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Mr. Chairman, Members of the Committee,

In 2011, based on the results of a review of the First Periodic Report of Kazakhstan on implementation of the Covenant, the Committee submitted to the Republic of Kazakhstan more than 20 recommendations regarding the State-participant's fulfilment of its obligations. Over the five years that have passed since, several dozen recommendations regarding Kazakhstan's performance of its human rights obligations have been provided by the UN Council on Human Rights (in 2014), the UN Committee Against Torture (in 2014), the UN Committee on the Elimination of Racial Discrimination (in 2014), the UN Committee on the Elimination of All Forms of Discrimination against Women (in 2014), the UN Committee on the Rights of the Child (in 2015), the UN Committee on Enforced Disappearances (in 2016), and by the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences (in 2014), the UN Special Rapporteur on the freedom of religion or belief (in 2014), and the UN Special Rapporteur on the rights to freedom of peaceful assembly and freedom of association (in 2015) who have visited Kazakhstan as well.

To our regret, an absolute majority of those recommendations have gone unfulfilled, whereas the situation in a number of areas pertaining to a legislative framework, institutional development and practical implementation of international human rights standards has drastically worsened.

In spite of positive changes associated with the establishment in Kazakhstan of a national preventive mechanism against torture, in 2011 the penitentiary system was transferred back from the Ministry of Justice to the Ministry of Internal Affairs.

The existing national human rights institution, the Human Rights Commissioner of the Republic of Kazakhstan, still has not been brought in compliance with the Paris Principles. In 2016, an institute of the Commissioner for the Rights of the Child was established in Kazakhstan that too, has not been brought in compliance with the Paris Principles as it was established and appointed by a presidential decree, not a law.

Despite the recommendations of several convention bodies and thematic mechanisms of the UN, Kazakhstan still has not adopted an anti-discrimination legislation or created anti-discrimination mechanisms and procedures.

An extremely restraining legislation on registration of political parties continues to be in force, which requires a country with a 17-million population to have at least 40,000 members for a political party to register, while the registration procedure remains a very convoluted and difficult one. The Communist Party of the Republic of Kazakhstan was dissolved last year due to an insufficient membership; as a result, there is now only one opposition party remaining in the country. At the same time, the opposition is not

represented either in Parliament or in local representative executive bodies. Vladimir Kozlov, leader of the “Alga!” opposition party that was dissolved in 2012, has been in prison for almost 4.5 years now, allegedly for inciting social discord. The opposition has virtually no access to the country’s state mass media.

There are no independent and pluralistic radio or television in the country, and only a few independent printed media. The new Criminal Code of the Republic of Kazakhstan, which entered into force in January 2015, still provides for criminal liability for libel and defamation, as well as for a public offence or otherwise encroaching on the honour and dignity of the First President—Leader of the Nation, or encroaching on the honour and dignity of the President, or encroaching on the honour and dignity of a deputy of Parliament, or offending a representative of a state authority. Moreover, the new Code establishes a criminal liability for disseminating knowingly false information. This year journalist Guyzal Baidalinova was sentenced to 18 months in prison following a petition by one of Kazakhstani banks.

A Criminal Code’s article that establishes liability for inciting national, religious, social or class discord using vague definitions, has found an active use in the fight against bloggers in social networks. Over the last two years, this article has been used to sentence, and sometime hand prison sentences, a number of human rights activists, including Yermek Narymbayev, Serikzhan Mambetalin, Bolatbek Blyalov, Turarbek Kusainov, and Yermek Taichibekov. Widely used against some of those mentioned figures, as well as against religious leaders and practitioners, is an additional punishment in the form of a prohibition to get involved in social or political activity (including a ban to participate in public associations, peaceful assembly, or sign petitions), or religious activity.

A new law on religion, which drastically worsens the situation of smaller religious communities, was adopted in 2011 and then entered into force in 2012 (in the part pertaining to re-registration of religious associations). The law introduced a compulsory registration of all religious communities which requires to have not less than 50 members to be registered; a ban to distribute religious literature and materials in unsanctioned locations; a mandatory religious expertise of all religious materials coming into the country; a ban on the distribution of religious views in unauthorized locations; a ban on religious assembly in private homes; a requirement that religious views be disseminated only on behalf of those religious associations that have been registered and obtained a permit to conduct missionary activity, etc.

The legislation regulating public associations continues to have a clause making it compulsory to register public associations, as well as clauses on criminal or administrative responsibility for unregistered activity. At the end of 2015, changes to the legislation on non-government organisations were introduced which required special reporting on the activity of the NGOs to be submitted to an authorised body, the Ministry of Culture and Sport of the Republic of Kazakhstan, with administrative liability for failing to do so. The new law on trade unions was adopted last year that requires a mandatory affiliation of trade unions to already created structures and was criticised by ILO.

Despite the recommendations from the convention bodies and UN thematic mechanisms, the old 1995 law on peaceful assembly which envisaged a strictly administrative procedure for issuing permits for any peaceful assembly in open public places, including one-person picketing, with a request to be lodged 10 days prior to the assembly/picket, still has not been amended. In all large cities, local authorities have defined just one or

two places, usually in secluded and remote locations, for any peaceful assembly, effectively barring citizens of their right to hold marches, processions and demonstrations.

The new Criminal Code and the Code on Administrative Offences which entered into force in January 2015 have toughened up the liability for unregistered activity of religious or public associations, for unsanctioned peaceful assemblies, and introduced a new subject of criminal liability, a leader of a public association—a notion that does not comply to the principle of legal certainty and predictability.

Largely unfulfilled have gone the resolutions of the UN convention bodies (the UN Committee on Human Rights, the UN Committee Against Torture, and the UN Committee on the Elimination of all Forms of Discrimination against Women) that have been rendered in response to individual complaints against the Republic of Kazakhstan in the last five years, with the exception of just two cases of victims of torture being paid compensation, including those complaints that have been reviewed by the Committee, “Ms. Toregozhina vs the Republic of Kazakhstan” and “Mr. Yesergepov vs the Republic of Kazakhstan.” As Kazakhstan’s General Prosecutor’s office put it in their official letter, despite the fact that Kazakhstan ratified the Optional Protocol to the Covenant as early as in 2009, the country still has no procedure for overturning judicial or other judgments based on the decisions of the Committee.

In general, the Committee’s decisions on individual complaints are of a significant authoritative importance, but sometimes there could be negative impact. What I mean here is the judgment in my own case, “E.Zh. vs Kazakhstan,” which, as I believe, contained a number of factual and juridical omissions and errors and which is now being used by Kazakhstan’s General Prosecutor’s office in making claims that they do follow standards of a fair trial. I have submitted to the Committee’s Secretariat my objection to this judgement as well as the position of the International Commission of Jurists, and I hope that this unpleasant situation will find a resolution. I stand ready to answer any questions and give any explanations on this objection, any time convenient for the members of the Committee.

I do realise that the situation as I describe it leaves little room for optimism, and I hope that the Committee, when reviewing the Second periodical report of the Republic of Kazakhstan and providing its concluding comments, will take practical steps in motivating the Republic of Kazakhstan to fulfil its international human rights obligations, including the provisions of the International Covenant on Civil and Political Rights.

Thank you for your attention.