives. It is proposed that outlived itself complaints mechanism – a box for written requests (including the actions of every child are monitored by adults and children have no pens, no paper, and some of the prevailing family and living conditions did not attend school and are illiterate), the mechanism of calls on the protection of the rights of children in MAC is unacceptable. Boxes for complaints set out in the corridors MAC, can help to address only the parents and guardians of children in these institutions, with their opinion or report improper care of children or abuse of authority by MAC employees. There is no regulation of data collection of applications, and moreover, the independent structures (public prosecutors) do not participate in the opening of the boxes.

In the MAC of Temirtau (Karaganda region), there are information boards with posted information for parents and children. Children in the city of Semey MAC (East – Kazakhstan region) can use the phone to contact with their families. In Akmola region in MAC hotline works: 8 (7162) 33-00-16. Thus, during the reporting period

53 calls were received about transfer of children under guardianship, the return of children in the families.

Despite the recommendations of NPM in 2014, the model project for the construction of new or renovation of existing buildings in accordance with modern requirements to the conditions of detention, sanitation and hygiene of minors for the centers for minors adaptation has not been not developed. Thus, the participants of the NPM noted that capital repair is required for MAC of Zhezkazgan (Karaganda region, the building was constructed in 1970, physical deterioration is 40%), MAC of South Kazakhstan region (was built in 1960.).

In case of emergency (fire, natural disaster) and in situations related to the provision of urgent medical assistance to juveniles an access in institutions is difficult, because of the distance, for example, MAC of Almaty region is located outside the city in an industrial area in the left wing of building already inactive “Basalt” factory. From the last stop of public transport it takes 30 minutes to get there, taxis are expensive (more than 600 tenge), making it difficult for their parents or legal representatives to visits to children. Considering features of the contingent of children’s parents who are in the center, it may be for some parents a powerful argument for not meeting with the child. Taking into account the age characteristics of children, the institution must be in the city. Location of MAC building does not meet the sanitary standards; emissions of formaldehyde vapor from the plant could adversely affect the health of children.

As it is a children’s institution, MAC of Almaty region must be located in an ecologically clean area, surrounded by greenery. However, it is surrounded by industrial areas, roads, and is in the open steppe.

The lack of standard units and leads to a violation of “Sanitary-epidemiological requirements to the objects of the upbringing and education of children and adolescents”, approved by order of the Minister of National Economy of the Republic of Kazakhstan dated December 29, 2014 number 179, so, in accordance with p.126, sleeping rooms should be equipped from standard – 4 sq.m per 1 pupil. For example, in the Karaganda region MAC bedroom of 38.6 sq.m contains 20 beds. Berths are equipped with iron bunk beds (MAC of South Kazakhstan region, MAC of Astana, MAC of Karaganda region in Zhezkazgan, adaptation Center for minors in Temirtau Karaganda region). In general, this situation is a violation of the established norms, limiting the personal space of each individual, so that may adversely affect the psychological, emotional, and physical development of the child. It is s necessary to ensure separate accommodation of juvenile by age, increasing the area of bedrooms in compliance with the accounting standards for 1 person. For example, in Astana MAC only 1 bedroom for girls of 36 sq. m and 1 bedroom for boys of 45 sq.m. Living conditions of children in the MAC of Semey is quite comfortable, cozy, rooms for 6–8 people, comfortable beds, for different ages, bed linen is new, clean. At the same time a private space is not organized children on the premises. Personal belongings are in different places, in special cabinets. Bedside tables and lamps are not provided.

The bedrooms MAC of Almaty region lacks of lighting. Natural ventilation in bedrooms, educational and game rooms is not carried out, the windows tightly closed and are not opened, and ventilation, according to the staff, is carried by opening the

front door of rooms. And the MES reported today that the problem with the lighting in the Almaty region have been eliminated



Bedroom of MAC in Kyzylorda region



Bedroom of MAC in Semey EKR

The rights of children to communicate with the outside world are violated, there are no library collections and reading rooms in MAC of SKO, Astana, Almaty, Akmola, West Kazakhstan and North-Kazakhstan regions. There is a good library with a large selection of books in the MAC of Semey and Almaty, but some of the books does not match the age of the children on the content and therefore can not be demanded by them.



Library MAC in Almaty



Library on MAC of Aktobe region

In the MAC of Akmola region on the basis of the order of the Department of Education of Akmola region № 432 from 07.12.2011, “Family Support Service” is functioning, as a result of its work from January 1 to November 23, 2015, 24 juveniles were sent in adoptive families, 20 – transferred to the custody, 4 – in foster care. Temporary transfer of children in the Republic of Kazakhstan to the families, based on the 3 parties agreement on the transfer to the guest family. MAC staff of Akmola region carried out individual preventive work to prevent family problems, child abandonment and neglect, child abuse. This service assisted returning to the family 2 minors, paternity – 1 family, psychological support – 4 families. Good experience of work with children in MAC of Astana.

In some bathrooms of MAC not all the equipments are in good condition, low doorways, in other MAC bathrooms on the floors are closed or non-existent, children are forced to send their own needs on the street, there is a specific smell (Aktobe, Zhambyl region). Free rooms in MAC of Almaty region are poorly ventilated; there

is a specific, fetid odor in the toilets. The rights of child for privacy is violated, for example, the toilets in MAC of Semey are clean, tidy, but there are no opportunities for the child's privacy, no doors (as in the shower). And in MAC of Kyzylorda and North Kazakhstan regions there are no partitions between the toilets, which create discomfort and puts minors in degrading position. The MAC of Almaty toilets for girls has a bidet, but no toilet paper. The employees say that in a view of economy, children are given out the required amount of toilet paper, when they ask and this process in the opinion of the group, looks like, abject and dehumanizing.



Toilet in MAC of Kyzylorda region



Showers in MAC of Almaty region

Gym hall in MAC of Semey (WKR) is in critical condition (ceiling is flowing), the equipment is not being used, it is in the storage position. Mini – gym in MAC of Almaty region is in the unsanitary position, there are only two available exercisers (mechanical and electrical), balls, weights, table tennis. No gym in MAC West Kazakhstan region is available.

In some institutions, sports equipment are insufficient, sports facilities are not available, and if there is inventory available, it is not suitable for young children, such as i MAC of Astana. MAC in Almaty region has a sports ground in the yard, but it is not equipped for gaming and dangerous to children's health due to the rocky ground. From MES letter, NPM participants learned that the yard is being arranged and landscaped.

The MAC in Almaty has a large territory, but thoroughly overgrown with weeds. Next to the playground there is a big hole. Due to the condition of a children's playground and a soccer field NPM members had the impression that children are not held sessions of physical training and games on the air.

The MAC of Pavlodar region has a sports area, isolated with a small meter lattice fence, which is a sports field with established basketball hoop, volleyball net and sports equipments. In MAC of Pavlodar region activities for the prevention of addictions and antisocial behavior are constantly carried out. In addition, some bikes were purchased and are used by children. Also inline skating is provided. Exercise yard is equipped with horizontal bar and sports bar, there are some basketball hoops.

MAC territory of Akmola region is fenced, landscaped, asphalted and is in good condition. On the land plot located sports and sports grounds, playground, and economic areas are located. Access roads and porches are organized and paved. Medical assistance of MAC is carried out by medical personnel, but MAC of Temirtau medical center is

constructed on the principle of not bathing. Arrival of the children and their primary sanitization is performed at one end of the building, and the medical center is located in the opposite direction. In violation of sanitary norms and rules of medical center is represented by one location in which the inspection of arrived children, seeking medical care is carried out, medical records are maintained and stored. In the same room, fenced by oilcloth, medical procedures are carried out. In an adjacent room housed infectious insulator, which does not have separate bathrooms. According to NPM of Almaty, medical records and inspection is carried out by specialists fictitiously. Children entering the MAC, are usually from disadvantaged families, left without parental care, dealing with vagrants, malnourished, not having a regular medical examination, and, logically, can not be completely healthy. However, according to the medical documentation and records almost all the children are “healthy”. The medical records of MAC children in Almaty have no interpretation of the survey and there is no prescribed treatment, but the nurse prescription journal the recording on the implementation of prescribing and dispensing medicines are available.

In the treatment room in MAC of North Kazakhstan region importable quartz lamp is set, but quartz treatment time is not available. Accounting and reporting medical documentation is not kept fully.

Menu of MAC does not have a norms of output of the finished product, it is important to comprise menu production record according to p. 275 Sec. 8 of Sanitary Regulations “Sanitary-Epidemiological Requirements to the objects of the upbringing and education of children and adolescents”, approved by the RoK № 1684.

Moreover, due to the lack of funding in 2015 a second dinner was removed as in MAC in Kyzylorda region (from 8.30–9.00 p.m.). The daily food intake of MAC of Semey – Breakfast from 8:00 am, lunch at 13:00 p.m, second lunch at 16:00 p.m, dinner at 18.00 p.m. The last meal for children is served in MAC of Almaty at 6 p.m., so children go hungry to sleep and breakfast is at 08.30 a.m., i.e, children do not get food for 14.5 hours. On Sunday evening (06.09.15) children in MAC of Almaty, according to their words received only bread. In MAC of Almaty, there are 4 meals a day.

Dining room in MAC of Kyzylorda region is designed for 24 seats, but MAC area is designed for 40 children, i.e. at full load feeding will take place in 2 stages, which violates the rights of children. It is also necessary to solve the problem by spending a mismatch of child nutrition products with Annex 9 to sanitary regulations “Sanitary-epidemiological requirements to the objects of the upbringing and education of children and adolescents”, approved by the RoK number 1684. Enlarge children diet food, including more fruits, meat and fortified it from a regional perspective. Vitamins should be comprehensive and appropriate to age. Currently, children are given the cheapest ascorbic acid (vitamin C). It is not enough for children, since they are mainly from disadvantaged families.

Dates with relatives in some of the MACs are provided 2 times a week, but in the MAC of Almaty region they are only on Thursdays in the “open house” from 9 a.m. to 6p.m., despite the fact that MAC accepts children from all over the Almaty region (up to 340 km), and special places for dates are not provided. The dates take place in the lobby or in the offices of specialists.

The MAC of Astana provides for the possibility of meeting with close relatives, there is a corresponding room, equipped with the necessary furniture.

Special educational institutions.

These schools are educational institutions established to provide education, training and social rehabilitation of juveniles, systematically committing offenses entailing administrative measures, grossly deviating from primary, basic secondary and general secondary education, systematically commit unauthorized withdrawals from the family and educational organizations for children, committing other antisocial acts.

These institutions are focused on juveniles who are under 18, determined by the court.

It should be noted that all these schools are sufficiently equipped with staff number of employees, including pedagogues, teachers, and medical staff ratio to the actual number of pupils:

Region	Staffing position of employees	Limit of content	The actual number of children at the time of visit
Kyzylorda	49	40	11
South Kazakhstan	67	40	19
East Kazakhstan	62	35	35
Mangistau	28	45	-
Karaganda	44	60	36

It is also important to note the decrease in the number of students in recent years, and the quantitative prevalence of employees in relation to the pupils that the theoretically does not exclude a sufficient amount of attention paid to every minor.

General characteristics of these institutions shows the satisfactory condition of the following items – housing, sanitation, health care, access to physical training, access to printed periodicals.

At the same time some shortcomings were noted in every visited school: Living conditions in special schools

Living conditions in special schools.

- in the Karaganda region there is a central water supply in building and it has its own boiler room. Buildings are over 40 years from the date of construction. In a residential area current repairs were made. Inside the building there is a library, a hairdresser, toilet and shower rooms;

- two institutions are located in the East Kazakhstan region, Belousovka village (for children under the age of criminal responsibility) and in Serebryansk (for children with deviant behavior). The visit was carried out in the school of Serebryansk. NPM participants noted comfortable living conditions. Living rooms are designed for 2–4 people, private space is organized. At school, a lot of flowers are grown by students. However, the planned repair after the installation of windows was manufactured with a help of students and teachers. Each student was involved in the repairing of their rooms, where as teachers – in repairing of their classrooms. Children reacted positively to their involvement in the reconstruction work;

- In Kyzylorda region in the building there are 4 bedrooms – 2 for boys and girls. It is light in accommodation, windows are large, natural lighting complies with the required norms, natural ventilation is carried out;

— In the South-Kazakhstan region in the building there are 4 bedrooms of over 40 m² with bunk beds, plastic windows (without grids and without handles). Bedrooms are provided with toilets;

- in Mangistau region NPM participants noted the good condition of the building, fenced area with gardens.

Sanitary conditions

- in the Karaganda region all facilities are in good sanitary condition, wet cleaning is carried out on a daily basis by forces 6 staff nurses. At the same time in spite of the empty room, the children kept on 3–5 people in the room, leading to a violation of the regulations. Washroom day is once a week. At the same time, by the students request it is possible to have a shower. However, in the school building there is a toilet room. Outdoor toilets are at a distance of 100 m;

— In East Kazakhstan region good sanitary conditions are observed. Washing rooms are with private sectors for the storage of individual towels, toothpaste and brushes. In the ladies' room there is a place for caving. The bathrooms are clean, with paper and liquid soap in dispensers;

- in Kyzylorda region toilets with washbasins for boys and girls are separate. The washing is carried out, as elsewhere, once a week. However, at the time of the visit there was no hot water. It is also important to note that the budget is not founded for haircut of students, in connection with what hairstyle is made by one of the staff (a carpenter);



*A toilet room in the special school
Kyzylorda region*

— A special school in the South Kazakhstan, region it should be noted, that the taps on the faucets half of the cases nonworking. There is a sauna, shower rooms. The washing is carried out once a week. In the bath room there is an unpleasant smell, no mats are there in the shower;

- in Mangistau region sanitation standards of the relevant provisions. Each section is equipped with a bathroom for the living and bathroom. Cleaning is done by the staff. For washing laundry items are used, it is possible to wash personal items.

In the three of the five visited schools marked good feeding conditions, except for the comments in the South Kazakhstan region, where the kitchen staff noted insufficient according to the norms of bread, meat and cereals, and in the Karaganda region, where the dining room does not meet sanitary requirements and needs major repairs. Insufficient cooling chambers, resulting in impaired commercial neighborhood in storage. Due to the lack of sufficient space required separate production departments not allocated in the dining room. At the same time the basic rules are carried out in all schools – organized meals several times a day, the menu has a snack products to the warehouse received by a commission, there are necessary means for washing dishes, most dishes are in a sufficient amount, weekly menu is controlled by the medical staff and management.

Medical care is satisfactory in most schools. For example:

– In Kyzylorda region staffing is provided by 3 medical officer – junior nurse, paramedic and dietary sister. All units are filled and there are equipped medical centers, drugs are in sufficient quantities. There is also a separate room for the newly delivered children as well as for the treatment of children entering with viral infections. Children have an inspection, screening for HIV and other viruses. According to the agreement the children are being treated in the clinic of the railway. Also, children have chest X-rays;

- in Mangistau region staffed doctor pediatrician and two nurses. Pupils have the opportunity to seek medical care at any time;

– In East-Kazakhstan region medical and treatment rooms are equipped in accordance with the SanPiN, with modern equipment, medical room is bright and clean. Medications are stored in strict compliance with the requirements;

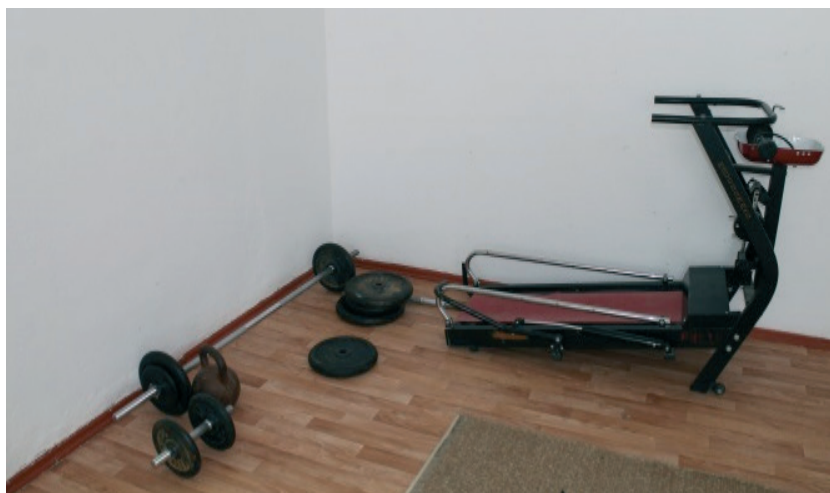
- in the Karaganda region staffed for 100% due to part-time

- 1 pediatrician and 4 nurses. On the whole staff has job descriptions. All documentation is carried out according to the requirements. Medical service is divided into appropriate work areas. However, in the treatment room there is no wash basin. The walls are not washable (whitewashed). Treatment rooms and a room for outpatient reception is not equipped with effective quartz lamps. Treatment of surgical instruments used for the primary treatment of wounds, sterilized by boiling, it grossly contrary to sanitary standards;

– In South Kazakhstan region observed an insufficient number of anti shock pilings, at the time of a visit to the quartz lamp is not in working order. At the same time, the school has a well-equipped dental office, but, unfortunately, the state is not provided for the dentist. Also, there is no unit of adolescent gynecologist.

Communication with the outside world is carried out by receiving the packages, phone calls and meetings with family, access to TV viewing and printed periodicals, in some cases – the Internet.

Access to physical culture and sports is provided in all five schools. Gyms, sports grounds in varying degrees and in different kinds of sports, both within institutions and in the open air are organized. There is the necessary sports equipment, but not always in working condition. A positive change should be noted in the institution of Kyzylorda region in which there was a golf, football, basketball and volleyball (during a visit in 2014, they were not available).



Sports equipment in the special school of Kyzylorda region

The mechanism of complaints on the part of pupils is presented in the form for complaints, there is a procedural journal for registration, complaints are dealt with by the administration. Also complaints can come through relatives. At the time of the visit in any institution there were no complaints.

6.3. Conclusions and recommendations

1. Before sum up the results, it should be reminded that children falling into MAC, are the children who find themselves in difficult situations. Kazakhstan demonstrated the political will as far back as 1994, by signing the Convention on the Rights of the Child, and later the two Optional Protocols thereto. It is the first report to the UN, there was the implementation and realization of the norms of the Convention in 2003. Summing up the results of preventive visits in MAC, it should be noted that in many institutions, as it is reported by members of the NPM:

2. 2. The premises, which are located in the MAC, do not allow to create decent conditions for the stay of minors in accordance with the norms and requirements: high density of placement of children, the child's lack of personal space. Most MACs have no libraries, no gyms or playgrounds in the backyard with small architectural forms. The playroom lacks little toys, aimed at the development of children. All activities of employees is reduced only to ensure the maintenance of children, catering and even it is not done fully;

3. The standards of working with children in MAC have not been developed, there is not a calculated model of staffing, indicating experts, taking into account the age peculiarities and needs of children, as well as time spent on the organization of educational work for 1 child. Therefore, individual work with the child and its family background is developed poorly, little attention is paid to social and psychological assistance to minors in overcoming difficult situations, there is a formal approach to educational work, do not use modern approaches to work with the child; not in all institutions employees are informed about the activities of NPM, its goals and objectives, there is no systematic training and retraining of professionals working with children, the development of communication skills, identification of victims of abuse and degrading;

4. In many institutions there is no complaints mechanism (minors and their parents, guardians are not informed about the organizations to which you can refer); No conditions for keeping in touch with families are created, there are no separate meeting rooms for children and their parents, a limited number of meetings is set.

As a result of visits of the participants of the NPM there are recommendations directly to the leadership of institutions, in their generalized form which can be summarized as follows:

1. Ministry of Education and Science as the responsible departments should take effective measures for the conditions of detention of children in accordance with the UN Standard Minimum Rules (the Beijing Rules) and the UN Guidelines, which states that although the detention in custody is not similar to a restriction of freedom, as defined by the UN Committee on the Rights of the child. It is necessary to create conditions for sensitive children in all MAC, close to the family (of the UN Committee on the Rights of the recommendations of the child Kazakhstan), taking over an existing positive experience in the country (CAN Akmola region);

2. conduct regular staff training on the subject of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (to ensure the recommendations of the UN Committee against Torture, Kazakhstan, as well as the recommendations of the Special Rapporteur on the prevention of torture by the results of the mission in Kazakhstan) as well as liability for such offenses. To hold regular sessions with staff on the topics of child rights; train personnel in institutions to identify and respond to specific cases of torture and other cruel, inhuman or degrading treatment that may be exposed to children in institutions (with the assistance of human rights experts). It is important to understand that, in addition to the National Preventive Mechanism, any of MACs near future may be visited by members, experts from the UN Sub-Committee against Torture;

3. To place information stands (posters) in places accessible to the everyday observation of children and their parents about the rights and obligations disciplinary requirements, the procedure for submission of proposals, statements and complaints, Room 150 of the National helpline for children and young people;

4. organize the exchange of positive experiences and best practices for the development of interdepartmental cooperation in the organization and activities of work with juveniles and their parents, legal representatives of the example MAC of Akmola region for the transfer of minors in foster families;

5. Necessary to improve the practice of public participation in the activities of the agencies, in particular, in the process of rehabilitation and educational programs, etc .;

6. To ensure the separation of minors by age, to increase the area of bedrooms in compliance with the accounting rules to 1;

7. To conform the norm of food allowances in accordance with the decision of the Government of the Republic of Kazakhstan from March 7, 2012 № 297 “On approval of rules of nutrition, clothing, footwear and soft stock of minors in institutions and organizations”;

8. “On amendments and additions to some legislative acts of Kazakhstan on the establishment of a national preventive mechanism aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment” to familiarize MAC

employees with the provisions of the Law № 111-V of the Republic of Kazakhstan July 2, 2013, as well as to inform the persons detained in MAC, the National Preventive Mechanism (NPM).

Recommendations relating to special educational institutions

- Where it is not enough to provide funds for the purchase of air conditioners, new furniture for bedrooms and lounges, corresponding sports equipment, organizing the leisure activities of pupils outside the boarding school;

- The number of beds in the bedrooms are to be aligned with p. 199 “Sanitary-epidemiological requirements to the objects of the upbringing and education of children and adolescents” instead of empty rooms (as the number of children less than the allotted limit of filling).

- In accordance with p. 206 of the Rules of special school in Kyzylorda region room for washing bed linen and clothes to convert into a laundry, ironing and room for drying clothes;

- Consider the possibility of carrying out repairs in the dining room of a special school of Karaganda region, purchase the required amount of cooling chambers;

- To consider the possibility of holding seminars and workshops to exchange experience among employees of these institutions, taking into account the specificity of the contingent;

- In a special school of SKO arrange room for children for preparation for classes, eliminate stale odors in the bath, in the shower enclosures, lay rubber mats;

- To recommend to sanitary and fire services to revise the outdated requirement of open windows (with no curtains) and the exclusion of colors. Facilities for Children should be as at home. Curtains are allowed in children’s homes, but are prohibited in special schools.

7. Conclusions and recommendations

The two-year experience of the NPM confirmed the need for and effectiveness of the new institute. However, much remains to be done to better his work: by the participants of the human rights institutions, public authorities, to whom the recommendations, as well as institutions providing activities of the NPM.

As can be seen from the text of the report, the most serious is the situation in health care organizations, a visit which was about a quarter of all conducted monitoring visits. The facts of prohibition for NPM members in institutions as well as improper behavior on the part of institutions, monitoring the proper conduct of the obstacles, recommendations, information on the results of visits in 2014, have not been eliminated. Despite the fact that in the course of visits to health care institutions torture facts are found, identified the problems associated with other serious violations of human rights. Half of the institutions in need of major repairs, the buildings do not meet the sanitary and epidemiological norms: the detention in such institutions can be classified as abuse. Information about the dirty and stinking toilets found in almost every report. Often there is no access to cold or warm water. In a hospital the woman takes a shower, spraying herself with water from a cup, and the children are washed in trays for washing feet. Almost all regional NPM group recorded all sorts of complaints contained in the individual institutions, moreover revealed the case of application of handcuffs in respect of the patient's "mental hospital NKR." The absence of proper nutrition and medical care in this background become irrelevant, however, and they recorded almost everywhere.

Today it is obvious that the visits only one NPM, the situation in hospitals is not possible to change, the program will require a comprehensive assessment of the situation in all institutions, optimization and repair, equipment inventory and furniture. Many institutions are overcrowded, in this regard, there is need to open new establishments. In the interim phase, without power of prosecutorial supervision over the implementation of the recommendations of the NPM and as a whole the situation in health care organizations the situation can not be changed. For changing the situation the introduction of a wide public control over the activities of these institutions will contribute. Particular attention should be paid to improving the health care itself, the use of new approaches, respect for and observance of the rights of patients in the medical staff.

In the sphere of attention of participants of the NPM is the situation in prisons. The reports of the participants of the NPM collects information on serious facts of torture, often the information is supported by photographs, medical reports. For example, revealing the death of three convicts in the establishment of EC166/26 Akmola region, which became the basis for a criminal case. The establishment is 400 km from the regional center, which makes it impossible to provide quality medical care and makes it difficult to convict public control.

A similar problem of remoteness of prisons exist everywhere, it actually displays the prisons in the area of lack of control. Special attention in 2015, NPM participants paid to violations of the rights of convicts during searches and inspection: the prisoners reported that they were stripped naked, forced to squat, bend over, filmed,

in addition to the doctor in the room there were other persons. In general, the attitude towards prisoners still abounds unjustified violations paired with the humiliation of human dignity, illogical and not related to the re-socialization of behavior rules so that in the presence of 20 beds in strict conditions of detention in the institution LA-155/14 Almaty region 23 convicted were placed. In many institutions remains difficult situation with the operation of the sewage system and access to water: in the establishment of the AK-159/6 Karaganda region in some detachments used makeshift toilets, made of cement.

In addition to a rigorous analysis and improvement of penitentiary legislation and internal regulations, to bring it into line with international standards, the widespread use of new technologies (videos dating, video recording of personnel actions), will contribute to the decision of problems mentioned in the report, to greater transparency of the system and the active cooperation of institutions with members of the NPM and the PMC.

Although the construction of the country's new detention centers CCES of RK of MIA, the situation in many of them, according to the report, it is still depressing. Partly, this is due to the fact that many building of detention centers were built in the Pre-Soviet period (18–19 centuries), and are not subjected to repairing. Compounding the situation is the fact that still operates the old list of permitted items, not including daily necessities, there is no possibility to walk, lack of medical staff. Obviously, there is a need for further construction of new buildings, the revision of regulations in order to create normal living conditions and strengthening of existing institutions control.

A similar situation persists in detention centers of NSC. NPM members visited all four of the country's existing detention facilities and found the need to optimize these institutions because of the low number of contingent and sub-standard living conditions. So, in the detention center in Almaty there is no water supply and sewerage system, detainees are issued a plastic bucket for the natural needs, there is resistant odor everywhere. In Karaganda and Shymkent for detention the rooms without windows are used. A lack of medicines and hygiene items for women was reported too. A possible solution could be the creation of local areas in detention centers of CCES of RK MIA for the NSC arrested.

Optimization of institutions was proposed by members of the NPM for PDC-distributors and receivers center of MIA of RK. Many of them do not comply with the specifications as their use is impractical because of the low number of individuals kept therein. Some of the specialized agencies in general, it is advisable to transfer to a civilian agency to strengthen the work of psychologists and social workers there. It is also necessary to strengthen the control over the implementation of recommendations of the medical services and clarification of the principles of working with the NPM. A special regulation requires working with foreign persons who after leaving the reception center do not get any identity document and, therefore, can not get to their embassies and can be re-detained and placed in the special. institutions.

Improving the conditions of detention were offered by members of the NPM as the main recommendations when visiting the guardhouses of the Ministry of Defense. Most of these recommendations are feasible, they relate to lighting, medical care and sanitation.

In the institutions subordinated to the Ministry of Education and Science, the situation is more favorable. The main recommendations of the NPM for 2015 were reduced to the necessity of a qualified work with children, the creation of full-fledged libraries, gyms, creating a complaints mechanism for the dissemination of the positive experience on the example of MAC of Akmola region, ensuring separation of juvenile by age, increase funding of special educational institutions.

Despite the increased number of visits by members of the NPM of closed institutions, in the work of the NPM there are still many open questions. During this period the country was done about two visits to closed institutions in the day: it is a fairly high rate of efficiency, but still improve the quality of the work prevented the practical plan associated with the existing procedures of the resources that do not always reflect the real needs arising from visiting distant institutions. It is obvious that we need a revision of the procedures that prevent the effective operation of the NPM, and the introduction of cost-recovery opportunities associated with the administration of the new human rights institution.

During the period of formation of the members of the NPM learning this mechanism and professionalization was promoted exclusively by donor projects of international organizations, but for a more systematic work financed from the national budget mechanism for training the members of the NPM is required, the administration of their activities, work planning and monitoring the execution of recommendations. In addition, strengthening the work of the NPM will facilitate the use of the state social order, in which local non-governmental organizations could work in cooperation with the NPM.

8. Appendix

Information about the visits the institutions and organization by NPM members from January to December 2015

No	Region	PDC	DC	CI	Recepti on center	Specia lized RC	MAC	Psych iatric hospi- tal	Drug Add iction trea tment	TB Dispen sary	Spec. El	NSC PDC	Guard house cell	MCC	RDIA	Total
1.	Astana	2	4(1*)	11 (4*)	3	2	2	3	3	1		2	3			36
2.	Akmola	16	1	4	1		1	1	2	2						28
3.	Almaty city and Almaty region	13	3 (1*)	6 (1*)	2	2 (1*)	2	3	2	8		1	3	1		46
4.	Aktobe	18	2	8	1	1	2	2	3	6			1	5		49
5.	Aktobe	7	3	5	2	3	2	2	2	3						29
6.	East KZ	10	2	10	3	4	1	4	1	2	1					38
7.	Zhambyl	9 (1*)	2 (1*)	7				2	1	1						22
8.	West KZ	8	5 (5*)	6	2	1	1	1	4							28
9.	Karaganda	15		13	2	2	2	2	3	12	1	2	1	4	2	61
10.	Kostanai	4	1 (1*)	7 (1*)		3		3	2	1				2	2	25
11.	Kyzylorda	5	1	3 (1*)	2	1	1	2	2	5	1					23
12.	Mangistau	4	1	3	2	1	1	3	1	1	1			2	2	22
13.	Pavlodar	16	2	10 (1*)	2	4	1	3	2	3						43
14.	North KZ	11	1	5	1	1	2(1*)	1	2	4				4	6	38
15.	South KZ	13		5	2	1	1	1	1	13	1	1	1			40
	TOTAL	151	28	103	25	26	19	33	31	62	5	6	9	18	12	528

Astana – Almaty CNS PDC of the city Astana – 27 November 2015 – denial access to this institution, obstruction record is given

WK – Regional TB Dispensary in Uralsk– 30 November 2015 – denial access to this institution, formal note of obstruction is taken.

Aktobe – Specialized medical preventive institution of Aktobe – 4 December 2015 – obstruction in the institution, formal note of denial access is compiled.

20 special visits:

1 special visit in Astana –EC-166/5 CCEC institution in Астана (08 January) – documents are directed to NCHR in SI;

1 special visit in Kostanai – CC-161/1 CCEC institution of Kostanai (16 January 2015) – the information is directed to the prosecutor’s office of Kostanai by NPM group;

1 special visit in WK –RI-170/1 CCEC institution of WK (21 January) – – documents are directed by NCHR in the General prosecutor’s office.

1 special visit in Astana – SI “EC-166/5” institution of the MIS Department of Astana (05 March 2015) – the violations were not revealed.

1 special visit in Kyzylorda – ZK-169/5 CCEC of Kyzylorda region (Kyzylorda city) (18 April 2015) – the violations were not revealed.

1 special visit in Zhambyl region – ZD-158/1 CCEC of Zhambyl region (Taraz) (24–25 April 2015) – documents are directed to the prosecutor’s office of Zhambyl region.

1 special visit in Kostanai region – CC-161/2 CCEC of Kostanai region (Kostanai city) (14 May 2015) – documents are directed to the prosecutor’s office of Kostanai region.

1 special visit in Zhambyl region – PDC of Shu region RDIA of Zhambyl region (Taraz city) (5–6 June 2015) – documents are directed to the prosecutor’s office of Zhambyl region.

1 special visit in Pavlodar region –AP-162/3 CCEC institution of Pavlodar region (Pavlodar) (15–16 June 2015) – documents are directed to the General prosecutor’s office of Pavlodar region.

1 special visit in West Kazakhstan region– RU-170/1 CCEC institution of WKO (Uralsk) (17 July 2015) – documents are directed to the General prosecutor’s office of West Kazakhstan region.

1 special visit in Almaty region –-155/14 CCEC institution of Almaty city and region (Zarechnyi village) (21 July 2015)

2 special visit in West Kazakhstan region – RU-170/1 CCEC WKO (Uralsk) (4 and 30 August 2015) – documents are directed to the General prosecutor’s office.

1 special visit in Astana – EC-166/10 CCEC institution of Astana (12 August 2015) (search events)

1 special visit in North Kazakhstan – Minors Adaptation Center (Petropavlovsk) (25 August 2015) – documents are directed to the General prosecutor’s office and the Ministry of Education and Science of the RK.

1 special visit in Astana –EC-166/5 CCEC institution of Astana (29 August 2015) (search events).

1 special visit in Almaty – special receiver for administrative – arrested Almaty Department of Internal Affairs by MIA RK (4 September 2015)

1 special visit in Astana–EC-166/1 CCEC institution of Astana (19 September 2015)

1 special visit in Almaty city and region –155/18 (Remand prison) CCEC of Almaty city and region – (12 November 2015) – documents are directed to the General prosecutor’s office

1 special visit in в ЗКО – RU-170/1 CCEC institution of WKO – (17 November 2015) – documents are directed to the Generalprosecutor’s office.

Annex3 NMP Financial Report 2015

Regions	January		February		March		April		M*		July		August		September		October		November		December		Total		(Overhead services, internet, mail)	Sum		
	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum	Number of visits	Sum				
1 Astana city	5	246258	2	179128	5	255481	2	201461	2	176929	2	194606	2	202143	4	328911	4	404758	4	258811	4	345679	35	3087983	187848	0		
2 Akmolobli	5	225642	2	215984	2	161035	2	230568	5	243383	4	480443	4	381176	0	242744	1	130640	4	561316	1	89420	28	2761371	179137	158120		
3 Almaty city and	2	149548	5	384552	4	257948	5	390148	2	151328	5	540336	3	295968	6	573740	3	444329	5	386332	1	117128	45	3947725	183380	23081		
4 East Kazakhstan	2	202624	3	256368	3	256368	4	353818	5	609200	2	191732	4	522479	3	377013	3	483267	4	445323	0	0	38	4028154	98966	0		
5 Zhambyi	1	85456	1	85456	2	320602	4	437360	1	157713	3	343212	2	234356	1	85456	3	290500	2	170912	1	64492	25	2509831	3240	13059		
6 West Kazakhstan	3	233004	2	170912	2	149548	2	170912	2	170912	2	128184	3	256368	4	27732	1	64092	3	256368	2	128184	2	170912	28	2179128	0	0
7 Karaganda	3	256368	6	365188	6	470008	6	491372	5	422118	6	488032	4	348026	6	529821	6	643538	7	512736	7	0	62	5044943	0	217903		
8 Kostanai	2	91029	2	197197	2	189580	2	200558	3	252385	2	141428	2	198356	2	181147	2	161772	2	149964	2	148442	25	2073414	180947	92851		
9 Kyzylortia	2	170912	2	162552	2	187563	3	260138	2	167763	2	180644	2	106820	2	135720	2	149548	2	149548	0	0	0	23	1806400	46352	31000	
10 Mangistau	0	0	4	257668	2	129484	2	172212	2	144349	2	130784	2	129484	2	149548	0	0	4	300396	1	65392	22	1544709	13000	0		
11 Pavlodar	4	394837	4	395402	2	199261	2	196797	2	205409	5	532997	4	404065	4	328810	4	401359	4	405160	2	157783	41	4037382	530486	68302		
12 North Kazakhstan	2	170912	2	271203	5	291184	2	241612	3	363044	2	186602	3	414534	4	591064	2	170912	3	500392	6	736264	6	653772	38	4587855	114656	230735
13 South Kazakhstan	0	0	4	257218	4	282212	3	268816	4	320305	4	384282	4	338042	4	339972	4	358808	4	363328	6	538736	0	41	3450719	21430	14627	
14 Atyrau	2	171392	0	0	2	171412	2	171842	2	149548	4	300086	4	278222	3	235324	3	235369	2	171412	0	0	0	27	2141945	5545	0	
15 Aktobe	4	320460	4	422270	3	329316	4	497585	4	376692	4	436960	4	330320	5	583311	4	339792	4	297064	7	511580	2	146460	49	4591808	37953	3839
TOTAL	33	2722442	43	3617098	42	3650822	45	4285197	41	3912078	50	4660328	47	4440319	49	4651626	43	3870209	52	5006468	58	4986230	22	1957480	525	47763297	1437940	853517
Bank services 0,3%	0	0	0	0	0	0	12371,54	0	11415,76	0	13379,95	0	13379,95	0	13379,95	0	11354,25	0	14535,15	0	14510,04	0	5744,24	0	138789	0	0	
Total		2722442		3617098		3679959,86		4297568,54		3923493,76		4673667,89		4453319,49		4668005,95		3881565,25		5021003,15		5000740,04		1963224,24		47902086		

Annex 4

Recommendations for improvement of the legislation on the legal status of persons in pre-trial detention of NSC

It is of concern p. 4 of Art. 15-1 of the Law “On the National Security Bodies”, because responsibility implies only abuse of authority in the application of physical force, special means, weapons and military equipment and military employees of the national security agencies’ employees and servicemen of the National Security Service shall not be liable for non-pecuniary, material and physical harm caused in connection with the application in the cases provided by law of physical force, special means, weapons and military equipment, if protection is consistent with the nature and danger of attacks on protected persons and other citizens, protected facilities or the employee or the serviceman of the national security organs “. Well-grounded is the question of proportionality, which is not considered in this norm.

Art. 9 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” provide temporary detention of the national security agencies. The decision on their establishment, reorganization and liquidation are taken by NSC. However, PDC internal regulations of NSC do not exist.

Art. 4 of the Law “On normative legal acts” set the priority of the regulatory legal act having greater legal force. Some of the provisions of the Rules of the internal regulations for detention centers of the national security agencies (hereinafter - RIRDT) does not fully comply with the Law of RK “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” and the UN Standard Minimum Rules for the Treatment of prisoners (Rules Mandela) from 05.21.2015.

P. 133 of RIRDT defined unimpeded access to Detention Centers (DC) of DNC (Department of National Security) only “body, doing the pre-trial investigation”, while the pp 3-3 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” provides visiting members of the DC DNC by NPM members.

In accordance with Art. 6 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” and p. 4 RIRDT, persons held in institutions, have all the rights and freedoms set forth for citizens.

Paragraphs 161-162 RIRDT secured obligations of suspects and accused, but of Rights and Freedoms - nothing (except for item 4.).

Paragraph 61 of the Mandela Rules specifies: “Prisoners should be provided with adequate opportunities, time and facilities for meetings, dialogue and consultation with a lawyer of their own choice or to the person providing legal assistance, without any delay, interception or censorship and in full confidentiality on any legal matter in accordance with applicable domestic law. Consultations may take place within sight, but not within hearing of prison staff. “Paragraph 128 RIRDT does not include the requirement of “Privacy”: “Dating of suspect and the accused with a defender are made during working hours, alone, without the dividing the wall and limiting their number and duration.”

Paragraph 11 of Article. 16 of the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” provides for the right of suspects and accused persons during the period of detention for walk at least one hour, while the lower limit of n. 14 RIRDT is undefined (“three hours”). P. 12 of the same article is permitted “to use their own bedding” and paragraph 15 - “Educate ourselves and enjoy the special literature”, while in RIRDT it is not provided.

The right to courteous treatment by RIRDT employees, according to the Law, is defined by paragraphs. 2 p.161 RIRDT as a responsibility, but it is not a right. The first rule of Mandela says: “All prisoners should be treated with the respect due to the use of their inherent dignity and value as human beings. No prisoner shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment of all prisoners should be protected from them, and no circumstances may be invoked to justify them. Must continuously ensure the protection and safety of prisoners, staff, officials, service providers and visitors.”

P. 8 of the Rules Mandela established the requirement to disclose “all mentioned in the rules 7 and 8 of the accounts¹ that are available only to persons whose professional duties require access to such credentials. Every prisoner shall be given access to the relevant accounts to it, with the reductions, allowed under the domestic law, and he is entitled to receive official copies of such accounts during the liberation. «However, these requirements are not fixed RIRDT. Such a requirement is correlated with the provisions of the Law “On Personal Data”.

P. 14 RIRDT fixed the conditions of placement of pregnant women and women who have children under three years “improved material living conditions, specialized medical care and better food and creature comforts, as defined by the decision of the Government of the Republic of Kazakhstan from 9/2/2003 number 889 “on approval of rules of natural food and material and social provision of suspects and defendants, as well as the Rules of assisting convicted shall be exempt from punishment” (hereinafter - Regulation). Pregnant women and women, who have children, are provided daily walks lasting up to three hours. Punishment measure in the form of placement in solitary confinement does not apply to them. “Meanwhile, Rule 29 of the Mandela Rules provided the following account (which is not in the RIRDT):

1 Rule 7. No one shall be received in an institution without a valid order to arrest. The following information is stored when prisoner is received : a) accurate information that can help determine the true identity of the prisoners, respecting their personal perception of their gender identity; b) the reasons for detention and the authority responsible for the adoption of such a decision, as well as the date, time and place of arrest; c) The day and hour of admission and release from prison, as well as any transfer ; d) any visible injuries and complaints about prior ill-treatment; e) an inventory of personal belongings; f) the names of family members, including, where applicable, the children and their age, location and custody or guardianship status; g) information for communication during an emergency, and information on the closest relatives of prisoners.

Rule 8. The following information is entered in the system of work with the personal affairs of prisoners during their stay in prison where applicable:

a) information relating to the trial, including the date of the hearing and legal representation;
b) reports on the initial assessment and qualification;
c) information about the behavior and the observance of discipline;
d) requests and complaints, including allegations of torture or other cruel, inhuman or degrading treatment or punishment, unless they are confidential;
e) Information on the imposition of disciplinary measures;

“The decision to allow the child to stay with one of his parents in prison should be based on the best interests of the child (which, in essence, there is a sense of the UN Convention on the Rights of the Child, ratified by the Republic of Kazakhstan).

Where children are allowed to stay in prison with a parent, it is necessary:

- a) to ensure the presence of internal or external services, childcare, qualified persons, where the infants shall be placed when they are not cared for by their parents;
- b) provide special children’s health care, including a survey of health status at admission, and continuous monitoring of their development specialists.

Children in prison with a parent should never be treated as prisoners.

“The RIRDT does not contain any reference to the Joint Order to Minister of Health of the Republic of Kazakhstan of 29 January 2010 № 56, the Minister of Justice of the Republic of Kazakhstan dated February 1, 2010 № 30, the Minister of Internal Affairs of the Republic of Kazakhstan dated February 1, 2010 № 41 and the Chairman of the National Security Committee the Republic of Kazakhstan dated January 30, 2010 № 15 “on ensuring compulsory participation of experts in the field of forensic medicine in the medical examination for the presence of injury to persons in temporary detention, remand centers and the institutions of the penitentiary system” of bringing judicial medical examiner in the presence of injuries. Paragraphs 115-117 of RIRDT provide medical examination rules, which is possible only in 5 cases, and through the submitting of application of its production to the head of DC DNS or his deputy. 32 Rule of Mandela establishes the requirement to total privacy conditions of all medical checkups. This is consistent with the medical mystery attached by the Code of RK “On people’s health and the health care system,” but it is not contained in the RIRDT. Paragraphs 152, 142-144 RIRDT do not fully comply with 45 Rule of Mandela. Thus, RIR has not fixed the requirement of solitary confinement as a measure of last resort and only in exceptional cases, for as short a time as possible, subject to independent monitoring and only with the approval of the competent authority. This penalty should not be imposed by virtue of the prisoner sentence. The punishment of solitary confinement should be banned for prisoners suffering from mental illness or have physical defects, if such measures would lead to a deterioration of their condition. There is still a ban on the use of solitary confinement and similar measures in cases involving women and children, as described in other standards and norms of the United Nations Crime Prevention and Criminal Justice”.

Paragraphs 17-35 RIRDT do not fix the provisions of 50 Mandela Rules to respect human dignity and privacy of the person being searched, as well as compliance with the principles of proportionality, the rule of law and the need for during the search.

Also, RIRDT makes no mention of the administration accountable institutions “keeping appropriate records of searches, in particular about the searches with a full strip and body cavity search, and searches the cameras, as well as the reasons for carrying out these searches, information about conducted their faces and the results of the searches” (51 Rule of Mandela).

52 Rule of Mandela is implemented in the RIR, providing for a “intrusive searches, including searches with a full strip and body cavity search, only when absolutely

f) Information on the circumstances and reasons causing any bodily harm or death, and in the latter case and the place of destination of the remains.

necessary. Prison administration is encouraged to develop and use appropriate alternative methods of carrying out searches, non-intrusive forms of searches. Intrusive searches are conducted behind closed doors and carried by trained staff of the same sex as the prisoner. Searches with inspection of body cavities are carried out only by qualified medical professionals who do not have the primary responsibility for providing care for prisoners and staff who have been at least adequate training in medical specialists in hygiene standards, health and safety.”

The main proposals for improving the legislation of the Republic of Kazakhstan

To conform internal regulations, rules of the protection and surveillance of persons in the DS of DSC, in accordance with the Law “On procedure and conditions of detention of persons in institutions that provide temporary isolation from society” with Rules Mandela establishes a provision stating that “prisoners should be given the ability to communicate at regular intervals under necessary supervision to their family and friends: a) over the written correspondence and using, if possible, telecom, electronic, digital and other means.”

2 Placement of suspects and defendants in solitary confinement for more than one day is permitted by a reasoned decision of the director of the detention facility of the transfer of the suspect or the accused in solitary confinement in compliance with Appendix 2 to this Regulation, sanctioned by prosecutor. Sanction of the public prosecutor for placement of suspects and defendants in solitary confinement in the following cases is not required in following cases:

- 1) in the absence of any possibility to enforce separate accommodation requirements of Article 32 of the Law;
- 2) to ensure the safety of life and health of the suspect or the accused or other suspects or accused;
- 3) if there is a written statement of the suspect or accused requesting solitary custody;
- 4) placement of suspects and defendants in solitary confinement at night, if at day time they are held in communal cells.”

