

Introduction

1. The Situation with civil and political rights in Kazakhstan has barely improved since the last UPR-review: the government and the legislature provide insufficient transparency of their decision-making processes, budgetary matters, environmental information and other activities. A new law on public access to government information was adopted in 2015, but it is poorly implemented in practice. Under the rules that took effect in January 2017, citizens must register with local authorities if they move within the country and remain in one locality for more than a month, while foreigners are subjected to stricter rules. The LGBTIQ community, drug users, and HIV-positive people, continue to face discrimination both in law and in practice.

I. Freedom of Expression and Access to Information

2. International human rights mechanisms have repeatedly recommended that Kazakhstan should pay attention to the freedom of expression, access to environmental information¹, and the problem of the Internet blocking². Recommendations³ were provided to Kazakhstan within UPR Round 2 regarding Article 174 of the Criminal Code of the Republic of Kazakhstan⁴ on incitement of ‘social, national, patrimonial, class, or religious discord’. Kazakhstan has accepted the recommendations but never implemented them.
3. The number of criminal cases under Article 174 of the Criminal Code of the Republic of Kazakhstan ‘Incitement of Social, National, Patrimonial, Class, or Religious Discord’ keeps increasing every year. According to the information of the Committee on Legal Statistics and Special Records of the General Prosecution Office of the Republic of Kazakhstan, 54 people were convicted under this article in 2017, and 83 in 2018.
4. The judicial practice indicates that there were almost no acquitted cases in this category between 2013 and 2018. Rather strict sanctions were imposed, mainly incarceration, and in some cases an interdiction to perform certain types of activities. In practice, this interdiction turned into a prohibition to engage in civil rights related activities.
5. The main challenge of the Article is to ensure a balance between the freedom of expression and resistance to the hate speech. As evidenced in practice, this balance is disrupted not in favor of the freedom of expression. The Article does not comply with international standards and is often political in nature.
6. There are other problems as well related to the application of this Article:
 - 6.1. The language of the Article is not clear and difficult to understand, the principle of legal certainty is not observed, there is no clear notion of legal implications or the sphere of application of this legal norm.
 - 6.2. Proceedings under this and similar articles are instigated and judgements are passed for alleged cases of abuse of the freedom of expression that have no negative consequences.

¹ A/HRC/30/40/Add.1 41, 101

² CCPR/C/KAZ/CO/249 b

³ A/HRC/28/10 124.4 (Brazil), 124.5 (Chili)

⁴ The new CC of the Republic of Kazakhstan, Article 174 ‘Incitement of Social, National, Patrimonial, Class, or Religious Discord’

- 6.3. There is no explanation of the term ‘class discord’ in the judicial and legislative practice.
- 6.4. Unlike verdicts on other cases, court rulings under this Article are not available in the database of court rulings on the Supreme Court website.
- 6.5. On April 23, 2014, the Law of the Republic of Kazakhstan ‘On Communications’ was amended to include a new article, 41-1, which regulates the process of suspension of access to Internet resources, resulting in a possibility to limit an access to Internet resources based on an instruction of the General Prosecutor or his/her deputies without a court’s ruling. Later, in 2016, the article was amended and included the following: similar to those of the court’s powers and authorities were granted to officers of the National Security Committee. Consequently, the list of state bodies that have the right for extrajudicial blockings in Kazakhstan was expanded. This resulted in 90.45% of websites being blocked without court rulings. In total 29 468 domains were blocked, of which 1 126 were blocked based on court rulings and 10 661 were blocked based on instructions of authorized state bodies⁵. There is no complete and updated list of prohibited Internet resources. All these factors lead to the violation of the freedom of expression in the Internet.
7. The legislature of the Republic of Kazakhstan does not grant citizens the possibility to receive timely and relevant environmental information, contradicting the Aarhus Convention. By Paragraph 3 of Article 160 of the Environmental Code of the Republic of Kazakhstan, subsoil users are not required to provide the population with information on the impact of pollutants on the health and environment. In the report of the Special Rapporteur⁶ presented during his mission to Kazakhstan in 2015, Mr Baskut Tuncak noted that detailed environmental data should be provided to the public including information about the impact of pollutants on different population groups.

Recommendations

9. Exclude Article 174 from the Criminal Code of the Republic of Kazakhstan. Consider charges for hate crimes as elements of other violations of law and prosecute only the use of rough hate speech that have negative consequences.
10. Remove Article 41-1 of the Law of the Republic of Kazakhstan ‘On Communications’ that grants the General Prosecution Office and the National Security Committee of the Republic of Kazakhstan the extrajudicial blocking rights. Limit access to websites exclusively based on court orders pursuant to the Syracuse Principles. Ensure access to a complete and up-to-date registry of prohibited websites.
11. Amend the Environmental Code of the Republic of Kazakhstan by adding a liability of local executive authorities to provide online information on daily emissions released by industry on their websites. Amend Article 160 of the EC of the Republic of Kazakhstan by adding a clause on the impact of pollutants on people’s health and the environment into the list of information submitted by subsoil users.

⁵ Information contained in the registry of prohibited Internet resources published on the official website of the Ministry of Information and Communications of the Republic of Kazakhstan

⁶ CCPR/C/KAZ/CO/1, clause 18

II. Right to Vote

12. One of the key indicators of full-fledged functioning of a democratic state is involvement of its citizens, including socially vulnerable groups and minorities, in elections.
13. The Coalition expresses its concern about the fact that in practice, citizens cannot exercise their right to participate in the administration of the state affairs. The power in Kazakhstan is centralized, until very recently the president had never changed in 27 years of the country's independence. The Parliament is virtually a single-party parliament with the president's party in control, and such an instrument as a popular referendum does not work in practice. For example, after the Government was dismissed in February of 2019, citizens of Kazakhstan could not participate in the process of formation of a new Government; the recent March decision of the authorities to rename the capital city (after the first president), which will cost the state about \$125 million, was adopted by the Parliament in three and a half hours (amendments on the change of the name of the capital city were introduced to the Constitutions) without a popular referendum solely based on a meeting of the two chambers of the Parliament.
14. The right to vote was not sufficiently reflected in the reports submitted by the Republic of Kazakhstan earlier and recommendations received under the UPR; only the first round of UPR contains a reference to a denial to register the Alga political party; however, currently this recommendation is no longer relevant.
15. There are impassable barrier both in law and in practice for people with disabilities and prisoners with respect to execution of their right to vote.
16. The existing voting right system discriminates against convicts and people with disabilities, requiring amendments to the national legislature.

A. *Prisoners' Right to Vote*

17. Between 1991 and 2015, the Republic of Kazakhstan had 6 Presidential election cycles. Moreover, in 2016, the 6th assembly of the country's legislative branch was elected during elections to the Majilis of the Parliament.
18. Despite the fact that international standards mandate that the state should guarantee the rights of its citizens to vote, the legislature of the Republic of Kazakhstan establishes a direct prohibition (automatically with a court verdict) to exercise the right of prisoners to vote regardless of their crime severity.
19. For example, during 1995 Presidential elections the prison population of the Republic of Kazakhstan amounted to 85 448 people. In 2015, during similar elections, 49 821 people were in prisons. During elections to the Majilis of the Parliament, the prison population of the country amounted to 39 179 people. All these people were not able to participate in elections.
20. This implies that during the period of each electoral cycle that would affect the political configuration of the state, implementation of social, economic and other reforms that impact lives of Kazakhstanis, several tens of thousands of people were not able to exercise their right to vote and participate in selection of a state structure model proposed by competing powers due to the discriminative nature of the legislation.

21. In 2018, the prison population of Kazakhstan amounted to 33 989 people, of whom 26 521 or 78% of the overall prison population were adults⁷.
22. It should be emphasized that during imprisonment, no prisoner has the right to vote⁸, hence is excluded from the process of electing country's government authorities.

B. The Right to Vote of Persons with Disabilities

23. The number of persons with disabilities of full age amounted to 593 069 people or 3% of the total population of Kazakhstan.
24. Despite some positive changes in the legislature, the law enforcement practice does not comply with the adopted legal standards.
25. Physical and informational accessibility of the infrastructure was not fully ensured at polling stations in Kazakhstan. Polling station monitoring data collected in 2016 in Astana, Almaty and Pavlodar revealed that there were no access ramps or access ramps were of a substandard quality, information at polling stations was not provided in Braille letters, no bulletins in Braille letters were available; no video and audio equipment for people with hearing disabilities was provided while very few polling stations were equipped with polling booths designed to be used by people with disabilities⁹.
26. Consequently, a discriminating practice is applied to a wide circle of people breeding ostracism with respect to vulnerable populations and subsequently impacts voting results and leaves room for further manipulations and limitations of the citizens' involvement in administration of state affairs on the part of the state.

Recommendations

27. Ensure that polling stations are accessible by high class social, engineering and transportation infrastructure facilities.
28. Adopt legal regulations with regards to election campaigns that will consider the needs of people with disabilities.
29. Change the instruction to equip voting premises at polling stations and sites with consideration of the needs of people with disabilities, particularly, deaf and hearing-impaired, and blind and visually impaired persons, and namely install additional information boards, ensure availability of bulletins and special polling booths, provide information in video and audio formats in the form of video and audio files, install tactile plates and signs.
30. Amend the legislation that prohibits prisoners to exercise their right to vote regardless of the crime severity. The right to vote should be revoked sensibly depending on the severity of a committed crime solely as an additional punishment.

⁷ Kazakhstan// website World Prison Brief. Institute for criminal Policy Research, <http://www.prisonstudies.org/country/kazakhstan>

⁸ Article 33.4 of the Constitution of the Republic of Kazakhstan

⁹ According to the results of the report of the Wings of Freedom Foundation – Monitoring the Implementation of the Right to Vote of People with Disabilities (based on the example of early elections of deputies of the Majilis of the Parliament and Maslikhats of the Republic of Kazakhstan). Astana, 2016

III. The Right to Liberty of Movement and Freedom to Choose a Place of Residence

31. The right to liberty of movement and freedom to choose a place of residence is one of the essential personal human rights to freely move within the territory of the country, select a place to stay and reside, leave and return to the country. The practice currently existing in Kazakhstan mandates that each individual be registered at their location within a specified period of time, including their movements within a residential area. This registration system is in essence the residence permit system that was used during the Soviet times but was later discontinued by the state.
32. The Human Rights Committee earlier expressed its concerns¹⁰ about the system of mandatory registration at the place of residence as a breach of the right to liberty of movement and a choice of a place of residence.
33. Moreover, liberty of movement is a prerequisite for personal mobility of people with disabilities and other persons with restricted mobility, which caters to their special needs. Personal mobility of these populations is defined by their capability to move without impediments in residential areas. In general, no recommendations on liberty of movement and freedom to choose a place of residence were given to Kazakhstan under the UPR, however, a recommendation was given to ratify the Optional Protocol of the Convention on the Rights of Persons with Disabilities¹¹.

A. *The Right to Liberty of Movement and Freedom to Choose a Place of Residence of Stateless Persons and Foreigners*

34. According to the current legislature, internal migrants must register at their place of residence and a temporary place of residence on the territory of the Republic of Kazakhstan. Temporary registration is mandatory for people residing outside of their permanent place of residence for more than 10 days. According to statistical data, internal migration of the population was 431 070 people between January and May 2017 and 358 548 people between January and May 2018¹².
35. It should be noted that registration is a mandatory condition applied to citizens of Kazakhstan and stateless persons for obtaining identification documents. Currently, administrative actions are brought against not only citizens, foreigners can also be subjected to administrative liability for residing outside of their place of registration, which is incompatible with the concept of 'liberty of movement'. The demand imposed on foreigners by the migration service to notify it about all their movements within and outside of a city is also incompatible with the concept of 'liberty of movement' and violates their right to private life.

¹⁰ CCPR/C/KAZ/CO/1, пункт 18

¹¹ A/HRC/28/10, пункт 126.8

¹² The demographic situation in the Republic of Kazakhstan in January-May 2018, the Statistics Committee of the Ministry of National Economy of the Republic of Kazakhstan

B. Personal Liberty of Movement of People with Disabilities and Other Persons with Limited Mobility

36. More than 40% of the population are persons with limited mobility¹³. Provision of physical access to people with disabilities and other persons with limited mobility in Kazakhstan is implemented primarily for social and transportation infrastructure facilities. Overall, construction norms and regulations were brought in compliance with the international accessibility standards in 2015. There is an administrative liability for violation of social and transportation infrastructure facility accessibility requirements.
37. The share of facilities accessible by people with disabilities and other persons with limited mobility remains at less than 1% in Kazakhstan¹⁴. Accessibility standards are universally violated which leads to this population category not always having a possibility to independently leave home and go outside/arrive at a venue/move around within a venue/receive necessary services, which deprives them of a possibility to exercise their basic rights (education, labor, health, etc.). Currently, there is only one legal way to attain accessibility of social and transportation infrastructure facilities – a citizen should send a complaint to a local authority about a lack of access conditions. Monitoring of facility accessibility conditions by state authorities and NGOs are not prescriptive in nature.

Recommendations

Internal Migrants and Foreigners

38. Amend the migration legislature by abolishing the institute of temporary registration of citizens and bring the system of registration at the place of residence in full compliance with ICCPR provisions.
39. Develop a judicial assistance mechanism with respect to issues of liberty of movement of foreign residents by providing required information in an accessible form for entering the territory of the country as well as by holding regular awareness raising information campaigns in mass media.
40. Eliminate a sanction in a form of an administrative deportation of foreigners or stateless persons for violations of the temporary registration requirements as a disproportionate punishment of the immigration legislature.

¹³ Persons with limited mobility include the following population categories: people with disabilities, persons with temporary impairments, adults with baby strollers, children of up to 7 years of age, pregnant women, retirees, etc.

¹⁴ ‘Only one building in Kazakhstan provides a 100% accessibility for people with disabilities’ – taken from the speech of Svetlana Zhakupova, Vice Minister of Labor and Social Protection of the Population of the Republic of Kazakhstan, made on February 18, 2017, <https://informburo.kz/novosti/lish-odno-zdanie-v-kazahstane-imeet-100-nuyu-dostupnost-dlya-invalidov.html>;

As of February 27, 2019, the map of certified facilities contained 31237 facilities, none of which was fully accessible for all categories of people with disabilities <http://friendlybuilding.kz/>

People with Disabilities and Other People with Limited Mobility

41. Devise an effective mechanism of state and social and expert oversight of observation of facility and services accessibility standards at all stages of construction, including facility design, construction, commissioning and exploitation as well as cases of overhaul repairs and reconstruction.
42. Devise a mechanism of state support for customization of domestic premises occupied by people with disabilities funded through the state budget or provide alternative ways to improve housing conditions for people with special needs, including providing a different place to live.
43. Amend the legislature to ensure inclusive access for persons with limited mobility to facilities and services from their place of residence to the place of provision of services based on the door-to-door principle
44. Ensure introduction in college, undergraduate and graduate academic programs of architecture, design and construction courses based on 'reasonable accommodation' and 'universal design' principles. Along with that, develop mandatory minimal criteria for evaluation of services and infrastructure accessibility for facilities designed and commissioned before 2015.
45. Ratify the Optional Protocol of the Convention on the Rights of Persons with Disabilities

IV. Right to Health

46. The state healthcare system in Kazakhstan does not ensure enforcement of the right to the highest achievable level of health without discrimination against vulnerable populations, i.e. people who inject drugs, migrants, people with disabilities. Violations are in the form of both physical and economic inaccessibility of healthcare services, a lack of qualified healthcare staff, health promotion services and programs, including sexual and reproductive health, timely diagnostics. The quality level of healthcare assistance provided in remote residential areas is significantly lower than that in cities. Healthcare staff do not always inform patients about their right to free and informed consent thus violating the healthcare legislature. The lack of knowledge about human rights, dignity, and ethical standards leads to discriminative practices.
47. The 10th revision of the International Statistical Classification of Diseases and Health Related Problems (ICD-10) is used in the Republic of Kazakhstan to register morbidity¹⁵.
48. In general, no recommendations on the right to the highest achievable level of health without discrimination were given to Kazakhstan under the UPR, however a recommendation was given to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities¹⁶. In addition, special recommendations within the scope of special UN procedures were proposed¹⁷. The list of questions of the Committee on Economic, Social and Cultural Rights with regards to Kazakhstan's second periodic

¹⁵ Order of the Ministry of Health of the Republic of Kazakhstan #543 of October 19, 2009 'On Approval of the Instruction to Use the 10th Revision the International Statistical Classification of Diseases and Health-Related Problems in Healthcare Information Systems of the Republic of Kazakhstan'

¹⁶ A/HRC/28/10, paragraph 126.8

¹⁷ A/HRC/37/56/Add.2, paragraph 116

review include a question about adopted measures to improve treatment and rehabilitation services for people who use drugs, including by providing an opioid substitution therapy¹⁸. No response has been received.

A. Right to Health of Persons Who Use Drugs

49. An estimated number of persons who use opioid drugs in Kazakhstan amounts to 93 000 people. As of December 31, 2018, 252 people were enrolled in the opioid substitution therapy (OST) program. According to expert estimates, the program should have an up to 40% coverage¹⁹ (37 200 people) to achieve the OST goals, including reduction of the risk of acquiring HIV.
50. OST is included in the International Treatment Standards²⁰. The OST has been piloted in Kazakhstan for the last 10 years, however now it is under the threat of being shut down. In June 2017, the Ministry of Interior demanded that the OST program be terminated immediately. On December 20, 2017, the Ministries of Health, Interior, Justice and the General Prosecution Office made a decision to continue implementation of the substitution therapy program without expansion of pilot regions and enrollment of new patients until a final decision is made, hence closing access to this type of treatment for those in need thereof.

B. Right to Health of Migrants

51. The situation with provision of healthcare services to migrants that currently exists in Kazakhstan is aimed exclusively at not letting them die ‘in cases of sudden acute conditions threatening a patient’s life or health of others, which does not comply with the human right to ‘the highest achievable level of health’; at the same time Kazakhstan’s legislature provides no minimal standards, including a failure to use the term ‘migrant worker’ since Kazakhstan is not a signatory of the International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members.
52. Many departmental regulations approved by orders of the Ministry of Health are aimed at medical records systematization, which contributes solely to improvement of statistical reporting and does not contribute to achievement by migrants of the ‘highest possible level of health’. For example, medical forms ask for an individual identification number of a patient, which the majority of foreigners that reside on the territory of the Republic of Kazakhstan does not have, not to mention migrants with an unregulated status, which hinders their access to healthcare services.

¹⁸ List of issues in relation to the second periodic report of Kazakhstan
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fKAZ%2fQ%2f2%2fAdd.1&Lang=en

¹⁹ WHO, UNODC and UNAIDS Technical Guidelines, 2012.

²⁰ International standards for treatment of drug use related disorders, UNODC, WHO, 2016. Minimal standards for satisfaction of the needs of refugees and migrants with non-communicable diseases (cardio-vascular diseases, diabetes, cancer and chronic respiratory diseases) are not reflected in Kazakhstan’s legislature
http://www.mentalcenter.kz/ru/images/PZT/Mezhdunarodnie_standarti.pdf

53. In addition, migrants do not have access to the state-provided HIV diagnostics and treatment²¹. Currently, the problem has a temporary solution due to funding allocated by the Global Fund to Fight AIDS, Tuberculosis and Malaria²².
54. This directly impacts the life expectancy, quality of life and deterioration of mortality rates among migrants and indicates that there is discrimination based on citizenship.

C. Right to Sexual and Reproductive Health of Women and Girls with Disabilities

55. Despite the fact that the legislature provides for reproductive rights, the practice of coercion of women to use contraceptives to prevent pregnancy, coercion to terminate pregnancy, forced sterilization of interdicted women because of psychological and/or mental disabilities is widely prevalent in Kazakhstan. As a rule, decisions about reproductive health are made not by a woman, but by third parties, including legal representatives, guardians and family members, which is a forced form of reproductive health control, including sterilization and abortions. The state does not provide available information; in general, there is no education in the field of sexual and reproductive health for persons with disabilities. As of June 1, 2017, 776 cases of child delivery by women with disabilities were registered for the period of 5 years in Kazakhstan²³, i.e. 0.04% of the overall number of children born during this period.

Recommendations

55. Adopt the 11th revision of the International Statistical Classification of Diseases and Health-Related Problems (ICD-11) by January 1, 2022.
56. Enforce the prohibition to disrespect dignity, inhumane treatment as well as torture in healthcare facilities.
57. Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities

Persons Who Use Drugs

²¹ Resolution of the Government of the Republic of Kazakhstan #319 of February 29, 2000, Addendum 4 to Order of the Ministry of Health and Social Development of the Republic of Kazakhstan of April 27, 2015 ‘The Standard of the Voluntary Anonymous and Mandatory Confidential Medical Testing for HIV State Service’, the List of acute conditions presenting a threat to people, in case of which foreigners and stateless persons located on the territory of the Republic of Kazakhstan have the right to receive the guaranteed scope of free medical assistance. Order of the Minister of Health and Social Development of the Republic of Kazakhstan #194 of April 1, 2015

²² Presentation about implementation of a project funded by the GF grant using the new funding model ‘Reduction of the TB, M/XDR TB Burden in Kazakhstan by Providing Overall Access to Modern Methods of Diagnostics and Treatment’ <http://ccmkz.kz/meeting/show/id/97.html>

²³ Resolution of the Government of the Republic of Kazakhstan #330 of June 1, 2017 ‘On Approval of the Report on the Measures Adopted by the Republic of Kazakhstan to Implement the Convention on the Rights of Persons with Disabilities’, Article 6, paragraph 134

58. Make a decision in favor of expansion of the opioid substitution therapy program to ensure a recommended coverage in accordance with the international recommendations.

Migrants

59. Join the UN Convention ‘On the Protection of the Rights of All Migrant Workers and Members of Their Families’ and to ILO Convention 143 “Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers” of 1975.
60. Rely on recommendations of WHO, ILO, the Lisbon Declaration on the Rights of the Patient, the Minimal Standards to Satisfy the Needs of Refugees and Migrants with Non-Communicable Diseases, the High-Level Dialog Action Program on International Migration and Development (October 3-4, 2013) as well as recommendations by other international migration and human rights protection organizations, by applying a human rights based approach to health.
61. Adopt legislature that guarantees equal access to high quality healthcare for migrants.

Sexual and Reproductive Health of Women and Girls with Disabilities

62. Expand access of women with disabilities to sexual and reproductive health services and provide comprehensive sexual education, particularly for teen-age girls.
63. Organize training for healthcare workers on informed consent and ensure proper education and awareness raising in the field of human rights, encourage the culture of respect of human diversity, integrity and dignity.
64. Ensure procedural guarantees to protect the rights of women and girls with disabilities to voluntary and informed consent.

V. Right to Recognition as a Person Before the Law

65. All are equal before the law. Article 16 of the ICCPR recognizes that each person, regardless of where they are located, has the right to be recognized as a person before the law.
66. No individual recommendations on legal capacity were given to Kazakhstan as part of the previous recommendations under the UPR. However, some recommendations were provided with respect to nondiscrimination against transgender people (124.6 (Canada) and 126.4 (Spain)). Kazakhstan considered the recommendation of Canada to have already been implemented, however the legislature on transgender people has not been amended. At the same time, we believe that the situation in Kazakhstan requires attention to this issue.
67. We believe that transgender people are most vulnerable with respect to their legal capacity, since they are deprived by the state of an opportunity to formalize their gender identity, same as people with mental disabilities, who are virtually deprived of legal capacity, i.e. recognized incapable. The two categories are described individually below.

A. A discriminatory procedure of legal gender recognition for transgender people

68. Recommendations were given to Kazakhstan repeatedly as part of the 1st and 2nd Universal Periodic Reviews to strengthen and protect the rights of transgender people, however Kazakhstan has been persistent in declining these recommendations.
69. Currently, Kazakhstan has an extremely complex and lengthy procedure of legal recognition of gender, which is one of the main obstacles preventing transgender people from exercising their rights in this country.
70. The procedure of legal recognition of gender for transgender people is regulated by the Code of the Republic of Kazakhstan ‘On Marriage and Family’, according to which, in order to change the last, first and patronymic names and the gender marker in documents, the state forces transgender people to undergo mutilating sterilizing surgeries without giving them any choice, thus depriving them of a possibility to receive documents that conform with their gender identity, hence limiting their opportunity to socialize, find a job, or get access to education. Discrepancy between transgender people’s appearance and their IDs leads to discrimination; it is a source of corruption; and it is a formidable obstacle in obtaining the guaranteed [8] medical assistance and socially significant services.
71. Strict age limitations to pass the state commission for the legal recognition of gender do not give transgender people an opportunity to undergo this procedure before they turn 21 years of age and, hence they are unable to exercise their legal capacity. Kazakhstan should change regulatory acts regulating the legal gender recognition procedure by abolishing mandatory medical interventions to allow transgender people to change documents based on their personal desire.

B. Deprivation of Legal Capacity

72. Kazakhstan has a law that allows for deprivation of legal capacity with respect to people with mental disorders, particularly people who have been or are currently institutionalized in specialized social facilities. Currently, in Kazakhstan 16 000 institutionalized persons are deprived of their legal capacity, and over 220 000 people are registered having psychiatric diagnoses.
73. Interdicted people with disabilities who are in custody lose their capability to exercise all or almost all their civil rights and do not control the process of decision making affecting their life, ranging from concluding transactions to choosing where and with whom to live. If needed, decisions for people with psychosocial, intellectual and cognitive disabilities with regards to marriage, divorce, procurement or sale of property, and signing of contracts are made by their guardians appointed by court, usually practicing doctors and families.
74. In addition, people deprived of legal capacity lose access to fair trial that others enjoy. Without this right they cannot challenge a court’s decision or change a guardian. Moreover, people deprived of legal capacity are subjected to abuses by psychiatric services by means of forced hospitalization and in-patient treatment.

Recommendations

75. Kazakhstan should immediately amend paragraph 13 of Article 257 of the Code of the Republic of Kazakhstan ‘On Marriage (Matrimony) and Family’ by excluding the need to undergo surgical interventions as a prerequisite to change the last, first and patronymic names and the gender marker by transgender people.
76. Review the legislature to abolish or declare ineffective all laws and regulations that directly or indirectly limit the legal capacity of people with disabilities and/or allow decision making by substitutes.
77. Ratify the Optional Protocol of the Convention on the Rights of Persons with Disabilities²⁴.

²⁴ Presidential decree № 711, 11 December 2008