

## **ADVANCE QUESTIONS TO KAZAKHSTAN**

### **BELGIUM**

- Is the Government of Kazakhstan considering the ratification of the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty?
- Is the Government of Kazakhstan considering the ratification of the Convention on the rights of Persons with disabilities, signed in 2008?
- Is the Government of Kazakhstan considering accepting the individual complaints procedure under all the human rights conventions to which it is already a State party?
- Will the Government of Kazakhstan consider ratifying the Convention on stateless persons?
- Is the Government of Kazakhstan considering ratifying the Rome Statute, the APIC or eventually aligning its national legislation with the Rome Statute?
- The Committee on Economic, Social and Cultural Rights (CESR), the Human Rights (HR) Committee, the ILO Committee of Experts and the Special Rapporteur on contemporary forms of slavery voiced concerns about the persistence of child labour in Kazakhstan. Are additional steps being considered after the latest visit of the Special Rapporteur?
- What has the Government of Kazakhstan done to ensure that allegations of torture and ill-treatment are investigated, perpetrators prosecuted and punished with appropriate sanctions? Is it considering establishing an effective and independent mechanism to investigate all allegations of torture promptly, independently and thoroughly, as recommended by the Special Rapporteur on torture?
- Has the Government of Kazakhstan taken effective measures to ensure the exclusion by the judiciary of evidence obtained under torture, as recommended by both the HR Committee and the Special rapporteur on torture in recent years?
- Has the Government of Kazakhstan addressed the root causes of trafficking of women and girls, the lack of reporting of this issue and the rehabilitation of victims as recommended by CEDAW? Does it intend to amend the Criminal Code to ensure that slavery and slave-like practices, like forced and early marriages, are designated as crimes?
- Which steps has or does the Government of Kazakhstan intend to take to effectively implement the recommendations of the HR Committee to strengthen the independence of the judiciary and to protect lawyers in the legitimate exercise of their profession?

- Could the Government of Kazakhstan explain how it intends to modify the Criminal Code to implement accepted UPR recommendations on decriminalization of defamation and decriminalizing defamation without interfering with freedom of expression?
- The Special Rapporteur on the right to education stated that only one third of children with disabilities had access to teaching and development programmes, noting that children with disabilities were placed in special boarding schools away from home. Has anything been done by the Government of Kazakhstan to remedy this situation?

## **CZECH REPUBLIC**

- How does Kazakhstan safeguard the right to freedom of expression and freedom of the media? How is ensured that defamation provisions in the Criminal Code are not abused to limit the right to freedom of expression?
- What measures have been adopted to remove undue restrictions in legislation on the right to freedom of assembly?
- What complaint mechanisms are available to persons in detention or prison facilities in Kazakhstan to protect their rights?
- How did Kazakhstan implement the UPR recommendation to apply a zero-tolerance approach to torture? In this regard, what steps have been taken to ensure that no statement obtained through torture can be used in the courts and to strengthen the independence of the existing investigation mechanism of allegations of torture and other ill-treatment by members of law enforcement agencies?
- What steps has Kazakhstan taken or intends to undertake to ensure impartial investigation into the allegations of torture and ill-treatment in connection with the 2011 Zhanaozen events? Are there any safeguards in place against possible misuse of the provision on incitement of social hatred against persons peacefully exercising their human and labour rights?
- Is Kazakhstan considering amending the Code of Administrative Defence to decriminalize defamation in certain cases?
- What measures have been adopted to implement effectively on national level the 1951 Refugee Convention and to ensure compliance with the principle of non-refoulement?

## **GERMANY**

- Which concrete measures does the Government of Kazakhstan plan in order to fully and effectively ban torture, i.e. with regard to consistent criminal prosecution of offenders, adequate compensation of victims and training of law enforcement officials?
- For which reasons does the mandate of the national preventive mechanism against torture not cover inspections of all places of detention, including private detention centers,

nursing homes and police custody? When will the mandate be brought in line with article 4 of OPCAT?

- What measures does Kazakhstan plan in order to bring the conditions in its prisons in line with international standards? Which protection measures are offered to detainees who wish to file a formal complaint?

## **NETHERLANDS**

- Does the government plan to limit the amount of moral damages that can be awarded in defamation cases against media under Articles 143 and 951 of its Civil Code, in accordance with the UPR recommendations it accepted in 2010?
- When will the Government end the mandatory registration of religious communities which has led to situations of legal insecurity affecting especially small ‘non-traditional’ groups and which are contrary to art. 18 of the International Covenant on Civil and Political Rights. Does the government concur with Mr. Bielefeldt that its international obligations require it to review the registration system?
- Is the government prepared to include in the new National Human Rights Action Plan measures and actions for the protection of human rights defenders and to include the recommendations to be issued by the Special Rapporteur on the situation of human rights defenders at the occasion of his upcoming visit?
- Does Kazakhstan intend to make the Commissioner for Human Rights, who is responsible for the coordination of the National Preventive Mechanism for the prevention of torture under OPCAT, independent of the executive branch of government, and solve the problem of understaffing and adequate funding, in order to fully implement OPCAT art. 18?
- Is the Government of Kazakhstan planning to accede and fully align its national legislation with the Rome Statute of the International Criminal Court (ICC), including by incorporating provisions to cooperate promptly and fully with the ICC and to investigate and prosecute genocide, crimes against humanity and war crimes effectively before its national courts, and accede to the Agreement on Privileges and Immunities of the Court (APIC)?

## **NORWAY**

- What concrete steps have been taken to meet obligations with regard to the creation of an environment that fosters freedom of expression? For example, libel and defamation are part of the Criminal Code in Kazakhstan. How does Kazakhstan ensure that these clauses and future policy and law related to the media are in line

with international standards for freedom of expression and the recommendations (95.13, 95.75, 95.77, 97.13, 97.20, 97.24) from the previous cycle?

- What steps are being taken to further improve the situation of women with regards to their place in family and society, especially within employment and decision-making processes, as well as the formalization of legislation regarding harassment and abuse?
- What steps are being taken to affirm people's right to freedom of assembly? Though the legislation for allowing peaceful public events is in formally keeping with international norms, the discrepancy between applications for peaceful gatherings and the number of events permitted is large. How are procedures in practice being changed to allow such events to take place?

## **SWEDEN**

- Could you elaborate on Kazakhstan's hesitation to abolish the death penalty? The issue was subject of an inquiry by a Governmental working group with the participation of prominent human rights defenders as early as several years ago.
- What specific measures is Kazakhstan planning to take in order to allow a free, pluralistic political dialogue and guarantee everybody's right to freedom of expression and peaceful assembly?

## **UNITED STATES OF AMERICA**

- Will the government make the registration process for religious groups less burdensome so that more religious organizations will be able to register and thus more individuals will be able to practice their religions and beliefs freely?
- Why did the government make unauthorized religious gatherings a criminal offense?
- Will Kazakhstan allow Muslim congregations to register even if they do not agree to government-controlled Sunni Hanafi Spiritual Administration of Muslims (SAMK) oversight?
- A new law criminalizes "interference in the lawful activities of government bodies by members of public associations," but the definition of "interference" is not clear. Is it legal, for example, to make suggestions, ask questions, and openly criticize the government in Kazakhstan?
- What is the rationale behind making "leadership of a public association" an aggravating circumstance justifying a higher criminal penalty, as is the case in the new Criminal Code?

- The new Criminal Code penalizes “participation in an illegal strike,” and “participation in illegal gatherings,” although it is not clear what would constitute an illegal strike or gathering. How can citizens know whether a strike or gathering is legal? How many strikes or gatherings has the government approved in the last year, if approval is required?
- Under the amended legislation, to what extent are workers able to form and join independent, non-government sponsored unions? Are those unions allowed to freely establish and join higher-level union organizations, such as federations?