



2015 OSCE Human Dimension Implementation Meeting Working Session 8 Rule of Law: Prevention of torture (25 September 2015)¹

Kazakhstan fails to implement UN treaty body decisions on individual cases

Kazakhstan accepted the individual complaints procedures provided under Article 22 of the Convention against Torture and the Optional Protocol to the International Covenant on Civil and Political Rights, in 2008 and 2009 respectively. However, Kazakhstan has not implemented the decisions on individual cases by the United Nations (UN) Committee against Torture and the UN Human Rights Committee. There is no unified mechanism in place, neither in domestic law nor in practice, that would allow for their effective implementation. The denial of justice to victims of torture and other forms of ill-treatment adds to their suffering and violates Kazakhstan's UN human rights obligations.

At the same time human rights defenders and the authorities have recently reached an agreement to set up such a mechanism, which would provide a basis for the effective implementation of treaty body decisions on individual cases.

By the summer of 2015, the UN Committee against Torture and the UN Human Rights Committee ruled on a total of eight individual complaints involving allegations of torture and ill-treatment that had been submitted by the NGO Coalition against Torture in Kazakhstan. In seven of these cases Kazakhstan was found guilty of breaching its international obligation to prevent or not to permit torture.

So far, Kazakhstan has partly implemented the treaty bodies' recommendations in only two cases. Torture victims Alexander Gerasimov and Rasim Bayramov were awarded compensation for the harm suffered through torture. However, the compensation payments were not adequate and no effective investigations have been conducted. The perpetrators have not been found and have not been brought to justice.

In two other cases Kazakhstan forcibly returned Arshidin Israil and Khairullo Tursunov to China and Uzbekistan respectively, although the UN had called on Kazakhstan not to do so, referring to the risk of them being subjected to torture in their home countries.

In its November 2013 decision on the case of Oleg Evloev, the Committee against Torture urged Kazakhstan to conduct an effective investigation with the aim of identifying the perpetrators and to provide the victim with adequate reparation, including compensation and full rehabilitation. However, the authorities failed to conduct such an investigation and the State has not provided Oleg Evloev with measures of rehabilitation and compensation for moral damages.

Currently six further complaints involving allegations of torture and ill-treatment that were submitted by the NGO Coalition against Torture in Kazakhstan are pending with the Committee against Torture and the Committee on Human Rights.

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RECOMMENDATIONS

We urge the authorities of Kazakhstan to:

- Establish a unified mechanism to implement all decisions that UN treaty bodies issue to Kazakhstan under their respective individual complaints procedures.
- Ensure that victims of torture or their family members are consulted and informed throughout the implementation process pertaining to their case.
- Amend domestic legislation to allow Kazakhstani courts to reconsider criminal cases based on UN treaty bodies' decisions on individual cases, including those that the courts had already closed. Subsequently, effective investigations should be opened to identify the perpetrators; they should be brought to justice; and the State should provide adequate reparation to the victims of torture, in line with Kazakhstan treaty body obligations.