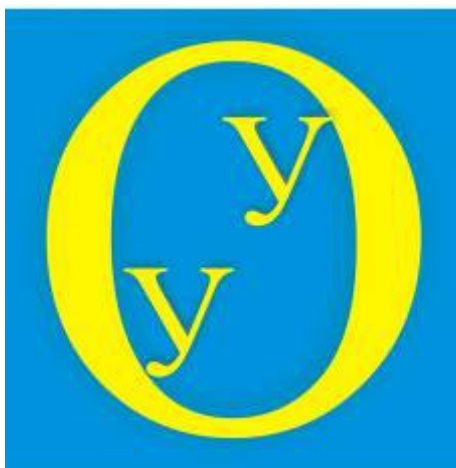


REPORT
on the activities of the Human
Rights Commissioner in the
Republic of Kazakhstan in
2013



ASTANA
2014

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Preface

We have enshrined fundamental rights and freedoms in the country's Constitution. Nowadays, all citizens of Kazakhstan enjoy equal rights and opportunities (from the Address of the President of the Republic of Kazakhstan N.A.Nazarbayev to the people of Kazakhstan "Strategy "Kazakhstan-2050": New Political Course of the Established State" (Astana, December 14, 2012)

This report on the activities of the Human Rights Commissioner in the Republic of Kazakhstan (hereinafter, the Commissioner or the Ombudsman) in 2013 was prepared in pursuance of the relevant procedure specified in paragraph 23 of the Statute on the Human Rights Commissioner.

This paper contains comprehensive information on the Commissioner's activities in the reporting year. Its sections present general and detailed information on the forms and methods of implementation of the Ombudsman's mandate, description of submitted complaints and major directions in operation of the national human rights institution. The Annexes contain the institution's analytical papers including texts of statements, recommendations and other materials.

The reporting year was momentous for our country's development in the area of human rights protection. Definitely, last year's major event which directly impacted all sides of the government's and society's activities in the human rights area was the beginning of implementation of "Kazakhstan-2050" Strategy which was announced in the Address of the President of the Republic of Kazakhstan to the people of Kazakhstan and which determined fundamental directions of the country's development till the middle of the century.

The human rights component is not the last thing in the objectives which the above-mentioned policy paper sets for the state apparatus. They are aimed at addressing a wide range of issues in this area, in particular, development of the country's human capital, providing for the quality of government services and social rights, protection of vulnerable groups of population, reforms of the state apparatus and law enforcement, support of business activities and many others.

The launch of implementation of the Strategy led to establishment of the "A" corps of government service in 2013, election of mayors of district-level towns, settlements and villages which are not part of rural circuits; decentralization continued with a transfer of a number of public administrative functions down to the local level.

In public administration, the top-level government continues to pay particular attention to issues of respect to human rights: laws guaranteeing the quality of government services, protection of personal information, delivery of the state-guaranteed legal assistance were passed.

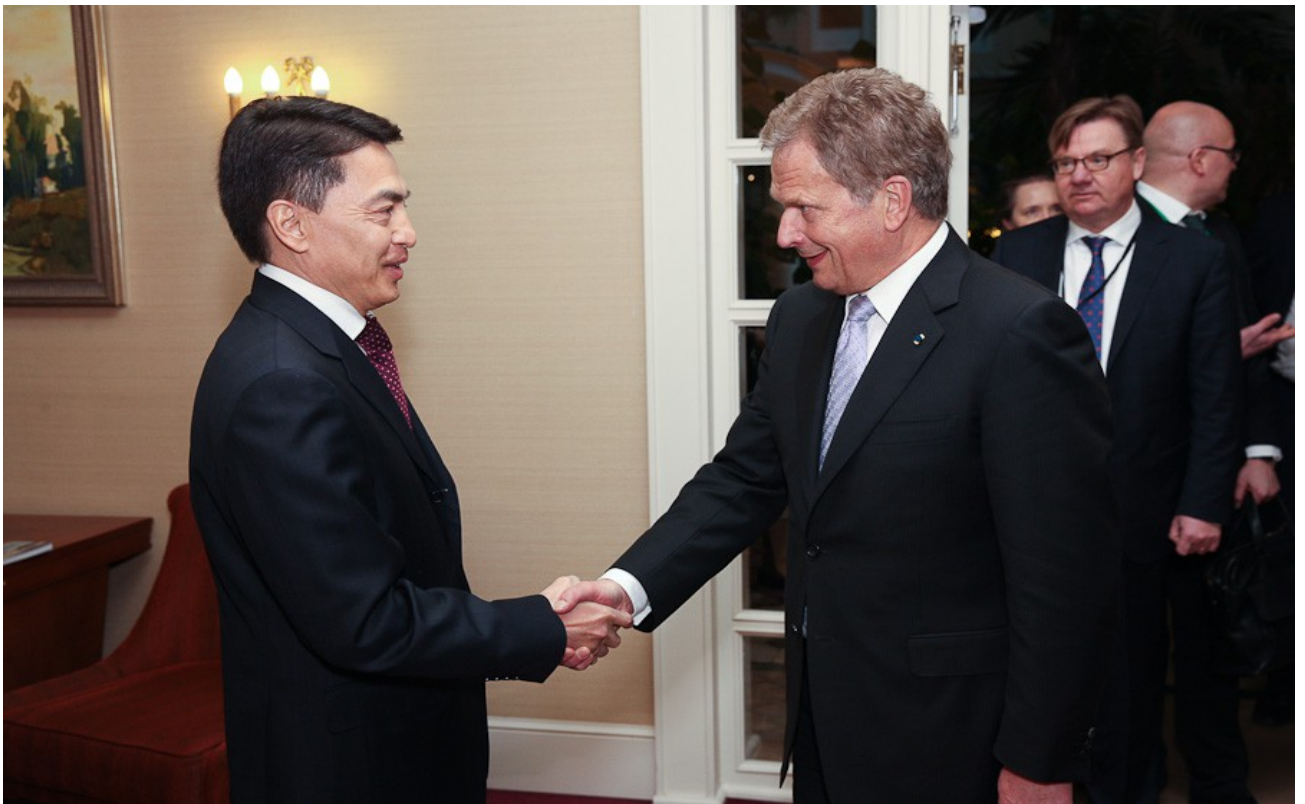
Preparations to hosting the Expo-2017 world fair, processes of economic integration within the framework of the Customs Union have given an unprecedented topicality to issues of securing Kazakhstan's rights in the area of business enterprise. To a certain extent, those processes had positive impact on issues of housing, land and environmental rights.

In general, the government focused on providing for a comprehensive set of the Kazakhstan's social and labour rights including protection of particularly vulnerable groups of citizens: persons with disabilities, women, children, pensioners.

It should be noted that the Commissioner's institution which carried out systemic work in those areas of human rights practice in previous years has now seen a certain increase of attention and, accordingly, of the quality of government organs' response to complaints and recommendations on those issues.

In this regard, we should note a growing demand for the Ombudsman's institution in Kazakhstan. For instance, in the reporting year, the Commissioner strengthened its interaction with the Constitutional Council, the Parliament, and the Government. Cooperation with the Supreme Court and bodies of executive power remained fruitful.

Issues of social and labour rights served also as conceptual benchmarks for implementation of Kazakhstani Ombudsman's international cooperation. To reach those targets, the Commissioner's office cooperated with offices of UN, OSCE, the Council of Europe, human rights organizations and ombudsmen of foreign countries including European, Central Asian and Asian Pacific regions.



*Meeting of the Commissioner for Human Rights A. Shakirov with
the President of the Republic of Finland S. Niinistö*

Significant attention was paid to cooperation with the civil society which promoted exchange of opinions between the government and non-governmental organizations and, to a certain extent, facilitated the upgrading of the topicality of some human rights issues.

Along with that, the key factor in the strengthening of the Commissioner's status was the law on establishment of the National preventive mechanism against torture (the July 2, 2013 RK Law #11-V "On Amendments and additions into legislative acts of the Republic of Kazakhstan on issues of establishment of the national preventive mechanism aimed at prevention of torture and other cruel, inhuman or degrading forms of treatment and punishment"). That law which was adopted in compliance with requirements of the Optional Protocol of the UN Convention against Torture determined the Ombudsman as the coordinator of the National preventive mechanism.

In general, the structure of this report remained unchanged, and it reflects major forms, methods and directions of activities of the national human rights institution.

Titles of a number of sections devoted to implementation of the Ombudsman's authority, the right to receive government services, child rights and the right to education were modified.

Sections concerning the National preventive mechanism against torture in Kazakhstan, the right to religious freedom were added.

The purpose of this report is to inform the President, Kazakhstani and international community, members of the Parliament, representatives of the government, international and national human rights organizations, and foreign partners on the work done by the Commissioner.

This report will be sent to the President of the Republic of Kazakhstan, the Chambers of the Parliament, the Government, other government organizations and a number of foreign countries' Embassies and human rights organizations. Besides, the report will be printed typographically and will also be available on the Commissioner's official website in the Kazakh, Russian and English languages.

1. General Description of Complaints Submitted

One of the major instruments of the Human Rights Commissioner's practice is consideration of complaints of Kazakhstani citizens, as well as foreign citizens and stateless persons about actions and decisions of officials or organizations which infringe on their rights and freedoms guaranteed in the RK legislation.

In 2013, the Ombudsman received 1907 written and 194 verbal complaints. Compared to previous year, the number of people who appealed to the Commissioner went significantly up: from 1648 in 2012 up to 2595 in 2013.

In total, 6724 written and verbal complaints were filed over the recent five years of the Commissioner's work.

In the reporting year, issues of disagreement with court rulings, issues pertaining to labour, housing rights, social support, child rights, actions of law enforcement, inappropriate administration in government organs, etc. prevailed in verbal complaints.

The most active complainants appealing to the Ombudsman in 2013, as well as in previous years, were residents of Astana (13.3%), Almaty city (12%), Almaty province (8.5%), Karaganda province (8.2%), East Kazakhstan province (7.2%), Pavlodar province (6.5%), and North Kazakhstan province (5.9%). And a significant growth in the number of complaints from the Aktobe, Karaganda, Mangistau, and North Kazakhstan provinces is noticed.

The diagram below presents regional breakdown of written complaints.

In the reporting year, the number of complaints from abroad went up (from 67 in 2012 to 100 in 2013) pertaining to issues of citizenship, support in moving prisoners to penitentiary facilities in the country of their residence, in obtaining certificates and documents, disagreement with actions of law enforcement agencies, and also issues concerning the rights of children, pensioners, believers and prisoners.

It should be noted that the geographic coverage of the countries where appeals to the Ombudsman come from expands. Specifically, those countries include the Russian Federation, Ukraine, Uzbekistan, Kyrgyzstan, Azerbaijan, Moldova, Mongolia, Germany, Italy, Finland, Portugal, Czech Republic, Sweden, USA, France, Thailand, and Israel.

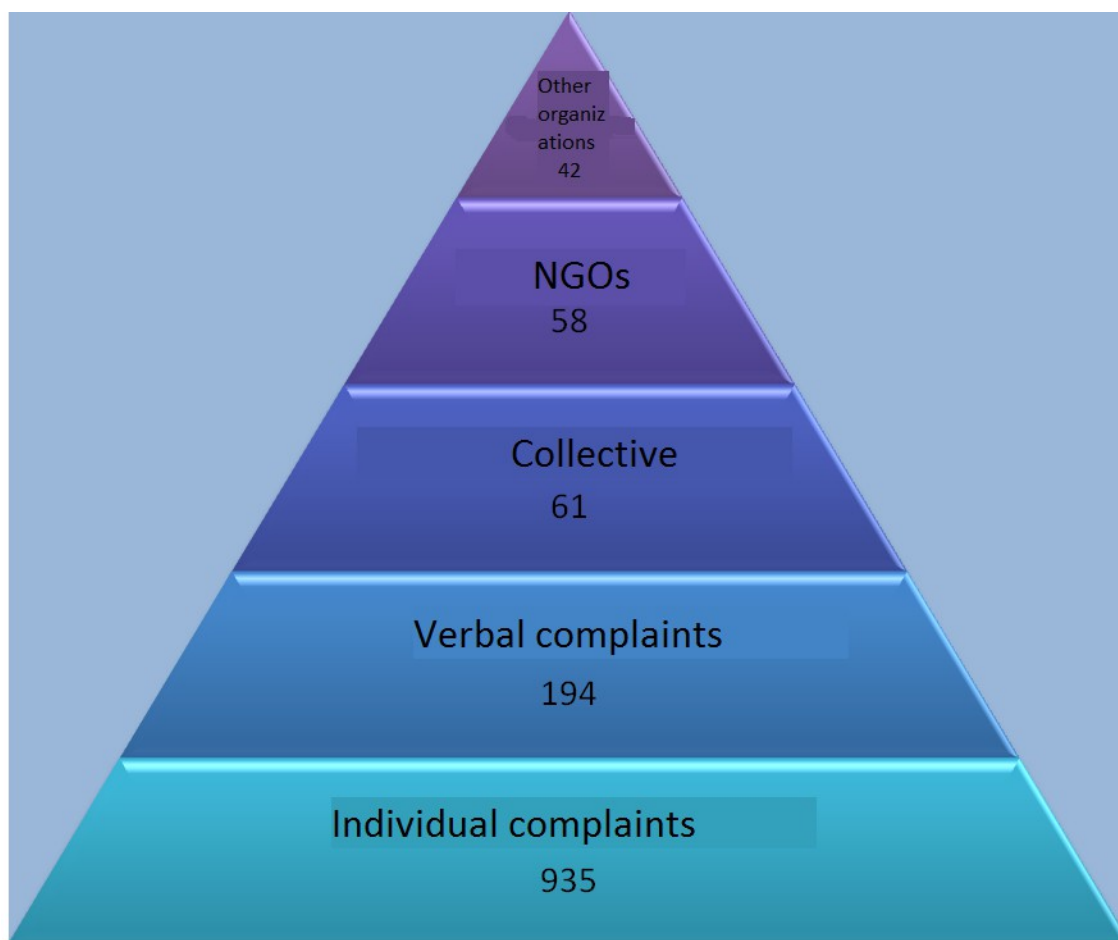
The 2013 has seen an insignificant growth in the number of individual complaints from 914 up to 935. As in the past, women were the most active complainants. Last year, the number of collective complaints went down and amounted to 5.6%. However, the number of citizens who put their signatures under collective complaints went 3.3 times up compared to previous year. Whole groups of population raised issues of land, housing, labour rights, good-quality government

services, expressed disagreement with actions or omissions of law enforcement organs, administration of penitentiary facilities, court rulings.

In the reporting year, 58 complaints were filed by non-governmental organizations. Among the NGOs which appealed to the Ombudsman, the Kazakhstani International Bureau for Human Rights and Rule of Law, Coalition of Kazakhstan's NGOs against Torture, commissions of public oversight, organizations for protection of the rights of persons with disabilities, and believers submitted the biggest number of complaints.

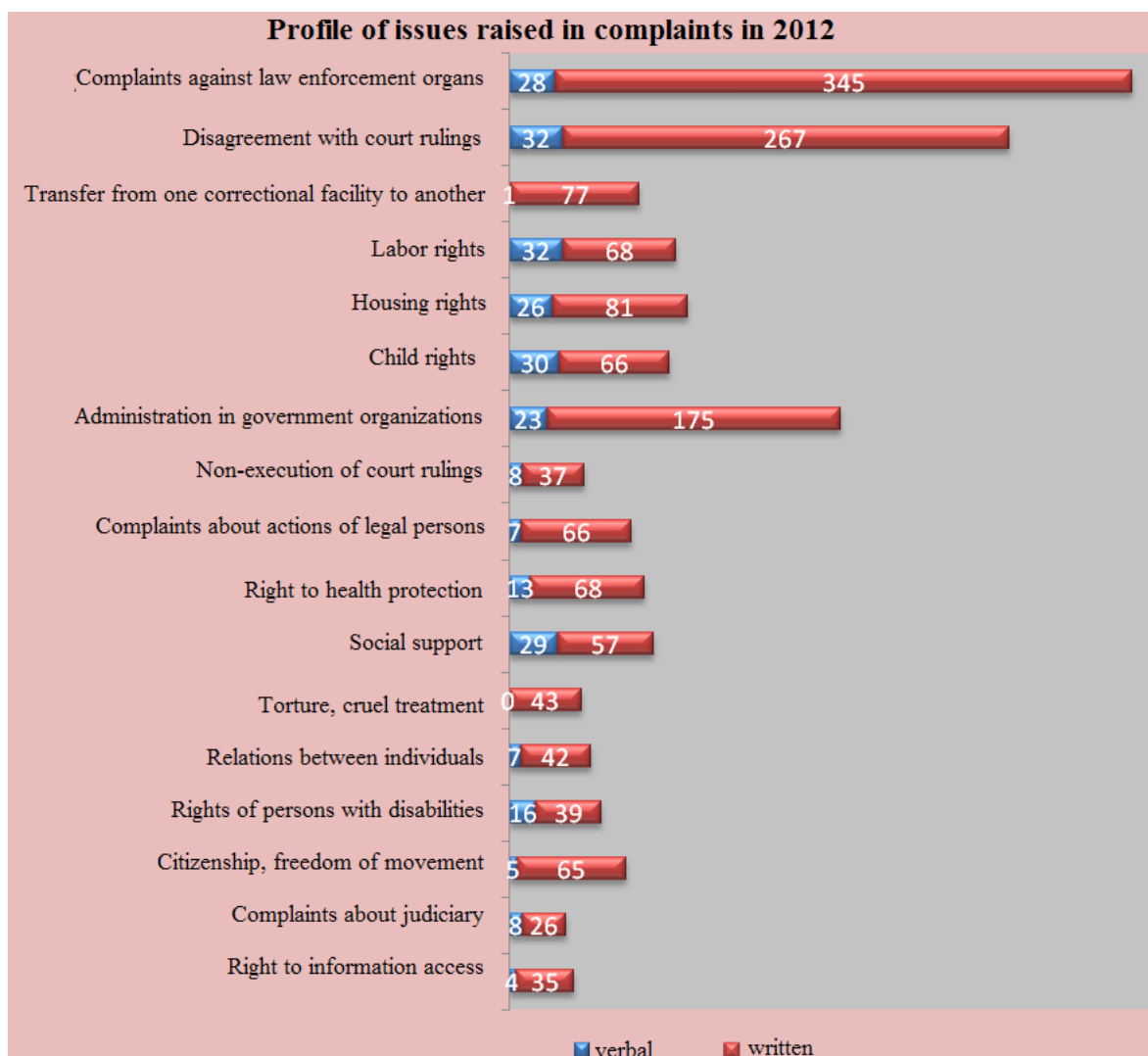
Most frequently, NGOs appealed to the Ombudsman in the interests of prisoners, children, believers, and persons with disabilities.

Complainants' Profile



In 2013, complaints about actions and omissions of law enforcement agencies occupied the leading place – 31.4% of the total number of issues raised in written complaints. The most frequent complaints were those filed against illegal imposition of charges, unlawful procrastination in investigation of criminal cases, abuse of official power, unlawful and unreasonable use of physical force, special disciplinary tools, and psychological pressure exerted by law enforcement officers for the purpose of obtaining evidence of an individual's guilt.

Results of consideration of this group of complaints indicate that there are separate incidents of unlawful and unreasonable persecution of citizens. In this regard, it is important that international standards in the human rights area, increasing trust of citizens to law enforcement organs should be observed.



The number of complaints about disagreement with court rulings pertaining to violations of procedural norms in court hearings, the quality of administration in

court, red tape in handling petitions, determination of territorial jurisdiction, limited access of people, particularly of socially vulnerable groups, to the judicial system was still high (24%). The Human Rights Commissioner sent a summarized analysis of this category of complaints to the Chairman of the RK Supreme Court.

The majority of complaints still pertain to issues of administering in government organs (16%). Complaints against inappropriate quality of government services in the sphere of social support, healthcare, housing and land relations still prevail among major issues. Besides, complainants drew the Commissioner's attention to inappropriate, indifferent attitude of government employees to their issues.

Results of consideration of those complaints confirm that the quality of government services rendered to population, government employees' compliance with ethical standards, and persistent elevation of their professional skills should be improved.

Complaints about infringement on housing rights make up a significant group (7.4%). The bulk of them are related to receipt of free housing from the public housing stock, inappropriate application of the norms of housing legislation by local government organizations, disagreement with judicial acts on sale of mortgaged real property, issues of refinancing of mortgage loans.

The complaints pertaining to those issues indicate the need to work with population explaining the housing projects which are implemented in the country, and the need for the government organizations to observe the norms of housing legislation.

In 2013, the number of appeals seeking movement of prisoners from one penitentiary facility to another went 3.2 times up compared to the similar period of the previous year. It is often difficult to satisfy prisoners' right to serve their confinement sentence near the area of their residence because penitentiary facilities are overcrowded or there is no facility with appropriate security regime in that area. The Commissioner also received appeals seeking support in extradition to the country of origin.

Complaints about infringement on labour rights because of illegal dismissal, delays in payment of wages, leave allowances, non-payment of social allowances, employees' work without employment contracts, non-enforcement of court decisions in the area of labour, and others made up a separate group (6.2%). In a number of incidents, the reasons for infringement on labour rights were employers' disregard of the Labour Code's norms, employees' weak awareness of their labour rights.

In 2013, the number of complaints about infringement on healthcare rights went 1.3 times up compared to 2013. In their complaints, citizens touched upon issues of inappropriate delivery of medical help, failure to get a quota for treatment,

insufficient professionalism of medical workers, physicians' and diagnostic mistakes, etc.

In the reporting year, the number of complaints about actions (omissions) of penitentiary facilities' administration went down and made up 6.1%. However, for a number of reasons, confinement of a person in closed facilities is linked to infringement on his rights and freedoms, and the Ombudsman specifically focuses on it.

The issues of infringements on child rights (6%) related to issues of violence against them, alimony recovery, determination of who the child stays with after the divorce of parents, payment of various allowances, lawfulness of a child's placement in child facilities, delivery of low-quality medical assistance, closure of educational institutions, etc. were still topical.

Though systemic measures are taken by the government in protection of child rights, it is important that effective efforts are made at the local level to address problems in this area with the account of children's best interests.

In 2013, the number of complaints about actions of non-state legal entities has insignificantly increased compared to the previous year. 66 complaints were filed (6%). Complainants raised issues of relations with banks, with companies of various forms of ownership, with associations of apartment owners regarding infringement on labour, social, housing, and economic rights, non-compliance with requirements of legislation in the area of insurance and healthcare.

A significant share of the above-mentioned group of complaints came from insolvent borrowers with requests to facilitate re-financing of their mortgage loans. Section 8 "Property rights" contains information about the work done by the Commissioner's office in consideration of those complaints.

Last year, 5.9% of all submitted appeals were complaints about citizenship issues, issuance of documents, freedom of movement and migration. The incoming complaints indicate that uniform instruments for protection of human rights in this area should be developed, and the procedure for registration of citizens at places of residence should be streamlined.

Citizens appealed to the Ombudsman regularly on issues of social and pension support (5.2%). They expressed disagreement with the size of pensions, procedures of their calculation, re-calculation of pension payments, the amounts of social allowances, and sizes of compensation for the harm inflicted to health in work places.

With the account of the fact that for the majority of socially vulnerable groups of population social allowances are the sole source of their income, it seems important that local governments should extend additional forms of social support of this category of population.

3.9% of the total number of issues raised in appeals are complaints related to the use of various forms of torture, cruel or degrading treatment and punishment by officers of law enforcement agencies. Those complaints indicate that application of

unlawful methods at the stage of investigation and serving the sentence is still a problem.

In the reporting year, 42 complaints (3.8%) pertaining to relationship between individuals were received. Complainants appealed to the Ombudsman with complaints about actions of family members in consideration of heritage issues, division of property, non-compliance with terms of civil transactions as well as inappropriate actions of neighbours.

Complaints about infringement on the rights of persons with disabilities (3.6%) make up the next group. The authors of the majority of complaints state their disagreement with decisions of local offices of medical and social security medical assessment boards on denial of a disability category, re-consideration of disability categories. They also raised issues of implementation of housing, labour, and social rights.

In this regard, informational and explanatory work in the area of the rights of persons with disabilities should be carried out, and conditions for full implementation of their rights and for their integration into the society should be created.

The Commissioner continues to receive complaints about non-enforcement of court decisions. In 2013, their number amounted to 37 (3.4%). The reasons for those complaints are related to poor work of judicial enforcement agents, their negligent attitude to official duties, insufficient coordination of the work and interaction of judicial and law enforcement officers, problems in recovery of debt alimonies for child support and other debts.

Citizens' complaints referring to the exercise of the right to access information – 35 (3.2) – concerning the issuance of certificates, documents, explanations, support in obtaining information about addresses of their relatives make up a separate category.

Complaints pertaining to the exercise of the right to freedom of conscience by citizens which amounted to 3.1% of the total number of written complaints make up another group. In the majority of complaints, the authors expressed disagreement with imposition of administrative liability for illegal missionary activities, restriction of believers' rights in penitentiary facilities, biased coverage of activities of some religious associations in media, and others.

In the reporting year, the Ombudsman received complaints about infringement on land rights (2%) regarding the failure of local government organs to follow the norms of the current land legislation; disagreement with forced expropriation of land for government needs, unlawful allocation of land parcels by local government organs.

It should be noted that frequently, government organs recommend that in land disagreements, complainants should turn to court whereas those issues can be resolved within their power at the local level.

In recent years, we have seen a growing number of complaints about infringement on Kazakhstani citizens' rights abroad: from 12 complaints in 2012 to 21 in 2013. Complainants raised issues of extradition of Kazakhstani citizens from China, Russia, disagreement with actions of law enforcement agencies of Russia, Kyrgyzstan, United Kingdom, conditions of confinement of prisoners in the Kingdom of Thailand, actions of RK Embassy officers in Uzbekistan. It is difficult to determine infringements and remedy the rights of Kazakhstani citizens based on complaints of this category because those citizens also fall under jurisdiction of the country of their stay.

1.6% of complaints received by the Commissioner were complaints about infringement on consumer rights caused by omissions of associations of apartment owners in buildings which they service, of competent organs in consideration of issues of building power transmission lines, telephone lines, and provision of access to Internet services.

Complaints about those issues indicate insufficiency of efforts on delivery of services to people, the lack of work with consumers.

Separate appeals were submitted seeking participation of employees of the Commissioner's office in court hearings, assistance in providing a public defender, engagement of experts to get their opinion on court ruling. Those appeals were united in category "other". In the reporting year 14 (1.3%) such complaints were submitted. As part of consideration of those appeals explanations complying with the RK current legislation were sent to the complainants.

Complaints about infringement on women's rights in the reporting year amounted to 1.2%. Women noted their discrimination in the area of employment in connection with pregnancy, childcare, incidents of domestic violence. They also raised issues of regulation of marriage and family relations, issuance of awards for mothers with many children.

In the reporting year, the Commissioner received 7 complaints about infringement on the privacy right, personal and family secrets, protection of honour and dignity. A slight increase in the number of such complaints compared to the previous year is noticed. Complainants drew the Commissioner's attention to telephone tapping, unlawful intrusion into apartments, passing private video materials to media. In consideration of those complaints, appropriate explanations on the norms of legislation on protection of their rights were sent to complainants.

The number of complaints about violation of the right to favourable environment went down and made up 0.5% of the total number of complaints. Those complaints raised issues of protecting citizens from gamma radiation, harmful impact of magnetic radiation of cellular transmission antennas and electric power transmission lines, and issues of omission of government organs in closure of private businesses in incidents when their operation exerted harmful impact on the environment.

Another group of complaints about human rights violations pertains to infringement on entrepreneurs' rights (0.5%). They refer to decisions of local government organs on forced expropriation of land, and to issues of civil transactions.

As in the past, an insignificant number of complaints received by the Commissioner are complaints pertaining to discrimination based on ethnic origin (0.4%). Complainants informed of discrimination of their rights based on their ethnic origin in labour, criminal procedural areas. It is difficult to prove infringement on rights in this category of complaints, and in the majority of incidents, violations were not proved.

In 2013, the Commissioner received 5 complaints (0.4%) with the complainants' disagreement with actions of employees of a mental dispensary, placement to a mental hospital. Results of inspection did not confirm incidents of violation of the complainants' rights.

It should be noted that in the reporting year, the citizens' rights were restored in 19.6% of complaints accepted for consideration.

Last year the Ombudsman received letters with appreciation of support in restoration of citizens' infringed rights.

The analysis of complaints received by the Ombudsman in 2013 indicates the unchanged tendencies in the nature of issues raised by citizens. Along with complaints about actions of law enforcement organs, court decisions, mal-administration in government organizations, citizens focused on problems of social area (housing issues, payment of wages, pensions, allowances, education, health care). It is worth noting that the number of complainants who signed collective appeals went up.

In this regard, we should note that as part of the reform of the system of public administration, first and foremost, of delegation of the majority of functions to local governments, it seems important that emerging problematic issues be addressed timely at an appropriate level.

Solution of the above-stated problems becomes more topical in the context of implementation of objectives set by the head of state in his Address to the people of Kazakhstan "Kazakhstan's Way – 2050: Common Aim, Common Interests, Common Future", improvement of the quality of operation of local government organizations and improvement of citizens' social well-being.

2. Putting the Human Rights Commissioner's authority into effect, interaction with government organizations and civil society

This section contains summarized information on the forms and methods of the Human Rights Commissioner's activity in 2013, and his office's interaction with government agencies and civil society.

Last year, consideration of complaints about infringement on citizens' rights and freedoms was the key form of the Commissioner's activity determining other methods and directions of actions of the national human rights institution.

RK citizens, foreign citizens, stateless persons, Kazakhstani and international human rights organizations, foreign ombudsmen were subjects of complaints.

As part of processing the complaints, 1071 inquiries were filed with national and local government agencies, non-governmental organizations, regional public monitoring commissions, RK legal entities, public foundations as well as foreign countries' government organizations.

Based on results of the submitted complaints and the work accomplished by government agencies to restore infringed rights, the Ombudsman sends submissions and recommendations to competent officials on steps which need to be taken in order to address systemic problematic situations in the human rights area.

In the reporting period, based on the results of analysis of submitted complaints and efforts on restoration of citizens' rights, the Ombudsman sent 13 submissions and recommendations to top managers of government organizations.

Last year, the Commissioner sent a letter on his activity in 2012 to the head of state with basic information on the work accomplished in order to provide, protect and restore human rights over the respective period of time.

Monitoring over observance of convicts' rights is one of the priorities in the activity of the Ombudsman's institution.

The Human Rights Commissioner's monitoring visits to facilities of the penitentiary system show that both the administration and prisoners themselves are highly interested in improvement of the level of their labour integration.

In this regard, the Commissioner lodged a submission with the RK Prime Minister on the issue of prisoners' employment with proposals on granting them certain tax privileges and awarding government contracts on certain types of products to enterprises of the penitentiary system.

Analytical material on the issue under discussion was also forwarded to the RK Presidential Administration. On its basis, assignments were issued to a number of government organizations to work those issues out.

The Commissioner also lodged a submission with the Prime Minister containing an analysis of complaints which he received on issues of services rendered by local government organizations in housing and social spheres, in healthcare, environmental protection as well as securing the rights of children in the light of implementation of Kazakhstan-2050 Strategy.

In July 2013, summarized information on the basis of complaints received by the Commissioner about infringement on citizens' rights to fair court trial and access to justice was sent to the Chairman of the Supreme Court of the Republic of Kazakhstan.

The Ombudsman touched upon issues of broken criminal procedural norms in investigation and court hearings, bureaucratic delays in determination of the territorial jurisdiction of cases, and in consideration of petitions by courts, the quality of administration in judicial organs.

The Director of the National Human Rights Centre sent a recommendation to the RK Ministry of Justice on problematic issues in the area of enforcement of court decisions: bureaucratic delays and long non-enforcement of judicial acts which occur in the practice of state bailiffs; loss of executive papers; low level of interaction between bailiffs and law enforcement organs.

Along with that, government organizations' insufficient attention to the need in timely resolution of the human rights issues raised in the Commissioner's papers is still a topical issue. The share of government organs' responses given with a breach of established timelines exceeded the previous year's indicator and amounted to 12.7%.

In order to receive objective information on observance of human rights in public custodial institutions, the Commissioner monitored such institutions.

In the reporting year, 37 facilities in 9 regions of the country were monitored. The monitoring was done in orphanages, centres for adaptation of minors and former prisoners, schools including specialized schools for delinquents and boarding schools, mental institutions, facilities for old, disabled people, higher educational institutions, detention facilities for minors, investigatory detention facilities, police cells, prisons of various types of security including prisons for women.

Based on results of the monitoring of a number of facilities in West Kazakhstan and Pavlodar provinces by officers of the National Human Rights Centre, the Commissioner lodged a submission with the head of the RK Prime Minister's office to address issues of non-compliance with the requirements of the Standard for specialized social services in the area of social protection of population approved by the RK Government October 28, 2011 resolution #1222.

The submission discloses problems of unfitness of medical and social facilities for independent movement of persons with disorders of the locomotor apparatus, the need in modern school books and academic programs for children with hearing and vision impairment, lack of a number of specialists in educational institutions, first of all, visual impairment specialists.

Last year, given repeated complaints of citizen D., resident of South Kazakhstan province, to government organs on a number of social issues, a monitoring visit to cities of Shimkent and Arys of that province was arranged.

We should also mention the specialized monitoring carried out as part of the activity of working groups under the Commissioner with the purpose of looking into incidents of torture and other cruel forms of treatment and punishment, and monitoring in social and labour areas.



The Chairman of the Constitutional Council I. Rogov, the Commissioner for Human Rights A. Shakirov and the Chairman of the Council of Europe's Venice Commission G. Buquicchio on "August readings" dedicated to the Constitution Day of the Republic of Kazakhstan

The format of such consultative and advisory boards which include high-level representatives of the government and non-government sector as well as specialists and scholars made it possible, on the one hand, to carry out objective and good-quality monitoring of facilities with the account of various opinions; on the other hand, to provide an additional opportunity for the public to deliver its opinions to representatives of the government.

For instance, the working group on incidents of torture which was formed as "a prototype" of the National preventive mechanism against torture in compliance with the Optional Protocol of the UN Convention against Torture monitored 24 institutions in the reporting year.

In 2013, the monitoring activity of the Ombudsman's office was expanded by establishment of a working group for monitoring in social and labour areas. It was done pursuant to the RK President's assignment issued as part of the concept paper "A Society of Universal Labour".

The above-mentioned working group arranged a visit to the Arcelor Mittal Temirtau company. Based on the results of the visit, a letter was sent to the RK Prime Minister with proposals on the issue of resolution of the conflict related to the downsizing of the number of the company's workers.

The Commissioner's mandate was also implemented through interaction with the government as part of their legislative work.

For instance, in consideration of the RK Prime Minister's request of an official interpretation of paragraph 1, article 62 and paragraph 1, article 83 of the Constitution of the Republic of Kazakhstan by the RK Constitutional Council, the Commissioner's office presented its opinion on human rights aspects of differentiation of terms "regulatory legal act" and "legal act".

The Commissioner's office attended meetings of the Parliament Mazhilis' working groups on discussion of a number of draft laws which have the most important human rights components including new draft Criminal, Penal Codes, Criminal Procedural Code, laws on issues of protection of personal information, delivery of free legal assistance by government, of government services, genome and fingerprint registration, etc.

We should note adoption of the law which established the National Preventive Mechanism against torture in our country (the July 2, 2013 RK Law #111-V "On Amendments and Additions to some legislative acts of the Republic of Kazakhstan on issues of establishment of the national preventive mechanism designed to prevent torture and other cruel, inhuman or degrading forms of treatment and punishment"). It appears that the issue of further institutional development of the national human rights institution becomes more topical.

The Commissioner's membership in the Legal Policy Council under the RK President facilitated participation in development of major directions of the national policy in the area of human rights and reform of legislation.

The Ombudsman's office continued its participation in inter-agency commissions under the RK Government on issues of legislative work, on international humanitarian law and international human rights agreements, minors' issues, protection of their rights, issues of combat against human trafficking.

The Director of the National Human Rights Centre participated in the work of the newly established consultative and advisory board under the Ministry of Foreign Affairs "The Human Dimension Dialogue Platform". During the year, a wide discussion of issues related to implementation of international human rights standards into the national legislation was held in the framework of that platform.



Expert Council meeting under the Commissioner for Human Rights

In general, the Human Rights Commissioner's cooperation with government organizations is aimed at improvement of social partnership, of the quality of legislation and the practice of its application for protection of citizens' rights and freedoms.

One of the key directions of the national human rights institution's activity is constructive cooperation and interaction with non-governmental organizations in the interests of encouraging and protecting human rights.

The national human rights institution's cooperation with the non-governmental sector is well arranged first and foremost in the area of consideration of citizens' complaints.

In the reporting year, 100 appeals from non-governmental organizations were filed with the Ombudsman's office.

The Commissioner has a Board of expert composed of representatives of NGOs and scholars. It provides consultative and analytical assistance to his office. This cooperation plays a very positive role in making coordinated decisions in the area of legislative support to human rights.

In general, cooperation with civil society includes:

- The use of the capacity of non-governmental organizations as an additional instrument for obtaining information about infringement on citizens' rights;
- Joint consideration of complaints about infringement on rights, verification of information and facts;
- Joint monitoring of public institutions;
- Joint work of experts on development of proposals for improvement of legislation and of practice from the human rights angle.

Participation in public events held inside Kazakhstan is an important form of operation of the Commissioner's office. It facilitates fruitful cooperation, exchange of experience and opinions with the country's civil society.

Cooperation within the framework of events is a way to obtain information about existing problems in the human rights area, or representatives of some categories of citizens. It lets the Commissioner stay in direct contact with the civil society.

The Commissioner and his staff took part in 52 international events during the reporting year.

The Commissioner's participation in the October 2013 conference of the Asia Pacific forum of national human rights institutions as an invited observer made it possible to establish relations with this largest and the most developed regional association of national human rights institutions.

Among the Commissioner's international partners we should mention institutions of the UN system, regional and non-governmental international and national organizations, for example, UN High Commissioner for Human Rights and regional office, High Commissioner for Refugees, UNICEF, UN Development Program, OSCE, Asia Pacific Forum of National Human Rights Institutions, European Union, Council of Europe, Penal Reform International, Eurasia Foundation – Central Asia, Amnesty International, Human Rights Watch, Organization of Islamic Cooperation, human rights institutions, governments and parliaments of Tajikistan, Ukraine, Qatar, USA, Kyrgyzstan, Poland, Russian Federation, United Kingdom, Finland, Norway, France, Lithuania.

The openness of the Ombudsman's office is provided also through publication of articles, materials, studies, bulletins, and media coverage of his activity. The staff of the Commissioner's office participated in TV programs on human rights topics broadcast on national TV channels.

In the reporting year, the Ombudsman's office produced 37 press releases covering the office's on-going activity. More than 500 users visit the Commissioner's website.

The Commissioner's annual reports printed typographically and posted on his website turned into a source of information about the human rights situation in the country for media, Kazakhstani and international organizations.

Certain efforts are made in promotion of human rights education. For instance, the Commissioner's office participated in the arrangement of trainings on issues of coverage of operation of the National Preventive Mechanism against torture, on ethical standards in coverage of child issues, violence against children in schools, inclusive society and prevention of child abandonment. The trainings were designed for representatives of the civil society and journalists covering human rights topics.

Last May, a public presentation of the 2012 Report on the Commissioner's Activities was held at the premises of the Kokshetau State University named after Sh. Ualikhanov.



*Presentation of the 2012 Ombudsman Annual Report
Sh.Ualikhanov State University, Kokshetau city*

Regarding the administrative aspect of operation, in 2013, the institution's budget amounted to 69 million 288 thousand tenge including the budget program "Services on Observance of Rights and Freedoms of a Person and Citizen" – 68 856 000 tenge, and budget program "Capital Expenditures of the National Human Rights Centre" – 432 000 tenge.

The budgetary resources were implemented in full.

3. *Right to Freedom and Personal Security*

It is known that the present-day Kazakhstan is a full-fledged subject of international law and is a part to more than 60 multilateral universal international agreements in the human rights area. Our country has significantly expanded its citizens' capacities to protect their rights. Citizens who believe that the government infringed on their rights specified in relevant multilateral agreements have the right to appeal to UN Committees the competence of which was acknowledged by Kazakhstan. They are the Committees on human rights, elimination of racial discrimination, elimination of discrimination against women, and the Committee against torture.

The inalienable right to personal security is guaranteed by a set of legal regulations which set inadmissibility of violence against a person with the exception of incidents specified in the law.

Provision of the citizens' constitutional rights is a major priority in operation of Kazakhstan's law enforcement agencies because under article 1 of the RK Constitution the state's top values are a person, his life, rights and freedoms. And pursuant to par. 2, art. 10 of RK Law #380 of January 6, 2011 "On the law enforcement service" law enforcement officers should secure the observance and protection of the rights, freedoms and legal interests of citizens and legal entities.

However, relevant UN Commissions and Special Rapporteurs made more than 300 recommendations and remarks to our country. About 40% of them concern operation of law enforcement agencies.

In 2013, the Commissioner received 346 complaints about actions and omissions of law enforcement officers. It amounts to 31.4% of the total number of complaints submitted (1097).

The analysis of the Ombudsman's mail indicated that incidents of unlawful and unreasonable persecution of citizens still take place in the country.

An example of unlawful imposition of criminal charges on citizens by organs of criminal persecution was described in the complaint of defender A.H. submitted in the interests of C.N. about unreasonable prosecution for commitment of a crime, violation of the criminal procedural law by agencies of investigation.

In processing A.H.'s appeal we sent information requests to the Prosecutor General's office and the RK Ministry of Interior Affairs in order to verify the facts described in the complaint.

According to competent agencies, based on the statement of E.L. alleging that money was stolen from her apartment, on April 11, 2013, the police department of Saryarka district in Astana city initiated a criminal investigation against C.N. under par 3, art. 175 of the RK Criminal Code.

Results of the preliminary investigation failed to prove C.N.'s involvement into the crime.

In this regard, on August 31, 2013, C.N.'s criminal prosecution stopped because of the lack of evidence on elements of crime in her actions.

An example of unreasonable criminal prosecution were unlawful actions of the Aktobe city police officers described in the complaint of the Aktobe public notary chamber's notary officer O.A. who was accused of raping a graduate of a boarding school for mentally retarded children. The author of the complaint alleges that the investigation was done with violations of the norms of the criminal procedural legislation (including the unlawful suspension of the license for notary operations) for more than 8 months.

According to information sent by prosecutors in response to our requests, the above-described case was dismissed because of the lack of evidence of elements of crime in O.A.'s actions. Regarding the incident of unlawful prosecution of the citizen, prosecutors filed a petition of oversight with the management of the Aktobe regional police department. As a result of its review, the officers of the organ of criminal prosecution guilty of the incident were held liable in compliance with the law.

Complaints about unreasonable denial of initiation of criminal investigation continue to come.

Resident of Astana K.D. appealed to the Commissioner complaining about omission of the capitals' police officers in processing his complaint about the incident of unlawful actions of police officers who, according to the complainant, broke into his house without showing their official identification documents, applied physical and psychological pressure against him. As a result serious bodily injuries were inflicted to him. There were witnesses who saw the incident. However, no measures were taken against the police officers.

Upon involvement of the Commissioner, October 1, 2013, the Office of Internal Security of the Astana city police department initiated a criminal investigation of the incident of infliction of bodily harm to K.D. by police officers pursuant to RK CC par a, part 4, art. 308.

An outrageous incident of omission and procrastination in investigation of a case by agency of criminal prosecution was described in the appeal of Pavlodar resident A.G. to the Commissioner.

A.G. appealed to the Ombudsman complaining about omission of the Aksu district police officers in handling the criminal investigation of the incident of her rape in the night of May 12-13, 2012.

The author alleges that the individuals who raped her were determined but for unknown reasons the only measure of restraint was a written undertaking not to leave the place. The complainant was outraged by the behavior of investigators who intentionally dragged with the investigation for 9 months in order to take the guilty individuals away from criminal liability.

According to information given by the Pavlodar regional prosecutor's office in response to our request, the materials of the case confirmed the facts of red tape and violation of the

requirements of the criminal procedural legislation which took the form of non-execution of orders of the Aksu city prosecutor's office.

The criminal case which had earlier been suspended was resumed following the prosecutor's order. A new judicial molecular genetic analysis was requested. Serious disciplinary measures were applied against persons responsible for the incident of bureaucratic delays in the criminal investigation.

However, A.G.'s next complaint relayed that after her appeal to the law enforcement no final procedural action against the perpetrators was taken though their identity was established.

After the Commissioner's additional requests on that issue, the Pavlodar regional prosecutor's office responded that on August 28, 2013, the criminal case against individuals suspected in commitment of a crime under RK CC par a, part 2, art. 120 was filed with the Aksu city court for consideration on the merits.

October 12, 2013, the court issued its verdict, found those individuals guilty and sentenced them to 6 years in jail.

Another example of the law enforcement agencies' omission is the appeal of K.B.

K.B., resident of Astana city appealed to the Ombudsman complaining about omissions of the Saryarka district police officers in the capital in processing her statement on the November 30, 2012 incident of infliction of bodily injuries to her and robbery of her personal property.

The author of the complaint stated that one of the assailants was detained the same day, however, he was not in custody anymore. The complainant also alleged that police did not take necessary steps to find, detain and hold the guilty persons liable.

Considering that appeal, we sent information requests to relevant authorized agencies.

According to the information received in response, during the criminal investigation of that incident Sh.N. was detained. It was only on March 20, 2013 that indictment was issued for commitment of a crime specified in RK CC par a, part 2, art. 178. A measure of restraint was imposed in the form of "a written undertaking not to leave the place and good behavior".

March 27, 2013, the criminal investigation against Sh.N. was completed and forwarded to the Saryarka district prosecutor's office for it to file the case with the Saryarka district court.

In breach of the international standards and constitutional guarantees against arbitrary detention and arrests, incidents of infringement on citizens' right to personal freedom still exist.

In 2013, prosecutors released 20 persons from illegal custody in police offices and other buildings.



Visit of the Working Group on reviewing alleged torture and ill-treatment cases under the Ombudsman to ETS-166/18 Facility (somatic hospital) in Stepnogorsk city

Pursuant to art. 17 of the RK Constitution a person's dignity is inviolable. Nobody should be subject to torture, violence, other cruel or degrading treatment or punishment.

B.M. and D.N. appealed to the Commissioner in the interests of their under-aged children with complaints against unlawful actions of Semei city police officers. According to the complainants, police officers broke requirements of the criminal procedural legislation during investigation by applying cruel methods against their children. In this regard, the parents appealed to the Semei city's central police office and to the office of financial police in the Semei region.

However, the investigatory units of financial police issued a decision to deny initiation of a criminal investigation against police officers.

According to the information sent by the RK Prosecutor General's office in response to our request, representatives of the East Kazakhstan regional prosecutor's office travelled to Semei to check the reported incidents. After reviewing the materials on the denial of criminal investigation, with the account of the requirement that statements on infliction of bodily injuries to minors should be verified exclusively by investigation, including interrogation and face-to-face questioning among other mandatory investigatory procedures, the prosecutors revoked the decision on denial of criminal investigation. A criminal investigation was initiated against officers of the Semei city's central police office under RK CC par a, part 4, art. 308. At this stage, the Semei regional financial police is investigating that criminal case.

Oversight over the investigation is assigned to the Semei city prosecutor.

The Commissioner keeps the case under his control.

Recently, numerous media publications have presented analysis of unlawful actions of law enforcement organs.

Investigators pressed charges against Deputy Chief of the Almaty district police office of Astana C.A. for commitment of crimes specified in par a, part 2, art. 141-1 (Torture committed by a group of individuals or by a group of individuals on a previous concert), par 3, art. 28 (types of accomplice in a crime. An organizer is a person who organized the commitment of a crime or who guided its commitment), par 1, art. 346 (Knowingly unlawful detention, placement or holding in custody), par 3, art. 28 (Abuse of power or official authority) of the Criminal Code.

Preliminary investigation and familiarization of the participants of the criminal proceedings with the materials of the case are completed. The criminal case was filed for further processing pursuant to article 280 of the Criminal Procedural Code. The final legal assessment of C.A.'s actions will be made based on the study of the materials with issuance of a relevant decision in compliance with the requirements of article 282 of the Criminal Procedural Code.

According to the prosecutor's office, June 14, 2013, C.A. and K.D. were brought to court trial and sentenced to three years and a year and half in prison accordingly. (Tengrinews.kz 12 June 2013)

The Uralsk city court convicted criminal investigator of the city police department, lieutenant of police E.A. He was sentenced under RK CC par a, part 4art. 308 (Abuse of power or official authority) with application of RK CC art. 55 (imposition of a more lenient punishment than the one specified in the law for such crime) to 2 years of imprisonment in a prison of general security regime.

A preliminary investigation established that on March 11, 2012 Uralsk city police department's criminal investigator E.A., who was acting in his official capacity, abused official power and inflicted bodily damage to citizen K.

According to findings of forensic medical examination, unlawful actions of police officer E.A. resulted in infliction of damage to citizen K. in the form of closed spiral fracture of the left hand. The injury was a blunt-force trauma classified as medium class damage to health resulting in long impairment of health for more than 3 weeks. Journal.zakon.kz April 5, 2013

Two senior investigators of criminal police of the Shieli district police department in Kzylorda province were on the wanted list.

According to the regional prosecutor's senior assistant, the investigators are accused of torturing a person who was kept as a suspect in police cells.

The Shieli district prosecutor's office found that senior investigators of criminal police section of the district office P.S. and T.E. beat D.A. against whom a criminal investigation was initiated under RK CC par a and part 2 of article 175.

As a result of heavy beating, D.A. was placed to hospital. Doctors diagnosed "enterorrhaxis, hemorrhagic shock of 3d degree". A surgery operation was done.

Results of a preliminary investigation done by prosecutors established that the two senior

investigators tried to force the suspect confess in other unsolved crimes committed in that district. Based on those materials, a criminal case was initiated under RK CC part 3, art. 141-1. At this stage, the investigation of that case is done by the special prosecutorial office of the regional prosecutor.

Given the fact that P.S. and T.E. are hiding from investigators, the court issued a permission to apply arrest as a measure of restriction. They were put on the list of wanted. Operational search actions are under way. Kazinform. April 15, 2013

According to the Committee of Legal Statistics and Specific Records under the RK Prosecutor General's office, 965 complaints about torture were registered during 12 months in 2013. It is 38% more than during the similar period of time in 2012 (602). 35 (18) crimes under RK CC article 141-1 were registered, 16 (10) were sent to court, 31 (3) persons were convicted.

At the January 30, 2013 meeting attended by the RK President, the attention of the law enforcement agencies' top management was drawn to the need in improvement of the situation with combat against torture. As of today, the problem of torture is still urgent in the country despite measures taken by Kazakhstan.



Visit of the Working Group on reviewing alleged torture and ill-treatment cases under the Ombudsman to ETS-166/11 Facility (tuberculosis dispensary) in Stepnogorsk city

In order to expand the judicial control over pretrial proceedings and to address the problem of application of unlawful methods by organs of criminal prosecution, the new draft RK Criminal Procedure Code adds a position of investigatory judge whose responsibility, among other things, includes reaction to complaints about torture. Authors of the law are looking into ways to not apply amnesty or the statute of limitation to individuals convicted under RK CC article 141-1, and to tighten up liability for such crimes.

With the purpose to rule out departmental interests in investigation of that category of cases, amendments were made into art. 192 of the RK Criminal Procedural Code requiring that investigation should be done by police or financial police which initiated criminal investigation against an individual who is not an employee of that organ.

In the reporting year, the Ombudsman's working group on incidents of torture and other cruel forms of treatment continued its work on prevention of torture. The working group visited 24 penitentiary and specialized facilities of the RK Ministry of Interior Affairs for the purpose of monitoring.

Summarizing the above, we have to admit that in the majority of incidents, the measures taken on appeals which are filed with law enforcement organs with complaints about torture and other forms of treatment and punishment committed by officers are not effective and do not yield positive results.

In our opinion, the current situation indicates that victims of torture and other forbidden methods of investigation do not get adequate defense as required by art. 2 of the International Covenant on Civil and Political Rights pursuant to which the government must take steps to ensure that any person whose rights and freedoms recognized in the Covenant were violated shall have effective means of legal defense notwithstanding that the violation was committed by persons acting in an official capacity.

As noted in the beginning of the section, citizens who believe that their rights recognized in relevant multilateral agreements were violated by the state have the right to appeal to UN Committees whose competence Kazakhstan acknowledged.

However, every appeal of Kazakhstani citizens to UN Committees for interference of international human rights organizations into the current situation is accusation of our system of failure to protect human rights; and it is a blow on our country's image.

In this regard, we believe that it is necessary to take all possible steps to eliminate existing incidents of torture and prohibited methods of investigation, to never let them occur in future, to observe the current international standards in the human rights area, to improve citizens' trust to law enforcement organs.

4. Right to Judicial Protection and Fair Trial, Access to Justice

A fair and independent judicial system is a crucial condition for development of democracy, establishment of the priority of person's rights and freedoms, competitiveness of citizens and the state as a whole.

Over the recent years our country has taken strategically important steps which elevated the level and status of the judicial system and of judges, the quality of formation of the judiciary.

Adoption of laws "On the judicial system and the status of judges in the Republic of Kazakhstan", "On the Supreme Judicial Council", RK President's decrees "On Measures for consolidation of independence of the judicial system", "On measures to ensure the functioning of the new system of judicial administration", "On measures to improve the effectiveness of law enforcement operations and the judicial system in the Republic of Kazakhstan" and others played a significant role in those developments.

At this stage, the country has 378 courts of general, administrative, criminal and juvenile jurisdiction.

At the VI conference of judges held last November, the head of state noted that in the judiciary independence indicator of the Global competitiveness ranking, Kazakhstan's judicial system moved 23 positions up and occupied the 88th place. However, efforts on the reform of the legal system and, first and foremost, of its core – the system of justice – should be intensified.

Improvement of operation of courts and the judicial system depends directly on improvement of the relevant legislation: criminal, criminal procedural, civil, civil procedural.

As part of implementation of the 2010-2020 Strategy of the Legal Policy of the Republic of Kazakhstan, new texts of draft Criminal and Penal Codes, Criminal Procedural Code and the Code on Administrative Offenses were put together and accepted by the Mazhilis of the Parliament for discussion.

It should be noted that under new provisions of the Criminal and Criminal Procedural Codes, the competence of judicial organs in criminal justice expand significantly.

Protection from unlawful limitation of human rights and freedoms in criminal proceedings and in criminal investigative operations, from unjustified accusation of a person as well as immediate rehabilitation in incidents of unlawful accusation or conviction are defined as priority objectives of criminal judicial proceedings.

In order to achieve those objectives, the law, for instance, provides for streamlining the order of pre-trial procedures, legal grounds for the instrument of restorative justice; it regulates application of restrictive and injunctive remedies at the stage of pretrial proceedings, adds a new position into the criminal proceedings – the investigating judge.

In 2013, 293 complaints pertaining to the right to judicial protection were filed with the Ombudsman's office. It amounts to 26.7% of the total number of registered complaints. 172 of them are on criminal cases, 104 are on civil, 17 are on administrative cases. And 26 were complaints about actions and omissions of judicial organs.

The biggest number of complaints came from the cities of Almaty, Astana, from Karaganda and East Kazakhstan provinces.

Citizens' appeals received by the Commissioner's office indicate that complaints pertaining to disagreement with court decisions and violations of the procedural legislation in court proceedings still refer, first and foremost, to court hearings on criminal cases.

Members of the public monitoring commission and representatives of media of Zhambyl province appealed to the Commissioner to express disagreement with acquittal of employees of the Taraz city police office #2 A.T. and I.G. who were charged for applying torture against C.C. and K.F.

Results of inspection showed that Taraz city court #2 issued a ruling to re-classify the police officers' actions from par a, art. 141-1 (torture) to part 1, art. 346 of the RK Criminal Code (knowingly unlawful detention, confinement in custody) pursuant to which they were sentenced to restriction of freedom for terms of 2 years and 1 year 6 months respectively. I.G. was acquitted on charges under RK CC par 2, art. 354 (bribery or coercion to give false evidence) because of the lack of evidence of his guilt.

The court found the above-mentioned individuals guilty of bringing C.C. and K.F. from police cells to office 2 of the Taraz city police department without court authorization of arrest. They were illegally held there for more than 3 hours.

Pursuant to paragraph 18 of the Statute on the Human Rights Commissioner approved by the September 19, 2002 Decree #947 of the President of the Republic of Kazakhstan, the Commissioner is not entitled to consider complaints against actions and rulings of courts.

However, in separate incidents when materials of complaints indicate possible breaches of procedural norms, the Ombudsman sends requests to the Prosecutor General's office to review those complaints with the purpose of lodging a note of objection against the issued court ruling.

For instance, Sh.K. appealed to the Commissioner to express disagreement with the April 3, 2012 decision of the specialized inter-district economic court in Akmolinsk province to facilitate re-consideration of judicial acts.

Pursuant to that court decision, the Akbulak company's lawsuit against businessman Sh.K. on removal of hindrances in the use of property and recovery of the lost opportunity was satisfied. In particular, Sh.K.'s company was obligated to take down barriers in the area of common use in the shopping center, to dismantle illegally built boutiques which are leased out and which block free access to the area of the above-mentioned company. In addition to that, the cost of lost opportunity in the amount of 1 005 600 tenge was collected from Sh.K.'s company in favor of the

Akbulak company.

That court ruling was upheld by courts of appeal, cassation and supervisory boards of higher-level courts.

However, according to the complainant, the court decision contained contradictions concerning the private ownership of the shopping center by the plaintiff and the defendant. The court did not study thoroughly the evidence in this civil case. Sh.K. also expressed disagreement with the decision on dismantling the illegally built boutiques given the fact that the plaintiff did not make such a claim.

After the Commissioner's request sent to the RK Prosecutor General's office with the description of the facts relayed by the claimant, that agency informed us that it lodged a note of protest with the Supreme Court's oversight panel on civil and administrative cases regarding cancellation of the issued judicial acts.

Citizens often face red tape in determination of the jurisdiction of cases by judicial organs.

K.O. appealed to the Ombudsman with a complaint against red tape in judicial organs in processing her lawsuit on restoration of her title on the apartment.

According to materials of the complaint, K.O. filed a lawsuit with Auezov district court #2 in Almaty.

October 11, 2012, judge T.N. issued a ruling on rejection of the lawsuit because that case was not in her court's jurisdiction and quoted article 31 of the RK Civil Procedural Code which specifies that lawsuits should be lodged in the area of the defendant's residence.

After the complainant filed a lawsuit with the Zhetysu district court in Almaty in the area of the defendant's residence, on October 25, 2012, judge O.T. issued a ruling on rejection of her lawsuit because that court did not have jurisdiction over the case. In the statement, the judge quotes the July 16, 2007 Resolution #5 of the RK Supreme Court "On some issues of settlement of disagreements pertaining to protection of the housing property rights" according to which lawsuits on housing property rights should be filed with courts in the area of the housing.

November 20, 2012 the appellate panel of the court ruled that the decision of the Zhetysu district court's judge was correct: the lawsuit should be filed with the court in the area where the defendant's housing is located.

As a result, for several months, the complainant had to go to courts which rejected her lawsuit and made her go to another court.

A copy of that complaint was forwarded to the RK Supreme Court for its information. It confirmed the fact of bureaucratic procrastination in processing K.O.'s lawsuit. In this regard, the court will consider the issue of holding judge T.N. responsible.

According to a bilateral memorandum on cooperation between the Ombudsman and the Chairman of the Supreme Court, the Commissioner's office forwards the most typical complaints of citizens to the supreme judicial organization for its information.

In 2013, summarized information on the nature of complaints filed with the Ombudsman was sent to the Supreme Court with 13 copies of challenged court rulings enclosed.

In that document, the Commissioner touched upon issues of the quality of administration in the judiciary, procrastination in processing documents by courts of different levels, disclosed incidents of violation of the requirements of criminal procedural legislation in court hearings, denial to replace the remaining part of jail sentence with more lenient forms of punishment.

More detailed information about the above-mentioned complaints and about the work done on their processing is offered in Annex “Complaints”.

Para 3 of article 39 of the RK Constitution prohibits limitation of the right to judicial protection for any reasons.

However, at present time, poor quality of legal services rendered to citizens, untimeliness and insufficient access to them for persons who need them are the most frequent problems which citizens face.

Citizens’ numerous appeals to the Commissioner’s office with requests to render legal assistance and attend court hearings indicate that the system of arrangement of public legal assistance has a problem.

V.S. appealed to the Human Rights Commissioner in the interests of her son V.M. who was accused of crime.

V.S. disagreed with frequent changes of her son’s defense lawyers in the process of one criminal investigation; it had a negative impact on the quality of his defense.

Citizens submit complaints about unlawful actions of defense lawyers in regard to defended persons.

The Ombudsman received a complaint from B.M. who disagreed with termination of criminal investigation against Karaganda regional bar association’s lawyer S.N.

B.M. was an injured party in a criminal investigation initiated by the inter-regional office of the Temirtau regional financial police on April 17, 2012 against S.N. under RK CC para c, part 2, art. 177 (act of fraud with the use of official power).

According to the complainant, the materials of the criminal case contained credible evidence of S.N.’s guilt in commitment of fraudulent actions. However, the criminal investigation was dropped.

That decision was based on violations of requirements of the RK CPC made by officers of the Karaganda regional department for combat against economic and corruption crimes. They hindered the process of forwarding the case to court.

The Commissioner’s office sent a request to the Karaganda regional prosecutor’s office on a possibility of lodging a note of prosecutorial response with the purpose to resume the criminal investigation and restore the complainant’s rights.

The Strategy of the Legal Policy of the Republic of Kazakhstan sets that instruments for implementation of the citizens’ rights to get professional legal assistance, improved access of lawyers’ services in rural areas should be improved, and the system of administration of the free legal assistance should be adjusted.

Over 4 thousand lawyers work in Kazakhstan. However, the delivery of legal assistance by lawyers in rural areas is nowadays a problem.

Annually, up to two dozens of district courts in rural areas administer justice without engagement of defense lawyers. Rural areas have only one defense lawyer per three judges. By the beginning of 2013, five rural districts in Karaganda province had no defense lawyers at all (<http://articleskz.com/node/3247>).

In 2013, as part of implementation of objectives outlined in the Strategy of Legal Policy, Kazakhstan passed RK Law “On the state guaranteed legal assistance” designed to improve and streamline requirements of the law which regulates delivery of legal assistance.

Pursuant to provisions of the Law, legal assistance guaranteed by the government is rendered in the form of legal information, legal consultations, defense and representation of individuals’ interests in courts, organs of prosecution, other government and non-governmental organizations following the procedures set in law.

Consequently, the law sets obligation for all government organizations to render free legal assistance in the form of legal information within its competence to any person who appeal to them.

L.N.’s complaint indicates that insufficient information and the lack of legal consultation is a problem.

L.N., resident of Almaty city appealed to the Commissioner with a request of support in privatization of housing. The complainant reported that after his father’s death he could not privatize the housing because of illness. L.N.’s repeated appeals to the local government on issues of execution of paperwork on the apartment did not bring positive results.

As a result of efforts of the Commissioner’s office, the fact of the government employees’ failure to provide appropriate information to the complainant on the above-mentioned procedure and the required documents was disclosed.

April 29-30, 2013, the Commissioner took part in international regional conference “Ensuring Women’s Rights: Law and Practice” in Dushanbe held as a part of regional project “Equality before the law: access to justice in Central Asia” with support of the Ministry of Foreign Affairs of Finland, Eurasia foundation and UN Women.

The format of conference gave an opportunity to hold a substantive review of human rights challenges which Central Asian countries face in the area of access to justice. In particular, instruments of state legal assistance, major barriers to justice, quality and access, ways to improve the situation, the role of civil society and human rights institutions, implementation of the Convention on elimination of all forms of discrimination against women into the national legislation were discussed.

The Commissioner forwarded the recommendations developed by the conference to the Secretariat of the National Commission on Women Affairs and Family and Demographic Policy under the RK President.

Execution of judicial acts is the final stage of administering justice. Their effective implementation is an important condition not only for strengthening the nation's legal system but it is also a factor which has a positive impact on operation of business entities, development of the country's investment attractiveness, and is also a pledge of people's trust to justice and state as a whole.

Within the frame of RK law "On Enforcement Procedures and the Status of Judicial Enforcement Officers", further reform and improvement of legislation on enforcement proceedings continues.

Along with that, the practice indicates that as of today, the on-going reform in the area of enforcement proceedings has not resolved all problems related to those proceedings.

In 2013, the Ombudsman received 37 complaints about non-enforcement of court decisions, 24 of those were individual complaints and 13 – collective. We should note that it is 13 complaints more than the number of complaints of this category received in 2012.

Citizens' complaints filed with the Ombudsman confirm that there are certain problems of systemic nature in the area of enforcement proceedings.

With passing the April 2, 2010 RK Law "On Enforcement Proceedings and Status of Judicial Enforcement Officers", Kazakhstan introduced a mechanism of private bailiffs as an alternative to enforcement of judicial documents.

A private bailiff performs his duties on his own behalf and his own responsibility, is independent in making decisions; he finances his operation out of collections received from debtors on judicial documents in the amount of 10%.

The current method of payment for their operation leads to the situation where private bailiffs select only those cases which collect big amounts of money.

There were incidents of violation of the requirements of legislation on judicial executive proceedings by private bailiffs.

The Commissioner received S.N.'s complaint about actions of private bailiff E.M. in Ust-Kamenogorsk.

As part of judicial enforcement proceedings against S.N. a state judicial enforcement officer issued an order on collection of the amount of the debt from the debtor's salary. However, later, the complainant learnt about a ban on her departure from the country imposed as a result of a private bailiff's statement.

The Commissioner's inspection found that, in execution of the judicial document, private bailiff E.M. violated requirements of art. 27 of RK law "On Enforcement Proceedings and the Status of Judicial Enforcement Officers" pertaining to appropriate notification of the debtor on initiation of enforcement proceedings.

On December 9, 2013 the Eastern Kazakhstan Department for Enforcement of Judicial Acts issued order #991 to punish private bailiff E.M. by disciplinary penalty.

Under article 39 of the Law, the execution of court judgments should be completed not later than two months' period of time after initiation of enforcement proceedings with the exception of documents on periodic collections.

Pursuant to par 6, art. 236 of the RK CPC, in incidents of implementation of a court decision, judicial enforcement organs should notify the court which issued that decision during ten working days. In incidents of non-execution during the procedural deadline, they should present written information on the reasons of non-execution.

However, judicial enforcement organs not always observe the above-mentioned requirement of the Law.

Ex-employees of the machinery repairs and casting factory K.N., K.V., M.G. appealed to the Ombudsman complaining about omissions of judicial enforcement officers of the Pavlodar regional Department for Enforcement of Judicial Acts.

Under the August 29, 2012 rulings of the Pavlodar city the above-mentioned citizens' lawsuits against the factory on collection of wage arrears, penalties, compensation for the unused annual leave and moral damage were satisfied.

According to the complainants, for eight months, judicial enforcement officers of the Pavlodar regional department for enforcement of judicial acts did not take effective measures to get the court decision enforced.

The inspection conducted by the Commissioner's office found that in order to ensure execution of the document, May 30, 2013, the judicial enforcement officer issued an order on imposition of a ban on re-registration, re-organization and liquidation of the debtor.

However, the debtor did not own any property including money, which could be used for collection of debts.

And the measures taken by the judicial officer for determination of the debtor's property or incomes did not bring results.

For this reason, pursuant to art. 48 of RK law "On enforcement proceedings and the status of judicial enforcement officers" on May 31, 2013 the judicial officer issued a resolution to return the writ of execution without its execution.

However, the inspection confirmed the fact of the judicial enforcement officer's violation of the timelines and failure to take measures for enforcement of the judicial act. The Director of the Pavlodar regional department for enforcement of judicial acts issued an order holding the judicial enforcement officer responsible for inappropriate performance of his official duties and imposing disciplinary penalties.

Untimely performance of official duties by judicial enforcement officers is often a reason for violation of the right to the freedom of movement.

The Commissioner received a complaint from citizen of the Russian Federation S.N. in the interests of her husband F.U. about delays in lifting a ban for him to leave the territory of Kazakhstan.

F.U. was detained when he crossed Kazakhstani-Russian border because he was under

restrictions imposed on him in execution of judicial enforcement officer's order on a temporary restriction of the debtor's right to leave the country.

According to the complainant, F.U. paid the debt in full. The migration police, however, did not lift the restriction of his right to leave.

Results of our inspection showed that F.U. had paid the full amount of his debt and February 26, 2013 the enforcement proceedings on collection of executive penalties were dismissed because of full satisfaction of the debt.

But the resolution on lifting the ban on his right to leave the Republic of Kazakhstan was issued only on March 28, 2013. For that reason the citizen of the Russian Federation could not use his right to the freedom of movement and return to his state.

For the violation of requirements of art. 9 of law "On the State Service in the Republic of Kazakhstan" a written note of warning on inadmissibility of such violations in future was issued in regard to the public judicial enforcement officer of the Aksu territorial office of the Pavlodar regional department for enforcement of judicial acts.

An example of insufficient coordination of work and interaction between judicial officers and law enforcement organs is shown in T.M.'s complaint.

Pursuant to the March 3, 2011 court decision, T.M.'s lawsuit against businessman M.B. with claims on collection of debt was satisfied.

As part of enforcement proceedings #1092/11-59 of June 3, 2011 debtor M.B. was put on the list of wanted.

T.M. noted that for three years, the law enforcement organs did not take effective steps to establish the wanted person's whereabouts.

After the Commissioner sent an inquiry to the RK Ministry of Interior Affairs, it informed that the debtor's address was established and she committed to pay the debt within six months.

As in previous years, recovery of alimony for child support still remains a wide-spread problem.

It should be noted that judicial enforcement officers' negligent attitude to their official duties is often a reason for lengthy non-execution of court judgments on alimony recovery.

The Commissioner's office received T.N.'s complaint about omissions of judicial enforcement officers of the Eastern Kazakhstan department for enforcement of judicial acts.

Under the April 8, 2009 ruling of the Semei city court, the complainant's ex-husband T.V. was ordered to pay alimony for their under-aged children's support in the amount of 1/3 of all kinds of his earnings.

According to the complainant, during four years, judicial enforcement officers did not take effective measures to recover the due alimony.

Upon the Commissioner's appeal to the Committee for enforcement of judicial acts of the Ministry of Justice and to the Prosecutor General's office it was found that as of March 19, 2013, the debtor had accrued unpaid alimony in the amount of 724 395 tenge. At this stage, the debtor has job, and alimony is collected from his salary.

Herein, it was also found that judicial enforcement officer Z.A. initiated the enforcement

proceedings only on March 4, 2013.

For bureaucratic delays and omissions judicial officer of the Semei territorial section Z.A. was fired from job.

The Eastern Kazakhstan regional prosecutor's office controls execution of the judicial act.

S.D. appealed to the Ombudsman with a complaint about actions of judicial officer of the Astana Department for enforcement of judicial acts (hereinafter, Astana DEJA) A.M.

S.D. stated that though debtor S.K. was found and place of his residence was determined, the court decision on recovery of alimony was not enforced. Her numerous written appeals to the Astana DEJA remained without response.

At the National Human Rights Center's request the Committee for Enforcement of Judicial Acts of the RK Ministry of Justice presented information according to which the debtor transferred his debt in the amount of 59 125 tenge to the control bank account of the Astana DEJA. The complainant was told to provide her banking information for the transfer of the alimony payments.

However, S.D. claimed that she had sent her banking information to the Astana DEJA more than once and she had relevant confirmation documents. But still up to the present time no money was transferred to her account. Besides, the amount of the alimony debt indicated in the Committee's information was lower than the actual amount.

In this regard, the Ombudsman's office requested that the authorized organ should conduct a new inspection and present a statement on determination of the debt and application of disciplinary measures against the judicial enforcement officer for delays in transferring the money collected from the debtor.

In 2013, a summarized information about the profile of complaints received by the Ombudsman on non-enforcement of court judgments with reflection of current problems in interaction between judicial officers and law enforcement organs as well as insufficient control over actions of judicial enforcement officers on behalf of local offices of the Committee for enforcement of judicial acts was sent to the RK Ministry of Justice.

Annex "Recommendations" contains detailed information about the above-described complaints and efforts taken in their processing.

In the reporting year, at the inter-agency meeting of the Prosecutor General's office and the RK Ministry of Justice on consideration of the draft Strategy of modernization of the system of enforcement of court judgments and acts of government organs, the Prosecutor General noted that at present time, only about half of judicial acts are really enforced and only a small amount of money is recovered. For instance, in 2012, only 82 billion tenge or 5% of the almost 2 trillion tenge subject to recovery were actually collected.

In our opinion, the reform of the judicial enforcement proceedings should, first and foremost, be directed at consolidation of the judiciary's procedural control over the process of enforcement of judicial acts.

Along with consistent settlement of issues of material and organizational support of operation of judicial enforcement officers, the level of state and private judicial enforcement officers' responsibility should improve.

Evidently, effective enforcement of court judgments will be possible only in efficient interaction of all government organs, officials and citizens.

5. Citizens' Right to Receive Government Services

The December 14, 2012 Address of the President to the people of Kazakhstan "Strategy "Kazakhstan-2050": a new political course of the established state" determined development of a new type of public administration complying with new objectives of serving the society and consolidation of statehood as one of the priority directions in development of Kazakhstani society.

Last year, the country took a set of measures aimed at improvement of public administration and delivery of government services to population.

March 26, 2013, the law "On amendments and additions into some legislative acts of the Republic of Kazakhstan on issues of public administration" entered into force. Under the law, three corps of government service were formed: the corps of political government servicemen, administrative corps "A" and executive corps "B".

April 15, 2013 Kazakhstan passed the law "On government services" designed to set legislatively and ensure uniform requirements to the procedure of rendering the government services, clear distinction between competences of government organs in the area of services, and improvement of the procedure for delivery of the services.

For the purpose of further development of informational and communication technologies and electronic services, the January 8, 2013 presidential Decree #464 approved state program "Informational Kazakhstan-2020" which determines the major direction of information industry's development till 2020.

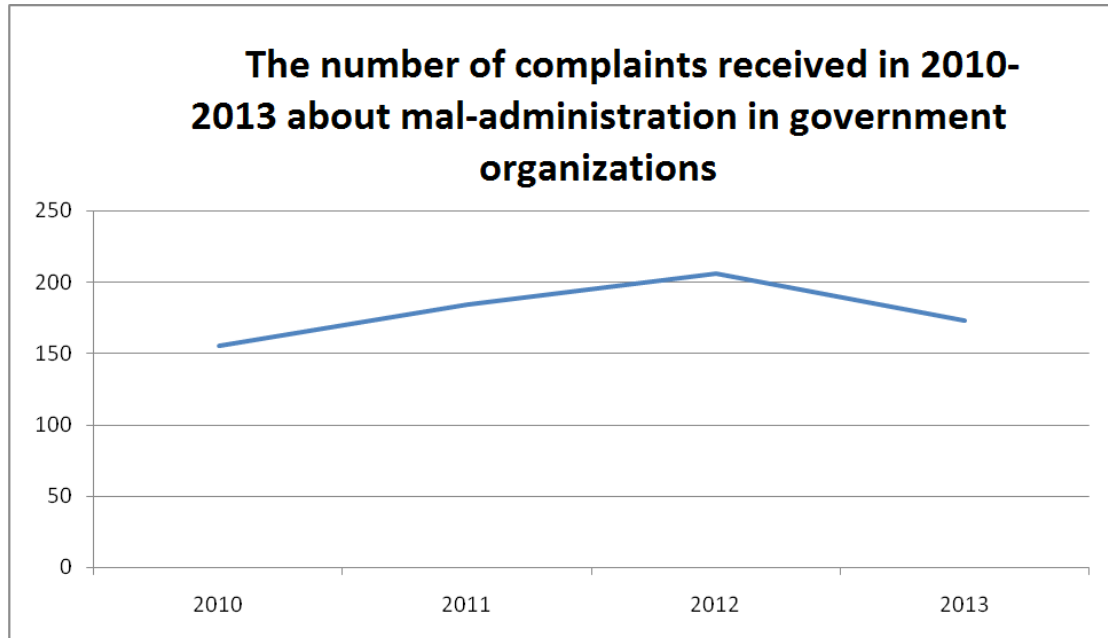
According to the RK Ministry of transport and communication by the end of December 2013, public service centers provided 148 types of government services.

Last year, the public service centers provided more than 16 million services, 1 million services more than in 2012.

As part of implementation of the objective of providing access to government services to wide groups of population including residents of remote settlements, 70 mobile public service centers were put into operation in 2013. They performed over 14 thousand trips, collected over 600 thousand applications, issued more than 700 thousand documents.

Analysis of citizens' complaints filed with the Ombudsman in 2013 shows a tendency towards reduction of the number of complaints about mal-administration in government organizations.

In the reporting year, 175 complaints of this category were filed (206 in 2012, 184 in 2011, and 155 in 2010) 88 of which concerned issues of administration in national government organs, 87 – in local.



Citizens, basically, appeal to the Ombudsman on issues of inappropriatedelivery of services in the area of social support, healthcare, in implementation of housing and land rights.

One of the topical issues raised in complaints is still infringement on citizens' right to adequate housing.

Sh.V. appealed to the Commissioner on the issue of registrationat place of residence and registration of those who need to get housing out of the public housing stock.

According to the complainant, pursuant to a court ruling, he and his family were evicted from the apartment which he owned. As a result, all members of his family lost residential registration.

As part of processing Sh.V.'s appeal on facilitation of residential registration and entering them into the list of people who need housing, the Commissioner's office sent information request to the Karaganda regional governor's office. But the answer which was given by the Shakhtinsk city mayor's office with breach of the one-month deadline, contained just explanation of the current legislation on the procedure for registration of citizens at places of their residence.

Complete and relevant information on the substance of the issue with data on residential registration and adding him to the list of people who need housing from the state housing stock was received only after the Commissioner sent another request.

Herewith, the exchange of correspondence which did not require extensive inspection took

unreasonably long time of ten months.

Resident of Merken district in Zhambyl province, person with disability of the second category D.B. appealed to the Ombudsman requesting his support in getting her personal identification document issued. The complainant said that resolution of that issue was complicated by the fact that she did not have housing, residential registration.

In response to our request of information, the Zhambyl regional governor's office passed it down to the level of the Merken district government which, in its turn, informed only of a list of documents required for registration as a person needing a housing. Its response did not contain information about the results of processing the complaint.

Complete information on D.B.'s appeal was received by the Commissioner's office only after he sent another request. As a result, the complainant received help in getting her ID and relevant registration.

The above-described indicates that incidents of government employees' careless attitude to processing of citizens' appeals, inappropriate work on explanation of requirements of the current legislation occur.

It should be noted that citizens often report on incidents of indifferent attitude of employees, their reluctance to give explanations on issues of customers' interest, and it forces complainants to submit repeated appeals to national government organs.

S.K. appealed to the National Human Rights Center seeking support in getting her child enrolled into a kindergarten.

S.K. as a single mother was registered in a queue. She was number 9601.

After the Commissioner's inquiry with the Astana city mayor's office on a possibility of getting a place in a pre-school institution prior to other persons he received response that the complainant was not entitled to such right because she did not belong to categories of citizens entitled to priorities in enrollment of their children in pre-school institutions under the August 31, 2012 RK Government resolution #1119.

Along with that, the authorized government organization explained the procedure for enrollment into private kindergartens in the frame of the government contracting. S.K. got an opportunity to enroll the child in private kindergarten with 50% fee covered by the government or to attend free pre-school center at school #61 in Astana.

In their response to citizens' appeals, government organizations often do not provide motivated information about decisions made, do not cite specific facts confirming or overturning the complainants' allegations.

The Commissioner received B.U.'s complaint about withdrawal of land parcel and violation of requirements of RK law "On the procedure for consideration of appeals of individuals and legal entities" by the authorized government organs.

B.U.'s appeal was caused by the lawsuit of the Kostanai and Northern Kazakhstan inter-regional inspection of the RK Agency for Management of Land Resources against Petropavlovsk city mayor's office and B.U. with a claim to declare illegal and cancel the resolution on allocation of the land parcel.

According to the complainant, the authorized organs' responses to his requests did not contain motivated facts justifying the lawfulness of the withdrawal of the land parcel which he owned.

The Commissioner sent an inquiry to the RK Ministry of regional development and received a response that an independent commission was established to check the lawfulness of the decision issued by the North Kazakhstan territorial land commission. The findings of the commission did not confirm the complainant's allegations that withdrawal of the land parcel was illegal.

However, for five months, there was no information from the above-mentioned government organization on the findings of the ad hoc commission.

Legislation of the Republic of Kazakhstan provides for citizens' rights to get professional medical treatment free of charge, receive quotas for treatment abroad. However, in the reporting year, the Commissioner received a bunch of complaints against non-implementation of the norms of legislation in this area.

The Commissioner received M.K.'s complaint about actions of the Commission under the RK Ministry of Healthcare onreferring citizens to foreign medical institutions for treatment.

According to the complaint, during consideration of the issue of referring M.K.'s son to a foreign country's medical institution for treatment, requirements specified in the Rules forreferring the RK citizens abroad forhealth treatment covered by the budgetary funds approved by the December 4, 2009 RK Government resolution #2016 were violated.

The complainant also expressed her disagreement with Commission's decision to send her son to the Republic of Belorussia because according to the conclusion of the senior part-time children's hematologist of the RK Ministry of Healthcare of March 19, 2013, allogeneic hematopoietic stem cell transplantation from an unrelated donor was recommended to the complainant's son. Certain hospitals in South Korea, Germany, cities of St. Petersburg and Moscow were recommended.

After its inquiries to the Prosecutor General's office and the RK Ministry of Health, the National Human Rights Center received information that documents of M.K.'s son were reviewed at another meeting of the above-mentioned Commission. It resulted in a decision to send M.R. to a diagnostic clinic in Wiesbaden, Germany.

There were reports on incidents of inadmissible actions of government employees during meetings with citizens.

E.Zh. filed a complaint with the Commissioner that she was beaten by the head of

government of Kalam-Karasu rural circuit in Kostanay province T.K. She also complained about omissions of law enforcement agencies which refused to accept the victim's statement.

The Commissioner's investigation confirmed the fact that bodily damage was inflicted on E.Zh. T.K. was found guilty of commitment of administrative offense. The head of the Zhangel'dy district government issued an order to dismiss him from his post based on decision of the disciplinary council.

In December 2013, media published articles about the incident of abuse committed by Director of the Akmolinsk regional land inspection of the Committee for management of land resources of the RK Ministry of regional development B.K. who beat an expert of that organization (<http://www.khabar.kz>).

According to reports, 21-year-old I.A., expert of the territorial land inspection appealed to the Kokshetau city police department. According to the young woman, the director who was in a state of alcohol intoxication punched I.A. in her face.

January 6, 2014, the executive secretary of the RK Ministry of regional development issued an order punishing B.K. with administrative penalty in the form of dismissal from his post for violation of points 2, 6, 9, 16, 17 of par. 5 of the RK Civil Servants' Code of Honor.

Violations of requirements of RK laws "On administrative procedures", "On the procedure for consideration of appeals of individuals and legal entities", Rules of the RK Government, Model rules for documentation and administration in the government and non-governmental organizations approved by the November 21, 2011 RK Government resolution #1570 are reported systematically.

Frequently, letters sent by government organizations as response to Ombudsman's inquiries are signed by persons who are not authorized to sign, without appropriate documentation on government organizations' letterheads.

A.K. submitted a complaint about omissions of employees of the Astana city housing department. In processing the complaint, the National Human Rights Center filed an inquiry with the Astana city mayor's office. Response was given with violation of the timelines set in law, on a plain piece of paper.

Year on year, we see incidents of violation of timelines which are set in the law for government agencies to respond to information requests of the National Human Rights Center. Herein, delays in provision of information in violation of the timelines established by the current legislation serve a serious hindrance in implementation of the Commissioner's functions laid on him and efficiency of restoration of citizens' rights.

In December 2013, the Commissioner sent a letter to the RK Prime Minister regarding the issue of the quality of government services rendered to people by local government organizations.

The letter touched upon issues of violation of citizens' housing and land rights followed by higher probability of potential social conflicts; of infringement on citizens' rights to favorable environment and good hygiene in some government facilities.

Annex "Appeals" contains more detailed information about the above-mentioned problems.

6. Right to Citizenship

During the reporting time, the Commissioner received 65 appeals pertaining to issues of registration at places of residence, getting citizenship and freedom of movement.

The number of complaints is higher than in previous years. It indicates the topicality of this problem. For instance, in 2012, 40 complainants appealed to the Ombudsman on similar issues, 32 in 2011, and 26 in 2010.

E.A. complained to the RK Human Rights Commissioner about actions of several officers of the Committee of migration police of the RK Ministry of Interior (hereinafter, the Committee) in handling the issue of her departure for the Federative Republic of Germany for permanent residence.

The Commissioner found that there was confirmation of the incident of unlawful demand of documents which were not required under the Rules for filing documents for departure from RK for permanent residence.

In this regard, the migration police officer who demanded unlawful documents deserves strict disciplinary responsibility. However, with the account of the earlier imposed disciplinary penalty in the form of a serious reprimand, the Committee decided that that punishment was enough.

Herein, an instruction was sent to Astana and Almaty city departments of interior affairs on delivery of government services in strict compliance with the established standards, and on holding the management of departments responsible for disclosed violations.

As a result, February 6, 2013, permission was issued for E.A. to leave for the Federative Republic of Germany.

Migration issues can be viewed as a separate set of issues. As a rule, they are not restricted by the territory of one nation, and, in this regard, harmonization of the countries' legislation pertaining to migration of population plays particularly significant role. Efforts made by the Ombudsman brings to the conclusion that the lack of sufficiently unified legislation of countries involved in migration processes serves as a barrier in a person's exercise of his right to freedom of movement. Different approaches and priorities of countries have a negative impact on migrants,

both labor migrants and persons who were forced to leave the territory of their country for various economic reasons.

A number of states pursue a policy which implements the right of a person to return to the home country. Kazakhstan serves a positive example of addressing this issue. For instance, in 1997, the term “oralman” (repatriate) was introduced and the 2011 RK Law “On Migration of Population” streamlined and determined a single legal status for our countrymen who were compelled to leave the country in the past for various reasons.

For that category of persons, the government provides additional support such as allowances, allocation of land parcels and help in getting employment.

Speaking of separate issues of freedom of movement which are thin from point of view of the law, we can mention the problem of registration at place of residence.

A public discussion regarding further development of the mechanism of registration at place of residence is under way in Kazakhstan. Among other participants, Ombudsman also engages in it.

The Ombudsman’s office believes that the most significant goal of that process should be departure from the old understanding of this legal instrument of registration as a method for restriction of citizens’ movement inside their own country as we mechanically tend to understand it, as was entrenched in Soviet tradition. On the contrary, the essence of registration is facilitation of the government effort to provide for implementation of citizens’ rights and freedoms because in Kazakhstan, a number of government services and functions in the area of healthcare, social support, public administration, issuance of documents, military registration, statistics, electoral law, etc. are linked to the mechanism of registration.

As a matter of fact, a citizen without residential registration cannot receive government services guaranteed in law.

A number of appeals on this issue were filed by S.I. who complained about losing registration at the place of residence after withdrawal of his land parcel for government needs. As a result, the complainant faced difficulties in receiving a set of government services.

The Ombudsman’s office believes that further development of the mechanism of registration of RK citizens should follow exclusively the path of onward liberalization and reduction to the minimum of the impact of registration on possibilities for a person to exercise his rights.

It should be noted that last year, productive cooperation with other countries’ Ombudsmen was a specific feature of the Ombudsman’s work.

The Human Rights Commissioner of Volgograd region (hereinafter, VR HRC) appealed to the RK Human Rights Commissioner in the interest of citizen of the Russian Federation V.A.

According to VR HRC, in order to have his relatives rehabilitated as victims of political repression, under the legal procedure, V.A. who was born October 24, 1954 in Temirtau city, Karaganda province needs to get a copy of his birth certificate. Living in the territory of the

Russian Federation, V.A. did not have an opportunity to restore all documents which were required to get his birth certificate.

The fact that members of that person's family – victims of political repression, stayed at specialized settlements on the territory of Karaganda province was confirmed by the Committee for Legal Statistics and Special Records of the Prosecutor General's office of the Republic of Kazakhstan.

As a result of efforts taken by the Commissioner's office a duplicate of V.A.'s birth certificate was issued and forwarded to the VR HRC.

Another example shows that cooperation between Ombudsmen of different countries is often more effective than a concerned person's appeal to the authorized government organization.

The Human Rights Commissioner of Sverdlovsk region (hereinafter, SR HRC) reached out to the RK Commissioner with a request to help in restoration of Z.E.'s rights.

According to SR HRC, Z.E. who moved from the Republic of Kazakhstan to the Russian Federation for permanent residence in her childhood had a duplicate of her birth certificate with indication of her last name issued by the Aktobe city department of justice.

However, other documents of Z.E. including her original birth certificate have her name spelled differently. As a result Z.E. faces problems in implementation of her rights in getting government services.

Upon the Ombudsman's appeal to the Committee of registration services and legal assistance of the Ministry of Justice of the Republic of Kazakhstan, an explanation was provided that the incorrect spelling of the complainant's name was a result of a technical mistake.

However, later it was established that according to other documents identifying her person and according to the documents of her parents the spelling was incorrect.

In order to make changes in Z.E.'s documents a confirmation of the correct spelling of the complainant's last name was sent.

Examples of issues which require immediate solution by human rights organizations without bureaucracy and delays need to be highlighted specifically.

The Human Rights Commissioner of Sverdlovsk region (hereinafter, SR HRC) reached out to the RK Commissioner with a request of help in restoration of Z.E.'s rights.

The Sverdlovsk regional Commissioner for Human Rights (hereinafter, SR HRC) appealed in the interests of an unidentified person who called himself K.R., who lost memory as a result of trauma and could not remember his name for sure.

According to the SR HRC's letter, that citizen was found with numerous injuries of head; he did not have any documents on him, could not remember what country he belonged to, or the date of his birth. Officers of the Federal Migration Service tried to find information about that man; his picture was shown in a popular news program in Sverdlovsk region. However, those measures brought no results.

But Kazakhstan's Ombudsman managed to establish that person's identity. He turned out to be citizen of RK K.R. who lived in Rudny city, Kostanai province. That information was promptly sent to the Russian colleague.

Despite the fact that more than twenty years have passed since the issuance of the last passport of the USSR, every year, the Human Rights Commissioner still receives complaints from people who have that type of identification document.

The Human Rights Commissioner of Trans-Dniestrian Moldovan Republic K.V. reached out to the RK Ombudsman for the purpose of getting the passport of the USSR citizen A.T. who was born in Kazakhstan changed.

A.T. was born in Fedorovka village, Leninsk district, Kostranai province. She asserts herself as a citizen of the Trans-Dniestrian Moldova Republic.

The complainant had to get her USSR passport changed to a passport of a citizen of the Trans-Dniestrian Moldova Republic. To change the document she needed her birth certificate which was destroyed by her ex-husband after divorce. The complainant raises two under-aged children on her own; the youngest child is eight months old. The family's financial standing is extremely poor: she and her children are dependent on her parents. For the above-described reasons, the complainant could not travel herself to get her birth certificate.

At the Commissioner's request a new birth certificate was issued for A.T. Its original was sent to the office of the Human Rights Commissioner in the Trans-Dniestrian Republic of Moldova.

Another citizen of the same country appealed with a similar issue.

B.V. appealed to the Commissioner seeking support in issuance of a certificate of a stateless person for her.

The complainant alleged that she was born January 23, 1962 in Skorenje village, Strashenski district, the Republic of Moldova. In 1992 she came to the Republic of Kazakhstan where she works and lives up to this day. B.V. states that she lost her USSR passport in 2002.

B.V. has three minor children and because of the lack of any identification documents she faces difficulties in receiving public allowances. According to the Ministry of Interior Affairs of the Republic of Moldova B.V. does not have that country's citizenship.

At this stage, the Commissioner's office is working with the authorized government agency on the issue of recognizing the complainant as a stateless person.

The above-described matters on production, restoration or issuance of personal identification documents still remain topical. Legal consequences of the lack of documents are serious because a person finds himself left out of a number of guaranteed government services (medical support, employment, issuance of documents, registration at place of residence, registration of marriage, etc.). B.A., D.R., M.K., T.D., S.R., and others reached out to the Ombudsman's office with the same problems. Efforts made by the Commissioner helped those persons to get the necessary documents.

M.K. and T.D. posted an appeal on the Commissioner's website with a request of support in issuance of personal identification document for disabled person L.A., citizen of the Republic of Kazakhstan for him to travel to the Federal Republic of Germany to get comprehensive medical

treatment which is necessary for his life.

With the account of the vital importance of that issue, the Ombudsman's office resolved the issue of L.A.'s document, he was recognized as citizen of the Republic of Kazakhstan and his personal identification document was issued.

As a result of those efforts, L.A. went to German diagnostic clinic in Wiesbaden for health treatment.

The Commissioner's office received S.R.'s complaint about bureaucratic delays in consideration of the issue of granting him the RK citizenship by officers of law enforcement organs.

It was found that during six months, the complainant repeatedly appealed to the authorized agencies with the purpose to receive information about reasons for delayed processing of his documents.

Upon the Ombudsman's involvement, the complainant's documents were issued and he received Kazakhstani citizenship.

Analysis of the above-described appeals to the Human Rights Commissioner brings us to the conclusion that despite the legal reforms conducted in the country for improvement of the human rights situation in that area, problems of mal-administration in authorized government agencies, red tape and lack of coordinated actions still remain topical.

It is important to note that the problem is, first and foremost, related to the lack of understanding of the current legislation by citizens and insufficient legal-awareness work performed by the government.

7. Property rights

Fundamental international documents, first of all the Universal Human Rights Declaration proclaim every person's right to own property including housing.

The Republic of Kazakhstan creates conditions to provide housing to its citizens. The government provides housing at reasonable prices out of the public housing stock pursuant to standards spelled out in the law to the categories of citizens specified in the law as persons who need housing.

Provision of good quality and affordable housing to people is one of the principal objectives of social modernization.

Implementation of large-scale housing programs is under way in the country: Affordable housing – 2020, the 2011-202 Program of modernization of housing and utilities of the Republic of Kazakhstan. They are designed to improve the situation in the housing market and the quality of housing conditions.

In 2013, as part of the Affordable housing-2020 program, 2.8 million square meters of housing were built. That program provides for the annual growth of the volume of construction bringing it up to 10 million square meters by 2020.

The country's housing stock has more than 110 thousand apartment blocks where practically no maintenance repairs were made since 1990s. Only minor ordinary repairs paid by residents were made. As part of the program of modernization of housing maintenance and utilities in Kazakhstan, a mechanism of budgetary funding of repairs of multi-apartment blocks on condition of repayment was implemented. Apartment owners pay for renovation by fixed monthly installments. In 2011-2012, 17.2 billion tenge were allocated for renovation of housing facilities. More than 1200 buildings were renovated.¹

The problem of implementation of the housing right affects the citizens who do not have housing but try to get it, as well as those who have housing. In this regard, solution of the housing problem as part of housing programs remains as one of the most important objectives. Complaints pertaining to citizens' housing rights are among the most topical issues in the Commissioner's mail. In 2013, the Ombudsman received 81 complaints about the above-mentioned issues.

The long waiting time for citizens to get housing from the public housing stock causes serious concern. In their appeals, complainants note slow progress in queues, difficult housing conditions and family issues; they appeal with requests to facilitate their receipt of some temporary dwelling.

T.A. appealed to the Commissioner with a request to help her get temporary housing.

In her appeal, the complainant noted that she raises two minor children and is registered as a person who needs housing from the public housing stock. Because of the lack of money, T.A. and her children rent a room in a country-side summer cottage. In September, her older daughter should go to school but the problem is that the summer cottage is located far from the school and there is no bus service.

In consideration of this appeal, the Ombudsman's office sent an inquiry to the Astana city mayor's office. According to its response, March 11, 2010, T.A. signed up into a list of people who need housing from the public housing stock for socially vulnerable groups of population under the category of "single-parent families". She is number 6120 in the list. Under the RK Law "On Housing Relations", housing will be provided to T.A. in the order of the list.

The Astana city mayor's office also informed the Ombudsman that 27 233 people were registered as persons who need public housing. In 2013, housing was allocated to people who signed up in 2004.

Analysis of complaints about those issues confirms that issues in the area of housing relations need attention. The issue of providing temporary housing to socially vulnerable groups of citizens grows into a topical issue.

¹www.minregion.gov.kz "On implementation of the 2011-2020 Program of modernization of the housing maintenance and utilities", November 22, 2013

According to media reports, lists of citizens who need housing in other regions of the country are long. For instance, in the Karaganda province, 19 thousand citizens signed up as people who need housing, in Kostanai province – 17 thousand, half of them are socially vulnerable groups of people; in Almaty province – 14 thousand people. Almost 800 thousand square meters of housing are built in Almaty region annually, but the number of people on the housing list does not go down.

It should be noted that as a result of her 2010 visit to Kazakhstan, the UN special rapporteur on issues of adequate housing R. Rolnik stated that long waiting time for social housing is a serious problem in the country. According to information received by the office, families which signed up for housing from the public housing stock have to wait up to 10 years to get an apartment. The special rapporteur recommended that the government should re-consider its strategy and policies in the area of housing construction in order to provide adequate and affordable housing to citizens and families from poor and vulnerable groups of population.

Possession of their own housing and improvement of housing conditions are important components of lives of all young families. In the reporting year, the Ombudsman received appeals from young families where they indicated the factors which hindered their participation in programs of housing construction. In particular, his attention was drawn to the current demographic tendencies, age restrictions for young families who seek participation in housing programs.

As we know, one of the areas of the Affordable Housing-2020 program approved by the June 21, 2012 Resolution of the Government of the Republic of Kazakhstan is construction of rental housing to be sold to young families through the system of savings for housing construction.

Examples are shown in K.Zh.'s and M.A.'s appeals on the need to make changes into state programs of housing construction regarding the age requirement for the "young family" category.

In their appeals to the Commissioner, the complainants expressed their disagreement with the imposition of the age requirement for young families – up to 29 years of age – in state programs of housing construction. In this regard, they noted that in the Russian Federation, a family is considered young if the age of spouses does not exceed 35.

In response to its inquiry the Commissioner's office received information that the Affordable Housing-2020 program was put together following requirements of the July 7, 2004 law "On the state youth policy in the Republic of Kazakhstan" according to which a young family is a family with both spouses under twenty nine years of age, or a one-parent family in which a child (children) is brought up by one parent who has not reached the age of twenty nine including divorced or widowed persons.

At this stage the RK Ministry of Education and Science is drafting RK Law "On the state youth policy in the Republic of Kazakhstan". For the purpose of drafting that law, on December 10, 2012, the RK Prime Minister issued order #228-p on establishment of a working group which includes representatives of the government agencies, mayors' offices, youth organizations. The concept of the law provides for re-consideration of definitions of "youth", "young family".

Implementation of the program of modernization of housing maintenance and utilities causes certain amount of citizens' criticism. Residents of houses which were renovated under that program are dissatisfied with its quality and the cost of services. It should be noted that last year, the Human Rights Commissioner filed a submission with the Prime Minister of the Republic of Kazakhstan highlighting problems in the area of housing and land relations. The text of that submission can be found in the annex of this report.

Separate complaints touched upon incorrect application of the requirements of housing legislation by local government organizations as a result of infringement on citizens' rights.

For instance, citizen V.V. filed an appeal reporting that as a result of local government organizations' unlawful actions his property right to own apartment #44 located at micro-district 3, building 34, Kulsary city, Atyrau province was violated. It should be noted that the Atyrau regional prosecutor's office found that actions of the legalization commission which issued a decision that the above-mentioned apartment was the property of citizen A.N. were illegal. At this stage, the legal title to that apartment is registered on two persons (V.V. and A.N.).

The Zhylyoi district prosecutor's office in Atyrau province filed an order with the district justice department that the infringements on the law should be remedied by filing a lawsuit to invalidate the April 20, 2007 decision #291 of the legalization commission.

However, the legal claims of the above-mentioned department were not satisfied by the Zhylyoi district court. Under the court ruling, such lawsuit should be filed only by the initial holder of the legal title to that apartment. In this regard, it was recommended that the complainant should file a relevant lawsuit with the court himself or through his representative.

Other appeals concerned implementation of housing rights of orphans.

M.O. appealed to the Commissioner with a request to facilitate allocation of housing from the public housing stock because she is an orphan. In her complaint M.O. stated that the government provided for her welfare in the orphanage. At this stage, she is married to M.A., ex-ward of an orphanage. They are raising three children.

The National Human Rights Center sent an inquiry to the Kzylorda regional governor's office which responded that M.O. was registered in the list for social housing in the category of "socially vulnerable groups of population" June 11, 2009. She is number 2878. Pursuant to the February 27, 2013 decision of the housing commission a one-room apartment was allocated to her for temporary residence until she reaches the age of 29. Based on the resolution of the Kzylorda city mayor's office, M.O. and the city department of housing maintenance and utilities, public transport and roads signed a contract on the rent of housing.

T.N. appealed to the Commissioner with a request of support in lifting an arrest of the apartment located at Zheleznodorozhny, SMU-1 street, building 5, apartment 8, Astana. According to the appeal, the complainant and her sister were brought up in the Akkol orphanage #1. According to the certificate of inheritance rights under the law of May 25, 2005, they are heirs of the mentioned apartment in equal extent. According to T.N. she cannot register her share in the title to the apartment on her husband because on November 4, 2005 the Department of the board of trustees imposed an arrest on that apartment.

As a result of efforts made in response to the Commissioner's inquiry, the Astana city department of justice lifted the restriction on the apartment on the basis of the September 4, 2013 letter of the Astana city educational department.

Complaints of insolvent borrowers about issues of re-financing of mortgage loans, disagreement with judicial acts on sale of pledged real property compose a separate group.

Upon receipt of complaints about problems of mortgage borrowers, the Commissioner's office reviewed those complaints and sent inquiries to the authorized organization – the Committee for control and supervision over financial market and financial organizations of the RK National Bank with a request to pay attention to borrowers' problems and provide comprehensive assistance in resolving the issue of re-structuring the loan with provision of affordable conditions for its repayment.

In its turn, the Committee informed the office of the requirements of the current legislation on non-disclosure of banking secrecy to third party and noted that complainants should file a written application with an appropriate bank on re-structuring of the loan and attach documents confirming their current financial and social status.

It also informed that in regard to loaners who encounter difficulties in repayment of loans, banks, in accord with their internal policy, depending on each specific case, exercise an individual approach to each borrower and make decisions on changing the level of debt seniority, re-consideration of payment schedules by method of level payment amortization, partial or complete cancellation of penalties and fines for overdue liabilities and application of other forms of debt re-structuring.

In the reporting year, the Human Rights Commissioner's office attended a training in Issyk-Kul city, Kyrgyz Republic on monitoring and protection of the right to adequate housing. It was arranged by the regional office of the UN High Commissioner for Human Rights in Central Asia. The workshop was attended by international and national experts in human rights area, representatives of Ombudsmen institutions, non-governmental organizations of Kazakhstan, Kyrgyzstan, and Tajikistan.

Participants of the training exchanged methods and approaches in the area of implementation of the right to adequate housing. Kyrgyzstan passed the Housing Code, Tajikistan is working on a new draft Housing Code. Representatives of Kazakhstani NGOs underscored the need in drafting a Housing Code.

Participants of the training expressed their common opinion that national courts are not guided by standards of the International Covenant on Economic, Social and Cultural Rights in consideration of housing litigations; there are also problems in practical application of the law in creation of conditions for providing housing to citizens. Based on results of the workshop, its participants noted the significance of persistent improvement of awareness in the area of rights to adequate housing, understanding of monitoring and protection of the rights to decent housing conditions, strengthening of cooperation between institutions of Ombudsmen and NGOs in that area.

In 2013, the Ombudsman also received 22 complaints about land rights. Issues of land title, use, and termination are regulated in the current legislation. Along with that, incidents when local government agencies ignore requirements of the current legislation in issues directly linked to their competence cause serious concern.

The most illustrative example is A.A.'s complaint about infringement on his land property right by the Tselinograd district land management organizations of Akmolinsk province. A.A. obtained the title to a land parcel pursuant to the July 31, 2003 resolution of the district administration, based on the sale and purchase contract and the relevant legal act on the title to that property.

However, since 2006, the Tselinograd district administration has been giving parts of the parcel to third parties.

A.A. repeatedly appealed to the Tselinograd district administration as well as to the Tselinograd branch of the Akmolinsk regional scientific and industrial center of land cadaster. In their responses, those agencies asserted that the unified state cadaster of land resources did not contain any information on that land parcel.

However, pursuant to point 12, par. 3, art.14-1 of the RK Land Code, registration of holders of titles for land property and land users is responsibility of the authorized organizations of districts and cities of regional significance.

Thus, the lack of appropriate registration of land owners in Tselinograd district in Akmolinsk province, local government organs' disregard of requirements of the current legislation led to the infringement on A.A.'s rights.

After interference of the Commissioner's office, the Akmolinsk regional prosecutor's office disclosed that from 2006 to 2009, the head of Koshy rural administration in coordination with officials of authorized government organizations, gave the land parcel owned by A.A. to 9 people for individual housing construction. As a result, those land parcels overlapped with the land parcel owned by the complainant.

November 29, 2013 the Tselinograd district prosecutor's office of Akmolinsk province registered the materials of their inspection in the book of registration of appeals, statements and other information on crimes, incidents. They were forwarded to the inter-regional office of financial police of the Tselinograd district for issuance of a procedural decision pursuant to article 185 of the Criminal Procedural Code of the Republic of Kazakhstan.

December 12, 2013, the Tselinograd district prosecutor's office lodged an order with the head of Tselinograd district administration on elimination of the infringement on the law.

The above-described situation shows that a number of gross violations of the law were made by local government organizations with regard to the lack of appropriate registration of land parcels, Tselinograd government's unlawful allocation of land owned by its legal owner to other persons whereas the owner's land title was in legal force, issuance of A.A.'s land property file by the Tselinograd district office of the Akmolinsk branch of the scientific industrial center of land cadaster only after he reached out to higher-level government organizations.

Another example is the complaint of O.Z., resident of Saryagash district in South Kazakhstan province about unlawful seizure of the land parcel owned by her, and omissions of the local government.

During its inspection, the Commissioner's office found that the title to land used and owned by residents of Koshkarata settlement for several generations was handed over to O.Z. for private ownership.

Pursuant to requirements of the Land Code, a transfer of the land title to a private owner requires participation of local government organizations which could not be unaware of the actual possession of the land by residents of that settlement.

Evidently, the rights and legal interests of residents of the whole settlement were not taken into account in performance of that procedure. It caused significant social tension.

Analysis of citizens' complaints about land and housing disputes shows that there is a tendency of local government organizations referring the complainants to court for settlement of disputes in those areas. To a certain extent, it contradicts the national-level policy of development of prejudicial forms of settlement of disputes.

Citizens have to defend their rights and legal interests in courts, have to resort to expensive services of lawyers, and go through exhausting court proceedings whereas in a number of such complaints, efficient settlement of issues can be reached locally, without going to courts.

The Commissioner received a collective complaint from Michurinets organization about disagreement with withdrawal of land parcels in the area of Bukhtarma reservoir. Earlier those lands were given to citizens by the Zyrianovsk city mayor's office in the East Kazakhstan province. At the Commissioner's request, the East Kazakhstan regional prosecutor's office carried out inspection which disclosed violation of requirements of the land legislation by the Zyrianovsk district government. It was found that the November 30, 2005 resolution of the afore-mentioned government "On the transfer of the land from one category to another" changed the original targeted designation of reserved land located on the coast of the Bukhtarma reservoir to the land for recreational designation, thus, the land of the reserved land category changed to the category defined in point 4, par. 1, art. 1 of the RK Land Code (lands of preferentially protected areas, lands of recreational, historical and cultural designation).

However, pursuant to article 130 of the Code, lands of forest reserves can be transferred to other categories unrelated to forestry only by the RK Government. Thus, by issuance of the afore-mentioned resolution, the Zyrianovsk district government exceeded its authority established in RK Law "On local government". The Zyrianovsk district prosecutor's office submitted a protest against that resolution of the district government.

Pursuant to article 26 of the land Code, the land of forest reserves cannot be the property of private owners. In this regard, the Zyrianovsk district prosecutor's office initiates lawsuits to be filed with courts to invalidate and revoke the Zyrianovsk district government's resolution on transferring the title to land which was illegally re-classified from one category to another, and on cancellation of government acts on land, land purchase and sale contracts.

There are 1771 land parcels on the Bukhtarma coast. In 2011, the Zyrianovsk district prosecutor's office filed lawsuits on 12 parcels; in 2013 – on 38 parcels. They were satisfied in full. The prosecutor's lawsuit on 18 parcels is under court proceedings.

To relieve social tension, the East Kazakhstan regional prosecutor submitted a letter with the Prosecutor General's office on raising the issue of removing the land parcels from the stock of public forest reserve. The Zyrianovsk district prosecutor was instructed to suspend the process of filing lawsuits on invalidation and cancellation of the district government's resolution on government acts, land sale and purchase contracts till more instructions are issued by the RK Prosecutor General's office.

As a result of non-observance of requirements of the land legislation by the Zyrianovsk district government, property rights of land owners were violated.

Other examples of citizens' complaints about infringement on their land rights are cited in the above-mentioned submission which the Ombudsman sent to the Prime Minister of the Republic of Kazakhstan.

Inspections conducted by prosecutors indicate violations of requirements of the land legislation. For instance, the Kzylorda regional prosecutor's office disclosed 463 offenses pertaining to non-observance of the timelines set for consideration of physical and legal persons' applications on allocation of land parcels by local government organizations, non-enforcement of court decisions on allocation of land parcels (in fact, only one of twenty court decisions was implemented), allocation of land parcels in water protection zones to physical and legal persons in Kzylorda.

During the recent five years, the Almaty regional prosecutor's office disclosed over 280 crimes in the area of land relations. The offenses include allocation of land with deviation from their designation, illegal allocation of land parcels in nature preserves or lands with historical and cultural value.

The issue of forcible expropriation of land parcels for state needs still keeps its topicality and causes wide public reaction. It is confirmed by media's permanent attention.

According to practice, when local government organizations carry out land expropriation procedures or demolition of housing, not always do they take the issue of the land and housing owners' future fate into account. It often results in citizens' grievance and public protest actions. Unreasonable delays in payment of due compensations occur frequently.

In separate incidents, citizens express disagreement with the size of compensation paid for withdrawn land parcels which they owned as private property and which was designated as land for gardening. At the same time, we should note that under the current legislation, in incidents of withdrawal (purchase) of a land

parcel, another piece of land of similar designation can be allocated in replacement of the withdrawn land. Summer cottages, other constructions should be used in compliance with their designated purpose.

In the context of the above-described, we should note that under the current legislation, a number of issues in the area of housing and land relations fall under the competence of local governments. However, complaints received by the Human Rights Commissioner about infringement on housing and land rights indicate the need in educational campaigns for population in the area of housing and land legislation, observance of the requirements of the current legislation by local government organizations, international standards, strengthening government control by the authorized national government agencies in the areas discussed.

8. Labor rights

Protection of the citizens' constitutional rights including labor rights is one of the priority areas of the activity of the Human Rights Commissioner of the Republic of Kazakhstan.

Provision of decent employment is considered to be the basis of social protection of population, the most important condition for development and implementation of the capacity of human resources, the principal instrument for the growth of social wealth and improvement of the quality of life. Last June, the Prime Minister approved new comprehensive program "Roadmap of employment-2020". Its implementation is supposed to employ more than 4.2 million people in the nearest 10 years.

In this regard, according to assessments of the RK Statistics Agency, in December 2013, the number of unemployed amounted to 466 thousand people, bringing the level of unemployment to 5.2% which is 0.1% less than in December 2012.

In December 2013, the RK economy employed 8.6 million people. Compared to the similar period in 2012, their number increased by 74.9 thousand people or 0.9%. The number of hired employees in that period of time amounted to 6 million people (69.7% of the total number of employed). By the end of December 2012, 30 thousand people were officially registered in organizations of the RK Ministry of Labor and Social Protection as unemployed (with the exception of people who participate in program "Roadmap of employment-2020). The share of the registered

unemployed was 0.3% of the economically active population (in December 2012 it was 0.4%)².

A decent level of salaries guaranteed by the Constitution is a similarly significant component of people's social protection. Since January 1, 2013, the minimum size of salaries is set in the amount of 18 660 tenge, a 7% growth compared to the previous period of time; the level of an average monthly salary of Kazakhstani citizens in December amounted to 137 043 tenge.

Along with that we should note that infringements on citizens' rights occur in the area of labor relations. The bulk of them are related to mal-administration and negligent attitude to requirements of the current labor legislation caused, as a rule, by the lack of the employer's responsibility and preventive steps by the authorized government organizations.

In 2013, the Commissioner received 68 complaints pertaining to labor rights. The nature of complaints indicate that in practice, citizens still continue to face employers' unlawful actions, in particular, unlawful firing, infringement on the right to be paid salaries in due time and in full amount, payment of social allowances, conclusion of employment contract, non-enforcement of court rulings on reinstatement in a job, collection of arrears, etc.

Practice shows that in consideration of citizens' appeals, employers commit serious violations.

B.A. reached out to the Commissioner with a complaint about actions of the acting Director of national state enterprise "National Center for Examination of Pharmaceutical Products, Items for Medical Use and Medical Equipment" (hereinafter, NSE).

According to the complaint, B.A. was employed by NSE as deputy chief accountant from August 24, 2009 till August 24, 2010 based on the employment contract which specified that in cases when the term of the contract expires, during one day, no party requested termination of labor relations, the contract is considered to be extended to an unspecified term. Under those circumstances, she continued to perform her official duties.

However, with the appointment of a new Director on January 30, 2013, violations of the labor legislation against employees began. In particular, a disciplinary penalty and order on dismissal were issued against the complainant.

The Commissioner's office sent inquiries to the authorized government organizations. The Almaty state labor inspection along with the Almalinski district prosecutor's office in Almaty conducted an inspection. Based on its results an order on elimination of the disclosed violations was issued to the management of NSE. B.A.'s disciplinary penalty was lifted; the order on termination of her employment contract was cancelled.

K.O. appealed to the Commissioner complaining about unlawful and unreasonable

²[Http://ca-news.org](http://ca-news.org)

decision to dismiss her from performance of official duties as a result of the audit made by her employer ArcelorMittal Temirtau.

According to the complainant, the employer audited the company's supply service. Its results disclosed a number of violations committed by employees of the audited departments of the company. Later, the reported violations were challenged by K.O. and other employees. The employer, however, did not take steps towards an impartial assessment of the situation.

Along with that, K.O. complains that the management of ArcelorMittal-Temirtau company created unfavorable working conditions which for a long time, did not let her perform official duties. Besides, irrelevant functions were imposed upon her.

As part of consideration of the complaint, the Commissioner sent an inquiry to the Committee for Control and Social Protection of the Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan. Results of those efforts established that following repeated appeals of the complainant to the Karaganda regional department for control and social protection, unscheduled inspection of the ArcelorMittal-Temirtau company was made. It resulted in disclosure of violations in issuance of the order on unlawful dismissal of employees including the complainant; failure to provide working conditions complying with employment and collective bargaining contracts. Based on the disclosed violations, the employer was brought to administrative liability in the form of a fine; orders on elimination of violations of the RK legislation were issued.

The employer filed a lawsuit with claims to get the order ruled as unlawful under the civil court proceedings. However, a relevant court issued a ruling to not satisfy the claims.

Consequently, the order issued for the employer stays in force and should be inviolately implemented.

At this stage, K.O. continues to work in the company, in the same position. She performs her duties in accordance with her job description.

T.M. appealed to the Commissioner with a complaint about acting Director General of the national state enterprise “Ohotzooptom” of the Committee for Forestry and Hunting Issues of the Ministry of Environmental Protection of the Republic of Kazakhstan (hereinafter,NSE) S.B. and his deputy O.S.

In his letter, the complainant alleges that the NSE management systematically violates requirements of the labor legislation in regard to employees. He also considers that his dismissal was unlawful.

As part of consideration of the complaint, the Commissioner’s office lodged inquiries with the Almaty city mayor’s office, the Prosecutor General’s office, the RK Ministry of Environmental Protection. Following the Commissioner’s inquiry, the Almaty state labor inspection checked the NSE regarding allegations made in the complainant’s letter. It resulted in disclosure of a number of violations of the labor legislation against the complainant by the NSE management. The labor inspection issued an order on elimination of the disclosed violations of the labor legislation by the NSE. December 27, 2013, acting Director General S.B.’s employment contract was terminated. His deputy O.S. was punished by disciplinary penalties in the form of a reprimand for violations of the law.

Regarding the issue of reinstatement in job, T.M. filed a lawsuit with the Turksib district court in the area of the defendant’s location, in compliance with the national legislation.

Following the requirement of the RK Constitutional Law “On the judicial system and the status of judges of the Republic of Kazakhstan” on inadmissibility of any interference in court proceedings in administration of justice, the Commissioner’s office recommended that the complainant should wait for the decision of that court.

An important issue in securing the labor rights is properly written employment contract which allows legal evaluation of actions of the parties, definition of their legal consequences, and determination of the entity to be held responsible before the employee if the employer’s commitments are not implemented.

G.G. appealed to the Commissioner with a complaint about violation of the labor legislation and of the terms of the employment contract by Director of the Astana school-gymnasium #30 (hereinafter, the school).

According to the appeal, the complainant and the school director concluded an employment contract for one academic year. The author reports that under the contract, her workload was 23 mathematics classes a week. But because of illness, the complainant had to take health treatment in a hospital. After her return to work, G.G. found out that the director cut her workload by 17 hours originally assigned to her. In this regard, the author of the appeal considers that the director violated the terms of the above-mentioned employment contract.

In reviewing the appeal, the Commissioner's office sent an inquiry to the Astana city mayor's office. On its basis, the Astana city education department along with the Astana city labor inspection checked operation of the school and established that pursuant to the September 2, 2013 employment contract #10, the complainant received the workload of 23 classes a week and 2 hours of home studies.

October 8, 2013 newly hired math teacher C.Zh. took over 17 classes which were originally assigned to G.G. However, that issue was not checked with the complainant. The employer violated art. 48 of the RK Labor Code.

As of today, G.G. received 11 additional classes a week.

For violation of requirements of labor legislation, the Astana city labor inspection imposed an administrative fine on the school.

T.A.'s complaint is one of the examples of how employer ignores fundamental norms of labor legislation, in particular, par. 1, art. 85 of the RK Labor Code, which sets that termination of an employment contract with pregnant women, with women who have children under three years of age, with single mothers who are raising children under fourteen (children with disabilities under eighteen), with other persons who are raising the above-mentioned category of children without mother, at the employer's initiative is not permitted.

T.A. appealed to the Commissioner with a complaint about unlawful termination of her employment contract by the employer.

According to the complaint the author worked according to the October 31, 2011 contract as commercial representative of the corporative sales group of the business development department of the K-Cell joint-stock company's Atyrau branch. A letter dated October 22, 2012 was sent to the complainant with notification of termination of the employment contract due to its expiration beginning October 31, 2012. October 29, 2012 an order was issued to dismiss the complainant on the above-mentioned grounds.

However, in the time when she received the notification and when she was dismissed, the complainant was on a maternity leave.

The Commissioner sent an inquiry on this complaint to the Committee for Control and Protection of Population of the RK Ministry of Labor and Social Protection.

According to information provided by that Committee, public labor inspector checked documents pertaining to the complainant's labor relations and disclosed violations of norms of labor legislation in her dismissal. He issued an order for the management of Kcell company to remedy the violations.

In its turn, Kcell filed a complaint with the main public labor inspector of the Republic of Kazakhstan seeking revocation of the September 17, 2013 inspection report and order #63 on elimination of violations of the RK labor legislation issued by the public labor inspector.

The senior public labor inspector of Almaty issued a decision to recognize that the above-mentioned acts comply with the relevant current legislation, and that they should not be revoked.

Consequently, the October 29, 2012 order of Kcell company on termination of the complainant's employment contract was ruled invalid and inapplicable.

In his speeches, the head of state repeatedly raised the issue of youth employment including the issue of probationary period for newly hired employees. However, complaints filed with the Commissioner indicate that employers ignore requirements of the current labor legislation and the policy pursued by the government.

B.K. appealed to the Commissioner with a complaint about unlawful termination of his employment contract at the employer's initiative.

In reviewing the appeal it was established that under the October 15, 2012 order, the complainant was employed as the chief dispatcher of the Gasprom company's office in RK in Astana (hereinafter, the company). The employment contract signed on October 15, 2012 set a probationary period of three months. December 27, 2012, B.K. received a notification that he failed in the probationary period and that on January 15, 2013 his employment contract will be cancelled. However, pursuant to par. 1, art. 37 of the Labor Code of the Republic of Kazakhstan (hereinafter, the Code) such notification should be issued not earlier than seven calendar days prior to expiration of the probationary period.

The Commissioner sent an inquiry regarding this appeal to the Committee of Control and Social Protection of the Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan.

According to the explanation given by the authorized government organization, in contradiction to the norms of the Code, the company handed the notification to B.K. on failure in the probationary period 13 days earlier than specified in the above-mentioned article of the Code. Along with that, the Committee recommended that the complainant should appeal to court because the issue of reinstatement in job is the issue of labor dispute.

Another set of problems is related to issues of non-payment of salaries.

In the framework of the of the RK Ministry of Labor and Social Protection of Population staff meeting on summarizing the results of 2013, the amount of companies' wage arrears was reported. By the beginning of 2013, 92 companies had arrears of non-paid wages of 9 thousand employees exceeding 1 billion tenge in total. In 2013, public inspectors of labor disclosed arrears of 793 companies in the amount of 4.3 billion tenge. Through joint efforts of the Ministry of Finance, Ministry of Justice and the Prosecutor General's office arrears of wages of 46 thousand employees were settled in the amount of 4.7 billion tenge. Thereby, as of January 1, 2014, 74 companies had wage arrears amounting to 738 million tenge. In the total amount of arrears split by regions, Almaty city accounted for 20.3%, Karaganda province for about 18%. Almaty and Aktobe provinces had no wage arrears.³

The Ombudsman permanently receives complaints about that issue.

³<http://bnews.kz>

Citizen of the Republic of Bulgaria N.D. appealed to the Commissioner about non-paid salary.

The complainant states that February 17, 2013, he arrived in Kazakhstan at the invitation of the ROMAT company in Pavlodar to provide consultative services on construction of pharmaceutical factories. However, in violation of the contract concluded by the parties, the complainant's salary has not been paid since March 1, 2013.

According to information provided by the Committee for Control and Social Protection of the RK Ministry of Labor and Social Protection of Population in response to the Commissioner's inquiry, its competence extends to issues resulting from labor relations, not services.

Along with that its inspection showed that March 15, 2013, the complainant received 373353 tenge paid to him according to the statement on completion of work.

Along with that, we should note that prosecutors make persistent efforts to protect citizens' labor rights, particularly regarding the timely payment for labor.

In the reporting year, prosecutors initiated 18 criminal investigations pertaining to protection of citizens' labor rights, submitted more than 2700 petitions of oversight which led to holding 2422 individuals liable under the law.⁴

Complaints received by the Commissioner confirm incidents of violation of labor rights both in state and private companies and organizations.

Certain problems in the labor area are related to operation of transnational companies in Kazakhstan. They often focus on production, and pay less attention to the social component including provision of social and labor rights of Kazakhstani citizens.

G.T. reached out to the Commissioner with a request to explain the procedure for implementation of his rights and freedoms in labor area, in particular, protection from discrimination in compensation for labor of employees-residents of RK and foreign employees.

According to the appeal, G.T. is a teacher in an international school in Kazakhstan. Foreign specialists work at that school along with locals. The author alleges that there are signs of discrimination against local employees at that school.

In order to obtain complete information on the posed issue, the Commissioner's office sent an inquiry to the authorized government organization – the Committee for control and social protection of the Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan.

Based on the response of the authorized organization, explanations of the norms of legislation pertaining to compensation for labor of local and foreign specialists performing equal work were given to the author of the complaint.

⁴<http://prokuror.gov.kz>

Issues of labor safety and improvement of conditions for production operations still remain unresolved. It results in high level of workplace injury, mutilation and professional diseases of employees. Traditionally, employers rarely consider labor safety issues as priority. In the reporting year, the Ombudsman received several complaints about payment of compensation for workplace infliction of harm to employees' health (complaints of A.N., S.S., N.E., A.A., and others). In consideration of those complaints, the Commissioner's office sent inquiries to the authorized government organization – the RK Ministry of Labor and Social Protection of Population. Explanations were given to the citizens on their right to appeal to court on issues of compensation for the harm inflicted to their health as a result of workplace injury.

Despite the accomplished measures, the problem of implementation of citizens' labor rights remains unaltered year on year, confirming the need in further improvement of protection of labor rights, in tightening up the employers' responsibility for their violation and creation of conditions for full-scale labor activity.

In his article containing a program of action "Social Modernization of Kazakhstan: Twenty Steps towards a Society of Universal Labor", the head of state set an objective to create an effective multi-level mechanism for regulation of contradictions in the area of labor relations. Following this guidance, a working group for monitoring in social and labor areas was set up under the Commissioner. Its members are representatives of the RK Ministry of Labor and Social Protection of Population, Prosecutor General's office, Federation of Trade Unions, National economic chamber "Union "Atameken", representatives of civil society and scholars.

In the reporting year, the working group visited Kazakhstan's biggest metallurgic enterprise ArcelorMittal Temirtau. Based on results of the visit, the Ombudsman filed a submission with the Prime Minister reporting on the problems in the area of labor relations in ArcelorMittal Temirtau company, the working group's proposals on prevention of social discord at the enterprise, and on further improvement of the labor legislation. In the light of the above-reported, the Government took further measures pertaining to labor and industrial issues at the ArcelorMittal Temirtau.



Visit of the Working Group under the Ombudsman to monitor social and labor conditions in “ArcelorMittalTemirtau” enterprise

Current developments aimed at stronger protection of human rights require permanent improvement of the tools for establishment of a favorable socio-economic field which would secure the citizens’ labor rights. Its concept is laid down in the Kazakhstan-2050 Strategy.

9. Right to Social and Retirement Support

Every person’s right to retirement support, decent standards of life which guarantee satisfaction of person’s major needs, safety in social risk situations are enshrined in international documents. They determine major directions in development of national systems for people’s social protection including the system

of social security in the Republic of Kazakhstan as a participant in fundamental international agreements in that sphere.

The recent social transformations had a significant impact on the quality of lives of older generations and of socially vulnerable categories of people. Kazakhstan has established a multi-level system of social security. It annually makes upward revisions of the sizes of pensions and social allowances.

In 2013, pursuant to the December 25, 2012 resolution of the Government of the Republic of Kazakhstan “On Increasing the Size of Pension Payments from the Public Center for Pension Payments Beginning January 1, 2013”, pension payments were increased 9%.

According to the RK Ministry of Labor and Social Protection of Population, the country has more than 1.8 million pensioners. The average size of pensions in 2013 amounted to 41790 tenge. About 4 million people receive annual social allowances paid out of the national budget. Those are people who, for reasons beyond their control, cannot work yet or any more, cannot earn for their living themselves.⁵

In his address to the people of Kazakhstan “Strategy “Kazakhstan-2050”: New Political Course of the Established State”, the head of state highlighted the need in permanent improvement of the system of social and pension support.

Last year, the country established its Unified Pension Savings Fund which is a legal successor of all existing pension plans and accumulates all pension assets accrued through mandatory retirement deductions which were earlier distributed among private pension savings funds.

Establishment of the unified pension savings fund was accepted by the population quite optimistically because operation of private pension funds always stirred certain doubts regarding their investment operations and fair distribution of investment incomes.

The issue of a stage by stage increase of women’s retirement age up to 63 turned into a subject of serious debates and discussions in the society. The draft law put together by the Government proposes that the retirement age for women should be increased step by step during 10 years, beginning 2014, and adding 6 months annually. It was noted that the need in increasing the length of women’s participation in the retirement savings plan, increase of the size of their savings and the global tendency towards population aging demanded the unification of the retirement age.

The issue of the stage by stage increase of women’s retirement age was also discussed at a meeting of the experts’ council under the Commissioner. At the meeting, representatives of the Federation of trade unions, scholars, lawyers voiced their approaches to that issue.

After the wide and controversial debates in the society, the head of state proposed that the increase of women’s retirement age should begin not January 1,

⁵www.enbek.gov.kz

2014 but January 1, 2018. Later, the text of the law proposed by the country's President was adopted.

We should note that as the share of older people in the society grows, the concept initiated under the Madrid International Action Plan on Ageing, in particular, building a society for people of all ages becomes more topical.

As part of drafting the 2014-2020 Plan of Actions for Further Improvement of the Status of Older People in the Republic of Kazakhstan, the Commissioner's office lodged proposals with the RK Ministry of Labor and Social Protection pertaining to old people's rights to health protection, protection of private property, improvement of measures for occupational rehabilitation of persons who stay at medical social institutions for old and disabled persons.

According to the global ageing index on the status of pensioners in 91 countries of the world, published on October 1, 2013 by non-governmental organization Help Age International, Sweden was recognized as the best country for older people. Norway and Germany were among the top three countries. The status of older people was evaluated according to four key domains: income security, health status, employment and education, and enabling environment. The authors of the report underscored that in the mid-XXI century, the share of people above 60 years old in the world will double. The number of old people will amount to 2 billion 31 million, whereas the current number is 809 million people.

One of the important directions of the Human Rights Commissioner's activities is consideration of complaints about rights of pensioners and socially vulnerable categories of citizens. In 2013, the Ombudsman received 48 complaints about issues of pensions and social support. Most of those complaints concerned disagreement with the minimum size of pensions, the procedure for its computation, re-computation of pension payments, provision of material support, and issues of payment of social allowances, compensation for the harm inflicted to health in workplace.

Separate appeals were related to the procedure for enrollment, living conditions in medical social facilities for old and disabled persons, provision of social assistance to single old persons at their homes. In consideration of such appeals, the complainants received explanations on the current legislation of RK.

Some other complaints concerned retirement support to pensioners who moved to Kazakhstan for permanent residence or left Kazakhstan for other CIS countries.

The Human Rights Commissioner of the Adygey Republic of the Russian Federation reached out to the Commissioner in the interests of pensioners Sh.V. and Sh.S. with a request to help them in receiving pension payments for six months after their departure from the Republic of Kazakhstan to the Russian Federation.

Till November 2011, the complainants lived in Taraz. November 26, 2011, they left for the Russian Federation for permanent residence. They received their pension payments for the period till November 30, 2011. During the first six months after their departure from the Republic of Kazakhstan to Russia, up until pension support was assigned to them pursuant to the December 17,

2001 RF Federal law “On Labor Pensions in the Russian Federation”, the complainants were left without means of subsistence and were dependent on their daughter.

The Human Rights Commissioner of the Republic of Adygey noted that the Russian Federation has spelled out its citizens’ right to pension support in incidents when they leave the Russian Federation for other countries including Kazakhstan. The procedure of six months advance payment of pensions to citizens of the Russian Federation before their departure from the Russian Federation to another country for permanent residence is spelled out in section II of the Statute on the procedure for pension payment to citizens departing (having departed) from the Russian Federation. It was approved by the July 8, 2002 resolution #510 of the Government of the Russian Federation. Similar norms were introduced in national legislations of other countries-participants of the Agreement.

In response to the Commissioner’s inquiry, the RK Ministry of Labor and Social Protection reported that under the current pension legislation, pensions and allowances are paid to persons departing from Kazakhstan to other countries for permanent residence during their time in Kazakhstan including the month of their deregistration in the offices of the Justice Department.

In this regard, payment of pensions to the authors of the complaint stopped December 1, 2011. The RK pension legislation does not provide for the six-months advance payment of pensions to persons leaving for the Russian Federation.

Pursuant to article 7 of the March 3, 1992 Agreement on the guarantees to citizens of member-states of the Commonwealth of Independent States in the area of pension support, in incidents of pensioners’ movement within the boundaries of the countries participating in the Agreement, pension payment at the place of their previous residence stops if a pension of the similar type is stipulated in legislation of the country of their new residence.

However, due to different terms for assignment of pensions to retired persons who moved within the boundaries of CIS countries they face situations when for some time they do not have opportunities to exercise their lawful right to pension support. In the light of the above-reported, it seems useful for the authorized government organization in the area of social protection to study CIS countries’ procedures and conditions for assignment of pensions in movement of pensioners from Kazakhstan to other countries-participants of the above-mentioned Agreement for the purpose of securing the right of pensioners to retirement support.

The Human Rights Commissioner of the Republic of Kazakhstan continues to receive complaints of pensioners who retired before January 1, 1998 with the length of service of 30-35 years. Grim consequences of the 1990s transition period characterized by unemployment which was a result of sweeping scale of state enterprises’ bankruptcy left that category of pensioners with the minimum amount of pensions.

A number of pensioners failed to file statements on their wages because of the down-time at their enterprises or reduction of production volumes; or else they filed wage statements but those were not sufficient for assignment of pensions above the

minimum size. In this regard, further re-computations did not change the situation: the mentioned category of pensioners is still paid pensions of the minimum size.

In their complaints, they note violation of the principle of social justice, inconsistency of the pension size to their labor contributed and to wages they were paid at that time.

Examples are complaints of the following pensioners: K.S. had pension assigned in 1993 with her total length of service of 25 years and average monthly wage of 6878 roubles. At this stage, she receives pension in the amount of 20295 tenge and basic pension payment of 9330 tenge; L.N.'s length of service is 36 years 10 months but because she does not have a statement of her average monthly salary she was awarded the minimum size of pension in the amount of 19939 tenge and basic pension payment of 9330 tenge; S.V. had general length of service of 30 years and 8 months and the average monthly salary of 1252.6 tenge; her pension is 24789 tenge and basic pension payment 9330 tenge.

With the account of pensioners' health conditions, the pensions they receive are not enough to cover increasing needs in medicine, food, public utilities costs. A lot of pensioners believe that the pension legislation does not defend them to a sufficient degree and does not ensure such living standards which they enjoyed when they were in the active working age. With the account of the fact that pension is their sole source of income, pensioners are economically dependent on it.

It should be noted that the Ombudsman underscored the above-mentioned problem in recommendations sent to the RK Minister of Labor and Social Protection of Population last year. However, pensioners' incoming complaints about this issue indicate that problems exist and systemic measures need to be taken to improve the procedure for computation of pensions of the above-mentioned categories of pensioners.

It is worth noting that based on results of its consideration of Kazakhstan's 2010 report on implementation of the International Covenant on Economic, Social and Cultural Rights, the UN Committee for economic, social and cultural rights recommended that the country take effective measures to increase the sizes of basic minimum pensions in order to ensure a decent standard of life for pensioners and their families.

The issue of social protection of self-employed persons who do not participate in pension saving plans still keeps its topicality. As we know, they often work without contracts of employment, their sick leaves are not paid and no deductions are saved in pension funds. Pension support and social security under the current legislation extends to self-employed persons who work within the legal field; their number is insignificant.

According to the RK Statistics Agency, in the 3 quarter of 2013, the number of self-employed persons amounted to 2.6 million people. A significant number of self-

employed persons engaged in agricultural works (54.2%), in the area of commerce (25.3%), transportation services (6.5%), and construction (6.1%).⁶

It should be noted that based on the results of consideration of Kazakhstan's above-mentioned report, the Committee for economic, social and cultural rights expressed concern that the country's system of social security was not all-inclusive, and as a result, a part of population including self-employed workers, persons engaged in the informal sector of economy were deprived of due protection. In this regard, the Committee recommended that the system of social security should be extended to self-employed workers, persons engaged in the informal sector of economy, other categories who are in unfavorable conditions. The Committee also called on Kazakhstan to consider a possibility of ratification of ILO Convention #102 concerning minimum standards of social security.

The issue of social security of Kazakhstani citizens who worked at enterprises in Baikonur which did not make any pension deductions to Kazakhstani pension funds also requires attention.

For instance, D.N. appealed to the Commissioner on the issue of transferring his pension savings as of a citizen of the Republic of Kazakhstan who worked in the educational system of Russia from January 1994 till August 2008, from the pension fund of the Russian Federation to a pension fund of Kazakhstan.

In response to the Commissioner's inquiry, the RK Ministry of Labor and Social Protection of Population informed that under the Russian Federation's law "On the mandatory retirement insurance", since January 1, 2002, residents of Baikonur who work at Russian enterprises pay insurance fees for mandatory retirement insurance to their personal accounts in the pension fund of the Russian Federation for assignment of accrued and insurance components of pension payments. Herein, the above-mentioned fees are paid not from employee's income but from the payroll budget; those fees are not personified.

The law does not provide for a transfer of pension savings accrued in the Russian Federation in incidents of person's moving to the Republic of Kazakhstan.

Consequently, citizens of the Republic of Kazakhstan who worked at enterprises in Baikonur and received wages from the Russianside, did not contribute any pension fees into Kazakhstani pension funds. Further on, when that category of citizens reaches the retirement age they will have to receive pensions of small size because they do not have pension savings.

We should note here that the Human Rights Commissioner sent proposals to the Ministry of Labor and Social Protection of Population pertaining to pension security of Kazakhstani citizens on the territory of Baikonur, retirement deductions to Kazakhstani pension funds, and, among other things, look into expediency of making amendments into international agreements regarding contribution of retirement fees to

⁶www.strategy_2050.kz. "In the 3 quarter of 2013 the number of economically active people in RK amounted to 9.1 million people."

Kazakhstani pension funds by Kazakhstani citizens who work on the territory of Baikonur.

An important aspect of implementation of citizens' social rights is payment of social allowances provided by the current legislation in time and in full amount. However, in separate cases, citizens' right to social security is infringed as a result of failure of the authorized government organization in the area of social protection of population to observe requirements of the current legislation.

I.N. appealed to the Commissioner on the issue of non-payment of the full amount of survivors' social allowances specified in the current legislation. July 10, 2012 the complainant's son D.B. was born. The child's father D.K., I.N.'s common-law husband died during performance of official duty. The complainant also reported that it took a long time to collect documents because the local office for payment of pensions did not give her complete information about the documents required for assignment of social allowances.

As a result of actions taken at the Commissioner's request, I.N. in addition to the survivors' public social allowance in the amount of 15301 tenge was awarded a share of social allowance per dependent in the amount of 11894 tenge from November 22, 2012 till January 6, 2018 as specified in the RK law "On Mandatory Social Support".

In the reporting year, the Ombudsman received several appeals concerning disagreement with judicial acts on issues of non-payment of compensation for the harm inflicted to health at workplace, restitution of moral damage. In consideration of those appeals the Commissioner's office gave explanations to the citizens on their right to appeal court decisions in higher level courts, appeal to prosecutor on possible submission of a petition against issued judicial acts.

Another group of appeals referred to facilitation in receiving social and material assistance to socially vulnerable categories of population.

K.A. appealed to the Commissioner with a request of facilitation in getting places in a summer camp for his two daughters and receipt of material assistance. In his appeal the complainant reported that he moved to Astana from Kzylorda province. He is a single father of two minor daughters; his salary is low. The situation is aggravated by unsatisfactory housing conditions.

In response to the National Human Rights Center's inquiry, the Astana city mayor's office reported that the summer camp accepts only children who attend Astana city educational institutions. With the account of the fact that K.A.'s daughters are assigned to a school located at Toretam station in Kzylorda province, it was recommended that he should appeal to the Kzylorda regional department of education. Another recommendation was that he should appeal to social security organizations on the issue of assignment of monthly allowances for children under 18 and a targeted social assistance.

For the purpose of rendering additional material assistance to K.A., a request was sent to charity organization "Zhaksylyk alemi".

One of the directions of the Human Rights Commissioner's activity is monitoring over respect to the rights of socially vulnerable categories of citizens in

medical and social institutions. Last year, employees of the National Human Rights Center visited public institutions of social security system, healthcare and education in West Kazakhstan and Pavlodar provinces.



Ombudsman's Office representatives are visiting the medical-social facility for elderly and disabled persons in Uralsk (West Kazakhstan province)

The monitoring results indicated under-development of the system of professional rehabilitation of persons with disabilities, older people, shortage of buildings for labor rehabilitation, non-observance of requirements of the Standard for Special Social Services in the area of social security in conditions of in-patient facilities which was approved by the October 28, 2011 resolution of the RK Government. It requires placement of tenants in rooms with the account of their age and psychological compatibility. Particular attention was paid to operation of the quarantine department in the Uralsk medical and social facility of general type for old and disabled persons, and others.

Based on results of the human rights monitoring the Ombudsman filed a submission with the Chief of the Office of the Prime Minister of the Republic of Kazakhstan with a request to issue assignment for relevant government organizations

to take steps required for elimination of the disclosed shortcomings. The text of this submission can be found in this report's annex.

Upon consideration of the Human Rights Commissioner's submission by relevant government organizations, the Ministry of Labor and Social Protection reported that in general, the analysis of the results of the National Human Rights Center's visit to organizations of the system of social security, healthcare and education in West Kazakhstan and Pavlodar provinces was reviewed and put under control of this Ministry and provincial governors, mayors of Almaty and Astana.

Inspections of medical and social facilities by the Ministry's Committee for control and social protection will be arranged to check their compliance with requirements for provision of special social services. The Ministry also works on improvement of those standards with the account of proposals filed by local government organizations.

As part of implementation of the human rights institution's educational activity, an employee of the Commissioner's office gave a lecture for social workers providing special social services in regions of the Republic of Kazakhstan. The topic was "Protection of single old and disabled persons: local practice and foreign experience". Social workers learnt about international standards, national legislation pertaining to protection of rights of single old people and persons with disabilities, about activity of the Human Rights Commissioner in that area. In discussion of the topic, social workers received explanations on issues which they raised.

In the context of the above-reported, we should note that complaints filed with the Human Rights Commissioner about issues of pension and social security, human rights monitoring of operation of social facilities, information in media about the above-mentioned area indicate the need in improvement of pension legislation as part of the on-going modernization of the country's pension system, implementation of education campaigns by authorized government organizations with explanation of directions in reforms in social security area to the population, implementation of recommendations of international treaty bodies of UN, observance of rights of socially vulnerable categories to special social services, development of activities of non-governmental organizations in the area of protection of citizens' social rights.

10. Right to Health Protection

In the Strategy "Kazakhstan-2050": New Political Course of the Established State", the head of state designated priority directions in development of healthcare in our country, specifically, introduction of unified standards for the quality of medical services throughout the country in the framework of the long-term modernization of the national healthcare system, and improvement and harmonization of material and technical equipment of medical institutions.

In recent years, a lot was done in that area: state program “Salamatty Kazakhstan” is successfully implemented, indicators of maternal and infant mortality improved, innovative methods of diagnostics and disease treatment are developed, transport medicine is developed, new diagnostic and treatment centers open, etc.

We see reduction of child mortality, and UN experts assert that our country can reach the fourth Millennium Development Goal of “Reduction of child mortality” by 2015.

Celebration of the 35 anniversary of the Almaty Declaration on the Primary Health Care was a significant highlight of the reporting year. Last November, an international conference on “Innovative primary healthcare to ensure universal coverage with healthcare services” was held in Almaty. That conference turned into an international forum for practical workers and scientists from more than 50 countries of six regional bureaus of WHO for exchange of experience, ideas and knowledge on capabilities of primary healthcare assistance and development of that area in the nearest future.

But despite the achieved results, we have to note a number of existing problems in that area. They can be traced through complaints filed with the Ombudsman.

In 2013, the Ombudsman received 68 complaints about infringement on the right to healthcare and medical assistance which is a slight increase compared to the previous year. In 2012, he received 52 written and 11 verbal complaints.

In their appeals, complainants still raise issues of infringement on their rights in the area of medical services, in particular, inappropriate delivery of medical help, failure to get a quota to treatment, complaints against actions of medical workers, doctoral and diagnostic errors, etc.

Kazakhstan recognizes the right to health protection as a constitutional right of every person. Accessibility of healthcare assistance and permanent improvement of the quality of healthcare assistance are among the principles of the state policy in the area of healthcare.

Along with that the Ombudsman still keeps receiving complaints against low quality of delivered healthcare services, violation of the ethical norms by medical workers, cancellation of complainants’ registration with out-patient clinics without their knowledge.

For instance, since 2011, the Commissioner’s office has controlled D.Z.’s appeal regarding a biased investigation of a criminal case on the death of her under-aged son in the Kostanai TB hospital.

That example was quoted in the Ombudsman’s 2012 report but at that stage the investigation was not completed.

During 2.5 years, exchange of correspondence with law enforcement organs was done. The investigation took a long time.

It was only in 2013, that the criminal investigation was completed. Materials on indictment of medical workers of the above-mentioned medical institution K.A., B.S., B.L. for commitment of

crimes specified in part 4, article 114 of the RK Criminal Code were forwarded to Kostanai city court #2.

The Commissioner received B.A.'s complaint about actions of medical workers of the railway out-patient clinic in Kzylorda city who did not register her for prenatal care because of the early stage of her pregnancy. They ignored the woman's age and complications related to early toxicosis. Besides, the complainant's registration with the health center was cancelled without her consent.

At the Commissioner's request investigation was carried out. Its results disclosed violations in the delivery of medical assistance and non-observance of medical ethics and deontology by medical workers.

In this regard, under the June 7, 2013 order #121-O of the chief physician of the Kzylorda city railway hospital, deputy chief physician Y.M. and obstetrician-gynecologist T.R. were punished by disciplinary penalties in the form of a reprimand.

The complainant was registered according to the place of residence. The Kzylorda regional department of healthcare took the issue of delivery of medical assistance to her under its control.

Besides, a workshop on ethics and deontology was arranged for medical workers.

Our country's legislation provides for citizens' right to get good-quality health treatment free of charge. However, in their complaints, citizens report that norms of legislation in that area are not implemented.

A set of complaints referred to obtaining quotas for treatment in our country and abroad. After repeated appeals to the RK Ministry of Healthcare some of them were resolved positively.

For instance, B.P. appealed to the Ombudsman seeking support in his admission to the national hospital for treatment bladder stone and other diseases.

In his letter, the complainant alleged that medical workers discriminated against him and unreasonably denied admission to the national healthcare institution.

After submission of an inquiry to the Ministry of Healthcare, the complainant was admitted to the Scientific Center of Urology named after academician B.Jarbusynov, Kazakhstan's leading medical institution for specialized urological medical help. B.P. took in-patient treatment as part of the guaranteed free medical assistance.

K.A. and H.E. sent a complaint to the Commissioner about the Ministry's practice of quota issuance and referral of children to foreign countries' medical organizations for transplantation of donors' stem cells.

According to the complainants, the RK Healthcare Ministry's Commission on referral of citizens to foreign countries' medical organizations for health treatment violates norms of legislation in processing documents of applicants who seek referral to medical organizations abroad. The complainants also reported that in most cases, children's parents themselves had to look for donors.

April 5, 2013, after the Commissioner's appeal to the RK Healthcare Ministry, a meeting of the Ministry's Commission on referral of citizens to foreign countries' medical organizations reviewed medical documents of K.I. and H.K.

Following the findings of medical examination and experts' assessment, the Commission issued a decision to send K.I. to the Institute of Children's Hematology and Transplantology named after R.M.Gorbachova, and H.K.– to the Medical Park healthcare center (Istanbul, Turkey).

A matching donor was found for K.I. and beginning May 6, 2013, the boy received treatment in the above-mentioned hospital. May 5, 2013, H.K. was admitted to hospital.

A category of disability in our country is established pursuant to the Rules for conducting medical social expert examination approved by the July 20, 2005 resolution #750 of the RK Government. Medical social expert examination is done on the basis of an appointment card issued by medical consultative commissions of healthcare organizations.

In some incidents, determination of a person's disability is a mandatory procedure for determination of his status. Citizens' health problems do not facilitate their employment. For that reason, social allowances paid to certain categories of population are a significant input into their life support.

Complaints about healthcare organizations which refused to issue appointments for medical social examination to persons with evident indications of disability form a separate group.

Resident of Karaganda E.R. appealed to the Commissioner about non-delivery of eye treatment at place of residence. E.R. suffered from visual deterioration since 2005.

According to information received from the RK Ministry of Healthcare, in March 2013 E.R. was referred to medical social examination. However, the complainant was actually sent to the examination last October, after appeal of the Commissioner's office.

It is confirmed by information from the Committee for control and social protection of the Ministry of Labor and Social Protection according to which the complainant was first examined on October 8, 2013 by the Karaganda regional office for medical social expert examination #2.

Based on the conclusion of physicians after the complainant's additional examination, she was assigned the 3rd degree of disability under category of "common disease".

Complaints against actions of medical workers make up a separate group. At the same time, complainants themselves do not follow medical workers' recommendations on additional check-up or treatment.

Resident of Almaty province T.U. appealed to the Ombudsman alleging that since 2003 she has not received the treatment that she needed, and that she was denied a quota for health treatment. In her appeal, T.U. asked to provide a quota for her to get treatment abroad.

According to information received in response to our inquiry, the complainant was given multiple recommendations on getting more profound check-up to determine an accurate diagnosis in

the Almaty regional oncological center and Kazakhstan's scientific research institute of oncology and radiology in Almaty. But the complainant did not go to those organizations.

Under the Rules of referral of Kazakhstani citizens to treatment abroad approved by the December 4, 2009 resolution #2016 of the RK Government, the complainant's disease is not included into the list of diseases of which Kazakhstani citizens are referred to treatment in foreign countries' clinics.

In order to provide the necessary health assistance it was again recommended that the complainant should get check-up in Kazakhstan's health institutions.

Citizens also raised issues related to delivery of specialized medical assistance on some types of diseases.

K.A. appealed to the Ombudsman with concerns over suspension of surgery operations for cochlear implantation and probability of never doing them in Kazakhstan any more.

At this stage, the complainant's son who had his first surgery for cochlear implantation now prepares successfully to go to a regular school.

According to information of the Healthcare Ministry received in response to our inquiry, the Ministry takes steps to develop audiology assistance in regions. For instance, the September 5, 2013 meeting of the National Steering Council on issues of healthcare discussed the issue of inter-agency coordination in delivery of assistance to children with hearing impairment. A decision was made to arrange performance of surgery operations for cochlear implantation in regions of the country and provide for pre- and post-operation pedagogical (hearing and speech) rehabilitation. In this regard, a number of assignments were issued to the Ministries of Education and Science, Labor and Social Protection of Population, and to local government organizations.

At the same time, a decision was made to continue cochlear implantation surgery to the following categories of children: children under three years of age and patients with late on-set hearing impairment, and also patients after meningitis and neuro-infections.

Surgery for cochlear implants to other categories of patients will resume after settlement of rehabilitation issues which have cross-sectorial nature and fall under the competence of the Ministries of Healthcare, Labor and Social Protection of Population, Education and Science.

The Healthcare Ministry holds that issue under its control.

The non-governmental sector also regularly highlights issues of delivery of health assistance with appliance of the latest achievements of science to population. For instance, Director of Agep'C fund Birukov S.A. permanently raises the issue of access and quality of healthcare assistance to people with hepatitis, addition of various modern types of diagnostics and treatment into the package of the guaranteed healthcare assistance.

Examples of complaints about infringements on the rights to healthcare and medical assistance from convicts in penitentiary facilities or from their relatives are quoted in section "Rights of Convicts".

Media regularly reports on incidents of physicians' errors, unprofessional actions of medical workers resulting in people's death or disability.

For instance, an incident of infecting children with hepatitis C in the Astana city center of maternity and childhood caused wide public response. Parents allege that more than 30 children suffering from leucosis were infected with hepatitis C.

Pursuant to par. 15, 16 of the Statute on the Human Rights Commissioner, he communicated that issue to the Healthcare Ministry through correspondence. He learnt that a commission was established made up of representatives of the Healthcare Ministry, Prosecutor General's office, and non-governmental organizations. Findings of the inspection have not been presented so far.

At the same time, KTK TV channel reports that the inspection made by the commission failed to find any fault of the doctors of the above-mentioned medical center in mass infection of children with hepatitis C.

For instance, a medical error resulted in amputation of 45-year-old resident of Almaty province S.K.'s leg. She was diagnosed with obstruction of popliteal artery at the Almaty multi-profile clinical hospital in Malaya Stanitsa. After treatment the woman developed gangrene. As a result her leg was amputated.

After that, the woman appealed to the RK Health Ministry. But its inspection did not find any guilt of doctors who had treated the woman.

At this stage, S.K. prepares a lawsuit to court with claims of restitution of moral and material damage. She also asks that the guilty doctors be punished (source: www.tengrinews.kz of October 1, 2013)

The right to health means that the government should create such conditions under which people receive relevant medical services, have healthy and safe working conditions, decent housing, nutritious and safe food.

Summarizing all this up, we should note that operation of the healthcare system in contemporary conditions should be aimed at stronger coordination between branches, including coordination in development of healthy life style, improvement of the quality of social and psychological environment, people's awareness and involvement in the management of the healthcare system.

11. Rights of Persons with Disabilities

Overall protection of persons with disabilities and creation of conditions for implementation of their capabilities are among the major objectives of a socially-oriented state.

Viewing the problems of persons with disabilities through the prism of human rights brings us to understanding that disabled persons are not recipients of charity support or objects of decisions made by other people, but they are full-fledged holders of rights.

After Kazakhstan signed the Convention on the Rights of Persons with Disabilities and its optional protocol, it works on preparation to ratification of those international documents and their implementation into the national legislation.

Last year, implementation of the first stage (2012-2013) of the 2012-2018 Plan of actions for provision of the rights and improvement of the quality of life of persons with disabilities in the Republic of Kazakhstan approved by the January 16, 2012 resolution of the RK Government was completed. It was designed to ensure accessible environment, improvement of living standards and integration of persons with disabilities into the society.

The Human Rights Commissioner's office along with the Association of women with disabilities "Shyrak" drafted and submitted proposals to add events related to provision of rights of persons with disabilities in the area of education, healthcare, labor activity to the draft plan of the second stage (2014-2015) presented by the RK Ministry of Labor and Social Protection.

It should be noted that based on results of its consideration of the 2010 report of Kazakhstan on implementation of the International Covenant on economic, social and cultural rights, the UN Committee for economic, social and cultural rights expressed concern about difficulties faced by persons with disabilities in implementation of economic, social and cultural rights, particularly regarding equal opportunities in employment, education, healthcare and housing with the account of disability.

In this regard, the Committee called on the government to adopt a national strategy and plan aimed at ensuring the same economic, social and cultural rights to persons with disabilities as the rest of population enjoy; and to allocate means for full and effective implementation of the law "On Social Security of Persons with Disabilities in the Republic of Kazakhstan".

The number of persons with disabilities in Kazakhstan amounts to 609 thousand or 3.9% of the total number of population⁷.

In order to develop positive attitude to problems of disability, development of the creative capacity of persons with disabilities, the country held the first national contest "Different – Equal" last year. 6 thousand people participated in it.

Protection and encouragement of the rights of persons with disabilities are among important areas of the Human Rights Commissioner's activity. In 2013, the Ombudsman received 39 complaints pertaining to the rights of persons with disabilities. There is a steady flow of citizens' appeals on disagreement with decisions of local offices of medical social experts examination on denial, re-consideration of categories of disability.

⁷www.enbek.gov.kz

The Commissioner received D.E.'s complaint filed on behalf of P.E. about decision of the medical and social experts commission on denial of assigning a disability category to her.

According to the complaint P.E.'s diagnosis is double cochlear neuritis, right-side deafness, neuro-sensor left-side hearing impairment of the IV degree. Every year, P.E.'s hearing gets worse. She is raising two minor children. The situation is aggravated by the lack of employment opportunities because of the hearing impairment.

Upon the Commissioner's interference, August 21, 2013, P.E. got an additional consultation at an expanded meeting of the section of methodology and control of medical and social experts commission.

Based on results of impartial examination and analysis of medical documents including information of the additional check-up by the hearing specialist who confirmed P.E.'s diagnosis made by doctors at the in-patient clinic, experts came to decision to assign P.E. the third category of disability, without any requirements for re-evaluation with the account of the list of anatomical defects which allows assignment of a category of disability without any requirement for re-evaluation.

Another complaint was filed by K.L. on behalf of her daughter Z.L. about disagreement with conclusions of the board of medical and social experts, actions of the Department for control and social protection of East Kazakhstan province.

Results of inspection done by the East Kazakhstan regional prosecutor's office at the Commissioner's request showed that in 2003, Z.L. was certified as a person with the third category of disability. However, future re-evaluation cancelled her disability certification.

However, that decision of the board of medical and social experts was challenged by Z.L.'s mother in court, and the court ruled that the decision was unlawful.

The above-mentioned prosecutor's office also reported that the complainant arranged an examination by independent experts who confirmed Z.L.'s earlier diagnosis and stated that there were grounds for her certification as a person with disability.

But since 2010, Z.L.'s disability was not re-instated. No steps were taken by the authorized government organization to remedy violation of her rights.

Based on the disclosed violations of the law by officials of the Department of control and social protection of the Ministry of Labor and Social Protection of Population who infringed on Z.L.'s lawful right to determination of disability, the regional prosecutor's office issued an order on elimination of broken law and on holding the guilty persons responsible in the disciplinary order.

It should be noted that in their written complaints, and at meetings, persons with disabilities and people who appeal on their behalf often report on the lack of impartial, transparent procedure for determination or re-evaluation of the degree of disability. In separate cases, elements of corruption crimes in those issues are reported.

In the context of the above-described, it seems efficient that the authorized government organizations in the area of healthcare, social security of population should take effective measures for improvement of the procedure for referral and performance of citizens' health examination, more responsible approach of boards of medical social experts.

A serious barrier in implementation of their rights by persons with disabilities is failure to observe requirements of RK Law “On Social Protection of Persons with Disabilities in the Republic of Kazakhstan” which sets a 3% quota of jobs for disabled persons.

Employers often refuse to hire persons with disabilities because they are sure that disabled persons will not cope with the assigned work or that their employment will require significant expenses needed for creation of specific working conditions. The root of such attitude is fear and stereotypes which assign more importance to a person’s disability than to professional skills.

Other factors which hinder implementation of their right to labor by persons with disabilities is the lack of appropriate education and professional training, of access to transport, work place, and infrastructural facilities.

According to the RK Prosecutor General’s office, because of system-level weaknesses, only 15% of the 425 thousand disabled persons capable of working were employed.⁸

Attention is caught by separate incidents of persons with disabilities encountering local governments’ passive attitude whereas under the current legislation, they are entrusted with ensuring disabled persons’ employment.

It should be noted that in his address to the people of Kazakhstan “Strategy “Kazakhstan-2050”: New Political Course of the Established State”, the head of state underscored the importance of creation of conditions for employers to actively engage socially vulnerable groups of population into work and pay them salaries. First of all, it refers to persons with disabilities.

The Human Rights Commissioner was approached by the Chairman of the Astana Association of Voluntary Societies of Invalids (hereinafter, the Association) who expressed disagreement with the denial of the Astana city mayor’s office to allocate a land parcel for construction of an industrial base of a specialized enterprise for persons with disability. In his appeal the complainant reported that the Association incorporates 5700 disabled persons, 3900 of them are capable to work and are high-skilled specialists.

In consideration of this appeal, the Commissioner’s office sent an inquiry to the Astana city mayor’s office with a request of information on the reasons for denial of allocation of land to the Association, and consideration of other options which will create jobs for persons with disabilities.

The Astana city office of architecture and city planning responded to the above-mentioned inquiry and explained that the city mayor’s office suspended allocation of land till determination of the list of specific sites and communication lines required for construction of premises for the International specialized fair EXPO-2017. The Association’s request will be considered upon completion of those works.

However, no response came from the local government on other options for creation of additional jobs for persons with disabilities.

⁸www.prokuror.gov.kz Staff meeting of the RK Prosecutor General’s Office. November 7, 2013

In some incidents, rights of persons with disabilities are infringed because employers ignore requirements of the labor legislation of the Republic of Kazakhstan.

E.I., person with disability of the 2nd category, appealed to the Ombudsman with a complaint about violation of his labor rights by the management of pension savings fund “Respublica”. Beginning June 2007, the complainant worked at pension savings fund “Respublica”. But the employer did not observe the requirements of article 224, 228 of the RK Labor Code which set shorter working day, additional paid annual leave for employees with disabilities. The complainant’s appeals to the management of that organization did not bring positive results.

The inspection made at the Commissioner’s request established that on E.I.’s April 11, 2008 written appeal to the employer, with the disability certificate enclosed, the terms of his employment contract were not changed to add guarantees provided for persons with disabilities.

At the same time, the employer violated requirements of articles 224, 227 of the RK Labor Code. The complainant was engaged in overtime work without his written consent. The overtime was not paid (violation of art. 127 of the RK Labor Code).

March 4, 2013, E.I.’s employment contract was terminated pursuant to par. 1, art.51 of the Code (termination of employment contract on agreement of the parties). However, the complainant was not paid the full amount of compensation for non-used days of the annual leave.

Based on the findings of the inspection, the Almaty city Department for control and social security issued an order on elimination of the disclosed violations and imposed administrative fines on pension savings fund “Respublica”.

In the light of the above-reported, informational and explanatory work with persons with disabilities, the authorized government organization’s control over observance of the rights of that category of citizens are important.

Complaints of persons with disabilities about the procedure for delivery of individual aid’s assistance, poor quality of rehabilitation means purchased by local governments under the government procurement contracts make up a separate group.

An example is an appeal of persons with vision impairment of the Atyrau branch of Kazakhstani society of blind persons who reported that individual aides’ low salaries and the requirement to stamp the time sheets at every place that they visit with their individual aides complicate the work of individual aides and frequently lead to their quitting the job.

The persons with disabilities also complained about referral to extended care and resort therapy with no account of their illnesses, the poor quality of technical appliances for rehabilitation purchased by local government organizations as part of the government procurement program.

At the Commissioner’s request, the RK Prosecutor General’s office carried out inspection and established that based on results of the tender for government procurement contracts, public organization “Shuak” provides services of individual aides to persons with the 1st category of

disability in Atyrau. That NGO and the city department of employment and social programs signed a services contract.

The Rules for delivery of social services of an individual aide to persons with disabilities of the 1st category who have movement difficulties (approved by the July 20, 2005 resolution of the RK Government) do not contain any requirements on records from places visited by persons with disabilities (by signatures or stamps of organizations in time sheets). But in violation of those rules, NGO “Shuak” required confirmation by organizations which persons with disabilities visit by putting their stamps on the timesheets. In this regard, the Atyrau regional prosecutor’s office issued an explanation to “Shuak” NGO on proper use of the law and on implementation of its commitments under the contract.

Allegations about malpractice in arrangement of extended care and resort therapy, in supply of aidsto persons with vision problems were also confirmed. The Atyrau regional office for coordination of employment and social programs implemented government procurement of services on extended care and resort therapy without taking the disabled persons’ specific illness. There were incidents when persons with vision disabilities were given video-players (which are not included into the list of individual rehabilitation equipment) instead of audio-players.

The Atyrau regional prosecutor’s office issued an order on elimination of the disclosed violations by the office of coordination of employment and social programs.

The low quality of individual rehabilitation programs (hereinafter, IRP) put together by local authorized government organizations causes certain criticism on the part of persons with disabilities. IRP is designed to determine a set of rehabilitation measures, conditions and schedule of a disabled person’s work, training and re-training needs, the needs in prosthetic and orthopedic appliances, wheelchairs, etc.

According to non-governmental organizations, IRPs are put together without the account of disabled persons’ individual needs, with no statement of their need in specific technical means for rehabilitation; development of social, medical, and professional parts of IRP is bureaucratic; the level of professionalism of social workers who develop IRPs is insufficient whereas such important process as rehabilitation and integration of persons with disabilities into the society depends on them.

Separate appeals received by the Ombudsman concerned support in issuance of documents for persons with disabilities.

M.K. appealed to the Human Rights Commissioner on behalf of L.A., person with disability of the 3d category seeking support in issuance of his personal identification document of citizen of the Republic of Kazakhstan.

As a result of efforts taken by the Commissioner’s office, on July 30, 2013, L.A. filed the documents with the office of migration police of the Almaty regional police officerequired for confirmation of his citizenship. As a result L.A.’s citizenship of the Republic of Kazakhstan was determined and his identification document was issued.

Respect to rights of persons with disabilities who stay in medical social institutions cause serious concern. Specialized institutions are characterized by a potentially high risk of vulnerability of persons who stay there. Disabled persons depend on the institutions' administration where they are exposed to various possible wrong-doings. Opportunities for persons with disabilities to protect their rights themselves are restricted in such institutions.

Last year, the monitoring over observation of rights of persons with disabilities in medical social institutions in Pavlodar and West Kazakhstan provinces by officers of the National Human Rights Center found the buildings of the Uralsk medical social facility of general type for old and disabled persons, Kruglozernovsk mental healthcare home (West Kazakhstan province) unfit for free and independent movement of disabled persons with disorders of the locomotors system. In the Pavlodar regular-type medical social facility for old and disabled persons the lack of appropriate professional rehabilitation of persons with disabilities was disclosed.



*Monitoring of the Kruglozernovsk mental healthcare home by the Ombudsman's
Officerepresentatives (West Kazakhstan province)*

The inspectors noted general unsatisfactory condition of the building of Kruglozernovsk mental home, of its separate sections, bath and hygienic facilities which require major renovation; untidy clothes of persons with disability. At the time of the visit, 13 persons with mental illnesses were outdoors; most of them lay on the ground which was a sign of negligent treatment of patients and improper organization of their time in the open air.

In interviews with the administration of medical social facilities, the officers noted one common problem which is typical for the staff of such institutions, that is, small salaries, no differentials for harmful work, no health enhancement benefits in annual leaves for junior staff. At the same time the major burden of taking care of old and disabled persons falls on that category of employees.

The drawbacks disclosed during the monitoring visit of the above-mentioned institutions and other facilities of the social security, healthcare, and educational systems were reported in the Human Rights Commissioner's submission filed with the Chief of the RK Prime Minister's office. Its text is available in this report's annex.

In response to that submission, the Ministry of Labor and Social Protection of Population informed the Commissioner that the West Kazakhstan regional governor's office reviewed the shortcomings disclosed in the Kruglozernovsk mental facility and took measures. Specifically, financial means were allocated and the buildings of that facility are renovated; the work is under way on bringing the facility in compliance with hygienic requirements and standards. A reprimand was issued to the institution's administration regarding the patients' untidy clothes and order was given to keep control over the cleanliness of their clothes. Regarding the issue of the lack of an elevator for disabled persons on wheelchairs and of other devices (ramps, banisters) for access to residential buildings, it reported that the institution's administration took those issues under its control and is currently taking necessary steps.

Inspections made by prosecutors also indicate infringements on the rights of persons with disabilities who stay in medical social institutions and mental hospitals. For instance, 11 incidents of illegal sale of the property of legally incapable persons in Koksak mental home in South Kazakhstan province were disclosed; more than 300 patients of the Turkestan mental hospital were placed outdoors because of the renovation of the facility whereas there were other unoccupied rooms in the building; old and disabled persons in Zelenovskii district in West Kazakhstan province did not get footwear, headwear, outerwear and other clothes for two years; in the Sarkand mental home in Almaty province, the mandatory set of outfit was given to 75 children only upon the prosecutor's guidance, though the institution had stocks of clothes in storage.

28 of 74 wards of the Petropavlovsk children's mental home did not have individual programs for rehabilitation. Institutions in Tarbagatay district in East

Kazakhstan province and Abai district in Karaganda province did not put together such program either.

Widespread violations of the requirements for fire and sanitation epidemiological safety were disclosed.⁹

In recent years, the government has paid particular attention to securing the rights of persons with disabilities, has allocated significant financial means, has improved the current legislation in the area of social security of persons with disabilities.

However, the authorized government organizations' weak control, the lack of appropriate efforts of local governments to ensure the rights of persons with disabilities, occasional lack of some social workers' professionalism result in infringement on the rights of persons with disabilities.

In the context of the above-reported, permanent improvement of professionalism of local social security organizations' employees, tightened up government control over protection of the rights of persons with disabilities, creation of conditions and effective practical implementation of measures for integration of persons with disability into the society seem important.

12. Child Rights, Right to Education

In Strategy "Kazakhstan-2050": New Political Course of the Established State", the head of state highlighted child protection as one of the important areas of state policy and said that "any child who was born in our land is Kazakhstani. The government should take care of him". That strategic document outlined an objective for the Government to review cardinal legislation pertaining to protection of maternity and childhood, and family and marriage; to tighten up liability for crimes against maternity and childhood; to reform the system for encouragement of higher birth rate and support to families with many children.

The systemic nature of reforms implemented by the country in this area is confirmed by documents and programs which the country passes to protect the rights of separate categories of children.

For instance, to extend support to orphans and children deprived of parental care in settlement of their housing issues, July 4, 2013, the President of Kazakhstan signed the law "On Amendments into some legislative acts of the Republic of Kazakhstan on issues of ensuring the rights of orphans, children deprived of parental

⁹www.prokuror.gov.kz Staff meeting of the RK Prosecutor General's office November 7, 2013

care”. It enshrines the priority right of the above-mentioned category of children to get housing from the public housing stock. Amendments were made into the Land and Administrative Codes, into laws “On housing relations”, “On child rights in the Republic of Kazakhstan”.

In addition to that, issues of protection of child rights are stipulated in draft Criminal, Criminal Procedural, and Penal Codes which are currently discussed in the country’s Parliament.

The problems which exist in the area of protection of child rights and their right to education are reflected in complaints received by the Ombudsman.

For instance, in 2013, the Human Rights Commissioner received 74 complaints pertaining to the discussed category. 66 of them are complaints about infringement on child rights, and 8 complaints concerning the right to education.

In their appeals, complainants raised issues of violence against children, collection of alimony, determination of who the child stays with after the parents’ divorce, payment of various allowances, lawfulness of children’s placement to institutional facilities, delivery of poor-quality medical help, shut down of educational institutions, etc.

Director of Aru Ana NGO A.A. complained to the Ombudsman about infringement on rights of children in the Aktubinsk regional corrective boarding school for children with hearing impairment. The complainant claims that the school practiced unreasonable transfers of students from one group to another followed by a change of the language of instruction, delays in finalizing documents for assignment of allowances for children, over-staffing the institution.

At the National Human Rights Center’s request, the regional prosecutor’s office along with representatives of the Aktubinsk regional department for protection of child rights checked operation of that organization.

Results of that inspection disclosed violations of legislation pertaining to education. Prosecutorial petition was filed with the office of the Director of the Aktubinsk regional department of education on implementation of relevant measures and issuance of decision on responsibility of guilty persons. It resulted in punishment of Director of the boarding school G.T. by disciplinary penalty in the form of a strict reprimand, and of deputy Director for academic and discipline issues - by a reprimand. Besides, the Aktubinsk regional department of education issued order #551 of May 28, 2013 on the procedure for determination of the degree of mental retardation. It was disseminated in district educational offices for use in their work.

T.D. complained about actions of Astana Nur-ai kindergarten S.A. who subjected B.N.’s son to psychological violence and upset him to tears. After that incident, the child was scared and refused to go to the kindergarten.

According to information of the Astana city department of education, S.A. is the mother of a girl who had a conflict with the complainant’s son. Though children reconciled, the girl’s mother still threatened the complainant’s son.

In her turn, the kindergarten teacher failed to take timely steps to protect the complainant’s son and allowed such actions committed by S.A. which signals of inappropriate performance by the kindergarten officials of duties entrusted to them. In this regard, teacher E.Zh. was punished by a disciplinary penalty in the form of a warning.

The need to take steps to avoid such incidents in future and to develop appropriate psychological and pedagogical approach in development of relations with parents was brought to the kindergarten Director's note.

As practice shows, one of the most important and complicated problems of children brought up in boarding schools is the housing issue. At this stage, government organizations practice permanent control over the procedure for adding that category of children into lists of people who need housing and over issues of preservation of housing of those who already have it. However, there still are incidents of violation of the rights of children in that area.

New provisions added into the housing legislation last year regarding the priority rights of getting housing by orphans and children deprived of parental care are aimed at improvement of that situation.

A.M., student of the Astana Medical University appealed to the Ombudsman. He graduates from the University in 2014.

The complainant reported that he signed up for housing from the public housing stock. He is number 9507 in the list and is concerned about his chance to get housing after graduation from the university when he loses the right to live in its dormitory.

It should be noted that orphans and children left without parental care were viewed as socially vulnerable group along with 11 other categories of citizens. At this stage, due to the amendments in the housing legislation, lists of hopeful housing recipients under the category of orphans and children left without parental care are kept separately.

According to the Astana city mayor's office, the list of orphans and children left without parental care who need housing includes 1833 persons. The complainant has significantly advanced and is now 1053.

Up until present time, the problem of non-payment of alimony for child care is still urgent despite legislative amendments regarding the harsher liability of individuals for delays in payment of alimony. The marriage and family legislation sets that the order and form of providing for minor children are determined by the parents independently. It means that parents have the right to conclude an agreement on providing for their minor children as well as full-age children who attend classes in high school, technical and vocational, post-secondary schools, full-time departments of higher educational institutions. But frequently, alimony for child support is not paid not just on a voluntary basis but even if ruled by court. The Ombudsman still receives complaints about issues of non-enforcement of court rulings on collection of alimony for child support. They are reviewed in section "Right to judicial protection and fair court trial, access to justice".

In recent years we had more incidents when citizens appealed to the Ombudsman on the problems and concrete cases covered by media.

The Ombudsman was approached by A.N. and M.A. acting in the interests of HIV-infected girl who was abused by her foster mother.

The girl was admitted to the Shimkent medical center “Mother and Child”. On examination of the girl, specialists saw numerous scars and injuries on her body.

The National Human Rights Center sent requests to various government agencies seeking investigation of the incident and extension of assistance to the injured girl.

According to information received by the Center, a criminal investigation was initiated against the mother with charges under par a, d, part 2, art.107, par. b,e. part 2, art. 126 and 137 of the RK Criminal Code. The court convicted the mother for the committed crime and sentenced to 4 years of imprisonment in a prison of general security regime. The court also ruled on returning the girl to orphanage.

The injured girl received necessary medical assistance with subsequent rehabilitation in a resort center.

As part of the regular monitoring of media publications, the Ombudsman’s office communicates problems widely discussed in the society to the government.

For instance, the Ombudsman lodged an inquiry with the Prosecutor General’s office regarding a story relayed by KTK TV channel on September 9, 2013. It reported violations of the rights of children with disabilities in the Zhanaozen city rehabilitation center where children had to sleep on broken beds and pieces of wood.

According to information received from the Mangistau regional prosecutor’s office it checked the institution and disclosed violations of rights of children with disabilities, in particular, its failure in creation of appropriate conditions for life and movement of children in that center. Only 49 of 61 children had beds in the state of good repair. Children slept on rough surfaces. Violations of the required level of teachers’ professional competence were disclosed.

As a result of the inspection, beds were repaired and new beds were purchased; officials responsible for the problem were punished in disciplinary order, unqualified teachers were fired for inconsistency with job.

The Commissioner has developed fruitful cooperation with other countries’ Ombudsmen in the area of protection of child rights. The Commissioner regularly receives appeals from Child Rights Commissioners in regions of the Russian Federation on issues of protection of child rights including assistance in issuance of various documents, archive reference papers, examination of living conditions when parents live separately, etc.

RF Moscow regional child rights Commissioner appealed to Kazakhstani ombudsman acting in the interests of under-aged M. who live in Almaty province. According to the appeal, those children wish to live with their father in Kazakhstan and refuse to return to their mother in Russia.

Given the fact that under Kazakhstani and Russian legislation, in the lack of agreement between the parents, the issue of determination of the place of children’s residence is the exclusive right of the court, the Moscow regional Ombudsman appealed with a request to examine children’s living conditions without interference into court proceedings on that issue.

At the National Human Rights Center's request, representatives of the Almaty regional governor's office examined M. children's living conditions in Kazakhstan and evaluated them as appropriate for development and age of the children. They also interviewed older children. That information was forwarded to the Moscow regional Child Rights Commissioner.

At the same time, it should be noted that the issue of children's place of stay in mixed marriages is regularly raised by citizens in their appeals to the Ombudsman. For instance, women who have Kazakhstani citizenship but live or have lived in other countries, to be more specific, in Israel, Germany, Syria, and Turkey appealed to the Ombudsman requesting legal consultation or support in settlement of the issue of determination of the place of their children's residence. We sent information on the marriage and family legislation of our country and the country of their residence to the complainants.

In the Strategy "Kazakhstan-2050: New Political Course of the Established State", the head of state outlined the new priorities in the system of education, specifically, transition to new methods in pre-school education, development of the system of engineering education and modern technical specialties with issuance of certificates of international standards, development of applied science and scientific research departments in higher educational institutions, modernization of teaching methods, etc.

Along with that we should note existing problems such as a shortage of kindergartens, poor logistics basis of small schools, insufficient quality of schoolbooks, low image of the teachers' profession, ageing of the teaching cadres, etc.



Visit of the Ombudsman's Office representatives to a boarding school for visually impaired children in Semey

One of the problem issues in the area of pre-school education is enrollment of children to public pre-schools. According to complaints received by the Ombudsman, the informational work with the population in that area is not sufficient.

For instance, citizen O.A. signed up for a place in a kindergarten. She was number 10128 in the list.

The complainant who is the mother of many children, was not informed that her status gives her a privilege to get her child enrolled in a pre-school in the priority order.

It was only after the National Human Rights Center's interference that her child got enrolled in kindergarten #55 "Karakat".

A collective appeal was filed with the Human Rights Commissioner's office by the staff of the Chistopol agricultural college in North Kazakhstan province and parents of its students who disagree with the closure of that educational institution.

The authors reported that the main contingent of the college are children from poor families whose parents cannot afford sending their children to other educational institutions because of their remoteness and lack of financial means. Besides, the staff of the college will be left without jobs because there are no other options for employment in that village.

According to information of the North Kazakhstan regional department of education received in response to the Ombudsman's inquiry, the issue of that institution's closure was repeatedly raised over the two recent years given the low quality of education provided to young people and poor logistics of the college. Besides, the college's practice farm with the area of 50 hectares of land designated for practical development of students' skills and abilities required for agricultural production remains out of action year on year.

Nevertheless, a decision was made to extend operation of that college for another academic year. Liquidation of the college was scheduled to the summer of 2014.

An urgent issue in the system of education raised by members of the country's Parliament is the need in operation of ungraded schools which make up 55% of all schools. Such schools have practically no equipment required for the adequate education of students. They show poor results in the unified national testing. Whereas the maintenance of such schools is three time more expensive than that of regular schools.

To improve the quality of education in rural schools, the Ministry of Education and Science proposes establishment of resource centers and development of modern information technologies, e.g. the e-learning concept.

Another urgent problem in the system of education is arrangement of food service in the country's educational institutions. Arrangement of food service is an important area in operation of educational institutions which determines not only students' health but also the effectiveness of their studies.

According to the Kazakhstani Academy of Nutrition, diseases of the digestive system and metabolic processes take one of the first places in the list of diseases of school-age children.

According to the Ministry of Education and Science only 84% of the 7402 regular schools provide hot meals. Since the beginning of 2013, sanitation and epidemiology control organizations inspected 92 facilities regarding issues of providing food service to students in 6 regions of the country. A number of violations were disclosed in issues of arrangement and quality of food¹⁰. The Ombudsman raised that problem in his submission to the country's Prime Minister. In addition to that, the issue was discussed at the XIII meeting of the Inter-agency commission on the under-aged citizens' issues and protection of their rights under the RK Government held last November. The Director of the National Human Rights Center is its member.

Teenagers' suicides which occurred last November in Buharzhirau district in Karaganda province again caused wide public response. During one week, three high-school students from trouble-free families committed suicide by hanging.

That problem was widely discussed in 2010-2011 because of the increasing number of suicides among juveniles. Later, the 2012-2014 Inter-agency Action Plan

¹⁰Materials of the XIII meeting of the Inter-agency commission on the under-aged citizens' issues and protection of their rights under the RK Government

for Prevention of Suicides was adopted. It assigned implementation of preventive work in that area to various government agencies within their competence.

However, given the increased number of suicide incidents last year, the Ombudsman raised this problem in his submission with the Prime Minister of the Republic of Kazakhstan. He noted that the efforts to address the problem lack permanent interaction between local government organizations and their departments including the offices of the system of education, healthcare, social security, law enforcement, non-governmental sector and media.

In 2013, close cooperation between the Human Rights Commissioner's office and the UN Children's Fund in Kazakhstan continued within the framework of the Memorandum of Intent and the 2012-2013 two-year rolling plan "Family-oriented Child Protection and Justice for Children in Kazakhstan". Partners in this cooperation were the Embassy of Norway in Kazakhstan and the Office of the Penal Reform International in Central Asia.

As part of that cooperation, important events in the area of improvement of mechanisms for child protection including development of instruments for independent monitoring over child rights in children's facilities, arrangement of child right trainings for the civil sector, review of the national legislation on violence and torture in the context of juvenile justice and introduction of divergence; research on children's situation and reasons which cause urgent problems of childhood, violence against children in regular and boarding schools, vulnerability of children against risk behavior, human trafficking and exploitation of children were implemented.

Based on the findings of each study, recommendations were developed targeting legislative prohibition of all forms of child abuse in boarding schools, regular schools and other child institutions; prevention and response to abuse; prevention of human trafficking for the purpose of labor and sexual exploitation, awareness-raising work with institutions' staff and population. The results and recommendations of the studies were presented to members of the Parliament, government and non-governmental organizations, and media for implementation of relevant measures on strengthening the system of child protection in Kazakhstan.

At this stage, based on the results of the study of school violence, a pilot program on prevention of violence in educational institutions and boarding schools in East Kazakhstan province is launched. That program includes teaching 3-7-graders positive types of behavior, recognition of school violence, timely settlement of conflict situations, respectful attitude to peers and other skills.



Presentation of the research results on violence against children at schools with the participation of the Head of the OSCE Centre in Astana N. Zarudna, the UNICEF Representative in Kazakhstan J. Kukita, the UNICEF Regional Director M. Poirier, Ambassador of Norway O.Y. Bernoya and members of the Parliament of Kazakhstan

The Ombudsman's office presented the findings of the study on violence against children and respective analysis of legislation in that area at the high-level conference on justice for children in Brussels last June, and at the IV Central Asian Forum on child rights protection held in Dushanbe last August.

Besides, as part of the above-mentioned cooperation, the UNICEF expert, with direct engagement of the Ombudsman's office, analyzed the national and international legislation on juvenile diversion which implies pre-court referral of juvenile cases to alternative ways of settlement without holding court proceedings. That analysis reviewed provisions of Kazakhstani legislation pertaining to juvenile diversion, in particular, to the procedural basis for its establishment as well as the corpus of international standards and positive practice in that area. The analysis was presented to the country's Parliament for its potential use in the work on draft Criminal and Criminal Procedural Codes.

Electronic versions of reports, collection of materials on independent monitoring of children's institutions and analysis of legislation are posted on the Human Rights Commissioner's website www.ombudsman.kz.

In 2013, incidents related to Kazakhstani children adopted by U.S. citizens caused significant public reaction.

American couple D. and L.M. accused of sexual abuse of Kazakhstani children whom they adopted in 2004 were sentenced by American court to 20 and 22 years in jail respectively.

In September 2013, information appeared in the Internet on adopted children who were put up for sale on the underground Internet exchange in U.S. According to the investigation conducted by reporters of the Reuters agency for almost two years, victims of that trade were most frequently children from Russia, Ukraine, Kazakhstan, African countries and China.

It was earlier reported that children adopted by American families including two children from Kazakhstan were kept at a special ranch for correction of behavior in Montana (Ranch for kids). According to reports, the ranch did not have an appropriate license to work with children and was registered as a religious organization. Kazakhstani side requested information from the U.S. Department of State and the U.S. Embassy in Kazakhstan to confirm those allegations. They reported that at this stage, there were no adopted children from Kazakhstan at the ranch.

However, during his visit to Kazakhstan last July, Child Rights Commissioner under the RF President P.Astakhov presented information about children kept at the ranch to Kazakhstan's Ministry of Foreign Affairs. Astakhov personally visited the ranch and noted that children lived there in inappropriate conditions.

According to the U.S. Embassy in Kazakhstan, one child lives with foster parents, the other child is treated for mental disorder at a specialized mental institution.

In this regard, the Ombudsman's office initiated an appeal to the RK Ministry of Foreign Affairs and the Committee for Protection of Child Rights of the RK MES to check the truth of the reported facts and take measures for restoration of the rights of children adopted from Kazakhstan.

To address the above-reported issues, U.S. State Department's Special Advisor for Children's Affairs S. Jacobs paid an official visit to Kazakhstan in 2013. She met with the authorized government organizations on international adoption and discussed problems in that area. Based on the results of the visit, a working group was set up as part of the annual cooperation between the two countries' relevant organizations for discussion of problems in international adoption and building up interaction in mutual information sharing. The incidents of international adoption which caused wide public reaction were also discussed at the Ombudsman's meeting with the Special Advisor.

Evidently, issues of child protection, accessible and good quality education are the priorities in our country's government policy and programs. However, violations which happen in those areas indicate that a more streamlined and coordinated

operation of government organizations for the purpose of protection of every person's and child rights is needed.

13. Rights of Prisoners

All individuals deprived of freedom by court are entitled to fundamental rights and freedoms set out in the Universal Human Rights Declaration, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and its Optional Protocol as well as rights embodied in other UN documents.

The government undertakes to secure the prisoners' rights and ensure decent conditions for their confinement during the time of serving punishment. Those standards follow from provisions of articles 12, 17 and 34 of the RK Constitution which determine the guarantee, protection and respect to person's dignity.

The country continues to pursue its consistent policy in improvement of the system of execution of punishment, bringing it closer to the universally recognized international standards. Due to the importance and efficiency of the undertaken measures, prison conditions and procedures for serving punishment improve, prisoners' rights expand, and civil society participates in operation of penitentiary facilities.

In general, we should note that the Government takes active efforts on gradual transition of the penitentiary system to facilities with confinement in separate cells; living conditions in prison facilities improve; particular attention is paid to prisoners' professional training.

However, for a number of reasons, a person's incarceration in penitentiary facilities closed to the society is followed by infringement on his rights and freedoms.

In our country, the situation in the penal system is aggravated by the still insufficient material basis, flaws in relevant regulatory documents, prison employees' low legal culture, and the idea, which is unfortunately popular among employees of the penitentiary facilities, that lawlessness in regard to prisoners is a part of their punishment.

Analysis of appeals received in 2013 indicates that people still complain about infringements on their rights in penitentiary facilities and the issue is topical.

In the reporting year, the National Human Rights Center's officers reviewed 67 appeals on actions and omissions of penitentiary facilities' employees which made up 3.8% of the total number of complaints received.

27 of those appeals were prisoners' and their relatives' complaints against torture, cruel or degrading treatment. The Human Rights Commissioner's office sent inquiries on such complaints to the Penitentiary Committee and Prosecutor General's office soliciting thorough investigation of the facts reported in the appeals. On some

facts, visits to penitentiary facilities were arranged including visits of the Human Rights Commissioner's working group for consideration of incidents of torture and other cruel forms of treatment and punishment.



Monitoring of the ETS-166/18 Facility (somatic hospital) in Stepnogorsk by Working Group under the Ombudsman to review the facts of torture and other ill-treatment

We should admit that according to information provided by law enforcement organs on results of their inspection, facts of use of violence in prison facilities are frequently not confirmed.

In this regard, we should note that essentially, complete information on the accomplished inspections is presented by organs of prosecution whereas information coming from the penal system does not give assessment of the real situation of violations or non-violation of prisoners' rights by employees of penitentiary facilities.

In 2013, criminal investigations were initiated on separate complaints filed with the Human Rights Commissioner's office about use of torture in prison facilities.

The Human Rights Commissioner received an appeal of the Counter-torture Coalition of Kazakhstani NGOs on incidents of torture applied to a convict at facility RU-170/1 of the Western Kazakhstan Penitentiary Department. According to the appeal, the lawyer visiting his defendant found numerous bruises and injuries on his body, traces of evident use of torture.

In response to the inquiry lodged with the Prosecutor General's office information was received on initiation of a criminal investigation of elements of crime specified in RK CC art.141-1

against officers of correctional facilities RU-170/1 and RU-170/2 and military servicemen of the military unit of the internal troops.

The main military prosecution office took over the criminal investigation. At this stage, a preliminary investigation is under way.

A large number of complaints received in 2013 refer to issues of moving prisoners from one facility to another. The Human Rights Commissioner received 77 appeals of that type. 40 of them were about facilitation in prisoners' extradition to the country of their citizenship, 11 of those complaints were filed by citizens of the Republic of Kazakhstan and 29 came from citizens of other countries serving sentences in our country's penal facilities.

Article 68 of the RK Penal Code sets that individuals sentenced to incarceration should serve their sentences in correctional facilities of the Republic of Kazakhstan in the territory of the region where they lived before conviction. However, that requirement is not followed appropriately. In their complaints, convicts and their family members report that they cannot meet regularly because of the remoteness of penal facilities from families' places of residence. Besides, that problem is made worse by material expenses related to transportation and accommodation of family members on visits. In 2013, at the Human Rights Commissioner's soliciting, only three convicts: A.S. (after the second appeal), Sh.U. and I.A. had their rights to serve prison sentence near the place of residence restored.

It is often difficult to move convicts to regions of their residence because of over-crowdedness of correctional facilities or the absence of correctional facilities with the appropriate security level in that region.

In response to its request on a transfer of prisoners in penitentiary facilities to regions of their residence, the Ombudsman's office often receives explanation from the Penitentiary Committee that the convict's request was denied pursuant to RK Penal Code's article 76 "An individual sentenced to incarceration shall serve the whole term of incarceration in one correctional facility, as a rule".

During the monitoring of North Kazakhstan penitentiary facilities, female prisoners O.U., A.S., M.D. who serve their sentences in facility ES-164/4, D.K., S.D., D.N., U.M., D.T., who serve sentences in facility ES-164/3 appealed to the NHRC officer and requested support in movement to correctional facilities to regions where their relatives live.

The NHRC requested information on their appeals and the Penitentiary Committee explained that their appeals on transfer were denied pursuant to the RK PC art.76 (An individual sentenced to incarceration shall serve the whole term of incarceration in one correctional facility, as a rule. A prisoner can be moved from one facility to another for further service of the sentence only in the event of disease or for the purpose of providing his security, in the event of re-organization or liquidation of the correctional facility, or in the event of operational necessity at the convict's consent, as well as under other exceptional circumstances which hinder the convict's further confinement in that correctional facility).

That incident shows a lack of individual approach to consideration of appeals received by officers of the authorized organization.

The Human Rights Commissioner received appeals from convict H.A.'s family members (father H.R. and spouse T.E.). They sought assistance in moving him to a correctional facility in the region where they live. Remoteness of his prison from the place where his family lives and complainant H.R.'s poor health make it difficult to maintain permanent contact with the convicted son.

The authors of the appeal report that H.A. serves his prison sentence in facility AK-159/22 of the Karaganda regional penitentiary department. The complainants claim that they repeatedly appealed to the Penitentiary Committee asking that H.A. be moved to facility IC-167/9 of South Kazakhstan penitentiary department where he earlier served his sentence.

According to the authorized agency, convict H.A.'s transfer is impossible given temporary difficulties in admission of inmates in the correctional facility of high security in South Kazakhstan province.

The Penitentiary Committee denied this second appeal of the convict's spouse pursuant to the RK PC article 76. Herewith, we notice that earlier H.A. served his sentence in the region of residence.

Along with that, in the category of complaints about transfer of convicts from one prison to another, the Commissioner's office received complaints (8) from convicts and their relatives who disagree with transfer to another prison. In their complaints, they allege that such movement poses danger to the convicts' health and life. In such incidents, the authorized organization violates article 76 of the RK PC: a prisoner's right to serve the whole term in one correctional facility whereas in consideration of appeals requesting transfer, the authorized organization insists on following that requirement of the law.

The Commissioner received A.I.'s complaint about her disagreement with the decision to move her convicted son from facility GM-172/b in Aktau to facility EC-166/18 in Stepnogorsk. Before his conviction, he lived in Atyrau. His relatives also live in that area. In her appeal, the complainant reported that because of the financial situation and health problems she will not be able to visit her son in another region. Besides, A.I. was concerned about her son's health and life because multiple media publications reported incidents of cruel treatment in EC-166/18 facility.

In response to the NHRC's inquiry regarding the convict's movement to the region of his residence, the Penitentiary Committee presented information that the complainant's son was transferred in compliance with par. 2, art. 76 of PC and there were no further reasons for a transfer to another facility.

Pursuant to PC par. 2, art. 76, a prisoner can be moved from one facility to another facility with the same level of security for further service of the sentence only in the event of disease or for the purpose of providing his security, in the event of re-organization or liquidation of the correctional facility, or in the event of operational necessity at the convict's consent, as well as under other exceptional circumstances which hinder the convict's further confinement in that correctional facility. The information provided by the authorized organization did not state what circumstances served the reason for the transfer of the complainant's son.

In making decisions on placement of prisoners in correctional facilities, officers of the penal system should, first and foremost, take into account the objectives spelled out in the penal legislation: protection of prisoners' rights, freedoms and lawful interests, provision of their security, delivery of assistance in their social adaptation. They should also follow requirements of international standards on maintenance of family relations and early planning of life after release, enhancing the likelihood of convict's re-integration into society and bringing down unfavorable consequences of incarceration.

Information provided by the Penitentiary Committee in response to the National Human Rights Center's inquiries often indicate that the Committee's employees often do not thoroughly review complaints in the context of respect to prisoners' lawful rights and interests.

One of the vulnerable rights in prisons is a person's right to health protection.

Pursuant to paragraph 22 of the Standard Minimum Rules for the Treatment of Prisoners passed by the United Nations in 1955, prison hospitals should have equipment, appliances and medicine required for appropriate health support to patients and their treatment. They should also have sufficiently qualified staff. Sick inmates who need services of specialists should be placed to specialized institutions or civil hospitals.

In 2013, the Human Rights Commissioner and his office received 16 complaints about scarce medical supplies in correctional facilities.

Prisoner Z.R. who serves sentence in facility OV-156/6 of Eastern Kazakhstan Penitentiary Department appealed to the Commissioner with a complaint about poor quality health service of prisoners in that facility.

According to the complainant, he suffers from a number of serious chronic diseases and needs permanent medical support. He alleges that the facility (OV-156/6) does not provide appropriate health assistance to sick prisoners; it does not have qualified medical specialists and has scarce supply of drugs.

According to the Penitentiary Committee's response to the NHRC's inquiry, convict Z.R. was sent to the National Somatic hospital of the OV-156/15 facility of Eastern Kazakhstan Penitentiary Department for in-patient treatment.

As for unlawful actions of the OV-156/6 facility's officers and non-delivery of professional medical assistance to the convict, results of the inspection did not confirm the convict's allegations.

Convict A.D.'s mother appealed to the Human Rights Commissioner with a request to help in extension of professional health assistance to her son who needs operative treatment and surgery operation to keep the residual vision of his sole seeing eye. It should be done at the Kazakhstani scientific research institute of eye diseases in Almaty. The required health services cannot be rendered in the correctional facility.

As the complaint was reviewed by the Commissioner, a quota for admission of inmate A.D. to hospital was issued, relevant check-ups were conducted at the institute of eye diseases.

On the second appeal of A.T. who acted in the interests of her convicted son and complained about the lack of qualified specialists and specific equipment in the correctional facility for implementation of recommendations given after the check-up and surgery operation, as well as about the prison administration's incapability to provide an individual aide-guide, the authorized organization informed that an additional check-up was planned to determine the gravity of the inmate's health problem for further consideration of the issue at a specialized commission to make a decision on his release from prison on account of health problem.

We should mention appeals concerning release of prisoners on account of a serious disease.

P.N. reached out to the Commissioner with a request of support in consideration of the issue of her convicted son P.A.'s release from prison on account of health problem.

The author of the complaint alleged that during the service of his prison sentence in facility EC-166/5 of the Astana Penitentiary Department P.A.'s health deteriorated. For delivery of professional health assistance, he was sent to facility AP-162/2 of the Pavlodar regional penitentiary department. The complainant reports that the administration and medical staff were negligent in performance of their duties, they did not provide appropriate health assistance and treatment. As a result of examination by oncology specialist of a civil health institution, P.A. was diagnosed with the 3rd stage of cancer of soft tissues.

At the NHRC's request, P.A.'s medical records were reviewed by the specialized commission to make a decision on his release from prison on account of disease. The materials were sent to court.

Par. 2, article 73 of the Criminal Code and article 168 of the Penal Code of the Republic of Kazakhstan provide for release from service of a sentence or its replacement with more lenient punishment if the person suffers from a serious disease which hinders the service of punishment. However, at this stage, the issue of reconsideration of the list of diseases which permit release on account of health is urgent.

In 2013, a certain number of complaints were received from the Human Rights Commissioner from relatives and convicts themselves pertaining to issues of early release on parole and replacement of the un-served part of punishment with more lenient punishment. In their appeals, complainants expressed their disagreement with court decisions on such cases.

A.I. appealed to the Ombudsman acting in the interests of her spouse A.M. and disagreeing with court decision to deny replacement of the un-served part of punishment with more lenient punishment. According to the complainant, her husband has positive records, does not have any reprimands, and he has prosecutor's positive conclusion on satisfaction of the request. It also contains the employer's submission on A.M.'s employment upon his transfer to an open correctional facility.

Unfortunately, the Commissioner and his office do not have legal power to review complaints about actions and decisions of judges. For that reason, explanations were given to the complainant on the prisoner's right to submit another request, as well as on his right to early dismissal on parole, right to pardon, etc.

There is no doubt that application of early release on parole or replacement of non-served part of a sentence with a more lenient punishment is the exclusive right of a judge. When courts review such cases, it assigns big significance to correction of convicts, prevention of recidivism.

At the same time, punishment should not only facilitate inmate's correction but should also encourage that category of individuals to return promptly to the society as its full-fledged citizens. A possibility of early dismissal on parole is a powerful incentive for inmates' positive behavior, their strife to improve and return to normal life in society.

We also believe that with gradual implementation of international requirements and standards in the area of execution of criminal punishment, along with other procedures, significant attention should be given to issues of prisoners' re-socialization, building up possibilities for implementation of international principles of non-isolation, progression and individualization, social adaptation of persons dismissed from prison.

As part of monitoring over observance of human rights in public institutional facilities, the National Human Rights Center's officers visited public institutions of social support in Pavlodar province including the Pavlodar city center for persons dismissed from prisons. The main purpose of the Center is extension of assistance and adaptation to conditions of outside life, restoration of social skills.

Despite problems in logistics and staffing which were disclosed during the visit, operation of such center plays significant role in re-socialization of persons released from prison. Such centers should be established in other regions of the country. Unfortunately, at this stage, only two centers of this type operate in the territory of the country.

Establishment of such adaptation centers in other regions and organization of their streamlined activity, active involvement of public organizations could become an important component of the system of adaptation and socialization of persons released from prison, and of prevention of recidivism.

Evidently, significant economic and social reforms impact the penal system and require its permanent improvement.

For instance, in 2013, the authorized government organization accomplished active work on drafting a conceptually new Penal Code which provides for introduction of a wide spectrum of norms for prisoners' legal rights. An important new element in the draft Penal Code is establishment of a legal basis for probation control. This norm is very significant in the framework of extended application of measures which are not related to incarceration, provision of prisoners' re-socialization, and, as a result, decrease of the prison population.

14. The National Preventive Mechanism in Kazakhstan: Issues of Development and Implementation

Torture and other cruel, inhuman or degrading forms of treatment or punishment are the most dangerous and rough form of infringement on human rights.

Prohibition of torture is a universal principle of international law. That is why the standards developed by international community take the diversity of existing legal traditions into account, ensure minimum guarantees which should be secured and applied in the framework of every legal system

The Constitution of the Republic of Kazakhstan guarantees that no one shall be subject to torture, violence, other cruel or degrading treatment or punishment (par. 2, art. 17).

Numerous international documents of UN and the Council of Europe (Universal Human Rights Declaration 1948, International Covenant on Civil and Political Rights 1996, European Convention for the Protection of Human Rights and Fundamental Freedoms 1950) are devoted to prevention of torture and cruel treatment.

One of them is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter, the Convention). June 29, 1998, the Republic of Kazakhstan passed the law to join that Convention.

The Convention is a fundamental document which unites the nations' efforts in prevention of torture, determines member-states' commitments on application of effective legislative, administrative, judicial and other measures to prevent torture. The Convention requires that states parties shall submit supplementary reports every four years on any new measures taken to prevent torture. It also opened opportunity for citizens of member-states to submit complaints to the Committee against Torture.

In order to protect persons deprived of their liberty against torture and other cruel forms of treatment and punishment through application of non-judicial measures of a preventive nature, based on regular visits to places of detention, on December 18, 2002, the UN General Assembly passed a resolution to adopt the Optional Protocol to the Convention (Kazakhstan ratified it in 2008). By joining the Convention against torture in 1998 and ratification of that Convention's Optional Protocol in 2008, Kazakhstan made commitments to apply effective measures to prevent torture in the country. The Optional Protocol establishes a system of regular visits undertaken by mutually complementary international and national bodies to places where persons are deprived of liberty. By ratifying or joining the Optional Protocol, states parties, thus, agree to have unannounced visits by those bodies to places where persons are deprived of liberty.

One of the major provisions of the Optional Protocol to the Convention against Torture ratified by Kazakhstan is a commitment to establish a cardinally new structure – the national preventive mechanism (hereinafter, NPM).

Pursuant to article 17 of the Optional Protocol the latest one year after its entry into force the participating state shall maintain, designate or establish one or several national preventive mechanisms for the prevention of torture at the domestic level.

Conditions of the financial crisis made it impossible to establish the NPM in the timelines set in the Protocol (it is a costly project; pursuant to par. 3, article 18 of the Optional Protocol, the state parties should provide the necessary resources for the NPM functioning).

For this reason, the RK President issued November 30, 2009 decree #896 on a decision to postpone implementation of the commitment for three years pursuant to par. 1, article 24 of the Optional Protocol. That term is counted beginning the date of deposit of Kazakhstan's declaration on the postponement, i.e. 2011.

The Optional Protocol does not contain clear and detailed directions on the format of the preventive mechanism. On the contrary, a country that ratified the Protocol is granted a sufficient degree of freedom in selection of the forms which would best suit its internal needs.

61 of 192 UN member-states ratified the Optional Protocol (less than 30%) and only 37 of them managed to establish NPMs.

The region of Europe and Central Asia is characterized by a decently high level of ratification of the Optional Protocol: almost half of all participating states (30 of 61) have ratified the Protocol. Most of them established NPMs (24 of 37).

Along with that, only 15 of the 27 EU member-states ratified the Optional Protocol.

Since ratification of the Optional Protocol, the issue of establishment of NPM in Kazakhstan, its model and legislative provision have more than once been discussed at various conferences, round-tables, working meetings and seminars.

The world practice knows various models of NPM. For instance, Ombudsmen's offices were designated as NPM in Denmark, Sweden, Armenia, Costa Rica, and Georgia. In Mexico and Mauricio, the human rights commissions were designated, in Estonia, Slovakia and Cambodia, Ministers of Justice were designated as NPM.

France, Paraguay and Senegal set up separate organs (Inspector General, National Committee, National Observer).

In New Zealand NPM functions are performed by 5 bodies: the Human Rights Commission, Ombudsman's office, Independent Police Conduct Authority, Office of the Child Rights Commissioner, the Inspector of Service Penal Establishments of the Office of the Judge Advocate General of the Armed Forces.

But the most popular model which was recognized by the UN and OSCE as the best model is "Ombudsman Plus". Its main purpose is to use the internationally recognized status of the Ombudsman to attract trust to this mechanism. The

Ombudsman's role in that process was the utmost facilitation of mutual understanding between the Government and NGOs in determination of the NPM model.

"The Ombudsman+" model was used as a basis of Kazakhstan's national preventive mechanism. That model is acceptable for Kazakhstan because the Human Rights Commissioner is independent in performance of his activity and is not tied to any departmental interests. During the time of its operation, the Ombudsman's institution proved its competence as an effective mechanism of protection of the rights of a person and citizen and won public recognition.

The current stage in development of the Human Rights Commissioner's institution in Kazakhstan is the most important because it is now that the Ombudsman institution's features characteristic of national human rights institutions with solid work experience and full-scale involvement in settlement of human rights problems are determined.

Long and thorough work was instrumental in establishment of the NPM in Kazakhstan through adoption of a law. In 2010, the drafting body set up a working group which included representatives of 13 NGOs (6 of them were at the same time members of public oversight commissions) and representatives of 4 international organizations: Penal Reform International (PRI), OSCE Center in Astana, Regional Office of the UN High Commissioner for Human Rights in Central Asia, International center for journalism Medianet. During discussions, the format and content of the draft law went through substantial changes and additions.

In March 2012, the draft law was presented to the Mazhilis of the Parliament for consideration. Discussion of the draft law in the Mazhilis was complemented with arrangement of conferences, round-tables attended, among others, by international experts for discussion of the legislative basis of the NPM, and with visits of the working group to correctional facilities where the idea and concept of the draft law were presented.

July 2, 2013, the President of the Republic of Kazakhstan signed the law of the Republic of Kazakhstan "On amendments into some legislative acts of the Republic of Kazakhstan on issues of establishment of the national preventive mechanism designed to prevent torture and other cruel, inhuman or degrading forms of treatment and punishment". It determines the establishment of the NPM in the country and a system of torture prevention visits.

That law made amendments into four Codes: Criminal Procedural, Penal Codes, the Code of Administrative Offenses, the Code of People's Health and the Healthcare System.

Besides, amendments were made into four laws: 1) on the Procedure and conditions for confinement of persons in facilities for temporary isolation from the society; 2) on Prevention of offenses among minors; 3) on Coercive treatment of alcohol and drug addicts; 4) on Child rights.

The NPM law determines penal facilities, pre-trial detention facilities, organizations for coercive treatment, special facilities for temporary isolation from the society, adaptation centers for delinquent juveniles and educational institutions with specific security regimes as places for regular visits.

Under article 1 of the Optional Protocol, the NPM's system of regular visits covers places where persons are deprived of their liberty. Pursuant to article 4 of that protocol, those are places where persons are deprived of their liberty and referred to as places of detention. According to par. 2 of that same article, deprivation of liberty means any form of detention or imprisonment.

Along with that, following the conclusion of the Subcommittee for prevention of torture of the UN Committee against Torture (Chairman Malcolm Evans) which was issued in response to Kazakhstani side's inquiry, the term "places of deprivation of liberty" should be interpreted in a broad sense. It means that the term includes prisons, police stations, pre-trial detention facilities, mental institutions and centers of mental health, places for confinement of minors, centers for migrants and social institutions. The experience of NPM operation in some countries, for instance in Estonia and Poland, confirms that.

Under Kazakhstan's law, medical and social institutions for persons with disabilities and disabled children with mental disorders, children with locomotive disorders, for old people, orphanages, special boarding schools and other special organizations of social support where tenants stay round the clock were not included in the NPM's jurisdiction.

The Law clearly determines the role and objectives of the Human Rights Commissioner as the NPM coordinator. He shall have a Coordination Council which will select participants of NPM, coordinate operation of NPM, prepare annual consolidated reports of NPM participants, interact with the Subcommittee for prevention of torture and other cruel, inhuman and degrading forms of treatment and punishment of the UN Committee against Torture.

The rights of NPM participants are directly spelled out in legislation. It is a guarantee of the independence of their activities from the government. At the same time, it clearly determines their duties and the duties of government authorities in interaction with NPM participants.

Pursuant to paragraph 3, article 18 of the Optional Protocol, the participating states should provide resources necessary for its functioning. The NPM functioning will be covered by appropriations set in the law of the Republic of Kazakhstan "On the state budget for 2014-2016", in the amount of 200 million tenge annually.

As part of implementation of the Law of the Republic of Kazakhstan "On Amendments into Some Legislative Acts of the Republic of Kazakhstan on Issues of Establishment of the National Preventive Mechanism Designed to Prevent Torture and Other Cruel, Inhuman or Degrading Forms of Treatment and Punishment" the

Commissioner for Human Rights in the Republic of Kazakhstan issued order to approve:

- Enactment on the Commission on selection of the members of the Coordination Council of the Commissioner for Human Rights in the Republic of Kazakhstan and its composition;
- Enactment on the Coordination Council of the Commissioner for Human Rights in the Republic of Kazakhstan;
- Rules for Establishment of Groups of Members of the National Preventive Mechanism for Preventive Visits;
- Rules for Selection of the Members of the National Preventive Mechanism;
- Methodological Recommendations for Preventive Visits;
- Rules for Production of Annual Consolidated Reports on Results of Preventive Visits.

Two draft resolutions of the RK Government “On Approval of the Rules for Compensation of Expenditures on Preventive Visits of Members of the National Preventive Mechanism” and “On Approval of the Rules for Preventive Visits of Members of the National Preventive Mechanism” are going through approval procedures in the prime Minister’s office.

Implementation of NPM in Kazakhstan evidently promotes the strengthening of democratic basis of the society and the state. Due to implementation of international standards and principles into the current legislation and practical work of the government, legal instruments for prevention and eradication of torture and other forms of cruel treatment and protection of human rights and interests in general will strengthen.

15. Right to Religious Freedom

Every person’s right to freedom of conscience is enshrined in Kazakhstan’s Constitution. Our country’s experience in ensuring religious equality is assessed by international community as a positive example. Its remarkable confirmation is seen in the World Religious Congresses held in Kazakhstan. They are events of world significance which demonstrate Kazakhstan’s unique experience of inter-faith accord. Viewed from the purely practical angle, they present a preventive measure for provision of respectful attitude to people of other faiths and culture. They can be instrumental in the area of inter-ethnic integration, strengthening of the feeling of commonness of peoples not only in Kazakhstan.

Though the government built a system of securing people’s religious freedom right, the Commissioner for Human Rights in the Republic of Kazakhstan still receives complaints pertaining to religion. In the reporting year, 34 complaints were

registered. The number is higher compared to previous periods (11 in 2011, 13 in 2012). The increase is related, first and foremost, to imposition of administrative liability for illegal missionary activity, restrictions of believers' rights in penitentiary facilities, biased media coverage of activities of some religious associations, etc.

Religious associations disagree with initiation of administrative procedures by law enforcement agencies on incidents of illegal missionary activities. According to the authors of appeals to the Ombudsman those charges are based on arbitrary conclusions issued by some officials in order to set hindrances in their missionary activity. In a number of regions of Kazakhstan, court decisions on holding individuals administratively liable for illegal missionary activities were issued.

Representatives of the Protestant community of Jehovah's Witnesses repeatedly appealed to the Human Rights Commissioner.

In their appeals, the followers of Jehovah's Witnesses expressed disagreement with imposition of administrative charges for illegal missionary activity in the territory of the Republic of Kazakhstan.

The Commissioner's office studied the circumstances of imposition of administrative liability on the followers of that faith.

As a result, it was established that Jehovah's Witnesses are represented practically in all regions of the country and have opportunities for free implementation of their convictions and religious practice. Literature and magazines in Russian and Kazakh are freely disseminated in communities.

The authorized government organizations repeatedly explained the requirements of the current legislation to representatives of Jehovah's Witnesses. However, violations of the RK Law "On Religious Activity and Religious Associations" still take place.

For instance, in 2013, more than 35 followers of Jehovah's Witnesses in Kazakhstan were brought to administrative liability.

Courts found 25 followers of that religious group guilty and imposed fines on them.

In the frame of its competence, the RK Human Rights Commissioner also explained requirements of the national legislation on religious activity and the need to follow it.

Another complaint filed by believers also required interference of the Ombudsman into actions of law enforcement agencies.

P.Z., follower of Jehovah's Witnesses, appealed to the Commissioner for Human Rights in the Republic of Kazakhstan with a complaint about unlawful actions of police officers and prosecutors of the Akkol district, Akmolinsk province. They pressurized her in order to obtain evidence which the law enforcement needed.

The Akmolinsk regional prosecutor's investigation of that incident established that police officers failed to accomplish a complete preliminary investigation and thus did not have sufficient evidence of administrative offense in P.Z.'s actions. In this regard, the district prosecutor was ordered to issue a statement on elimination of violations of legislation and measures to avoid them in future.

The administrative case against P.Z. was dismissed.

Speaking at the opening of the IV Congress of Leaders of World and Traditional Faiths, head of state Nursultan Nazarbayev said that “for more than 20 years, the process of spiritual renaissance has been under way in Kazakhstani society. We built our own model of inter-ethnic accord. A Kazakhstani of any ethnic or religious affiliation is a full-fledged citizen, inalienable part of the common civil community. We build conditions for every person to be able to practice his faith, study and use native language, culture and traditions of his ethnic group.”

Given the need to adapt to swiftly changing socio-economic conditions and new demands, the system of legal regulation of religious relations requires permanent improvement.

However, new legal elements introduced by the government of the Republic of Kazakhstan often turn into reasons for concern in the society.

The Ombudsman received a collective complaint of believers of the Moscow Church of Evangelic Christian Baptists (hereinafter, ECB) about the new draft Criminal Code of the Republic of Kazakhstan with regard to liability of persons who participate in non-registered religious association.

ECB representatives noted that the articles of the new draft RK CC which specify liability for participation in activities of non-registered religious and public associations, as well as for funding them are inconsistent with the right to religious freedom guaranteed by the RK Constitution and the International Covenant on civil and political rights.

The Commissioner’s office studied the complaint thoroughly. The issues reported in it deserve attention. In this regard, it was recommended that the complainants submit relevant proposals on that draft legislation to the working group of the Mazhilis of the RK Parliament.

In the reporting year, a number of complaints were filed about restrictions of believers’ rights to practice religion in correctional facilities (S.T., H.O.), ban on wearing religious attributes in educational institutions (A.G., B.A.).

The RK Human Rights Commissioner reviewed S.T.’s complaint against the administration of LA-155/14 facility for infringement on believers’ rights.

S.T. reported the facility administration’s ban on practice of religious rites, degrading and other forms of cruel treatment of believers.

During investigation of the complainant’s allegations it was established that in implementation of article 12 of the RK Penal Code on provision of guarantees of the freedom of conscience and religion in correctional facilities, the facility has a praying room where religious rites are held.

Besides, an imam is assigned to that facility to extend religious services to those who wish.

The facility’s administration conducts conversations with inmates to explain issues of religion.

As a rule, investigations of such complaints do not result in confirmation of allegations which they contain. However, that problem requires permanent attention of the authorized government organizations and the public.

B.A. appealed with a complaint about the ban imposed by the college administration on wearing hijabs during classes.

According to the complainant, due to her religious convictions she has to wear religious clothes in classes. But that educational institution's management does not approve of it and, with a reference to the current national legislation which prohibits students' wearing religious outfit in classes, does not admit her to exams.

In order to look into the legal ground for such ban, the Commissioner's office sent a relevant inquiry to the Ministry of Education and Science of the Republic of Kazakhstan which responded that pursuant to paragraph 15-1, article 47 of the Law "On Education", students shall wear the form of outfit set in the educational institution.

According to the rules of internal procedures of that educational institution, it is prohibited to wear outfit or attributes indicating affiliation with political and religious organizations during academic classes and after-school activities.

However, there is no reference to norms or standards which served the basis for those rules.

At the same time, articles 22 and 39 of the Constitution of the Republic of Kazakhstan guarantee every person's right to freedom of conscience, irrespective of citizenship, age, attitude to religion. That right shall not be limited under any conditions.

Despite the ban, the college administration admitted B.A. to examinations and issued her a diploma on graduation with honors.

Development of the fundamental instruments for protection of human rights to religious freedom is inextricably tied to educational work with population in order to protect it from extremist religious groups.

Recently, the RK Agency for Religious Affairs boosted up its efforts in that area. Conferences, workshops, round-tables are held regularly in the capital and regions of the country. Religion experts issue professional and concrete comments on the recently ramping up propaganda of radical Islam.

We believe that engagement of media in the process of building a mechanism for protection of the human right to religious freedom is more than effective, and efforts in that area need to continue.

At the same time, we should bear in mind that media can also shape certain negative images among population.

The Commissioner received an appeal from the Temirtau local religious association of the Church of Christians of the New Life Evangelic Faith regarding a story broadcast in the news reel about the procedure of religious service at that church. The group condemned the story as discrediting and untrue.

According to the pastor of that church, the broadcast story entitled "Zombification, schizophrenia, suicides – the number of victims of non-traditional religious groups goes

up” showed an interview with ex-churchgoer Balzhan who, in her turn, relayed discrediting the honor and dignity information about distorted forms of the Fraction ceremony and about distribution of drugs in that church and propaganda of suicides.

Representatives of that church believe that the story which contains absurd information about their activity shapes an extremely negative attitude to its believers in the society. They are concerned about creation of such image in media.

At the Ombudsman’s request the RK Religious Affairs Agency investigated the issue to find out the facts of the case. Its findings were forwarded to the Karaganda regional prosecutor’s office.

In some incidents media driven by the purpose of colorful coverage of some problem presents unconfirmed information obtained from individuals who, in their opinion, fell victims to various non-traditional religious groups. In that way, media shapes a non-objective public evaluation of religious organizations.

In general, the insignificant number of in-coming complaints indicates that our country’s legislation set up a favorable legal field for inter-faith accord.

It is worth to note the on-going process of establishment of public sites for addressing religious issues. In November 2013, hotline 114 was set up for consultations and collection of information from citizens on all issues pertaining to religious area as well as for extension of psychological assistance to victims of destructive religious activity.

It is evident that the developing multi-level instruments for implementation of the right to freedom of conscience will have a positive impact on formation of inter-faith accord among Kazakhstanis.

The Ombudsman’s role in securing person’s rights and freedoms in the area of religion is at large determined not only by formal levers at his disposal but by his public and social status in the country. It is first and foremost confirmed by letters of citizens who appeal to him, by requests of government authorities, by cooperation with non-governmental and international organizations.

The Commissioner’s office maintains persistent cooperation and exchange of experience in the area of securing the religious freedom rights in the framework of organizations of the system of UN, OSCE, European Union and others as well as of international non-governmental organizations such as the Norwegian Helsinki Committee and the Norwegian Center for Peace and Human Rights.

We can definitely assert that infringements on religious freedom in the Republic of Kazakhstan are not of systemic nature. They are a result of unreasonable, unlawful actions of individual persons and should be restrained appropriately within the legal field. In this regard, with the account of the significance of peaceful co-existence of faiths as the most important keynote of security, the capacity of the existing state and public institutions should be used more effectively in order to observe international standards in the area of human rights to the freedom of conscience, settlement of possible conflicts in the area of religion through civilized methods.

16. International Cooperation

Over the recent years, international cooperation has been one of the priorities in activities of the Human Rights Commissioner for the purpose of exchanging experience and opinions, and performance of joint activities with international human rights community and foreign Ombudsmen's offices.

In this light, 2013 was not an exception. It continued and developed further the tendencies founded in previous years. International cooperation maintained in the reporting year fully promoted implementation of the Ombudsman's mandate.

The "B" status accredited to the Commissioner for Human Rights in the Republic of Kazakhstan by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights had a positive impact on further development of that area.

That international status helped the Kazakhstani Ombudsman to deepen interaction in the international area. Among other things, he established and developed institutional cooperation in the framework of the Asia Pacific Forum (APF) of national human rights institutions which is the largest and the most active regional association of human rights institutions and facilitates its members' institutional development.

The Commissioner's office also took part in preparation of materials for our country's membership in the UN Human Rights Council, of information for upcoming visits of UN Special Rapporteurs, the on-going preparations of national reports on implementation of UN Conventions, and other informational materials pertaining to the human rights situation in the country.

Maintenance of international cooperation through hosting and attending international conferences, workshops and round-tables, interaction as part of joint projects and other events, and mutual assistance in consideration of complaints about infringement on rights went on.

In 2013, the Ombudsman and his officers attended 52 international events including 9 events abroad (more detailed information on participation in international events is available in this report's annex).

During his meetings with leaders and representatives of international human rights organizations including UN Special Rapporteurs, the Ombudsman presented comprehensive and impartial information about the human rights situation in the country, existing problems and actions taken to address them. It seems necessary for getting an objective picture of that situation.

Cooperation was maintained with a number of international and foreign countries' partners including the Office of the UN High Commissioner for Human Rights and its regional office, the Office of the UN High Commissioner for Refugees,

UNICEF , UN Development Program, OSCE, Asia Pacific Forum of national human rights institutions (hereinafter, APF), European Union, Council of Europe, Penal Reform International, Eurasia Foundation of Central Asia, Amnesty International, Human Rights Watch, Organization of Islamic Cooperation, human rights institutions, governments and parliaments of Tajikistan, Ukraine, Qatar, USA, Kyrgyzstan, Poland, Russian Federation, Great Britain, France, Finland, Norway, and Lithuania.

In the reporting year, a highly productive cooperation with organizations which are a part of the UN structure including the UN High Commissioner for Human Rights and his regional representative, and the UN High Commissioner for Refugees, UN office in Kazakhstan, UN Children's Fund (UNICEF) and others went on.

For instance in September, the Commissioner met with Regional Representative of the UN High Commissioner for Human Rights (UNHCHR) in Central Asia A. Arutunian to exchange opinions on a wide range of human rights issues and discuss issues of preparation for operation of the recently established National Preventive Mechanism (NPM) for torture prevention.

At his February meeting with the Director of the National Human Rights Center, Deputy regional representative of the UNHCHR in Central Asia E. Da Costa confirmed the Ombudsman's important role in the strengthening of the national system of human rights protection and the significance of his information in shaping the country's impartial international image.

In January, the Commissioner met with Chairman of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Forms of Treatment and Punishment of the UN Committee against Torture M. Evans who paid a reconnaissance visit to Kazakhstan in connection with discussion of the draft law on establishment of NPM. The meeting was instrumental in finding ways to address a number of conceptual issues of that legal instrument, first of all issues pertaining to the principles of establishment of the NPM structure, monitoring and reporting procedures.

Cooperation with UNICEF still stayed at the high level, first of all, in the framework of joint projects which helped to upgrade the work of government organizations in a number of important directions in the area of child protection. Engagement of international experts led to development of proposals for improvement of the child protection system in the Republic of Kazakhstan.

A positive example of the successful joint work with UNICEF was presentation of the Collection of materials on results of monitoring children's institutions in Kazakhstan put together by the Ombudsman and the UNICEF office in Astana, the Embassy of the Kingdom of Norway in Kazakhstan, office of Penal Reform International in Central Asia and Kazakhstan's International Bureau for Human Rights and Rule of Law at an international workshop last February.

Another example worth mentioning is the report of the study of the issue of violence against children at schools. It was done as part of the tripartite cooperation of

the Ombudsman with UNICEF in Kazakhstan and the Embassy of Norway. The report was presented at round-table “Topical issues of securing the rights of children in schools of Kazakhstan” last April.

The recommendations developed as part of cooperation in the area of childhood protection are aimed at improvement of the mechanism for protection of child rights including elaboration of a comprehensive program for prevention and eradication of violence in schools.

In April, the Ombudsman and UNICEF Regional Director for Countries of Central and Eastern Europe and CIS M. Poirier discussed bilateral cooperation and expressed mutual interest in further joint work.



Meeting of the Ombudsman A. Shakirov with the UNICEF Regional Director for Central and Eastern Europe and the CIS Marie-Pierre Poirier

Kazakhstani Ombudsman’s cooperation with OSCE units which traditionally pay significant attention to issues of further build-up of the capacity of Kazakhstan’s national human rights institution occupies a specific place.

The conductor of that cooperation, beyond any doubt, is the OSCE Center in Astana which extends significant support to the Ombudsman’s activity in the area of legal education, arrangement of events in the area of human rights, first and foremost, in regions.

Based on results of the Ombudsman's meetings with Head of the OSCE Center in Astana N. Zarudna in the reporting year, a number of events designed to advance Kazakhstani Ombudsman's presence in the country's regions and to work out proposals for improvement of the national legislation were held.

For instance, a presentation of the Commissioner's 2012 Activity Report at the Kokshetau state university named after Sh. Valikahnov, conference "New texts of the Criminal and Penal Codes and new draft Criminal Procedural Code: implementation of international human rights standards into Kazakhstan's legislation and practice", round-table "Practical issues of functioning of the national preventive mechanism in RK" were held.

Besides, the Director of the National Human Rights Center attended the OSCE Human Dimension conferences in Vienna and Warsaw. At the latter conference, he made a presentation and gave a detailed coverage of Kazakhstan's experience in building and operation of the national human rights institution.

In the reporting year, the Commissioner continued his participation in cooperation of the Republic of Kazakhstan with the European Union, first and foremost, in the framework of drafting a new Agreement on Cooperation between RK and EU regarding human rights and rule of law issues.

The reporting year was also highlighted by important events in the area of Kazakhstani Ombudsman's international cooperation with Asian human rights structures which is prompted by the building up significance of that topic in the region and strengthening of the existing associations.

For instance, in October, at the invitation of the Chairman of the Qatar Human Rights Committee, Kazakhstani Ombudsman attended a conference of the Asia Pacific Forum of national human rights institutions, held talks with representatives of that organization and foreign colleagues. In their course, a fruitful exchange of opinions on Ombudsmen's role in improvement of the human rights situation in their countries took place.

Kazakhstan continued its work in the human rights area of activities of the Organization of Islamic Cooperation. As one of the initiators of the establishment of that organization's Standing Human Rights Commission, our country supported discussion of further maintenance of the new segment of OIC. The Commissioner's office took part in that work and specifically, during the meeting last February with RK Permanent Representative in OIC B.Batyrshaev a wide range of relevant issues was discussed.

A number of international meetings significant for the Commissioner's international activity were held in the reporting year.

In April, the Commissioner met with President of the Republic of Finland S. Niinisto who came to our country on an official visit. During the meeting, high assessment was given to cooperation between the ombudsmen and human rights

organizations of Kazakhstan and Finland in the area of provision of the rule of law and access to justice, development of national human rights instruments.



Meeting of the Commissioner for Human Rights in the Republic of Kazakhstan A. Shakirov with the Commissioner for Children's Rights in the Russian Federation P. Astakhov

During the Kazakhstani Ombudsman's July meeting with Child Rights Commissioner under the President of the Russian Federation P.Astakhov, an agreement was reached on cooperation on efforts for protection of child rights.

In May, the Commissioner met with Ambassador Extraordinary and Plenipotentiary of UK K. Brown and discussed prospects for interaction with the government authorities and civil society as well as the Ombudsman's role in the system of human rights protection, in particular, as part of NPM. In the reporting year, the mission of UK in Astana extended significant support in the efforts to get the NPM started.

A substantive exchange of information on national systems for human rights protection and provision of rule of law in the Republic of Kazakhstan and the Republic of Korea took place during the August visit of Chairman of Korea's National Human Rights Commission Hon Bong Cholem to Kazakhstan.

The topic of the Commissioner's September meeting with the U.S. State Department's Special Adviser for Children's Issues Ambassador S. Jacobs was protection of children's rights in the process of international adoption and establishment of comprehensive inter-state interaction in those procedures.

In September, the Commissioner met with a group of members of the Senate of the Italian Republic. During the meeting, a wide set of issues of development of the legislative process in the area of protection of human rights and freedoms, as well as liberalization of the criminal, criminal procedural and penal legislation was discussed.

In October, the Commissioner met with deputy Chairperson of the U.S. Commission on International Religious Freedom K. Swett as part of her visit to Kazakhstan. During the meeting, the parties discussed topical issues of providing religious freedom, operation of religious organization, international cooperation in that area.

The Ombudsman presented comprehensive information to the foreign guest on legislative practice and practical application of the law in the religious area in Kazakhstan as well as mechanisms for protection of citizens' rights to freedom of conscience.

In April, the Director of the National Human Rights Center met with representatives of Poland's Union of Lawyers who visited our country with the purpose of establishment of cooperation with their Kazakhstani colleagues.

The human rights institution's exchange of experience, practice and opinions in the human rights area with foreign countries' human rights organizations, mutual training of the staff on new approaches and practices in the human rights area under various projects including joint events facilitated implementation of the Ombudsman's mandate.

At support of the Ministry of Foreign Affairs of Finland, cooperation with representatives of that Scandinavian country's human rights community continued. In its framework, Kazakhstani Ombudsman's institution attended events organized as part of project "Equality before the law: access to justice in countries of Central Asia".

In April, the Commissioner attended an international conference devoted to the problem of women's access to justice. In his presentation, he highlighted Kazakhstan's achievements in the area of development and encouragement of women's rights in the context of implementation of Kazakhstan-2050 strategy. Due to the format of the conference, its participants could do a substantive exchange of opinions and experience in issues of improvement of women's access to justice, legal assistance to women from vulnerable groups of population, combat against domestic violence, and the role of civil society.

The conference was attended by Minister of International Cooperation of Finland H. Hautala, ex-Chairman of that country's Supreme Administrative Court P.

Halberg, Ombudsmen, representatives of government, international and non-governmental organizations of countries of that region.

Recommendations passed by the conference were sent to the authorized government authorities of respective countries and were accepted by them.



During International conference “Ensuring women's rights: the law and practice” in Dushanbe, Ombudsmen of Central Asian countries, Ambassador at Large of Ministry of Foreign Affairs of Finland L. Rainila

In light of the drafting and adoption of the law on establishment of the NPM, particularly significant was cooperation with human rights organization “Penal Reform International” (PRI). Its activity is designed to promote reform of penitentiary systems of countries of the world.

Our joint work with that organization focused on preparation, methodological support, training of representatives of civil society in view of the upcoming launch of NPM.

In the reporting year, a number of conferences and round tables which gave opportunities for representatives of the government, international and Kazakhstani human rights organizations to exchange views on urgent issues and work out proposals on the NPM’s structure were held.

In addition to that, PRI continued its engagement in the work of the Commissioner's working group on consideration of incidents of torture (the Working group on consideration of incidents of torture and other cruel forms of treatment and punishment) and the experts' council.

As part of PRI's support in development of NPM, in October, the Commissioner met with Director of the Bulgarian Helsinki Commission K.Kanev who came to Kazakhstan as an expert. During the meeting, the parties thoroughly discussed potential problems in the beginning of NPM's practical operation.

Contacts with other international and foreign non-governmental human rights organizations were also kept at a high level.

In all this, we should note that one of the principal issues which caused keen interest of foreign colleagues in the reporting year was establishment of NPM and the on-going reform of the criminal, criminal procedural and penal legislation.

The above-mentioned issues were discussed during the July meeting of Kazakhstan's Ombudsman with representatives of Amnesty International N.Duckworth and D.Diaz-Jogeix.

That problem along with the issue of securing labor rights was also the focal issue of the agenda of the National Human Rights Center Director's meetings with representative of the Human Rights watch M. Rittman in May and representatives of international organization International Alert in April.

Another part of international cooperation is joint consideration of complaints about infringements on rights.

For instance, in 2013, the Commissioner received 33 appeals from foreign countries' Ombudsmen acting in the interests of foreign citizens, stateless persons, and citizens of the Republic of Kazakhstan abroad.

At the same time, the Commissioner's institution uses friendly relations with foreign colleagues for the purpose of protection of Kazakhstani citizens' rights abroad.

In February, the Commissioner appealed to Director of the National Institute for Democracy and Human Rights under the President of Turkmenistan I. Gurbanazarova on the issue of conviction of Kazakhstani citizens by court of Turkmenistan in December 2012. Having assured his foreign colleague of no intention to challenge the ruling issued by the court, the Ombudsman requested that Turkmenistan's national human rights institution apply all means and instruments at its disposal to facilitate mitigation of the Kazakhstani citizens' punishment in the framework of a possible upcoming amnesty in Turkmenistan.

It should be noted that early 2013, those citizens of the Republic of Kazakhstan returned to their home country.

To sum up the above-reported, we should list the following major results of the work accomplished by the Commissioner in the international area.

Kazakhstan's Ombudsman continued his activity in international area which pursues the purpose of protection of Kazakhstani citizens abroad as well as exchange of experience to strengthen the national system of human rights protection. In this regard, it should be noted that the traditional directions of cooperation were kept.

Along with that, the Ombudsman's office established contacts with institutions of the Asian Pacific region in 2013.

In light of the above-reported, we can state that comprehensive international cooperation promotes full implementation of Kazakhstani Ombudsman's capacity in protection of human rights.

Conclusion

In 2013, Kazakhstan entered the active stage of implementation of Kazakhstan-2050 strategy. It boosted up activity of the government and the society on improvement of instruments for provision and protection of the rights and freedoms of a person and citizen on the widest range of issues.

Elections of mayors of towns of district significance, rural circuits, settlements and villages which are not part of rural circuit were held; further consolidation of the power of local governments continued; the Law "On State Services" was adopted. Further efforts were taken to improve the labor legislation including legislation pertaining to trade unions, social security, health protection and many others.

Implementation of the 2010-2020 Legal Policy Strategy stipulated the reform of criminal, criminal procedural, penal and tort legislation, improvement of legislation regulating operation of police bodies, protection of personal data, delivery of state services and the government-guaranteed free legal assistance.

The significance of problems in labor and social rights which accumulate a wide set of issues pertaining to housing and land rights, rights in the area of business, healthcare, social security and protection of vulnerable groups of population has increased significantly in the activity of the national human rights institution, other government organizations as well as public organizations.

Steps taken at the level of the national government in that area correlated to a full extent with the issues raised in the reports, recommendations and other submissions of the Ombudsman to the head of state, the Prime Minister, the Parliament and management of other government bodies.

In the reporting year, the Commissioner's working group on monitoring in social and labor spheres began its operation showing good results. It serves as an element of the multi-level mechanism for settlement of contradictions in the area of labor relations set by President N.A. Nazarbayev in the Strategy "The Society of Universal Labor".

That working group's activity had a positive impact on settlement of a number of problems existing in the area of labor protection.

Important attention was paid to efforts in securing the rights of persons who belong to vulnerable groups including children and persons with disabilities.

The Ombudsman's efforts in that area were also accomplished through cooperation with organizations engaged in the area of protection of respective groups of population.

For instance, due to implementation of joint projects with the UN Children's Fund (UNICEF), recommendations on improvement of instruments for protection of child rights, prevention and eradication of violence in schools based on monitoring of children's institutions and the study of problems of violence against children in schools were put together.

Efforts to protect rights of persons with disabilities aimed first of all at engagement of that group of our citizens in social and political life continued. In this regard, the Commissioner's institution took part in implementation of relevant assignments issued by the head of state, including those set in the Kazakhstan-2050 Strategy.

The problem of observance of human rights in penitentiary facilities still keeps its topicality. It was the object of operation of the Ombudsman's working group on consideration of incidents of torture and other cruel, degrading forms of treatment and punishment. It should be noted that the Ombudsman's consultative and advisory body succeeded in building up a basis for operation of the National Preventive Mechanism against torture established in 2013.

In the reporting year, the issue of providing quality services to population by government organizations, first of all, by local governments, was definitely topical. It is a fundamental issue in securing human rights.

The Ombudsman's practice shows that improvement of the quality of state services and use of all available legal tools in consideration of citizens' issues in places is a factor which will radically improve the human rights situation in the country and cut the number of unsettled and aggravated problems.

In 2013, interaction of the Commissioner's institution with international partners kept its high level. It is an important instrument for exchange of information and experience in the human rights area. It helps to deliver objective information on the human rights situation in Kazakhstan and use advanced foreign practice in operation of the national human rights institution.

In this regard, particular attention was paid to cooperation with regional human rights associations of Europe and Asia which was prompted by development of that area of activity of international organizations in the region.

In conclusion, the Commissioner extends his appreciation to the Constitutional Council, Supreme Court, Prosecutor General's office, members of the Parliament, the national Government and local government bodies as well as international and

national human rights organizations for fruitful joint work and assistance in preparation of this report.

Annexes

1. *Submissions*

**To the President
of the Republic of Kazakhstan
N.A. Nazarbayev**

Dear Nursultan Abishevich!

In pursuance of paragraph 23 of the Statute on the Commissioner for Human Rights (hereinafter, the Commissioner or the Ombudsman), I submit this activity report for 2012.

In its operation, the Ombudsman's institution was guided by the Constitution, national legislation, universally recognized international standards in the human rights area, the guidelines which you established in the address to the people of Kazakhstan and other documents containing programs of action which determine our country's development.

One of the principal forms of our work is consideration of complaints about infringements on the rights and freedoms of a person.

In 2012, I received 1300 such complaints filed on behalf of 1648 RK citizens, foreign citizens, stateless persons, Kazakhstani and international human rights organizations, members of the RK Parliament. I personally met with 220 people.

1278 inquiries were submitted to national and local governments and other organizations as well as foreign countries' Ombudsmen.

Citizens' rights were remedied in 17% of complaints admitted for processing.

Broken down by regions, the biggest number of complaints came from the cities of Almaty (13.5%), Astana (13.4%), and Almaty province (11.5%), Eastern Kazakhstan (9%), Karagandy (7.4%), Southern Kazakhstan (6.8%), Pavlodar province (6.4%). The share of complaints from Zhambyl, South Kazakhstan, Almaty and Pavlodar provinces increased compared to 2011. The number of complaints from the country's Western regions still remains low. It is related to remoteness of those regions and limited regional representation of the Ombudsman.

In regard to the content, complaints about actions, omissions and decisions of law enforcement organs prevail (26% of all complaints filed in 2012), courts (23.8%) and national and local governments (16%), statements on infringements on the following categories of rights: labor (8.5%), housing (7.6%), social support (7.1%), etc.

Complaints about actions of law enforcement organs typically contain reports on unlawful incrimination of charges, arbitrary detentions, confinements, searches, violations of time restrictions for detention, false records of the time of actual detention.

Appeals in the area of rights to judicial protection, fair court proceedings and access to justice, as a rule, report on omissions of judicial enforcement officers, non-

observance of rights of persons who belong to vulnerable groups of population, unfair decisions.

In full compliance with the current legislation and international standards, the Commissioner, who does not have authority to interfere in administration of justice, submits summarized information on citizens' relevant complaints as part of the memorandum on cooperation with the Chairman of the Supreme Court.

Complainants often appeal to the Ombudsman on issues of malpractice in delivery of state services, particularly in the area of housing and land rights, healthcare, social support. We should note incidents of denial and hindrances in holding meetings with citizens, government employees' inappropriate actions, impolite treatment in delivery of state services, delays in processing citizens' appeals. Government organizations often did not respond to citizens' letters, did not explain reasons for their actions and decisions.

I received 83 complaints about property rights: about issues in allocation of housing from the public housing stock, disagreement with local government decisions on denial in registration or cancellation of their registration as persons who need housing, omissions of authorized organizations in consideration of issues of apartment privatization, poor quality of construction, securing the rights of participants in the shared construction.

Protection of labor rights has been Ombudsman's constant priority for several years. In the reporting year, efforts in that area gained certain support in light of the assignments issued by you.

Incoming complaints indicate that incidents of forcing employees to terminate employment contracts, of delays in payment or non-payment of salaries, annual leave benefits, and retirement deductions are widespread.

Based on the results of processing complaints pertaining to that area, I submitted a recommendation to the Minister of Labor and Social Protection of Population with a request to take measures needed for settlement of a number of problems.

Besides, in 2012, the Commissioner's initiative on establishment of a working group for monitoring in social and labor areas was worked out and submitted to the Chief of the Presidential Administration. It is designed as part of the multi-level mechanism for regulation of contradictions in the area of labor relations stated in your Strategy of the Society of Universal Labor.

In 2012, issues of observing disabled persons' rights kept their priority status. The national human rights institution's attention was, first of all, devoted to facilitation of integration of that group of population into society.

Based on results of joint work with organizations which represent interests of persons with disabilities, I submitted to the Administration of the RK President an initiative on engagement of invalids and persons with disabilities in social and political life of the country.

In the area of protection of child rights, reports on violence at home, schools and institutions cause concern. We kept receiving complaints about non-payment of alimony including incidents of non-enforcement of court decisions.

The Commissioner's institution in cooperation with the UN Children's Fund (UNICEF) prepared methodological guidance on international and national standards in monitoring children's institutions, conducted study "Assessment of Violence against Children in Schools of Kazakhstan" which covered 40 schools in 4 regions, 4609 children, and 957 educational workers.

One of the priorities in the Commissioner's activity was monitoring of provision of prisoners' rights, particularly given the upcoming establishment of the national preventive mechanism against torture in Kazakhstan where the Ombudsman will have a systemically significant role in compliance with international model "Ombudsman+".

The monitoring in penitentiary facilities confirms the interest of administration and inmates in labor integration and re-socialization; however, they are hindered by gaps in legislation.

The Commissioner's initiative submitted to the President's Administration is devoted to the issue of prisoners' social integration.

In the reporting year, a letter on results of the Commissioner's 5-year activity was submitted in your address. It describes major directions, forms and methods as well as results of the work accomplished in that period of time.

Based on the results of analysis of complaints and operation of government organizations, I have sent 10 submissions and recommendations on addressing human rights issues of systemic nature (enclosed).

The above-mentioned organizations reported to us on their actions taken within their competenceto address those issues.

Besides, in connection with the beginning of court proceedings on participants of mass riots in Zhanaozen in December 2011, I appealed to the Chairman of the RK Supreme Court highlighting the need to ensure unequivocally the rights of defendants and other participants of the court trial. In addition to that, observance of the rights in the court proceedings on participants of mass riots in Zhanaozen was monitored.

Along with that, our analysis of government organizations' response to the Commissioner's submissions indicates that in separate cases they do not provide due attention to their implementation. 11% of government responses were presented with violation of the timelines which in general complies with the tendency and shows the need in further efforts to ne made in implementation of the administrative reform.

Implementation of the human rights mandate became possible due to vibrant interaction with government organizations. In this regard, the Commissioner participated in the work of the Constitutional Council, Parliament, Government bodies, Legal Policy Council under the RK President. It opened opportunities to raise issues on the widest range of human rights.

I believe that an important form of our work is monitoring in public institutions. In 2012, the Commissioner and his staff visited 81 institutions of systems of healthcare, education, internal affairs, defense, penitentiary system, homes for infants, orphanages, adaptation centers for delinquent juveniles, military units, schools including special schools for delinquents and boarding schools, higher educational institutions, police cells, pre-trial investigation detention facilities, prisons including prisons for women and children in 11 regions of the country.

One of the major areas of the national human rights institution's activity is still the work of its experts and facilitation of development of legislation in the human rights area.

For instance, experts' opinions on holding elections in conditions of extraordinary situation and interpretation of the requirement on the maximum 72-hour detention were presented to the Constitutional Council; opinions on draft law "On personal information and its protection" – to the Mazhilis of the Parliament; expert opinions on implementation of recommendations issued by the UN special rapporteur on issues of adequate housing were sent to the Ministries of Interior Affairs and Justice; opinions on integration and social guarantees for persons with disabilities were sent to the Ministry of Labor and Social Protection of Population.

Attention was also focused on draft legislation pertaining to the area of state services, mandatory public legal service and others.

2012 can be described as a successful year for the Ombudsman's international activity which facilitated exchange of experience and extension of impartial information about Kazakhstan's achievements to the world human rights community for the purpose of maintaining the country's positive image.

That role is confirmed by international partners of the Commissioner's institution. They include the Office of the UN High Commissioner for Human Rights and its regional office, other units of UN, OSCE, OIC, SCO, human Rights watch, Amnesty International, Norwegian Helsinki Committee, the Oslo Center for Peace and Human Rights, human rights institutions of Norway, Ukraine, Finland, Switzerland, Germany, Kyrgyzstan, Russia, Tajikistan and others.

As part of the opening ceremony of the first session of the OIC Human Rights Commission, on behalf of the Chairing country, I presented our country's vision of that body's effective work.

We maintained cooperation with foreign countries' Ombudsmen and human rights institutions including such renowned world and regional leaders in human rights movement as the Norwegian, Finnish, and Ukrainian Ombudsmen.

At our meetings with representatives of international community we regularly communicated impartial information about actions of our state in the area of securing human rights.

The B status accreditation of Kazakhstani Ombudsman's office by the International Coordinating Committee of human rights institutions should be considered as one of the significant developments.

That achievement raises the topicality of the issue of further development of the national human rights institution including its institutional development. It was stated by the UN High Commissioner for Human Rights during his official visit to our country.

Another important area is a dialogue with the human rights community of our country. We held 178 public events and exchanged opinions and information in the area of human rights.

A significant form of such work is media coverage of Ombudsman's activity, publication of articles, materials, studies and bulletins as well as cooperation with scholars researching the human rights area. In the reporting year, in total, 40 press releases and reports on monitoring and events were publicized. More than 500 users visit the Commissioner's website daily.

In addition to that, the Commissioner's annual report plays a significant role in shaping an adequate vision of the country's human rights situation. It serves an information source for Kazakhstani and international human rights organizations.

However, the government's current efforts directed at education of people in the human rights area require more coordination. It seems that the problem can be addressed through potential participation of the country which is a member of the UN Human Rights Council in implementation of the World Program for Human Rights Education.

Dear Nursultan Abishevich!

During ten years of its operation, the Human Rights Commissioner's institution which was established at your initiative took active position both among government organizations and, recently, on the international arena. It performs its activity following the guidelines which you issue. Along with that, the practice indicates that there still is capacity for growth of the Ombudsman's role in the mechanism of prevention of problems in human rights area and elevation of our country's international image.

Enclosure: as per text, 46 pages.

Respectfully,

**Commissioner for Human Rights
in the Republic of Kazakhstan**

A.Shakirov

**To Chief of the Administration
Of the President of the Republic of
Kazakhstan
K.K. Masimov**

Dear Karim Kazhimkanovich!

February 20, 2013, I was received by RK President N.A. Nazarbayev.

In the meeting, I presented the 2012 Report on the Activity of the Commissioner for Human Rights in RK (hereinafter, the Commissioner) and reported on principal results of the national human rights institution's operation over the 5-year period.

In particular, it was noted that the Ombudsman established effective interaction with government organizations in different formats including interaction in the framework of the Legal Policy Council under the RK President, Commission of Pardons under the RK President, the Commissioner's working groups, the Government's inter-agency commissions, other consultative and advisory bodies as well as in the process of remedying citizens' broken rights and implementation of the country's international commitments in the human rights area.

Due to the above-described efforts complemented by a well-established constructive cooperation with non-governmental organizations, the Commissioner performs the function of a mediator between the government and the society in joint monitoring of the situation with respect to human rights and freedoms.

For instance, engagement in the activity of the Commissioner's working group on consideration of incidents of torture and other cruel forms of treatment and punishment for the first time opened opportunities for representatives of the civil sector to get unhindered access and to carry out monitoring in closed regime facilities including those of the penitentiary system.

During that meeting, I also reported on achievements and certain results of the Commissioner's international activity which, first and foremost, pursues the goal of informing the international community about steps taken by Kazakhstan in the area of advancing human rights.

In that context, I reported on the successful accreditation of the Ombudsman's office by the UN International Coordinating Committee of national human rights institutions with assignment of the B status which grants the right to attend meetings of that important international body as an observer.

As part of joint projects, the Commissioner's institution maintains fruitful cooperation with such foreign human rights organizations which are leaders in the human rights area as the Norwegian Helsinki Committee, Danish Human Rights Institute, and a whole range of UN, OSCE, OIC units and others.

During the meeting, comments were offered on major provisions of the presented report reflecting the dynamics of complaints in chronological order, their statistics broken down by regions, specific features of issues raised, the challenged government organizations, recommendations and the Commissioner's submissions to government organizations.

The head of state was also informed of incidental systemic problems which need to be addressed. Earlier, we lodged our conceptual proposals with the Presidential Administration.

In light of the above-reported, the President paid attention to the issue of engaging invalids and persons with disabilities into the country's social and political life with the purpose of maximum integration into the society and removal of stereotypes against that social group which, in international human rights practice, is listed as particularly vulnerable regarding their access to instruments of protection, provision and restoration of their rights, the use of public benefits.

We have also touched upon the issue of socialization and re-socialization of individuals in institutions of confinement through engagement in labor activity as a way to suppress dissemination of destabilizing factors, extremism, organized crime, and recidivism as well as through implementation of social, labor and economic rights of prisoners.

In this regard, efficiency of application of measures of economic incentives for development of production operations in order to employ prisoners, and determination of prisoners' employment indicators as a criterion in evaluation of the penal system's operation was noted.

Initial results of implementation of the Commissioner's initiative on establishment of a working group for monitoring in social and labor areas as a prevention component of the multi-level mechanism for settlement of conflicts in those areas, for development of relevant recommendations and facilitation of settlement of the above-mentioned issues were reported to the head of state.

Regarding this issue, we had an in-depth discussion of the results of the working group's first monitoring visit to the ArcelorMittal Temirtau company.

It should be noted that establishment of an effective multi-level mechanism for settlement of conflicts in the area of labor relations along with the build-up of mechanisms for socialization of invalids and persons with disabilities, and development of the system of social support and adaptation of people are envisaged in the RK President's article which contains a program of action "Kazakhstan's Social Modernization: twenty Steps towards A Society of Universal Labor".

Based on the results of the meeting, the President gave a positive evaluation to results of the work done by the Commissioner's institution, gave instructions on further work in the area of protection of the rights and freedoms of a person and citizen, setting a benchmark for the national human rights institution to reach concrete results in a number of priority areas which include facilitation of further consolidation

of social and labor rights as well as respect to human rights by the government including law enforcement agencies.

The Ombudsman's office will prepare and forward relevant submissions on separate issues approved by the head of state to the Government for its consideration.

With best regards,

**Commissioner for Human Rights
in the Republic of Kazakhstan
A.Shakirov**

**To Prime Minister
of the Republic of Kazakhstan
S.N. Akhmetov**

Dear Serik Nygmetovich!

In his article containing a program of action "Kazakhstan's Social Modernization: Twenty Steps towards a Society of Universal Labor", the head of state set the task of establishment of an effective multi-level mechanism for settlement of conflicts in the area of labor relations. In this regard, the Commissioner for Human Rights in RK, in coordination with the Administration of the RK President established a working group for monitoring in social and labor areas (hereinafter, the working group). Its members are empowered and authorized representatives of the Ministry of Labor and Social Protection of Population, Prosecutor General's office, Federation of Trade Unions, the Sovereign Wealth Fund "Samruk-Kazyna", National economic chamber "Atameken Union", civil society representatives and scholars (the list is enclosed).

February 5, the working group visited Kazakhstan's largest metallurgical factory "ArcelorMittal Temirtau".

Members of the working group looked into the labor conditions at the factory, its social facilities; held meetings with the management of ArcelorMittal Temirtau company, trade union of steelworkers "Zhaktau", and workers to discuss industrial, social and organizational issues which are currently a subject matter of discussions and controversy.

For instance, the December 14, 2014 JSC "ArcelorMittal Temirtau" Director General's order #592 authorized the number of workers of the steel department for

2013 as 12948 people which is a downsizing of the staff by 2989 people compared to 2012.

That decision is related to unfavorable world market environment and decrease of the finished products shipment. But the employer issued that decision without taking the opinion of the trade union into account.

As measures of the staff downsizing, the factory uses the voluntary quitting plan, putting non-core types of work to outsourcing, moving workers from the steel department to coal.

Under the voluntary quitting plan (hereinafter, VQP), a worker is paid compensation from the factory's payroll budget. In 2012, the size of compensation was cut and amounted to 750 thousand tenge for workers, and 1.05 million for white-collar workers (in 2011, 900 thousand and 1.9 million tenge, respectively). It should be noted that recently, experienced specialists as well as young employees left under the VQP. According to the estimates of the ArcelorMittal Temirtau administration, in 2013, about 1500 employees will use the VQP.

Non-core types of work (auxiliary production departments, social support facilities) – 1139 people - are planned to be moved to outsourcing. Some other part of employees will be transferred from the steel to coal department.

The downsizing of the staff carried out by the administration in conditions of a discrepancy between the actual and the authorized number of staff which results in significant workload of employees, worse observance of safety rules, etc. causes definite concern.

During 6 months in 2012, 11 57 people were dismissed from JSC "ArcelorMittal Temirtau" for various reasons. The actual number of employees went down compared to the estimated size of staff. The following shortages in staffing were disclosed: 101 people in the converter steel department, 39 – in the sheet mill department, 83 staffing positions in the operational and technical personnel LPC-3; 31 staffing positions in LPC-2, 50 staffing positions in LPC-1, 27 people in power station-2 and the same number in power station–turbo blower station.

The above-reported situation is confirmed by the Karaganda regional state labor inspector's July 24, 2012 order #36 on elimination of violations of the labor legislation disclosed as a result of inspection of ArcelorMittal Temirtau as well as by court rulings (of November 8, 2011 and January 24, 2013).

Besides, the November 24, 2012 meeting of the working sub-group on discussion of the factory's problems, chaired by the RK Minister of Labor and Social Protection and attended by trade unions, issued a decision to take steps on replenishing the staff shortage, making amendments into the staffing chart in compliance with the 1976-1991 standard norms until their revision, development and introduction of new labor norms.

It is also worth noting that application of the voluntary quitting plan is followed by an increase of excessive expenditure of the payroll fund and reduction of social

expenditures. Those costs are a hard burden on the remaining workers who have to cope with the unchanged volume of work with fewer staff.

It is evident that the staff downsizing and increase of the employees' workload result in higher incidence of workplace injuries, infringements on employees' rights to safe working conditions and protection of labor. An example is fire which occurred May 15, 2012 in the agglomerating department of ArcelorMittal Termirtau and resulted in the death of an electric overhead crane operator. According to par. 4.1.3 of the act of ad hoc investigation of that incident, one of its reasons was unsatisfactory control over operation of conveyors and junction houses because of the shortage of technical staff. Pursuant to par. 6.6 of the above-mentioned act, ArcelorMittal Termirtau company is responsible for the work performed by insufficient number of staff.

It should be noted that the under-staffing problem has an impact on failure to perform the required amount of work. For that reason workers of some departments have to work on weekends. The earlier inspections disclosed incidents when monthly overtime was knowingly planned beforehand in the amount of 172.5 – 184 hours instead of 151-167 hours.

The working group members were perplexed to learn of the 12-hour work shift for workers engaged in difficult works with harmful working conditions; they were allowed half-an-hour lunch break. The position of the Zhaktau trade union which agreed to that schedule looks fairly ambiguous.

Certain amount of concern was caused by condition of production equipment in the steel department with excessive wear of 70% because of the lack of modernization for a long time. The employer tries to increase labor productivity by downsizing the staff, not by modernization of production. At the same time, it does not use the home market for sales of its products.

The enterprise is currently facing the issue of the staff ageing. No systemic work is done to attract young specialists, train and re-train its technical personnel.

In breach of the terms of its agreements with contracting organizations, ArcelorMittal Temirtau did not pay wage arrears from October to December 2012. According to the trade union, payments to foreign contracting organizations are made regularly and in amounts exceeding compensation for the labor of local colleagues.

Consequently, the above-reported facts indicate that the employer does not provide the necessary number of employees in accord with the staffing table; exceeds the length of allowed overtime hours a month and a year; does not ensure labor safety for employees working in harmful labor conditions who have to work on their days off following the director's order on work because of production necessity.

In the context of the above-reported, we see significant violations of requirements of labor legislation which cause discontent of trade union organization "Zhaktau" representing the labor collective.

In the opinion of that trade union organization, the administration's above-described actions which run counter to provisions of the collective bargaining agreement can cause social tension in future.

In that context, it is evident that labor conflicts should be resolved within the framework of the legal field in compliance with principles of social partnership. We have to admit that poor knowledge of requirements of the labor legislation by the parties in labor relations, the lack of a constructive dialogue supported by an adequate position of trade unions in protection of employees' rights, ineffective regulation of the labor law issues by the government are among the principal reasons of labor conflicts.

With the account of the above, the working group initiates a number of the following proposals designed to prevent further development of social conflicts in ArcelorMittal Temirtau JSC:

1. The RK Ministry of Industry and New Technologies should arrange evaluation of production at ArcelorMittal Temirtau JSC by experts regarding its technical equipment, modernization and cost effectiveness of the enterprise.
2. Draw the ArcelorMittal Temirtau JSC's attention to the need in speeding up the development of labor standards with the account of the opinion of steelworkers' trade union "Zhaktau" and filing them with the Ministry of Labor and Social Protection of Population for clearance and further approval by the RK Ministry of Industry and New Technologies.
3. The RK Ministry of Industry and New Technologies should actively engage in the process of drafting and approval of the company's standards, monitor the standards developed by the company with participation of trade unions.
4. The RK Ministry of Labor and Social Protection of Population should continue its control over implementation of the November 24, 2012 protocol issued by the working subgroup on discussion of problems of the ArcelorMittal Temirtau JSC.
5. Draw the ArcelorMittal Temirtau JSC's attention to the need to eliminate violations of labor legislation specified in the Karaganda regional public labor inspector's order of July 24, 2012 and upheld by court as legal (as related to paragraphs 1, 7, 8, 10, 12).
6. The authorized government organizations should ensure control over bringing the actual number of employees into compliance with the staffing chart and standards.
7. The Karaganda regional governor's office along with the ArcelorMittal Temirtau JSC should review issues of extending support to dismissed employees in their further employment, of re-training specialists.
8. The RK Federation of Trade Unions should ensure control over implementation of requirements of labor legislation in conclusion of the

collective bargaining agreement by trade unions and in giving consent to establishment or changes of the length of employees' working hours and leisure.

9. With the account of expiration of the collective bargaining agreement in October 2013, the ArcelorMittal Temirtau JSC administration's and the trade union's attention should be drawn to the need in an advance preparation of a new draft collective bargaining agreement.
10. The Karaganda regional governor's office along with the ArcelorMittal Temirtau JSC and steelworkers' trade union "Zhaktau should develop a comprehensive action plan on the ways out of the current situation in order to prevent conflicts in the labor collective.

Dear Serik Nygmetovich!

Analysis of the findings of our visit to that enterprise confirms the conclusions which were drawn by the Ombudsman's office earlier that serious systemic problems exist in the area of securing legal labor relations.

Those issues were the topic for discussion at the February 20 meeting of the head of state with the RK Human Rights Commissioner.

With the account of the above-reported and for the purpose of prevention of conflicts in labor area, development of an effective model of social and labor relations, the working group believes that the following measures would be efficient:

1. To specify ultimately concrete provisions on the rights and duties, structure of trade unions, principles of their association, trade unions' and their officials' legal liability for arrangement of illegal strikes, basic requirements to the content of trade unions' charter in the currently drafted law of the Republic of Kazakhstan "On Trade Unions".
2. To draft and pass the law of the Republic of Kazakhstan "On collective labor conflicts and strikes" in order to provide the legislative regulation of relations which develop in collective labor conflicts and strikes.
3. To draft and pass the law of the Republic of Kazakhstan "On collective bargaining treaties and agreements" which should regulate provisions on the standards and commitments in collectives bargaining agreements and parties' responsibility for non-implementation of the terms of those agreements.
4. To upgrade public awareness efforts in the area of labor legislation, international standards as well as procedures for holding collectives bargaining to a qualitatively new level for the purpose of improving employers' and employees' legal conscience.
5. To expand the practice of using the mechanism of mediation in labor relations, provide explanatory work on the procedure of mediation, training of professional mediators in that area.

Enclosure: as per text, 1 page

With best regards,

**Commissioner for Human Rights
In the Republic of Kazakhstan
A.Shakirov**

**To Prime Minister
of the Republic of Kazakhstan
S.N. Akhmetov**

Dear Serik Nygmetovich!

In his January 27, 2012 annual address and his article containing a program of actions “Kazakhstan’s social modernization: twenty steps towards a society of universal labor”, President N. Nazarbayev designated provision of universal engagement of population in labor as one of the important conditions for the country’s social and economic modernization.

That guideline implies coverage of the whole Kazakhstani society including those who serve punishment in penitentiary facilities. It was confirmed in discussion of the issue during the meeting with the head of state where the Ombudsman presented his activity report last February.

At this stage, more than 42 thousand convicts are held in confinement facilities. More than 2/3 of them are not engaged in labor activity. That circumstance should certainly be considered as one of the main reasons for prisons turning into a source of not just organized crime and recidivism, but of dissemination of terrorism, extremism, etc.

As we know, transition to market economy and de-nationalization of industrial enterprises on the background of unfavorable economic conditions in 1990s had a negative impact on engagement of convicted individuals into labor. Those factors led to the decline of the majority of industrial entities and enterprises in correctional

facilities. The industrial basis which survived is not instrumental in effective implementation of objectives on engagement of convicts to labor in contemporary economic conditions.

Herein, the experience of well-established foreign penitentiary systems shows that labor is one of the major instruments for correctional impact on prisoners; it prevents personality degradation, and facilitates their further social re-integration into the society after release.

The practice of inmates' labor correction complies with universally accepted principles of respect to human rights and it is based on the Standard Minimum Rules for the Treatment of Prisoners adopted on August 30, 1955 by the UN Congress on prevention of crime and treatment of prisoners. Pursuant to its paragraph 71, all prisoners under sentence shall be required to work, subject to their physical and mental fitness. Article 8 of the International Covenant on Civil and Political rights, one of the fundamental documents in the human rights area, also states that labor of persons who are sentenced to confinement as a result of a lawful order of court does not contradict the norms of the international law.

In general, multiple monitoring visits to penitentiary institutions and individual conversations with inmates confirm that the overwhelming majority of them wish to work and, consequently, earn wages, not be a burden to families and relatives regarding their material expenses, moreover, to be able to extend financial support to them, etc.

I raised the issue of topicality of this theme during the November 21, 2012 meeting of the Legal Policy Council under the RK President and was met with support of its members.

Analytical materials on the discussed issue were sent to the Administration of the RK president. On their basis, the Chief of the Administration issued assignments to a number of government organizations (#4828-1 of December 11, 2012).

In practical consideration of that problem, the following points should be highlighted. According to the official statistics of the Penitentiary Committee of RK MIA, at this stage, only 28% prisoners are engaged in labor in penitentiary facilities. However, even that figure is exaggerated because it is computed out of the number of able-bodied prisoners only, not the total number of persons serving their sentences. The notion of the ability to work is known to be interpreted in the penitentiary system much wider than in the free society. The category of persons incapable of work, in addition to persons with disabilities of 1 and 2 categories, persons under 16 years of age and of retirement age, includes students of regular schools, vocational training schools at correctional facilities (the number of students makes up not more than 15-20% of the total number of inmates in a facility, the length of classes is several hours); inmates-violators held in punitive units and disciplinary cells (similarly, up to 10%). Inmates who took short-term health treatment are also sometimes counted as incapable of work for a long time.

Besides, from individual conversations with working prisoners in our visits to correctional facilities we learnt about incidents when one job was shared by two, sometimes, three prisoners. It improves the prisoners' employment statistics without an actual increase in the number of jobs.

At the same time, employment statistics can also include prisoners engaged in seasonal works (e.g., winter time work in boiler facilities) whose employment contracts are not cancelled but suspended in certain seasons of the year and prisoners in fact do not work, are not paid wages but are listed as employed.

There are still other ways of over-reporting the prisoners' employment statistics without any actual increase of the number of paid jobs. If disclosed, they will add to the urgency of the situation with unemployment in penitentiary facilities.

In general, a comprehensive analysis of the issue of prisoners' employment in penitentiary facilities, confirmed by opinions of prominent specialists in that area as well as by members of the Ombudsman's experts' council was instrumental in advancing the following proposals for your consideration:

- In order to improve competitiveness of products manufactured with engagement of prisoners' labor, it is expedient to provide certain tax privileges to the enterprises of the penitentiary system. Studies of relevant international experience showed that despite the market type of economy, a lot of European countries grant certain labor privileges to their penitentiary systems to facilitate the government's and private businesses' active engagement in the use of prisoners' labor on a paid basis. It is also facilitated by the lower production cost of final products. For instance, prisons in the Federal state of the city of Berlin enjoy such privileges granted by the municipal government and can engage private employers to provision of paid jobs on the territory of prisons. As a result, prisoners manufacture modern products demanded in the market; they also deliver various services to local population at cheaper prices than the average market price (repairs of technical equipment, re-upholstering of furniture, etc.). At the same time, prisoners themselves, working on modern equipment, upgrade their skills which ensures better results in their re-socialization upon release.
- To look into the issue of placing government contracts with enterprises of the penitentiary system for certain types of products, as it was done in the past: official uniform for military servicemen and law enforcement officers, simple parts for industrial equipment, agricultural tools, etc. Products manufactured by prisoners as part of the state housing construction programs (insulating glass units, slag stones, bricks, paving stones, etc.), due to their low production costs, could further bring down the price of housing for employees paid out of the government budget.

Bringing government contracts on some types of products back to the penitentiary system can significantly expand legal instruments for engagement of local governments in the process of providing employment to convicted persons who are held in correctional facilities in their territory.

- To do a comprehensive analysis of operation of national state enterprise “Enbek” from the angle of its cost-effectiveness. Our analysis indicates that the enterprise does not justify the purpose and objectives of its establishment as an enterprise for production of goods (work and services) with engagement of the labor of persons sentenced to deprivation of liberty. In many foreign penitentiary systems, the duty to provide jobs for prisoners rests with prison administration. Par. 73 of the above-mentioned Standard Minimum Rules for the Treatment of Prisoners state directly that, preferably, institutional industries and farms should be operated directly by the administration and not by outside contractors.
- The staffing policy in the penitentiary system should be reviewed. Currently, it exercises the practice of appointment of officers of operational and regime units as wardens of correctional facilities. However, foreign, first and foremost, European experience shows that officials appointed as prison wardens, as a rule, are specialists in economics and management in the area of administering economic activity. Due to such approach to staffing, penitentiary facilities’ administrations stay focused on economic and business aspects rather than predominantly on combat against violators of internal order as in our correctional facilities. Such practice is evidently aimed at prevention of reasons which can potentially cause negative atmosphere among inmates, rather than elimination of the already existing negative consequences of inmates’ unemployment.
- Set in legislation the indicators of prisoners’ employment as one of the principal criteria in assessment of the penitentiary system’s operation. The current principal criterion is the absence of various types of emergency situations with involvement of prisoners. It does not comply with the penitentiary system’s major goal of prisoners’ correction. In order to address that issue, we propose that draft RK Law “On the Law Enforcement Authorities of the Republic of Kazakhstan (new text)” submitted to the Mazhilis of the RK Parliament should directly spell out that criterion.

Dear Serik Nygmetovich!

Favorable consideration of the above-reported urgent proposals could make the country's penal system focus on the maximum provision of paid jobs for prisoners both through implementation of government contracts and engagement of non-government capital. It would result in healthier operational and security as well as moral and psychological environment in confinement facilities. It will also be instrumental in prisoners' better preparedness to re-integration into the society after completion of punishment.

I ask for your consideration.

With best regards,

**The Commissioner for Human Rights
in the Republic of Kazakhstan
A. Shakirov**

**To Prime Minister
of the Republic of Kazakhstan
S.N. Akhmetov**

Dear Serik Nygmetovich!

An important direction in government activities is provision of good quality government services to population, first of all, by local governments which interact directly with citizens.

In his Address to the People of Kazakhstan "Strategy "Kazakhstan-2050": New Course of Politically Established State", the head of state set the objective "to quit the practice of one-way autocratic approach in relationship between the government apparatus and population in favor of effective and timely delivery of government services to citizens".

The President again outlined that specific assignment at the November 28, 2012 meeting with members of the Government and governors of all levels.

Therefore, provision of good quality public services by local governments is one of the principal conditions of the long-term strategy of the country's development.

Besides, it is spelled out in Law of the Republic of Kazakhstan “On Local Government Administration and Self-Government”.

The procedures specified in the law touch upon practically all sides of citizens’ living. With the account of all necessary legal and other instruments at governors’ disposal, it would seem that emerging problems could be promptly addressed at a local level, without interference of central government and human rights organizations.

Along with that, analysis of complaints and appeals filed with the Human Rights Commissioner (hereinafter, the Commissioner) indicates that there are problems which require systemic measures.

Broken down by regions, during the first 9 months in 2013, the largest number of citizens’ complaints came from the cities of Astana (12.9%), Almaty (11.4%), Almaty province (9.5%), Eastern Kazakhstan (7.4%) and Karaganda province (7.8%).

Insignificant numbers of complaints came from Atyrau (1.8%), Western Kazakhstan (1.7%), Kzylorda (1.8%), and Mangistau provinces (1.7%).

We noticed an increase of the share of complaints from Aktubinsk province (growth from 2% during the whole 2012 to 3.6% during 9 months in 2013), Northern Kazakhstan (from 3.3% to 6.5% accordingly), Mangistau and West Kazakhstan provinces (in both regions from 1% to 1.7%).

Herewith, the number of complaints received during 9 months in 2013 from Aktubinsk and North Kazakhstan provinces has already exceeded the number of complaints from those provinces during the whole previous year by 36% and 34%.

The following set of topical issues raised by citizens in their complaints pertaining to delivery of government services should be highlighted.

1. Housing Rights

One of the most topical issues raised in complaints is infringement on citizens’ housing rights and on implementation of the right to adequate housing.

Local governments’ insufficient control over construction of housing facilities comes under notice. The most striking example is the notorious incident with the Besoba residential compound in Karaganda city.

In their appeals, complainants allege that despite violations in the area of architectural and construction works, state commissions for building safety inspection approve residential buildings for operation.

Examples are appeals of Astana city residents M.M. Altmysheva who complained about non-elimination by building company “Astana Invest” of construction and finishing defects in her apartment in new residential compound “Abylaikhan”, the critical condition of the water supply system, cold temperature in the apartment in winter; complaints of residents of Altay residential compound against

the building company which put the compound in commission without appropriate site improvement; operation of a sauna in the basement of the house, and others.

The quality of housing renovation done as part of implementation of the 2011-2020 Program of modernization of housing maintenance and utilities in the Republic of Kazakhstan causes citizens' serious criticism.

In particular, residents of buildings renovated under the program of housing and utilities modernization in Atyrau were not happy with the quality and cost of the work: plaster peels off, roof leaks; people see big number of various insects after the renovation in their homes. A number of criminal investigations were initiated following citizens' complaints.

The inspection carried out by the Zhambyl regional prosecutor's office established that implementation of the above-mentioned program was restricted to routine renovation of buildings, without elements of thermal modernization and saving of heating consumption. There were large-scale infringements on tenants' rights and requirements of the current legislation. Numerous incidents of forgery of signatures of tenants living in building #7, micro-district Talas in resolving the issue of renovation and selection of the contractor, cost estimates. Signatures were forged for dead people and people who left that region. About 75% of renovation works were done with violation of requirements of the current legislation.

Public organization "Kazpotrebnadzor" published results of a sociological poll conducted among residents of Almaty regarding implementation of the 2011-2020 Program of housing and utilities modernization. Experts polled 350 residents of 40 apartment buildings renovated under the above-mentioned program. The poll outcomes showed that 79.8% of residents were dissatisfied with results of renovation made in those apartment buildings. Only 7% of residents believed that renovation complied with the means spent on it.

Thereby, the lack of control over appropriate performance of renovation, spending of funds under the program of housing and utilities modernization stirs people's distrust to implementation of such an important national program in regions, and it accordingly impacts the level of trust to authorities in general.

Resident of Almaty L.N. appealed to the Commissioner seeking support in privatization of housing. In his appeal the complainant reported that in 1951, his father got a single-room apartment. After the father's death in 1989, L.N. did not have opportunity to privatize the apartment because of health problems. The complainant's multiple appeals to the local government on fixing the apartment papers did not bring to positive results.

After looking into the issue, we established the fact of local government employees' failure to provide appropriate information to the complainant on the order for the above-mentioned procedure and the required documents.

The Commissioner's office explained to L.N. the order of filing the required documents with the housing commission of the Almaty city mayor's office for

issuance of a relevant decision because earlier he could not do it for the stated reasons.

In consideration of Sh.V.'s appeal on extension of support in registration at place of residence, and on housing issue of his family members, the Commissioner lodged an inquiry with the Karaganda regional governor's office. But response came from the Shakhtinsk city mayor's office, in breach of the one-month deadline and it only contained explanation of the current legislation on the order of citizens' registration at places of residence.

Complete and relevant information on the subject matter along with information on registration of Sh.V.'s family members as well as their registration as persons who need housing from the public housing stock were presented only after another inquiry lodged by the Commissioner's office.

Herewith, the exchange of correspondence on the issue which does not require any substantive investigation took an unreasonably long period of ten months.

A complaint filed by resident of Astana O.A. about unsatisfactory heating in the residential compound where she lives also indicates shortcomings in securing the citizens' housing rights. The complainant earlier appealed to the city utility services but her issue was not taken into account.

As a result of actions taken at the Commissioner's request, the issue of that residential compound's heating was resolved positively.

For two years, resident of Tselinograd district in Akmolinsk province A.M. has been appealing to the Commissioner about connecting her house to the electric power system. The complainant wrote that her three minor children have to do home assignments in the light of petroleum lamp which resulted in vision impairment problems. The family belongs to the category of socially vulnerable citizens entitled to local government support.

Earlier, in response to the inquiry of the Commissioner's office, the Akmolinsk regional governor's office reported that it planned to upgrade the existing 250 kW transformer to 400 kW at Bereke street in Maximovka village in September 2012. However, the issue raised by the complainant has not been resolved yet.

The reported case indicates that there are incidents of indifferent attitude of officials to consideration of citizens' issues, incapability to give clear, comprehensive explanation of requirements of the current legislation, and present complete, unambiguous requirements to submission of documents.

2. Land Rights

Infringement on land rights is known to be characterized by higher social conflicts potential and often leads to negative consequences. In this regard, incidents when local governments ignore requirements of the current legislation pertaining to issues which directly fall in their competence cause serious concern.

The most illustrative example is A.A.'s complaint about infringement on his land property right by competent authorities of the Tselinograd district in Akmolinsk province. The land parcel was allocated to A.A. pursuant to that district government's resolution of July 31, 2003, sale and purchase contract and appropriately issued act granting him the title on that property.

However, up till the present time, the complainant cannot use his land because the archive and database of the Unified state register of lands do not contain land cadaster documents on his land parcel or information on its owner. Herein, the local government organizations which violated the complainant's rights prefer to stay out of addressing the issue and recommend that it should be resolved in court.

Moreover, it was found that the governor's office gave out A.A.'s land to other owners piece by piece.

In the meantime, pursuant to requirements of subparagraph 12, paragraph 3, article 141-1 of the Land Code of the Republic of Kazakhstan maintenance of records of land owners and users falls under the competence of authorized government organizations of districts and cities of regional significance.

Consequently, the lack of relevant records on land owners in the Tselinograd district in Akmolinsk province, neglect of requirements of the current legislation by the authorized local government organizations resulted in infringement of A.A.'s rights.

Another example is Sh.N.'s complaint about fraudulent actions of M.M., citizen of the Republic of Turkey, who managed to obtain the title on the land designated for agricultural purposes in spite of the Land Code's direct ban for foreign citizens to purchase and get the title on that category of land. The decision on giving the title on that land to a foreign citizen was issued by the Karasai district government in Almaty province.

As a result of our efforts taken on that issue, a criminal investigation was initiated against the citizen of the Republic of Turkey.

Another example is a complaint of O.Z., resident of Saryagash district in Southern Kazakhstan who reported that since 2008 she was a victim of an illegal seizure of land which she owned. The local government took no actions.

The Commissioner's investigation on the complaint established that land which was used and possessed by residents of Koshkarata settlement for several generations was given to O.Z. for private ownership.

Under requirements of the Land Code, transition of the land title to private ownership presumes participation of the local government which could not be unaware of possession of the land by residents of that settlement.

It is evident that rights and lawful interests of residents of the whole settlement were not taken into due account in performance of that procedure, and it caused significant social tension.

An acute issue for residents of big cities is forcible expropriation of land for state needs. It usually causes wide public reaction which is confirmed by constant attention by media.

S.A. appealed to the Commissioner regarding the issue of providing a housing for him and registration at place of residence.

According to the complainant the Esil district court in the city of Astana issued a ruling to satisfy the lawsuit of the Astana mayor's office claiming forcible expropriation of the land parcel owned by S.A. for state needs. The complainant lost his house which was located on that land. Compensation was paid to him.

However, the size of compensation turned out insufficient for purchasing another housing in the territory of the city. He is still registered at his old place, in the house which does not exist anymore.

The practice shows that in performance of procedures on land expropriation or housing demolition, local governments not always consider the issue of the land and housing owners' future fate. It often results in citizens' grievances and public protest actions. Incidents of unreasonable delays in payment of due compensation also occur frequently.

It seems important to note such tendency as all local governments' eagerness to re-direct complainants to court for settlement of their land issue. To a certain extent it runs counter to the national-level policy of development of forms of pre-judicial settlement of disputes.

Citizens have to defend their rights and lawful interests in courts resorting to expensive lawyers' services and going through exhausting court proceedings whereas quick settlement of issues on a lot of such appeals can be done at places without going to courts.

The problem of control over implementation of the land legislation becomes particularly topical in light of assignments which the head of state voiced at the November 27, 2013 meeting devoted to the above-reported issues.

3. Right to Health Protection

For 4 years, Director of public fund "AGEP'C" has appealed repeatedly to the Commissioner on behalf of patients with hepatitis regarding their right to free health assistance.

Investigation of one of his appeals established an incident when a patient with a viral hepatitis was denied the service of free immunoassay and genetic testing for detection of the hepatitis virus, its genotyping assay and determination of the viral load. Shortages in drug supplies to patients suffering from that disease were established.

Upon the Commissioner's interference, the Ministry of Healthcare sent letters to healthcare departments in provinces, cities of Astana and Almaty instructing that the

procedure of fiber scanning should be provided as part of the government-guaranteed package of medical support.

As investigation showed, for a long time, patients with hepatitis in Almaty were deprived of a possibility to get that type of government support because of a delay in issuance of the required legal regulations by the Almaty city health department.

Local government's unsatisfactory control over compliance of facilities, particularly state institutions, with sanitation standards also comes under notice.

51 incidents of acute intestinal infectious diseases among students of lyceum #51 in Almaty were registered last September. Results of investigation detected that the carrier of a germ of dysentery who was the source of the disease was one of the workers of the food unit. Besides, a whole set of serious violations of sanitation requirements was detected.

Intestinal bacterium was also found in five school canteens in Eastern Kazakhstan where the regional sanitary and epidemiological services carried out inspection last September – October. Experts believe that intestinal bacterium appeared as a result of a failure to follow food technology, violation of food storage requirements or failure to follow the dish washing rules.

Poor quality catering in schools can be a consequence of problems in organization of state procurement because under the law, educational institutions have to purchase food from those suppliers who offer the lowest price. In this regard, consolidated responsibility should be imposed both on entrepreneurs who arrange catering in educational institutions and the management of those institutions who should exercise permanent control over that process.

This year, numerous violations of sanitation requirements were detected in the Karaganda infectious diseases hospital. It did not have a ventilation system, waste sanitation facilities.

Similar violations were found in operation of the Ust-Kamenogorsk city hospital #1. At the time of inspection, practically all its premises (corridors, wards, eating area, rooms for medical procedures) were infected by a fungus. Contagious isolation wards had no extractive ventilation.

Pursuant to court ruling, operation of the hospital's infectious diseases department was suspended until elimination of the detected violations.

4. Child Rights

Recently the number of suicides among children has increased again. For instance, teenagers' suicides last November in Buharzhayrau district, Karaganda province caused wide public reaction. During one week, three high school students committed suicide by hanging. In all the incidents, children were from problem-free families and were good students.

As we know, last year, the 2012-2014 Inter-agency action plan for prevention of suicides was adopted. Various government agencies, within their competence, were assigned preventive operations in that area.

At the September 9, 2013 press conference devoted to the World Suicide Prevention Day, it was reported that Eastern Kazakhstan, Kostanay and Akmolinsk provinces are Kazakhstan's leaders in the number of committed suicides.

Along with that, we have to note that up to this time, there is still no systematized and reliable information on the spread and reasons for suicides among children and teenagers. In this regard, May 2013, the RK Ministry of Healthcare and the UN Children's Fund in Kazakhstan presented findings of international expert professor Marco Sarchiapone's study on suicide incidence, deep reasons and risk factors, as well as protection. The findings of that study show that 24.3% of committed suicides among children in Kazakhstan are associated with ante-mortem messages. It indicates that effective early detection of suicidal intentions can save a lot of lives.

However, incidents of committed suicides indicate insufficiency of efforts in that area, particularly of the work done by school counselors, medical staff who are assigned to schools. Experts in that area believe that population's awareness need to be improved, their prejudice against suicides and mental problems in general need to be taken down.

We draw a conclusion that there is no consistent interaction between local governments and their units including offices of systems of education, healthcare, social security, law enforcement as well as non-governmental sector and media.

5. Right to Favorable Environment

Complaints filed with the Commissioner about issues of environmental rights indicate that there are separate problems which need to be addressed with direct engagement of local government organizations.

Practically all recently adopted program documents designate improvement of the purity of environment and ecology as one of the principal priorities in development of the state.

However, up to this time, problems of contamination and littering of land by waste materials of production, failure to observe the environmental regime, infliction of harm to the environment and deterioration of the environmental situation as a result of economic activity remain unresolved.

The bulk of solid domestic waste is not split into its components. It is collected and piled up at open dump sites 97% of which fall short of requirements of the environmental and health legislation of the Republic of Kazakhstan. Their location and provision of the necessary facilities were done without construction specifications and assessment of the impact on the environment.

Under the law, government organizations which perform state control over the use and protection of land have a sufficient set of rights in exercising their power. However, they do not always use those rights fully and promptly in performing their control functions. As a result, serious wrong-doings related to the land of common use, water protection zones, sanitation protection zones occur.

One of the main directions in the activity in that area is provision of potable water to the population in the required amount and a guarantee of good quality as part of implementation of the 2011-2020 Ak Bulak program.

However, a number of rural settlements face the lack of potable water, sub-standard construction and re-construction of water supply pipelines. For instance, for several years, residents of Zhansugurov settlement in Almaty province had to drink poor-quality drinking water. Since 2009, the settlement's water pipeline has been under renovation but up until now, there is no pure water in the settlement. According to residents of the settlement, water is available one hour – in the morning and evening, and its quality is questionable.

Residents of Uzynaryk village in Southern Kazakhstan suffer from potable water shortage. They have to stand in endless queues to stock up with potable water from the sole standpipe which works only a few hours a day. Those who failed to get water, have to take it from a ditch. The village residents' appeals to the local government did not yield any positive results.

People in Zhambyl settlement, Michurinsk rural circuit in Western Kazakhstan have to bring water from the city or take water from the river. In the past, there were two standpipes in the settlement but since last year the water supply stopped. The government of the Michurinsk rural circuit explains that situation by lack of funds.

The Commissioner raised that problem in 2010 as part of a submission lodged with the Minister of Agriculture.

Another example in the area of citizens' rights to favorable environment is an appeal of residents of Zyrianovsk city in Eastern Kazakhstan pertaining to the local government's omission in removing the threat of an emergency situation as a result of residential houses' under-flooding.

It was only after the Commissioner's inquiry lodged with the Eastern Kazakhstan regional governor's office, that explanations were given on the efforts to reduce consequences of under-flooding, moving residents from the districts which suffered under-flooding and evaluation of damaged houses.

It seems that people's anger in districts which suffered from under-flooding could have been avoided if professional work were carried out with population, information on measures taken and further plans to improve the situation were extended to people.

6. Processing of Citizens' Complaints

The Commissioner keeps receiving complaints about disregard of their complaints, omissions, non-provision of sufficient information about citizens' rights and interests. Not few are incidents of breach of official ethics by government officials, their impolite attitude to citizens, denial of personal meetings, and avoidance of personal contacts with complainants.

A striking example in this context is E.Zh.'s complaint about violence of the head of Kalam-Karasu rural circuit government in Kostanay province against her.

After the Commissioner's interference, effective steps to protect E.Zh. were taken, the fact of infliction of bodily harm was confirmed; court found the above-mentioned official guilty of commitment of an administrative offense; he was also fired from his job.

It should be noted that at personal meetings and during events held in regions, citizens often report incidents of impolite, indifferent attitude, incapability to provide clear, professional, competent and comprehensive explanations of requirements of the current legislation. It makes citizens appeal repeatedly to central government organizations.

An appeal filed in the interests of N.N., resident of North Kazakhstan province, is indicative of that. After her mother's death in child delivery, N.N. was raised by her stepmother, then lived with her grandmother. When she reached the age of 18, payment of social allowances to her stopped, and she was not informed that under the law "On State social allowances paid for disability, loss of breadwinner and old age in the Republic of Kazakhstan", she was entitled to an allowance till graduation from the University where she studied at that point.

It was only after the Ombudsman's inquiry, that according to established order, N.S. Novoselova received consultation on the procedure and rules for applying and receiving the due social assistance.

A similar example is appeal of resident of Pavlodar province M.G. who after leaving the orphanage did not get explanations of his right to get housing. It was only in 2012, after inquiries of the Commissioner's office, 9 years after he left the orphanage, that he received information on the procedure for signing up for housing as a person who needs housing from the public housing stock.

Besides, we established the fact of delayed documentation of M.G.'s orphan status resulting from violations made by the principal of the school where the complainant studied and an officer of the Ekibastuz government. However, those persons cannot be brought to liability because of the statute of limitations.

We should also draw the attention of local governments to their responsibility to give timely and substantive response to submissions of the Commissioner's office.

Resident of Merken district, Zhambyl province, person with disability of the 2nd category D.B. appealed to the Commissioner with a request to support her in getting her identification certificate issued. According to the complainant, settlement of that issue is complicated by the absence of housing and registration at place of residence.

In response to the Commissioner's relevant inquiry, the Zhambyl regional governor's office found it appropriate that the Merken district government responds which, in its turn, just informed the Commissioner's office of the list of documents required to register as a person who needs housing; the response did not contain information about results of consideration of the complainant's request.

Full information on D.B.'s appeal was sent to the Commissioner's office only after its second inquiry to the regional governor's office. As a result, issuance of the complainant's identification document was facilitated and she was appropriately registered.

We should also highlight the tendency which has recently spread out that local governments do not observe requirements on timelines set in RK laws "On the procedure for consideration of appeals of physical and legal persons", "On administrative procedures" for execution of documents.

For instance, in consideration of K.B.'s appeal on issues of registration at place of residence and social security, the Commissioner's office sent an inquiry to the Special representative of the President of the Republic of Kazakhstan on Baikonur facility on January 10, 2013.

Final response was received by the Commissioner's office only August 12, 2013. Herewith, two reminders had to be sent on the need to provide the requested information.

Similar breaches of timelines for processing the Commissioner's requests were done by the Almaty mayor's office on L.N.'s complaint; Southern Kazakhstan government on S.A.'s complaint; Astana city mayor's office on complaints of M.M., E.S., A.K.; Kzylorda regional government on M.O.'s complaint; Northern Kazakhstan government on complaints of V.O., B.L. and A.M.; Karaganda regional government on E.A.'s complaint, Zhambyl regional government on B.I.'s complaint.

Local governments' delayed provision of information on requests of the Commissioner's institution in breach of deadlines set in the current legislation, hinders significantly the Commissioner's implementation of the functions assigned to him and prompt remedy of citizens' rights.

Dear Serik Nygmetovich!

In regard to the above-reported, for the purpose of improving mechanisms for securing citizens' rights in delivery of public services to population by local government, I appeal to you with a request to charge them with undertaking systemic measures including improvement of their effective control, ensuring that employees of local government authorities perform their official duties and make full use of all existing legal instruments for securing human rights, as well as bringing down the level of bureaucracy and red tape in handling citizens' issues.

We believe that such measures will facilitate implementation of objectives of improving the effectiveness of the government management set by the head of state in his policy documents.

With best regards,

**Commissioner for Human Rights
In the Republic of Kazakhstan
A.Shakirov**

**To Chairman of the Supreme Court
Of the Republic of Kazakhstan
B.A. Beknazarov**

Dear Bektas Abdykhanovich!

Pursuant to the bilateral memorandum on cooperation with the Supreme Court, the office of the Commissioner for Human Rights in the Republic of Kazakhstan (hereinafter, the Commissioner) forwards the most typical complaints of citizens pertaining to their rights to judicial protection for your information. In 2012 and the first half of 2013, we sent you a number of filed complaints with 23 copies of challenged court decisions enclosed.

During that period of time, we received 419 complaints pertaining to the rights to judicial protection which amounts to 25.9% of the total number of registered complaints. 234 of them are on criminal cases, 133 – on civil cases, 21 – on administrative cases and 31 complaints about actions and omissions of judiciary.

The largest number of complaints came from the cities of Almaty, Astana, from Karaganda and North Kazakhstan provinces.

A significant number of complaints received by the Commissioner pertain to disagreement with judicial acts on criminal cases and violations of requirements of the criminal procedural legislation during court proceedings.

In such appeals, complainants, as a rule, seek support in revision of issued court decisions.

In separate cases when possible violation of procedural norms can be tracked down from materials of complaint, the Commissioner submits requests with the Prosecutor General's office on revision of those complaints with the purpose of issuing prosecutorial protest against the court decision.

In this regard, I believe it is expedient to quote the most typical complaints received by the Commissioner as examples.

Violation of criminal procedural norms during investigation and court hearings

The Ombudsman received a complaint of I.V. who served sentence in facility AK-159/22 of the Karaganda regional department of the Penitentiary Committee of the RK Ministry of Interior Affairs. He expressed disagreement with actions of police officers and court decision.

In his appeal, the complainant alleged that during investigation and court trial on his criminal case, norms of the criminal procedural legislation were violated.

The Human Rights Commissioner reached out to the Prosecutor General's office and received a response that the Prosecutor General lodged a supervisory protest with the Supreme Court with a view to exclude the charge of dangerous repetition of crime in the inmate's actions with the change of the regime of the corrective facility.

Upon consideration of the protest, the Supreme Court's supervisory panel overturned the verdict of the Syrdaria district court against I.V. Proceedings on that criminal case were dropped because of the absence of elements of crime in I.V.'s actions.

Bureaucratic delays in determination of territorial jurisdiction of cases

K.O. appealed to the Ombudsman complaining about bureaucratic delays in judiciary in handling her lawsuit with her claims on restoration of apartment ownership rights.

According to materials of the complaint, K.O. filed a lawsuit with Auezov district court in Almaty city. October 11, 2012, judge T.N. issued a decision to turn down the lawsuit on grounds of the court's lack of jurisdiction over that case, with a reference to article 31 of the RK Civil Procedural Code reading that lawsuits shall be filed where the defendant lives.

On the complainant's appeal to the Zhetysu district court in Almaty where the defendant lives, on October 25, 2012 judge O.T. issued a decision to turn down the lawsuit on grounds of lack of jurisdiction over that case. In the decision, the judge quotes the July 16, 2007 RK Supreme Court's regulation #5 "On some issues in

settlement of conflicts related to protection of housing property right” which sets that lawsuits on the housing title should be filed at place where the housing is located.

The November 20, 2012 ruling of the appellate panel determined that the Zhetysu district court judge’s decision that the lawsuit should be filed where the challenged real property is located was correct.

And K.O. again filed a lawsuit with Auezov district court #2 in Almaty. Upon its review, judge T.N. again issued a decision on turning the lawsuit down on grounds of the lack of jurisdiction and claiming that it should be filed where the defendant lives.

As a result, for several months, the complainant had to go to courts which returned her lawsuit for filing it with another court.

A copy of that complaint was forwarded to you for your information.

Bureaucratic delays in consideration of petitions by courts

T.O. and K.N. appealed to the Commissioner to complain about bureaucratic delays in consideration of victims’ petitions by courts.

June 15, 2012, T.O. and others sent a petition to the Supreme Court of the Republic of Kazakhstan soliciting its judicial supervisory review of a trial court’s verdict and decision of the appellate court.

July 13, 2012, the Supreme Court of the Republic of Kazakhstan guided by provisions of RK Law “On amendments in some legislative acts of the Republic of Kazakhstan on issues of improvement of appellate, cassation and supervisory procedures in consideration of cases, improvement of the level of trust and provision of access to justice” which entered into force on July 1, 2012, forwarded T.O.’s and others’ petition to the court of cassation for consideration.

Two months later, T.O. received the appellate court’s response on returning the materials back with an explanation of the provision of the law stating that a case admitted for proceedings before July 1, 2012 should be handled according to the rules of procedural legislation effective before the law entered into force, that is by the RK Supreme Court.

The complainants report that because of the long-drawn procedure of consideration of their petition in supervisory and cassation courts, they missed the deadline for filing an appeal for supervisory revision of the verdict, rulings of appellate and cassation courts.

Complaint about actions of a judge as to failure to provide a copy of court records

The Ombudsman received D.N.’s complaint about failure of the Abay district court in Shimkent to provide court records.

Materials of the complaint showed that July 16, 2012 the complainant participated in court proceeding as a defendant in a civil litigation. July 23, 2012, having received a copy of the court ruling and found discrepancy in data quoted in the ruling, D.N. appealed to the judge with a request to give him a copy of the court records.

August 11, 2012, he was notified that the court refused to issue copies of court records.

However, pursuant to part 7, article 257 of the RK Civil Procedural Code, at request of persons-parties to proceedings or their representatives, the court should provide court records in the form of an electronic document certified by the electronic digital signature of the chairman and secretary of the court proceeding.

A copy of that complaint was forwarded to you.

Violation of the procedure for recognition of real property assets as ownerless

The Human Rights Commissioner was approached by B.M. who found herself in a difficult situation.

The complainant's parents divorced in 1996 and since she was two years old B.M. lived with her grandmother.

B.M.'s parents, herself, her brother and sister owned an apartment which, after her parents' and brother's death was recognized as ownerless and under the June 1, 2001 ruling of the Tekeli city court in Almaty province, it was transferred to the municipal property of the Tekeli mayor's office.

Nevertheless, B.M. still owned her share in the title on that apartment but she failed to straighten out the appropriate paperwork on her right to inherit the apartment.

Pursuant to paragraph 3, article 13 of RK Law "On housing relations", housing which is in shared ownership can be alienated only on consent of all its owners. If the operation affects interests of minors who are owners of the housing, it requires the consent of the guardianship authorities.

However, in recognition of the above-mentioned real property as ownerless, the Tekeli city court did not involve representatives of the guardianship authority and, in that way, it violated requirements of article 316 of the RK Civil Procedural Code which sets that a statement on recognition of real property as communal should be considered by court only with participation of the claimant and all persons concerned.

Judicial recognition of sale and purchase contract concluded by an incompetent person as valid

L.L. complained to the Ombudsman about judge's actions pertaining to recognition of the apartment sale and purchase contract signed by her incompetent son as valid.

Materials of the complaint show that since May 2008, the complainant's son D.S. has been registered with the Astana Center for Medical and Social Rehabilitation with a diagnose of "mental and behavioral disorders resulting from alcohol addiction; amnesic syndrome" and according to the June 2, 2011 conclusion of his examination by the board of medical and social experts he was assigned the 2nd category of disability.

An apartment located at 10, Goethe street, apartment 40 was registered as the property owned by the complainant's son.

In October 2011, L.L. received information that citizen D.S.S. filed a lawsuit on eviction of D.S.P. from that apartment based on the sales contract signed by them.

The complainant filed a countersuit with the Saryarka district court in Astana claiming that the above-mentioned contract should be recognized invalid and D.S.P. should be recognized as legally incompetent.

As part of the judicial investigation, judge Zh.S. commissioned forensic psychiatric examination of D.S.P. Based on its findings, it was established that D.S.P. suffers from mental disorder defined as dementia.

The February 22, 2012 court ruling commissioned another comprehensive forensic psychiatric examination. This time it was assigned to the National scientific practical center of psychiatry, psychotherapy and narcology in Almaty. When the complainant and her son arrived in that institution, D.S.P. fell into a fit of aggressiveness and steadfastly refused from placement into the hospital and examination.

L.L. appealed to judge Zh.S. with a request of coercive examination of her son by experts of the Center of psychiatry. Her request was declined.

Furthermore, in its next judicial ruling, the court came to a conclusion on D.S.P.'s evasion from examination and it supported D.S.S.'s claims on eviction of D.S.P. and all other persons who live in that apartment.

The 78-year-old L.L. had to appeal to judiciary for two years with the purpose of questioning that decision.

It was after the complainant's appeal to prosecutors' office and submission of prosecutorial protest, that on July 27, 2012, the appellate panel of the Astana city court issued a ruling recognizing D.S.P. as legally incompetent.

Currently, a judicial litigation on the claims to recognize D.S.P.'s apartment sale contract as invalid is under way.

Denial of replacing the non-served part of punishment with a more lenient punishment

The Human Rights Commissioner's office received an appeal of convicted Ch.M. who is serving punishment in facility OV-156/15 of the Eastern Kazakhstan department of the RK MIA's penitentiary committee, with his request of support in

replacement of the non-served part of his sentence with a more lenient form of punishment because of serious illness.

According to a record from his health file, Ch.M. suffers from lung TB, hepatitis B and C, pancreatic diabetes, IV clinical stage of HIV infection and other associated diseases.

After sending an inquiry to the RK MIA penitentiary committee, the Commissioner was informed that inmate Ch.M. had served $\frac{3}{4}$ of the term of his punishment; is noted for good conduct in the facility where he serves the sentence, has two recognitions for conscientious work and good behavior; his two reprimands were cancelled.

The August 22, 2012 ruling of the Semei city court #2 in East Kazakhstan province dismissed convict Ch.M.'s request of replacement of the remaining non-served part of punishment by more lenient punishment.

Another appeal on disagreement with the denied replacement of the non-served part of punishment with more lenient punishment was submitted by A.I. who acted in the interests of her convicted spouse A.M. serving sentence in facility EC-166/5 of the Akmolinsk regional department of the RK Interior Affairs Ministry's penitentiary committee.

According to the performance report written by the director of EC-166/5 facility, A.M. has served $\frac{4}{5}$ of the term of his sentence, is noted for good conduct in the facility; he was not employed because of the lack of jobs; during his stay in the facility he earned five recognitions; has no reprimands, takes active part in social life and in improvement of the territory of the facility. He has taken the path of correction.

However, the June 12, 2012 ruling of the Arshaly district court in Akmolinsk province dismissed A.M.'s request.

Dear Bektas Abdykhanovich!

The currently taken steps on reforming and improvement of the justice system definitely have significant impact on development of the country's legal system, securing human rights and freedoms. Along with that, issues raised in citizens' complaints indicate certain problems in judicial practice.

Without questioning the grounds for issuance of judgments and with no intention to interfere into the process of administering justice, guided by provision 25 of the Statute on the Human Rights Commissioner approved by the September 19, 2002 decree #947 of the President of the Republic of Kazakhstan, I ask that, based on the cited examples of citizens' complaints and materials, you look into a possibility of taking measures for avoidance of infringements on the rights of a person and citizen.

Enclosure:

1. A copy of I.V.'s appeal and materials, 10 pages;
2. A copy of K.O.'s appeal and materials on 7 pages;
3. A copy of T.O.'s and K.N.'s appeal and materials on 7 pages;

4. A copy of D.N.'s appeal on 5 pages;
5. A copy of B.M.'s appeal on 4 pages;
6. A copy of L.L.'s appeal and materials on 11 pages;
7. A copy of convict Ch.M.'s appeal and materials on 3 pages
8. A copy of A.I.'s appeal filed in the interests of her convicted spouse A.M. on 5 pages.

With best regards,

**Commissioner for Human Rights
In the Republic of Kazakhstan
A. Shakirov**

**To Chief of the Office
of the Prime Minister
of the Republic of Kazakhstan
E.Zh. Koshanov**

Dear Erlan Zhakanovich!

One of the priority human rights functions of the Commissioner for Human Rights in the Republic of Kazakhstan and his institution (the National Human Rights Center) is monitoring over respect to human rights in public institutional facilities.

Last June, as part monitoring over human rights including the rights of old people, children, persons with disabilities, and persons released from penitentiary facilities, officers of the National Human Rights Center visited public institutions of social support, healthcare and education in Western Kazakhstan and Pavlodar province.

The findings of that work showed effective interaction between local governments, administration of the monitored facilities, business companies in appropriate provision of the rights of those groups of population.

Along with that, analysis of the materials disclosed the following urgent problems which need to be addressed at the state level.

Medical and social institutions for old and disabled persons and medical and social institutions for persons with mental disabilities

During the visit to the Uralsk medical and social institution of common type for old and disabled persons, the monitors noted the building's unfitness for free and independent movement of persons with disorders of locomotor system.

For instance, wheel-chaired persons with disabilities expressed the need in modernization of the existing ramps and toilet facilities with the account of the fact that access to the building and toilet facilities is difficult and requires certain efforts.

The above-mentioned institution's quarantine department where new-coming patients and those who were temporarily absent for more than five days are placed for up to 14 days, evoked particular concern. Herein, during their stay in the quarantine department, persons cannot be visited by family members or friends; they cannot go to the main building or outdoors.

However, the Standard for delivery of special social services in the area of social security of population in an institutional environment approved by the October 28, 2011 RK Government resolution does not provide for establishment and operation of such quarantine departments. Besides, that Standard sets a concrete list of medical counter-indications for disabled and old people's stay in medical social institutions; and one of conditions for admission to institution is a medical card which contains results of health check-up by specialists and laboratory assessments.

Monitors noticed that Uralsk medical and social institution of common type for old and disabled persons had a department where persons with mental disabilities stayed. Whereas, the above-mentioned Standard requires establishment of separate legal entities: medical social institutions for old and disabled persons and medical social institutions for persons with mental disabilities.

In addition to that, the management of the monitored medical social institution denoted the problem of purchasing and delivery of orthopedic devices for persons with disabilities because there are no orthopedic factories in that region.

During the visit to the Pavlodar medical and social institution of common type for old and disabled persons, the monitors noted insufficient work on professional rehabilitation of persons with disabilities and old people, on provision of social and labor services. The institution has just 1 sewing workshop and a fine arts room. Only 15% of 270 old and disabled persons are engaged in social labor activities. Such conditions hinder the process of effective professional rehabilitation of service recipients.

At the same time, that institution has sufficiently large adjacent territory which can be used to engage the tenants in various types of activities.

In visits of the two above-mentioned medical and social institutions for old and disabled persons, monitors noticed their failure to observe requirements of the Standard for delivery of special services in the area of social security of population pertaining to placement of tenants in rooms with the account of their age and psychological compatibility.

During the visit to Kruglozernovsk medical social mental institution (West Kazakhstan province), monitors paid attention to the general unsatisfactory condition of the building, of its separate sections, bath and sanitation facilities which require major renovation.

They also noted untidiness of disabled persons' clothes which suggests insufficient material supply of the institution or inappropriate care of the tenants.

The building of the mental institution does not have elevators for wheel-chaired persons with disabilities or other devices (ramps, handrails) for access to residential buildings. At the time of the visit, 13 persons with mental disabilities were outside; most of them were lying on the ground which was a sign of negligent attitude to tenants and inappropriate organization of the time in the open air.

Conversations with the administration of the medical social institution disclosed one common problem which is typical for the staff of such institutions, specifically, low salaries and no additional payment for harmful work, annual leave health allowances for junior medical staff; whereas, the bulk of burden in taking care of the old and disabled persons is loaded on that category of workers.

Special educational institutions

In their visit to the Regional special boarding school for children with hearing impairment and deaf children (West Kazakhstan province), monitors noted high level of technical equipment of the school, fitness of the school territory for games and sports activities, organization of elementary vocational training for students of 11 grade on specialties of tailor, hairdresser, shoemaker, cook, carpenter and others.

Along with that, the boarding school administration spoke about the need in producing modern school books and academic programs for children with hearing impairment.

According to an NGO representative, there is also a problem of selection and admission of children from poor families and socially vulnerable groups of population to the regional special boarding school for children with hearing impairment and deaf children. During their visit to that boarding school, the monitors studied documents which confirmed the lack of children from those groups.

The administration of the regional school for blind children and children with visual impairment (West Kazakhstan province) indicated the need in production of teaching books for blind children and children with visual impairment in Kazakh as well as a need in visual impairment specialists.

The monitoring of the situation with the rights of minors in the regional adaptation center for juvenile delinquents (Pavlodar province) indicated that the transfer of the adaptation centers for juvenile delinquents from the system of law enforcement to the system of education had a positive impact on adaptation of neglected and street children, children deprived of parental care. Along with that, practical operation of adaptation centers shows that it is efficient to keep delinquent children placed there under court rulings in separate temporary confinement facilities to rule out their negative impact on other categories of children staying at adaptation centers.

The Pavlodar city center for persons released from penitentiary facilities

The condition of the Pavlodar city center for persons released from penitentiary facilities (hereinafter, the Center) causes serious concern. Our visit to that facility drew us to a conclusion on unsatisfactory level of conditions in which people stay in the Center in regard to observance of sanitation and hygienic standards. The need to upgrade the logistical basis, to do major overhaul of the building were disclosed.

The main objective of the Center's establishment was extension of assistance to persons released from penitentiary facilities, adaptation to the outside life, and restoration of social skills. Under the generally accepted definition, an important component of social adaptation is coordination of an individual's assessments and aspirations, his personal capabilities (real and potential level) with the specific features of the environment, as well as coordination of a person's goals, values and orientation with possibilities for their implementation in the concrete social environment.

However, the visit to the Center showed that its social work focuses on technical aspects of providing assistance to persons released from penitentiary facilities. In general, it does not provide for development of specific individual adaptation programs, psychological correction, social work on assessment of capabilities and needs of individuals who stay at the Center. Social assistance is rendered by the Center's staff, practically without engagement or with passive engagement of citizens themselves.

In that way, the Center's major and important objective – adaptation and socialization of individuals released from penitentiary facilities – is practically not achieved; the work done with those individuals keeps its dependency incline. The Center's staffing chart does not comprise such important specialists as psychologist, sociologist, and lawyer. It hinders the process of re-socialization of persons staying in the Center.

The results of our monitoring bring us to a conclusion that the local government and the Center's administration do not recognize full significance of the role of such institution in re-socialization of individuals released from penitentiary facilities. If its

operation were appropriately organized, the Center could act as an important model in the system of adaptation and socialization of individuals released from penitentiary facilities.

In general, our analysis of the results of the monitoring visits to facilities of the system of social security, healthcare and education in Western Kazakhstan and Pavlodar province indicates that there is a set of problems of organizational, financial, economic, and legal nature which are a hindering factor in implementation of the rights enshrined in fundamental international documents and requirements of the national legislation.

In light of the above-reported, guided by paragraph 21 of the Statute on the Human Rights Commissioner approved by the September 19, 2002 decree #947 of the President of the Republic of Kazakhstan, I appeal to you with a request to task the relevant authorized government organizations with taking the required measures for elimination of the disclosed shortcomings.

With best regards,

**Commissioner for Human Rights
In the Republic of Kazakhstan
A.Shakirov**

2. Recommendations

**Ministry of Justice
Of the Republic of Kazakhstan**

The Constitution of the Republic of Kazakhstan enshrines everybody's right to judicial protection of his rights and freedoms. Court judgments have binding force throughout the country's territory and, pursuant to article 1 of the Constitutional law of the Republic of Kazakhstan "On the judiciary system and status of judges in the Republic of Kazakhstan" have to be implemented inviolately.

Execution of court rulings is actual implementation and restoration of citizens' infringed rights. Failure to execute or improper execution of judicial acts discredits the system of justice administration.

At this stage, a wide-scale work on improvement of the judicial system, of the effectiveness of justice administration and enforcement proceedings is under way in the country.

As part of the recently adopted RK Law "On enforcement proceedings and the status of judicial enforcement officers", a cardinal reform and further improvement of legislation on enforcement proceedings go on. The institute of private bailiffs was introduced.

It is evident that the steps taken in that area bring their results. It is confirmed by appeals received by the Commissioner's office pertaining to issues of enforcement of court rulings. Their number goes significantly down compared to previous periods (41 in 2010, 62 in 2011, 24 in 2012).

Unfortunately, complaints about non-enforcement or improper enforcement of judicial acts often find their confirmation. It brings us to a conclusion that certain problems exist in that area.

In the first half of 2013, we received 11 complaints about improper enforcement of court decisions.

In most incidents, citizens' complaints were caused by red tape and long delays in enforcement of judicial acts by state judicial enforcement officers.

For instance, the National Center for Human Rights (hereinafter, the Commissioner's office) is processing a complaint of R.T. and L.F. about non-enforcement of the March 18, 2011 ruling of the Esil district court in Astana.

According to the complaint and enclosed documents, in November 2008, citizen T.Zh. performed construction and assembly works on re-designing her apartment without obtaining the required permission from the authorities, specifically, she took down a supporting wall and destroyed the building's structural integrity. It resulted in significant damages in R.T.'s and L.F.'s apartments.

We found that April 25, 2011, a judicial enforcement officer of the Astana city department for enforcement of judicial acts (hereinafter, Astana DEJA) initiated enforcement proceedings. Given the long non-execution of the judicial act, the Astana specialized inter-district administrative court issued a ruling on May 24, 2012 to bring T.Zh. to administrative liability pursuant to article 524 of the RK Code on Administrative Offenses and imposed an administrative penalty in the amount of 5 monthly calculation indices.

January 18, 2013, the Astana city prosecutor's office instructed that the Esil district prosecutor issue an order for Astana DEJA to eliminate violations of the law.

January 29, 2013, the judicial enforcement officer filed a petition with the Astana city police department on holding T.Zh. criminally liable for non-execution of the court judgment in the full extent. However, the Astana police dismissed DEJA's

petition because such petitions of judicial enforcement officers should come to police through district prosecutor's office.

In the final run, the enforcement proceedings against T.Zh. were dropped pursuant to article 47 of RK Law "On enforcement proceedings and the status of judicial enforcement officers" because the plaintiff– the Astana city office for state architectural and constructional control–dissolved. The successor of the abolished legal entity was not established.

If judicial enforcement officers performed promptly the procedures specified in RK legislation pertaining to enforcement of court decisions, their improper execution would not occur.

We should admit that red tape and delays in enforcement of judgments by state judicial enforcement officers in separate cases can take several years.

The Commissioner's office is now processing lawyer T.A.'s appeal who acts in the interests of G.V. on non-enforcement of the April 26, 2010 ruling of the Almaty district court in Astana by the Alataustroinvest company and on inactivity of judicial enforcement officer.

According to the complaint, under the above-mentioned court ruling, the June 21, 2007 agreement on shared construction of the complainant's apartment concluded by Alataustroinvest and G.V. should be dissolved and the money in the amount of 20592717 tenge should be recovered to her benefit. However, by this time, the court judgment has not yet been executed. And the enforcement officer has not taken effective actions to get it executed for two years.

In this incident appeals to the Astana DEJA also did not yield any positive results.

As discovered later, the Astana DEJA had 25 enforcement proceedings on collection of money in the amount of 60200000 tenge to the benefit of legal and physical persons, including G.V.'s 20592717 tenge from Alataustroinvest.

Enforcement efforts did not bring any results, and official investigation was conducted against the state judicial enforcement officer for his failure in prompt and proper enforcement of the requirements of the court judgment. As a result he was punished by disciplinary penalties.

The Committee for enforcement of judicial acts of the RK Ministry of Justice tasked the Astana DEJA to take all the necessary measures for implementation of all the points of the April 26, 2010 ruling of the Almaty district court in Astana on collection of 20592717 tenge from Alataustroinvest company to G.V.'s benefit.

Besides, on the disclosed facts of violations, the Almaty district prosecutor's office in Astana issued an order for the Astana DEJA to eliminate violations of the law.

According to that prosecutor's office, pursuant to the procedure of article 185 of the RK Criminal Procedural Code, it also filed a submission with the Astana

department for combat against economic and corruption crimes for it to take a procedural decision on the fact of Astana DEJA officials' abuse of power.

Despite those measures and involvement of prosecutors, the court judgment has still not been executed.

Findings of prosecutors' inspection over operations of regional offices of the Committee for enforcement of judicial acts indicate that there are violations in the area of enforcement proceedings.

In consideration of I.R.'s appeal on non-enforcement of the November 7, 2008 ruling of the Kzylorda city court, an inquiry was lodged with the RK Prosecutor General's office.

According to prosecutors' response of May 17, 2013, the Kzylorda city court issued a ruling on November 7, 2008 imposing an obligation on the Kzylorda city mayor's office and "Turgyn uikyzmeti" state company to provide housing for I.R. out of the public housing stock in the priority order beginning the time of registration.

Later, December 1, 2012, the Kzylorda city court changed the procedure for implementation of the earlier ruling by allocation of housing for I.R. under the category "persons with the 2nd category of disability". However, in enforcement proceedings, judicial enforcement officers did not take due actions for actual enforcement of the judicial act.

In this regard, May 17, 2013, the Kzylorda regional prosecutor's office issued an order for the Department for enforcement of judicial acts to eliminate violations of the law.

Separate incidents of non-enforcement of court judgments display the debtors' persistent evasion from execution of court judgments and enforcement officers' omissions.

U.K. appealed to us complaining about non-enforcement of a judgment of the specialized inter-district economic court of Zhambyl province (hereinafter, SIEC).

As a result of our efforts, measures were taken on enforcement of the August 22, 2011 ruling of SIEC on clearing the land parcel, demolition of illegally built facilities, of the transformer substation and restoration of the soil structure.

However, despite multiple warnings on liability and measures taken by judicial enforcement officers, debtor in the person of E.S. refuses to implement the court judgment. Moreover, the debtor undertook unlawful actions against judicial enforcement officers, set obstacles to demolition of illegal buildings and refused to leave the land parcel.

September 17, 2012, investigator of the Zhambyl district police office in Zhambyl province initiated a criminal investigation against the debtor pursuant to article 362 of the Criminal Code of the Republic of Kazakhstan. But on November 14, 2012, the Zhambyl district prosecutor revoked that decision because it was initiated before expiration of the four-months' term established by law for enforcement of the judicial document.

February 1, 2013, another notification was issued for the debtor to leave the territory occupied by him and arrest was imposed on his real and personal property.

March 12, 2013, a criminal investigation was again initiated against the debtor for persistent evasion from implementation of court judgment and leaving the territory which he occupies.

Senior judicial enforcement officer of the Zhambyl territorial department was brought to disciplinary liability and punished by a strict reprimand for breach of requirements of the current legislation and bureaucratic delays.

As a result of the lack of coordinated actions of judicial enforcement officers and police, and of judicial enforcement officers' incompetence and red tape, the August 22, 2011 court judgment has still not been enforced. U.K.'s lawful interests and rights were not remedied.

Despite disciplinary measures applied against judicial enforcement officers for mal-performance of their official duties, there still are incidents when a full set of measures are not taken to enforce court judgments.

Last year, we reviewed a complaint about omissions of judicial enforcement officers of the Pavlodar regional department for enforcement of judicial acts (hereinafter, the Pavlodar DEJA).

Our investigation established that enforcement proceedings on collection of 122757 tenge from the repairs and casting plant were going through coercive implementation procedures in the Pavlodar DEJA.

In order to ensure enforcement of the document, on May 30, 2013, the judicial enforcement officer issued a ban on re-registration, re-organization and abolition of the debtor.

In the process of enforcement of judicial acts, it was found that the debtor does not own property including money on which the court-enforced collection could be imposed.

Thus, measures taken by the judicial enforcement officer to determine the debtor's property or incomes turned out futile.

To this end, pursuant to article 48 of the RK Law "On enforcement proceedings and the status of judicial enforcement officers", May 31, 2013, the judicial enforcement officer issued a resolution on returning the non-enforced judicial document. Explanations on the right to re-presentment of the judicial document for its enforcement and to lodge a complaint against actions (omissions) of the judicial enforcement officer on enforcement of the judicial document were given.

Along with that, the inspection confirmed the fact of judicial enforcement officer's violation of the deadlines and failure to take all measures for enforcement of the judicial document.

Pursuant to the Pavlodar DEJA Director's order, the judicial enforcement officer was punished by disciplinary penalties for mal-performance of his official duties. However, the court judgment has still not been enforced.

In some incidents, state judicial enforcement officers' negligent attitude to lost documents makes timely enforcement of court judgments impossible.

Investigation of the facts reported in the complaint of S.I. who disagrees with actions of the Tamiz Invest Group company and non-enforcement of the December 20, 2012 ruling of the Almaty district court in Astana established that the judicial enforcement document was lost at judicial enforcement officer's fault.

Labor relations with the officer who lost the document were terminated, and it was impossible to bring him to disciplinary responsibility.

To remedy consequences of judicial officer's inadmissible actions, the Astana city department for enforcement of judicial acts took a set of measures to get a duplicate of the judicial document. In the final run, it will impact the timelines for execution of the judgment which has taken legal effect.

Mal-performance of official duties by state judicial enforcement officers can also restrict fundamental human rights.

According to complaint of S.N., citizen of the Russian Federation, F.U. was detained when he was crossing Kazakhstani-Russian border on the grounds of limitations imposed on him for enforcement of judicial enforcement officer's order of temporary restriction of the debtor's right to leave the country.

Our investigation established that F.U. had repaid the debt in full amount and February 26, 2013, the enforcement proceedings on collection of debt were dropped due to complete repayment of the debt. But the order on lifting the ban on the debtor's departure from the Republic of Kazakhstan was issued only on March 28, 2013. For that reason, the citizen of the Russian Federation could not exercise his right to the freedom of movement and return to his country.

For breach of the law, the state judicial enforcement officer of the Aksu office of the Pavlodar regional DEJA was given a written warning on inadmissibility of such violations in future.

In our opinion, major problems in judicial enforcement proceedings are unreasonably long enforcement of judicial acts which, in the final run, leads to impossibility of their enforcement; lack of professionalism of some state judicial enforcement officers who, for various reasons and excuses, do not use instruments provided by the law for implementation of their functions; weak interaction with law enforcement agencies, and insufficient control on behalf of the management of regional offices of the Committee for enforcement of judicial acts.

Improper enforcement of court judgments on property conflicts causes particular concern. Citizens have to defend their rights and lawful interests resorting to expensive lawyers' services, but in the end, they face non-enforcement of court rulings issued in their favor.

As we mentioned above, within the framework of the on-going process of reforming the system of judicial enforcement proceedings, the institute of private bailiffs was introduced. That new mechanism falls short of hopes set on it because

people have not developed trust to private enforcers, whereas private bailiffs whose income is directly related to the actual enforcement of judicial acts take up only cases which are attractive to them given future proceeds.

As a result of the above-reported setbacks in efforts on enforcement of court judgments the government encounters people's negative attitude not only to enforcement proceedings but to the system of justice as a whole because restoration of their right actually does not take place.

Noting the importance of the above-reported and guided by paragraph 25 of the Statute on the Commissioner for Human Rights approved by the September 19, 2002 decree of the President of the Republic of Kazakhstan, I ask that you consider and take measures established in legislation for legal and organizational improvement of the system of judicial enforcement proceedings.

Enclosure:

1. Materials on S.I.'s appeal on 2 pages;
2. Materials on R.T.'s appeal on 11 pages;
3. Materials on P.A.'s appeal on 9 pages;
4. Materials on I.R.'s appeal on 10 pages;
5. Materials on U.K.'s appeal on 13 pages;
6. Materials on K.N.'s appeal on 4 pages;
7. Materials on S.N.'s appeal on 5 pages.

**Director
Of the National Human Rights Center
V.Kaluzhny**

3. *Statistical data on citizens' complaints*

The number of written and verbal complaints

Title	Number of complaints
Written complaints	1097
Verbal complaints	194
Total	1291

Title	Number of complaints
Admitted to processing	685
declined	335
of which: not in our competence	252
No infringements detected	83
Under proceedings	53
Are reviewed	

Results of the complaints consideration

Title	Number of complaints
No infringement on human rights were detected	487
Rights were remedied by government authority	98
Complainant's claims were restored but not to full extent	4
Infringement on rights was established; restoring is under way	25

The share of positively settled complaints in the total number of admitted complaints – **18.5%**

Dismissed complaints

Title	Number of complaints
Anonymous	
Vague	4
Filed with wrong organization	6
Submission with a proposal	
Return of documents	1
Filing additional documents	50
Retracted appeals	
Statements – opinions	1
Letters of appreciation	15
Total	77
Repeated appeals	97

Profile of complainants

Types of complaints	Number of complaints
Individual	935
Of them women	476
Men	459
Collective	61
Number of signatures	1365
Complaints sent by	

the Administration of the President of the Republic of Kazakhstan	1
NGOs	58
Other organizations	42
Verbal complaints	194
Of them in regions	
Total number of citizens who appealed to the Commissioner	2595

Number of other countries' Human Rights Commissioners who appealed 33

Written complaints per provinces

Provinces	Number of complaints	Percentage ratio of complainants
Astana	146	13.3
Almaty	132	12.0
Akmolilnsk province	50	4.6
Aktubinsk province	40	3.6
Almaty province	93	8.5
Atyrau province	18	1.6
East Kazakhstan province	79	7.2
Zhambyl province	62	5.7
West Kazakhstan province	17	1.5
Karaganda province	90	8.2
Kostanay province	38	3.5
Kzylorda province	17	1.5
Mangistau province	21	1.9
Pavlodar province	71	6.5
North Kazakhstan province	65	5.9
South Kazakhstan province	58	5.3
From foreign countries	100	9.1
Total	1097	

Government authorities and organizations where inquiries were sent

Name of organization	Number of inquiries	Number of responses sent with violation of timelines
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Prosecutor General's office	316	54
Ministry of Interior Affairs	296	35
Ministry of Labor and Social Protection of Population	47	1
Committee for Enforcement of Judicial ActsMinistry of Justice	59	3
Local governments	130	20
Ministry of Justice	15	2
Ministry of Finance	12	
Ministry of Healthcare	40	1
Ministry of Education and Science	20	1
Ministry of Foreign Affairs	7	3
Ministry of Defense	3	1
Ministry of Environment and Water Resources	3	
Ministry of Agriculture	2	
Ministry of Culture and Information	2	2
Ministry of Emergency Situations	3	1
Ministry of Regional Development	3	
Committee for National Security	14	1
National Bank	8	
Agency for Combat against Economic and Corruption Crimes	31	8
Agency for Regulation of Natural Monopolies	2	
Agency for Civil Service Affairs	5	
Agency for Religious Affairs	11	
Committee for Land Resources Management of the Ministry of Regional Development	4	2
Courts	7	
Public Record Office	6	1
Commercial banks	1	
Foreign countries' government authorities	9	
Kazakhstani Bar Association	1	1
Non-governmental organizations, Commissions for Public Oversight	8	
Companies, public funds, etc.	6	
Total	1071	137

Profile of issues raised in complaints

№	Profile of issues	Number of issues
1	Issues of administration in central government bodies	88
2	Issues of administration in local government and representative bodies	87
3	Disagreement with court judgments	267
4	Actions and omissions of judiciary	26
5	Non-enforcement of court judgments	37
6	Right to professional legal assistance	7
7	Requests on pardoning	
8	Actions and omissions of law enforcement agencies	279
9	Torture, violence, other cruel or degrading treatment and punishment	43
10	Actions and omissions of penitentiary facilities' administration	67
11	Transfer from one penitentiary facility to another	77
12	Application of release on parole	13
13	Military hazing in the Armed Forces of the Republic of Kazakhstan	1
14	Freedom of conscience	34
15	Right to inviolability of privacy, personal and family secrets, protection of honor and dignity	7
16	Right to confidentiality of personal deposits and savings, correspondence, telephone conversations, mail and telegraph communications	
17	Freedom of speech and creative activity	1
18	Right to information access	36
19	Right to freedom of movement	15
20	Right to private property	18
21	Right to participate in government administration	
22	Right to elect and be elected	
23	Right to access to government service	
24	Right to freedom of association, freedom to gatherings	
25	Discrimination for ethnic affiliation	5
26	Discrimination related to mental disease	5
27	Issues of registration, citizenship, residence permit, issuance of identification documents	50
28	Assignment and payment of pensions	13
29	Social support on various grounds	43
30	Rights of persons with disabilities	39
31	Housing rights	81
32	Land rights	22
33	Labor rights	68
34	Right to favorable environment	6

35	Issues of rehabilitation of victims of mass repressions	3
36	Right to healthcare	68
37	Consumer rights	18
38	Education rights	8
39	Child rights	67
40	Women's rights	13
41	Repatriates' rights	
42	Rights of businessmen	6
43	Infringement on Kazakhstan citizens' rights abroad	21
44	Complaints about actions of legal entities with no government shares	66
45	Issues of relations between individuals	42
46	Letters with requests to pass them to other government organizations	
47	Proposal on amendments to legislation	1
48	Other	14
	Total	1762

The Commissioner for Human Rights in the Republic of Kazakhstan sent one appeal to the Head of State.

Government organizations where appeals and recommendations were sent

Government organization	Number
The National Government	4
Parliament	5
Supreme court	1
President's administration	1
Ministry of Justice	1
Total	12

4. Work performed by the Human Rights Commissioner's institution in the country's provinces

Karaganda province, Temirtau city	February 5, 2013
Monitoring visits to metallurgical enterprise "ArcelorMittal Temirtau" by members of the RK Human Rights Commissioner's working group on monitoring in social and labor area	
Zhambyl province, Taraz city	February 14-15, 2013
Monitoring by members of the RK Human Rights Commissioner's working group on consideration of incidents of torture:	
Police cells of the city department of interior affairs	
Investigatory detention place at facility ZhD-158/1, Penitentiary Committee, RK MIA	
Facility ZhD-158/2, general security, Penitentiary Committee,	

RK MIA	
Facility ZhD-158/4, high security, Penitentiary Committee, RK MIA	
Facility ZhD-158/5, open correctional facility, Penitentiary Committee, RK MIA	
Facility ZhD-158/7, top security, Penitentiary Committee, RK MIA	
North Kazakhstan province, Petropavlovsk city	February 27-28, 2013
Monitoring by members of the RK Human Rights Commissioner's working group on consideration of incidents of torture:	
Police cells of the city department of interior affairs	
Vagrants detention facility, juvenile detention facility of the city department of interior affairs	
Investigatory detention place at facility ES-164/1, Penitentiary Committee, RK MIA	
Facility ES-164/3, general security, Penitentiary Committee, RK MIA	
Facility ES-164/6 women's prison, Penitentiary Committee, RK MIA	
Facility ES-1564/9, open correctional facility, Penitentiary Committee, RK MIA	
Akmolinsk province, Kokshetau city	May 16-17, 2013
Monitoring by members of the RK Human Rights Commissioner's working group on consideration of incidents of torture:	
Police cells of the Stepnogorsk city department of interior affairs	
Investigatory detention place at facility EC-166/23, Penitentiary Committee, RK MIA	
Facility EC-166/11, high security, Penitentiary Committee, RK MIA	
Facility EC-166/18 high security, Penitentiary Committee, RK MIA	
Visit of RK Human Rights Commissioner A.O.Shakirov, Director of the National Human Rights Center V.A.Kaluzhny, office Director R.A.Rakhimov, senior experts A.D.Suleimenova, A.A.Sabdinov and expert R.S.Kypshakbaev to the Kokshetau state university named after Sh.Ualikhanov	
Kzylorda province, Kzylorda city	June 3, 2013
Monitoring by members of the RK Human Rights Commissioner's working group on consideration of incidents of torture:	
Police cells of the city department of interior affairs	
Investigatory detention place at facility ZK-169/1, Penitentiary Committee, RK MIA	
Facility ZK-169/4, open correctional facility, Penitentiary Committee, RK MIA	

Facility ZK-169/5 high security, Penitentiary Committee, RK MIA	
Police cells of Shieli interior affairs office, Shieli settlement	
Pavlodar province, Pavlodar city	June 28-29, 2013
Monitoring of medical social institutions by senior experts of the National Human Rights Center D.E.Ospanova and G.A.Aukasheva with participation of representative of NGO "Committee for monitoring of the criminal reform and human rights" N.A.Kovliagina	
Pavlodar city center for persons released from penitentiary facilities	
Pavlodar regional medical social facility of general type for old and disabled persons	
Regional children's psycho-neurological medical social institution	
Pavlodar regional orphanage for infants	
Regional juvenile delinquents adaptation center	
West Kazakhstan province, Uralsk city	June 27-28, 2013
Monitoring visits to medical social institutions by senior experts of the National Human Rights Center A.D.Suleimenova and A.A.Sabdinov with participation of Chairman of the regional POC P.M.Kochetkov	
Uralsk medical social institution of general type for old and disabled persons	
Kruglozernovsk psycho-neurological medical social institution	
Regional specialized boarding school for blind and visually impaired children	
Regional specialized boarding school for children with hearing and speech impairment	
Regional specialized orphanage for infants "Meirim"	
Astana city	July 15-16, 2013
Monitoring visits by secretary of the RK Human Rights Commissioner's working group on consideration of incidents of torture, head of the office R.A.Rakhimov:	
Investigatory detention place at facility EC-166/1, Penitentiary Committee, RK MIA	
Facility EC-166/5, top security, Penitentiary Committee, RK MIA	
Facility EC-166/10, high security, Penitentiary Committee, RK MIA	
South Kazakhstan province, Shimkent city	November 7, 2013
Monitoring visit to boarding school for visually impaired children "Umit" by head of the office R.A.Rakhimov and expert R.S.Kipshakbaev	

5. Participation of the Human Rights Commissioner and his institution in public events

Participation of the National Human Rights Center's officer R.A.Rakhimov in presentation of books in new series "Uly dala tulgalary" published by scholars of the Institute of the State History as part of special program "Gylymi kazyna" initiated by the RK Ministry of Education and Science	January 4 Astana
Human Rights Commissioner A.O.Shakirov's participation in the first organizational meeting of the working group for human dimension which is a consultative and advisory body established for the purpose of coordination and improvement of government actions on encouraging and protecting human rights in RK	January 14 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting on issues of establishment of A corps senior government officers	January 16 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in round table "Topical issues of legal policy in conditions of social modernization and implementation of the citizens' constitutional rights in social area"	January 17 Astana
Meeting of the Human Rights Commissioner's working group for monitoring in social and labor areas	January 18 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in a meeting of the working group of the Committee on Legislation and Judicial and Legal Reform of the Mazhilis of the RK Parliament on consideration of draft RK laws "On the government guaranteed legal assistance" and "On amendments in some legislative acts of RK on issues of improvement of the system of delivery of the government-guaranteed legal assistance"	January 22, 31 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the work of the 291 meeting of the Inter-agency commission on issues of legislative work under the RK Government	January 23 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officer A.Urazbaeva in a round table on presentation of the review on implementation of the 2009-2012 Human Rights Action Plan in its part pertaining to child rights and rights of women	January 24 Astana
Participation of the National Human Rights Center's officers E.A.Salamatov and R.A.Rakhimov in working group meetings of the Committee on legislation and judicial and legal reform of the Mazhilis of the Parliament on issues of establishment of the national preventive mechanism	January 25 Astana
Meeting of the board of experts of the Commissioner for Human Rights in RK	January 30 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in working group meetings of the Committee on	February 1,7,14,20 Astana

legislation and judicial and legal reform of the Mazhilis of the Parliament on issues of establishment of the national preventive mechanism	
Monitoring visit to ArcelorMittal Temirtau JSC in Karaganda province by members of the Human Rights Commissioner's working group for monitoring in social and labor areas	February 5 Temirtau
Participation of the National Human Rights Center's officer A.A.Sabdinov in workshop "Principles for restriction of rights and freedoms of a person"	February 5 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in a round table on implementation of the right to adequate housing in light of recommendations of the UN Special Rapporteur on issues of adequate housing and recommendations of the UN Committee on economic, social and cultural rights on implementation of the International Covenant on Economic, Social and Cultural Rights	February 6 Astana
Participation of Human Rights Commissioner A.O.Shakirov in the extended collegial staff meeting on results of operation of RK justice organizations in 2012	February 11, 15 Astana
Participation of the National human Rights Center's officer R.S.Kipshakbaev in the working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament for consideration of draft RK law "On personal information"	February 11 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a meeting on revision of joint programs of the RK Government and UNICEF in 2010-2012	February 12 Astana
Meeting of the Human Rights Commissioner's working group for monitoring in social and labor areas	February 12, 26 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in a monitoring visit to specialized and penitentiary facilities in Taraz by members of the Human Rights Commissioner's working group for prevention of torture	February 13-15 Taraz
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the work of the 292 meeting of the Inter-agency Commission on Issues of Legislative Activity under the RK Government	February 14 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in round table "Strengthening the religious freedom in Kazakhstan"	February 15 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in round table "Death penalty and life imprisonment as forms of punishment in the new text of the Criminal Code"	February 19 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the work of the Council for Public Relations in the area of education	February 21 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a staff meeting of the Prosecutor General's office on results of inspection over compliance with the law on issues of education and character building of orphans and children left without	February 21 Astana

parental care, and on issues of delivery of free health assistance to population	
Participation of the National Human Rights Center's officer G.A.Aukasheva in the work of conference "Implementation of guiding principles of business activities in Kazakhstan from the human rights angle: implementation of UN standards pertaining to protection, compliance and instruments of legal protection"	February 21 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in experts conference "Development of an effective mechanism for investigation of torture incidents in Central Asian countries"	February 22 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in training "Independent monitoring of children's rights in institutions"	February 26 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President on the status of legislative work and objectives for 2013, on issues of implementation of article 78 of the Constitution	February 27 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a round table on issues of bank foreclosures of citizens' only housing for debt recovery	February 27 Astana
Participation of the National Human Rights Center's officer A.D.Suleimenova in round table "Access to information: implementation of the constitutional right in the interests of civil society"	February 27 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in round table "Regional context of re-socialization of released prisoners: joint efforts of government, penitentiary system and civil sector"	February 26-28 Petropavlovsk
Participation of the National Human Rights Center's officers R.A.Rakhimov and E.A.Salamatov in monitoring visits to specialized and penitentiary facilities in Petropavlovsk by members of the Human Rights Commissioner's working group for torture prevention	February 26-28 Petropavlovsk
Participation of the National Human Rights Center's Director V.A.Kaluzhny in scientific practical conference "Common front of government and society in combat against corruption in conditions of the country's new political course"	February 28 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in international scientific practical conference "Role of defense attorneys in protection of constitutional rights and freedoms in conditions of the reform of civil procedural legislation"	February 28 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the Constitutional Council on interpretation of par. 8, article 62 and par. 1, article 83 of the Constitution	March 4 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva and consultant on issues of child rights protection	March 12 Astana

D.O.Kozhanbaev (UNICEF) in round table “Social and psychological services in the framework of juvenile court proceedings in the Republic of Kazakhstan”	
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President on new draft Criminal Procedural Code	March 13 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in a meeting of the Inter-agency commission on issues of legislative work under the RK Government	March 13 Astana
Lecture of the National Human Rights Center’s officer G.A.Aukasheva for social workers in scientific methodological center “Alsem-Astana” on “Protection of rights of persons with disabilities and single old people: national practice and foreign experience”	March 13 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny and officer E.A.Salamatov in round table “Strengthening the institutions and capacity of civil society for torture prevention”	March 14 Astana
Participation of the National Human Rights Center’s officer E.A.Salamatov in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on consideration of draft RK law “On amendments into some legislative acts of RK on issues of establishment of the national preventive mechanism against torture and other cruel, inhuman or degrading forms of treatment and punishment”	March 18 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in international conference “Religious freedom in the Republic of Kazakhstan”	March 19 Astana
Participation of the National Human Rights Center’s officer E.A.Salamatov in an extended meeting of NDP Nur Otan’s Legal Council for discussion of draft law “On road traffic” by experts	March 19 Astana
Participation of Human Rights Commissioner A.O.Shakirov in scientific practical conference “New criminal legislation of the Republic of Kazakhstan: problems, tendencies and ways for improvement”	March 20 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in round table “Prospects for reforming Kazakhstan’s media legislation”	March 27 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in UNICEF training for journalists on ethical principles in covering issues of children, violence against children in schools, inclusive society and prevention of child abandonment	March 27-28 Ust Kamenogorsk
Participation of the National Human Rights Center’s officer E.A.Salamatov in the First Forum on prison reform on “Probation and electronic bracelets instead of prison”	March 28 Astana
A meeting of the Human Rights Commissioner’s working group for consideration of torture incidents	March 29 Astana
Participation of the National Human Rights Center’s officer E.A.Salamatov in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of RK Parliament on issues of establishment of the National preventive	April 4,12,15,22 Astana

mechanism	
Participation of the National Human Rights Center's officer E.A.Salamatov in round table "Implementation of international humanitarian and international criminal law in criminal legislation of the Republic of Kazakhstan"	April 9 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a presentation of the Report on violence against children in schools	April 10 Astana
Meeting of the experts' board of the Human Rights Commissioner	April 11 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a presentation of a model program on prevention of violence in educational institutions of East Kazakhstan province	April 11-12 Ust Kamenogorsk
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President on the issue of development of a new system for protection of consumers' rights to provide for a streamlined procedure for issuance of court judgments	April 12 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the Inter-agency commission on issues of legislative work under the RK Government	April 12 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a general meeting of consultative advisory board "The HumanDimension Dialogue Platform"	April 15 Astana
Participation of the National Human Rights Center's officer E.A.Salamatov in a meeting arranged by the RK President's administration on draft law designed to establish the national preventive mechanism	April 17 Astana
Participation of Human Rights Commissioner A.O.Shakirov in conference "Modern parliamentarism: establishment, development and improvement of interaction between branches of power in legislative process"	April 19 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in training "Access to justice for vulnerable groups of population"	April 23 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the Inter-agency commission on minors' affairs and protection of their rights under the RK Government	April 29 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a meeting of the RK Steering Council on child labor	April 30 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a 2-day workshop for managers of family-type orphanages "Orphanages of family type. Reality and prospects"	May 3-4 Almaty
Participation of the National Human Rights Center's officer A.Suleimenova in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on consideration of draft RK laws "On the government-guaranteed legal assistance" and "On amendments into some legislative acts of RK on issues of improvement of the system for delivery of the	May 13, 21, 22 Astana

government-guaranteed legal assistance”	
Participation of the National Human Rights Center’s officer A.K.Urazbaeva in an international conference devoted to prevention of suicide with a special focus on children and youth	May 14 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in a meeting of the RK Constitutional Council on consideration of submission of the Chairman of the Senate of the RK Parliament on issues of organization of government administration	May 14 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny and officer R.A.Rakhimov in a monitoring visit of members of the Human Rights Commissioner’s working group for torture prevention to specialized and penitentiary facilities in Akmollinsk province	May 16 Kokshetau, Stepnogorsk
Presentation of the Human Rights Commissioner’s 2012 Activity Report	May 17 Kokshetau
Participation of the National Human Rights Center’s officer A.Urazbaeva in round table “the national telephone hotline x150 for children and youth to advance child rights”	May 17 Astana
Participation of Human Rights Commissioner A.O.Shakiorov in a meeting of the Legal Policy Council under the RK President on issues of further streamlining administration of justice, transfer of insignificant conflicts to mechanisms of out-of-court regulation, on mediation	May 22 Astana
Participation of the National Human Rights Center’s officer R.A.Rakhimov in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on issues of establishment of the national preventive mechanism	May 23, 30 Astana
Participation of the National Human Rights Center’s officer A.A.Sabdinov in the national dialogue “Provision of access to specific social services for victims of abuse including victims of human trafficking and domestic violence in RK	May 24 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in the first sectorial meeting on “Development of Democracy” at RK MFA	May 27 Astana
Participation of the National Human Rights Center’s officer D.E.Ospanova in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on issues of establishment of the national preventive mechanism	June 3 Astana
Participation of the National Human Rights Center’s officer R.A.Rakhimov in a monitoring visit to specialized and penitentiary facilities in Kzylorda province by members of the Human Rights Commissioner’s working group for torture prevention	June 2-4 Kzylorda province
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on issues of establishment of the national preventive	June 4 Astana

mechanism	
Participation of Human Rights Commissioner A.O.Shakirov in a meeting on issues of modernization of the national security system	June 5 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in a meeting with members of the Counter-torture Coalition of Kazakhstani NGOs to discuss issues of empowering instruments for investigation of torture incidents	June 6 Almaty
Participation of the National Human Rights Center's Director V.A.Kaluzhny in international conference "Parliament and political parties: Kazakhstan on the background of world experience"	June 7 Astana
Participation of Human Rights Commissioner A.O.Shakirov and National Human Rights Center's officer R.A.Rakhimov in a plenary meeting of the Mazhilis of the RK Parliament on issues of establishment of the national preventive mechanism	June 12 Astana
Participation of Human Rights Commissioner in scientific practical conference "Bitimgershilik – reconciliation in criminal and civil litigation"	June 18 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in a working group meeting of the Committee on legislation and judicial and legal reform of the Mazhilis of the RK Parliament on issues of establishment of the national preventive mechanism	June 18 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officer R.A.Rakhimov in a working group meeting of the RK Parliament Senate's Committee on constitutional legislation, judicial system and law enforcement agencies on issues of establishment of the national preventive mechanism	June 19 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Senate of the RK Parliament on issues of establishment of the national preventive mechanism	June 20 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the second sectorial meeting of the consultative advisory board at the RK Ministry of Foreign Affairs on the issue of securing separate rights and freedoms of a person: the right to a fair legal proceeding	June 20 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Commission on pardoning issues under the RK President	June 21 Astana
Participation of the National Human Rights Center's officers A.D.Suleimenova and A.A.Sabdinov in monitoring visits to social institutions in Uralsk	June 27-28 Uralsk
Participation of the National Human Rights Center's officers G.A.Aukasheva and D.E.Ospanova in monitoring visits to social institutions in Pavlodar	June 27-29 Pavlodar
Participation of the National Human Rights Center's officer R.A.Rakhimov in monitoring visits to penitentiary facilities in Astana	June 27-28 Astana
Participation of Human Rights Commissioner A.O.Shakirov in the closing meeting of II session of the Vth RK Parliament	June 28 Astana

A meeting of the National Human Rights Center's Director V.A.Kaluzhny with members of the working group on drafting legal regulatory acts on issues of operation of the national preventive mechanism	July 1 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting for preparation and holding international scientific practical conference "Constitution – a Basis for the Strategy of Development of the Society and the State"	July 2 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with representatives of human rights organizations "Amnesty International" on issues of establishment of the national preventive mechanism and protection against use of torture	July 9 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President on issues pertaining to the new text of CAO and draft new CPC	July 10 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in round table "Report on study "The right to housing, housing rights and coercive eviction, homelessness, social housing in the Republic of Kazakhstan"	July 16 Astana
Participation of the National Human Rights Center's officer K.M.Agbaeva in a meeting of the experts' council on consideration of projects of government information systems	July 16 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in the third meeting of the consultative advisory board at the RK Ministry of Foreign Affairs "Human Dimension Dialogue Platform" on issues of securing the rule of law	July 19 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President and the RK Supreme Judicial Council on issues of improvement of the system of enforcement of court judgments	July 22 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officer K.M.Agbaeva in the work of the 18 th meeting of the national budgetary commission under the RK Prime Minister's chairmanship	July 24 Astana
A meeting of the National Human Rights Center's Director V.A.Kaluzhny with representatives of the Penal Reform International (PRI) on issues of establishment of the national preventive mechanism	July 30, August 7 Astana
Participation of the National Human Rights Center's officer A.G.Aukasheva in a workshop on the right to adequate housing	July 31 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in round table on "The ways of building a barrier-free environment for persons with disabilities in Kazakhstan"	August 14 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in workshop "Implementation of recommendations of the Universal Periodic Review and implementation of the International Covenant on civil and political rights in RK"	August 15 Almaty August 16 Atyrau

Participation of Human Rights Commissioner A.O.Shakirov in the International Forum on the occasion of the proclamation of the International Decade for the Rapprochement of Cultures (2013-2020)	August 23 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 309 th meeting of the Inter-agency commission on issues of legislative activity under the RK Government	August 23 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the RK Government	August 28 Astana
Participation of Human Rights Commissioner A.O.Shakirov and the National Human Rights Center's officers in international scientific practical conference "Constitution – the Basis for the Strategy of Development of the Society and the State"	August 29 Astana
Participation of Human Rights Commissioner A.O.Shakirov in international scientific practical conference "Constitution – the Basis for the Strategy of Development of the Society and the State"	August 30 Borovoe
Participation of Human Rights Commissioner A.O.Shakirov in the 3d session of the Vth Parliament of RK	September 2 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 312 meeting of the Inter-agency commission on issues of legislative activity under the RK Government	September 6 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in round table "Freedom of speech: international standards"	September 9 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officer A.Aukasheva in public hearings on results of project "Employment of women with disabilities: overcoming barriers in development of business activity"	September 11 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in training "UN human rights instruments and reporting procedures of UN treaty bodies. Application of human rights indicators"	September 12 Borovoe
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the Inter-agency commission under the RK Government on issues of combatting human trafficking	September 16 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a meeting on strategic planning of cooperation between the RK Government and UNICEF in the area of childhood protection and justice for children	September 18 Astana
Participation of Human Rights Commissioner A.O.Shakirov in the international presentation of reports of the Human Rights Commission under the RK president "On the Human Rights Situation in RK in 2012" and "On the Situation with Migrants' Rights in RK"	September 19 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with PhD candidate of the Law Faculty of the University of Cambridge G.Amanova	September 19 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva and consultant on protection of child rights D.O.Kozhanbaev (UNICEF) in international conference "Prevention of	September 19 Astana

violence against teenage girls, early and coercive marriages in countries of Central Asia and Caucasus in the framework of the Millennium Development Goals”	
Participation of Human Rights Commissioner A.O.Shakirov in a collegial staff meeting of the Prosecutor General’s office on issues of observing citizens’ constitutional rights by criminal persecution bodies in criminal proceedings, results of 2012 and first half of 2013	September 20 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in the fourth sectorial meeting on issues of securing separate rights and freedoms of a person at the RK MFA	September 20 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK President on issues of improvement of notary operations and finalization of CAO	September 23 Astana
Participation of the National Human Rights Center’s officer G.A.Aukasheva in round table “Effectiveness of the system of delivering professional legal assistance to the RK citizens”	September 23 Astana
Participation of the National Human Rights Center’s officer R.A.Rakhimov in experts’ conference “RK implementation of recommendations of the UN Human Rights Committee on issues of criminal policy and judicial system”	September 26-27 Almaty
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Commission on pardoning issues under the RK President	September 27 Astana
Participation of the National Human Rights Center’s officers in a training on development of a strategy for covering information on the national preventive mechanism in social networks	October 8 Astana
Participation of Human Rights Commissioner A.O.Shakirov in conference “Constitutional and legal issues of the criminal law and procedure”	October 11 Astana
Participation of the National Human Rights Center’s officer R.A.Rakhimov in an inter-agency working group meeting on issues of establishment of a specialized state insurance fund for restitution of damage inflicted by crimes, and development of methodology for estimating “the value of human life”	October 16 Astana
Participation of the National Human Rights Center’s officer R.A.Rakhimov in forum “Social reform of the penitentiary system: employment, re-integration and training”	October 17 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in a meeting with corps A government employees attended by the RK President	October 17 Astana
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in the 14 th meeting of the Inter-agency commission under the RK Government on international humanitarian law and international human rights treaties	October 17 Astana
Participation of the National Human Rights Center’s officer A.A.Sabdinov in civil hearings “Justice in Kazakhstan: myth and reality”	October 17 Almaty

Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 315 meeting of the Inter-agency commission on issues of legislative activity under the RK Government	October 18 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the fifth sectorial meeting of the consultative advisory board at the RK Ministry of Foreign Affairs "The Human Dimension Dialogue Platform" on issues of securing the citizens' electoral rights	October 22 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in the 12 th meeting of the Steering Council on combat against the worst forms of child labor and round table "Labor conditions of workers engaged in agricultural works"	October 28 Astana
Participation of Human Rights Commissioner A.O.Shakirov in conference "New texts of the Criminal and Penal Codes and the new Criminal Procedural Code: implementation of international human rights standards into legislation and practice	November 1-2 Borovoe
Participation of the National Human Rights Center's officer A.D.Suleimenova in a working group meeting on discussion of draft CPC and RK law "On amendments into some legislative acts of RK on issues of improvement of criminal procedural legislation"	November 6,13,18 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in workshop on "Topical issues of providing prosecutors' oversight in the area of protection of Kazakhstani citizens' labor rights"	November 7 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the RK Minister of Foreign Affairs with members of the consultative advisory board under the RK MFA and representatives of international and regional NGOs in a round-table format as part of the VI Civic forum	November 14 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in international scientific practical conference "Topical issues of combat against corruption and provision of economic security"	November 15 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in international practical conference of experts "Discussion of draft new text of the RK Criminal Procedural Code"	November 15 Astana
Participation of the National Human Rights Center's officer A.D.Suleimenova in round table on discussion of draft law "On fingerprint and genome registration"	November 18 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officers in workshop "Practical issues in operation of the national preventive mechanism in RK"	November 19-20 Astana
Participation of Human Rights Commissioner A.O.Shakirov in the VI Congress of RK Judges attended by the President of the Republic of Kazakhstan	November 20 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in the sixth sectorial meeting of the consultative advisory board at the RK MFA "The Human Dimension Dialogue Platform" on issues of implementation of commitments in the area of freedom of speech, conscience and religion	November 20 Astana

Participation of the National Human Rights Center's officer A.K.Urazbaeva in the national conference on issues of advancing the school mediation	November 20 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officers in round table "The role of institutions of the law, civil society and religious leaders in combat against terrorism in RK"	November 26 Astana
Participation of the National Human Rights Center's officer R.A.Rakhimov in workshop "Strengthening effectiveness of human rights dialogue in Kazakhstan at the national and local levels"	November 26 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 317th meeting of the Inter-agency commission on issues of legislative activity under the RK Government	November 27 Astana
Participation of the National Human Rights Center's officer A.D.Suleimenova in a working group meeting on discussion of draft RK Criminal Procedural Code and RK law "On amendments into some legislative acts of RK on issues of improvement of criminal procedural legislation"	November 28 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny and officers in training "Practical issues in operation of the national preventive mechanism in RK"	November 29-30 Almaty
Participation of the National Human Rights Center's officer A.D.Suleimenova in round table "The role of gender statistics in addressing problems of men and women"	November 29 Astana
Participation of the National Human Rights Center's officer A.D.Suleimenova in a working group meeting on discussion of RK draft Criminal Procedural Code and RK law "On amendments into some legislative acts on issues of improvement of the criminal procedural legislation"	December 4 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in conference "Effective monitoring and implementation of recommendations of the Universal Periodic Review: world practice and Kazakhstan's experience"	December 5 Astana
Participation of the National Human Rights Center's officer R.S.Kyphsakbaev in round table "Government funding of media: analysis of Kazakhstani practice and world experience"	December 5 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in round table "Human rights: top value"	December 9 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Commission on pardoning issues under the RK President	December 12 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a meeting of the national budgetary commission attended by the RK Prime Minister	December 12 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 13 th meeting of the Inter-agency commission on minors' affairs and protection of their rights under the RK Government	December 12 Astana

Participation of the National Human Rights Center's officer A.A.Sabdinov in presentation of project "10 steps to reduction of the prison population"	December 12 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in a round table on results and recommendations of project "Equality before the law: access to justice in Central Asia"	December 13 Astana
Participation of the National Human Rights Center's officer A.A.Sabdinov in a workshop on issues of torture prevention in the on-line regime (transport prosecutors)	December 19 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a sectorial meeting on issues of introduction of juvenile diversion into RK legislation	December 19 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in experts meeting on "New texts of the Criminal, Criminal Procedural and penal Codes: issues of juvenile justice in the reform of the national legislation"	December 20 Astana
Participation of Human Rights Commissioner A.O.Shakirov in a meeting of the Legal Policy Council under the RK president on issues of implementation of regulatory resolutions of the RK Constitutional Council and the RK Strategy of Legal Policy, on implementation of the Council's 2013 plan and discussion of the 2014 plan	December 28 Astana

6. *Participation of the Human Rights Commissioner and his institution in international events*

Meeting of Human Rights Commissioner A.O.Shakirov with Chairman of the UN Subcommittee on prevention of torture Malcolm Evans	January 30 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with head of the OSCE Center in Astana N.N.Zarudna	February 6 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy and officer G.A.Aukasheva and R.S.Kypshakbaev with experts of the project on promotion and protection of human rights in Kazakhstan, Kyrgyzstan, and Tajikistan Of the UN High Commissioner for Human Rights' Office in Central Asia Pavlo Bialik and Dip Magar	February 6 Astana 6
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with Deputy Regional Representative of the UN High Commissioner for Human Rights in Central Asia Elizabeth de Costa and experts on minorities' rights and rights to adequate housing	February 7 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with RK Permanent Representative in the Organization of Islamic	February 7 Astana

Cooperation B.D.Batyrshaev	
Meeting of Human Rights Commissioner A.O.Shakirov with Chairman of the Federation of Trade Unions of Kazakhstan A.K.Kusainov	February 19 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with Deputy Chairman of UNICEF office in Kazakhstan Rodoslav Zhehak	February 25 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with human rights adviser of the regional branch of the office of the UN High Commissioner for Human Rights in Central Asia N.Seitmuratova	February 25 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with international consultant of UNICEF V.Seletski on the issue of filing a project proposal of UNICEF to European Union on issues of justice for children	March 15 Astana
Participation of Human Rights Commissioner A.O. Shakirov in regional conference of the European continent on rights of sexual minorities	March 26 Paris (France)
Meeting of Human Rights Commissioner A.O. Shakirov with Ambassador of Kazakhstan to Finland and Estonia G.T.Koishibaev	April 11 Astana
Meeting of the National Human Rights Center's officer R.S.Kipashakbaev with programs coordinator of the OSCE Center in Astana O.Kozyrev	April 12 Astana
Meeting of Human Rights Commissioner A.O. Shakirov with President of the Republic of Finland Sauli Niinisto	April 17 Astana
Participation of the National Human Rights Center's officer R.S.Kipshakbaev in a working group meeting on working out sections of a draft Agreement on partnership and cooperation between RK and EU	April 17 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with representatives of the Lawyers Council of Poland	April 25 Astana
Participation of Human Rights Commissioner A.O. Shakirov in a national conference on project "Equality before the law: access to justice in Central Asia"	April 29 Dushanbe (Republic of Tajikistan)
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with representatives of the British peacekeeping organization	April 30 Astana
Meeting of the National Human Rights Center's	April 30

Director V.A.Kaluzhy with officers of the OSCE secretariat	Astana
Meeting of Human Rights Commissioner A.O.Shakirov with Ambassador of UK Carolyn Browne	May 8 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with Human Rights Watch researcher Mihra Rittmann	May 23 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with representatives of OSCE and Penal Reform International (PRI)	May 23 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with Ambassador Extraordinary and Plenipotentiary of the Republic of Poland Jacek Kluczkowski	May 31 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhy with the national program coordinator of the Office of the International Organization for Migration in RK S.Bekmambetova	June 18 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhy in a meeting attended by members of the government delegation on development of a draft Agreement on extended partnership and cooperation between the Republic of Kazakhstan and European Union for confirmation of positions of RK in negotiations	June 24 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhy in a conference of high level on justice for children	June 27-28-27-Brussels (Belgium)
Participation of the National Human Rights Center's officer R.A.Rakhimov in a meeting with Special Representative and Coordinator of OSCE on combat against human trafficking Maria Grazia Giamarrinaro	July 1 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with representatives of Amnesty International Nicholas Duckworth and David Diaz-Jogeix on issues of establishment of the national preventive mechanism and protection against torture	July 9 Astana
Participation of the National Human Rights Center's Director in the 2nd supplementary meeting on the OSCE human dimension "The rule of law in the promotion and protection of human rights"	July 10-13 Vienna (Austria)
Meeting of Human Rights Commissioner	July 17

A.O.Shakirov with Commissioner for Child Rights under the president of the Russian Federation P.Astakhov	Astana
Participation of the National Human Rights Center's Director in the 4th Central Asian Forum on protection of child rights "Development of inclusive policy, system and services for children with disabilities"	August 1-3 Dushanbe (Republic of Tajikistan)
Meeting of the National Human Rights Center's Director V.A.Kaluzhny with representatives of public organization "Human Rights movement: Bir Duino Kyrgyzstan"	August 5 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with member of the Seim of the Lithuanian Republic, member of EU Parliamentary Assembly Egidius Vareikis	August 27 Astana
Participation of the National Human Rights Center's officer G.A.Aukasheva in training "Monitoring and protection of rights to adequate housing, land and property"	August 27-30 Issyk Kul (Kyrgyz Republic)
Meeting of Human Rights Commissioner A.O.Shakirov with Chairman of Korean National Human Rights Commission Hion Bion Chol	August 28 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with head of the OSCE Center in Astana N.A.Zarudna	September 11 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with a delegation of the Italian Senate's Human Rights Commission to discuss issues of deportation of Abliazov's spouse A.Shalabaeva	September 13 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with regional representative of the office of the UN High Commissioner for human rights in Central Asia A.A.Aritunian on issues of implementation of the Law on the national preventive mechanism	September 19 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhny with expert on protection of child rights of the UNICEF regional office for countries of Central Asia and Central and Eastern Europe Anna Granzhan	Septemebr 19 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with Special Adviser of the U.S. State Department on children's affairs Ambassador Susan Jacobs	September 23 Astana
Participation of the National Human Rights	September 22-27

Center's Director V.A.Kaluzhny in the 17th annual meeting of the OSCE Office for Democratic Institutions and Human Rights for consideration of implementation by member states of their commitments in the area of human dimension	Warsaw (Poland)
Participation of Human Rights Commissioner A.O.Shakirov in a conference of the Asian Pacific Forum of national human rights institutions	October 1-4 Dokha (Qatar)
Meeting of Human Rights Commissioner A.O.Shakirov with Deputy Chairman of the US Commission for international religious freedom Catherine Lantos Svett	October 4 Astana
Meeting of Human Rights Commissioner A.O.Shakirov with expert on assessment of the activity of Penal Reform International (PRI) office in Central Asia Krazimir Kanev	October 8 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 13th meeting of the Committee for cooperation "Republic of Kazakhstan-European Union"	October 9 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the 4th round of negotiations with the European Commission on the new Agreement on expanded partnership and cooperation between RK and EU	October 9 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny with Ukraine's Minister of Foreign Affairs, OSCE Chairman-in-office Leonid Kozhara	October 14 Astana
Participation of the National Human Rights Center's officer A.D.Suleimenova in regional workshop "Promotion of ethnic minorities' rights: media, education, engagement in public life"	October 17-18 Bishkek (Kyrgyz Republic)
Participation of the National Human Rights Center's officer R.S.Kipshakbaev in the 1st meeting of the Inter-agency steering group for implementation of the International Covenant on civil and political rights and proposals of the Universal Periodic Review	November 1 Astana
Participation of the National Human Rights Center's Director V.A.Kaluzhny in the dialogue "Republic of Kazakhstan – European Union"	November 27 Astana
Participation of the National Human Rights Center's officer A.K.Urazbaeva in a meeting	November 28 Astana

on discussion of the Interim review of the 2010-2015 RK Government's and UNICEF programs in Kazakhstan	
Participation of the National Human Rights Center's Director V.A.Kaluzhny in a dialogue with the NATO delegation to discuss implementation of the third cycle of program "Individual Action Plan for Partnership in 2012-2013"	December 10 Astana
Meeting of the National Human Rights Center's Director V.A.Kaluzhny with deputy director of the UNICEF office in RK Rodoslav Jekhak	December 18 Astana

7. Media publications of the Commissioner for Human Rights and his staff

Information statement in «Kazakhstanskaya pravda» newspaper on the first organizational meeting of the working group for monitoring in social and labor areas chaired by Commissioner for Human Rights in RK A.O.Shakirov	January
Information statement on a meeting of Human Rights Commissioner A.O.Shakirov with Chairman of the Subcommittee for prevention of torture and other cruel, inhuman or degrading forms of treatment and punishment of the UN Committee against Torture Malcolm Evans (Kazinform, newspapers «Egemen Kazakhstan», «Kazakhstanskaya Prvada»)	January
A press release on a meeting of the Human Rights Commissioner's Board of experts (nomad.su)	January
Information statement about Human Rights Commissioner A.O.Shakirov's appeal to Director of the Turkmen national institute for democracy and human rights under the President of Turkmenistan Iazdursun Gurbannazarova regarding the verdict issued by that country's court in December 2012 against citizens of Kazakhstan (Kazinform, newspaper «Kazakhstanskaya pravda». Nomad.su)	February
Information statement on a meeting of the National Human Rights Center's Director V.A.Kaluzhny with Deputy representative of the branch of the Office of the UN High Commissioner for Human Rights in Central Asia Elizabeth Oliveira da Costa and experts on minorities' rights and rights to adequate housing (Zakon.kz)	February
Information statement on a visit of the Human Rights Commissioner's working group for monitoring in social and labor areas to metallurgical factory «ArcelorMittal Temirtau» in Karaganda province (newspapers «Egemen Kazakhstan», «Kazakhstanskaya pravda»)	February
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with the Head of the OSCE Center in Astana N.Zarudna (Kazinform, newspaper «Kazakhstanskaya pravda»)	February
Information statement on Head of state N.A.Nazarbaev's audience with Human Rights Commissioner A.O.Shakirov (Kazinform, newspapers «Egemen Kazakhstan», «Kazakhstanskaya pravda», Tengrinews.kz)	February
Press release on a public monitoring of specialized and penitentiary facilities in Petropavlovsk by the Human Rights Commissioner's working group for consideration of incidents of torture (Kazinform)	February
Interview of the National Human Rights Center's Director V.A.Kaluzhny for TV and radio company "Mir" on issues of respect to child rights	February
Information statement on the work of a meeting of the working group for consideration	March

of incidents of torture (Kazinform, newspaper “Kazakhstanskaya Pravda)	
Information statement on round table on “Topical issues of securing children’s rights in schools of Kazakhstan” arranged by the RK Human Rights Commissioner’s institution and the office of the UN Children’s fund (UNICEF) in Kazakhstan with support of the Embassy of Norway (Kazinform, newspaper “Kazakhstanskaya Pravda)	April
Press release on a meeting of Human Rights Commissioner A.O.Shakirov with UNICEF Regional Director for countries of Central and Eastern Europe and CIS Marie-Pierre Poirier (Kazinform)	April
Information statement on Human Rights Commissioner A.O.Shakirov’s meeting with President of Finland Sauli Niinisto (newspaper “Kazakhstanskaya Pravda”)	April
Press release on a meeting of the National Human Rights Center’s Director V.A.Kaluzhny with representatives of the Lawyers’ Council of Poland (Kazinform)	April
Press release on a meeting of the National Human Rights Center’s Director V.A.Kaluzhny with the OSCE Secretariat staff (Kazinform, zakon.kz)	April
Participation of the National Human Rights Center’s officer A.K.Urazbaeva in program “Kesh emes” on Astana TV channel on issues of child adoption	April
Participation of the National Human Rights Center’s officer A.A.Sabdinov in social talk-show “Way out” on Astana TV channel on issues of financial pyramids and fraudulent schemes	April
Participation of the National Human Rights Center’s officer A.K.Urazbaeva in social talk-show “Way out” of the 7 th Channel TV on the status of healthcare in the country	April
Press release on a meeting of the Human Rights Commissioner’s experts council	April
Information statement on RK Human Rights Commissioner A.O.Shakirov’s participation in international conference “Securing women’s rights: law and practice” held in Dushanbe (Kazinform, newspaper “Kazakhstanskaya Pravda”)	May
Information statement on a meeting of Human Rights Commissioner A.O.Shakirov with Plenipotentiary Ambassador of UK to our country Carolyn Browne (Kazinform, newspaper “Kazakhstanskaya Pravda”)	May
Press release on a meeting of Human Rights Commissioner A.O.Shakirov with Ambassador Extraordinary and Plenipotentiary of the Republic of Poland Jacek Kluchkowski (Kazinform)	May
Press release on a meeting of the National Human Rights Center’s Director V.A.Kaluzhny with Human Rights Watch researcher Mihra Rittmann (Kazinform)	May
Press release on a visit to specialized and penitentiary facilities in Akmolinsk province by members of the Human Rights Commissioner’s working group for torture prevention (Kazinform)	May
Information statement on presentation of the 2012 Report on the Human Rights Commissioner’s Activity (Kazakhstan TV, newspaper “Kazakhstanskaya Pravda”)	May
Participation of the National Human Rights Center’s Director V.A.Kaluzhny in talk show “Open studio” on Astana TV on “Election of heads of rural governments”	June
Press release on a visit to specialized and penitentiary facilities in Kzylorda province by members of the Human Rights Commissioner’s working group for torture prevention	June
Information statement on a meeting of Human Rights Commissioner A.O.Shakirov with Child Rights Commissioner under the President of Russian Federation P.Astakhov (Kazinform, newspaper “Kazakhstanskaya Pravda”)	July
Information statement on a meeting of Human Rights Commissioner A.O.Shakirov with representatives of human rights organization “Amnesty International” Nicholas Duckworth and David Diaz-Joegeix on issues of establishment of the national preventive mechanism and protection from torture (newspaper “Egemen Kazakhstan”)	July
Information statement on a meeting of Human Rights Commissioner A.O.Shakirov with	August

member of the Seim of Lithuanian Republic, member of the European Union's Parliamentary Assembly Egidius Varekis (Kazinform, newspapers "Egemen Kazakhstan", "Kazakhstanskaya Pravda")	
Press release on Human Rights Commissioner A.O.Shakirov's meeting with Chairman of Korean National Human Rights Commission Hion Biong Chol (Kazinform)	August
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with a group of members of the Senate of the Italian Republic's Parliament (Kazinform, newspapers "Egemen Kazakhstan", "Kazakhstanskaya Pravda")	September
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with regional representative of the office of the UN High Commissioner for Human Rights for Central Asia A.A.Arutunian on issues of implementation of the law on the national preventive mechanism (Kazinform, newspaper "Kazakhstanskaya Pravda")	September
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with Special Adviser on children's affairs of the US Department of State Susan Jacobs (Kazinform, newspaper "Kazakhstanskaya Pravda")	September
Information statement in "Egemen Kazakhstan" newspaper on a meeting of the National Human Rights Center's Director V.A.Kaluzhny with expert on child rights protection of the UNICEF regional office for the countries of CIS and Central and Eastern Europe Anna Granjan	September
Information statement on Human Rights Commissioner A.O.Shakirov's participation in a conference of the Asian Pacific Forum of national human rights institutions (Kazinform, newspapers "Egemen Kazakhstan", "Kazakhstanskaya Pravda")	October
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with Deputy Chairman of the US Commission on international religious freedom Catherine Lantos Svett (Kazinform, newspaper "Kazakhstanskaya Pravda")	October
Information statement on Human Rights Commissioner A.O.Shakirov's meeting with expert on assessment of activity of the office of Penal Reform International (PRI) in Central Asia Kazimir Kanev (Kazinform, newspapers "Egemen Kazakhstan", "Kazakhstanskaya Pravda")	October
Participation of the National Human Rights Center's officer A.K.Urazbaeva in social talk show "Way out" on "Child labor"	October
Information statement on Human Rights Commissioner A.O.Shakirov's interference into the case of the family of under-aged Lilia Smetanina who was hit by electric automobile in May 2011 (tengrinews.kz)	October
Interview of the National Human Rights Center's Director V.A.Kaluzhny to reporters of Gold Media TV company for a documentary devoted to the topic "The right to be a person" produced as part of a government contract of the Ministry of Justice	November
Interview of Human Rights Commissioner A.O.Shakirov to correspondents of Habar TV regarding implementation of the Penal Code in connection with the establishment of the national preventive mechanism	November
Comment of the National Human Rights Center's Director V.A.Kaluzhny on the situation around citizens who protested against expropriation of their summer cottages (tengrinews.kz)	November
Information statement on admission of applications of candidates to members of the Human Rights Commissioner's steering council (nomad.su)	December

8. Expert analytical documents

**Proposals of the National Human Rights Center with the account of the
RK Human Rights Commissioner's Council of Experts on RK draft law
"On government services"**

(sent to the RK Parliament Mazhilis' working group on consideration of that draft law)

According to the National Human Rights Center's practice (the institution of the Commissioner for Human Rights in RK), non-delivery of a government service or improper delivery is one of the most frequent infringements on human rights.

We believe that a codified legislative act in the area of government services should be directed, among other things, at establishment of a mechanism for prevention of human rights violations in delivery of government services.

With the account of the afore-mentioned, we present the following proposals.

1. It should be noted that the list of services in that draft law does not contain the right to a service delivered in an accessible form, i.e. in the language understandable to its recipient, presented in a comprehensible and logical form.

Herewith, the RK Human Rights Commissioner has received a significant number of complaints about non-delivery of services in the language of the appeal.

We consider that it is necessary that the text of the draft law should provide for the right to get a service in the language used in the appeal, in a comprehensible and logical form, with clear and precise response on a respective issue.

We also propose that a possibility of adding a requirement of prohibition on demanding documents which are not included into a relevant full list into the draft law should be considered. Such list should be a part of a single public act and can be approved by the Government or the government body for evaluation and control over the quality of delivered government services.

2. The RK Human Rights Commissioner's Council of Experts (hereinafter, the Council) made a number of comments regarding norms on the standards for government services. In particular, it was noted that an insufficient fixation of major regulatory standards for delivery of government services is a factor which can result in violations of human rights.

The Council also considers that the requirements of participation of the civil society in the process of adoption and development of the standards for delivery of government services are insufficient.

Development and adoption of the above-discussed documents exclusively by government bodies or with insufficient engagement of the civil society institutions will probably result in situations where there will be an imbalance in favor of the drafter's interests against such interests of citizens as minimization of procedures, contacts with government authorities and other shortcomings.

Based on this opinion, we consider it necessary that the text of the draft law should contain an imperative requirement of civil society institutions' engagement in development and adoption of standards for the delivery of government services.

We also believe that, with the account of the above-reported, the draft law should be considered as part of a set and in close link with draft law "On Public Private Partnership" with coordination of relevant requirements.

Besides, we find it expedient that the Human Rights Commissioner's institution should participate in the process of drafting and adoption of the standards for the delivery of government services as an institution performing the role of a mediator between the civil society and the government.

3. Certain concern is caused by requirements of article 23 of the draft law providing for accreditation of monitoring units by the authorized government organization which is also empowered by the competence to determine the accreditation procedure.

The Council expressed an opinion that the accreditation mechanism is not acceptable as an instrument for regulation of public monitoring operations.

We propose that the requirement for accreditation of public monitoring entities should be removed and the monitoring based on social contracts should be defined as supplementary.

4. The Council noted that the draft Law and draft law "On amendments into some legislative acts on issues of government service" do not contain requirements of the officials' responsibility.

According to the RK Human Rights Commissioner's experience, there are incidents when government employees cause huge damage, including material damage, to citizens. However, there is no way to bring them to a liability more serious than disciplinary.

In this regard, in the context of providing due punishment for violation of legislation in the area of government services, no positive effect can be reached without introduction of relevant sanctions

We propose that norms which set liability for non-delivery of a government service or its poor performance should be added into the RK Code of administrative offenses. We also believe that the efficiency of including similar norms into the RK Criminal Code for incidents resulting in serious consequences should be considered.

Opinion of the institution of the Commissioner for Human Rights in the Republic of Kazakhstan in regard to the submission of the Prime Minister of the Republic of Kazakhstan on the official interpretation of paragraph 8, article 62 and paragraph 1, article 83 of the Constitution of the Republic of Kazakhstan

(sent to the RK Constitutional Council)

Paragraph 8 of article 62 of the Constitution of the Republic of Kazakhstan sets that the procedure for development, presentation, discussion, enactment and publication of legislative and other regulatory legal acts of the country are regulated by a specific law and rules of procedure of the Parliament and its Chambers.

Pursuant to paragraph 1, article 83 of the Constitution, on behalf of the state, prosecutors carry out supreme oversight over accurate and uniform application of laws, decrees of the President of the Republic of Kazakhstan and other regulatory legal acts in the country's territory, over the rule of law in operational investigations, interrogations and investigation, administrative and penal proceedings, take measures for detection and elimination of any breaches of the law, and file protests against laws and other regulatory legal acts which contradict the country's Constitution and laws. Prosecutors represent the state interests in court and also do criminal persecution in incidents, order and in limits set in the law.

In light of issues which emerged in the process of legislative activity related to the regulation of the drafting, adoption, enactment and publication of legal acts which are not normative, as well as difference between legal categories of "other regulatory legal acts" versus "other legal acts", the Prime Minister raised a number of issues.

1) What is the constitutional definition of terms "other regulatory legal acts", "other legal acts" contained in paragraph 8, article 62 and paragraph 1, article 83 of the Constitution of the Republic of Kazakhstan? Does the term "legal acts" include regulatory legal acts?

Paragraph 1 of article 4 sets that the norms of the Constitution, relevant laws, other regulatory legal acts, the country's commitments under international agreements

and other commitments as well as regulatory resolutions of the country's Constitutional Council and the Supreme court constitute the current law of the Republic of Kazakhstan.

The March 6, 1997 resolution #3 of the RK Constitutional Council "On the official interpretation of paragraph 1 of article 4, paragraph 1 of article 14, subparagraph 3), paragraph 3 of article 77, paragraph 1 of article 79 and paragraph 1 of article 83 of the Constitution of the Republic of Kazakhstan" established that within the framework of paragraph 1, article 4 of the Constitution, the current law of the Republic of Kazakhstan is a system of the legal norms which are contained in regulatory legal acts passed by the legally competent entities in compliance with the established order.

Pursuant to the above-mentioned paragraph of the constitutional article, the term "other regulatory legal acts" refers to the following acts which contain norms of the law: acts passed by a national referendum, decrees issued by the country's President in 1995, 1996 with the force of the law including constitutional laws pursuant to paragraph 2, article 61 of the Constitution of the Republic of Kazakhstan, President's decrees, resolutions of the Parliament, its Chambers and the Government, acts of Ministries and state committees, central executive bodies which are not members of the Government of the Republic of Kazakhstan, and agencies which, in compliance with articles 23 and 24 of the presidential decree which has the force of law "On the Government of the Republic of Kazakhstan", carry out inter-agency coordination, other executive and instructive functions, specific executive and controlling supervisory functions; decisions of local representative and executive bodies, decisions of local self-governments, and acts issuance of which is specified in legislation.

All the listed regulatory legal acts are included into the current law unless they are changed or cancelled in compliance with the order set in the law.

Besides, the above-mentioned resolution of the Constitutional Council, in the framework of paragraph 1, article 83 of the Constitution established that the term "legal acts" also includes acts of courts.

It should be noted that the March 24, 1998 law "On Regulatory Legal Acts" (hereinafter, the special law) defines the regulatory legal act as a written official document of a fixed form, passed at a referendum or by an authorized body or an official of the state which establishes legal norms, changes, terminates or suspends their action.

Under that law, regulatory legal acts are divided into "**basic**" which include the Constitution, constitutional laws, Codes, laws; decrees of the President of the Republic of Kazakhstan which have the force of constitutional laws, decrees of the President of the Republic of Kazakhstan which have the force of law; other regulatory legal decrees of the President of the Republic of Kazakhstan; regulatory resolutions of the Parliament of the Republic of Kazakhstan and its chambers; regulatory resolutions

of the Government of the Republic of Kazakhstan; regulatory resolutions of the Constitutional Council, Supreme Court of the Republic of Kazakhstan and Auditing Committee for control over execution of the national budget; regulatory legal orders of Ministers of the Republic of Kazakhstan and other heads of central government bodies; regulatory legal decisions of maslikhats, regulatory legal resolutions of local governors' offices, regulatory legal decisions of governors; and “**derivative**”: standing orders, technical rules, standards for government services, list-register of government services, statutes, rules, instructions.

Besides, the above-mentioned law gives definition to a legislative act as a constitutional law, decree of the President of the Republic of Kazakhstan with the force of a constitutional law, Code, law, decree of the President of the Republic of Kazakhstan with the force of a law, resolution of the Parliament of the Republic of Kazakhstan, resolutions of the Senate and Mazhilis.

The November 27, 2000 law of the Republic of Kazakhstan “On Administrative Procedures” defines “**a legal act**” as a decision of the government and officials in performance of government functions and official duties. A legal act of the government is an act of individual application. It is a written document in the established standard form and is designed for a one-time or time-restricted use; is extended to specifically determined persons, uses and (or) implements certain individual person's rights and duties specified in legislation. And legal acts of individual application are not included into the legislation of the Republic of Kazakhstan and are not regulatory legal acts.

According to the dictionary, the word “different” means “unlike, dissimilar in form”; the word “other” means “not this”.

With the account of the meaning of those words, their interpretation and usage depends on the respective context.

In this regard, with the account of the Constitutional Council's resolution and requirements of the special law, we believe that the term “other regulatory legal act” has a contextual meaning and expresses a different form of a regulatory legal act quoted earlier in the same text with that term.

Consequently, “other regulatory legal act” in the framework of the norm of paragraph 8, article 62 of the Constitution which establishes that the order for drafting, presentation, discussion, enactment and publication of legislative and other regulatory legal acts of the Republic of Kazakhstan is regulated by a special law and regulations of the Parliament and its chambers, means “other legislative act”, “a legislative act of a different form” which, in its turn, under the special law, includes regulatory legal acts which are not legislative.

The term “other legal acts” specified in paragraph 1, article 83 of the Constitution should be considered acts which are not laws, decrees of the RK President and other regulatory legal acts mentioned in the previous context of this term.

With the account of the above-said, taking into account the norm of paragraph 1, article 4 of the Constitution, resolution of the Constitutional Council which determined that the current law of the Republic of Kazakhstan is seen as a system of legal norms set in regulatory legal acts passed by legally competent entities following the established procedure, and norms of RK Law “On administrative procedures” which separated the legal act into a separate category, we believe that the term “legal act” should not comprise the term “regulatory legal act”.

2) Does the norm of paragraph 8, article 62 of the Constitution of the Republic of Kazakhstan mean that the subject of the special law can only be this constitutional norm’s issues regarding regulatory legal acts only, or can the frame of the special law be extended to include norms which regulate the procedure and adoption of legal acts which are not regulatory?

With the account of the literal interpretation of the norm of paragraph 8, article 62 of the Constitution and the above-noted non-identity of terms “legal act” and “regulatory legal act”, we believe that extension of the frame of the special law regulation by including norms for regulation of the procedure for drafting and adoption of legal acts which are not regulatory would be unreasonable.

3) Is the procedure for drafting, presentation, discussion, enactment and publication of the country’s legislative acts and other regulatory legal acts as specified in paragraph 8, article 62 of the Constitution, the special law’s complete object of legal regulation?

Paragraph 1, article 4 of the Constitution establishes that the norms of the Constitution, relevant laws, other regulatory legal acts, the country’s commitments under international agreements and other commitments, and regulatory resolutions of the country’s Constitutional Council and the Supreme Court constitute the current law of the Republic of Kazakhstan.

Based on the above-stated norm of the main law, the Constitution and relevant laws constitute the current law.

Accordingly, norms of the laws create a legal frame of the field for their application. Consequently, a more extended range of issues than listed in that constitutional norm can be the object of the special law’s regulation provided they comply with the norms of the Constitution.

In general, the issues raised in the Prime Minister’s submission have significant legal importance in the human rights area because definition of the object of legal regulation of the special law as well as distinction of the terms “legal act” and “regulatory legal act” affect the issue of drafting, enactment of a universally binding act which, in its turn, impacts the effectiveness of observing the rights of a person and citizen.

**Information of the RK Human Rights Commissioner's office to the draft
Address of the RK Constitutional Council to the RK Parliament "On the
Situation with the constitutional rule of law in the Republic of Kazakhstan"**

(sent to the RK Constitutional Council)

1. Information about implementation of resolutions of the RK Constitutional Council and recommendations contained in its addresses related to the activity of the Commissioner for Human Rights in RK

From the human rights angle, the April 13, 2012 Constitutional Council's regulatory resolution #2 "On the official interpretation of the norms of the Constitution of the Republic of Kazakhstan on the issue of computation of the constitutional timelines" is particularly significant. It gave definition of the constitutional term "detention" and set a concrete procedure for computation of its time.

The RK Human Rights Commissioner's (hereinafter, the Commissioner) experience confirms that the settlement of that issue was extremely important for implementation of citizens' constitutional rights to personal freedom and protection. The national human rights institution has received multiple complaints about violation of the timelines of detention.

The filed complaints indicate that the practice of fabrication of detention records and abuse of possibilities for detention of a person for several hours without official registration of his status which leaves the person without the constitutionally guaranteed legal protection is widespread.

It also seems important that the Constitutional Council expressly extended the jurisdiction of article 16 of the Constitution to any limitation of liberty imposed by an authorized person or agency based on the law.

The Constitutional Council's recommendation on the obligation of government organizations to refer to relevant constitutional norms in issuance of their decisions and on the need to spell out the instruments for limitation of human rights and freedoms in the law as it was noted in the June 12, 2012 Constitutional Council's Address #09-3/1 "On the constitutional rule of law in the Republic of Kazakhstan" is not implemented.

Citizens complaining to the Commissioner usually refer to specific constitutional norms in their appeals. In this regard, it seems strange that in their responses, officials and government organizations often refer to bylaws and thus create citizens' false impression of the Constitution's limitedness.

2. Proposals on measures for consolidation of the constitutional rule of law and improvement of legislation pertaining to respect and restoration of the rights and freedoms of a person and citizen

Based on the above-reported, the Commissioner's office considers that the following measures need to be taken.

The institution finds the idea of revising the legislation pertaining to restriction of the citizens' right to personal freedom and inviolability with the purpose of bringing it into compliance with the Constitution and the April 13, 2012 Constitutional Council's regulatory resolution #2 "On the official interpretation of the norms of the Constitution of the Republic of Kazakhstan on the issue of computation of constitutional timelines" correct.

Besides, it seems expedient that measures of regulatory nature should be taken to obligate the government to refer to specific norms of the Constitution and, probably, international agreements to which Kazakhstan is a party, in their written communications with complainants, particularly in regard to decisions pertaining to citizens' rights, freedoms and lawful interests.

Opinion of the Institution of the Commissioner for Human Rights in the Republic of Kazakhstan on interpretation of the Constitutional Council's October 15, 2008 regulatory resolution #8 "On the official interpretation of article 54, subparagraphs 1) and 3) of paragraph 3, article 61 and a number of other norms of the Constitution of the Republic of Kazakhstan on issues of organization of public administration"

(sent to the RK Constitutional Council)

1. What does the term "foundations for organization and operation of government bodies" in subparagraph 3, paragraph 3, article 61 of the Constitution mean?

In his dictionary, S.I.Ozhegov interprets "foundations" as a source, the core on which something is built, the essence of something, or main principles of something.

With the account of the Constitution's legal profile, in the context of the above-mentioned Constitution's norm, the foundations of organization and operation of the government should, first and foremost, mean legal basis for organization and operation of the government. In their most concentrated form they are spelled out in paragraphs 1 and 2 of article 3 of the RK Constitution according to which "the sole

source of the state power are people” and “people exercise power directly through the national referendum and free elections and also delegate administration of their power to government organizations”, and in paragraph 2, article 1 of the RK Constitution which declares that “fundamental principles of the country’s activity are public accord and political stability; economic development for the benefit of all the people; Kazakhstani patriotism and settlement of the most important issues of state affairs by democratic methods including voting at a national referendum or in the Parliament”.

According to article 61 of the Constitution, the foundations for organization and operation of the government are established in laws. Along with that, some articles of the Constitution directly determine that the foundations for organization and operation of top government bodies are established by constitutional laws. For instance, article 49 of the Constitution sets that organization and operation of the Parliament, legal status of its members are determined by a constitutional law. The same refers to the Government (article 64), Constitutional Council (article 71), judicial system (article 75).

The Constitutional Council’s October 15, 2008 regulatory resolution #8 “On the official interpretation of article 54, subparagraphs 1) and 3) of paragraph 3 article 61 and a number of other norms of the Constitution of the Republic of Kazakhstan on issues of organization of public administration” also points to that fact. Specifically, along with determination of the most significant elements of the status of a number of government organizations in the Constitution, regulation of some sides of organization and functioning of government organizations can be done by a constitutional law or a law. Besides, some norms of the Constitution imply that government organizations’ legal status can also be determined by decrees of the President of the Republic of Kazakhstan, Government resolutions and other by-laws (article 40, points 3), 5) and 21) of article 44, part 2, point 3 article 61, point 1 article 64, points 3,4,6 and 10 article 66, articles 85-87 and 89 of the Constitution).

Thus, the term “foundations for organization and operation of the government” means the norms specified in point 3), paragraph 3, article 61 of the Constitution and in relevant laws on the Parliament, Government, Prosecutors’, local government and self-government and others.

2. What government functions can be an object of regulation by a law, and what functions can be regulated by by-laws in the context of point 3, paragraph 3, article 61 of the Constitution?

The scientific practical comment on paragraph 3 of article 61 of the RK Constitution (2010) states that the issue of finding an optimum balance of regulation by laws and bylaws of one and the same public relations is complicated.

Besides, the constitutional and legal practice indicates that one and the same very important but at the same time principled relations can be regulated both by laws and by bylaws (an example is regulation of electoral relations).

In this regard, it should be noted that the list of the most important public relations which can be an object of legislative regulation by the Parliament is set in points 1)-11) of paragraph 3, article 61 of the Constitution.

Pursuant to the RK Constitutional Council's May 26, 2008 regulatory resolution #5 "On the official interpretation of paragraph 2, article 45, points 3) and 4) article 53 of the Constitution of the Republic of Kazakhstan", the list of such relations is final. The Human Rights Commissioner's office supports that norm.

As for the interpretation of the constitutional provision that "all other relations shall be regulated by bylaws", it should be viewed through the term of a bylaw which, under RK law "On regulatory legal acts" is defined by a method of exclusion because it includes "regulatory legal acts which are not legislative; they are issued on the basis and for the implementation of the Constitution and legislative acts". It means that all relations which are not covered by the Constitution should be regulated by bylaws.

In addition to that, article 19 of the March 19, 1998 RK Law "On regulatory legal acts" establishes that "the competence, functions and objectives of government organizations in the area of government regulation of public relations should be spelled out in regulatory legal acts in compliance with the legislation of the Republic of Kazakhstan on administrative procedures, with clear distinction of the levels of public administration. Methodological recommendations on determination of government organizations' standard functions are adopted by the Government of the Republic of Kazakhstan".

For further development of that norm, the RK Government's August 24, 2011 resolution #951 "On approval of methodological recommendations on determination of government organizations' standard functions" specifies government organizations' standard functions established by law; government organizations' standard functions established by bylaws; standard functions which can be established at the legislative and bylaws' level.

The fact that Methodological recommendations have a section "standard functions which can be established at the legislative and bylaws' level" confirms the above-mentioned statement about problems in that area.

Proposals of the National Human Rights Center to the concept of RK law "On amendments into some legislative acts of the Republic of Kazakhstan on

issues of declaration of incomes and property of RK citizens and persons with residency permits”

(sent to the RK Ministry of Justice)

The National Human Rights Center considers it necessary to make the following comments concerning the issue of introduction of the general declaration for RK citizens and persons who have residency permits in RK specified in respective concepts of those laws.

According to the concept of the RK law “On amendments into some legislative acts of the Republic of Kazakhstan on issues of declaration of incomes and property of RK citizens and persons with residency permits”, by 2017, a system of general declaration of physical persons will be introduced to require mandatory, annual submission of declaration of incomes and property, information on disposal and (or) purchase of property, money on bank accounts, accounts receivable and payable both inside and outside the territory of RK.

Therewith, in justification of the need in introduction of the general declaration, the authors make points concerning issues of combatting against corruption, physical persons’ tax evasion, issues of the shadow economy and positive experience of foreign countries.

The draft law’s purpose is creation of a system of effective control over physical persons’ incomes and property for combatting the shadow economy and corruption, and for ensuring full collection of taxes to the budget.

The concept also notes negative points in introduction of the mechanism of general declaration. They include the individuals’ obligations to keep account of incomes and expenses, and the obligation to keep certifying documents during the period of limitation of actions, imposition of temporary expenses on production of tax declarations, etc.

It should be noted that the obligations imposed by the draft law on citizens who have to declare a wide range of information on their deposits and savings does not correspond with paragraph 2 of article 18 of the RK Constitution which establishes that everybody has the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, mail, telegraph and other communications. Limitations can be imposed on those rights only in the cases and with observance of the procedures directly established by law.

Besides, pursuant to paragraph 1 of the August 20, 2009 regulatory resolution #5 of the Constitutional Council of the Republic of Kazakhstan, the right to confidentiality of personal deposits and savings guaranteed by paragraph 2, article 18 of the RK Constitution should be understood as the deposit holder’s right to non-disclosure of any legally protected information about the holder, money or other property owned by him including banking accounts, other accounts and savings, equities in charter capital of economic entities, other property and its operations,

unless it should be of open access to wide public without limitation and on equal terms.

Herein, paragraph 2 of the above-mentioned regulatory resolution sets that the boundaries of limitations of everybody's right to confidentiality of personal deposits and savings specified in paragraph 2, article 18 of the Constitution should be determined by law in accord with points 1) and 2), paragraph 3, article 61 of the Constitution with the account of paragraph 2 of article 18, paragraphs 1 and 3 of article 39 of the Constitution of the Republic of Kazakhstan.

Under paragraph 1, article 39 of the Constitution, rights and freedoms of an individual and citizen can be limited only by laws and only to the extent necessary for protection of the constitutional system, defense of public order, human rights and freedoms, health and morality of the population.

It should be noted that achievement of objectives and aims which this draft law pursues are currently implemented in the framework of the law of the Republic of Kazakhstan "On Combat against corruption", Tax Code which impose the objective of combatting the shadow economy and corruption on authorized government organizations; the RK CAO and RK CC set liability for offenses and crimes in financial and tax areas. Other institutions were also established with the purpose of implementation of similar objectives.

At this stage, the civil legislation requires a mandatory registration of real and personal property with information put into the unified database, and common information systems which contain information on such property are created. The competent government organizations carry out persistent control over observance of the tax legislation including control over mandatory deductions to the budget.

With the account of the points indicated in the draft law justification, with consideration of the norms of the RK Constitution, in our opinion, introduction of the general declaration for the purpose of keeping control over incomes and property of physical persons, of combat against the shadow economy and corruption does not justify imposition of limitations of the constitutional right of everybody to confidentiality of personal deposits and savings.

Information of the National Human Rights Center on the process of implementation of final decisions of the Constitutional Council of the Republic of Kazakhstan

(sent to the RK Constitutional Council)

1. The provision of the RK Constitutional Council's June 12, 2013 Address #09-3/1 (hereinafter, CC 2012 Address) "On the status of the constitutional rule of law in the Republic of Kazakhstan" on the need to bring a number of

laws which determine the procedure for detention of a person and computation of its time, in accord with paragraph 2, article 16 of the RK Constitution and the Constitutional Council's April 13, 2012 regulatory resolution #2 "On the official interpretation of the norms of the Constitution of the Republic of Kazakhstan on the issue of computation of constitutional timelines" has still not been implemented.

From the human rights angle, it seems necessary to provide for direct application of the RK CC April 13, 2012 regulatory resolution #2 "On the official interpretation of the norms of the Constitution of the Republic of Kazakhstan on the issue of computation of constitutional timelines" at this stage until introduction of relevant amendments into the RK legislation.

2. Discussion of the opinion expressed in the CC 2012 Address on unreasonably frequent introduction of amendments into current laws and other regulatory legal acts seems expedient.

Frequent amendments in legislation can be a sign of shortcomings in legislative procedures, particularly those which have to secure thorough and comprehensive preparation of draft legal norms.

3. The approach expressed in the CC 2012 Address on the obligation of government organizations, including the country's courts, to make references to relevant norms of the Constitution in their decision-making procedures is still not implemented.

The National Human Rights Center's experience in consideration of complaints about human rights infringements indicates that generally, in their submissions, citizens more frequently than government employees refer to relevant norms of the Constitution.

The fact that in their responses to such complaints, government organizations, as a rule, do not highlight the link between their actions and decisions and the RK Constitution, has a negative impact on the public opinion regarding the rule of the Constitution.

4. We find it necessary to implement the provision stated in the CC 2012 Address on the need to set in laws not only a list of human rights and freedoms limitations but also of mechanisms for their imposition, pursuant to the content of paragraph 1, article 39 of the Constitution, as well as the need to give a legislative definition of the term "inviolability of privacy" contained in paragraph 1, article 18 of the Constitution.

The National Human Rights Center’s comments on the submitted draft law “On fingerprint and genome registration in the Republic of Kazakhstan”

(sent to the RK Ministry of Interior Affairs)

1. on point 1) of article 10:

The text of the draft law sets the right to access the fingerprint and genome information and the right to get its copy.

However, that right can be implemented only in a case when a person is aware of existence of such information.

The draft law does not mention the right to get confirmationsuch information’s existencefrom the authorized government organization.

At the same time the draft law intends to introduceregistration of minors and persons who were found legally incapable and also a procedure for destruction of fingerprint and genome information.

In both cases we have to suppose that a person who, because of the age or lack of capability, could not realize the legal essence of his registration, or a person who filed a request on destruction of the fingerprint or genome information can express wish to receive confirmation of existence or non-existence of his information.

We believe that articles 17 and 18 of the Constitution which guarantee everybody's right to have access to documents, decisions and sources of information concerning his rights and interests as well as the right to personal security and inviolability of privacyprovide for the right to get confirmation of existence of fingerprint and genome information.

The Center proposes the following phrasing for article 10 of the draft law:

«1) confirmation of the fact of existence of fingerprint and (or) genome information about himself or a person under his custody or guardianship, free access to it (further as per the text of the draft law)

2. on point 1) article 10:

point 1) article 10 gives persons who were subject to fingerprint and genome registration the right to get a copy of that information with exception of incidents specified in RK laws.

The above text does not bring us to an unequivocal conclusion on whether the phrase «with exception of incidents specified in RK laws» refers to the right to information access or the right to receive a copy of information.

The Center believes that in order to rule out ambiguous interpretation of that article, its meaning should be clarified by changing the text.

3. on point 2) of article 10:

the content of the norm brings us to a conclusion that the procedure for familiarization with the fingerprint and genome information can be spelled out at a level below the RK law.

The Center's experience indicates that government organizations often use norms of bylaws in their routine practice. In incidents when bylaws do not fully comply with human rights principles, such practice can result in infringement of citizens' rights and freedoms.

In this regard, the drafter has to clarify whether the term «procedure for familiarization» includes procedures which can limit a person's right to familiarize with his fingerprint and genome information (restrictions in time, place, form of presentation, language, excessive administrative procedures of permissive or restrictive nature).

The issue of replacement of phrase «established by legislation of the Republic of Kazakhstan» with «established by Laws of the Republic of Kazakhstan» or with «established by legislation of the Republic of Kazakhstan in compliance with the principle of respect to human rights» can also be considered.

4. on par. 2, art. 11

This norm intends to introduce fingerprint registration of children and teenagers. And it does not require agreement of the child himself.

Par.1 of article 27 of the RK Constitution establishes that childhood is under the state protection. Besides, article 12 of the Child Rights Convention of which Kazakhstan is a part, sets its member-states' commitment to assure to a child who is capable of forming his or her own views the right to express those views freely in all matters affecting that child; and the child's views should be given due weight in accordance with the age and maturity of the child. Pursuant to par. 1, art. 13 of that Convention, a child has the right to freedom of expression. That right includes freedom to seek, receive and impart information and ideas of all kinds.

In this connection, the law should stipulate a requirement to obtain a child's consent to fingerprint registration in cases when the level of child's development allows it.

Our recommendation regarding the minors' genome registration is similar.

5. on the terms for storage of fingerprint information

Article 9 determines 26 categories of persons subject to mandatory fingerprint registration. Article 16 establishes that information on most of the persons of those 26 categories is stored until they reach the age of 80 years. Pursuant to par. 5 of article 18, that information shall not be destroyed.

The list of persons subject to the mandatory registration includes army draftees and conscripts, military servicemen, government employees, homeless vagrants, individuals registered in police, foreigners and stateless persons who have permission for residence in the RK territory or who engage in labor activity in the RK territory.

It should be noted that the legal status of the above-mentioned categories of individuals which makes them subject to the fingerprint registration is not lifelong. For instance, a person drafted to military service in the age of 18 will have to live the next 62 years of his life under unreasonable state control.

The Center's experience indicates that incidents of unlawful criminal persecution followed by unlawful collection and fabrication of evidence and other infringements on

citizens' rights occur. Creation of a database containing information on a significant part of population will evidently turn into a factor which will work towards further increase of the number of infringements on the rights.

In this regard, we find it expedient to re-consider the proposed terms for the storage of information pertaining to those persons whose registration is mandatory.

Specifically, a possibility of setting up the fixed terms for removal of the fingerprint information of some categories of persons listed in article 9 of the draft law. Those terms should be counted from the time of termination of legal relations which served the reason for the fingerprint registration, with the exception of cases when registration was a result of an offense.

The National Human Rights Center's proposals on RK draft Law «On the Interior Affairs Agencies» developed with the account of opinions of the members of the RK Human Rights Commissioner's Council of Experts

(sent to the RK Parliament Mazhilis' working group on consideration of that law)

1. In general, legislation of the Republic of Kazakhstan pertaining to operation of interior affairs agencies, first and foremost, to lawfulness of actions undertaken with the use of force by police officers has a number of significant problems which hinder establishment of an effective mechanism of protection of human rights and freedoms in compliance with the country's international commitments.

For instance, article 24 of the draft law of the Republic of Kazakhstan «On the Interior Affairs Agencies» (hereinafter, the draft law) which regulates police officers' right to shoot firearms including its discharge without a warning and shooting to hit the target, with a reference to the January 6, 2011 law of the Republic of Kazakhstan «On the law enforcement service» indicates that norms of the national law do not comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders (hereinafter, Basic principles on use of force).

Article 2 of the Basic Principles on the use of force state that governments and law enforcement agencies should develop non-lethal incapacitating weapons to minimize the risk of endangering uninvolved persons and the use of such weapons should be carefully controlled.

Whereas the current norms of the draft law do not guarantee observance of a natural constitutional right: the right to life and personal security. Besides, it does not provide for any effective preventive measures aimed at prevention of possible abuse of power by officials.

We find that the definition of a threat to life, health or possibility of other serious consequences for a person or police officer himself is not a concrete and unquestionable criterion for the use of firearms or shooting to hit the target without warning.

In order to straighten out disagreements on this matter, we find it expedient that article 24 of the draft law should contain an exhaustive list of reasons for police

officers' use of firearms, in particular, the wording of article 33 of the CIS model law «On police (militia)» adopted by the Inter-Parliamentary Assembly of the CIS member-states on December 7, 2002 could be borrowed.

That article specifies that any attempt of an arrestee to approach a police (militia) employee who carries out the arrest with his gun drawn, violation of the required distance, making unexpected abrupt movements without permission, an attempt to hide hands in pockets or stretch them to the police officer's firearm give the police officer the right to shoot the firearm without warning pursuant to point 1, first part of article 32 of this Law.

We believe that only a detailed description of the reasons for the use of firearms will be instrumental in prevention of its unreasonable use by police officers as a means of “extreme necessity”.

2. The draft law provides a wide range of rights and powers for police employees: article 19 lists 8 sets of rights, article 15 (competence of interior affairs agencies) 40 sets of rights and duties, article 16 (authority of interior affairs agencies) 26 sets of duties and 40 sets of rights, and article 18 – 16 sets of duties.

Along with that, paragraph 12 of article 18 of the draft law does not state that officers of interior affairs agencies should have relevant legal grounds to make lawful their intrusion into citizens' housing or other premises, to the land area owned by them against the will of people who live there, with the use of safe methods and means, careful attitude to citizens' lives and health.

Point 2 of paragraph 2, article 16 of the draft law does not specify the criteria for the **objective reasons** for document checking. In future, it can result in mass abuse of the right to check documents by officials (if there are objective reasons to check individuals' personal identification documents and other documents which are necessary for checking the compliance with the established rules if control over their implementation is vested with interior affairs agencies”).

But criteria for reasonable limitation of individual rights and freedoms by the state were first spelled out in the Universal Human Rights Declaration of 1948. According to article 29 of the Universal Human Rights Declaration “**in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society**”. Similar criteria are set in articles of the International Covenant on civil and political rights.

The essence of those criteria is in the following general statement: the exercise of certain rights should be subject to no limitations except those which are established by law and are necessary in a democratic society in the interests of national security and public peace, for the purpose of prevention of disorder and crimes, for protection of health and morality or protection of other persons' rights and freedoms.

A detailed interpretation of possible limitations and deviations from provisions of the Covenant are spelled out in the Siracusa principles.

The following general interpretive principles to the provisions of the Covenant relating to the justification of limitation of rights were outlined:

- No limitations or grounds for applying them to rights guaranteed by the Covenant are permitted other than those contained in the terms of the Covenant itself
- The scope of a limitation referred to in the Covenant shall not be interpreted so as to jeopardize the essence of the right concerned
- All limitation clauses shall be interpreted strictly and in favor of the rights at issue
- All limitations shall be interpreted in the light and context of the particular right concerned
- All limitations on a right recognized by the Covenant shall be provided for by law and be compatible with the objects and purposes of the Covenant
- No limitation referred to in the Covenant shall be applied for any purpose other than that for which it has been prescribed
- No limitation shall be applied in an arbitrary manner
- Every limitation imposed shall be subject to the possibility of challenge to and remedy against its abusive application.

Whenever a limitation is required in the terms of the Covenant to be "necessary," this term implies that the limitation:

- (a) is based on one of the grounds justifying limitations recognized by the relevant article of the Covenant,
- (b) responds to a pressing public or social need,
- (c) pursues a legitimate aim, and
- (d) is proportionate to that aim.

Any assessment as to the necessity of a limitation shall be made on objective considerations.

In applying a limitation, a state shall use no more restrictive means than are required for the achievement of the purpose of the limitation.

Consequently, we believe that a detailed description of the term “objective grounds” used in the draft law with the use of the wording of article 19 of the CIS model law “On police (militia)” would be efficient.

For instance, a note to this article gives a description of the term “sufficient grounds” which covers incidents when:

- a) A person is detained in the process of commitment of a crime or administrative offense or immediately after it;

- b) Witnesses, including the victim, directly point at that person as the perpetrator of the crime or administrative offense;
- c) That person's body, clothes, other things used by him, his apartment or vehicle owned by him have clear traces which serve the evidence of the link to the crime or administrative offense. Police (militia) officers can also disclose other information (determination of the speed of the vehicle, signs of similarity with this or that criminal who is on the list of wanted, incrimination of attempted escape by police (militia) officer, etc.) which serves the grounds for suspecting that person in commitment of the crime or other administrative offense.

In its general comments #3, the UN Human Rights Committee (hereinafter, the Committee) recognizes that implementation of human rights does not depend solely on constitutional or legislative enactments, which in themselves are often not per se sufficient but also on the States parties' obligation to ensure the enjoyment of these rights to all individuals under their jurisdiction. This aspect calls for specific activities by the States parties to enable individuals to enjoy their rights.

At this stage, over 42 thousand people are held in correctional facilities. Two thirds of them are able-bodied, and due to their health condition they can perform a wide range of various kinds of work.

However, a lot of those individuals do not have opportunities to be engaged in labor activity. According to the Penitentiary Committee of the RK Ministry of Interior Affairs, as of today, not more than 30% of convicted individuals are really employed.

The lack of opportunities for inmates to earn wages and, consequently, the lack of money for living after their release from correctional facilities turns into another difficult obstacle for adaptation of ex-prisoners, and is a factor for commitment of new offenses by them. Such evil cycle, in fact, gives a costly individual who is of little use for the society, whose search, criminal persecution and confinement require allocation of significant financial and other means.

The Human Rights Commissioner's monitoring visits to penitentiary facilities confirm that both the administration and prisoners themselves are really interested in higher level of their labor integration. However, insufficient legal regulation and some gaps in legislation hinder it.

Provision 71 of the Standard Minimum Rules for the Treatment of Prisoners adopted by the UN Congress on prevention of crimes and treatment of offenders on August 30, 1955 establishes that "all prisoners under sentence shall be required to work, subject to their physical and mental fitness".

In this regard, we propose that the criteria for evaluation of the quality of operation of interior affairs agencies should be worked out and added into the draft law of the Republic of Kazakhstan "On the interior affairs agencies" regarding each

area of their operation including **the penitentiary system**. One of such criteria for evaluation of operation should be employment of prisoners confined in penitentiary facilities.

We believe that legislative fixation of prisoners' employment as a criterion for evaluation of the quality of the penitentiary system's operation will facilitate settlement of that problem in the near future.