



**REPORT FOR 2023
ON THE ACTIVITIES OF THE HUMAN RIGHTS OMBUDSMAN IN THE
REPUBLIC OF KAZAKHSTAN**

Astana, 2024

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NOTATIONS AND ABBREVIATIONS:

APF	- Asia-Pacific Forum;
Civil Code	- Civil Code of the Republic of Kazakhstan;
GPO	- General Prosecutor's Office of the Republic of Kazakhstan;
CPC	- Civil Procedure Code of the Republic of Kazakhstan;
REPLACEMENT OF PUNISHMENT	- Replacement of the part of unserved punishment by a more lenient kind of punishment;
CoAO	- Code of the Republic of Kazakhstan on Administrative Offenses;
CLS&SA	- Committee on Legal Statistics and Special Accounts;
UNHRC	- United Nations Human Rights Committee;
PC	- Penal Committee;
PWD(s)	- Person(s) with disabilities;
MIA	- Ministry of Internal Affairs of the Republic of Kazakhstan;
MoH	- Ministry of Health of the Republic of Kazakhstan;
LEA	- Local executive authority;
MSHE	- Ministry of Science and Higher Education of the Republic of Kazakhstan;
MoD	- Ministry of Defense of the Republic of Kazakhstan;
ICCPR	- International Covenant on Civil and Political Rights;
MoE	- Ministry of Enlightenment of the Republic of Kazakhstan;
MSI	- Medical and social institution;
MSE	- Medical and social expertise;
MLSPP	- Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan;
MDDIAI	- Ministry of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan;
NHRI	- National Human Rights Institution;
NPM	- National Preventive Mechanism;
NGO	- Non-governmental organizations;
NCHR	- National Center for Human Rights;
OSCE	- Organization for Security and Cooperation in Europe;
UN	- United Nations;
UN SPT	- United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
LC	- Labor Code of the Republic of Kazakhstan;
UN OHCHR	- Office of the United Nations High Commissioner for Human Rights;
Parole	- Parole;
CEC	- Criminal Executive Code of the Republic of Kazakhstan;
CC	- Criminal Code of the Republic of Kazakhstan;
CoCP	- Code of Criminal Procedure of the Republic of Kazakhstan;
Ombudsman	- Human Rights Ombudsman in the Republic of Kazakhstan;
CSB	- Central state bodies;
CSSS	- Center for Special Social Services;
SDG	- Sustainable Development Goals;
PB	- Private bailiff.

INTRODUCTION



Dignity, Freedom, and Justice for all. This was the slogan of the **75th anniversary of the Universal Declaration of Human Rights** in 2023.

The Universal Declaration is a kind of constitution among international treaties for the protection, promotion and respect of the rights of everyone. Imbued with an unshakeable belief in the dignity and equality of all members of the global community, it represents one of the greatest achievements in the field of human rights, laying the foundation for a life of **freedom, justice and peace for all**.

The Declaration serves as an enduring reminder that respect for human rights and freedoms is the foundation of a just society, which every state and its people, international organization, and human rights institution is responsible for building and maintaining.

Being firmly committed to the tenets of the Universal Declaration of Human Rights we unconditionally support the UN Global Initiative "Human Rights 75", which pursues **3 key objectives**:

- 1) to ensure the universality and indivisibility of human rights under the motto "All Rights for All";
- 2) to develop a vision for the future, taking into account potential breakthroughs, innovations and new challenges in the field of human rights;
- 3) to strengthen the human rights ecosystem by building trust and resources, including the development of human rights mechanisms.

With these goals in mind, we have continued to fulfill our obligations to ensure the protection, respect and promotion of human rights in Kazakhstan.

In 2023, **regional representatives of the Ombudsman became fully operational** in all regions of the country. Their appointment contributed to the receipt of a **record number of appeals** over the years of existence of the Ombudsman institution in Kazakhstan amounting to 5,773. For each of them some work has been done to recover the violated rights. The number of complaints about the actions of pre-trial investigation bodies, torture and ill-treatment, as well as complaints of convicted persons received as a result of visits by participants of the NPM, coordinated by the Ombudsman, remains traditionally high. In our opinion, this trend indicates the existence of systemic problems in these areas that require a response. In this regard, a decision was taken to strengthen cooperation between the regional representatives of the Ombudsman and regional NPM participants in order to intensify work on reporting and resolving the most serious problems.

In the reporting period, we continued to analyze legislative gaps that create inconveniences for people, that violate or do not fully protect their rights. As a result of this analysis, **14 legislative proposals** were prepared and sent to the subordinate

authorities. For example, it is necessary to establish liability for bride theft, to introduce alternative measures of restraint to extradition arrest when deporting foreigners and stateless persons.

Another example. The Office of the Ombudsman has developed a draft law on one of the most high-profile topics for Kazakhstan's society - **combating domestic violence**. In November 2023, the Office of the Ombudsman organized an international scientific-practical conference entitled "**Combating domestic violence: problems and solutions**", and a **special report of the Ombudsman** was prepared on the subject.

Taking into account the key goals of the UN Global Initiative "Human Rights 75" in 2023, international cooperation with human rights institutions of foreign states and representatives of international organizations was intensified. **65** meetings were held, **12** working visits were made to **9** countries, **2** side events were organized in Geneva on the prevention of torture and development of human rights institutions.

In December 2023, an international scientific and practical conference on the **integration of international human rights law into national legislation** was organized in Astana. The event was held to support the call of the UN High Commissioner for Human Rights to develop innovative and catalytic commitments that will have a significant impact on the realization of rights in the respective country or region.

This 2023 Report on the activities of the Ombudsman maintains continuity with the reports of previous years. The document contains information on the work done by the national human rights institution, complaints received and considered on socially significant issues, improvement of legislation, interaction with state bodies, civil society and international partners, as well as the work of the Central Office of the Ombudsman, its regional offices and recommendations for solving existing problems.

The report will be submitted for consideration by the President of the Republic of Kazakhstan and published on the official Internet resource of the Ombudsman in the State language and in the Russian language.

The legal basis of the report is Article 8 of the Constitutional Law of the RoK "On the Ombudsman for Human Rights in the Republic of Kazakhstan".

1. GENERAL INFORMATION ON APPEALS RECEIVED IN 2023

In 2023, **5,773 appeals** were received, which is **1.5 times** more than in 2022 (Figure 1). This is explained by the appointment of representatives of the Human Rights Ombudsman in the regions.

Total number of appeals received

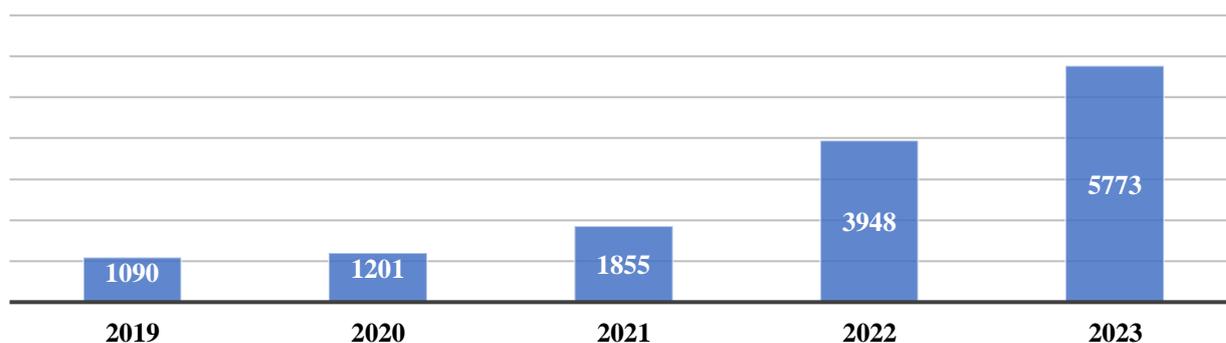


Figure 1

Explanations were given for **4,057** appeals, **814** were sent to the competent state bodies, and **902** requests and demands were satisfied (**15.6%** of the total number of appeals). Compared to 2022, the number of positively resolved appeals has almost **doubled** (in 2022, **321** or **8.1%** of the received **3,948** appeals were satisfied) (Figure 2).

Results of consideration of appeals in 2022-2023.

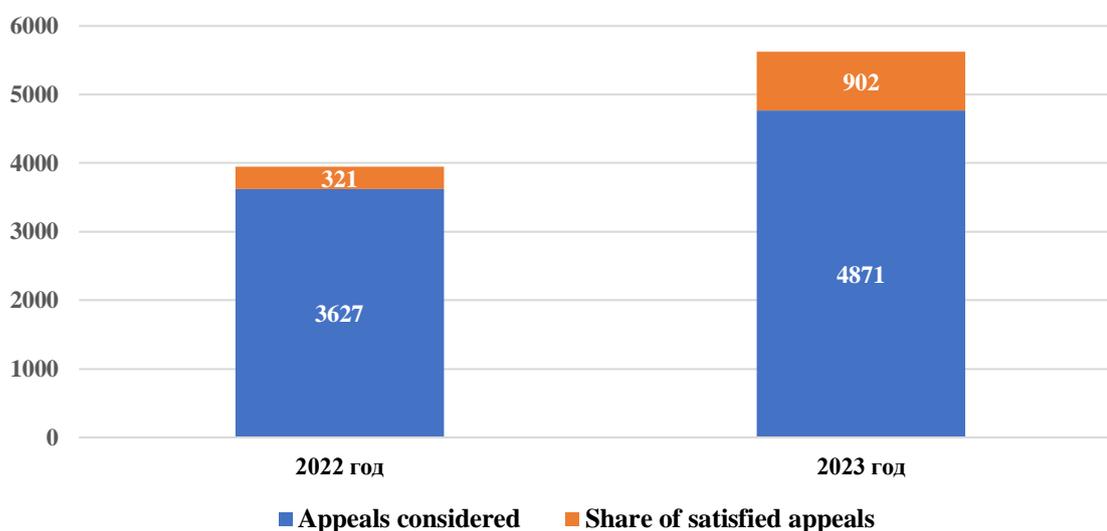


Figure 2

The Ombudsman reviewed **2,212** applications, of which **1,117** were explained and **141** were satisfied (**6.3%**). Thus, the Ombudsman **bears one third of the burden** (**38.3%** of the total number of appeals).

As in previous years, the main points of complaints (Figure 3) remain unchanged.

**Substance of complaints received by the OHCHR
in 2020-2023**

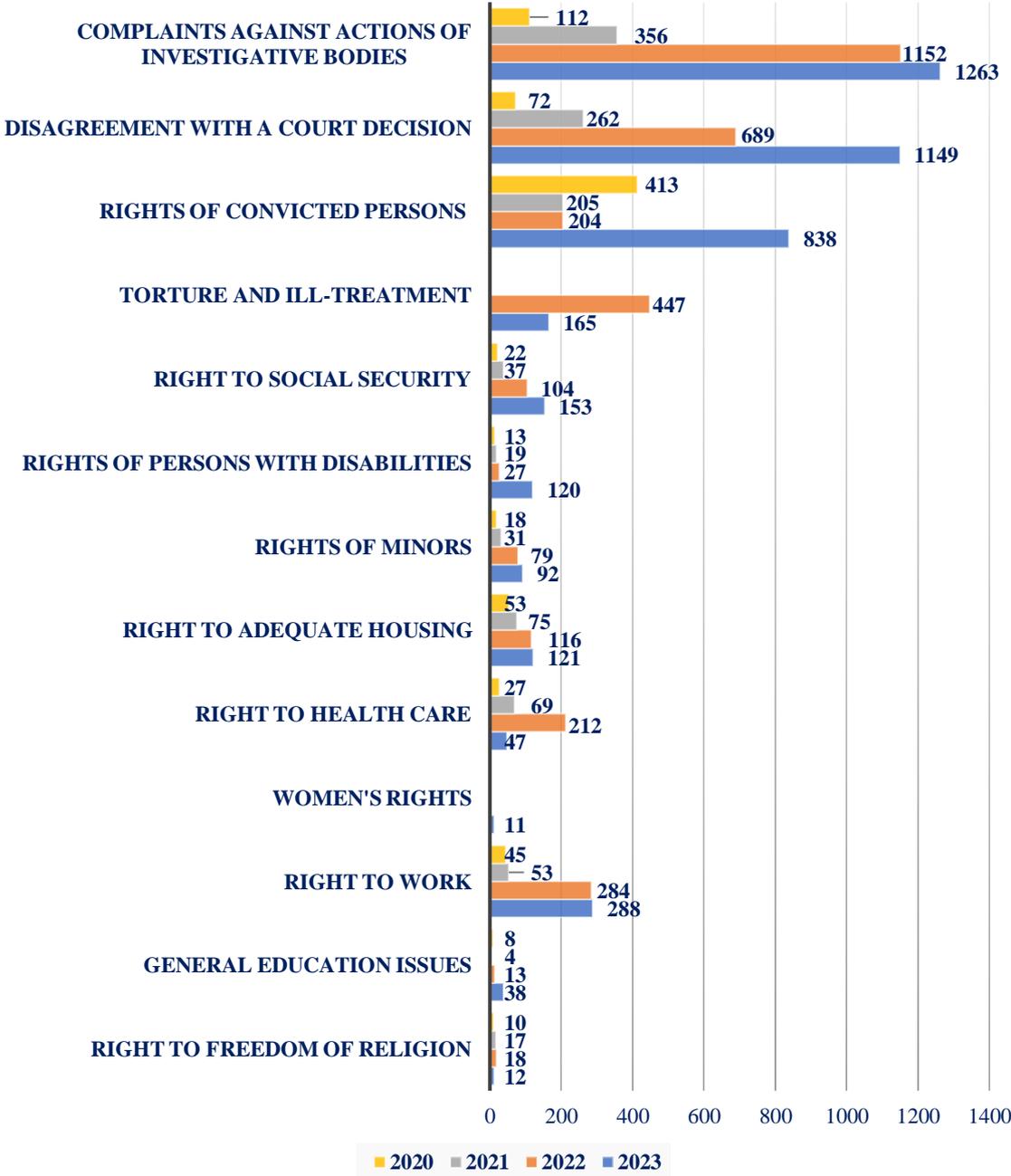


Figure 3

The largest number of complaints was received about actions/inaction of pre-trial investigation bodies with **1,263**. In 2023, there was a slight increase of **9%**.

The second large group of complaints is disagreement with judicial acts (**66%** increase compared to 2022). When receiving such appeals, citizens were mainly explained the procedure of judicial appeal and the inadmissibility of interference in the activities of the court.

The third group includes complaints about violations of the rights of convicts. The number of such complaints *increased 4 times*. This category covers a wide range of issues, including failure to provide quality medical care, unsatisfactory conditions of detention, disagreement with the imposition of disciplinary penalties, assistance in reviewing court decisions and granting applications for parole or for replacement of the unserved part of the sentence with a more lenient type of punishment. Due to the existence of chronic problems in ensuring the rights of convicts in penitentiary institutions, the number of appeals continues to grow.

There is also a *4-fold increase* in the complaints of citizens about the protection of the rights of persons with disabilities. In 2023, **36** appeals were received only on the issue of establishing the disability group, while in 2022 only **27** complaints were received from PWDs.

Appeals on social security *increased 1.5 times*. We believe that the reason for their rise is also the establishment of representative offices as regions accounted for **69%** of appeals.

Complaints about violation of labor rights, rights of minors, adequate housing and freedom of religion remained *practically at the same level*.

A total of **2,405** personal meetings were held by the Ombudsman and his representatives, of which **234** were held by the Ombudsman himself and **2,171** by the representatives (Table 1), which is *5 times higher* than in 2022 (*443 in 2022*).

Table 1

No	Region	Q1	Q2	Q3	Q4	Total
1	Zhambyl	44	47	51	84	226
2	Astana city	60	70	71	5	206
3	Shymkent city	20	49	47	42	158
4	Akmola	23	31	75	15	144
5	Kyzylorda	13	64	44	19	140
6	North Kazakhstan	15	35	46	31	127
7	Almaty city	14	27	44	38	123
8	Karaganda	29	23	29	42	123
9	Pavlodar	28	43	32	19	122
10	Aktobe	15	44	29	31	119
11	East Kazakhstan	35	29	15	20	99
12	West Kazakhstan	6	25	35	33	99
13	Mangystau	10	23	13	45	91
14	Atyrau	6	16	31	33	86
15	Turkestan	10	25	16	28	79
16	Zhetisu	26	32	5	2	65
17	Kostanay	14	24	13	8	59
18	Ulytau	-	6	21	23	50

19	Abay	-	7	18	23	48
20	Almaty	-	-	-	7	7
Total:		368	620	635	548	2 171

During the reporting period the largest number of meetings was held by the representative offices in **Zhambyl region** (226), **Astana city** (206) and **Shymkent city** (158), **Akmola** (144) and **Kyzylorda** (140) regions.

The dynamics of personal meetings of citizens conducted by representatives is decreasing in those regions where there were no representatives (Astana city, Akmola region). In Almaty region, the low number of personal meetings is due to the recent appointment of a representative (in September) and the lack of a representative office building.

Decrease in the number of personal meetings is observed in **Kostanay, Zhetisu** and **Pavlodar** regions.

In most cases, citizens raised questions regarding social and housing security, and disagreement with court decisions.

2. PROMOTING THE RECOVERY OF CIVIL AND POLITICAL HUMAN RIGHTS

2.1 Human rights in criminal proceedings



Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law

Universal Declaration of Human Rights,
Article 11

Everyone should have **access to effective and impartial justice**. This is an axiom, the basis of which is laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and it serves as a guideline for states in improving legislation.

Pursuant to international obligations to ensure the right to access to justice, Kazakhstan in 2023 continued systematic work on the **implementation of the three-tier model of justice and the introduction of the principle of "police within walking distance"**. In the reporting year, a revision of the Criminal Code and the Criminal Procedure Code were completed, analyzing more than **1,000** articles and **1,200** proposals. As a result, a draft law aimed at strengthening the protection of the rights of citizens and entrepreneurs and eliminating the unjustified involvement of business in the orbit of criminal prosecution was developed.¹

Key data for 2023

1263

A record number of complaints were received and dealt with

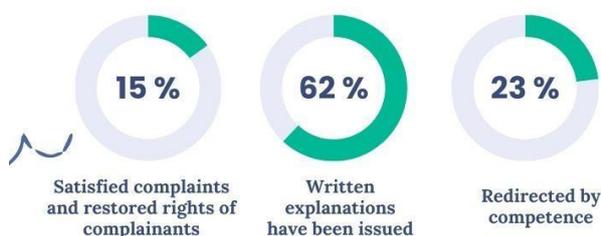
30%

Considered with NGOs

10%

Increase in the number of complaints from 2022

Results of the review of complaints



Our initiatives



The Ombudsman has submitted an initiative appeal to the Government of the Republic of Kazakhstan to improve the procedure for the admission of lawyers to documents containing state secrets



The Ombudsman proposed to the General Prosecutor's Office of the Republic of Kazakhstan to take a set of measures to strictly observe the principle of innocence

Issues of access to effective justice were also the subject of President Tokayev's instructions in the reporting year. In his speech at an extended session of the board of the Ministry of Internal Affairs, the head of state noted that police officers should treat law-abiding citizens with respect, while lawbreakers should be dealt with **strictly from the standpoint of the law**. The President emphasized that a

¹ The Ministry of Justice of the RoK has prepared amendments to the Criminal Codes. Those who will be affected by them: https://forbes.kz/actual/process/kak_minjust_predlagaet_uluchshit_ugolovnyiy_protsess/.

special focus should be on **pre-trial proceedings**, which is a separate type of civil service in law enforcement with its own internal statutes and rules.²

The above instructions are particularly relevant in light of the large number of complaints about the actions or inaction of the investigative authorities received by the Ombudsman in 2023 (**1,263**).

Compared to the figures of 2022, where many appeals were related to the "January" events, the figures have increased by almost 10% (Figure 4).

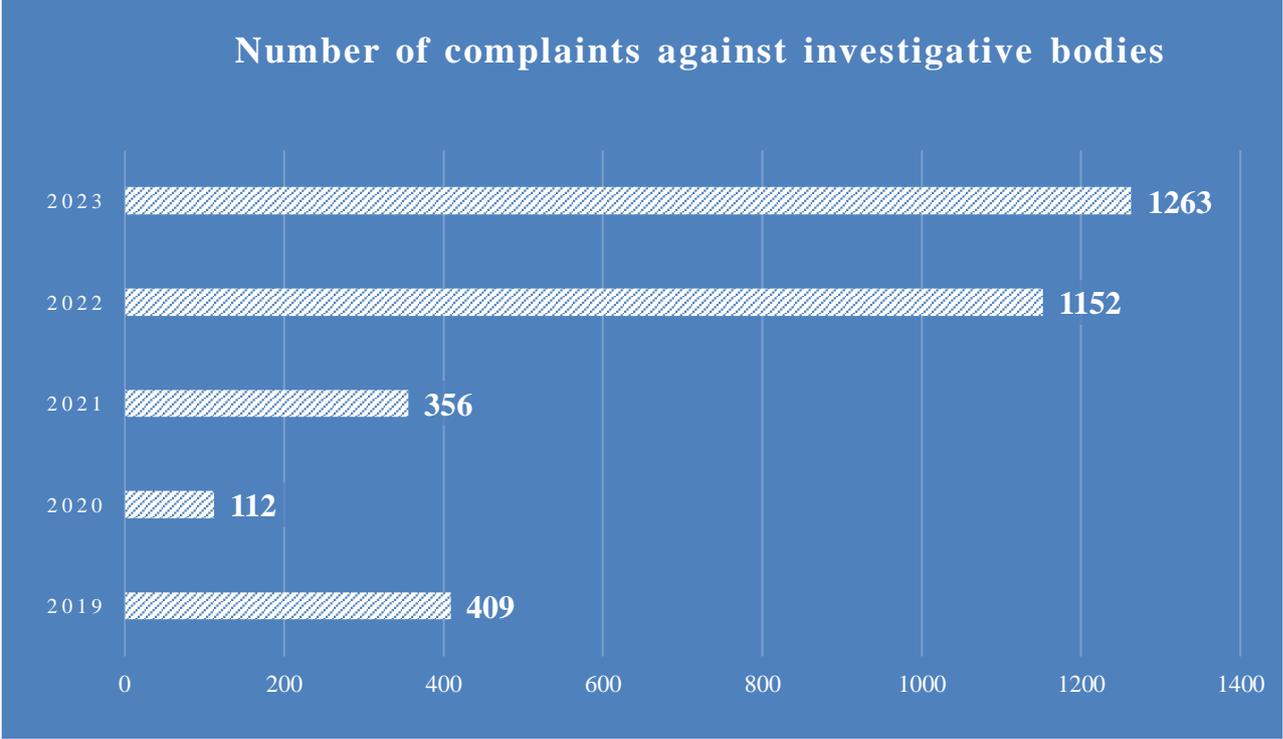


Figure 4

The main share of complaints about actions or inaction of pre-trial investigation bodies was received by the NCHR (**346**), offices in Turkestan region (**128**), Astana city (**101**) and Almaty city (**90**) (Figure 5).

²The President held an extended session of the board of the Ministry of Internal Affairs: <https://www.akorda.kz/ru/prezident-provel-rasshirenoe-zasedanie-kollegii-ministerstva-vnutrennih-del-3052832>.

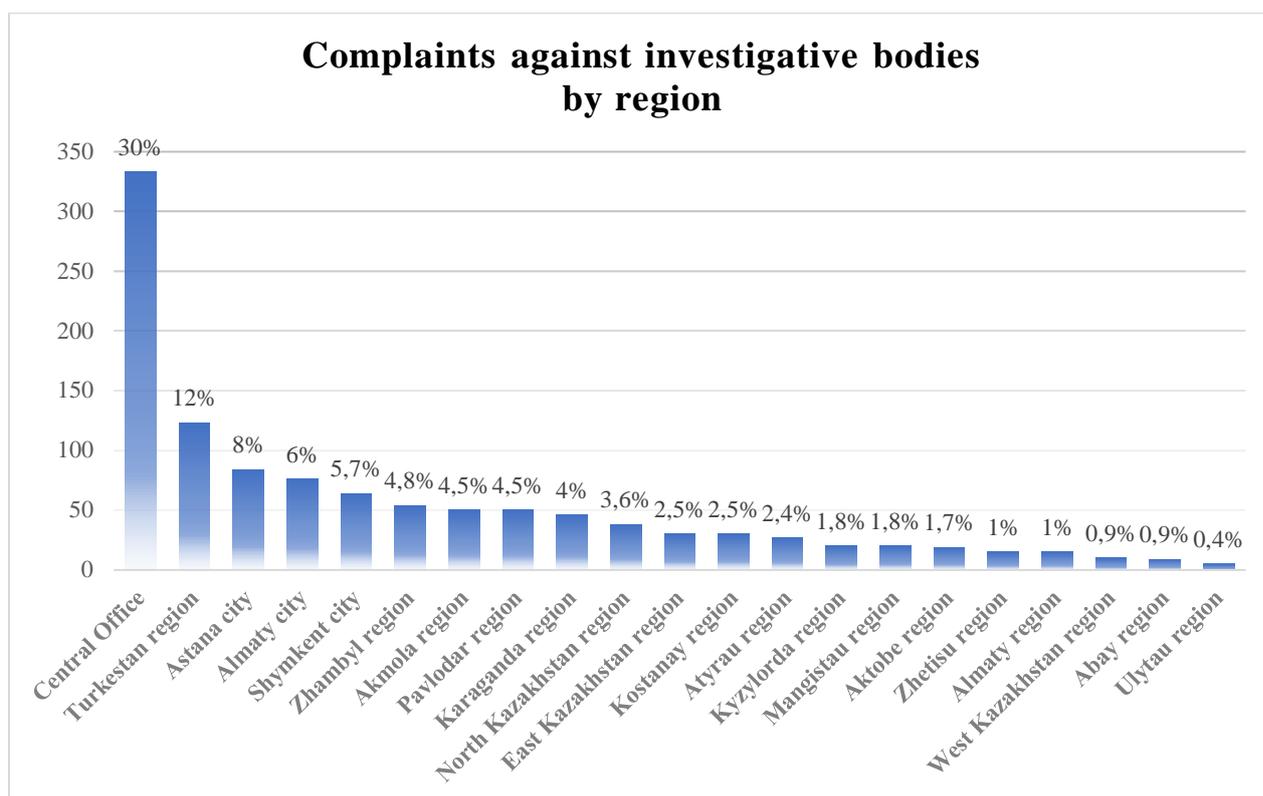


Figure 5

"Leading" positions of the above-mentioned regions are most likely related to the number of the population of the region, rather than to the quality of work of the investigative bodies. For example, in Ulytau region the population is only **221 thousand** people, and in Turkestan region it is **2,142 thousand** people; the difference is **10 times**.

If we take into account the number of complaints received against the investigative bodies as a ratio to the number of the population in the regions (per 100 thousand people), the **first place** is occupied by the Pavlodar region - **8**, the second by the North Kazakhstan region - **7.9** and **the third** is occupied by the Akmola region - **7.6** (Table 2).

Table 2

N o	Region	Population	Complaints	Per 100 thousand people
1.	Pavlodar region	753 957	60	8,0
2.	North Kazakhstan region	530 124	42	7,9
3.	Akmola region	788 012	60	7,6
4.	Astana city	1 430 136	101	7,1
5.	Shymkent city	1 222 055	81	6,6
6.	Turkestan region	2 142 005	128	6,0
7.	Zhambyl region	1 222 597	62	5,1
8.	East Kazakhstan region	727 071	34	4,7
9.	Karaganda region	1 135 411	53	4,7
10.	Atyrau region	704 078	32	4,5
11.	Kostanay region	829 998	34	4,1
12.	Almaty city	2 228 515	90	4,0

13.	Mangistau region	786 917	27	3,4
14.	Kyzylorda region	841 831	27	3,2
15.	Aktobe region	939 400	27	2,9
16.	Ulytau region	221 592	6	2,7
17.	Abay region	607 556	12	2,0
18.	Zhetisu region	697 998	14	2,0
19.	West Kazakhstan region	693 249	13	1,9
20.	Almaty region	1 531 044	14	0,9

Thus, the traditional "outsiders" (Pavlodar, North Kazakhstan and Akmola regions) are leaders in this anti-rating when analyzed fairly. The permanent "leaders" (Turkestan region, Astana and Almaty cities) hold very mediocre positions in it.

Each appeal was thoroughly examined, and requests were sent to the authorized bodies to recover the violated rights of persons involved in criminal prosecution.

As a result, in **189 appeals** the violated rights were restored (Figure 6).

Results of the review of complaints against investigative authorities

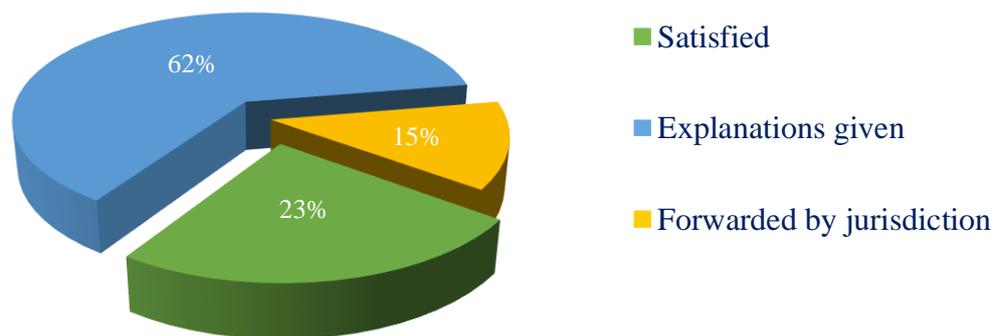


Figure 6

The analysis allows us to note the continuing trend of prevalence of complaints about substantial **violation of the norms of criminal procedural legislation**, where citizens reported incomplete and biased proceedings. Complaints about the use of unauthorized methods of investigation (torture, psychological pressure) continue to be received. It should be emphasized that citizens' complaints about the use of torture are analyzed in a separate subsection 2.3 of this Report. Citizens also expressed disagreement with the detention, preventive measures, and charges (Figure 7).

Substance of complaints on violation of the right to access to justice during pre-trial investigation

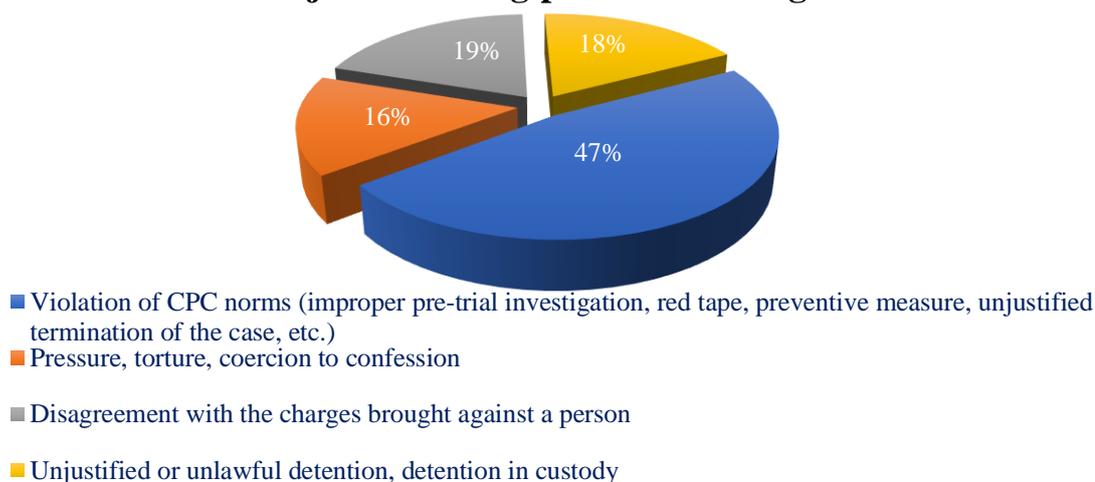


Figure 7

Particular attention was paid to complaints related to **red tape** in pre-trial investigations. Unjustified interruption of the investigation, untimely response in pre-trial investigation **jeopardizes** the recovery of violated rights and bringing the perpetrators to justice.

The office of the Ombudsman in Astana received an appeal of S.A. with a complaint about the unreasonable delay of pre-trial proceedings for arson of an apartment.

*As a result of consideration of the request of our representative, the prosecutor's office of "Yesil" district (Astana) found that the criminal prosecution body **did not take all measures for a comprehensive, complete and unbiased investigation of the circumstances necessary for the resolution of the case.** In this regard, on March 14, 2023, additional investigative actions are directed, and a final procedural decision is made.*

For delaying the pre-trial investigation, the Prosecutor's Office of "Yesil" district prepared an act of prosecutor's response against the police officers

It should be noted that in 2023, based on the results of consideration of such claims, there was a **positive momentum** in the implementation of prompt and full investigation of criminal offenses. In a number of cases, the investigative and supervisory authorities made decisions to satisfy the claims of complainants by bringing the responsible officials to disciplinary responsibility and canceling the decisions to interrupt the investigation.

The case from **Pavlodar region** can serve as an example. Ms. S.Z. complained to the representative of the Ombudsman about red tape in the investigation of a case of improper provision of medical care. Within the framework of consideration of the appeal, requests were sent to the Prosecutor's Office of Pavlodar city and the Police Department of Pavlodar region to conduct an inspection and take measures. As a result, by order of the Head of the Police Department, the investigator was brought to **disciplinary responsibility on the fact of red tape.**

Another example is a case from the **Turkestan region.** The representative of the Ombudsman considered the appeal of Mr. T.M., who was a victim of illegal deprivation of liberty (slavery). The claimant reported about the inaction of police

officers and untimely recognition as suspects of three persons against whom he filed a claim. According to the results of the official investigation, N.E., the district police inspector of the Baidibek district police department, was brought to disciplinary

Mr. Zh. D. applied to the representative of the Ombudsman in Pavlodar region with a request to assist in resuming the pre-trial investigation of his father's death in the workplace due to the fault of his employer.

Our representative prepared requests to the Prosecutor's Office, Police Department and Labor Department of Pavlodar region.

As a result of the special investigation, it was established that the employer was 100% guilty.

*On August 23, 2023, the Ekibastuz town Prosecutor's Office **cancelled** the ruling on the termination of the criminal case, and pre-trial proceedings were resumed.*

responsibility for the violations committed.

It should be noted that not only citizens have faced the problem of promptness of response from the criminal prosecution bodies. In 2023, the **issues of untimely provision of answers** to the requests of the Ombudsman and his representatives were **repeatedly** raised by us before the regional divisions of the prosecutor's office and the police. Follow letters on observance of the terms of consideration of the appeals of the Ombudsman, established by the Constitutional Law, were sent to the Police Departments of Pavlodar and Zhambyl regions, and the Prosecutor's Office of Kostanay region. As a result, the necessary answers to our requests were received.

Among the reviewed complaints about **disagreement with the termination of criminal cases**, there are also positive cases on the **resumption of pre-trial investigation**. In most cases, complainants reported disagreement with the termination of cases under Article 35 of the Criminal Procedure Code of the Republic of Kazakhstan (for lack of corpus delicti of a criminal offense).

Also, in the reporting year, citizens **disagreed with the charges brought against them**. In a number of cases, with our assistance, the violated rights of complainants were restored.

For example, a representative of the Ombudsman in **Atyrau region** had a personal meeting with Mr. Sh.M., a detainee in Institution No. 75 of the Department of Penal System of Atyrau region. During the meeting the complainant expressed disagreement with the charge and pointed out the absence of the complainant in the case.

Following the results of the personal meeting, the representative of the Ombudsman sent appropriate inquiries to the law enforcement agencies.

As a result, on June 26, 2023, the Atyrau Regional Prosecutor's Office **terminated the criminal case against Mr. Sh.M. and released him from the pretrial detention facility**.

In 2023, reports of **unjustified detention** were still of great concern. We firmly believe that such actions are unacceptable. In this regard, the work on such complaints was under special control. In a number of cases, the violated rights were **restored**.

In the reporting year, citizens also complained about violation of the right to

The representative of the Ombudsman in Abai region considered the appeal of Ms. K.K., to protect the interests of her husband, who was detained in Institution No. 73 of the Department of Internal Affairs of the East Kazakhstan Region, regarding the illegal extension of his detention by the specialized investigative court of Semey.

According to the information of the authorized bodies, by the ruling of this court dated September 3, 2023, the period of detention of the accused S.E. was extended until October 12, 2023 for the period of studying the materials of the pre-trial investigation.

*However, the court subsequently **made a correction** to the above ruling, where the date "October 12, 2023" was changed to "September 12, 2023". In this regard, on September 12, 2023, the administration of the institution **decided to release** Mr. S.E. from custody due to the expiration of the detention period.*

The very procedure of releasing Mr. S.E. from the institution was held with the participation of a representative of the Ombudsman in the East Kazakhstan region.

receive qualified legal assistance. The complainants reported the absence of lawyers and pressure on defense lawyers and asked for an independent lawyer.

These appeals were studied in detail and appropriate inquiries were sent to the authorized bodies.

One of the most pressing issues in the realization of the right to qualified legal assistance is the procedure for the **admission of a lawyer to case files containing State secrets.**

According to part eight of article 68 of the CPC of Kazakhstan, the lawyer shall enter the case on submission of a lawyer's certificate and a written notice of defense (representation). It is prohibited to request other documents confirming his authority to conduct the case.

At the same time, when providing qualified legal assistance, a lawyer is entitled to familiarize himself with information constituting state secrets, containing military, commercial, official secrets, if it is necessary for the defense.

However, in the law enforcement practice of criminal prosecution bodies and courts there is a controversial restriction of the right of a person brought to criminal responsibility to freely choose a lawyer **because of the lack of the latter's admission to state secrets.**

Thus, a citizen brought to criminal responsibility is de facto significantly limited in the right to free choice of defense counsel at the most important stages of pre-trial investigation (detention, interrogation, authorization of preventive measures, etc.), which may negatively affect the protection of his rights.

Taking into account the above, as well as taking into account a similar letter of the Republican Bar Association, the Ombudsman initiated an appeal to the Government of the RoK with relevant recommendations. In particular, it was proposed to introduce amendments to simplify the procedure for the admission of lawyers to state secrets or their commitment to non-disclosure, under threat of criminal punishment. The work to promote this initiative has caused some discussion, but it will be continued.

The subject of another initiative appeal of the Ombudsman was the **observance of the principle of presumption of innocence in providing the public with information on the progress and results of pre-trial proceedings.**

It is known that the presumption of innocence is an inviolable principle arising from international acts guaranteeing the inviolability of the person, enshrined in Article 77 of the Constitution of the Republic of Kazakhstan.

Paragraph 30 of the General Comment No 32 of the UN Human Rights Committee notes that:

1) all public bodies are obliged to refrain from prejudging the outcome of a trial, for example, from making public statements asserting the guilt of the accused;

2) the media should refrain from news that undermines the presumption of innocence.

We monitored online publications to study the practice of observing the presumption of innocence. As a result, we found facts when the media, following the reports of state bodies, allowed prejudicial statements with an obviously accusatory bias in the absence of sentences that have entered into legal force.

Protection against unfounded accusations, in our opinion, should begin with a cautious attitude of the competent authorities and the media to certain events related to the sphere of torts.

Real protection of human rights is possible only **in states that recognize and respect the presumption of innocence.**

In this regard, the press services of investigative bodies (letter to the Prosecutor General of the RoK) and the media themselves (letter to the Ministry of Culture and Information of the RoK) were recommended not to allow the dissemination of presumed materials, and in case of their publication by the media - to monitor and take measures for correct presentation. It was also suggested referring to the norms of the Constitution³ and the CPC⁴ of the RoK, guaranteeing the presumption of innocence, at the end of publications.

As one of the measures to ensure respect for the presumption of innocence and the rights of victims in criminal cases, it is proposed to consider the development of a special Editorial Code of Journalists **following the example of Great Britain.**

The Editorial Code has been developed by IPSO (Independent Press Standards Organisation), the UK's independent press regulator.⁵ The Code sets out the basis for the highest professional standards that IPSO member press organizations have committed themselves to upholding. It is the fundamental set of rules of a system of voluntary self-regulation to which the media have contractually committed themselves. This act considers **both the rights of the individual and the public's right to information.**

According to Article 1 of the Editorial Code, the press should endeavor not to publish inaccurate, misleading or distorted information or images, including headlines not supported by text. The press, although free in editorials and campaigns, **must clearly distinguish between comment, conjecture and fact.** Within the meaning of

³ Subparagraph 1 of paragraph 3 of Article 77 of the Constitution of the Republic of Kazakhstan.

⁴ Article 19, paragraph 1, of the Code of Criminal Procedure of the Republic of Kazakhstan.

⁵ Editors' Code of Practice: <https://www.ipso.co.uk/editors-code-of-practice/>.

Article 4 of this Code, in cases involving the grief or distress of citizens, **inquiries and approaches should be made with sympathy and discretion, and publications should be treated sensitively**. However, these provisions should not limit the right to report legal proceedings.

I believe that the joint development of such a document of a non-regulatory nature in Kazakhstan (by an authorized body and the Union of Journalists of Kazakhstan, independent media) could serve as a reference point for all journalists when covering pre-trial proceedings and court proceedings. Such a document could include specific recommendations and ethical standards on respect for human rights and the presumption of innocence. These measures will contribute to the development of responsible journalism, strengthen legal literacy among media representatives and increase public trust in the press.

Thus, in 2023, the work of the Ombudsman and his representatives to restore the violated rights of citizens involved in the orbit of criminal prosecution was strengthened.

We are convinced that strict adherence to the letter of the law **should be at the forefront** of the entire system of pre-trial proceedings. Such phenomena as coerced confessions, red tape, unjustified detention, detention in custody, and the filing of charges should have no place in the system of criminal prosecution.

Such an approach not only promotes fair and effective investigation of criminal cases, but also contributes to increasing public confidence in law enforcement agencies, emphasizing their commitment to the principles of legality and justice.

The outcome of such a policy should be a more stable legal environment where every citizen can feel protected from arbitrariness and abuse.

2.2 Rights of convicts



No one shall be subjected to arbitrary arrest, detention or exile.

Universal Declaration of Human Rights,
Article 9

Key data for 2023

838

Record number of complaints received and dealt with

102

Visits to penal institutions by NPM participants

229

Visits by regional representatives of the Commissioner to penal institutions

Outcome of the complaints process



Our initiatives



As a result of joint work between the Commissioner and authorised state bodies, for the first time in the history of our state, three convicts successfully passed the UNT (Unified National Testing)



Measures have been introduced at the legislative level to support SMEs involved in the employment of prisoners serving their sentences in penal institutions



A pilot project has been developed and implemented to consider citizens' applications for parole and to transfer to the court the functions of jurors in replacing an unexecuted part of a sentence with a lighter form of punishment

In keeping with the spirit of the Universal Declaration of Human Rights and the Nelson Mandela Rules, we firmly believe that commitment to the protection of human rights should be based on equal treatment of all complainants who come to us, regardless of their social status.

In almost 10 years of work to build the institution of the National Preventive Mechanism, the Ombudsman has dealt with thousands of complaints from persons held in penitentiary institutions. For each complaint, possible measures were taken to restore the violated rights.

The year under review was no exception. Under the coordinating role of the Ombudsman, NPM participants conducted **102** preventive visits to places of temporary isolation from society and deprivation of liberty. The total number of preventive visits in the reporting year was **461**.

The year 2023 became more dynamic due to the start of active work of the representative offices of the Office of the Ombudsman. Our presence in the capital, cities of republican significance and regions **allowed us to strengthen our work** to assist in the restoration of violated rights of convicts in penitentiary institutions of the country. Along with NPM participants, regional representatives of the Ombudsman made **229** independent visits to penal institutions and **19** joint visits with participants in regional NPM groups.

In this regard, a **more than fourfold increase** in the number of complaints from inmates following the visits was expected.

While in 2022 we examined **204** such appeals, during the reporting period we received **838** such appeals.

Appeals on violation of the rights of convicted prisoners by region

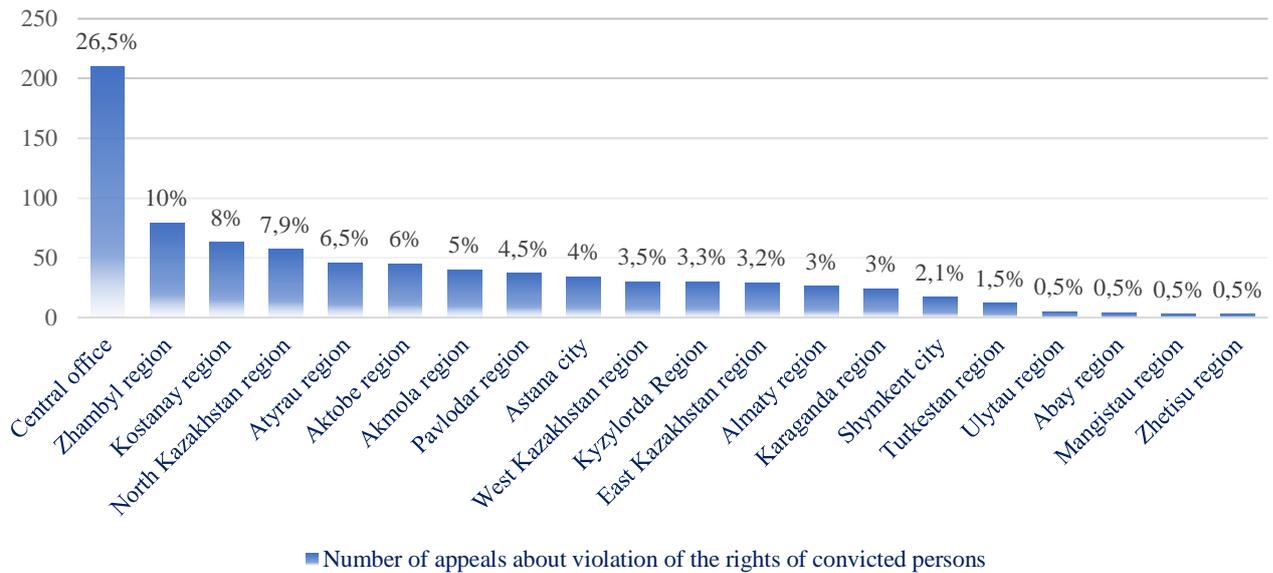


Figure 8

Written and oral explanations were given for **595** appeals, and the rights of convicts were partially or fully restored in 126 cases (Figure 9).

The most positive dynamics in the restoration of violated rights is observed in the results of consideration of complaints about **medical care**.

Results of consideration of appeals regarding violations of the rights of convicted persons

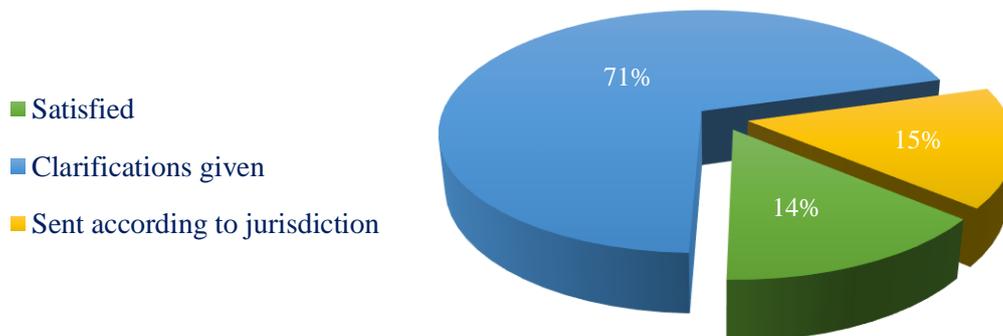


Figure 9

Further, statistics on complaints received from convicted prisoners will be presented, considering the **issues raised**. Complaints about torture and ill-treatment will be analyzed in a separate subsection 2.3 of this Report.

The largest number of complaints is related to failure to provide quality medical care (**276**), unsatisfactory conditions of detention (**167**), and transfer to other correctional facilities (**134**). Like previous years, the subject of complaints from convicts in 2023 was also disagreement with the imposition of disciplinary sanctions (**17**), requests for assistance in reviewing court decisions and granting applications for

parole or replacement of the part of the punishment not served by a more lenient kind of punishment (67). (Figure 10)

The essence of appeals on the rights of convicted persons

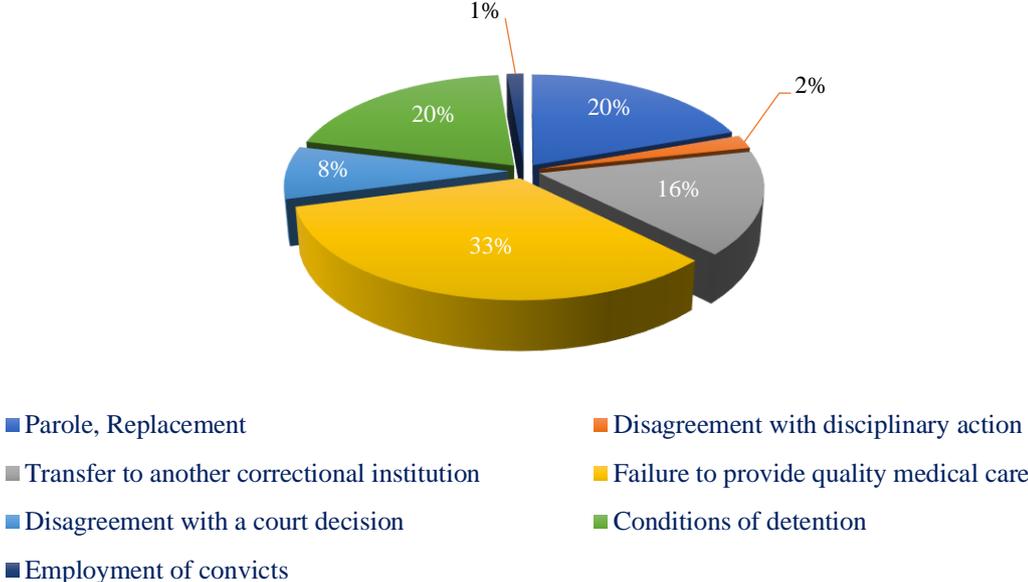


Figure 10

Regarding inadequate medical care, the complaints drew attention to the untimely and poor quality of medical care. Thus, the Office of the Ombudsman received appeals about refusals of hospitalization, inability to get an appointment with subject-matter specialists, and inadequate treatment. The Ombudsman and his representatives worked on all complaints and sent requests to the authorized bodies to implement the right of inmates to receive qualified medical care.

In the reporting period, there were examples of restoration of violated rights of convicts in this area.

The representation office in Pavlodar region received an appeal of Mrs. G.E. in the interests of her convicted son G.S., who is serving his sentence in Institution No. 46 of the Penal Committee and is attached to Polyclinic No. 5 in Pavlodar. According to the complainant, her son was not provided with proper medical care at the Polyclinic and was not provided with free medication. As a result of the review, the representative of the Ombudsman sent a request to the Department of the Committee for Medical and Pharmaceutical Control of the Ministry of Health of the Republic of Kazakhstan in Pavlodar region with a request to verify the arguments of the complainant and take measures to restore the violated rights.

*According to the results of the unscheduled inspection of the medical institution the applicant's arguments **were confirmed**, the recommended treatment was not carried out for the convict.*

Considering the established violations, the Department sent a letter to the Health Department of Pavlodar region in order to organize medical assistance (within the framework of Guaranteed volume of free medical care), including the provision of medication.

Based on the results of the inspection, the Department issued a warning to Polyclinic No. 5 of Pavlodar city to take measures and prevent recurrence of cases.

Another example. After considering the requests of the representation in Almaty, convict K.V., who was serving his sentence in Institution No. 72 of the Penal Committee, was provided with qualified medical care, and the head of the medical unit of this institution **was brought to disciplinary responsibility in the form of a “reprimand”** for refusing to hospitalize him.

Another case in the restoration of the violated right is the appeal of convict D.E., who served his sentence in Institution No. 67 of the Penal Committee. As a result of consideration of the requests of the representative office in Shymkent, a positive decision was received to conduct a full medical examination of convict D.E. in August 2023, with the involvement of relevant specialists and transportation to the civilian health sector.

In general, to this day, one of the reasons for the provision of untimely medical care is the lack of rooms for examination by subject-matter specialists in the institution itself. This problem exists in the Penal Committee institutions No 75 in Atyrau region in, No 74 in the West Kazakhstan region, No 16 and 73 in the East Kazakhstan region. In our opinion, this problem can be solved by licensing the premises (including its equipment) for the work of subject-matter specialists at the place of detention of convicts. This would eliminate difficulties in escorting to polyclinics.

Appeals from inmates about **unsatisfactory conditions of detention** are constant and are almost identical from year to year. The complainants are concerned about **poor conditions, insufficient food, violation of the right to visits, lack of access to filing complaints, non-compliance with labor rights**.

In terms of living conditions, there is a “**chronic**” nature of our recommendations on the need to solve problems with emergency or old buildings. Despite the allocated funds, cosmetic repairs do not bring the desired effect, because the buildings are

completely worn out, are in a pre-disaster condition and pose a threat to life and health both for the prisoners and for the staff of the institutions of the penal system. For example: the building of **pre-trial detention center No 74** in the West Kazakhstan region was built in the middle of the 19th century and is physically dilapidated; the building of **detention center No 70** in Aktobe region was built in 1949 from foundation blocks and slag concrete walls, and **has not been overhauled** since its commissioning; the buildings of **pre-trial detention center No 73** in the East Kazakhstan region were built in 1720, 1967 and 1982.

Regarding the unsatisfactory **quality of food**, NPM participants in their reports indicated the **use of substitute products** (Institution No 68 in Kyzylorda region); during visits to penitentiary institutions by NPM participants, **daily food samples were often missing** (Institution No 31 in Karaganda region, Institution No 79 in Atyrau region).

In turn, inmates complained about inconsistencies in the menu and the quality of food. For example, during the personal meeting with convict Sh.K., who was serving his sentence in Institution No 59 in Zhambyl region, his arguments about inconsistencies in the menu **were confirmed**. Necessary recommendations were sent to the Penal Committee.

The representative of the Ombudsman in Shymkent received a complaint from convict M.A. from Institution No 53 about the impossibility of adding fingerprints when filing an electronic complaint. At the request of our representative, the above function of the terminal was restored.

*The representative of the Ombudsman in Aktobe region received a complaint from convict M.R. from Institution No 70 about **not receiving the daily norm** of certain products. According to the response of the Penal Department of Aktobe region, food is distributed to the prisoners daily according to the new schedule. Based on the results of the inspection and the measures taken, **the convict M.R. has been provided with daily food.***

One more traditional category is the appeals of convicts about violation of their rights **to file and effectively consider complaints**. The complainants report improper functioning of terminals for filing electronic appeals and refusal to register them.

This problem persists in institutions No 16 in the East Kazakhstan region, No 28 in the West Kazakhstan region, No 38 and 39 in Kostanay region, No 60 in Kyzylorda region, No 50 in the North Kazakhstan region, and No 55 in Turkestan region.

Based on the results of consideration of some appeals and during visits we managed **to restore** the violated rights of convicts to file complaints. For example, the representative for Karaganda region during the visit to Institution No 35 revealed improper functioning of terminals for filing electronic appeals, because of the review **the terminals were brought to a serviceable condition**.

In 2023, the complainants were concerned about the exercise of their right to communicate with the outside world, in particular, **the right to visits**. In this regard, we also carried out work and there are positive results.

For example, the representative of the Ombudsman for Kyzylorda region received an appeal from the wife of the convict M.D., who is serving his sentence in Institution No 68. The complainant requested a short-term visit by his family. According to the response of the Penal Department of Kyzylorda region, on September

28, 2023, convict M.D. **was granted the right to a short-term visit by his family members.**

In the reporting year, the Ombudsman and his representatives continued to receive appeals for **assistance in transfer to other penitentiary institutions**. Also, in some complaints, citizens expressed their disagreement with the transfer.

Considering the particular importance of maintaining **socially useful ties** for persons held in correctional institutions, we took measures to facilitate the transfer of convicted persons to penitentiary institutions where their families live.

As in previous years, in the reporting period the Office of the Ombudsman received complaints about the **disagreement of convicts with court decisions**. Explanations were given to all the appeals received.

At the same time, a representative of the Ombudsman for the East Kazakhstan region assisted in the release of a convicted person who did not agree with the court's refusal to reduce his sentence. Thus, Mr. M. was convicted for an offense committed during the "January events". Based on the Law of the RoK "On Amnesty" from November 2, 2022, the convicted person applied for reduction of the sentence, but the court did not satisfy his requirements.

The representative of the UHRM in Astana received an appeal from convict Zh.A. from Institution No. 64 for assistance in transferring her husband to a correctional institution in the North Kazakhstan region. At the request of the representative of the UCHR in Astana, the Penal Correctional Institution of the Republic of Kazakhstan satisfied the applicant's request and transferred her to a medium security penal institution in Petropavlovsk.

With the assistance of a representative of the Ombudsman for the East Kazakhstan region, a fair court decision was made and on April 27, 2023, and Mr. M. was released from prison in connection with the reduction of the sentence by three quarters.

In 2023, convicts also expressed disagreement with the **disciplinary penalties** imposed (unjustified placement in disciplinary cells (DC), unlawful reprimands). When considering such appeals, inquiries were sent to the Penal Department and the GPO of the RoK for verification.

As a result of consideration of appeals of this category, some examples are available, when placement in the disciplinary cell **was recognized as unjustified**. Thus, convict S.S., who is serving her sentence in institution No 10 of the Penal Department of Almaty region addressed the Ombudsman with a complaint about violation of her rights by the administration of the penitentiary institution. At the request of the representative filed to the Penal Committee and the prosecutor's office of the region, an inspection was conducted. As a result, the Specialized Prosecutor's Office for supervision over the legality of execution of criminal punishments in institutions of Almaty region found that the administration of the institution **did not comply with the norms of Article 132 of the Criminal Executive Code of the Republic of Kazakhstan** in the application of penalties. The decision of the head of the institution on placement in a disciplinary cell **was canceled**, and an **act of prosecutor's supervision** on prevention of such violations and **bringing the guilty to disciplinary responsibility** was introduced.

In the reporting period, **20 percent (167)** of the complaints filed by convicted prisoners concerned parole or the replacement of an unserved part of a sentence with a more lenient one. Explanations were given for all complaints.

A representative of the Ombudsman in Zhambyl region was able to assist in restoring the rights of one of the complainants. Convict M.U., who is serving his sentence in Institution No 26 of Zhambyl region, addressed him with disagreement with the decision of the Zhambyl regional court to refuse to grant him a replacement of punishment. The complainant asked the Ombudsman to assist in restoring his right to the replacement of punishment and to participate in the court hearing.

As a result, it was decided to send a motion to the judicial board on criminal cases of the Zhambyl regional court for the participation of the representative of the Ombudsman as an observer during the consideration of the application of the convicted M.U. for the replacement of punishment.

The application of the convicted M.U. for a replacement of punishment was satisfied by the court, and **the unserved part of the sentence was replaced by a fine.**

In the reporting year, the issues related to the replacement of punishment and parole were under special control of the Ombudsman. Thus, the Ombudsman made a proposal to have **jurors consider** applications for parole in a pilot project and to make relevant amendments to the legislation. This initiative was supported by the GPO of the RoK and the Judicial Administration of the RoK.

It should be emphasized that the above proposal of the Ombudsman is **included in paragraph 18 of the Action Plan in the field of human rights and the rule of law** approved by the Head of State.⁶

A particularly vulnerable category of convicts are **minors.**

On April 20, 2023, the Ombudsman visited institution No 11 of the Almaty Penal Department, where he familiarized himself with the conditions of detention of juvenile inmates and the living and production facilities of the institution.

During the visit, juvenile inmates voiced many problematic issues related to the realization of their **rights to education.** Thus, on the territory of the institution there is a branch of the general secondary urban school No 3, where **40** pupils were studying, including **22** in the track with the Kazakh language of instruction and **18** in track with the Russian language of instruction. At the same time, pupils in the institution receive only a certificate of general secondary education and **have no opportunity to take the Unified National Test** and participate in the competition for educational grants.

In the opinion of the Ombudsman, this indicated serious signs of restriction in equal access to education, which is **strictly prohibited by Article 30 of the Constitution of the Republic of Kazakhstan.**

In this regard, the Ombudsman appealed to the Ministry of Internal Affairs, the Ministry of Education and the Ministry of National Economy to study the issue of organizing the participation of juvenile convicts in the UNT in a penitentiary institution.

⁶ Decree of the President of the Republic of Kazakhstan “On the Action Plan on Human Rights and the Rule of Law” dated December 8, 2023 No. 409 // https://online.zakon.kz/Document/?doc_id=35159574.

As a result of joint work, **for the first time in the history of our country**, three juvenile convicts successfully passed the Unified National Test in 2023.

At the same time, the problem of ensuring access of convicted minors to obtaining a diploma in technical and vocational education **remains relevant**.

Thus, in institution No 11 of the Penal Department of Almaty, there is a vocational school, which provides training with a choice of training in **3** types of professions: construction metal worker, metal turner, construction carpenter. The training duration is **6.5 months**. At the time of the visit, there were **25** inmates in three groups: turner - **9**, construction metal worker - **9**, construction carpenter - **7**.

Upon completion of the vocational training program, inmates receive **a state certificate with the assignment of a grade**.

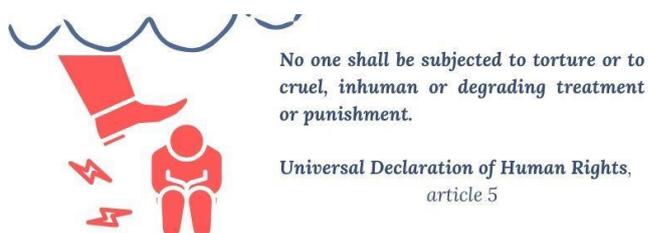
At the same time, as it was noted by the convicts, after serving the sentence, the certificate **does not give them an effective opportunity** to realize the obtained specialty in the future, since **a diploma of education** (technical, professional) is required for employment.

Lack of professional education can have serious negative consequences for their future and adaptation to life in society. Low income due to lack of work significantly affects all spheres of human life, including contributing to the growth of juvenile delinquency and re-offense.

In this regard, we consider it necessary to work on the issue of organizing the educational process in penitentiary institutions, including online, providing full-fledged educational programs of general secondary, technical and vocational education.

The Ombudsman and his regional representatives remain steadfast in their belief in the absolute value and inviolability of human dignity, which must be protected in all conditions. This is a fundamental principle, which implies that human rights organizations, together with state structures, must work together to implement a strategy of absolute rejection of any form of human rights violations, including in penitentiary institutions.

2.3 Protection from torture and other cruel, inhuman and degrading treatment or punishment



Key data for 2023



Outcome of complaints



Our initiatives



In April 2023, a memorandum on mutual cooperation to prevent torture and other cruel, inhuman or degrading treatment or punishment was signed between the Office of the General Prosecutor of Kazakhstan and the Ombudsman



The Ombudsman took the initiative to draft and adopt a separate Law on the National Preventive Mechanism

There are imperative rules in international law from which no derogation is possible under any circumstances, whether or not a State has treaty obligations. Such rules are referred to as *jus cogens*.

Jus cogens obligations in the field of human rights protection are not extensive and include only a few absolute rights that States cannot restrict even in times of armed conflict or emergency. These include **the right to freedom from torture and cruel, inhuman or degrading treatment or punishment**.

The world community has proclaimed the principle of **zero tolerance** to torture in a loud voice since the adoption of the Universal Declaration of Human Rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

Based on the tenets of the UDHR, a special Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted under the auspices of the UN in 1984.

Since then, zero tolerance has been a guideline for all legal states that combat torture by harmonizing legislation with international standards, ensuring inevitability of punishment for such acts, and strengthening cooperation with representatives of civil society.

Since the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1998, Kazakhstan has indeed done a lot towards achieving zero tolerance to torture.

Over the past **25 years**, a separate criminal offense “Torture” has been introduced in the Criminal Code, criminal liability for ill-treatment has been established, the penalty of imprisonment for torture has been increased (up to 10 years), and a National Preventive Mechanism based on the “Ombudsman+” model has been established. To suppress unauthorized methods of investigation and treatment of convicted persons, work is being completed on the comprehensive coverage of criminal prosecution agencies and penitentiary institutions with video surveillance systems.

However, one of the main achievements can be considered the **elimination of alternative jurisdiction** in the investigation of cases of torture. Since January 1, 2023, investigation of cases initiated under Article 146 of the Criminal Code of the Republic of Kazakhstan (Torture) is carried out **exclusively by the prosecutor's office**.

This novelty has led to positive momentum in the consideration of such cases. In 2023, **45** people were prosecuted on charges of torture, **12** cases resulted in court verdicts. These figures exceed the cumulative statistics for the previous **3 years**.⁷

In addition, the prosecution authorities have developed a methodology for investigating torture that complies with the principles of the Istanbul Protocol. To ensure respect for the constitutional rights and freedoms of citizens in criminal proceedings and in the execution of sentences, a separate instruction on the pretrial investigation of cases of torture has been approved jointly with the heads of other investigative bodies.

The above measures were unconditionally **supported by the Ombudsman**, who always advocates independent and impartial investigation of torture. As the coordinator of the work of regional NPM groups throughout Kazakhstan, we have first-hand knowledge of the complaints of people who have been subjected to torture in temporary detention centers, pretrial detention centers and penitentiary institutions. And, unfortunately, from year to year the Ombudsman **continues to receive** such complaints.

Therefore, in the reporting year, it was decided **to strengthen the cooperation** between the Ombudsman and the GPO to improve the effectiveness of the fight against torture.

In April 2023, a **Memorandum of Understanding on Mutual Cooperation** was signed between the OHCHR and the GPO of the Republic of Kazakhstan.

The purpose of the Memorandum is to join efforts to improve the effectiveness of human rights protection, including the prevention of torture and other cruel, inhuman or degrading treatment or punishment. Within the framework of the agreement, the parties intend to carry out joint activities at the central and regional levels. It is planned to conduct joint visits to the buildings of criminal prosecution bodies and penitentiary institutions, conduct explanatory work on mechanisms for the protection and restoration of violated rights, organize personal receptions of citizens, and exchange information.

The memorandum **has been successfully tested**. Thus, on **May 11, 2023**, within the framework of the Memorandum a representative of the Ombudsman in Aktobe

⁷ 45 PEOPLE WERE PROSECUTED FOR TORTURE IN KAZAKHSTAN:
<https://24.kz/ru/news/social/item/629925-45-chelovek-privlekli-k-otvetstvennosti-za-pytki-v-kazahstane>.

region and the head of the department of the prosecutor's office of Aktobe region held a joint personal visit to **institution No 70 of the Penal Committee** of the Republic of Kazakhstan.

During the visit, remand detainees and convicts complained about the conditions of detention and asked questions about treatment and medication. The representative and the prosecutor inspected the cell upon the complaint of detainee A. about cold and dampness in the cell.



Following the recommendation of the representative and with the assistance of the prosecutor, the remand detainee was immediately transferred to another cell with improved conditions. In response to his request for a medical examination to expedite surgical intervention, the convict K. was given a medical examination outside the institution following a recommendation by the representative. The condition of convict I. and her newborn child within the walls of the institution was also checked. Earlier she complained about the conditions of detention. As a result of the personal visit by the representative, she, as a mother with a newborn child, was provided with improved living conditions and specialized medical care.

In the reporting year, the work of the Ombudsman traditionally included the development of recommendations to promote the principle of zero tolerance to torture.

For example, on April 20, 2023, an international conference entitled **“Prevention of torture and ill-treatment: international and European standards and best practices”** was held in Almaty for the countries of Central Asia.

The conference organized by the Council of Europe, the General Prosecutor's Office of the Republic of Kazakhstan, the Commission on Human Rights under the President of the Republic of Kazakhstan and the Ombudsman was attended by European experts, judges, prosecutors, staff of the Prosecutor's Office, the Academy of Law Enforcement Agencies and national human rights institutions, lawyers from Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, as well as representatives of international organizations.

In his speech, the Ombudsman shared legislative novelties and plans for further prevention of torture.

With the direct participation of the former Ombudsman (E.A. Azimova), the Plan of priority measures in the field of human rights was implemented, which made it possible to:

- 1) provide for the suspension of punishment in case of serious illness of the convicted person;
- 2) increase the period of stay of a child with his mother from 3 to 4 years in case she is released after serving her sentence within a year;
- 3) ensure the separation of previously convicted from first-time convicts.

We believe that prevention should be at the forefront of the eradication of torture. Therefore, the next important step is the **development of a special law on the National Preventive Mechanism**. It will strengthen the existing capacity to eliminate this negative phenomenon. This initiative was welcomed by the UN Subcommittee against Torture and the UN High Commissioner for Human Rights during their visit to Kazakhstan in March 2023.

In the reporting year, the Ombudsman also worked on the prevention of torture by **examining complaints**.

In 2023, **165** such complaints were received, which is **63% less** than in 2022 (**447**). Last year's figures were a record high, apparently due to the numerous complaints against law enforcement agencies **during and after the events of Tragic January**.

The largest number of such complaints was considered by the Center (**26**), representatives of the Ombudsman in Akmola (**13**), East Kazakhstan (**13**) and Zhambyl (**13**) regions, in the cities of Astana (**12**) and Almaty (**12**) (Figure 11).

Complaints of torture by region

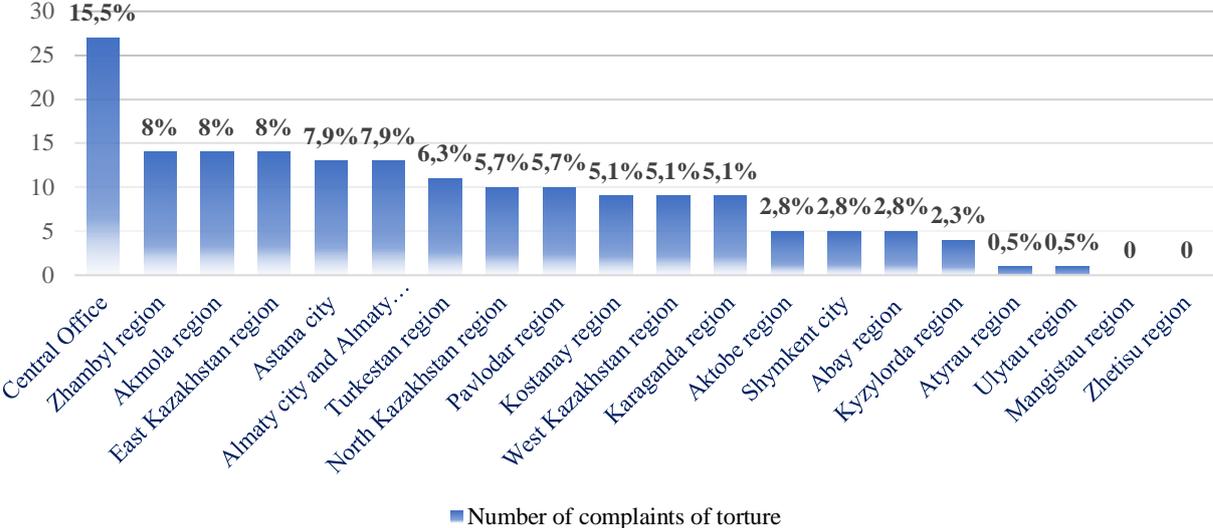


Figure 11

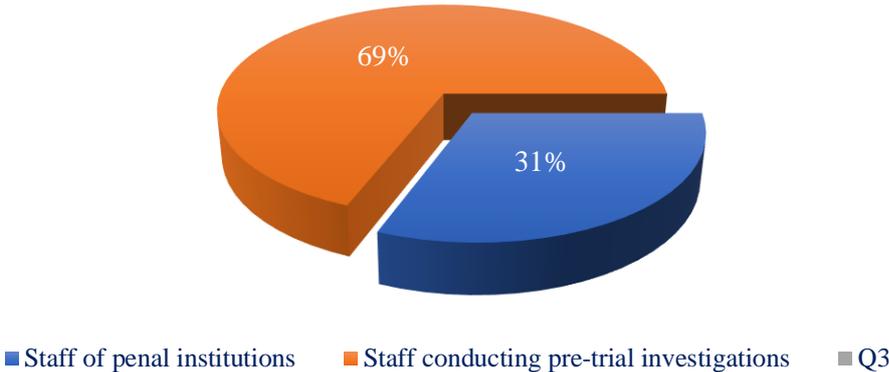
The information is presented below in terms of the subjects of offenses (Figure 12). It should be noted that from year to year there are complaints of torture and ill-treatment by **officers of criminal prosecution bodies (113) and employees of the**

penal system (52). In the reporting year, the largest number of complaints was received in relation to pre-trial investigation bodies.

Figure 12

With the direct involvement of the Ombudsman and his representatives it was

Results of consideration of complaints of torture and ill-treatment



possible to restore the rights of complainants in 38 appeals (Figure 13).

Results of consideration of complaints of torture and ill-treatment

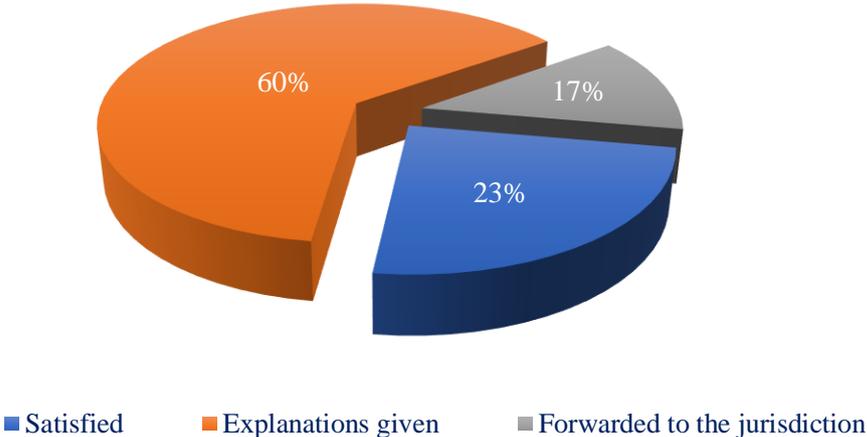


Figure 13

In their complaints about the illegal actions of police officers, citizens reported the use of physical force, psychological pressure to coerce confessions, expressed disagreement with the termination of criminal cases under Article 146 of the Criminal Code (Torture) for lack of corpus delicti of a criminal offense, and also asked for assistance in obtaining qualified legal assistance.

In turn, inmates complained of ill-treatment and torture by prison staff.

In each of the complaints received, measures were taken to restore the violated rights, including by sending NPM groups to conduct special visits.

When considering complaints about the actions of internal affairs officers,

After a special visit by NPM participants to the West Kazakhstan region on the basis of reports of mass beating of convicts in Institution No 28, Aktobe department of the Western Regional Military Investigation Department of the Ministry of Internal Affairs of the Republic of Kazakhstan started pre-trial investigation for inflicting bodily harm to convicts (Article 451 part 1 of the Criminal Code of the Republic of Kazakhstan - abuse of power). Each appeal was registered in the crime record book, statements of close relatives of convicts were registered taking into account the requirements of the APPC and attached to the materials of the criminal case. The progress of the investigation is taken under control by the representative of the Ombudsman for the West-Kazakhstan region.

special focus was aimed at cases of physical force and pressure on the complainants. In some cases, the **violated rights were restored**, and the perpetrators were brought to justice.

In the reporting year, citizens also repeatedly disagreed with the termination of criminal cases of torture for lack of corpus delicti of a criminal offense. However, in the practice of the Ombudsman in 2023, there are examples of **resumption of criminal proceedings in such cases**.

For example, the representative of the Ombudsman in Turkestan region received a complaint from Mr. K.D. The complainant disagreed with the termination of proceedings under Article 146 of the Criminal Code of the Republic of Kazakhstan (Torture) against police officers who used physical force. Our representative sent a request to the regional prosecutor's office. As a result of the review, the Prosecutor's Office of Turkestan region **canceled the decision** of the Department of the Anti-Corruption Agency in Turkestan region to terminate the pre-trial investigation and sent the case under investigation to the Department of Special Prosecutors of the Prosecutor's Office of Turkestan region.

The representative of the Ombudsman for Turkestan region considered the appeal of Mr. A.A. The complainant reported in his complaint about the use of torture against him by the police department of Arys. Due to the lack of confidence in the prosecutor's office of Arys city, the citizen asked for assistance in transferring the criminal case to the prosecutor's office of Turkestan region.

In response to the request aimed at the representative of the Ombudsman, the regional prosecutor's office confirmed the initiation of a criminal case under Article 146 of the Criminal Code (Torture) against police officers and took it under control.

In 2023, the Ombudsman also received information about the use of torture by criminal prosecution bodies **against foreign citizens**.

In particular, an appeal was received from Lubinets D.V., **the Commissioner for Human Rights of the Verkhovna Rada of Ukraine**. In his letter, the Ukrainian Ombudsman requested assistance to three Ukrainian citizens who were victims of torture by Kazakhstani criminal prosecution authorities.

The Ombudsman sent requests to the Department for Combating Drug Crime, the Investigation Department, the Penal Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan and the Prosecutor's Office of Almaty region.

As a result, a pre-trial investigation under Article 146 of the Criminal Code of the Republic of Kazakhstan (Torture) was initiated. The information received has been forwarded to the Ombudsman of Ukraine.

Access to effective remedies is an inalienable right of everyone in the orbit of criminal justice, including victims of torture. We emphasize that in the reporting period the Ombudsman received requests **for assistance in providing legal aid to a victim of torture**. According to the results of the work, qualified legal assistance was provided.

The representative of the Ombudsman in Turkestan region received an appeal from Mrs. K.V. in the interests of her common-law partner S.D., who was detained in the pre-trial detention center of the Sozak District Police Department. The complainant asked to provide legal assistance to her spouse, who was a victim of torture.

The regional representative of the Ombudsman sent an appeal to the Republican Bar Association with a request to provide legal advice to the victim.

By decision of the Turkestan Regional Prosecutor's Office, the lawyers of the Astana City Bar Association, A.D. and D.P., were recognized as the representative of the victim S.D. All investigative

In 2023, **inmates** repeatedly reported the application of torture by prison staff.

There were cases when during the verification of the convicts' arguments the complaints were withdrawn due to the alleged “absence of claims”. However, realizing the possibility of pressure on them by prison staff, the work with such cases is **under special control of the Ombudsman**. In this category of complaints, a certain practice is beginning to emerge.

*The representative of the Ombudsman in Zhambyl region received a complaint from convict A.A. about the use of torture by the staff of Institution No 67 of the Penal Department in Zhambyl region. A request was sent to the regional prosecutor's office to verify the convict's arguments and restore the violated rights in case they were confirmed. During the verification, the complaint was withdrawn by the complainant. However, based on the conclusion of the forensic medical expert, who confirmed the presence of traces of beating on the body of convict A.A., the regional representative of the Ombudsman sent a **follow up letter** to the prosecutor's office of Zhambyl region to make a procedural decision.*

It should be emphasized that efforts to combat torture are carried out by the Ombudsman and his representatives everywhere and permanently, **in some cases without waiting for written or oral appeals**.

For example, in 2023, in the course of monitoring of mass media and electronic social networks, a video material was discovered about the use of special means and physical force by the staff of **Institution No 1 of the Penal Department of Akmola region** to a convict.

Upon the instructions of the Ombudsman a group of NPM participants in Akmola region immediately visited this penitentiary institution. All recorded violations and recommendations specified in the report of the NPM group were sent to the prosecutor's office and the Penal Department of Akmola region for appropriate action.

According to the Akmola Region Prosecutor's Office, a pre-trial investigation into the fact of torture is underway, and the staff of the institution has been detained and placed in a temporary detention center on suspicion of committing a crime.

Also, a letter was sent to the Health Department of Akmola region with a request to provide the victim with all necessary medical services.

In the reporting year, inmates also complained about **ill-treatment** by prison staff. For example, we received a complaint about ill-treatment in **Institution No 1 of the Penal Department in Akmola region**. In his appeal, the convict G.A. reported that the inspection was conducted on the training ground at an outdoor temperature of -31°C, which is a violation of the requirements of the Internal Regulations of penitentiary institutions.

At the request of the representative of the Ombudsman for Akmola region, based on the results of the inspection, the prosecutor's office of Atbasar district **partially confirmed** the arguments of convict G.A. In the course of monitoring of video recordings, it was established that the evening inspection of convicts by the on-duty assistant head of the colony, in violation of the Rules, was carried out on the training ground at a temperature of - 32°C. For the violations committed, the district prosecutor's office issued a supervisory report to the institution, and the on-duty assistant head of the penal colony **was brought to disciplinary responsibility**.

At the same time, the issues of **compensation for victims of torture, fairness and adequacy of its amount remain pressing problems**.

In 2018, Kazakhstan adopted an act regulating the Victims Compensation Fund. According to this law, in addition to victims of human trafficking and serious harm to health, compensation is also paid to **victims** under Article 146 of the Criminal Code (Torture) in the amount of **30 to 50 MCI** (from 103,500 tenge to 172,500 tenge).⁸

According to the data of the GPO of the RoK, as of 2023, the Ministry of Finance of the RoK paid **312 million tenge** of compensation.⁹

However, the payment is entitled only to persons recognized as victims under the criminal procedure legislation of our country.

At the same time, in accordance with Article 14 of the UN Convention against Torture of 1984, each state party shall ensure that the **victim of torture receives redress** and has an enforceable **right to fair and adequate compensation**, including the means for as full rehabilitation as possible.

Furthermore, as the UN CAT notes in its General Comment No 3 (GC No 3), victims are persons who individually or collectively experience harm, including physical or mental injury, emotional suffering, economic loss or substantial infringement of their fundamental rights, as a result of acts or omissions that constitute violations of the Convention. A person should be considered a victim **regardless of** whether the perpetrator is identified, apprehended, prosecuted or convicted, and regardless of any family or other relationship between the perpetrator and the victim.

The UN CAT also emphasizes that the obligation of compensation includes the obligation of States parties to promptly initiate the process **of obtaining redress for**

⁸Law of the Republic of Kazakhstan dated January 10, 2018 No. 131-VI "On the Victim Compensation Fund": <https://adilet.zan.kz/rus/docs/Z1800000131>.

⁹ About 312 million tenge were paid to victims of torture and minors who suffered from sexual violence: https://www.kt.kz/rus/society/zhertvam_pytok_i_nesovershennoletnim_postradavshim_ot_1377947341.html.

victims, even in the absence of a complaint, if there are reasonable grounds to believe that torture or ill-treatment has occurred.¹⁰

Referring to the practice of foreign countries, in 2022 Uzbekistan adopted **amendments to the Civil Code** to improve the procedure for compensation for harm caused to victims of torture. The document entered into force on March 30, 2022.

This law supplements article 991 of the Civil Code of Uzbekistan. According to the amendment, harm caused to a citizen as a result of torture or other cruel treatment or punishment shall be fully compensated by the State, **irrespective of the guilt** of officials, bodies conducting initial inquiries, pretrial investigations, the prosecutor's office and the court. By court decision, compensation may be imposed on the officials whose fault it was. Article 1021 of the Civil Code has also been supplemented by a provision under which **moral harm is compensated irrespective of guilt** if it is caused to a citizen as a result of any use of torture or other cruel treatment or punishment.¹¹

In this regard, as part of the work on the implementation of paragraph 21 of the Action Plan in the field of human rights and the rule of law (development of proposals to improve the mechanism of compensation for harm caused to victims of torture and ill-treatment), the responsible authorities are recommended to bring the norms of the Law in line with the obligations of Kazakhstan under the UN Convention against Torture (taking into account the provisions of GC No 3) and review the procedure for their imposition, providing for an adequate and fair amount.

Thus, in 2023, the Ombudsman and its regional representatives continued to contribute to the realization by Kazakhstan of its imperative international obligations to combat and prevent torture.

We fully support the State's policy of harmonizing national legislation with the requirements of the Istanbul Protocol in the investigation and documentation of torture. Only with absolute commitment to the principle of inevitability of punishment for this inherently barbaric phenomenon can significant progress be made in protecting human rights and strengthening the rule of law. Effectively investigating cases of torture, punishing perpetrators and providing fair compensation to victims are key elements in the fight against impunity.

In this regard, the work to eradicate torture must and will continue in 2024 and beyond.

¹⁰General comment No. 3 (2012), Committee against Torture:
<https://documents.un.org/doc/undoc/gen/g12/487/18/pdf/g1248718.pdf?token=3HOG5uhqJ1sdH65hbm&fe=true>.

¹¹Victims of torture will be compensated: <https://www.gazeta.uz/ru/2022/03/31/torture/>.

2.4 Right to freedom of religion

Freedom of religion is one of the fundamental human rights enshrined in international documents and basic laws of many countries, including Kazakhstan.

Our Constitution guarantees everyone the right to freedom of thought, conscience and religion. It includes the freedom to profess or not to profess any religion, to choose and change it, and to perform religious rites and ceremonies in accordance with the law.¹²

This right is reflected in sectoral legislation. The Law of the RoK “On Religious Activity and Religious Associations” enshrines the right of everyone to hold religious beliefs, disseminate them, participate in the activities of religious associations and engage in missionary activities in accordance with the law.

At the same time, Kazakhstan, as a **secular State**, adheres to the principle of the separation of religion from State administration.

The right to freedom of religion is not absolute and **may be restricted**. According to paragraph 3 of Article 18 of the ICCPR, the freedom to manifest religion or belief is subject to restrictions **established by law and necessary to protect public safety**, order, health and morals, as well as the fundamental rights and freedoms of others.¹³

Thus, the state cannot **arbitrarily** interfere in the realization of the right to freedom of religion: a legislative regulation and a clear justification of the expediency of the imposed restrictions are necessary.

It is expected that there will be a public response **in the form of complaints** about the imposed restrictions affecting religious freedom.

In 2023, the Ombudsman received **12** appeals from citizens on the protection of the right to freedom of religion. Compared to the figures of 2022 (**18** complaints), their number decreased by **33%**.

Complaints of citizens on this issue can be divided into 3 groups (Figure15).

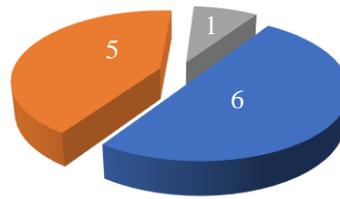
In the first group, citizens complained about the prohibition by educational organizations to wear religious headdresses (headscarves) for girls when they attend classes. Such appeals were received for consideration by the Ombudsman, his **representatives in the West Kazakhstan region and Karaganda region**. The complainants demanded to bring to responsibility the administrations of educational institutions for violation of the right to freedom of religion and education.

We have given exhaustive explanations on this issue: Kazakhstan is a **secular state** under the Constitution.

¹² Law of the Republic of Kazakhstan No. 483-IV dated October 11, 2011 “On Religious Activity and Religious Associations”: <http://adilet.zan.kz/rus/docs/Z1100000483>.

¹³ International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966): https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml.

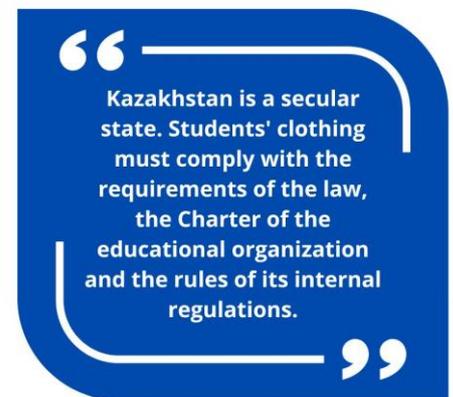
Contents of complaints on the right to religious freedom



- Restriction by educational institutions of the rights of minors to wear a religious headdress - a headscarf
- On the activity of religious associations
- On religious expertise

Figure 14

Consequently, a secondary school belongs to a secular institution, where generally accepted rules of business etiquette, including those related to clothing and headwear, must be observed. The requirements to the model of school uniform were approved by the Order of the Minister of Education and Science of the Republic of Kazakhstan on January 14, 2016. According to the conclusion of the Ministry of Justice of February 16, 2016, this order does not violate the rights, freedoms and interests of citizens and does not contradict the current legislation.



Thus, the clothing of students must comply with the requirements of the legislation, the Charter of the educational organization and the rules of its internal regulations.

We emphasize that the policy of secularism is implemented in all secular countries. For example, in French educational institutions since 2004 there is an **absolute ban** on wearing clothing that clearly demonstrates the religious affiliation of the student or clothing, which is given the meaning of a religious garment due to such features as constant wearing, refusal to remove it.^{14 15}

Last year, citizens continued to be concerned about alleged **violations of the rights of religious associations**. As in previous years, representatives of the religious association “Jehovah's Witnesses” appealed to the Ombudsman with complaints against local executive bodies (Departments of Religious Affairs). For example, one of the complainants repeatedly expressed disagreement with leaflets and a video on missionary activity prepared by the Almaty Department of Religious Affairs.

¹⁴ Code de l'éducation: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006524456/2023-10-19.

¹⁵ La laïcité à l'école: <https://eduscol.education.fr/document/1609/download>.

After consideration of such appeals, the Ombudsman sent answers with explanations.

The representative of the Ombudsman in Astana considered the complaint of convict S.S. from Institution No 64 of the Penal Department of the Ministry of Internal Affairs, who cited a list of religious literature and information materials recognized as extremist and prohibited to import, publish and distribute in the territory of the

Mr. K.A. addressed the Ombudsman on the issue of discrediting the activities of the religious association “Jehovah's Witnesses” in a video created by employees of the Department of Religious Affairs of Almaty.

During the consideration of the complaint, a request was sent to the Department, which in its response reported on the development of a video with a detailed explanation of the concept of “missionary activity”. As noted in the Office, the video was not aimed at discrediting certain religious associations. The content of the video is not directly related to the individual frames, which were used only as an illustration and taken from open sources of the Internet space.

Republic of Kazakhstan, but **at the same time freely available on information resources**. The complainant asked to carry out a corresponding inspection.

The representative of the Ombudsman sent this appeal to the Committee on religious affairs of the Ministry of Information and Public Development of the Republic of Kazakhstan.

Having considered the appeal, the Committee on religious affairs reported on the religious examination of eight materials of religious nature, according to the results of which **no** information and facts preventing their use on the territory of the Republic of Kazakhstan **were found**.

For each of the appeals received, the Ombudsman and his representatives in the regions took measures to explain the issues of realization of the right to freedom of religion.

At the same time, as practice shows, the effective realization of this right in Kazakhstan involves **a number of additional problematic aspects**.

Kazakhstan **continues to receive** recommendations from UN treaty bodies and non-governmental organizations on the need to bring national legislation in line with international standards set out in Article 18 of the ICCPR.

Thus, as of 2016, the recommendations of the UN HRC to review all laws and practices to address restrictions that go beyond the narrowly construed restrictions allowed under Article 18 of the ICCPR **remain** relevant. Such undue restrictions include the requirements of the Law on compulsory registration of religious organizations, the prohibition on unregistered religious activities, and restrictions on the import and distribution of religious materials.¹⁶

Similar problems are voiced by the non-governmental organization “Human Rights Watch” within the framework of its annual World Reports. Thus, the World Report 2024 emphasizes that in 2023 religious groups in Kazakhstan faced mandatory registration requirements and strict restrictions on the distribution and sale of religious

¹⁶ Concluding observations on the second periodic report of Kazakhstan: <https://documents.un.org/doc/undoc/gen/g16/174/95/pdf/g1617495.pdf?token=hBfA5HNQTjYcKfy6DF&fe=true>.

literature.¹⁷

The problem of mandatory registration of religious associations in Kazakhstan has been discussed since 2011 - i.e. since the adoption of this norm. For more than 10 years, some representatives of religious associations, human rights activists, and religious scholars have been advocating for the **abolition of mandatory registration**.^{18 19}

In our opinion, one of the possible solutions to the problem is to reduce the threshold for registration of religious associations from **50, 500 and 5,000 participants** (for local, regional and republican religious associations, respectively) **to a possible comfortable minimum**, taking into account the interests of believers both in large agglomerations and in less populated areas, thus providing wider access to official recognition and activities of religious groups in the country.

At the same time, we firmly believe that amendments to the Law of the RoK “On Religious Activity and Religious Associations” to bring it in line with international standards should be accompanied by a **deep legal analysis for feasibility and a large-scale discussion** with representatives of government agencies, religious denominations, and the academic community.

In addition, taking into account the urgency of the **problem with the possibility of education** of minors in connection with the introduction of restrictions by some educational institutions on the wearing of religious headdresses (headscarves), we consider it necessary **to continue the public awareness campaign** of the authorized body on issues of secularism.

We believe that education in this area can be implemented through the development of comprehensive programs aimed at increasing understanding of the importance of secular principles in the educational process and strengthening respect for the cultural and religious diversity of society.

It is important that these programs include both work with teachers' teams and interaction with parents and students, explaining the importance of **balancing the observance of religious beliefs and respect for the secular foundations of the educational environment**.

In accordance with Article 30 of the Constitution of the Republic of Kazakhstan, the state establishes generally binding standards of education. The activities of any educational institutions must comply with these standards.

The system of education and upbringing in Kazakhstan, **with the exception of spiritual (religious) educational organizations**, is separated from religion and religious associations and is secular in nature (paragraph 4 of Article 3 of the Law “On Religious Activity and Religious Associations”).

According to paragraph 13 of the Order of the Ministry of Education and Science of the Republic of Kazakhstan dated January 14, 2016 “On Approval of Requirements

¹⁷ World Report 2024: Kazakhstan: <https://www.hrw.org/world-report/2024/country-chapters/kazakhstan#ada87c>.

¹⁸ Mandatory registration of religious associations in Kazakhstan should be abolished, says Human Rights Commissioner Bolat Baikadamov: https://online.zakon.kz/Document/?doc_id=30033527&pos=4;-72#pos=4;-72.

¹⁹ Should the registration of religious associations be abolished in Kazakhstan? <https://cabar.asia/ru/nuzhno-li-v-kazahstane-otmenyat-registratsiyu-religioznyh-obedinenij>.

for compulsory school uniform for the organization of secondary education” the inclusion of elements of clothing of religious affiliation of different denominations in the school uniform is not allowed.

In general, there is no unanimous opinion in the world about wearing hijab in public places, in schools, at work, etc. In the European Union almost everywhere hijab is banned in educational organizations. Such decisions of school administrations have been repeatedly appealed up to the Supreme Courts of the respective countries.

In this regional jurisdiction, the European Court of Human Rights (Strasbourg Court) put an end to the issue in question, recognizing the ban on the hijab as **lawful and not violating human rights**.

At the same time, it is difficult to imagine such bans, for example, in Middle Eastern states. Countries of the Muslim world are unlikely to find such decisions fair.

However, the Republic of Kazakhstan, as we know, does not belong to either Europe or Arab states. Therefore, our education policy should be based on the provisions of the domestic Constitution.

It is important to emphasize that in the present context we are talking exclusively about general educational institutions. That is, we are not talking about specialized educational institutions.

In particular, the dress code of those studying in military educational institutions, for example, for minors in “Zhas Ulan” schools, is radically different (children there wear only military uniform) from the requirements for compulsory school uniform approved by the Order of the MES of the Republic of Kazakhstan dated January 14, 2016.

3. PROMOTING THE RESTORATION OF SOCIAL AND ECONOMIC HUMAN RIGHTS

3.1 Right to health care



Everyone has the right to a standard of living that includes medical care to ensure their well-being and that of family members.

Universal Declaration of Human Rights
article 25

Key data for 2023



Applications received and considered by citizens



Petitions considered by the Central Office of Ombudsman

Outcome of complaints process



Fully satisfied



Partially satisfied



Written explanations have been issued

Our initiatives



In 2023, parents of children with cystic fibrosis from the city of Shymkent in the Turkestan region showed an active position. In their appeals, the parents requested that steps be taken to include the necessary drugs (such as Fluumcil and Oxidtar) in the list of guaranteed free medical care (GOBMP).

As a result of the active work of the Ombudsman offices in Shymkent and the Turkestan region on the organization of meetings of interested parties and authorized bodies, as well as the initiative of parents, the inclusion of these drugs was approved by maslikhats-Relevant amendments to the list of free medicines, special medical products and medical products for individual categories of citizens in outpatient treatment in December 2023

The right to health is a fundamental human right on which all spheres of human life are directly dependent. International law also uses the phrase “the right to the enjoyment of the highest attainable standard of mental and physical health”. For the first time the content of the right to health was disclosed in the 1946 Constitution of the World Health Organization: “Health is a state of complete physical, mental and social well-being and not merely the absence of disease and physical defect”.²⁰

According to WHO, the right to health includes the following components:

Availability - the need for sufficient functioning health facilities, goods and services.

Accessibility - health facilities, goods and services are accessible to everyone. The four dimensions of accessibility are non-discrimination, physical accessibility, economic (price) accessibility and accessibility of information. This is particularly important for PWDs, who often face significant barriers to health related to inaccessibility of services, facilities and health information.

Acceptability - adherence to medical ethics, cultural appropriateness and gender sensitivity. Health facilities, products, services and programs should be people-centered and meet the needs of diverse populations and comply with

²⁰ WHO Charter of 1946 // <https://www.who.int/ru/about/accountability/governance/constitution>.

international standards of medical ethics on confidentiality and informed consent.

Quality - the requirement includes safe drinking water and sanitation, as well as scientific and medical endorsement of health facilities, goods and services.

Recognizing the importance of the right to health and its impact on quality of life, we actively monitor and respond to any violations.

In 2023, we received 47 such appeals (Figure 15).

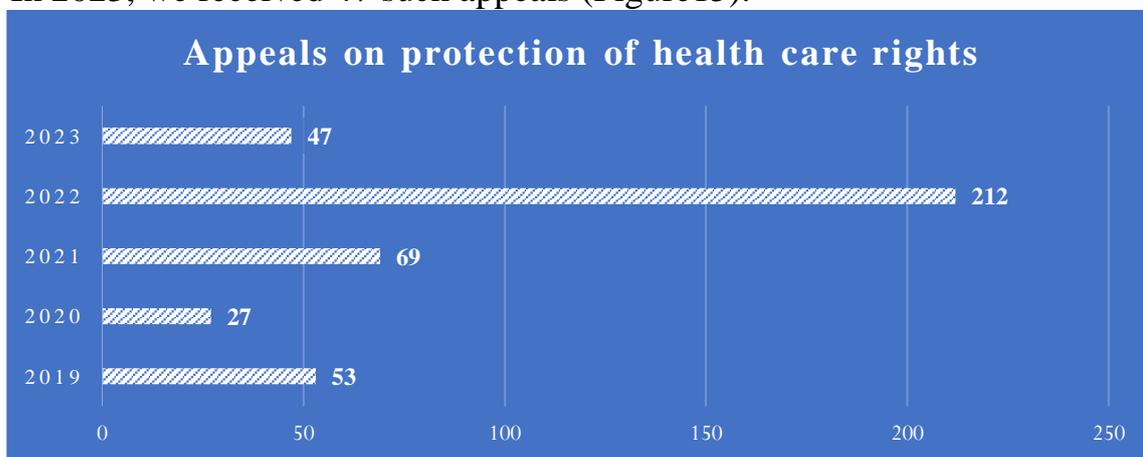


Figure 15

The serious difference with the previous year is explained by the inclusion of complaints from convicts in their number in 2022. After their deduction (**131**) in 2022 there were **81** appeals on health issues in “pure form”. Protection of the right to health care of convicted persons is analyzed in Section 2.2 “Rights of convicted persons”.

Complaints about violation of of the right to health care by region

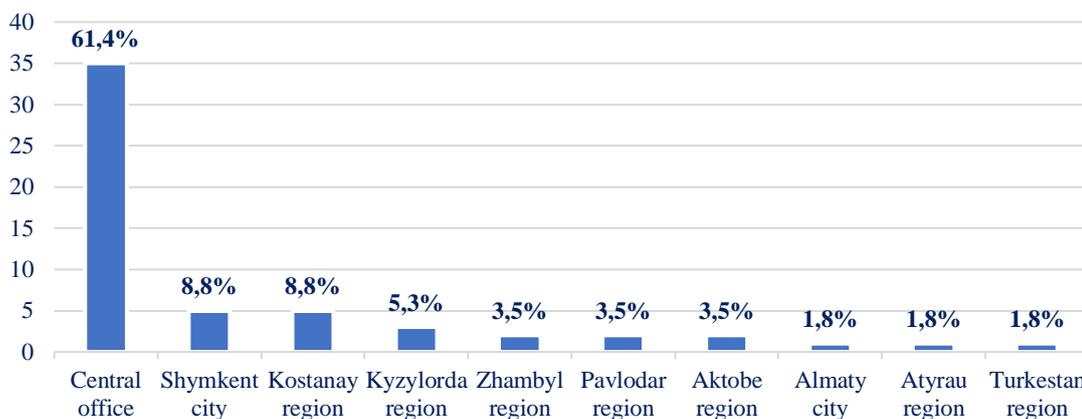


Figure 16

The issues that concern citizens in the area of ensuring their right to health care are similar to those they addressed in past years (Figure 17).

The essence of appeals to protect the right to health care

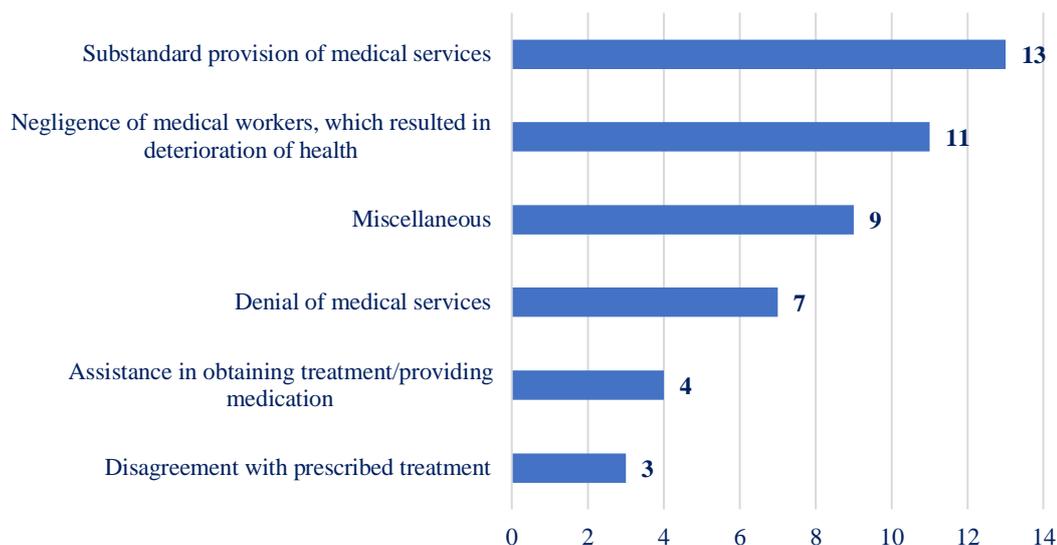


Figure 17

Based on the number of complaints about poor quality of medical services - their incompleteness, unsatisfactory results of surgery and treatment. The Code of the RoK “On the Health of the People and the Health Care System”²¹ guarantees the quality of medical care. In the overwhelming majority of cases, the authorized body, after inspection, came to the conclusion that the treatment was correct and sufficient and that there were no medical errors.

The next group is complaints about the actions of medical workers that caused deterioration of health.

Article 77 of the Code of the Republic of Kazakhstan “On the Health of the People and the Health Care System” establishes the right to compensation for harm caused to health during the provision of medical care.

In cases where harm to health was caused, applicants asked to bring employees and management of medical organizations to administrative responsibility, as well as to conduct an inspection of the work of the organization.

In the event of citizens' complaints about violations of the right to health care, the authorized bodies organize an unscheduled inspection of a medical organization and conduct an investigation. Upon completion of the inspection, **explanations were given for 21 of them** (Figure18).

²¹ Code of the Republic of Kazakhstan No. 360-VI of July 7, 2020 “On HEALTH OF THE PEOPLE AND HEALTH CARE SYSTEM”. // <https://adilet.zan.kz/rus/docs/K2000000360>.

Results of consideration of appeals on violations of the right to health protection

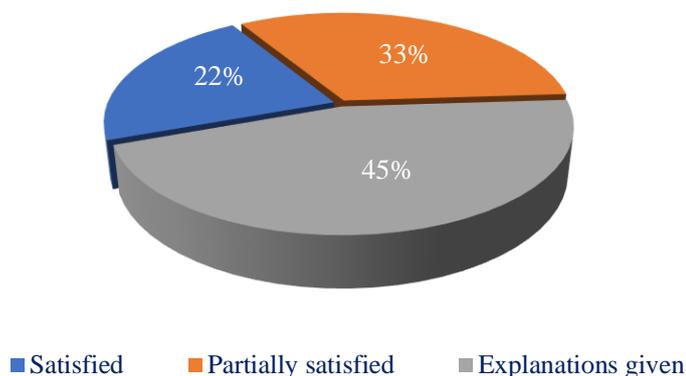


Figure 18

Analysis of the essence of complaints about the negligence of medical workers shows that **1/3** of them (**4**) are actions/inaction resulting in the death of a patient. The complainants appealed to the Ombudsman because of the death of their relatives, with a request to conduct an independent expert examination, to transfer the case to another investigator, to send the case to court and to bring officials to justice. As a rule, they demanded that medical workers be held criminally liable under Article 317 of the Criminal Code of the Republic of Kazakhstan. Such cases are the subject of pre-trial investigation. In two appeals the authorized body and independent experts revealed violations of standards of medical care and clinical protocols, issued prescriptions for their elimination and issued administrative fines.

In accordance with part 2 of article 80 of the Code of Administrative Offenses of the Republic of Kazakhstan gross violations of standards and rules of medical care, if these actions do not contain signs of a criminally punishable act, entail a fine. In order to exclude signs of a criminal offense in the violations in question, local departments of the Medical and Pharmaceutical Control Committee transfer the inspection materials to the police for legal assessment of the actions of medical workers.

Among the considered appeals of the above-mentioned nature, **not a single case was qualified by law enforcement agencies as a criminal offense**. Analysis of the responses of state authorities showed that often pre-trial **investigation is terminated due to the lack of corpus delicti of a criminal offense**. In this regard, the complainants were advised to appeal to the court.

Another demand of citizens in case of injury to health is to revoke the license of a medical institution. At the same time, according to part 2 of article 80 of the Code of Administrative Offences of the Republic of Kazakhstan, suspension or revocation of



license is possible only for repeated gross violations of standards and rules of medical care, or in case of detection of violations in licensing (failure to meet qualification requirements).

Positive results of consideration are typical for appeals about the refusal of a medical institution to provide medical services. Citizens who have all the grounds to receive services within the framework of the Guaranteed Volume of Free Medical Care (GVFMC) and the Mandatory Social Health Insurance (MSHI) system face such refusal. In most cases, the reason is an error in the database (data were not entered in time), or failure to make contributions to the MSHI by the employer.

Citizen R. addressed to the representative of the Ombudsman in Turkestan region with a complaint about the laboratory, which refused to provide services to him. In accordance with the joint execution contract, the doctor issued the applicant a referral to the laboratory, but when he applied, he was denied examination.

As a result of an inspection by the NJSC "Social Health Insurance Fund" for Turkestan Region", it was found that the doctor had entered incomplete and poor-quality data into the Integrated Medical Information System. By order of the head of the central district hospital, the general practitioner received a reprimand, and the nurse received a warning.

In 2023, parents of children with cystic fibrosis from **Shymkent city and Turkestan region** took an active position. Cystic fibrosis is a chronic hereditary pathology affecting external secretion glands, respiratory and digestive system functions. The disease requires lifelong supportive therapy and the use of expensive medicines. In their appeal parents asked to take measures to include the necessary drugs, such as "Fluimucil" and "Oxystar", in the list of guaranteed volume of free medical care (GVFMC).

Article 78 of the Code of the RoK "On People's Health and Health Care System" guarantees the right of every child to use **up-to-date and effective** services of the health care system and means of treating diseases and restoring health.

Provision of medicines and medical devices within the framework of outpatient drug provision is carried out according to the List of medicines and medical devices for free and (or) preferential outpatient provision of certain categories of citizens of the RoK with certain diseases (conditions), approved by the order of the Ministry of Health.²² In this case, in accordance with Article 12 of the Code of the RoK "On the health of the people and the health care system" local representative bodies of regions, cities of republican significance and the capital decide on **additional provision of the guaranteed volume of free medical care**, including medicines, specialized therapeutic products, medical devices, to certain categories of citizens in outpatient treatment.

As a result of work of NCHR representative offices in Shymkent city and Turkestan region on organization of meetings of stakeholders and authorized bodies,

²² Order of the Minister of Health of the Republic of Kazakhstan from August 5, 2021 № KR DSM - 75// <https://adilet.zan.kz/rus/docs/V2100023885>.

as well as due to the initiative of parents the addition of these drugs was approved by maslikhats - the corresponding changes were made in December 2023 to the list of free medicines, special therapeutic products and medical devices to certain categories of citizens during outpatient treatment.²³

Thus, in 2023, citizens were mainly concerned about the quality of medical services. Their unsatisfactory quality can lead to a wide range of consequences - from disagreement with the prescribed treatment to health damage, sometimes irreversible.

International treaties and national legislation enshrine the right of citizens to quality medical care. Medical services must be safe, effective, timely and fair - this is a standard that must be strictly observed. Our work to promote the quality of medical services and ensure the right to health will continue in 2024.

²³ Decision of the Turkestan Regional Maslikhat of April 21, 2021, No. 5/48-VII “On additional provision of free medicines, specialized therapeutic products and medical devices to certain categories of citizens during outpatient treatment // <https://adilet.zan.kz/rus/docs/V21U0006176#z0>
Decision of Shymkent City Maslikhat of December 15, 2020, No. 72/675-6c “On additional provision of guaranteed volume of free medical care, including medicines, specialized therapeutic products, medical devices, to certain categories of citizens of Shymkent city during outpatient treatment free of charge” // <https://adilet.zan.kz/rus/docs/V20E0000151#z0>.

3.2 Right to social security



Everyone, as a member of society, has the right to social security.

Universal Declaration of Human Rights,
Article 22

Key data for 2023

153

Citizens' communications on social security received and considered

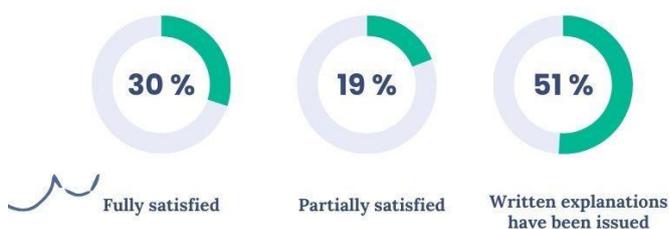
38%

On receipt and payment of social benefits and allowances

583,3k

Recipients of targeted social assistance

Outcome of complaints process



Our initiatives



Regulation of the use of pension benefits and benefits by medical and social institutions (organizations)

As a fundamental human right, social security is an effective institution in the fight against discrimination and an essential tool for reducing poverty and promoting social cohesion.

Two of the UN Sustainable Development Goals are aimed at achieving well-being for all:

SDG 1 “End poverty in all forms and everywhere” aims to increase the resilience of the poor and vulnerable by 2030 and reduce their vulnerability and insecurity to climate change-induced extremes and other economic, social and environmental shocks and disasters.

SDG 10 “Reduce inequalities within and between countries” sets a target for States to progressively achieve and sustain above-average income growth for the poorest 40 percent of the population by 2030. As part of the Goal, States should adopt appropriate policies, especially fiscal policies, on wages and social protection, progressively achieving greater equality.

Social Security includes the **right to access and retain benefits without discrimination** to provide protection against:

- 1) lack of work-related income due to illness, disability, pregnancy and childbirth, work injury, unemployment, old age, or death of a family member;
- 2) lack of access to health care;
- 3) inadequate family support, particularly for children and dependent adults.²⁴

The Office of the UN High Commissioner for Human Rights believes that the right to social security must meet the following criteria:

Availability: there must be a social security system in place that exercises effective control over the distribution and disbursement of benefits.

²⁴ On the right to social security and human rights // <https://www.ohchr.org/ru/social-security/about-right-social-security-and-human-rights>.

Adequacy: benefits, whether in cash or in kind, must be sufficient in amount and duration to realize the rights to protection and support of the family, to an adequate standard of living and to access to health services.

Affordability: the costs and expenses of contributing to the social security system must be affordable and not jeopardize the enjoyment of other rights under the ICESCR.

Physical accessibility: all persons should be covered by social security, especially the disadvantaged and marginalized, without discrimination. Benefits must also be physically accessible.²⁵

As of November 1, 2023, targeted social assistance has been assigned to **583,300 people** from 111,200 families.²⁶ The figures signal that 583,000 people are disadvantaged and in need of protection and material support from the state.

In order to comprehensively ensure the interests and protect the rights of vulnerable groups of the population, the **Social Code of the Republic of Kazakhstan** was developed and from July 1, 2023, **came into force** which is a landmark event for the social sphere of our state. Now all issues of social support, including persons with disabilities, are regulated in one act.

Among the main novelties of the Code is the **Digital Family Card (DFC)**, which is formed on the basis of modern information systems and allows receiving social services in a proactive format. The DFC combines information on Kazakhstani families obtained from various state databases. The card gives an idea of income level, availability of movable and immovable property, loans, and family composition. Based on this information, government agencies themselves can offer various measures of state support to vulnerable families.

Thanks to the implementation of the DFC, since January 1, 2023, more than 795 thousand people have received SMS for proactive provision of public services. **More than 313 thousand people** used the opportunity to receive allowances or payments without an application.²⁷

In June 2023, the **Methodology for determining the social well-being of a family (person)**,²⁸ developed by the MLSPP of the RoK jointly with UNDP in Kazakhstan, was adopted. The Methodology was developed in accordance with the Social Code and is used to form and segment families by their level of social well-being through the DFC. The introduction of the Methodology raised concerns among citizens. First, the concerns were related to the protection of personal data - to what extent the information about the family's disadvantage, its ranking by the level of social well-being will remain private. In response to the concerned comments of citizens, the MLSPP of the RoK informed about the collection and processing of data only with the

²⁵ OHCHR and the right to social security// <https://www.ohchr.org/ru/social-security>.

²⁶ More than 583 thousand people received targeted social assistance as of November 1, 2023 // <https://www.gov.kz/memleket/entities/enbek/press/news/details/655677?lang=ru>.

²⁷ More than 313 thousand people received public services through the Digital Family Card in 2023 // <https://www.gov.kz/memleket/entities/enbek/press/news/details/665673?lang=ru>.

²⁸ Order of the Deputy Prime Minister - Minister of Labor and Social Protection of the Republic of Kazakhstan from June 29, 2023 № 26 // <https://adilet.zan.kz/rus/docs/V2300032923>.

consent of citizens themselves.²⁹ Moreover, the CCS works with depersonalized data in encrypted form, i.e. each family (person) is assigned a randomized code, and it is impossible to determine to which family or person this or that data refers.

Another important event was the establishment of the institution of the Ombudsman for the Rights of Socially Vulnerable Populations under the President of the Republic of Kazakhstan.³⁰ We believe that thanks to this, the system of protection of the rights of such citizens has received another effective tool.

In 2023, **153** appeals on social security issues were received, which is **1.5 times more** than in 2022 (Figure 19).

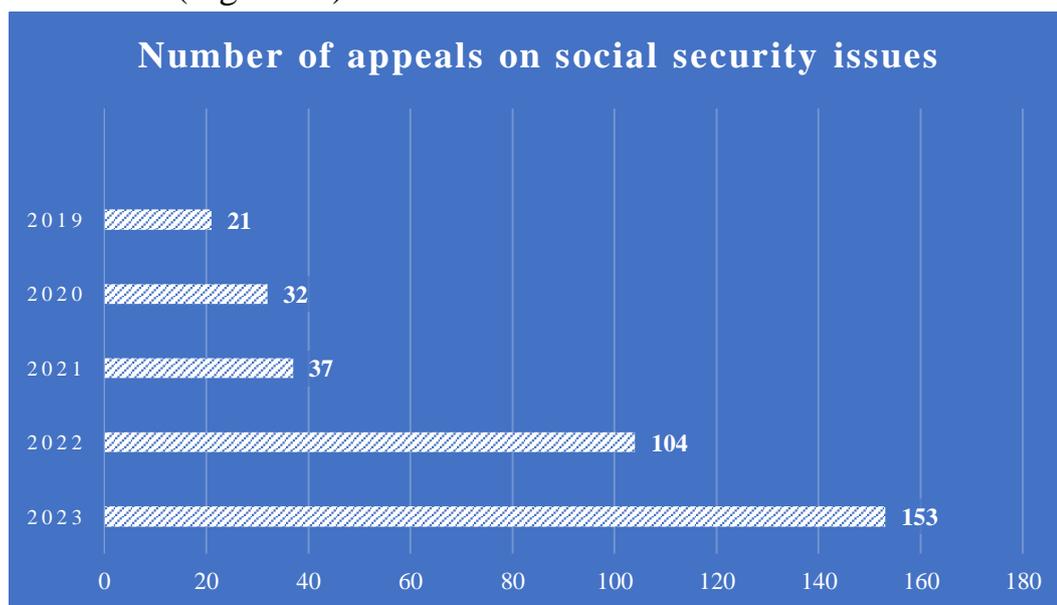


Figure 19

The ratio for social security issues remained unchanged. We believe that the reason for the growth is the increased recognition of regional representative offices - they accounted for **67%** of applications (Figure 20).

²⁹ The level of social well-being of the family: the Minister of Labor responded to the critics of the project// <https://informburo.kz/novosti/uroven-socialnogo-blagopoluciya-semi-ministr-truda-otvetila-kritikam-proekta>
<https://informburo.kz/novosti/uroven-socialnogo-blagopoluciya-semi-ministr-truda-otvetila-kritikam-proekta>.

³⁰ Decree of the President of the Republic of Kazakhstan dated March 28, 2023 № 154 “On the establishment of the institution of the Commissioner for the Rights of Socially Vulnerable Categories of Population under the President of the Republic of Kazakhstan” // <https://adilet.zan.kz/rus/docs/U2300000154>.

Appeals on violation of the rights of persons with disabilities by region

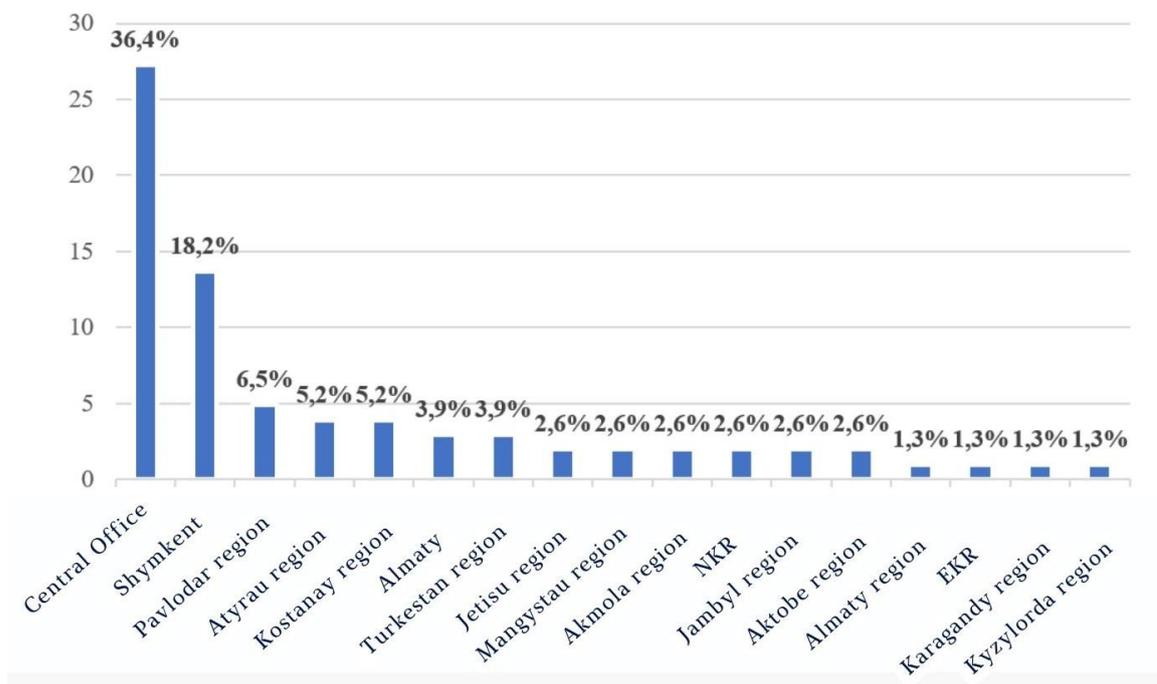


Figure 20

In general, the analysis of responses of authorized bodies shows that in **51% of cases (78 appeals) appeals are not satisfied because citizens do not meet the criteria** for receiving social allowances and special social services. Appeals of citizens in difficult life situations for financial and other assistance are fully satisfied.

Results of consideration of appeals on social security issues

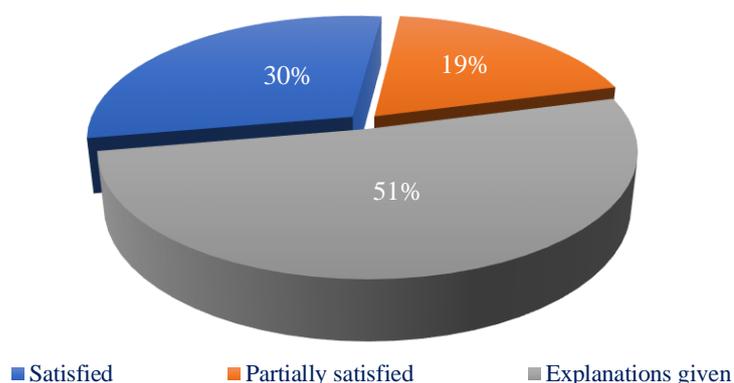


Figure 21

In 2023, claimants were most interested in receiving social payments and allowances (Figure 22).

Content of appeals on social security issues

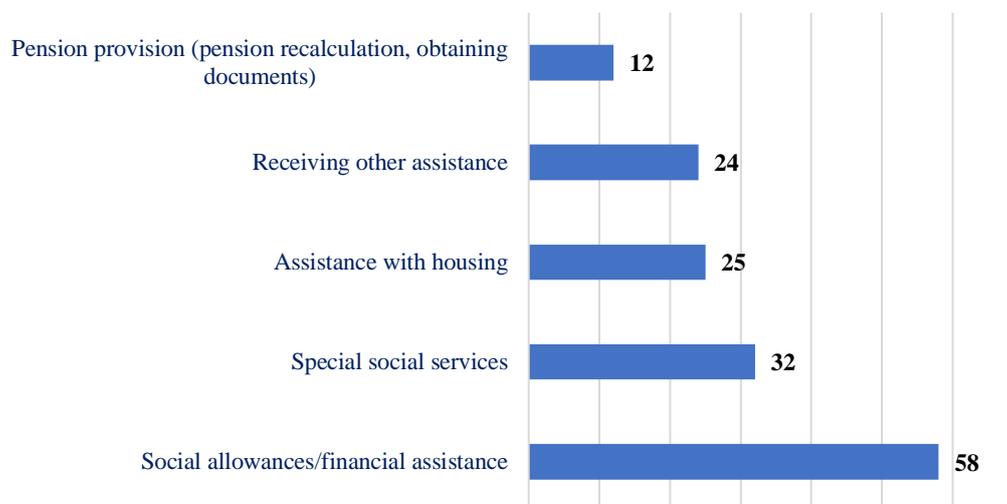


Figure 22

Compared to previous years, the **share of appeals from families with many children and mothers of many children** about the assignment of targeted social assistance (TSA) and allowances, as well as receiving benefits, **has noticeably decreased**. We believe that here we can see the effect of the introduction of the **Digital Family Card**, which works proactively.

Four categories of citizens applied with requests for payment of social allowances, explanation of the procedure of their provision, disagreement with the refusal to receive them: orphans, women in connection with the birth of a child, pensioners and persons suffering from socially significant diseases.

The requests for social allowances for loss of income in connection with pregnancy and childbirth and the adoption of a newborn child or children were positively resolved. In other cases, it was found that the **claimant did not meet the criteria for the granting of social allowances**.

A quarter of appeals on appointment of social allowances were made up of requests of citizens from North-Kazakhstan region, who are kept in places of deprivation of liberty and have socially significant disease (HIV). According to Article 160 of the Code of the RoK “On the Health of the People and the Health Care System”³¹ HIV-infected persons are **guaranteed social and legal protection** by the state.

According to the Law of the RoK “On Local State Government and Self-government in the RoK”, the competence of maslikhats of a district (city of regional significance), city of republican significance, capital city includes approval of rules of social assistance, **establishment of amounts and determination of the list of certain categories of citizens in need**.

³¹ Code of the Republic of Kazakhstan dated July 7, 2020 No. 360-VI // <https://adilet.zan.kz/rus/docs/K2000000360>.

Paragraph 9 of the Model Rules for Provision of Social Assistance, Setting the Amounts and Determining the List of Certain Categories of Citizens in Need,³² establishes the list of categories of recipients, limits on the amount of social assistance, and terms of appeal at the onset of a difficult life situation are established by local executive bodies (LEAs) and approved by decisions of local representative bodies.



Thus, the practice of assigning payments in the regions may differ. Previously, local rules (in particular, in Aiyirtau district of the North Kazakhstan region) provided for social assistance to all HIV-infected people, except those on full state support.³³ According to the responses, in North-Kazakhstan oblast MIOs refused to help persons with HIV due to their being on full state support (in penitentiary institutions). At the same time, in November 2023, the Rules were amended to establish that social assistance is **not provided to persons in prison**.³⁴

Citizens also sent complaints about suspension of receiving allowances, and access to payments. The results of the inspection revealed that the claimant was held in places of deprivation of liberty. According to subparagraph 6) of paragraph 1 of Article 195 of the Social Code, **the payment of special state allowance is suspended** from the first day of the month following the receipt of information about **criminal punishment in the form of imprisonment served by the recipient of special state allowance**. In this regard, it was explained to claimants who were in places of deprivation of liberty and complained about the cessation of social security benefits that their payment is **resumed from the date of release from the penitentiary system**.

The Social Code provides for the possibility of withholding amounts from pensions (Art. 203) and state allowances for persons with disabilities and social benefits for the loss of the ability to work (Art. 174) by way of enforcement proceedings, but not more than 50 and 25 per cent respectively. On the issue of withholding, citizens living in the Center for Special Social Services in the conditions of the hospital for the elderly and persons with disabilities, who are on full state support, also applied. Withholding of 70% of pension payments in case of residence in an inpatient organization is carried

³² Resolution of the Government of the Republic of Kazakhstan from May 21, 2013 № 504 “On approval of the Standard Rules of social assistance, establishing the size and determining the list of individual categories of citizens in need” // <https://adilet.zan.kz/rus/docs/P1300000504>.

³³ P.10 of the Rules of rendering social assistance, establishing the size and determining the list of separate categories of citizens in need of Ayirtau district of the North-Kazakhstan region, approved by the decision of Ayirtau district maslikhat of the North-Kazakhstan region from November 25, 2020 № 6-47-17 (ceased to be in force) // <https://adilet.zan.kz/rus/docs/V20SC006741#z164>.

³⁴ P.7 of the Rules of rendering social assistance, establishing the size and determining the list of certain categories of citizens in need of Ayirtau district of the North-Kazakhstan region, approved by the decision of Ayirtau district maslikhat of the North-Kazakhstan region from November 20, 2023 № 8-9-2// <https://adilet.zan.kz/rus/docs/V23SC763115#z0>.

out in accordance with Article 202 of the Social Code. The citizens who applied were also given an explanation.

Persons who had the status of orphans inquired about their entitlements. It was found that the claimants **did not meet the age criteria** and an explanation was given.

There were also citizens in difficult life situations who asked for assistance in improving their living conditions and obtaining financial assistance. The onset of a difficult life situation is often associated with temporary disability, when the usual source of income is lost. It is at such times that a person becomes vulnerable and the task of the state is to support him/her.

Pregnant women are in a vulnerable situation, especially in the absence of partner

Citizen N. addressed the Ombudsman in the interests of her grandson, who has a diagnosis of “behavioral difficulties and psycho-speech delay”. N.'s grandson needs to attend correctional centers, but there were no places available there. In this regard, the claimant asked for assistance in placing her grandson in a specialized correctional center.

The Department of Education of Astana issued a referral to a special kindergarten.

In her appeal, the claimant also pointed out the evasion of her grandson's father from paying alimony. A private bailiff issued and sent a levy of execution upon salary to the accounting department at the debtor's place of employment.

support. The Constitution of the RoK guarantees that marriage and family, maternity, paternity and childhood are under the protection of the state (Article 27).

In a number of appeals on special social services, citizens asked for assistance in placement in the centers for special social services (CSSS), transfer to another center or verification of the basis of placement in the CSSS. Requests for placement in CSSS in most cases were not satisfied by the authorized bodies, because the claimants **did not meet the criteria of users of special social services**. For example, in the course of consideration of an appeal it turned out that the claimant had adult able-bodied children. In accordance with subparagraphs 4, 5, paragraph 6 of the Rules for the Activities of Organizations Providing Special Social Services,³⁵ inpatient organizations are intended for persons with disabilities, elderly persons who have reached retirement age, who are not capable of self-care and who, due to their health condition, require special social services in an inpatient setting, and who do not have able-bodied adult children or a spouse. The Marriage and Family Code establishes the obligation of able-bodied adult children to support and care for their disabled parents in need of assistance (Art. 145).³⁶

In cases where claimants met the criteria for receiving special social services, the Ombudsman and his representatives and interested state bodies took measures to provide assistance.

One should keep in mind that citizens who enter the CSSS **lose part of their financial independence**. According to the national legislation, pension payments and

³⁵ Order of the Deputy Prime Minister - Minister of Labor and Social Protection of Population of the Republic of Kazakhstan from June 22, 2023 № 230 “On Approval of the Rules of Activity of Organizations Providing Special Social Services” // <https://adilet.zan.kz/rus/docs/V2300032875#z483>.

³⁶ Code of the Republic of Kazakhstan dated December 26, 2011 № 518-IV // <https://adilet.zan.kz/rus/docs/K1100000518#z1>.

allowances of persons and guardians who live in the CSSS and are under full state support are transferred:

- in the amount of 30% to the current accounts of the persons and guardians;
- in the amount of 70% to a separate bank account or cash control accounts of the CSSS.

In the course of reviewing the appeals and analyzing the national legislation, it was found that the use of pension payments and allowances of persons and guardians is recorded in a journal, the form and requirements for which are **not regulated**.³⁷

The use of pension payments and allowances is carried out according to the decision of a special commission, which reflects the information and needs of the person and the person under guardianship, the purpose of spending. In addition, the LEA prepares a report on the use of pension payments and allowances received, indicating the name, expenditures, receipts and the account balance. Therefore, the form of the register of the use of pension payments and allowances has been simplified and is currently drawn up in an arbitrary manner.

However, we believe that the commission is involved only in the decision-making on the use of pension payments and allowances, while the **actual receipt** of the respective financial benefits by the person and the guardian is **recorded in the journal**. In addition, the report on the use of pension payments and allowances contains only information on the balance of funds in the bank account of the person and the guardian at the beginning of the reporting period, the amount of receipts for the reporting period, which also does not meet the interests of the beneficiaries.

In this regard, the Office of the Ombudsman sent a **letter to the MLSPP of the RoK** with a recommendation to provide in the Rules for the use of retirement and long-service pension payments and state social benefits by the centers for the provision of special social services:

- 1) requirements for the journal design and the possibility of participation of capable persons in the use of pension payments and allowances;
- 2) personal responsibility of the head of the LEA for the use of pension payments and allowances of the guardians;
- 3) possibility of transferring funds to a savings account.

According to the response of the MLSPP, these recommendations have been accepted and will be considered in the framework of improving the legislation.

The right to social security plays a key role in maintaining and protecting human dignity in situations where a person is faced with life circumstances that deprive him or her of the full realization of his or her rights.

Social security is designed to help reduce and alleviate poverty, prevent social exclusion and promote social inclusion. Our team is always ready to assist in restoring

³⁷ Acting order Minister of Health and Social Development of the Republic of Kazakhstan dated February 24, 2016 No. 139 “On approval of the Rules for the use by medical and social institutions (organizations) of pension payments by age, long service and state social benefits for disability and loss of a breadwinner.” Expired // <https://adilet.zan.kz/rus/docs/V1600013533>.

Note The new Rules have a similar problem.

Order of the Minister of Labor and Social Protection of the Population of the Republic of Kazakhstan dated May 25, 2023 No. 174 “On approval of the Rules for the use of pension payments by age, long service and state social benefits by centers for the provision of special social services” // <https://adilet.zan.kz/rus/docs/V2300032596#z254>.

the disturbed life balance, to prove to citizens that their needs and problems are visible and important.



Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Universal Declaration of Human Rights, Article 23

Key data for 2023

288

Complaints of violations of labour rights received and processed

34,9%

Processed with Ombudsman

Outcome of complaints process



Our initiatives



The Ombudsman suggested that, taking into account the nature of the functions performed, the requirements of the State Feldeguer Service of the Republic of Kazakhstan for the state of health of persons to serve in law enforcement agencies in terms of the minimum height for employees

3.3 Labor rights

The right to work is an integral part of human dignity and is critical to the realization of other rights. Everyone should have the opportunity to work in a manner that enables them to lead a dignified life. The right to work not only provides the means for survival, but also contributes to the development and recognition of the individual in society, provided that the type of work was freely chosen or freely consented to.

According to Article 6 of the ICESCR, the right to work is the right of everyone to be able to earn a living by work freely chosen or freely consented to.

The issues that concern citizens and the violations they draw attention to in their appeals are universal and constant. The reason is that, to a large extent, the problems stem from the relationship between workers and employers and the misconduct of the latter. In turn, the state is committed to ensure the protection of the rights and interests of the parties to labor relations at the legislative level, to establish minimum labor guarantees and to exercise state control over compliance with labor legislation.

In 2023, we received **288** appeals on the protection and restoration of labor rights, which is comparable to the figure for 2022 (Figure 23).

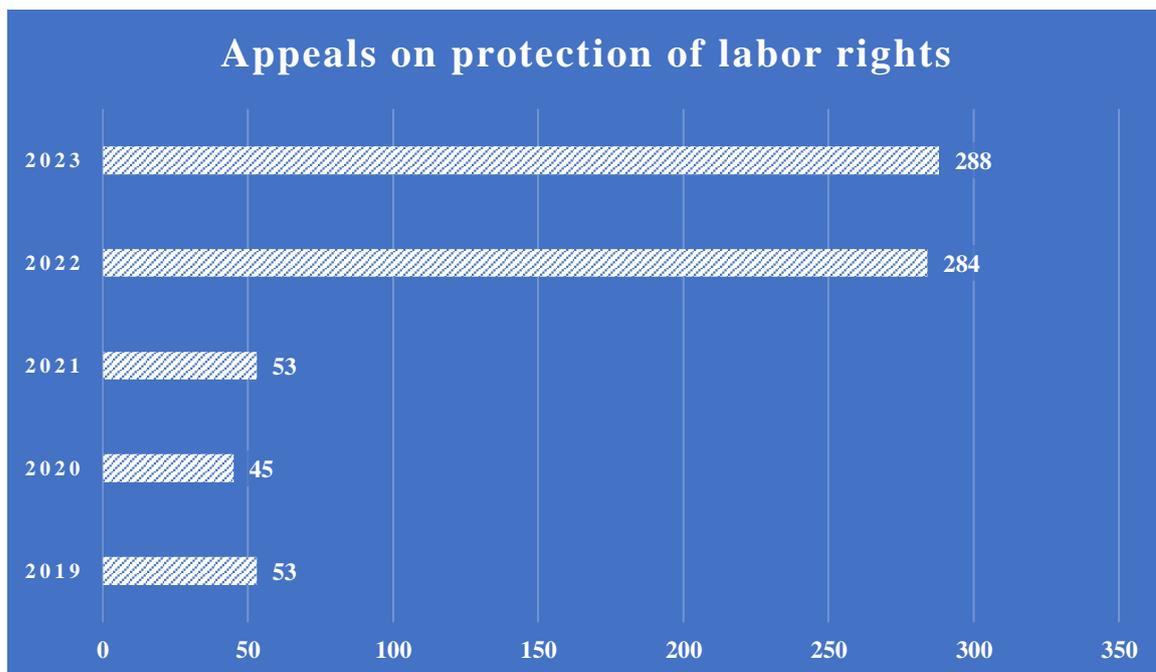


Figure 23

Appeals on violation of labor rights by region

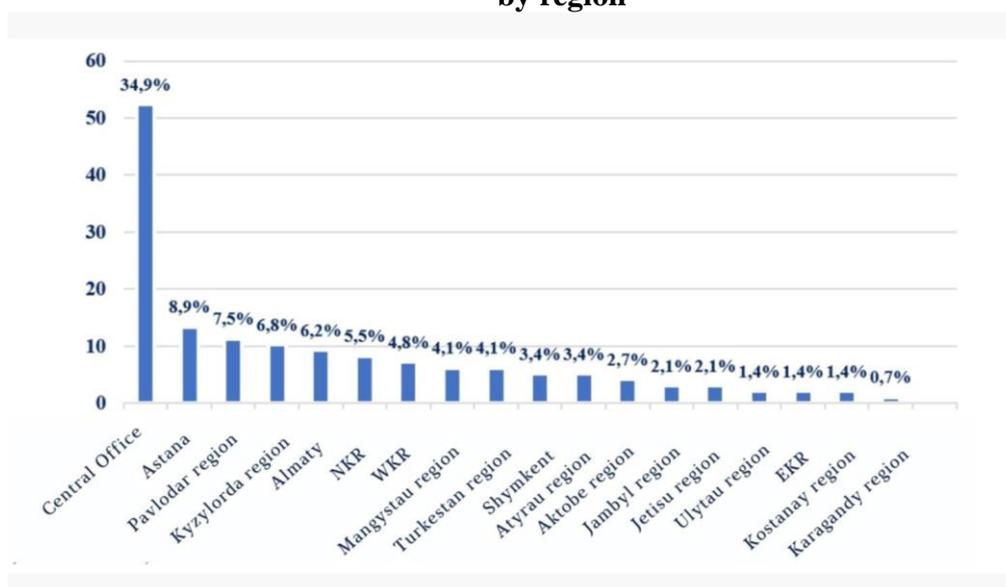


Figure 24

In their appeals citizens referred to violations of labor rights, among which the issue of dismissal traditionally occupies the first place (Figure 26). The complainants disagreed with the dismissal, considering it illegal, and asked for assistance in reinstatement. Illegality, in their opinion, was expressed in violation of the procedure for termination of the labor contract, and lack of grounds for dismissal.

The essence of appeals on the protection of labor rights

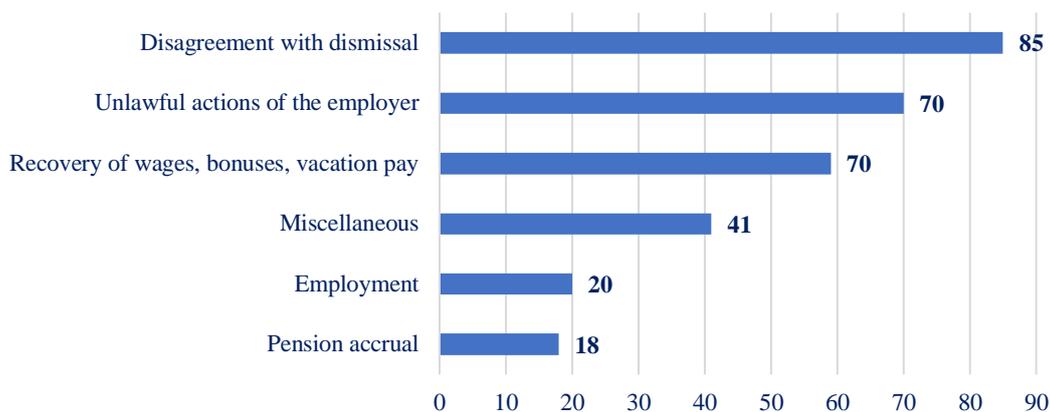


Figure 25

Consideration by state bodies of appeals about disagreement with dismissal did not generally produce the results expected by the complainants.

An inspection by an authorized body showed that there were no violations of labor legislation. It turned out that the employee was dismissed on the grounds stipulated by Art. 52 of the Labor Code of the RoK (“Grounds for termination of the labor contract on the initiative of the employer”).

The dismissal was a consequence of:

- 1) violation by the employee of labor discipline and labor duties;
- 2) layoff of the staff of the organization.

Within the civil service, employees were removed from their positions due to violation of the requirements of the Code of Ethics of civil servants of the Republic of Kazakhstan, failure to pass certification, the presence of outstanding disciplinary penalties, as well as shortcomings that give a negative characteristic of the activity and indicate poor professional training.

Here it is necessary to make a digression and note the following. In **2022**, we wrote that most of the appeals of citizens requesting an inspection of the employer for compliance with labor laws were rejected by labor inspection departments due to the current moratorium on inspections of small and micro-entrepreneurs.³⁸ During 2022, we received complaints about the violation of labor rights by the managers of small and micro-entrepreneurship entities (in terms of hiring them to work without a corresponding employment contract, non-payment of wages, non-accrual of mandatory pension contributions and other payments, etc.), which, however, **were not accepted by labor inspectors for consideration due to the moratorium.**

At the same time, in December 2022, an addition was made to the Decree of the President of the RoK dated December 26, 2019, according to which **unscheduled inspections** conducted in accordance with the Entrepreneurial Code (EC) of the RoK **are excluded** from the moratorium. In accordance with paragraph 4 of Article 144 of

³⁸ Decree of the President of the Republic of Kazakhstan dated December 26, 2019 № 229 “On the introduction of a moratorium on inspections and preventive controls with visits in the Republic of Kazakhstan” // <https://adilet.zan.kz/rus/docs/U1900000229>.

the EC of the RoK, an unscheduled inspection is an inspection appointed by the body of control and supervision to prevent and eliminate an immediate threat to human life and health, the environment, the legitimate interests of individuals and legal entities, the state on the specific facts and circumstances that served as the basis for its appointment in respect of a particular subject of control. According to subparagraph 3, paragraph 5 of Article 144 of the EC of the RoK, one of the grounds for conducting an unscheduled inspection are complaints about violations of the legislation of the Republic of Kazakhstan in the presence of convincing grounds and supporting evidence.

The above changes have affected the procedure of consideration of complaints about violation of labor rights by state bodies. In 2023, state bodies did not refer to the moratorium and ordered unscheduled inspections against employers. Refusals were in cases where the application lacked minimal evidence of non-compliance with labor legislation, as well as complete data on the employer.

In many cases of disagreement with dismissal, there was a court decision or the claim was pending in court. In such cases, the inadmissibility of interference in the administration of justice was explained.

An important point ignored by many complainants is the **consideration of individual labor disputes by conciliation commissions**. According to paragraph 1 of Article 159 of the Labor Code of the RoK, **individual labor disputes are considered by conciliation commissions**, with some exceptions.

Citizen N. appealed to the representative of the Ombudsman in Pavlodar region with a complaint about unjustified dismissal. For 12 years N. worked in a state institution, but in recent years she was subjected to pressure from one of her superiors. As a result, N. was dismissed for what she considered to be unjustified reasons. On the basis of N.'s claim, a meeting of the conciliation commission was held, the conclusion of which recognized the dismissal as unjustified.

In accordance with Articles 159 and 160 of the Labor Code of the RoK, the conciliation commission is obliged to consider the dispute within fifteen working days and issue a decision to the parties within three working days.

If the conciliation commission fails to execute its decision within the term set by it, or if the parties fail to resolve the issues, they have the right to appeal to the court. The decision on reinstatement of an illegally dismissed employee is subject to immediate execution (Article 243 of the Civil Procedural Code of the RoK). At the same time, the employee reinstated to his/her former job is paid wages for the entire period of forced absence or the difference in wages for the time of performing lower-paid work in case of illegal transfer to another job, but not more than for six months (Article 161 of the Labor Code of the RoK).

When considering the appeals, the facts of violation of the procedure of termination of the labor contract by the employer were also revealed.

Citizen A. addressed the Ombudsman with a complaint about illegal dismissal. The Department of Control and Quality of Urban Environment of Astana organized an unscheduled inspection.

The inspection showed that labor contracts with A. and several other employees were terminated by the employer in connection with the layoff of employees. At the same time, according to the collective agreement, the employer is obliged not to terminate the labor contract on the basis of layoff with persons aged 55 years and older and until they reach retirement age. At the time of termination of the labor contract, A. was 59 years old.

Based on the results of the unscheduled inspection, it was found that the procedure for termination of labor contracts with A. had been violated. The Department expressed its readiness to assist A. in resolving the dispute in court.

The second largest group of appeals is complaints about illegal actions of the employer. Citizens reported pressure exerted by the management (including for the purpose of dismissal), rude attitude, overtime work, inadequate working conditions, and unlawful monetary charges.

Unscheduled inspections were carried out by local labor inspection departments. Among the violations identified were ***failure to familiarize the employee with the job description, failure to provide a copy of the order on disciplinary action, and failure to pay overtime.***

Analysis of responses of state bodies showed that **132** appeals of citizens on violation of labor rights were satisfied, **61** were partially satisfied, **95** were explained (Figure 26). As we noted earlier, this level is explained by the presence of a court

The representative of the Ombudsman for Abay region received an appeal from citizen A. about the unlawful actions of his employer in involving him in overtime work and not paying him for it.

In the course of an unscheduled inspection by the Abay Region Control Department, violations of labor legislation were revealed. The analysis of the timesheets submitted for inspection showed that in violation of the requirements of paragraph 1 of Article 68, paragraph 2 of Article 75 of the Labor Code of the Republic of Kazakhstan employer within the accounting period did not comply with the average established norm of weekly working hours. Also, in violation of the requirements of Article 108 of the Labor Code of the RoK, for accounting periods of labor activity A. overtime work was not paid at an increased rate (not less than one and a half times the daily (hourly) rate).

Based on the results of the inspection, the organization was issued a directive to eliminate the identified violations and additional payment for overtime work with the accrual of penalties.

decision (or the case was pending before the court) or non-confirmation of violations during the inspection.

Results of consideration of appeals on protection of labor rights

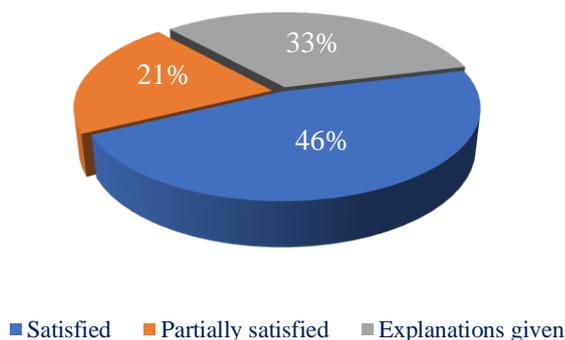


Figure 26

The highest percentage of positively considered appeals is observed among applications about non-payment of wages, vacation pay, non-accrual of compulsory

Citizen M. addressed the Ombudsman with a complaint about the violation of his labor rights by his former employer in terms of payment of wage arrears and compensation for unused labor leave.

The Office of the Ombudsman sent a corresponding request to the Department of Labor Inspection in Turkestan region. Based on M.'s appeal, a state labor inspector conducted an unscheduled inspection of the LLP. The inspection revealed violations of the requirements of p. 2 and 3 of Art. 113 (wages were not paid), subpar. 16) p. 2 of Art. 23 and p. 3 of Art. 94 (annual paid vacation was not provided, compensation for unused days of vacation was not paid), p. 1 of Art. 56 (M. on his own initiative wrote a statement on termination of the employment contract, but until now the employment contract with him has not been terminated) of the Labor Code of the Republic of Kazakhstan. According to the results of the inspection, the LLP was issued a directive to eliminate violations, and a protocol on administrative offense was drawn up.

The management of the LLP fulfilled the abovementioned instruction by paying wages and vacation pay to M. and collecting a fine to the state income.

payments.

In accordance with subpar. 5) paragraph 2 of Article 23 of the Labor Code of the Republic of Kazakhstan, the employer is obliged to timely and fully pay to the employee wages and other payments provided by the regulatory legal acts of the Republic of Kazakhstan, labor, collective agreements, and acts of the employer.

In their appeals citizens also expressed claims to the employer about non-payment of remuneration and bonuses. In such cases it was explained that according to subpar. 6) paragraph 1 of Art. 23 of the Labor Code of the Republic of Kazakhstan bonus payment is the right of the employer and is carried out at his discretion.

An integral part of the right to work is the **freedom to choose one's employment**. According to General Comment No. 18 of the UN Committee on Economic, Social and Cultural Rights, the right to work includes “the right of everyone to decide freely whether to accept or choose employment. This implies the absence of any coercion in

connection with the exercise or performance of a particular type of work activity and the right of access to a system of protection guaranteeing every worker access to employment”.³⁹

Prohibition of forced labor is one of the basic principles of labor legislation. Article 7 of the Labor Code of the RoK prohibits forced labor and defines it as any

Citizen T. addressed to the representative of the Ombudsman in Turkestan region with a request to take measures against the person N., who subjected him to forced labor. According to the appeal, N. invited the complainant to work in another village. T., having moved to the new place and having worked for two months, did not receive the payment that was due to him. According to T., N. subsequently subjected him to physical and mental violence, blackmailed him and forced him to work.

The representative of the Ombudsman sent an inquiry to the Police Department of Turkestan region. The district police department recognized T. as a victim, initiated a criminal case under Article 126 of the Criminal Code of the Republic of Kazakhstan (“Illegal deprivation of liberty”), and is currently conducting a pre-trial investigation.

work or service required of any person under the threat of any punishment, for the performance of which this person has not voluntarily offered his/her services.

Citizens' complaints of violation of their right to work serve as a marker for us to identify gaps in labor regulation and law enforcement practice.

In connection with the received complaint about the restriction of the right to access to service in law enforcement agencies based on the growth of the candidate, we analyzed the national legislation from the position of compliance of these restrictions with international requirements and the Constitution of the RoK. In accordance with the competence established by the Code of the RoK “On the health of the people and the health care system”, the Order of the Minister of Internal Affairs approved the Requirements for the state of health of persons to serve in law enforcement agencies and the State Dispatch Service of the Republic of Kazakhstan.⁴⁰

Chapter 19 of the Requirements provides indicators of body mass index.

The International Covenant on Civil and Political Rights also establishes that every citizen should have, without discrimination of any kind and without unreasonable restrictions, the right and opportunity to be admitted under general conditions of equality to civil service in his or her country.⁴¹

The constitutional right of citizens to access to civil service may be restricted only by law and only to the extent necessary to protect the constitutional order.⁴² In accordance with subpara. 2) p. 2 of Art. 6 of the Law of the RoK “On Law Enforcement Service”, in accordance with the conclusion of the military medical commission, a person who has a disease that prevents the performance of official duties cannot be admitted to law enforcement service.

³⁹ General Comment No. 18 of the UN Committee on Economic, Social and Cultural Rights // <https://www.refworld.org/legal/general/cescr/2006/en/32433>.

⁴⁰ Order No. 775 of the Minister of Internal Affairs of the Republic of Kazakhstan dated November 13, 2020 // <https://adilet.zan.kz/rus/docs/V2000021646#z3>.

⁴¹ Article 25 of the International Covenant on Civil and Political Rights.

⁴² Article 39, paragraph 1 of the Constitution of the Republic of Kazakhstan.

We believe that these requirements are **adopted in contradiction to the above-mentioned norms of law** and can be regarded as **discriminatory on the basis of height**. There is no data to substantiate the question of how exactly height affects the efficiency of the performance of the relevant tasks. This leads to the conclusion that such restrictions are not necessary and proportionate and, in violation of Article 26 of the ICCPR, constitute a form of indirect discrimination on physical grounds.

The Ombudsman sent a letter on the inconsistency of the Requirements with the norms of international law and norms of national legislation to the Ministry of Internal Affairs of the Republic of Kazakhstan. The Ministry expressed its agreement with the validity of the comments and considers it **possible and appropriate to exclude the requirements** for height in relation to the employees of internal affairs bodies, occupying at the time of medical examination pay-grade positions.

Summarizing the above, in recent years there has been a positive trend towards greater awareness and legal literacy among the population. If earlier the problem in the sphere of labor relations was ignorance of basic labor rights, today citizens are more thorough in protecting their interests. In the appeals of 2023, there were only a few cases of absence of an employment contract. The greatest ignorance of citizens showed the greatest ignorance on the solution of the dispute in the conciliation commission. In turn, our team provided possible support for the restoration of violated rights - claimants were reinstated at work, due payments were made, employers were held liable for violation of labor legislation. The work to protect and promote the right to work will continue.

3.4 Right to adequate housing



Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Universal Declaration of Human Rights, Article 25

Adequate housing is recognized as part of the right to a decent standard of living in Article 25 of the 1948 Universal Declaration of Human Rights and in Article 11.1 of the 1966 International Covenant on Economic, Social and Cultural Rights.

The right to adequate housing is characterized by the following freedoms:

1) protection against forced evictions and arbitrary destruction and demolition of the home;

(2) the right to be free from arbitrary interference with one's home, private and family life;

3) the right to choose one's residence, to determine where to live and freedom of movement.⁴³

The right to adequate housing is comprehensive and includes: security of tenure; restitution of housing, land and property; equal and non-discriminatory access to adequate housing; and



participation in housing-related decision-making at the national and community levels. In 2023, the Ombudsman received **121** applications, which is almost identical to the figure for 2022 (Figure 27).

⁴³ The right to adequate housing. United Nations Human Settlements Program, 2021 // https://www.ohchr.org/sites/default/files/FS21_rev_1_Housing_ru.pdf.



Figure 27

Complaints on protection of housing rights by region

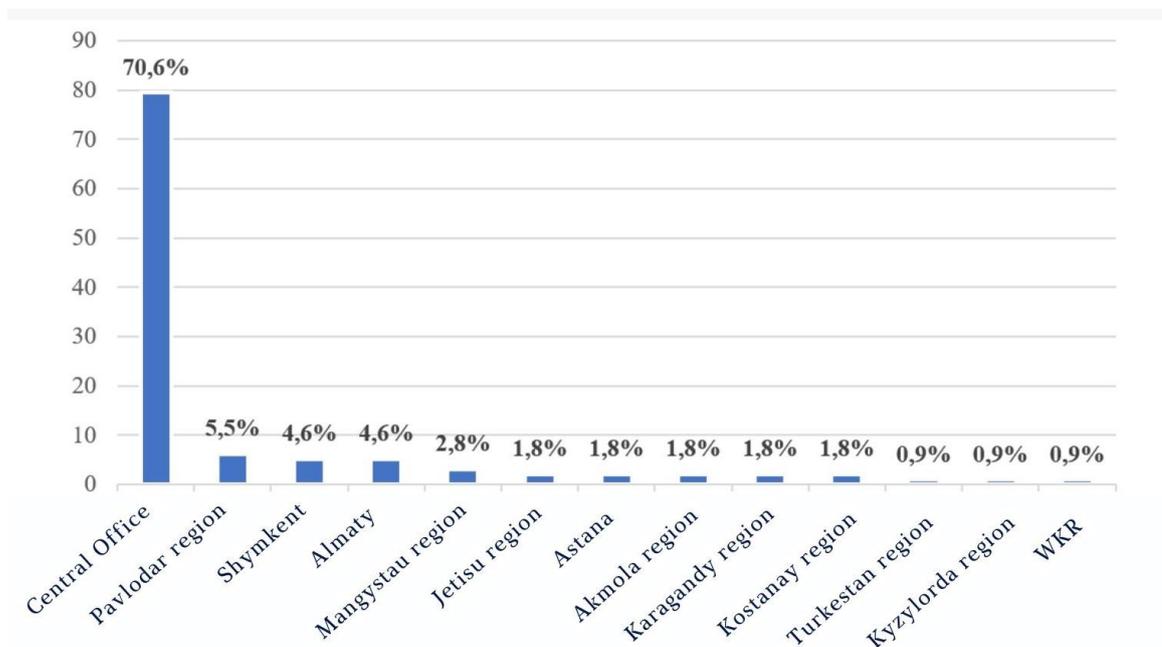


Figure 28

Traditionally, citizens were most concerned about the issue of providing housing from the state housing fund (Figure 29). Applicants have been on the waiting list for years, they have not been able to get housing for more than 10 years, and their housing conditions and life circumstances **have not improved in any way**.

The essence of appeals on protection of housing rights

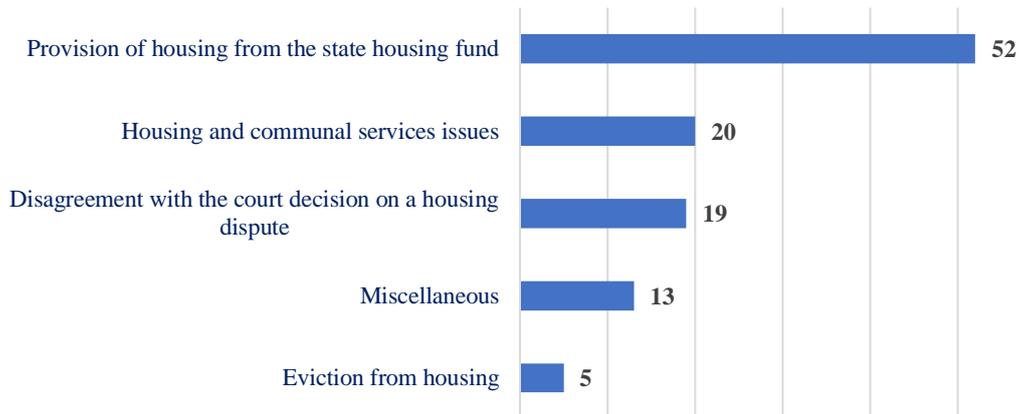


Figure 29

According to official statistics of the Information System “Housing Queue”, as of December 2023, **645,600** people are on the waiting list to receive housing from the state housing fund.⁴⁴

39.3% of those on the waiting list are Socially Vulnerable Populations (SVP), which include veterans; PWDs of groups 1 and 2; families with or raising children with disabilities; old-age pensioners; single-parent families; persons who lost their homes as a result of environmental disasters; and fellow countrymen. Of these, **58.3%** are **single-parent families**, **31.8%** are civil servants, **18.6%** are mothers with many children, and **9.6%** are orphans (Figure 30). **42** Great Patriotic War veterans are still on the waiting list for housing.

Categories of persons on the waiting list for housing from the state housing fund

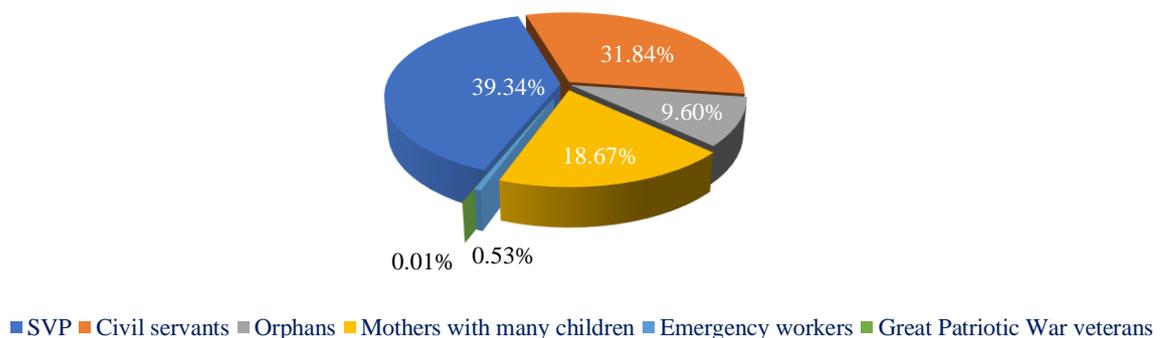


Figure 30

⁴⁴ Rating of Kazakhstan regions by “length” of the housing queue // <https://inbusiness.kz/ru/news/rejting-regionov-kazahstana-po-dline-ocheredi-na-zhile>.

In terms of regions, the top three leaders in the number of waiting lists are: Turkestan region (63,868), Shymkent city (50,816), Almaty city (43,774).

If we take into account the number of people on the waiting list as a ratio to the number of population in the regions (per 100 thousand people), the first place is occupied by the West Kazakhstan region - **4,621.3**, the second place is occupied by Atyrau region - **4,348.2** and the third place is occupied by Zhetisu region - **4,339** (Tab. 3).

Table 3

No	Region	Population	No of people in line	Per 100,000 people
1.	West-Kazakhstan region	693 249	32 037	4 621,3
2.	Atyrau region	704 078	30 615	4 348,2
3.	Zhetisu region	697 998	30 286	4 339,0
4.	Kyzylorda Region	841 831	35 813	4 254,2
5.	Shymkent city	1 222 055	50 953	4 169,5
6.	North-Kazakhstan region	530 124	20 923	3 946,8
7.	Aktobe region	939 400	36 208	3 854,4
8.	Zhambyl Region	1 222 597	42 631	3 486,9
9.	Pavlodar region	753 957	26 273	3 484,7
10.	Kostanay region	829 998	26 926	3 244,1
11.	Mangistau region	786 917	25 227	3 205,8
12.	East Kazakhstan region	727 071	23 272	3 200,8
13.	Abay region	607 556	19 351	3 185,1
14.	Turkestan region	2 142 005	63 992	2 987,5
15.	Akmola region	788 012	23 294	2 956,0
16.	Karaganda region	1 135 411	33 144	2 919,1
17.	Ulytau region	221 592	6 411	2 893,2
18.	Astana city	1 430 136	40 848	2 856,2
19.	Almaty region	1 531 044	39 744	2 595,9
20.	Almaty city	2 228 515	43 763	1 963,8

Things are relatively better in Almaty, Almaty region, and Astana, despite the high number of people on waiting lists.

Adopted in 2022, the Concept of Housing and Communal Infrastructure Development for 2023-2029⁴⁵ recognized that the implemented measures to provide those in need of housing (in accordance with the requirements of the Law of the RoK “On Housing Relations”) **do not have a significant impact on reducing the waiting list** due to the inconsistency of the status of registered citizens with the established criteria. In this regard, the priority task of the LEA will be to conduct an assessment of the list headcount.

According to the Ministry of Industry and Construction, in order to optimize the queue for housing, 233 thousand people will be excluded from the queue. The Ministry

⁴⁵ Decree of the Government of the Republic of Kazakhstan dated September 23, 2022 № 736 “On approval of the Concept of development of housing and communal infrastructure for 2023 - 2029” // <https://adilet.zan.kz/rus/docs/P2200000736>.

of Industry and Construction of the Republic of Kazakhstan together with the Ministry of Digital Development, Innovation and Aerospace Industry of the Republic of Kazakhstan analyzed the current lists of queue holders for compliance with the requirements of the law, which revealed the following inconsistencies: **96.1 thousand** people on the waiting list **had their own housing** in the last 5 years, 533 people on the waiting list do not have citizenship of the Republic of Kazakhstan, 91.4 thousand people on the waiting list have a place of registration that does not coincide with the region where they are on the waiting list, 29 thousand people have no registration, 15.6 thousand people are deceased.⁴⁶ As of October 2023, akimats have already excluded 10 thousand people from the waiting list.⁴⁷

The concept of development of housing and communal infrastructure for 2023-2029 years also identified a new direction of development for “Otbasy Bank”, which will be transformed into a national institute of development and support with the right of registration and accounting of those in need of housing.

The draft law “On introducing amendments and additions to some legislative acts of the Republic of Kazakhstan on reforming housing policy” was submitted to the Parliament of Kazakhstan, thus, the members of the Majilis at the plenary session of the chamber on November 22 approved it in the first reading.⁴⁸

According to the draft, a housing center will be created on the basis of “Otbasy Bank”, which can register all citizens regardless of affiliation to certain categories. This will allow to apply the principle of one stop shop. Distribution of housing among those in need will be based on the date of registration and income level. It is proposed to increase the requirement for the period of absence of housing up to 10 years for new queue holders.

The analysis of responses of state bodies showed that only **14 appeals** of citizens were satisfied (Figure 31).

⁴⁶ Hundreds of thousands of Kazakhstanis may lose the right to receive preferential housing // <https://inbusiness.kz/ru/last/sotni-tysyach-kazahstancsev-mogut-lishitsya-prava-na-poluchenie-igotnogo-zhilya>.

⁴⁷ More than 230 thousand Kazakhstanis will be excluded from the housing queue // https://tengrinews.kz/kazakhstan_news/230-tyisyach-kazahstantsev-isklyuchat-ocheredi-jile-512126/.

⁴⁸ Majilis approved in the first reading the bill on reforming housing policy // <https://www.parlam.kz/ru/mazhilis/news-details/id50757/1/15>.

Results of consideration of appeals on housing rights

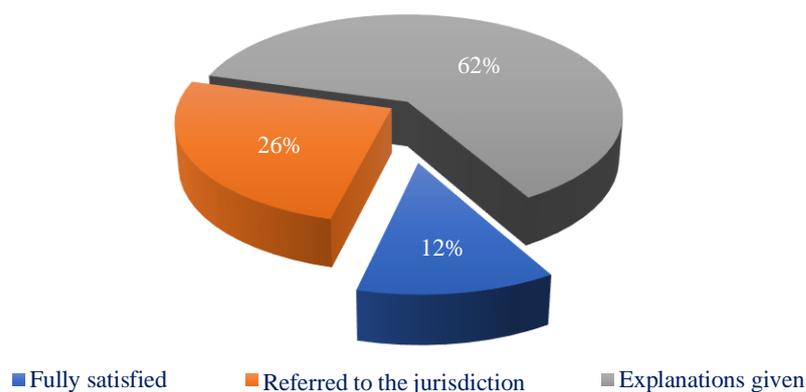


Figure 31

The relatively low level of satisfaction is due to a number of factors:

1. Requests of citizens to move up in the queue were **rejected** by authorized bodies. In response to such requests, the LEA, whose competence includes registration and maintenance of waiting lists, note that in accordance with paragraph 3 of Article 74 of the Law of the RoK “On Housing Relations”, the rights of citizens included in these lists are recognized as equal.⁴⁹

Also, persons who received housing provided as rental housing without the right to buy, with a request to be placed on the waiting list for housing. In such cases, it was explained to the applicants that they were excluded from the waiting list if they received rental housing. In addition, such dwellings cannot be privatized in accordance with the requirements of the Law of the RoK “On Housing Relations”.

Citizens who were former residents of orphanages also asked to be placed on the waiting list. Unfortunately, as the inspection showed, in a number of cases such persons **were not timely registered**. In accordance with paragraph 4 of Article 122 of the Code of the Republic of Kazakhstan “On marriage (matrimony) and family”, the guardians or custodians of persons who are in the relevant educational organizations, medical organizations, organizations of social protection of the population, are the management of these organizations. However, during the inspection it was revealed that the institution was liquidated, and, accordingly, it was impossible to bring the management to responsibility. We believe that such practice should be eradicated, and such cases **should not be repeated**. It is necessary to **strengthen control** over the registration of all orphans and children left without parental care.

Another factor that influenced the placement of children without parental care in the queue is that they started to be registered in need of housing from the state housing fund **in 2009**. Thus, one applicant was not put on the waiting list because he had reached the age of legal majority (19 years 5 months) and was not staying in any of the organizations at the time of the amendments to the housing legislation.

⁴⁹ Law of the RoK “On Housing Relations” dated April 16, 1997, No. 94 // <https://adilet.zan.kz/rus/docs/Z970000094>.

2. **16%** of appeals relate to disagreement with the court decision on housing issues. Part of this group of appeals concerned disagreement with the court decision on eviction. Citizens were explained the procedure for appealing against court acts and were told not to interfere in the court's activities.

Citizen T. applied to the representative office in Shymkent with a request to assist in the repayment of penalties for rented housing. In 2016, the complainant received an apartment from the state housing fund under a lease agreement, the cost of monthly payment of which was 4,792 tenge. Due to the lack of permanent earnings T. could not pay the monthly rent, in connection with which from 20.10.2016 to 26.09.2022 the debt in the amount of 342,087 tenge and penalty in the amount of 367,235 tenge was formed. To date, she covered the amount of debt.

Akimat of Karatau district informs about negotiations with sponsors to solve the issue of repayment of the penalty.

Given that the recipients of housing assistance in the form of rental housing are in most cases vulnerable segments of the population, applications for assistance in paying rent were considered on the basis of the interests of the applicant.

Positive practice of consideration is observed with regard to appeals in the area of housing and utilities, legality of constructions and compliance with construction standards.

The representative of the Ombudsman for Pavlodar region was addressed by citizen K., who was given a house in Kenzhekol settlement in May 2021 under the program of resettlement from south to north "Enbek". K. found gross defects in the house, which he eliminated on his own (replacement of the heating system, insulation of the roof, windows). K. asked for help to eliminate the remaining defects.

*The Prosecutor's Office of Pavlodar region conducted an inspection. The construction department of the city of Pavlodar made **estimates of the cost** of eliminating the defects and **prepared tender documentation** for the current repair.*

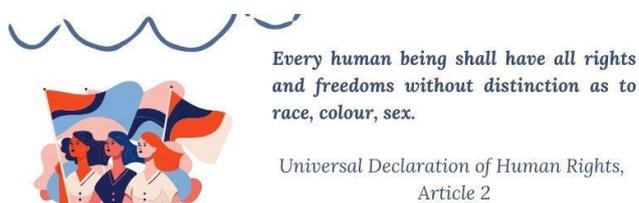
*According to the revealed violations, the city prosecutor's office introduced a supervisory act to the akimat of Pavlodar city, based on the results of consideration of which the guilty officials **were brought to disciplinary responsibility**.*

Thus, citizens' appeals for protection of housing rights in 2023 were centered around the problem of obtaining housing from the state housing fund. Many years of waiting in queues does not contribute to the improvement of the living situation of applicants. For some citizens, being on the list for more than 10 years can be critical. We hope that the assessment of waiting lists will optimize the process of obtaining housing.

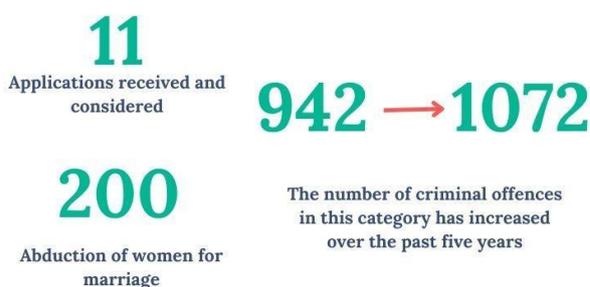
Adequate housing is the basis of stability and security for a person and a family. The State, having undertaken to protect socially vulnerable segments of the population and to guarantee support for a number of categories of citizens, is obliged to ensure the **timely fulfillment of its obligations**.

4. ASSISTANCE IN RESTORING THE RIGHTS OF CERTAIN CATEGORIES OF CITIZENS

4.1 Rights of women



Key data for 2023



Outcome of complaints process



Our initiatives



Draft Law "On Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on the Protection of Equal Rights of the Family, Women and Men» has been developed



The Ombudsman's Office is preparing a special report "on countering domestic violence"

In 2015, Kazakhstan committed to the UN Sustainable Development Goals. **12 out of 17 goals are gender sensitive.** The fifth goal "Ensure gender equality and empowerment of all women and girls" aimed at eliminating all forms of gender-based discrimination and ensuring equal opportunities for girls and women.

Despite the legally enshrined equality of rights between men and women, society still maintains a somewhat condescending attitude towards the needs and desires of women and their right to choose their life path. The maximum denial and leveling of a woman's rights is expressed in an attack on her freedom, physical and mental health, and deprivation of the right to choose.

The practice of abducting girls for the purpose of marriage is still common in our country. According to some data, over the past three years there have been more than 200 such cases in Kazakhstan, of which only two have been prosecuted. The real figures of bride theft can only be guessed at, as stereotypes persist in society that do not allow women to report the use of this type of coercion.

In most cases, young people do not even know about criminal liability. Few people realize that this is a serious crime, a gross violation of human rights to personal inviolability and freedom. Paragraph 1 of Article 16 of the Constitution of the RoK states: "Everyone has the right to personal freedom".

“ During the last three years, over 200 cases of forced sterilization of women have been recorded in Kazakhstan with the aim of reducing the birthrate. ”

The practice of forced marriage is **strongly criticized by the international community, as it does not comply with the spirit of respect for freedoms and human rights**. In July 2019, the UN Human Rights Council adopted resolution A/HRC/RES/41/8 on child, early and forced marriage, expressing concern about widespread impunity and lack of accountability. Eliminating child, early and forced marriage is part of SDG 5, “Ensure gender equality and empowerment of all women and girls”.⁵⁰

In 2023, the Ombudsman proposed an initiative to introduce a separate article 125-1 “Abduction of a person for the purpose of marriage” in the Criminal Code. We believe that the introduction of kidnapping as a separate crime will increase the inadmissibility of its fulfillment in the eyes of society and will have a preventive effect. The proposals of the Ombudsman were sent to the GPO of the RoK, which supported them.

It is important to understand the fundamental difference between the tradition of “**qyz alyp qashu**”,⁵¹ where the girl herself agrees to escape and marriage, and the crime when she is kidnapped and held against her will. We believe that the abduction and deprivation of a woman's freedom, regardless of the goals pursued, should be fully punished of the law.

Girls who are subjected to forced marriage are often subject to violence by their partners in the aftermath. Forced marriages deprive girls of the opportunity to obtain education and professional training, which exacerbates their dependency and vulnerability.

Domestic violence is a disease of Kazakhstani society, affecting and destroying the lives of thousands of women and children year after year. Violence can take various forms - starting with insults and threats and meeting no resistance, it escalates to assaults and beatings. Often victims of domestic violence, faced with aggression for the first time or having been under it for many years, are unable to fight back against the aggressor alone. And it is precisely at this point that society and the state must extend a support hand.

Since the adoption of the Law of the RoK “On the Prevention of Domestic Violence” in 2009, the state continues to seek ways to eradicate the causes of occurrence, recurrence and escalation of cases of domestic violence. The forms of responsibility for aggressors were changed, preventive measures were introduced, and crisis centers for victims were created. Although these decisions had serious reasons for their introduction and positive effects from their application, the statistics on victims of domestic violence shows their insufficiency.

⁵⁰ [Achieve gender equality and empower all women and girls// https://sdgs.un.org/goals/goal5#targets_and_indicators.](https://sdgs.un.org/goals/goal5#targets_and_indicators)

⁵¹ “Qyz alyp qashu” in Kazakh means to run away with the bride or to kidnap the bride.

Over the last 5 years, the number of criminal offenses in this sphere fluctuates between 942 and 1072 crimes per year. The statistics for beatings alone for the first 10 months of 2023 have more than **doubled** from 2020.⁵²

In our opinion, the **current Law on Prevention of Domestic Violence does not meet the requirements of the time in many respects** and contains general provisions that do not have a significant impact on the improvement of the situation. The structure of the Law lacks goals and objectives, and its principles are outdated. The actions of the authorized subjects of prevention are fragmented and formalized in this very issue, effective interagency cooperation has not been formed.

In the Law, prevention is limited to individual measures only, and there is no complete list of its subjects. There is no proper work on psycho-correction of behavior with offenders, which leads to the repetition of cases of aggression.

Domestic violence is a complex problem, which in principle cannot be solved by post-reaction measures. Although each authorized body acts effectively, it does so within the limits of its competence and resources. It is necessary to deepen cooperation, including with the non-governmental sector, and to develop a system of forecasting, analysis and prevention.

The National Commission on Women's Affairs and Family and Demographic Policy under the President of Kazakhstan and the Ombudsman, with the assistance of the scientific community, have drafted a law eliminating legislative gaps, including amendments on the abduction of women for the purpose of marriage. The draft has been sent to the members of the Parliament of the Republic of Kazakhstan.

In 2023, state authorities continued their work on tightening penalties for offenses in the family and domestic sphere, the results of which were amendments to administrative and criminal legislation:

1) the main innovation - as of July 1, **the police switched from the declarative to the revealing nature of registration of domestic offenses**. The earlier declarative principle, when the victim of violence approached the police on his/her own, encouraged impunity of perpetrators. Now, in the case of domestic violence, the testimony of witnesses, neighbors, video surveillance cameras and video recorders is sufficient to draw up a report. The final decision is made by the court;

2) the possibility of repeated reconciliation of the parties has been excluded (Article 64 of the Code of Administrative Offenses of the Republic of Kazakhstan). Previously, half of domestic violence cases were terminated in court for reconciliation;

3) the liability for violation of the protective order has been strengthened by increasing the administrative arrest from 5 to 10 days;

4) Amendments to Articles 106 and 107 of the Criminal Code, related to the infliction of serious and medium serious harm to health, introduced the qualifying feature "Committing an act against a person who is financially or otherwise dependent on the perpetrator". This makes it possible to apply a sanction in the form of arrest to isolate the perpetrator, as well as to strengthen liability. Now the infliction of serious

⁵² Collection of materials of the international scientific-practical conference "Combating domestic violence: problems and solutions". - Astana: National human rights center of Kazakhstan, 2023 - 111p. // <https://www.gov.kz/memleket/entities/ombudsman/documents/details/585554?lang=ru>.

or medium harm to health in the family and domestic sphere entails imprisonment for up to 6 years;

5) Amendments were made to Articles 73, 73-1,73-2 of the Code of Administrative Offenses of the Republic of Kazakhstan in terms of increasing the terms of arrest. In the previous version of the articles, the wording of the terms contained the part “up to...”, which gave judges the opportunity to impose minimum terms of arrest. At present, unlawful acts in the sphere of family and domestic relations are punishable by a warning or arrest for five days, and in the case of repeated unlawful acts - for 10 days. Beatings are punishable by 10 days of arrest, and 20 days if repeated. For causing minor harm to health there is 15 days of arrest, for repeated actions - 25 days.

Since October 2023, a unified state call-center “111” for family, women's and children's rights protection has been working to provide prompt legal, psychological and advisory assistance.

The effect of innovations in the framework of appeals can be seen in the appeals received by the Ombudsman.

In December 2023, a woman systematically subjected to violence by her spouse addressed the Ombudsman. The appeal was sent by the victim's relative, who was concerned about the ongoing aggression in the family, which also affected the children.

*As a result, a preventive interview was held between the complainant and her husband by officers of the local police department and the akimat, during which it was found that the woman had **no complaints or claims** and refused to undergo a forensic medical examination.*

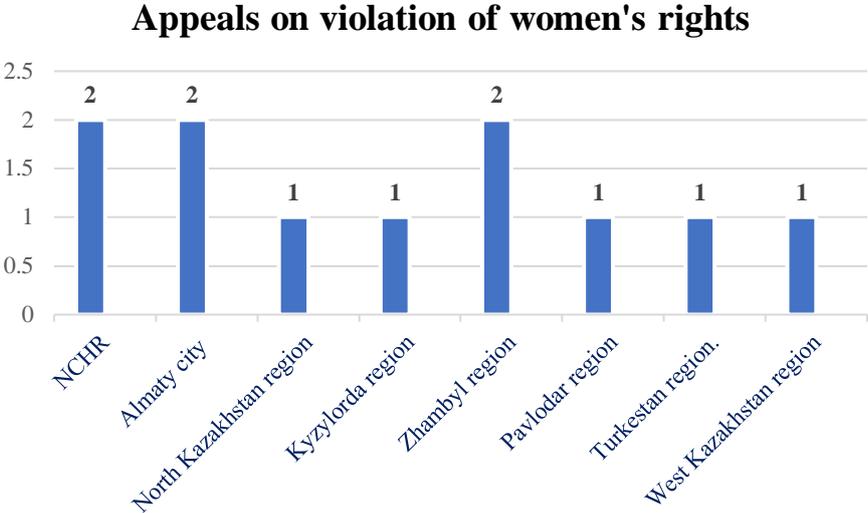
*Since unlawful actions in family and domestic relations are now considered without the application of citizens, the **local police inspector drew up an administrative report** under part 1 of article 73 of the Code of Administrative Offences (unlawful actions in the sphere of family and domestic relations). In order to ensure the complainant's safety, a protective order was issued against her husband for 30 days. The **smoothbore weapon** belonging to him was seized.*

The above-mentioned case demonstrates a fairly common phenomenon when a victim of violence, after several days, retracts her statement. However, the district inspector drew up a report and took appropriate response measures.

In total, in 2023, the Ombudsman received 11 complaints related to domestic violence and conflicts in this area. In terms of regions, the complaints were received

almost evenly (Figure 32). If we scale up to regions, half of the complaints were received from the southern regions (5 out of 11).

Figure 32



The largest share of complaints is related to women's fears of harassment by former spouses and threats from them, including threats to give up their children (Figure 34). Threats of physical violence and persecution undoubtedly have a negative impact on the psycho-emotional state of any person. In the case of a woman, if children live with her, the **level of anxiety increases not only for her own life, but also for the lives of her children**. Thus, within the framework of one of the received appeals, the claim was redirected to the police, and a pre-trial investigation was initiated under Article 115 of the Criminal Code of the Republic of Kazakhstan (Threat).

Content of appeals on the protection of women's rights in the family and domestic sphere

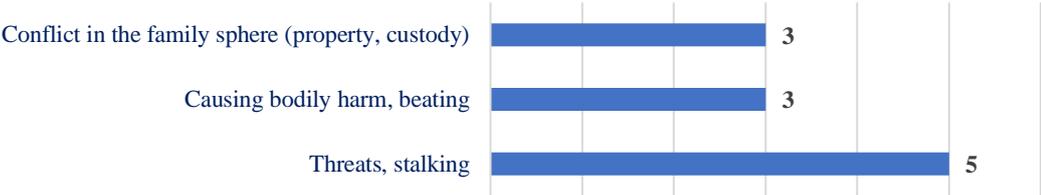


Figure 33

In one of the appeals reviewed, it became clear that the ex-spouse was a persistent deadbeat father. Moreover, the private bailiff, who was obliged to collect the payments due, had not done so. After our inquiry to the Regional Chamber of Private Bailiffs, the work of the bailiff was activated: a levy of execution upon salary was issued and the property was appraised.

The next group of appeals is related to conflicts in the family and domestic sphere for various reasons: property issues, determination of child custody.

One complainant reported that her husband had set her car on fire and that the police authorities had refused to institute criminal proceedings because the car was jointly acquired property. The police authorities had ignored the complainant's concerns about her husband's threats. The representative of the Ombudsman gave explanations and recommendations for the restoration of violated rights. It was proposed to appeal to law enforcement authorities in accordance with Article 115 “Threat” of the Criminal Code and Article 73 “Illegal actions in the sphere of family and domestic relations” of the Code of Administrative Offenses of the Republic of Kazakhstan.

The Ombudsman and his representatives keep a close eye on all cases of domestic violence. For example, a representative of the Ombudsman in **Zhetisu region** personally visited a girl who was attacked by her ex-boyfriend in the workplace. A high-profile case occurred in **Taldykorgan**, when a man burst into the office with a box cutter and attacked a girl and another employee who tried to protect her. The representative of the Ombudsman explained to the victim all aspects of the pre-trial investigation, including those related to giving testimony and behavior during interrogations. They also recommended an experienced specialist from the Zhetisu Regional Bar Association.

It should be noted that **not only spouses, but also close relatives can be parties to conflicts in the family and domestic sphere.**

The representative of the Ombudsman for the West Kazakhstan region was addressed by a woman with a complaint about psychological pressure from her mother, which resulted in painful relations with her relatives. In order to help the woman in a difficult situation, the representative sent a letter about conducting a preventive measure in the municipal public institution “Crisis Center for victims of domestic violence of the Department of Employment and Social Programs”.

Based on the results of the meeting, the complainant was recommended to work with a psychologist from the “Otbasy” center at the crisis center. The psychologist is currently conducting individual consultations with her. The “Otbasy” center included the complainant in the list of recipients of services for further involvement in various workshops and events.

In general, if we evaluate the effectiveness of consideration of appeals, the number of satisfied complaints is **3**, partially satisfied - **4 complaints**. There were appeals on issues that were the subject of a dispute in court or subject to judicial review, and the complainants were given appropriate explanations.

Results of consideration of appeals on violations of women's rights

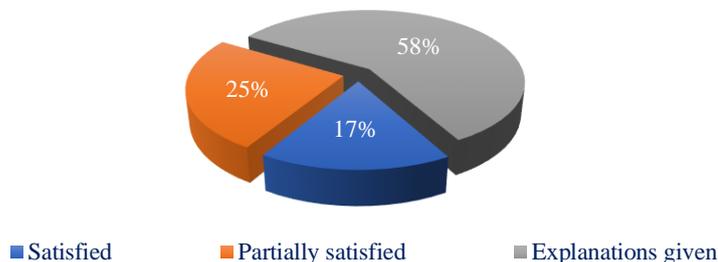


Figure 34

The search for the right way to eradicate domestic violence leads not only to tougher sanctions, but also to the need to analyze the conditions of violence. Undoubtedly, unfavorable **socio-economic factors are fertile ground for the cultivation of aggression in the family**. In the appeals received by the Ombudsman, women often drew attention to the aggressor's lack of employment or alcohol problems.

In order to discuss and solve the problem, on 23-24 November 2023 in Astana, we organized an international scientific-practical conference entitled “Countering domestic violence: problems and solutions”. The event gathered authoritative experts in this field - human rights defenders, ombudsmen from different countries, representatives of international organizations, NGOs, heads of crisis centers, researchers, scientists, deputies, representatives of government agencies and leaders of public opinion.

The main issues on the agenda were the improvement of administrative and criminal legislation aimed at minimizing domestic violence, as well as women's rights and gender equality. A collection of materials was published as a result of the conference.⁵³

Сотрудниками Центра и представителями Уполномоченного в 2023 году

In 2023, the Center's staff and representatives of the Ombudsman published more than 20 articles on combating domestic violence, and regular lectures on human rights, including on the prevention of domestic violence.

The Special Report of the Ombudsman on Combating Domestic Violence has been prepared. It analyzes the national system for preventing and combating domestic violence and highlights gaps in regulation and practice. The report also includes a review of the experience of foreign States with regard to the prevention of domestic violence, rehabilitation and re-socialization; interdepartmental cooperation between prevention entities; and combating offences against the sexual inviolability of minors.

The report **makes conclusions and recommendations** based on the results of the analysis of the crime situation, international standards, national legislation, sociological survey, as well as the conference held on November 23-24, 2023 in

⁵³ Proceedings of the International Scientific and Practical Conference “Combating Domestic Violence: Problems and Solutions” // <https://www.gov.kz/memleket/entities/ombudsman/documents/details/585554?lang=ru>.

Astana. The report is published on our official website and sent to interested government agencies.

The past year has alarmed Kazakhstanis with cases of aggression against women, attacks in public places, brutal beatings and murders, including at the hands of those whom they once trusted. The public outcry, which has turned into a demand for the State to change the existing system of combating domestic violence, demonstrates that we, as a society, are getting closer to achieving zero tolerance for family aggressors. The forthcoming legislative changes in the sphere of combating domestic violence should become **a support for victims and a guarantee of inevitability and timeliness of punishment for aggressors.**

The work of the Ombudsman to protect and promote women's rights will continue in 2024.

4.2 Rights of minors



Humanity has a duty to give the child the best that it has

UN Declaration of the Rights of the Child, 1959

Key data for 2023



Increase in criminal offences against children in Kazakhstan



Debt for alimony 1 billion tenge



Record number of complaints received and considered

Outcome of complaints process



Satisfied and rights of children preserved



Written explanations have been issued



Jurisdictional assignment

Our initiatives



Criminalization of sexual harassment in national legislation of Kazakhstan, including against children



Initiation of a rule for improper execution of a court decision to combat non-payment of maintenance for children

The protection of childhood is the responsibility of a state governed by the rule of law. Every child should feel safe in the family and outside it, in any educational, medical, social, recreational and leisure institution. All authorized State bodies and national human rights mechanisms must take decisive and effective measures when signals of violations of children's rights are received. There **can be no palliatives** in the realization of these tasks.

In 2023, the protection of children's rights was a particular focus of attention of Kazakh society, which led to the natural reflection of relevant legislative initiatives in the next Action Plan in the field of human rights and the rule of law.⁵⁴ According to the Plan, in 2024 the status of regional ombudspersons for children's rights and the consolidation of their efforts with the Ombudsman for Children's Rights will be enshrined in law.

In addition, in the reporting year, Kazakhstan finalized procedures for ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Accession to it will allow children and their representatives to submit individual complaints to the UN Committee on the Rights of the Child, thereby expanding the set of instruments to protect the rights of minors in Kazakhstan.

⁵⁴ Presidential Decree No. 409 of December 8, 2023, on the Plan of Action on Human Rights and the Rule of Law: https://online.zakon.kz/Document/?doc_id=35159574&pos=6;-109#pos=6;-109.

However, the increase in the number of registered criminal offenses against minors in 2023 is worrisome. According to the official information of the Committee on the legal statistics and special accounts of the GPO of the RoK, the number of criminal offenses against minors in Kazakhstan increased by **22%**. A total of **2,452** such offenses were registered in 2023, while in 2022 there were **2,005** such offenses.⁵⁵

The increase in the number of complaints about violations of children's rights also took place in the **work of the office of the Ombudsman**. Such appeals last year were considered not only by the central office, but also by representatives of the Ombudsman, and their increase was **expected**.

While in 2022 there were **79** complaints of violation of children's rights, in 2023 their number increased to **92**. Last year's figures are **the highest** for the five-year period (Figure 35).

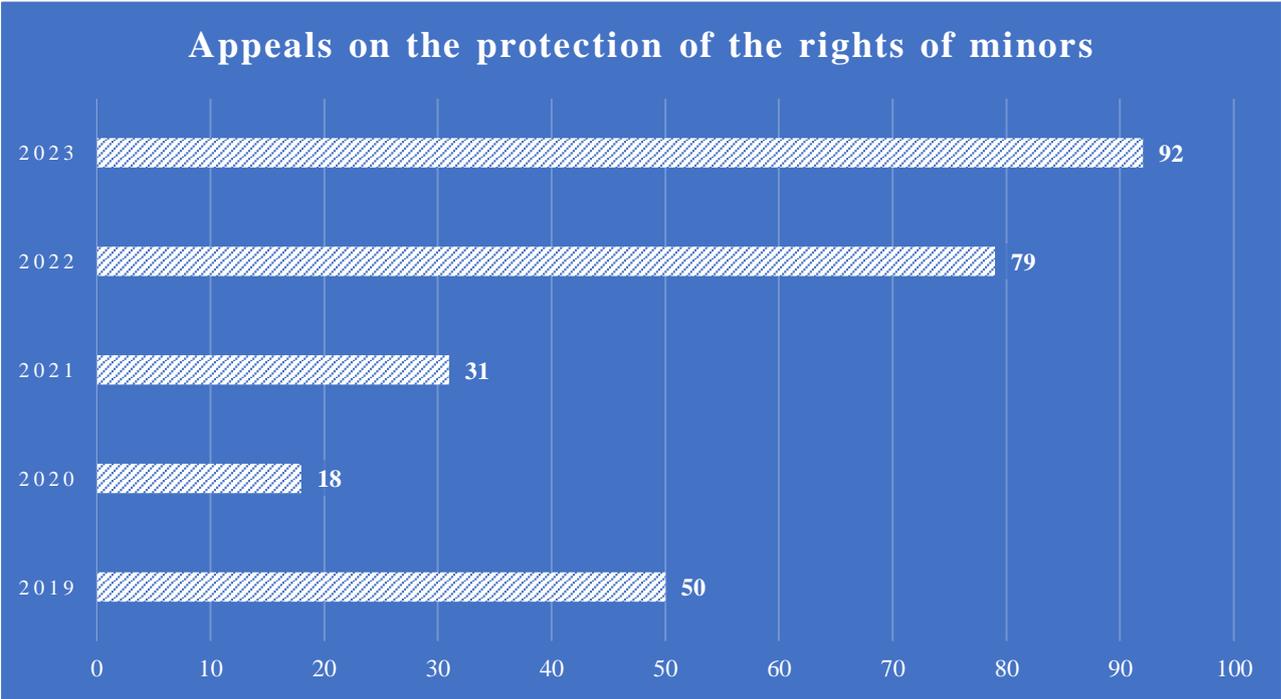


Figure 35

⁵⁵Internet-portal of legal statistics of the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan (CLSCA of the GPO of the RoK): <https://qamqor.gov.kz/crimestat/statistics>.

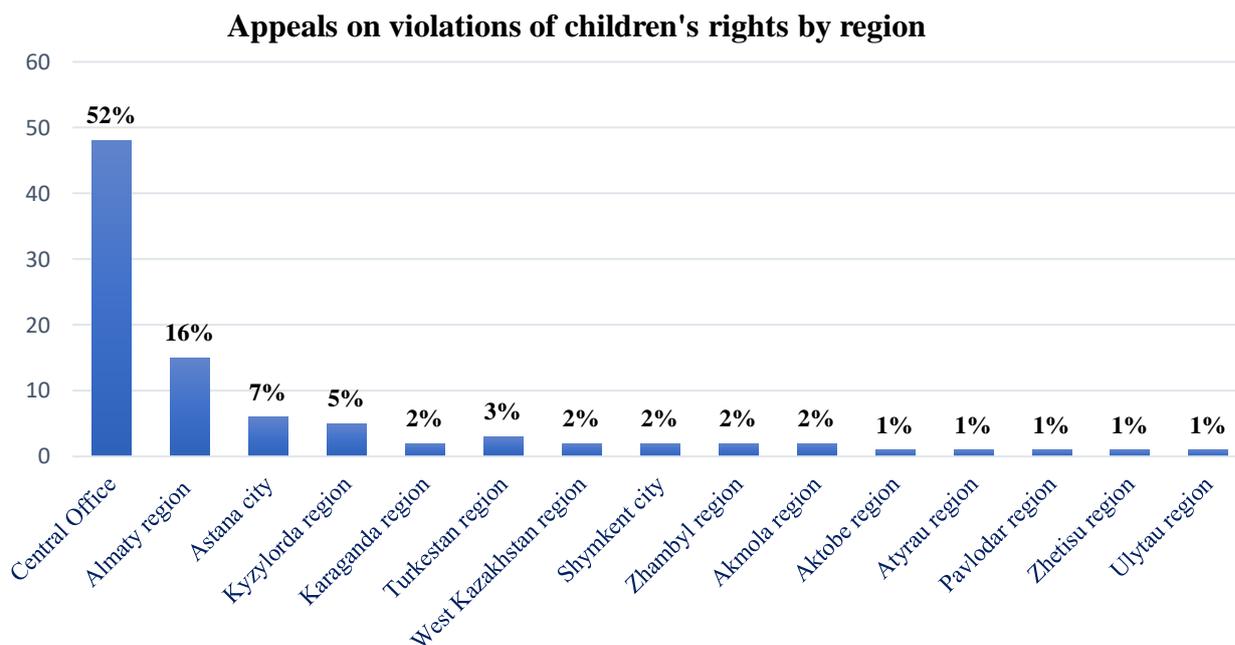


Figure 36

Written and oral explanations were given for the majority of appeals, and in **29 appeals** children's rights were partially or fully restored. If citizens addressed complaints to other human rights mechanisms, including the Ombudsman's Office, work was done to redirect them, with a request to inform about the results of consideration (Figure 37).

Results of consideration of appeals on violations of children's rights

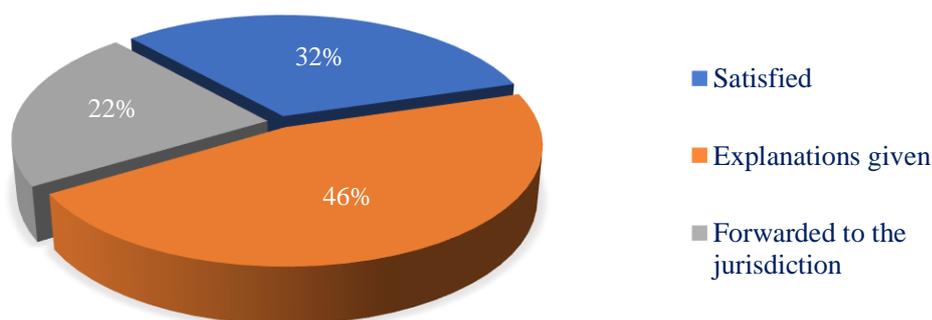


Figure 37

Further, statistics on appeals on the protection of minors' rights will be presented by the **nature of the issues**, as in some cases complainants reported violation of several rights within one complaint (Figure 38).

Contents of appeals on the protection of the rights of minors

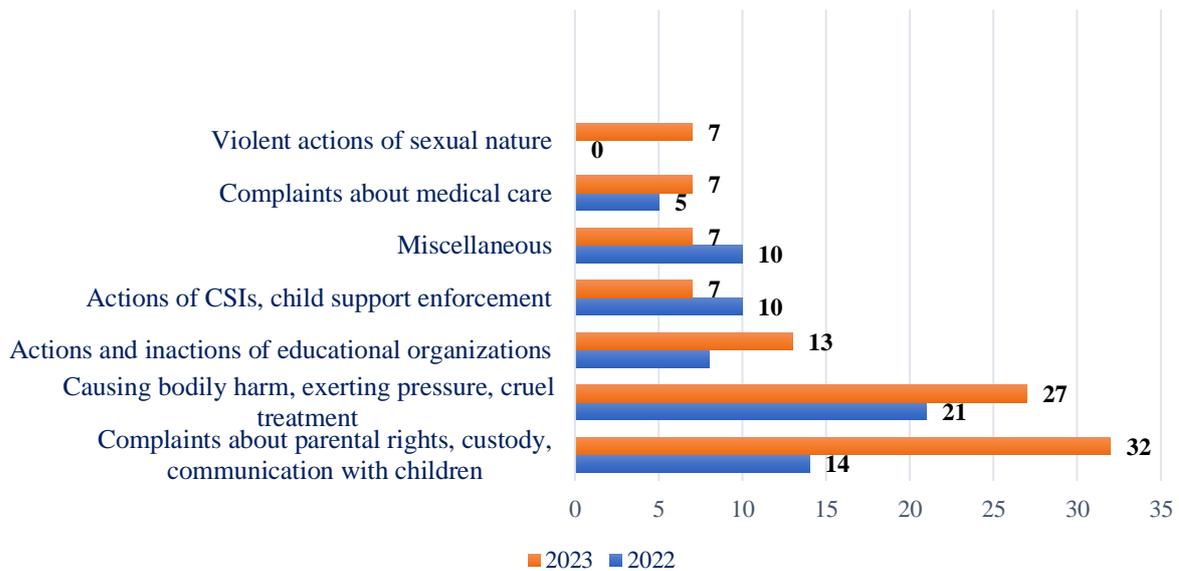


Figure 38

As follows from the above chart, complaints about **custody, realization of parental rights and infliction of bodily harm to children, cruel treatment** are invariably in the lead. In 2023, there were **32** and **27** such complaints respectively.

In the case of appeals concerning **guardianship and the realization of parental rights**, citizens were concerned about the failure of parents to fulfill their obligations to properly care for their children, to determine their place of residence, and to violate the order of communication between children and one of their parents. A special place among them was occupied by statements about the **illegal removal of children by their fathers** outside the Republic of Kazakhstan (5 appeals).

An alarming signal is the increase in 2023 of complaints about **bodily harm to children, cruel treatment, bullying in educational and leisure organizations, as**

The representative of the Ombudsman in Pavlodar region received an appeal from Ms. A.D. in the interests of her minor son, who was beaten by the coach of a soccer team. This issue was under consideration in the court of second instance.

A representative of the Ombudsman in Pavlodar region assisted in obtaining legal assistance and took part in the public hearings of the court. The decision of the court of appeal proved the guilt of the coach K.V. in inflicting bodily injuries on the complainant's son.

As the incident showed the insufficiency of preventive work on observance of official ethics and norms of laws in the treatment of children the representative of the Ombudsman made appropriate

well as by guardians. All necessary measures were taken for each of the received complaints. An **example from Pavlodar region** can be noted as a positive case study.

The subject of citizens' complaints in 2023 were also **actions and inaction of educational organizations** (13 appeals). Citizens reported inappropriate behavior of teachers in schools and educators in preschool organizations, lack of video cameras in nurseries, as well as non-compliance with the requirements for accessibility of

premises for persons with disabilities. As in 2022, the reporting period **showed positive momentum** in the restoration of violated rights of children on such complaints.

For example, two out of three appeals considered by the **representative of the Ombudsman in Turkestan region** were fully satisfied.

*The **representative of the Ombudsman in Turkestan region** received an appeal from Ms. K.P. in the interests of her minor daughter complaining about inappropriate behavior (threats) on the part of the headmaster and psychologists of one of the schools in the region.*

A representative of the Ombudsman sent a request to the Human Development Department in Turkestan province with a request to conduct an inspection.

*As a result of the inspection, the school director was given a **warning**, the class teacher and psychologists **were reprimanded**.*

Compared to the practice of previous years, the number of complaints about the actions of private court bailiffs and alimony payments **has decreased**: if in 2022 this indicator was **10**, in the reporting period there were **7** appeals.

For each of the appeals about bad faith payers of alimony, requests were sent to the authorized bodies to take measures to compel debtors to fulfill their obligations. According to the answers received, such measures as **ban on leaving the Republic of Kazakhstan, restriction of the right to dispose of property, suspension of the right to drive a motor vehicle** were taken against debtors.

Complaints about non-payment of alimony for the support of children are always in the focus of attention of the Ombudsman, as such actions directly affect the quality of life of minors and jeopardize the effective implementation of the concept of “ensuring the best interests of the child”.

According to the GPO of the RoK, as of October 2023, **1,618** persons were wanted for non-support in Kazakhstan.⁵⁶ Arrears of alimony in 2023 amounted to **20 billion tenge**.⁵⁷

In practice, in order to evade execution of court decisions, a person only partially executes them, i.e. pays insignificant funds, thus showing that he/she fulfills the court decision, or takes a job with insignificant earnings, etc.

In order to protect the rights of children, incapacitated parents and relatives, the Ombudsman proposed **to revise** the grounds for imposing punishment under Article 139 of the Criminal Code of the Republic of Kazakhstan (Failure to fulfill obligations to pay support for children, evasion from paying support for incapacitated parents, incapacitated spouse).

In particular, the introduction of liability for **improper execution of a court decision** (partial payment of amounts, formal employment, obtaining a loan, re-registration of property to other persons, etc.) in the form of **community service for up to six hundred hours or restriction or imprisonment** for up to two years has been initiated.

We believe that the introduction of this norm will make it possible to prevent and prosecute perpetrators at the initial stage of committing a crime, without waiting

⁵⁶ How many Kazakhstanis are wanted for non-payment of alimony: <https://www.zakon.kz/obshestvo/6410732-skolko-kazakhstancsev-razyski-vayut-za-neuplatu-alimentov.html>.

⁵⁷ Kazakhstani children are owed 20 billion tenge: https://tengrinews.kz/kazakhstan_news/kazahstanskim-detyam-zadoljali-20-milliardov-tenge-527130/.

for the non-enforcement of a court decision, which will increase the level of protection of the rights of socially vulnerable citizens and children.

In the reporting period, complaints about **inadequate medical care** increased slightly, from **5** to **7** complaints. Thus, citizens addressed the following issues:

- 1) lack of medicines due to the failure to hold a public procurement tender;
- 2) disagreement with the placement of children on a specialized psychiatric register;
- 3) disagreement with the treatment prescribed for children.

Each of the appeals was explained to the complainants, and there are positive cases of solving problematic situations.

The Ombudsman received an appeal from Mr. O.E. about the failure to provide the minor A.J. with the drug “Stiripentol”.

According to SK-Pharmacy LLP, in 2022-2023, the purchase of the drug “Stiripentol” was announced through the web portal of procurement 4 times, but the procurement did not take place due to the lack of offers from suppliers.

According to the submitted data, minor A.J. was provided with the drug in the amount of 420 capsules during 2023, after the request of the NCHR, 60 additional capsules were allocated to her by prescription.

Of particular concern were appeals about the sexual abuse of minors (7 appeals). Citizens reported such actions in educational organizations by students, on the Internet, and expressed disagreement with the termination of cases of corruption of minors, violent acts of a sexual nature committed against children. These complaints were received by the **National Centre for Human Rights and the offices of the Human**

The representative of the Ombudsman in Aktobe region received an appeal of Mr. U.G. on behalf of the minor A.A. about the unjustified termination of the criminal case initiated under part 4 of Article 121 of the Criminal Code of the Republic of Kazakhstan.

The representative of the Ombudsman sent inquiries to the relevant authorities to assist in identifying the circumstances that were the subject of the complaint and verification.

*By the decision of the specialized investigative court of Aktobe city from 25.09.2023 the procedural decision of the investigator to terminate the criminal case **was cancelled**.*

Rights Ombudsman in Almaty and Aktobe regions.

There is a positive trend in the consideration of such complaints. A case from Aktobe region can serve as a positive example.

In 2023, an analysis of foreign practice of liability for sexual harassment of an incapacitated person, including **minors**, was conducted.

Based on the results of the analysis, relevant recommendations on the **criminalization** of sexual harassment were developed and sent to the Ministry of Labor and Social Protection of the Republic of Kazakhstan and the Ministry of Justice of the Republic of Kazakhstan for work within the framework of the revision of the Criminal Code of the Republic of Kazakhstan. According to the information received, the proposals of the Ombudsman will be considered by the Ministry of Justice of the Republic of Kazakhstan within the framework of the prospective direction of improvement of criminal legislation and worked out with the interested state bodies.

MLSPP **supported the initiative of the Ombudsman** and expressed readiness to discuss the draft law. **Work in this direction will be continued.**

The year 2023 marks the 29th anniversary of Kazakhstan's ratification of the UN Convention on the Rights of the Child, a universal international legal instrument for the protection of children's rights. For almost three decades, a tremendous amount of work has been done to create a safe environment for the life and comprehensive development of children in Kazakhstan: dozens of legislative acts have been adopted, specialized national human rights mechanisms have been established, and numerous international conventions have been ratified.

In addition, thanks to the introduction of the institution of representatives of the Ombudsman, we can respond more effectively and promptly to incoming signals of violations of children's rights. However, if the country's news feeds are filled almost daily with reports of new facts of cruel treatment and violence against children, national human rights mechanisms **have no right to stop at what has been achieved.**



Everyone has the right to ensure other conditions for the loss of the means of living due to unemployment, sickness, disability, widowhood, old age or circumstances beyond his control.

Universal Declaration of Human Rights, Article 25

4.3 Rights of persons with disabilities

According to WHO estimates, currently **1.3 billion** people, or **16%** of the world population, suffer from significant disabilities. In turn, Kazakhstan is home to about **719,000** persons with disabilities.⁵⁸

These figures indicate that persons with special needs are a fairly large group of the population, but its voice, unfortunately, does not always break through beyond a narrow circle of the community - the rest of the population is little aware of the problems they face. Persons with disabilities constantly must be reminded of their needs and disabilities by authorized bodies, which, unlike the population, are well aware of their situation. In this regard, our state has set a **policy for the formation of an inclusive society** through the creation of an enabling environment for PWDs within the framework of the social modernization of Kazakhstan until 2030.

State policy in the sphere of ensuring the rights of persons with disabilities is carried out in accordance with the National Plan for Ensuring the Rights and Improving the Quality of Life of Persons with Disabilities in Kazakhstan until 2025.⁵⁹ The National Plan is aimed at realizing the obligations assumed by the country in

Key data for 2023

120

MBA applications received and reviewed

4 times

Increased number of calls in this category

Outcome of complaints process



Our initiatives

- ✓ Audio replacement - (speech) processors for people with hearing impaired with implantable middle ear bone conduction prostheses
- ✓ Removal of the age criterion (retirement age) for individual assistants
- ✓ Provision of technical aids (compensatory) to MBA of retirement age

⁵⁸ On measures of social support for persons with disabilities in Kazakhstan // <https://www.gov.kz/memleket/entities/enbek/press/news/details/631805?lang=ru#:~:text=%D0%92%20%D1%80%D0%B5%D1%81%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA%D0%B5%20%D0%BF%D1%80%D0%BE%D0%B6%D0%B8%D0%B2%D0%B0%D1%8E%D1%82%20%D0%B1%D0%BE%D0%BB%D0%B5%D0%B5%20719,%D0%98%D0%B7%20719%2C3%20%D1%82%D1%8B%D1%81>.

⁵⁹ Resolution of the Government of the Republic of Kazakhstan dated May 28, 2019 No. 326 “On approval of the National Plan to ensure the rights and improve the quality of life of persons with disabilities in the Republic of Kazakhstan until 2025”.

connection with the ratification of the Convention on the Rights of Persons with Disabilities.

We are pleased to welcome the ratification of the **Optional Protocol to the Convention on the Rights of Persons with Disabilities** - this is a big step towards full and quality fulfillment of international obligations.⁶⁰ By doing so, Kazakhstan has ensured the right of PWDs to appeal to this UN treaty body and has undertaken to consider their recommendations and adapt its legislation and policies. We believe that this step will lead to an increase in the level of protection of rights and the creation of conditions for the inclusion of persons with disabilities. It also contributes to the development of new measures and mechanisms to support them. PWDs now have another tool to promote and protect their rights.



Another victory for PWDs is the approval of the National Standard **38-44 “Requirements for Accessibility of Financial Organizations’ Offices for Providing Services to Persons with Disabilities and Other Low Mobility Groups”**. The standard was developed by the Kairat Imanaliyev Commission on the Rights of Persons

with Disabilities, the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market (ARDFM), the Association of Financial Institutions of Kazakhstan, members of the Parliament of the Republic of Kazakhstan and experts on the rights of persons with disabilities.⁶¹ Currently, the ARDFM is introducing legislative amendments to ensure financial accessibility in financial organizations. This is done to define a unified Procedure for the provision of financial services to citizens with low mobility, to expand the line of financial products for them in accordance with the National Standard and to increase the **social responsibility of business**.⁶²

There have also been significant changes at the level of national legislation. With the adoption of the Social Code, the Law of the RK “On Social Protection of Persons with Disabilities in the RK” became invalid. Now the issues of protection of the rights of persons with disabilities are regulated in the Social Code in Chapter 13 “State Support for Persons with Disabilities”.

Among the novelties of the Social Code is the involvement of family members in the provision of services to a person with a disability. Relatives of PWDs will be registered as individual assistants with payment for their labor and social contributions.

⁶⁰ Law of the Republic of Kazakhstan No. 8-VIII of June 7, 2023 “On Ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities”. // <https://adilet.zan.kz/rus/docs/Z2300000008>.

⁶¹ <https://crpd.kz/news/etverzhden-naczionalnyj-standart-trebovaniya-k-dostupnosti-otdelenij-finansovyh-organizacij-po-predostavleniyu-uslug-liczam-s-invalidnostyu-i-drugim-malomobilnym-gruppam-naseleniya/>.

⁶² Regulator introduces legislative amendments to ensure financial accessibility for persons with disabilities // <https://www.zakon.kz/mnenie/6426665-regulyator-vnosit-zakonodatelnye-popravki-po-obespecheniyu-finansovoy-dostupnosti-dlya-lits-s-invalidnostyu.html>.

The novelties also concern the standards of special social services (revision of SSS standards and introduction of new approaches to tariff setting in the sphere of social services) and social workers, increasing the accessibility of SSS.

The full provision of PWDs with the rights and benefits enshrined in national legislation and international instruments is a goal to which our society and state aspire. Nevertheless, PWDs continue to face numerous daily obstacles to equal access to education, medical care, employment and opportunities to develop their creative and sporting talents.

The existence of gaps in regulation and shortcomings in the implementation of legislation is evidenced by the increased number of appeals from PWDs. Compared to the previous year, their number *increased 4 times* (Figure 39).

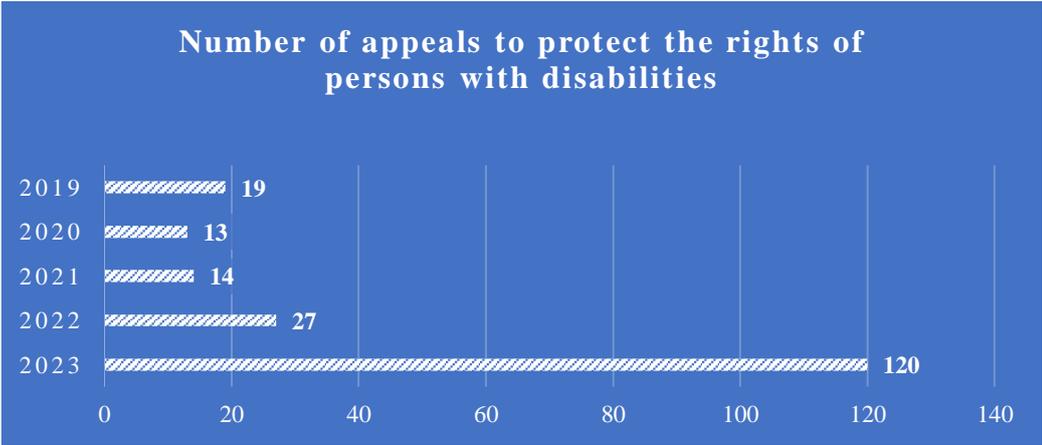


Figure 39

Appeals about violation of rights of persons with disabilities by region, in %

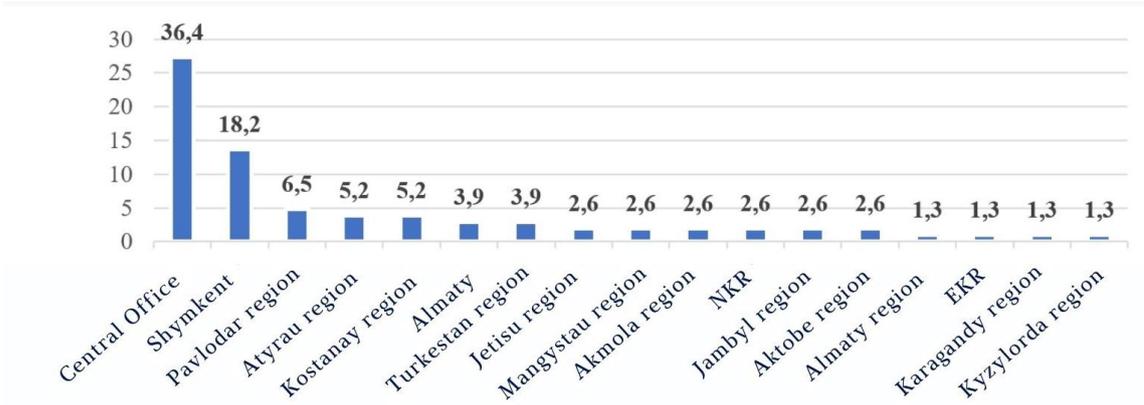


Figure 40

As a rule, authorized bodies promptly respond to the facts of violations. However, in cases of **requests to change** the disability group or receive social benefits, the result of consideration is **less often in favor of the complainant**. In general, the **trend of satisfying requests by PWDs is positive** (Figure 41).

Results of consideration of appeals on violations of the rights of persons with disabilities

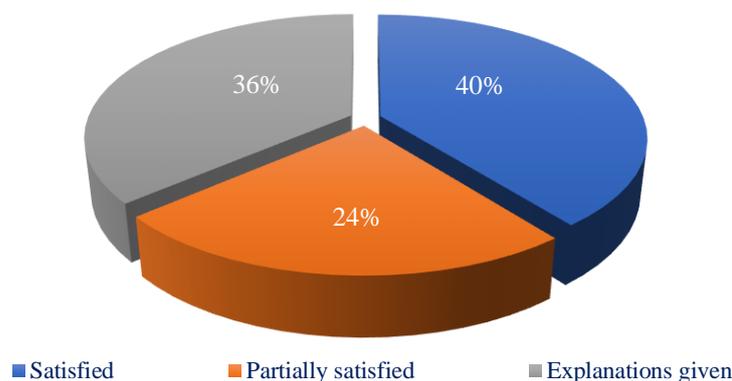


Figure 41

Among the issues of concern to PWDs in 2023, the first place is traditionally occupied by the issue of establishing (changing) the disability group and the degree of loss of ability to work (Figure 42).

The essence of appeals to protect the rights of persons with disabilities

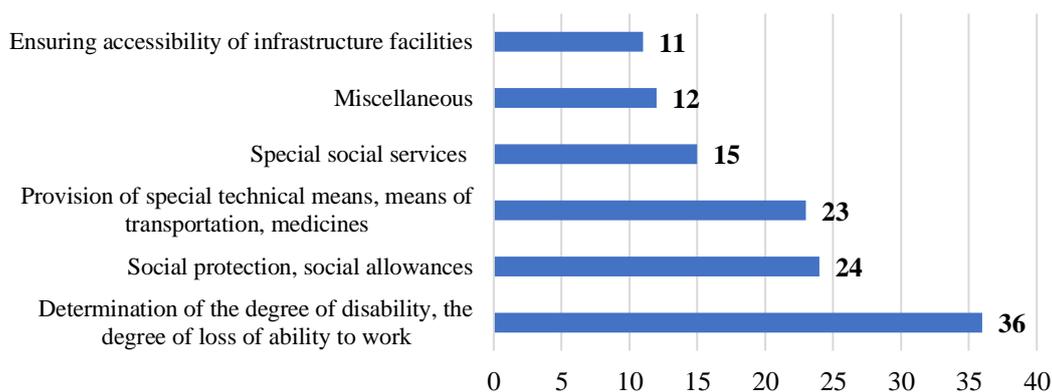


Figure 42

As in previous years, citizens disagreed with the degree of disability assigned and asked for assistance in revising the results of medical and social expert evaluation (MSEE). Re-examinations were conducted at the request of citizens, but the percentage of claimants who were assigned a different disability group was extremely **low**. The re-examination showed that the decision of the medical and social expert assessment department was correct and justified. **Out of 36 requests** to establish (change) the disability group, a **positive decision was made in favor of 9 claimants**. At the same

time, in **2 cases** there were identified shortcomings in the work of the medical institution.

As is known, since 2022 a pilot project on passing medical and social expert assessment in absentee-active format has been launched. Within the framework of requests for re-examination, 5 procedures were held in this format, for 4 of which the disability group was changed. By the end of 2023, more than **76.4 thousand requests**

Citizen A. applied to the representative of the Ombudsman for Aktobe region with a request to assist in obtaining disability. In 2017, A. underwent surgery due to an aneurysm. According to the doctors who operated on her, she was entitled to the 3rd degree of disability, but local district doctors did not take measures.

The local doctor was reprimanded for the shortcomings in the course of dispensary monitoring of the patient.

The representative of the Ombudsman repeatedly held meetings with specialists from the authorized bodies - the regional health department, the Department of Labor and Social Protection, the regional mental health center and the district hospital. As a result, all authorized bodies agreed on the necessity of hospitalization of A. for treatment and assistance in accelerated registration of disability.

from all regions of Kazakhstan were considered, which is **30.4%** of the total number of persons with disabilities who underwent examination.⁶³

A separate group of appeals came from citizens who were denied the award of disability. Analysis of the responses of the authorized bodies showed that the review of **such appeals does not yield any results**. In cases where citizens applied with a request for assistance in obtaining disability for the first time, citizens were given a detailed explanation of the procedure for undergoing the MSEE.

It should be noted that the method of assessing disability, providing benefits and ensuring social protection of citizens with disabilities varies significantly from state to state. To comply with the Convention on the Rights of Persons with Disabilities, disability assessment must **take into account environmental factors** and their impediments to the full and effective participation of PWDs in society.

As noted by the ILO and the International Disability Alliance, disability assessment should consider not only impairments and activity limitations, but also **barriers to interaction with the environment and support needs**.⁶⁴ That is, assessment **should not focus solely on a person's functional limitations**.

World Bank researchers have developed their own classification of disability assessment methods.⁶⁵ They distinguish 3 main approaches:

⁶³ More than 76,000 requests for establishing disability were considered in absentee format for 2023 // <https://www.gov.kz/memleket/entities/enbek/press/news/details/682037?lang=ru>.

⁶⁴ International Labour Organisation, & International Disability Alliance. (2019). Joint statement: Towards inclusive social protection systems supporting the full and effective participation of persons with disabilities. Retrieved from <https://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=55473>.

⁶⁵ Bickenbach et al (June 2015), 'Assessing Disability in Working Age Population A Paradigm Shift: from Impairment and Functional Limitation to the Disability Approach', World Bank // <https://openknowledge.worldbank.org/bitstream/handle/10986/22353/Disability0Ass00Report0June01802015.pdf?sequence=1&isAllowed=y>.

1. The Impairment approach is the closest to the medical and “Barema” method, as the conclusion about the presence and degree of disability is made on the basis of information about the state of health and/or impairments. Among all methods, it is the oldest and still the most frequently used. It is used in New Zealand and Sweden.

2. The Functional Limitation approach complements the first by analyzing the performance of simple activities - lifting, standing, manipulation, hearing, vision and concentration - by the PWD. Its application led to the development of Functional Capacity Evaluation (FCE) tools.

3. Holistic approach (Disability approach): a complete, direct and non-inference-based description of all aspects of a person's life and disability, such as work capacity, including health status, impairments, functional limitations, personal factors and environment. This approach is based on the WHO International Classification of Functioning model of disability, which provides a standardized language and framework for classifying functioning, disability and health. This approach is used in Norway.

In the countries of the European Union, there is a **tendency** to move from a strictly medical format and fixed measurement scales to **methods more oriented to the needs of the person, or social-contextual assessments**.

The second group by the largest number of references was related to social protection and social benefits.

International research shows that people with disabilities are **more at risk of poverty**⁶⁶ due to barriers to employment, education and health care, as well as disability-related costs⁶⁷ and lack of access to support services. It is also widely recognized that social protection is critical to support the inclusion of people with disabilities, as reflected at the global level in the SDGs and Addis Ababa Action Agenda, and at the regional level in initiatives such as the implementation of the UNESCAP Incheon Strategy⁶⁸ and the UN ESCWA report⁶⁹.

In 2023, citizens requested assistance in obtaining disability allowance, financial assistance due to difficult life situation. In general, requests for one-time social assistance were satisfied.

⁶⁶ Banks, L. M., Kuper, H., & Polack, S. (2017). Poverty and disability in low- and middle-income countries: A systematic review. *PLoS ONE*, 12(12), e0189996.

⁶⁷ Mitra, Sophie et al (2017) Extra costs of living with a disability: A review and agenda for research. *Disability and Health Journal*, Volume 10, Issue 4, 475 – 484.

⁶⁸ High-level Intergovernmental Meeting on the Midpoint Review of the Asian and Pacific Decade of Persons with Disabilities, 2013-2022.

⁶⁹ UNESWA (United Nations Economic and Social Commission for Western Asia). 2017. Strengthening Social Protection of Persons with Disabilities in the Framework of the 2030 Agenda.

Also, PWDs applied for assistance in improving their housing conditions. In such

Citizen A. addressed to the representative of the Ombudsman for the East Kazakhstan region in the interests of citizen N., PWD of the 2nd group, who lived in unfavorable conditions. The representative of the Ombudsman together with authorized bodies, akim of the rural district, ambulance of the Central Regional Hospital made a visit to the place of residence of N. The house was in an emergency condition, housing and living conditions were unsatisfactory.

Together with the district akimat, measures were taken to provide N. with financial assistance, to register for housing from the state housing fund, and to provide medical support.

cases, local akimats promised to use sponsor assistance.

Finding themselves in a difficult life situation, persons with disabilities, being the most exposed to social deprivation, are unable to solve accumulated problems on their own. As in the cases described above, sometimes a **cry for help** can come from the outside. Indifferent neighbors, acquaintances address the Ombudsman and ask to help a person in distress. Often such persons are out of the sight of social protection bodies, and therefore their life is more exposed to danger.

The issue that does not lose its relevance from year to year is the accessibility of infrastructure and leisure facilities. Citizens point out that buildings and facilities do not meet the requirements and standards of accessibility for immobile groups. We are

. Citizen N. appealed to the representative of the Ombudsman for Pavlodar Region in the interests of her neighbor B., a PWD of group 2. The neighbors were concerned about B.'s behavior, who lived in unfavorable conditions. The complainant asked to consider the possibility of examination for incapacity, to establish the second group of disability, to appoint a guardian or to place B. in a social institution.

The Department of Employment and Social Programs of Pavlodar city and social workers helped in restoring documents (pension certificate, disability certificate, bank card, electronic digital signature), payment of debts on utility bills, registration of benefits. Assistance was provided in purchasing furniture, food, medicines, clothes and shoes.

The Department of Employment and Social Programs of Pavlodar City prepared a lawsuit to the Pavlodar City Court to determine B.'s legal capacity and guardianship.

glad to note that **all these comments are accepted by the state authorities** - inspection visits are carried out, instructions are given to the administration of buildings and institutions, and measures are taken to correct the situation. When addressing the lack of a ramp and a defective elevator for PWDs, work was done to repair the electric elevator; if there were no road conditions for the passage of ambulance and invataxi transport the local akimat repaired the road; if there were no external and internal ramps, a prescription was issued with a requirement to eliminate the identified violations, and the legal entity was brought to administrative responsibility under paragraph 1 of Article 83 of the Code of Administrative Offenses of the Republic of Kazakhstan.

An important means of ensuring the mobility of PWDs is invataxi. Today they operate in cities and regional centers. The services of invataxi can be used by persons with disabilities of the first group; persons with mobility difficulties; persons who are

entitled to an individual assistant or a wheelchair. Nevertheless, in practice there are

Citizen A., a disabled person of group 1, appealed to the representative of the Ombudsman for Atyrau region with a complaint about the failure to provide an invataxi.

*Thanks to the prompt intervention of the NCHR, an invataxi was provided 2 days after the appeal. The complainant **expressed her gratitude for the quick resolution** of the problem to the NCHR employee.*

cases when such services were not provided.

In 2023, PWDs actively applied for the provision of technical auxiliary (compensatory) aids and special means of mobility, rehabilitation and habilitation.

A well-established system of providing PWDs with technical aids (compensatory means) and special means of transportation **plays a crucial role in ensuring the inclusion of PWDs in the life of society**. Without the necessary aids, PWDs lose contact with the outside world.

Article 26(1) of the Convention on the Rights of Persons with Disabilities establishes that States Parties shall take effective and appropriate measures, including with the support of other persons with disabilities, to enable persons with disabilities **to achieve and maintain maximum independence**, full physical, mental, social and vocational capabilities and **full inclusion and participation in all aspects of life**.

In accordance with paragraph 1 of Article 164 of the Social Code of the Republic of Kazakhstan, PWDs are provided with hearing, prosthetic and orthopedic assistance, technical auxiliary (compensatory) devices and special means of movement under an individual program.

Provision of such means, including the terms of their replacement, is carried out in accordance with the procedure established by the authorized state body, through the portal of social services (except for cases provided for in Article 169 of the Code).

Based on the appeals received, we sent **initiative letters** to the MLSPP with proposals to amend the legislation.

1) **On replacement of audio (speech) processors for persons with hearing impairment with implantable bone conduction middle ear hearing prostheses.**

The study of the current legislation has shown that the service of replacement and adjustment of audio (speech) processors for middle ear (bone conduction) implants is not provided for in the legislation.⁷⁰

In our opinion, timely replacement of the audio (speech) processor significantly affects the quality of life of the user, including children. In accordance with Article 5 of the Convention on the Rights of Persons with Disabilities, States Parties shall prohibit any discrimination based on disability and **guarantee equal and effective legal protection to persons with disabilities**. To promote equality and eliminate discrimination, States parties shall take all appropriate steps to **ensure reasonable accommodation**. However, according to the Committee on the Rights of

Persons with Disabilities' General Comment No. 6, a “denial of reasonable accommodation” constitutes discrimination if there is a refusal to make necessary and appropriate modifications and alterations (not imposing a disproportionate or undue burden) that affect the equal enjoyment or exercise of a human right or fundamental freedom.⁷¹

In response to our initiative, the MLSPP responded that it plans to consider the recommendation if a favorable opinion is provided by the MoH. The MoH agreed with the importance of the proposed amendments. According to the data provided, the preliminary number of persons operated by middle ear implantation, bone conduction method amounted to 83 persons, including 46 children under 18 years of age. At the same time, out of the total number, 28 persons were operated during 2020-2023. Taking into account the number of people in need of replacement of audio processors, in order to implement a unified approach and timely provision of this category of population, the MoH was proposed to provide services for replacement of audio processors at the level of local executive bodies (similar to the service for replacement of speech processors for cochlear implants).

The issue is at the discussion stage. We believe that hearing impaired PWDs with implantable bone conduction middle ear hearing prostheses should be provided with equal access to the procedure of replacement of audio (speech) processors.

1) On the requirements for individual assistants.

The institute of individual assistants was introduced in Kazakhstan in 2015 at the suggestion of non-governmental organizations for socialization of persons with disabilities in the society.



⁷⁰ Order of the Minister of Health of the Republic of Kazakhstan from December 21, 2020 № KR DSM-306/2020 “On approval of the rules of providing surdology assistance to the population of the Republic of Kazakhstan” // <https://adilet.zan.kz/rus/docs/V2000021849>.

⁷¹ General Comment No. 6 (2018) on equality and non-discrimination // <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnbHatvuFkZ%2Bt93Y3D%2Baa2qtJucAYDOCLUtyUf%2BfriOZspwnqyqZ6vM98ktKuCPoyUXPuMu4I%2Fg%2F1o3Qyt98oGoW6fAXiVCKzlvX12PIlzP>.

Provision of individual assistant services to such persons is regulated by Article 162 of the Social Code of the Republic of Kazakhstan. Certain requirements are set for assistants, they cannot be a person who has reached retirement age. At the same time, he works under a contract concluded in accordance with the civil legislation, which **does not provide restrictions on age to persons providing any services.**

We believe that the main criterion for a candidate for individual assistant should be the absence of contraindications to the provision of services, for example, for health reasons.

In this regard, it is proposed to revise the requirements for them, in particular, **to exclude the age criterion** (retirement age). This norm will allow persons with a disability of the first group who have mobility difficulties to receive the services of an individual assistant not only from their close relative of retirement age, but also from other persons (including a spouse);

2) Provision of technical auxiliary (compensatory) aids to persons with disabilities of retirement age.

Proposals were sent to include the following persons with disabilities of retirement age in the medical and social indications for the provision of technical auxiliary (compensatory) means:

- with hearing impairment to provide a laptop with a webcam;
- with visual impairment (with visual acuity of the only or better seeing eye with 0-0.08 correction or/and concentric narrowing of the field of vision up to 20 degrees) to be provided with a laptop with screen access software and speech synthesis;
- with visual impairment (with visual acuity of the only or better seeing eye with correction of 0-0.03 or/and concentric narrowing of the field of vision up to 10 degrees) to provide a portable speech synthesized computer with built-in input/output of information in Braille;
- with visual impairment (with visual acuity of the only or better seeing eye with 0-0.03 correction or/and concentric narrowing of the visual field up to 10 degrees) to be provided with a reading machine.

We believe that the proposed measures will promote the inclusion of persons with disabilities of retirement age and ensure their right to social habilitation and rehabilitation.

We encourage everyone to actively share the problems faced by persons with disabilities. The Civil Initiative provides unquestionable support to the work of the Ombudsman in finding problematic and painful points in national legislation and in practice.

Today, the international community has completely shifted from the perception of disability as a medical problem to its perception as an intersectoral problem of interaction of persons with disabilities with the social environment. States have begun to pay more attention to the problem of access to work, education, housing, transportation and other services for people with disabilities.

The appeals received by the Ombudsman in 2023 from persons with disabilities show that medical problems (passing the MSEE) are still the most pressing in Kazakhstan. The introduction of an absentee-active form of passing the ITU has made life much easier for persons with disabilities. In our opinion, the next step in the development of

this institution may be the transition to methods of expertise more focused on the needs of the person, or social-contextual assessments.

There are still problems in the country with meeting the needs of PWDs in the provision of hearing aids, prosthetic and orthopedic assistance, technical auxiliary (compensatory) aids and special means of transportation. The problem of accessibility of social infrastructure facilities in general is being resolved very slowly.

We must take action to create a society without discrimination. International standards and conventions can be of the greatest help in this endeavor. Ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities has placed an even greater responsibility on the state to implement the Convention. We believe that work to comply with international obligations in the field of the rights of PWDs should be continued. We are ready to contribute to achieving the goal of creating an inclusive society.

5. NATIONAL PREVENTIVE MECHANISM

On June 29, 1998, Kazakhstan ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On June 26, 2008, the Optional Protocol to this Convention was ratified.

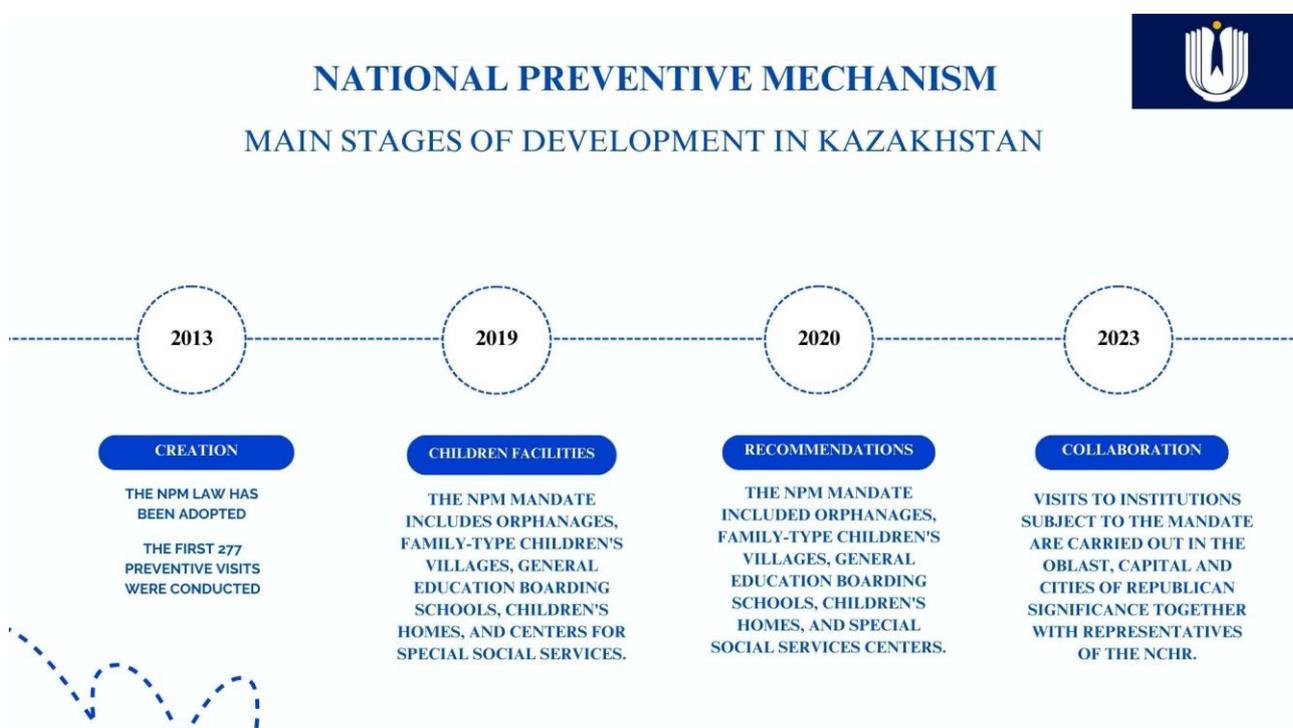
Pursuant to the commitments undertaken by Kazakhstan under the Optional Protocol, on July 2, 2013, the Head of State signed the Law of the Republic of Kazakhstan “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on the Establishment of a National Preventive Mechanism to Prevent Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, which established the National Preventive Mechanism against Torture in Kazakhstan.

In 2023, **10 years** have passed since the adoption of the Law. On its basis, Kazakhstan created an independent tool to prevent torture and ill-treatment, to assess conditions in institutions of concern and to hear the voices of those held there.

Since its establishment, the human rights mechanism has functioned as an **“Ombudsman+” model**, which implies coordination of activities by the Ombudsman together with representatives of NGOs and civil society organizations.

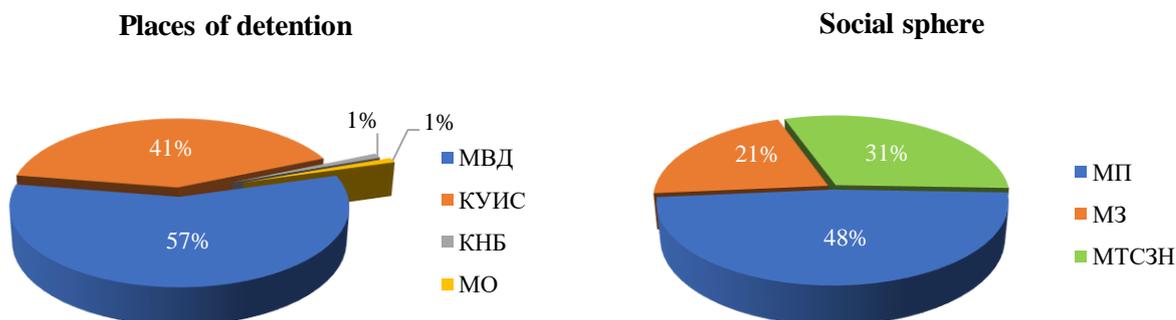
During the first decade of the NPM's existence, under the coordinating role of the Ombudsman, serious work has been done: every 2 years, groups of NPM participants are selected and formed in all regions; more than 5,000 preventive visits have been carried out, which resulted in the collection of complaints and recommendations for the improvement of conditions in 3,434 institutions of concern. The key stages in the development of the NPM institution are shown in Figure 43.

Figure 43



In the reporting year, NPM participants carried out **461** preventive visits (**163** periodic, **259** interim, **33** special, **6** thematic), covering the following institutions:

Рисунок 44



As a result, **3,072** recommendations were sent to the authorized bodies, of which **36.7%** have been implemented, the rest are **in progress**. The highest percentage of implementation of NPM recommendations is observed in **Astana city** (74.4%), **Atyrau region** (50.2%), **North Kazakhstan region** (46.7%), **Kostanay region** (45.6%). In **Shymkent city and Turkestan region**, despite the large number of recommendations sent (**253**), only **79** (31.2%) are implemented, in the **East Kazakhstan region** **70** (31.9%) recommendations out of **219** are satisfied.

The main nature of the recommendations is **as follows**:

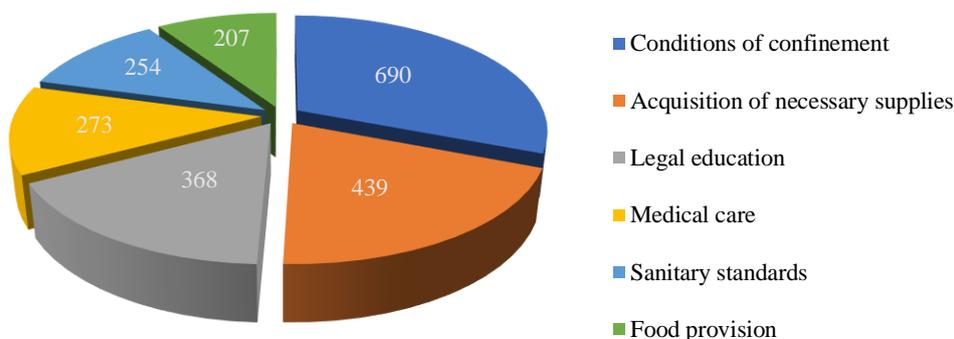


Figure 45

There are cases of obstruction of NPM participants' activities.

For example, on September 27, 2023, NPM participants in Almaty region arrived at the municipal public institution “Center for Special Social Services ‘Sharapat’ (hereinafter referred to as MPI) to conduct a preventive interim visit. However, due to non-admission by the head of the MPI, the preventive visit was not conducted. The NPM participants drew up an act of non-admission, which the head of the MPI refused to sign.

In order to take measures, NPM participants sent an appeal to the Prosecutor's Office of Konaev city. On the repeated appeal of the NPM participants from 01.12.2023, the prosecutor's office received a refusal due to the lack of grounds for

administrative responsibility, because the NPM participants did not present the approved plan of preventive visits to the director of the institution.

Expressing disagreement with the response, the NPM participants filed a complaint with the Prosecutor's Office of Almaty region.

The prosecutor's office of Almaty region supported the prosecutor's office of Konaev city and, referring to the same grounds, refused to satisfy the complaint.

It should be noted that the current legislation does not contain requirements to present an approved plan of planned visits and the document confirming the powers of the NPM participant is the certificate of the NPM participant, issued by the Ombudsman. Upon arrival at the above-mentioned institution, the NPM participants presented valid NPM participant IDs to the administration of the institution, including the director.

Moreover, in accordance with the Rules of preventive visits by groups formed from NPM participants, approved by the Resolution of the Government of the Republic of Kazakhstan of March 26, 2014, the right of the NPM participant and the representative of the Ombudsman to freely choose and visit institutions and organizations subject to preventive visits is enshrined.

At present, this issue has been resolved. After discussions and correspondence, the regional prosecutor's office, agreeing with us, still sent an explanation to state bodies and institutions on compliance with the law when NPM participants conduct preventive visits.

Thus, there is a lack of awareness on the part of employees, management of institutions subject to preventive visits, as well as supervisory bodies. **The concerned state bodies should inform on a regular basis the management and staff of the institutions subject to preventive visits about the activities of the NPM, including the right to unhindered access on the basis of valid identification cards of NPM participants.**

As noted earlier, since the establishment of the NPM, there **have been “chronic” recommendations** sent year after year, addressing systemic problems in penitentiary, health and social care and children's institutions.

In 2023, the following recommendations were prepared by the NPM participants to the authorized state bodies:

The Ministry of Internal Affairs of the Republic of Kazakhstan together with local executive bodies shall provide funding for closed institutions of temporary isolation from society (to meet the needs of persons placed in them, to improve the conditions of their detention and receive quality medical care, to improve the qualifications of staff to counter torture and ill-treatment).

The Penal Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan shall revise approaches to the training of personnel of the penitentiary system, create conditions for vulnerable categories of the population and, first of all, for convicts with disabilities, provide medical care, strengthen control over the quality of accommodation and sanitary and epidemiological supervision.

Local executive bodies should improve the qualifications of the staff of specialized educational institutions, repair buildings and premises, and improve the conditions of detention of minors.

The Ministry of Education of the Republic of Kazakhstan should take control over the implementation of recommendations on the protection of children's rights and interests.

The Ministry of Health of the Republic of Kazakhstan and local executive bodies shall carry out major repairs of buildings, organize quality meals, provide conditions for immobile groups, implement full video surveillance, control the conditions of storage of medicines in pharmacies and strict compliance with sanitary norms, provide hospitals with sufficient budget (for major repairs of buildings, rooms, wards, landscaping, equipping such facilities as recreation rooms, increase funding for food, equip exercise yards with fitness and recreation facilities, etc.), improve professional skills in the field of medical, including child (clinical) psychology, to revise treatment protocols for mental health patients with an emphasis on diversity of pharmaceutical care, and to address issues of patient rehabilitation.

These recommendations will be reflected in the annual Consolidated Report of the NPM participants, developed by members of the Coordination Council under the Ombudsman, and will be officially presented to representatives of, among others, the listed state bodies.

We realize that the implementation of such recommendations requires lengthy elaboration and significant budgetary expenditures. In this regard, the Ombudsman has decided to change its approach in dealing with chronic recommendations, which will be initiated on a permanent basis before regional akims and at meetings of consultative and advisory bodies, especially in terms of improving the facilities for children and persons with disabilities.

In the future, **it is planned to develop a special law on NPM**, as the prevention of torture and ill-treatment should be at the forefront of eradicating this phenomenon.

6. LEGAL EDUCATION IN THE AREA OF HUMAN AND CIVIL RIGHTS AND FREEDOMS, INTERACTION WITH GOVERNMENT BODIES, PUBLIC ASSOCIATIONS, EXPERTS AND SPECIALISTS

In accordance with paragraph 1 of Article 10 of the Constitutional Law of the Republic of Kazakhstan “On the Human Rights Ombudsman in the Republic of Kazakhstan”, one of the main directions of its activities is to promote legal education in the field of human rights, participation in the development of educational programs and increasing the level of knowledge of the population of the legislation of the Republic of Kazakhstan, the most important international acts in this area.

In order to popularize the activities of the Ombudsman's Institute and outreach work, a **large-scale campaign** was carried out last year in all regions, including appearances on TV, publications in print media, regional media sites and social networks.

As a result, **196** legal education and awareness-raising events were held, reaching **16,512** people.

Representatives of the OHCHR participated in **51** meetings of advisory and supervisory bodies.

November 23-24, 2023

As noted earlier, the International Scientific and Practical Conference “Countering Domestic Violence: Problems and Solutions” was organized in Astana.

The forum gathered reputable experts - human rights defenders, ombudsmen from different countries, representatives of international organizations, NGOs, heads of crisis centers, researchers, scientists, deputies, representatives of government agencies and leaders of public opinion.

The main issues on the agenda: improvement of administrative and criminal legislation aimed at minimizing domestic violence, as well as ensuring women's rights and gender equality.

The Ombudsman stressed in his welcoming address to the participants that the conference was an event preceding the start of the International Action “**16 Days without Violence**”, and reported on the analysis of the situation, generalization of available data and initiatives of the civil sector and government agencies.

Deputy Chairperson of the National Commission on Women's Affairs and Family and Demographic Policy under the President of the Republic of Kazakhstan E. Tarasenko noted the adoption of measures aimed at improving the prevention of domestic violence under the instructions of the President. Among all categories of criminal offenses, serious crimes are the largest, with **2,583** in 8 years, with an average of **322** per year. The number of especially serious crimes in the sphere of family and



domestic relations is **1,112** for the same period. All statistical indicators show the need for further improvement of legislative and organizational measures related to the prevention of domestic violence, ensuring the safety of women and children and preserving family values.

D. Zakieva, Ombudsman for Children's Rights in the Republic of Kazakhstan, in turn, raised the problems associated with all forms of violence against children and proposed specific measures to address them. In particular, she suggested toughening penalties for crimes against minors, introducing psychological counseling courses for aggressors, and eliminating the possibility of reconciliation of parties to crimes of physical violence and abuse against minors.



It is worth noting that experts voiced a variety of recommendations for further improvement of legislation (Criminal Code of the RoK, CPC of the RoK, CEC of the RoK).

Also, representatives of government agencies, NGOs and crisis centers spoke during the focus groups sessions. Based on the analysis of the activities of crisis centers, services and family support centers, specific proposals were developed to further strengthen their capacity, providing for:

- 1) introduction of a specialized court for protection against discrimination (not only women, but also men, people with disabilities, children);
- 2) introduction of gender expertise for all draft laws;
- 3) introduction of a mandatory lesson on human rights in schools and kindergartens;
- 4) introduction of psycho-correctional programs for abusers, full-fledged rehabilitation programs for victims of violence;
- 5) introduction of courses on positive parenting;
- 6) improving the quality of training of school psychologists through university programs;
- 7) strengthening the preventive work of the foster care service.

On the second day of the international conference the Chairman of the Commission on Human Rights under the President of the Republic of Kazakhstan I. Rogov addressed the audience. According to the speaker, one of the problems of domestic violence in the framework of administrative and criminal legislation is the half-heartedness of the decisions taken when introducing criminal offenses in the Criminal Code. In this regard, it was proposed to transfer all cases of domestic violence considered by the court to the Criminal Code as criminal offenses.

The Resident Representative of the United Nations Development Program in Kazakhstan K. Vaviernia in her speech paid special attention to gender issues. The speaker stressed the importance of avoiding stigmatization of victims of violence and recognition of women as drivers of sustainable development of society.

S. Zhakupova, Minister of Labor and Social Protection of Population of the Republic of Kazakhstan, spoke about the possibilities of the IT solution “Digital Family Card”. This is an information system that accumulates data from various

government agencies, allowing to determine the level of social well-being of citizens and proactively provide them with guaranteed state support. The Minister emphasized that the map should include data on domestic violence.

In turn, the Ambassador of the European Union in Kazakhstan K. Jankauskas raised several issues, including care for victims of violence, who need social, medical and financial assistance. He also called to pay attention to the problem of sexual harassment in educational institutions. As a result of his speech, the speaker proposed to develop educational programs to create in society “zero tolerance” for offenses against women.

At the end of the event, the experts voiced numerous recommendations for further improvement of the Criminal Code of the RoK, CPC of the RoK, CEC of the RoK to increase the effectiveness of countering domestic violence.

December 7-8, 2023

The International Scientific and Practical Conference “**Implementation of international legal norms ensuring human rights into national legislation**” was held in Astana.

The conference was organized by the Human Rights Ombudsman, the Commission on Human Rights under the President of Kazakhstan, the Ministry of Foreign Affairs of Kazakhstan, the International Organization for Migration in Kazakhstan and UNDP and OSCE.

Within the framework of the forum 3 main sessions were held:

- Experience of implementing international human rights standards into national legislation;
- Realization of the right to a fair trial and access to justice;
- Institutional development and strengthening of human rights institutions in the context of the Paris Principles.



The conference brought together members of the Parliament of the Republic of Kazakhstan, representatives of state bodies and international organizations, NGOs, Ombudsmen of Turkic states, opinion leaders and other experts.

The participants of the conference were welcomed by the Ombudsman of the Republic of Kazakhstan. The speaker emphasized that the forum **is held in support of the UN global initiative “Human Rights 75”**.

The Ombudsman noted that the right to a fair trial is one of the fundamental human rights. The degree of protection of human rights and the public's perception of the effectiveness of legal measures in general depends on the compliance of national judicial procedures with international standards and expectations of society.

I. Rogov, Chairman of the Commission on Human Rights under the President of the Republic of Kazakhstan, made a welcoming speech on behalf of the Head of State. It was emphasized that in recent years our country has implemented large-scale transformations, which are entirely based on the values of democracy and the rule of law. As a result of the reforms, the legislative branch of power has been strengthened, the proportional-majority model of the electoral system has been introduced. An important step was the complete abolition of the death penalty. The Constitutional Court has begun its work, to which all citizens can now directly appeal. The powers of the Human Rights Ombudsman of the Republic of Kazakhstan have been significantly expanded, and its representative offices have appeared in the regions.

During the welcoming session the Chairperson of the Constitutional Court of the RoK E. Azimova also gave a speech. She noted the need to consider the interests of society and the individual when supporting any economic and social project.



The second day of the International Conference included a substantive discussion of the problems of realization of social, political, economic and civil human rights in Kazakhstan.

D. Kadirov, Vice Minister of Culture and Information of the Republic of Kazakhstan, welcomed the conference participants and spoke about the need for joint work with the civil sector.

President of the Civil Alliance of Kazakhstan B. Nurgaziyeva also took part in the general discussion. According to the speaker, the anniversary of the Universal Declaration of Human Rights is an opportunity for everyone to remember that human rights are not just values that should be adapted to different cultures and local peculiarities. They are not a political choice. It is a universal commitment and legally binding legal principles.

During the conference, participants discussed upcoming trends and emerging challenges related to human rights in Kazakhstan, which should be reflected in the country's program documents, key achievements, current challenges and obstacles to progress in the protection and promotion of rights.

February 9, 2023

The Ombudsman held a meeting with the Akim of the region, Yermaganbet Bulekbayev, as part of his working visit to Karaganda region. The meeting was attended by the first deputy prosecutor of the region and the heads of the Police Departments, and the Department of Internal Affairs of the region.

The Ombudsman expressed hope for joint and fruitful activities with the head of the region, emphasizing the importance of the institution of the Ombudsman, especially its regional offices in promoting the restoration of violated human rights at the local level.

In his speech, the Ombudsman also emphasized the importance of the issues of fundamental human rights, environmental protection and labor safety in the region, which are of great concern to the population. He called on the akim to draw the attention of specialized bodies to ensure constant control over the implementation of decisions and to actively involve his representative in the processes.

At the end of the meeting there was a productive and constructive exchange of views on the protection of human rights in the region. The Ombudsman expressed readiness for close cooperation with the akimat and relevant bodies on the promotion and protection of human rights.

February 10, 2023

The Ombudsman held a meeting with Irina Kisileva, the Ombudsman for Children's Rights in Karaganda Region, and representatives of non-governmental organizations.

During the meeting, the parties discussed the current state of protection of children's rights and outlined plans for upcoming joint work.

In particular, the Ombudsman welcomed the signing by Kazakhstan of the Optional Protocol to the Convention on the Rights of the Child, which seriously improves the practical effectiveness of the protection of children's rights. He also emphasized the importance of the Comprehensive Plan to protect children from violence, prevent suicide and ensure their rights and well-being for 2023-2025, which is in the process of approval.

The Ombudsman did not ignore the issue of bullying in educational institutions, calling on the Children's Ombudsman and representatives of NGOs together with the representative of the Ombudsman's Office in the region to closely monitor the situation and take the necessary measures to prevent such incidents.

The Ombudsman also touched upon the impact on minors of harmful content on the Internet and social networks, suggesting that they be monitored to identify any harmful content and that the information be passed on to their representative in the region for further action.

February 11, 2023

Within the framework of his working trip to Karaganda region, the Ombudsman held a personal meeting with citizens, providing an opportunity for the residents of the region to receive direct assistance, including consulting support in restoring violated rights. On the very first day, **7 people** used the opportunity, raising a variety of

problems: from disputes over disagreement with judicial acts to issues with access to social services.

An individual and practical approach was applied to each complainant, each argument was thoroughly studied.

During his visit, the Ombudsman visited the penitentiary institution No. 31 in Dolinka settlement, where he personally familiarized himself with the conditions of detention of special contingent and held a meeting with convicted citizens.

Most of the questions concerned the parole of convicts, the normative procedure for organizing and conducting visits. The Ombudsman gave comprehensive explanations to all the questions raised.

April 19, 2023

The Ombudsman during his working visit to Almaty together with his territorial representative held a meeting with the heads of law enforcement agencies of the city.

The Ombudsman spoke about recent constitutional reforms and outlined the role of human rights ombudspersons represented in each region of the country to ensure prompt redress of human rights violations at the local level.

At the end of the event, the Ombudsman, together with representatives of the Prosecutor's Office, the Police Department and the Almaty City Penal Department discussed the human rights agenda in the region and outlined plans for fruitful interaction to promote and protect human rights.

April 19, 2023

During his visit to Almaty, the Ombudsman together with the Children's Ombudsman Aruzhan Sain visited the penitentiary institution #11 of the Penal Department of Almaty, where he personally familiarized himself with the conditions of detention of juvenile convicts and held a conversation with them.

Mainly, the questions concerned the parole of convicts, the regulatory order of organization and conduct of visits.

At the end of the field visit, during the meeting in institution No. 11, the Ombudsman appealed to the heads of departments and institutions of the Almaty City and the Penal Department to cooperate with the regional representative of the Ombudsman on the observance of the protection of the rights and freedoms of minors held in penal institutions.

April 19, 2023

The Ombudsman held a personal meeting with citizens of Almaty, providing an opportunity for residents of the region to receive legal assistance, including counseling support, in the restoration of violated rights.

During the personal meeting of the Ombudsman **6 people** complained and raised a variety of problems: from disputes on disagreement with judicial acts to issues with access to social services.

Citizens noted that the personal meeting organized by the Ombudsman demonstrates his commitment to the priority issues for society in the field of human rights protection and assistance to those in need.

April 21, 2023

The Ombudsman met with NPM participants and representatives of NGOs in Almaty.

The participants of the working meeting talked about the activities and results of the NPM, as well as the problems and challenges faced by NGOs.

The Ombudsman gave explanations on the specifics and methods used by the NPM for the productivity of its work.

At the end of the event, the Ombudsman expressed his full support to the NPM members and NGO representatives, and plans for further cooperation were outlined.

May 3, 2023

On the initiative of the Representative of the Ombudsman for Turkestan region, the regional prosecutor's office together with the regional court held a round table on the observance of the principle of “Presumption of innocence”, with the participation of press services of law enforcement agencies and media representatives of Turkestan region.

At the round table, the representative of the Ombudsman for Turkestan region made a report on the observance of the principle of “Presumption of innocence” in the republic and on the analysis of compliance with international human rights obligations. The head of the department of the regional prosecutor's office K. Toksanbayev and the judge of the judicial board on criminal cases of the regional court B. Baidullayev gave relevant explanations.

May 11, 2023

The representative of the Ombudsman for **Zhambyl region** spoke at the round table “Increasing the legal literacy of youth and the level of trust of youth in law enforcement agencies”, organized on the initiative of the Zhambyl regional branch of the Republican public association “Nationwide Movement against Corruption “ZHANARU”. It was attended by representatives of government and law enforcement agencies, NGOs and parties, Maslikhat deputies and students.



At the round table the Representative told the audience about the human and civil rights guaranteed by the Constitution of the Republic of Kazakhstan, the main provisions of the Constitutional Law of the Republic of Kazakhstan “On the Human Rights Ombudsman in the Republic of Kazakhstan”, about his work, as well as expressed his opinion on increasing the level of confidence of young people in law enforcement agencies.

An important component of the effective work of representative offices in the regions is their **understanding of the mission of the Ombudsman’s Institute**, knowledge of the Constitutional Law on the Human Rights Ombudsman of the RoK,

as well as the system of human rights protection in the country and at the international level.



In this regard, a **two-day seminar** for representatives of the Ombudsman and staff of the NCHR was organized in Astana on 15-16 May 2023 at the initiative of the Ombudsman, with the support of UNDP, OSCE and OHCHR.

The aim of the seminar was to improve knowledge of human rights, international standards and national legislation, the basics of social, economic and cultural rights, as well as civil and political human rights.

In general, considering the statistics of complaints received by regions, in 2024 the policy on legal education of citizens in the regions, publicizing the activities of the Institute of the Ombudsman among citizens, NGOs and state bodies will be coordinated.

May 11, 2023

The Ombudsman took part in a forum on combating human trafficking in the Republic of Kazakhstan.

The forum participants touched upon topical issues of combating human trafficking, noting the need for comprehensive efforts and systematic work of authorized bodies to address existing problems and develop effective measures to prevent and suppress these crimes.

At the end of the forum, the participants recognized the need to define a clear mechanism for accompanying victims of human trafficking, identifying and providing special social services to foreign victims of human trafficking, and providing comprehensive social legal assistance to victims.

June 14, 2023

The Ombudsman, as part of a planned working visit to Abay region, met with residents of Talitsa, Polovinki, and Bulak villages evacuated due to forest fires.

The Ombudsman talked to the victims, familiarized with the conditions of their temporary accommodation, sufficiency of food and medicine, assured that he is ready to assist in solving issues related to these events.

The residents noted the coordinated and united work of local executive bodies, volunteers, business community in providing comprehensive assistance and support. They expressed hope for a speedy elimination of the disaster.

July 15, 2023

The Ombudsman held a meeting with the Abay regional prosecutor's office and other law enforcement agencies, where he discussed the situation with respect for human rights in the region.

The Ombudsman noted that in 2023 the reforms made it possible to legally strengthen the guarantees of respect for the rights of persons involved in the orbit of criminal proceedings: the investigation of torture was transferred to the prosecutor's office, ill-treatment was criminalized, and liability for torture was increased.

The event continued with a joint visit to the maximum-security institution in Semey, which was attended by NPM participants.

The Ombudsman familiarized himself with the conditions of detention of convicts, domestic and production facilities in this territory, inspected medical rooms and disciplinary cell. He held a separate meeting, where he personally talked to the inmates. He checked the work of electronic terminals for filing complaints and appeals.

In conclusion, the Ombudsman once again emphasized the role of the NPM in the prevention of torture, and the importance of close cooperation with civil society. He called on the Ombudsman's office and law enforcement agencies to join efforts to further ensure state guarantees for the protection of human rights and freedoms.

June 19, 2023

The Ombudsman together with the participants of the NPM of Abay region visited the Support Center for Children with Special Educational Needs.

The Ombudsman familiarized himself with the living conditions, provision of timely medical care, quality of food, organization of proper care and rehabilitation procedures, leisure activities, issues of observance of the rights of children to housing.

The Ombudsman paid special attention to the safety of children living in the Center, checked the availability of video cameras, their condition and coverage by round-the-clock monitoring.

In a conversation with the Center's staff, the Ombudsman touched upon the protection of children's rights and freedoms, the implementation of recommendations of NPM participants and compliance with the standards of special social services.

The Ombudsman also visited the Children's Center for Special Social Services No 6.

He familiarized himself with the conditions of rehabilitation, accommodation and assistance to children with special needs.

The Ombudsman noted that the issue of protection of children with disabilities is always under special control, the state takes necessary measures to ensure them. He also commented on the work of the institution and noted that caring for children with disabilities requires constant kindness and patience. The center of attention should be assistance in realization of their rights, and prevention of violations.

July 26, 2023

As part of his visit, the Ombudsman visited the women's maximum-security colony No 78 in Shymkent.

During the visit, together with the prosecutor of Shymkent city, he personally inspected the cells where prisoners are kept, medical unit, canteen, cooking shop, visits room, and inquired about the provision of clothing, as well as compliance with sanitary norms.

He paid special attention to the medical care of women and their proper treatment by the staff of the institution.

The Ombudsman held a personal interview with inmates. They expressed their complaints about the insufficient provision of medicines, parole, replacement of punishment with a more lenient one, etc.

July 27, 2023

The Ombudsman held a meeting with the Akim of Shymkent city Murat Aitenov. The law enforcement department and employees of the Department of Internal Policy and Youth Affairs were also present.

The Ombudsman highlighted several promising areas of development of the Institute of the Ombudsman. He also emphasized that only through joint efforts we can create a safe and just society, where every person, regardless of age and gender, has the right to live without violence and discrimination.

In turn, Murat Aitenov pointed out further cooperation with his representative in the field on the issues of observance of citizens' rights.

At the end of the meeting there was a productive and constructive exchange of views on the protection of human rights in the region.

July 29, 2023

The Ombudsman and NPM participants in Shymkent and Turkestan region had a conversation during which views on the human rights situation in this southern region were exchanged.

During the dialog, NPM Team Leader Nikolay Tarara familiarized the Ombudsman with the results of work for seven months of the current year and informed about the results of 18 preventive visits conducted from January to July.

In general, the parties noted with satisfaction the willingness of the administrations of the visited organizations and institutions to assist in the protection of rights, as well as the increasing tendency for them to implement more and more of the recommendations.

31 July 2023

As part of a working visit to the southern region, the Ombudsman met with the Akim of Turkestan region D. Satybaldy, activists of the region and representatives of civil society.

The meeting was attended by the regional prosecutor, the chairman of the regional court, the chairman of the maslikhat, heads of other authorized bodies, as well as district akims. The participants were provided with information on the goals, objectives, and directions of the activities of the institution of the Ombudsman and his representatives.

The Ombudsman emphasized the need to strengthen measures to prevent torture, domestic violence, cruel treatment and violence against children. He called on law enforcement agencies to ensure the integrity and impartiality of the investigation and to rule out arbitrariness and other unauthorized methods of work against participants in criminal proceedings.

August 15, 2023

The Ombudsman held a meeting with representatives of public associations in the civil resource center in Shymkent.

One of the topics of discussion was the problem of domestic violence in the country. According to the participants every day women become victims of tyrants, suffer beatings, threats, humiliation, which ultimately leads to sad consequences.

The problem of HIV-infected children was also on the agenda. Regional Children's Ombudsman Zh. Zhazykbaeva voiced the fact that in most cases, when reaching the age of 18, the disability of this category of persons is removed. According to her, the immunity of these children is unable to fight the virus on its own, and they must take medicines on a daily basis. In case of suspension, there is a risk of loss of immunity and deterioration of health.

In turn, the Ombudsman asked to initiate a letter to his address to implement effective measures to protect the rights of such persons.

During the meeting, special emphasis was placed on domestic violence and women survivors of domestic violence. The presented statistics of lethal outcomes from violence of women showed that there is no decrease in this indicator, there is a low disclosure rate of crimes related to sexual inviolability of minors.

August 15, 2023

The Ombudsman held a meeting with representatives of non-governmental organizations of Turkestan region and employees of state bodies.

Representatives of NGOs talked about the issues to be solved and asked for assistance.

The participants voiced a number of other socially important issues.

They also made proposals on toughening the punishment against family aggressors and strengthening the protection of children's rights.

At the end of the meeting, the Ombudsman wished the representatives of NGOs success in the realization of projects contributing to the improvement of development and welfare of the society.

August 21, 2023

The Head of the Ombudsman's Office held a working meeting with the Akim of Ulytau region B. Abdigaliuly. She informed the participants of the meeting about the strengthening of the Institute of the Ombudsman, endowing it with additional competencies.

Separately they discussed issues of gender-based domestic violence, which are in the zone of special attention of the NCHR. The urgency of the issue of domestic violence increases annually in many countries of the world. Domestic violence affects virtually all socio-economic strata of society, causes undeniable harm to people's health, often leads to death and is not easily detected. Moreover, in recent years this problem has been aggravated by most conditions of modern life.

Also, the head of the office of the Ombudsman visited the Day Care Center for children with disabilities "Ayaly Alakan" in Zhezkazgan city. There are 27 children aged from 1.5 to 18 years in the center.

August 23, 2023

The Head of the Office of the Ombudsman visited the institution No 62 of the Penal Department for Karaganda and Ulytau regions.

Together with the management of the Penal Department and the prosecutor's office of the region they inspected the premises of the kitchen, visit rooms, medical rooms, cells, as well as disciplinary cells.

The head of the Office of the Ombudsman familiarized herself with the work of medical staff. Since January 2013, prison medical care has been transferred to the Ministry of Health of the Republic of Kazakhstan, which was positively received by the international community.

At the end of the visit, the head of the NCHR urged the staff of the Penal Department and Prosecutor's Office to work in cooperation with the regional representative of the Ombudsman.

August 27, 2023

The Head of the Ombudsman's Office made a working visit to the villages of Kyzylzhar, Yeraliev, Ulytau, Kenzhebai-Samai.

In a friendly and informal atmosphere, she talked to the residents and paid special attention to the problems voiced by those present. At the meeting, villagers told the head of the office of the Ombudsman about the long-standing problem of water shortage in the villages, and raised the issue of shortage of doctors, due to which they do not receive proper medical care. For example, a sick resident travels to the region to buy basic medicine for a headache. It is obvious that this way the medicine will be more expensive. After all, one has to take a cab to get it, as there is no public transportation in the area.

Having familiarized herself with the life of the villages, the head of the office made a proposal to open a department or a center that would deal with family support issues.

In order to help solve the problems of villagers and realize their rights to health and a decent standard of living, all the issues raised and proposed solutions were discussed with the Deputy Akim of Ulytau region Kusmangali G.M., who assured about taking measures within his competence.

September 11, 2023

The Ombudsman met with Bayan Zhalmaganbetova, Head of "Social Projects" under the Senate of the Parliament of the Republic of Kazakhstan, freelance advisor to the Minister of Energy of the Republic of Kazakhstan, member of the Commission on Women's Affairs and Family and Demographic Policy under the Akimat of Astana.

During the meeting, important issues related to the protection of the rights of people with disabilities were discussed.

B. Zhalmaganbetova spoke about the problem of social differentiation to improve the standard of living of people with disabilities, difficulties in accessing social assistance in rural areas, problems in sending people with disabilities to health resorts and providing housing.

During the dialog, the Ombudsman noted that every person, regardless of their physical or mental characteristics, has the right to a decent life, and expressed readiness to cooperate and work together.

As a result of the meeting, they defined a joint concrete action plan aimed at improving the living conditions and opportunities of persons with disabilities.

September 27, 2023

The Ombudsman took part in a round table on “Progress in the implementation of recommendations of the UN participating States on the results of the third cycle of the universal periodic review of human rights”, organized by the Ministry of Justice of the Republic of Kazakhstan.

During his speech, the Ombudsman noted the work on strengthening the organizational and human resources capacity and financial support of the NCHR, on constructive cooperation with the Office of the UN High Commissioner for Human Rights.

October 18, 2023

On behalf of the Ombudsman, the head of the NCHR S. Tursynbekova took part in the XI Civil Forum of Kazakhstan.

The purpose of the event is to inform a wide range of people about the importance and accumulated experience of Kazakhstan in promoting the UN Security Council Resolution 1325 of October 31, 2000, on the agenda “Women. Peace. Security”.

During the discussion S. Tursynbekova noted that the current situation in the world is characterized by increasing confrontation and instability, global threats are growing. One of the main conditions for sustainable peace is to ensure women's security and equality. The UN Security Council Resolution 1325 defines strategic directions for ensuring peace and security, preventing violence against women, raising awareness, strengthening interaction with civil society on conflict prevention and protection of women.

At the end of the discussion, the participants agreed on close cooperation, civil activists from all over the country presented their recommendations for inclusion in the package of measures to consolidate society to achieve the strategic goal of Kazakhstan in building a state based on equal partnership of government agencies, business and civil society.

November 28, 2023

A roundtable discussion was held in Astana as part of the international campaign “16 Days of Activism against Gender-Based Violence”. The event was organized by the National Commission on Women's Affairs and Family and Demographic Policy under the President of Kazakhstan in partnership with UN Women.

The conference was attended by the Ombudsman, member of the National Commission, human rights activist and lawyer A. Umarova, Child Rights Ombudsman D. Zakieva, Supreme Court Judge J. Shakiev, Vice-Minister of Justice A. Mukanova, Vice-Minister of Health J. Burkitbayev and other experts.



The Ombudsman expressed his position on criminalization of offences in the family and domestic sphere: “In view of certain high-profile events, the issues of criminalization of offences in the family and domestic sphere are relevant. Without disputing the importance of this measure, I firmly believe that victims do not really care

under which Code the offender will be punished. The inevitability, timeliness and fairness of punishment, and most importantly, the prevention of such violence, are much more important for them”.

The Ombudsman emphasized that the experts also strongly recommended that legislation should provide for liability for harassment and stalking, as well as addressing the topics of cyberbullying and the influence of social media. The Ombudsman expressed readiness to support the National Commission, line ministries and civil sector activists in efforts to create zero tolerance in society for aggression or violence.

In order to further disseminate knowledge of law and explanation of the provisions of normative legal acts in the society, to create conviction in the necessity of observing laws and preventing offenses, on behalf of the Ombudsman his office prepared a draft quarterly media plan for educational work, which includes more than 100 activities of the NCHR and its regional offices (visits, publications, lectures, etc.).

Given the importance of educational work and interaction with government agencies and organizations, work in this direction will continue.

7. SUGGESTIONS FOR IMPROVING LEGISLATION

In accordance with Article 11 of the Constitutional Law of the RoK “On the Human Rights Ombudsman in the RoK”, the Ombudsman within the framework of its activities:

- 1) develops and sends to the interested state bodies proposals on improvement of legislation or conclusion of international treaties;
- 2) considers proposals of state bodies, organizations and citizens.

The following work was done in this area in 2023.

A draft law “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Family Protection and Equal Rights of Women and Men” **has been developed.**

The draft law proposes measures to ensure equality between women and men, to strengthen the prevention of domestic violence, and to increase liability for repeated offenses in the sphere of family and domestic relations. We have described the draft law in more detail in Section 4.1 “Women's Rights”.

The Action Plan on Human Rights and Rule of Law, approved by a decree of the Head of State in December 2023,⁷² included **our 4 proposals** to:

- 1) improve legislation in the field of labor relations, including defining the concept of “sexual harassment in the workplace”, developing effective procedures for filing and reviewing complaints, remedies and sanctions;
- 2) introduce legislative support measures for small and medium-sized businesses involved in the employment of persons serving a sentence and registered with the probation service;
- 3) develop and implement a pilot project to transfer to the jury the functions of considering citizens' claims for parole instead of serving their sentences and replacement of the part of punishment not served by a more lenient kind of punishment;
- 4) establish a permanent working group on anti-discrimination legislation.

In 2023, we sent **14 legislative proposals** to state bodies:

- 1) on the extradition of foreign citizens and stateless persons (1 proposal):
 - regarding the application of alternative measures of restraint to extradition arrest when extraditing foreign citizens and stateless persons;
- 2) on the elimination of discrimination against women (4 proposals):
 - establishing liability for abduction of a woman for the purpose of forced marriage;
 - establishing administrative liability for sexual harassment, for failure to investigate cases of discrimination at work, as well as for failure to meet the established sectoral gender quota.
- 3) on ensuring freedom and personal integrity (1 proposal):

⁷² Decree of the President of the Republic of Kazakhstan of December 8, 2023, No. 409 “On the Plan of Action in the Field of Human Rights and the Rule of Law”. // <https://adilet.zan.kz/rus/docs/U2300000409>.

- establishing administrative liability for harassment (stalking) infringing on freedom and personal inviolability, secrecy of correspondence, telephone conversations and messages, inviolability of home and private life, personal and family secrecy.

4) on improving criminal, criminal procedure and criminal executive legislation (6 proposals):

- on strengthening liability for improper execution of a judicial act, coercion to sexual intercourse with minors and PWDs;
- on reducing the terms of solitary confinement in penitentiary institutions from 45 to 15 days;
- on the admission of lawyers to participate in classified cases;
- on differentiation of liability for evasion of partial and full mobilization;
- on toughening criminal liability for failure to fulfill child support obligations and evasion of support for incapable parents or spouse.

5) on improving the effectiveness of the work of the Ombudsman and the NCHR (2 proposals):

- on the establishment of administrative responsibility of state bodies for failure to send or late sending of requested documents to the Ombudsman;
- on the inclusion of normative legal directives of the Ombudsman in the hierarchy of legal acts.

Also, **8 special recommendations** were sent to state bodies:

- 1) on compliance with the principle of non-refoulement;
- 2) on alternatives to extradition arrest;
- 3) on compliance with the presumption of innocence;
- 4) on revision of criminal legislation (inclusion of an article in the Criminal Code for sexual harassment, introduction of an aggravating circumstance for sexual harassment of minors, incapacitated persons, persons with disabilities);
- 5) on making an addition to the Rules for the use of pension payments by the healthcare institutions for persons held in the healthcare institutions;
- 6) on the inclusion of the period of temporary fulfillment of duties of a civil servant in the evaluation of his/her performance;
- 7) on the payment of bonuses to employees on social leave;
- 8) on audio processors for bone conduction middle ear implants.

8. INTERNATIONAL COOPERATION



Key data for 2023

65

Meetings of the Ombudsman with ambassadors and representatives of foreign States, international organizations and international NGOs

18

International conferences, including 2 organized by the Ombudsman office

12

Working trips to foreign countries: Belgium, Italy, USA, Thailand, Turkey, France, Switzerland, Poland, Russia, Denmark, etc.

3

Regional visits with international APF experts to assess NGO capacity

2

Side events in Geneva on the "important role of the NIT in the prevention of torture in Kazakhstan» and "contribution of national law enforcement agencies in the implementation of the sustainable development agenda until 2030»

In 2023, the Ombudsman's work was aimed at strengthening interaction with all actors in the field of human rights protection, including international institutions, public organizations, and academia.

In the reporting year, a Memorandum of Understanding was concluded between the NCHR and the Asia-Pacific Forum of National Human Rights Institutions (APF). The purpose of the Memorandum is to ensure that a capacity assessment of the NCHR is conducted.

Pursuant to the Memorandum, APF experts assessed the potential of the NCHR and identified key areas for improving the capacity of the institution to implement the Paris Principles. The assessment mission took place in Astana, Almaty and Karaganda with interviews of all NCHR staff, representatives of the Ombudsman and NPM groups, representatives of state institutions, local self-government bodies, UN agencies and civil society organizations. The capacity assessment report was prepared in August 2023.



January 12, 2023

The Ombudsman took part in the international conference of ombudsmen on “The Future of Human Rights in the 21st Century” held on January 11-12 in **Ankara (Turkey)**.

The platform brought together speakers from 30 countries of the world. Among them were Azerbaijan, Italy, Qatar, Mongolia, Pakistan, Palestine, Russia, Uzbekistan, Ukraine,

South Africa and other states of Eastern Europe, South Asia and West Africa. The participants were welcomed by Turkish President Recep Erdogan and Chief Turkish Ombudsman Seref Malkoç.

Within the framework of the conference, the Ombudsman held bilateral talks and consultative meetings with the ombudsmen of Turkey, Ukraine, the Russian Federation, Italy, and a number of other countries on mutual cooperation in promoting human rights values.

March 28, 2023

The Ombudsman, members of the Coordination Council and the NPM met with a delegation of the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment within the framework of the second visit to Kazakhstan.

During the meeting consultations were held on the activities and strengthening of the NPM, visits to closed institutions.

The Ombudsman and his representatives were given explanations on the specifics of the consolidated report and the methods used by the NPM for the productivity of its work.

At the end of the meeting, the partners offered comprehensive support and outlined plans for further cooperation.



April 20, 2023

An international conference on “Prevention of torture and ill-treatment: international and European standards and best practices” was held in Almaty for the countries of Central Asia. The conference was organized by the Council of Europe, the GPO of the RoK, the Commission on Human Rights under the President of the RoK and the Ombudsman.



The Ombudsman shared with the attendees the novelties in the legislation and plans for further prevention of torture.



May 1, 2023

With the support of the UNDP and OSCE regional offices for Central Asia and Kazakhstan, we organized a panel discussion event at the Palais des Nations in Geneva as part of Kazakhstan's upcoming defence of its fourth periodic report against torture before the UN Committee against Torture.

Representatives of UN member states were invited to participate in the event.

The discussion was attended by the Ombudsman, members of the NPM Coordination Council, civil society activist Shakhnoza Khasanova and human rights lawyer Berik Zhakayev, human rights officer at GANHRI Caroline Crittin, moderated by Yesimova Dinara, member of the NPM in Astana, head of the National Alliance of Professional Social Workers.

Opening the discussion, the Ombudsman informed international colleagues about the key measures taken to address the problem of torture in the country, recently adopted amendments to the legislation aimed at increasing penalties for torture and prosecution for cruel or degrading treatment, as well as plans to further improve the legislation in accordance with international human rights norms and standards and its practical implementation.

Following the meeting, the other speakers moved on to highlight the main part of the discussion - the practical work of NPMs in visiting places of detention, what difficulties are encountered during these visits and how these issues are resolved, the role of NPMs in protecting the rights of women, children and persons with disabilities in Kazakhstan, the improvement of types and forms of preventive visits, the need to adopt a separate law on the national preventive mechanism.

The event allowed to exchange views on topical issues, outline steps for further joint work in the field of strengthening the system of human rights protection and the rule of law in Kazakhstan.



May 21, 2023

Upon the instructions of the Ombudsman, the Deputy Head of the NCHR participated in an international conference organized by the Office of the Ombudsman of Hungary to strengthen cooperation with the Ombudsmen of the Turkic States.

The representative of the Ombudsman's office made a presentation on the work on complaints and monitoring of closed institutions, mandated NPMs, ongoing constitutional reforms, including the adopted Constitutional Laws on the

Ombudsman and on the Constitutional Court.

The participants of the event highly appreciated the ongoing reforms in Kazakhstan, and the activities of the NCHR received positive feedback.

August 25, 2023

The Ombudsman participated in the International Conference “Elections 2023: Lessons Learned and Future Opportunities”.

The event was dedicated to the realization of women's suffrage.

The Ombudsman spoke about the work being done and shared observations on the results of visits to the regions, noting that during the meetings women, especially in rural areas, raised mainly social issues, but were not interested in the possibility of participating in public administration and elections.



September 7, 2023

The Ombudsman participated in the International Conference “Constitutional Justice: dignity, freedom and justice for all” dedicated to the Constitution Day and the 75th anniversary of the Universal Declaration of Human Rights.

During the event, the Ombudsman noted the relevance of improving procedural rules and procedures.

September 18, 2023

The Ombudsman participated in the forum “Intergenerational Equality, SDG Accelerator: Middle Ground” at the UN Headquarters (New York, USA).

The event was attended by UN Under-Secretary-General Amina Mohammed, Afghanistan's Commissioner for Human Rights Horia Mosadiq, Presidents of the United Republic of Tanzania Samia Suluhu Hassan, and Brazil Luiz Inacio Lula da Silva.



The Forum aims to incentivize partners, increase investment, achieve results and accelerate the effective implementation of the Beijing Declaration, Platform for Action and SDGs.

In his speech, the Ombudsman emphasized Kazakhstan's commitment to progressive policies to promote human rights, gender equality and women's empowerment throughout its three decades of independence.



September 21-22, 2023

The international conference “The Role of the Ombudsman in the World: Between Reality and Opportunity” was held in Rome.

The event was dedicated to the activities of the Institute of the Ombudsman, including its role as an intermediary between citizens and authorities, human rights in the context of global crises, war, climate change,

pandemic and inequality.

At the conference, the Ombudsman spoke about the specifics of the national human rights institution, its tasks and initiatives.

September 29, 2023

The Ombudsman took part in the International Scientific and Practical



Conference on the topic: “Legislation and Legal Information: Achievements and Prospects (differentiation of norms at the legislative and sub-legislative levels)”.

In his speech, the Ombudsman reported on the initiation of a number of proposals to improve pension payments in medical and social institutions, access to medical care for persons held in pretrial detention facilities and proportionality of preventive measures during extradition.

October 9, 2023

From October 2 to 13, 2023, the Warsaw Conference on the Human Dimension was held in Poland under the Chairmanship of Northern Macedonia in the OSCE, with the support of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).



At the invitation of the Head of the Permanent Mission of Northern Macedonia to the OSCE, the Ombudsman participated in the panel session “Rule of Law I: Democratic Lawmaking, Independence of the Judiciary, and the Right to a Fair Trial”.

During the event, the Ombudsman spoke about recent developments in the protection of human rights in Kazakhstan, including constitutional reform, which has seriously strengthened human rights institutions.

October 17, 2023

The Ombudsman participated in the VIII meeting of the Eurasian Ombudsman Alliance on the theme: “Protection of human rights in the field of health protection and medical care”, held in Moscow (Russian Federation). The meeting was attended by representatives from Armenia, Iran, Mongolia, the Kyrgyz



Republic, Serbia, Uzbekistan, Tajikistan and Bahrain.

As part of his speech, the Ombudsman familiarized the participants with the ongoing reform in Kazakhstan to transfer “prison medical care” to the Ministry of Health of the Republic of Kazakhstan.

November 6-8, 2023

The Ombudsman participated in the 14th International Conference of National Human Rights Institutions on “Torture and Other Ill-treatment: The Role of National Human Rights Institutions” in Denmark.

The event was organized by the Global Alliance of National Human Rights Institutions (GANHRI) in the run-up to the commemoration of the 30th anniversary of the adoption of the Paris Principles and the 75th anniversary of the Universal Declaration of Human Rights and aimed at addressing the topic of preventing and combating torture and other ill-treatment in a comprehensive and inclusive manner.

Representatives of more than 90 national human rights institutions met to develop a roadmap to counter the rise of torture and ill-treatment in countries of all regions.



December 11, 2023

On the margins of the high-level event “Human Rights 75”, a side-event of the Ombudsman was held at the Palais des Nations in Geneva (Switzerland) on the theme “The contribution of National Human Rights Institutions to the implementation of the 2030 Agenda for Sustainable Development”.

The event was organized in partnership with GANHRI, the Permanent Mission of Australia, UNDP, the National Human Rights Institutions of Uzbekistan, the Kyrgyz Republic and Turkmenistan, BDG and INHR with the support of the Permanent Mission of Kazakhstan to the United Nations in Geneva.

The side-event focused on the importance of ensuring the key Paris Principles - pluralism, independence and effectiveness to strengthen national human rights institutions, development of cooperation and the role of national human rights institutions in supporting the achievement of the Sustainable Development Goals.

The Ombudsman spoke about the work of the Institute of the Ombudsman and its representatives, the results of the NPM's activities, which led to important changes in legislation and influenced law enforcement practice in the field of combating human rights violations.

At the same event, the Ombudsman met with Suzanne Jabour, Chairperson of the Subcommittee on Prevention of Torture.

During the meeting, the parties discussed topical issues of combating torture and possible ways to further strengthen bilateral cooperation.

The Human Rights Ombudsman spoke about the results of the work of his office within the framework of coordination of the National Preventive Mechanism, which operates as a system of prevention of torture and other cruel, inhuman or degrading treatment or punishment, as well as systemic measures taken in Kazakhstan to prevent torture.



December 12, 2023

As part of the high-level event “Human Rights-75”, the Ombudsman took part in the side-event of Kazakhstan's non-governmental human rights organizations **“Kazakhstan's obligations under the Universal Declaration of Human Rights: implementation and reality”** in Geneva.

The participants noted the work done by the State on the implementation of international obligations in the field of human rights protection.

To effectively ensure human rights, the Ombudsman and his office will continue to work on the development of international cooperation and global partnership.

In addition, **65** meetings were held with:

- ambassadors and representatives of foreign states (23 meetings);
- representatives of international organizations (33 meetings);
- representatives of leading international NGOs, including “Amnesty International”, “Freedom Now”, “Human Rights Watch”, “International Republican Institute”, “National Democratic Institute”, “Penal Reform International”, “Solidarity Center”, “World Justice Project”, as well as a number of other organizations operating in Kazakhstan (4 meetings);
- members of the Association of Turkic Ombudsmen and the Eurasian Ombudsmen Alliance, including with the Ombudsman of Pakistan (5 meetings).

9. CONSULTATIVE AND ADVISORY BODIES UNDER THE HUMAN RIGHTS OMBUDSMAN, HIS PARTICIPATION IN CONSULTATIVE AND ADVISORY BODIES OF THE STATE BODIES AND ORGANIZATIONS

The Ombudsman has two advisory and consultative bodies: the Expert Council and the Coordination Council.

The Expert Council (EC) is a consultative body with advisory and analytical functions, working on a voluntary basis.

The purpose of the Expert Council is to assist in ensuring that human rights guaranteed by the Constitution are observed and respected.

It includes prominent public figures, human rights defenders, lawyers, opinion leaders, lawyers, academics, researchers and other active citizens.

The Expert Council carries out its activities in the form of general meetings or meetings of the EC sections.

General meetings are held to discuss related issues in the field of ensuring and protecting human rights and freedoms, and section meetings are organized in specific areas. They are attended by members of the EC who have special knowledge in the relevant areas.

A number of thematic sections operate within the EC.

The thematic sections and the number of EC members in each section are presented below.

Civil and Political Rights Section (37 members)	Social, Economic and Cultural Human Rights Section (21 members)	Equality, Inclusion and Protection from All Forms of Violence Section (23 members)	Section for the Improvement of Human Rights Institutions (24 members)	International Cooperation Section (20 members)
<input type="checkbox"/> Right to a fair trial <input type="checkbox"/> Right to liberty and security of person <input type="checkbox"/> Right to freedom of speech, expression <input type="checkbox"/> Freedom of assembly and association <input type="checkbox"/> Protection from torture and other cruel or degrading treatment or punishment	<input type="checkbox"/> Labor rights <input type="checkbox"/> Social rights <input type="checkbox"/> Right to health care <input type="checkbox"/> Right to education <input type="checkbox"/> Protection of family, matrimonial, fatherhood and	<input type="checkbox"/> General issues of protection against discrimination <input type="checkbox"/> Gender equality <input type="checkbox"/> Protection of the rights of persons with disabilities <input type="checkbox"/> Protection of the rights of migrants, refugees <input type="checkbox"/> Protection of rights of minorities	<input type="checkbox"/> Development of national human rights institutions <input type="checkbox"/> Legal aid <input type="checkbox"/> NGO activities and protection of human rights defenders <input type="checkbox"/> Legal education <input type="checkbox"/> Enforcement of judicial acts	<input type="checkbox"/> Implementation of international obligations and

On November 15, 2023, the first meeting of the EC was held. During the meeting it was emphasized that this consultative and advisory body included young experts, bright representatives of their industries, working in cooperation with experienced human rights defenders. During the meeting, the participants discussed further work and important organizational issues.



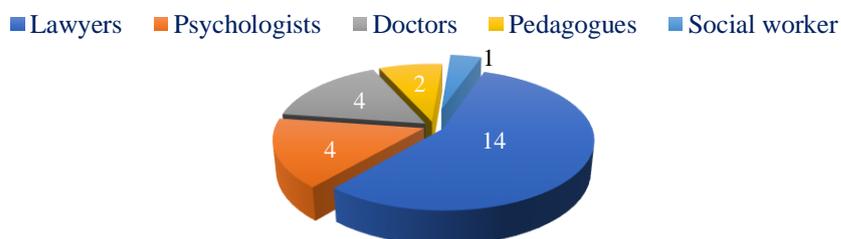


In order for the NPM to be effective in preventing torture and other cruel, inhuman or degrading treatment or punishment, the Ombudsman has an advisory and consultative body, the **Coordination Council (CC)**.

This Council interacts with the Subcommittee on Prevention of Torture, selects NPM participants, forms regional groups and appoints their leaders, determines the plan of visits, accepts reports on them, prepares a consolidated NPM report, and otherwise assists in the implementation of the Ombudsman’s mandate under the NPM.

Figure 46

Composition of the CC by specialty



In 2023, the CC consisted of **25** members, of which **9** were men and **16** were women. In terms of specialties, the CC includes lawyers, psychologists, doctors, pedagogues, social workers

Last year **6** CC meetings and **3** workshops were held, during which:
 1) the Plan of preventive visits to the NPM for 2023 was approved;

- 2) the composition of NPM participants for 2023-2024 and their supervisors was updated and posted on the website of the Office of the Ombudsman;
- 3) the Plan for the preparation of the annual Consolidated Report on the results of preventive visits of NPM participants in 2022 was approved;
- 4) the issue of thematic visits (“Study of the organization of medical care and conditions of detention of persons with disabilities in penal institutions and closed children's institutions”) was identified and the Plan of such visits was approved;
- 5) the Consolidated Report of the NPM participants on the results of preventive visits carried out in 2022 was approved

The meetings also discussed the following issues:

- 1) introduction of administrative responsibility of special and law enforcement officers for obstructing the activities of NPM participants;
- 2) life and health insurance for NPM participants;
- 3) access of NPM participants to normative legal acts regulating the requirements for closed-type institutions and the procedure for the activities of employees in these institutions with authorized bodies;
- 4) realization of the right to education of persons in closed institutions, taking into account international experience;
- 5) improving the activities of NPM participants.

In addition to the advisory and consultative bodies functioning under the Ombudsman, **he is also a member of the following consultative and advisory bodies:**

1. The Commission on the issues of Pardon under the President of the Republic of Kazakhstan.

In the reporting year, the Ombudsman participated in **2** meetings, at which, on his initiative, 3 convicts out of **10** proposed were pardoned.

2. Commission on Human Rights under the President of the Republic of Kazakhstan.

The Ombudsman participated in **3** meetings, during which the following issues were considered on: the activities of the Ministry of Internal Affairs to ensure the constitutional rights of citizens at the initial stages of criminal proceedings; the activities of the Agency of the Republic of Kazakhstan for Public Service to ensure socio-economic and labor rights of civil servants (February 24); improvement of enforcement proceedings in the framework of human rights protection; combating illicit drug trafficking and protection of human rights (June 16); protection of children's rights; ensuring the rights of citizens to a favorable environment (October 27).

3. Legal Policy Council under the President of the Republic of Kazakhstan.

10. ON THE WORK OF THE OFFICE OF THE HUMAN RIGHTS OMBUDSMAN IN THE REPUBLIC OF KAZAKHSTAN AND ITS REPRESENTATIVE OFFICES



The National Centre for Human Rights is a working body of the Ombudsman, which provides information and analytical, organizational, legal and other support for its activities.

The legal basis for modernization of the work of the NCHR was laid at the end of 2022.

Firstly, the status of the Ombudsman itself was enshrined in the Constitution of the Republic of Kazakhstan, paragraph 4 of Article 83-1 which points out the need to regulate the issues of legal status and organization of the Ombudsman's activities at the level of constitutional law.

In November 2022, the relevant Constitutional Law of the RoK “On the Human Rights Ombudsman in the Republic of Kazakhstan” was adopted, Article 20 of which enshrined the main provisions of the Center.



Secondly, in 2022, 17 representative offices of the NCHR were opened in the regions which is a long-awaited reform aimed at promoting the protection of citizens' rights locally. Closer to 2023, 20 representative offices became fully operational.

The improvement of the status and consolidation of new powers of the Ombudsman, the emergence of territorial representative offices set new tasks for the NCHR, for the fulfillment of which it did not have sufficient resources and capabilities at that time. In this regard, in January 2023, a number of amendments were made to the Regulations on the Center's activities, approved by the Decree of the President of the Republic of Kazakhstan in December 2002, providing for the expansion of the functions of the NCHR, determining the procedure for appointing representatives of the Ombudsman and deputy heads of the Center. As a result, the NCHR and its representatives were given the right to develop draft laws, prepare recommendations and proposals for the prevention of violations and restoration of human rights for and on behalf of the Ombudsman.

The Head of the Center was authorized to approve the Regulations of the NCHR and the provisions on its representative offices.

Headcount and structure of the NCHR

Headcount and structure of the Center have also undergone changes. In order to effectively perform the tasks assigned to the Ombudsman and the NCHR, the staff was increased from 13 to 105 people, of whom 59 work in the Center, 45 - in the representative offices in the regions, cities of republican significance, and the capital (20 representatives and 25 chief specialists of the representative offices).

The updated structure of the NCHR includes 6 departments (Figure 47).

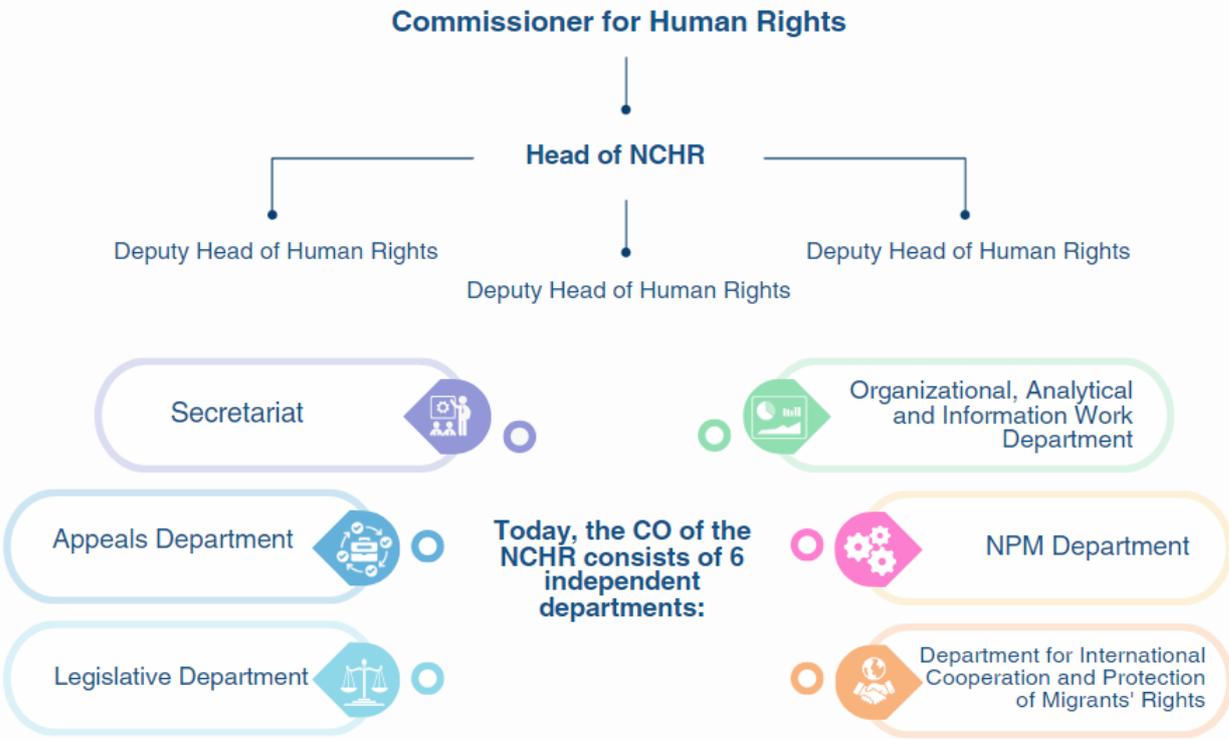


Figure 47

Document flow of the NCHR

With the start of full-fledged work of 20 representative offices, the volume of document turnover has increased significantly. In 2023, **9,194** incoming and **12,829** outgoing documents were registered (Figure 48).

All incoming documents-9194		Total outgoing documents - 12,829
575	Center Secretariat	577
4	Organizational, Analytical and Information Work Department	0
1987	Appeals Department	2967
898	Legislative Department	490
880	NPM Department	950
389	Department for International Cooperation and Protection of Migrants' Rights	377
4316	Representatives of NCHR	7200

Figure 48



Professional development of NCHR staff

The increase in the number of staff in 2023 contributed to the influx of new specialists. There was a need to familiarize staff with aspects of NCHR activities, national and international systems of human rights protection. The Agency for Civil Service of the Republic of Kazakhstan supported the application and allocated funds for retraining courses for civil servants, which were attended by 33 people, and internship was organized for

chief specialists of the representative offices.

Representatives of the Ombudsman participated in a number of training seminars:

May 15-16, 2023 - two-day seminar for representatives in Astana city

October 23-24, 2023 - training on “Presumption of innocence”, organized by the NGO “Kadir-qasiet” in Aktobe.

November 13-16, 2023 - training on “Detention Monitoring and Human Rights Protection in Preventing and Countering Violent Extremism and Radicalization in Prisons” in Bishkek, Kyrgyz Republic.

November 16-17, 2023 - training on “Presumption of innocence” organized by the NGO “Kadir-qasiet” in Kostanai.

The work on professional development of the staff of the NCHR and its representative offices will continue in 2024.

Coverage of the activities of the Ombudsman in the media sector

In order to cover the activities of the Ombudsman, the NCHR and regional representative offices, work was actively carried out in the media and social networks.

Publications were placed in 98 republican mass media, 207 press releases and 331 materials were published on the official website and social media accounts.

Training on skills development and performance improvement was conducted for regional representatives. In 2023, social media pages were opened and unified for all representative offices. At the end of the year, 112 interviews were published by representatives.

It should also be noted that during 2023, **representatives of the Ombudsman** joined various consultative and advisory bodies. For example, regional Commissions on Women's Affairs and Family and Demographic Policy, Interdepartmental Commissions on Minors' Affairs and Protection of their Rights, Coordination Councils on Social Protection of Persons with Disabilities. For more details, see the annex to this Report.

Assessment of NCHR activities by experts of the Asia-Pacific Forum

In 2023, the office of the Ombudsman began systematic work on obtaining accreditation status “A” in the Global Alliance of National Human Rights Institutions. In June 2023, with UNDP support, APF experts visited Kazakhstan for a preliminary assessment mission. APF is one of the four regional networks of national human rights institutions within the Global Alliance structure.

APF experts assessed the potential of the NCHR and identified key areas for improving the capacity of the institution to implement the Paris Principles. The assessment mission took place in the cities of Astana, Almaty and Karaganda with interviews of all NCHR staff, regional representatives of the Ombudsman and NPM groups, representatives of state institutions, local self-government bodies, UN agencies and civil society organizations. The capacity assessment report was prepared in August 2023.

The evaluation was organized by APF, UNDP and OHCHR within the framework of the Global Principles for Capacity Assessment of National Human Rights Institutions (GANHRIs) developed in 2011 by the Global Tripartite Partnership to Support National Human Rights Institutions.

The evaluation report identified strengths in the work and functions of the NCHR, such as enhanced constitutional and legal powers, strong leadership, increased headcount and enhanced external relations.

In turn, the APF experts identified **6 strategic priority areas** for improving the NCHR's performance (Figure 49).



Figure 49

In order to achieve the APF recommendations, it is necessary to conduct fundamental and applied research work, to coordinate the activities of domestic research units and scientists who study the activities of NHRIs and knowledge about human rights and freedoms, as well as to regularly improve the knowledge and skills of the staff of the NCHR and its representative offices in the field of protection of human and civil rights and freedoms.

To this end, we believe it would be advisable in the future to establish a scientific and educational center at the Office of the Ombudsman. It should be noted that in accordance with Article 10 of the Constitutional Law of the Republic of Kazakhstan on the Ombudsman, we can initiate the creation of a scientific-educational center and other organizations to promote knowledge about the rights and freedoms of man and citizen, to organize scientific and applied research.

The purpose of the scientific and educational center is to unite the efforts of advanced domestic research units and scientists to conduct scientific research, provide vocational education, expert and consulting services in the field of international public and private law, integration law, as well as in the field of international and domestic protection of human rights.

In 2023, the Center's activities underwent significant changes that affected the methodology and quality of its work in all areas: from the consideration of complaints and improvement of national legislation to legal education and activities in the media space. The growth of the NCHR staff, the emergence of new structural elements in the central apparatus, the full-fledged launch of the work of representative offices have led to the emergence of new tasks and challenges. The NCHR expresses its readiness to transform these challenges into new opportunities and benefits that contribute to the protection and promotion of human and civil rights in the Republic of Kazakhstan.

CONCLUSIONS AND RECOMMENDATIONS

The development of democracy and civil society and the strengthening of the rule of law depend directly on respect for human and civil rights and freedoms. Ensuring equality before the law and the protection of rights contribute to the creation of a favorable environment for economic growth and social development. Respect for rights is a cornerstone for building a just and prosperous society.

Kazakhstan pursues a systematic and consistent policy of raising standards of human rights protection. This is evidenced by its participation in universal international treaties and conventions. However, in the process of implementing and realizing international standards in this area at the national level, conflicts and deficiencies in legal regulation often arise. Even in cases where the law fully reflects the obligations assumed by the State, the practice of law enforcement can be a failure. The most important thing in promoting and ensuring human rights is a timely response and the readiness of the state to correct identified errors.

In order to promote human and civil rights and freedoms on the basis of received appeals we have developed the following **RECOMMENDATIONS**:

To the Government of the Republic of Kazakhstan:

- 1) Revise the procedure for awarding compensation to victims of torture, providing for its adequate and fair amount, taking into account General Comments No. 3 prepared by the UN Committee against Torture.
- 2) Consider the possibility of simplifying the procedure for the admission of lawyers to case files containing state secrets or the adoption of a non-disclosure obligation by lawyers.
- 3) Consider lowering the threshold for registration of religious associations from 50, 500 and 5,000 participants (for local, regional and republican religious associations, respectively) to a possible comfortable minimum, taking into account the interests of believers both in large agglomerations and in less populated areas.

To Ministry of Internal Affairs of the Republic of Kazakhstan:

1. Together with the **Ministry of Justice** to initiate legislative amendments to establish liability for harassment (“stalking”), which infringes on freedom and personal inviolability, secrecy of correspondence, telephone conversations and messages, inviolability of home and private life, personal and family secrecy.

2. In order to reach a strategic understanding on the expediency of Kazakhstan's accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), organize a round table with interested government agencies and NGOs.

3. Revise the Requirements for the health of persons to serve in law enforcement agencies and the State Courier Service of the Republic of Kazakhstan, approved by the order of the Ministry of Internal Affairs of the Republic of Kazakhstan on November 13, 2020, in terms of minimum height for employees, considering the nature of the functions performed.

To the MIA, MoE, MSHE, MDDIAI of the Republic of Kazakhstan:

1. To work out the possibility of providing higher education to convicts in the form of online education, as well as the allocation of certain quotas and educational grants for them.

2. To elaborate measures to increase the bandwidth capacity of communication channels to the required format of education with the connection of potential universities to the unified transportation environment of “NIT” JSC.

3. To work out possibilities of expanding access of convicts to educational programs of technical and vocational education.

4. To conduct annual United National Testing in closed institutions, primarily children's institutions.

The Ministry of Internal Affairs of the Republic of Kazakhstan in cooperation with the LEA:

Take measures to ensure sufficient funding for closed institutions of temporary isolation from society, aimed at meeting the needs and requirements of the detention of persons placed in them, in terms of:

1) improving sanitary and hygienic conditions;

2) ensuring access to drinking water;

3) providing pre-hospital and qualified medical care;

4) creation of an effective mechanism to take into account special needs for vulnerable categories;

5) improving the qualification of personnel, training in the main international legal acts of the UN on combating torture and ill-treatment.

1. Рассмотреть вопрос передачи организации санитарно-эпидемиологического контроля в учреждениях уголовно-исполнительной системы в ведение МЗ РК.

To the Penal Committee of the Ministry of Internal Affairs of the Republic of Kazakhstan

1. To revise the existing approaches to the training of personnel of the penitentiary system, developing innovative methods of training and professional development, considering the recommendations of the UN international legal acts in the field of combating torture and ill-treatment, with their subsequent application in the work (holding training events).

2 To ensure the implementation of recommendations of UN acts regarding vulnerable categories of population, first of all, convicts with disabilities.

3. To initiate amendments to the Criminal Executive Code to reduce the period of solitary confinement in correctional institutions from 45 to 15 days. 4.

4. Together with the Ministry of Health of the Republic of Kazakhstan to solve the issue of providing pre-hospital and primary medical care in penitentiary institutions for those who have been injured, victims of violence or who are in a sick state.

5. To take measures to improve the effectiveness of departmental control over the quality of food, compliance with sanitary and hygienic standards by the administrations of penitentiary institutions, based on the recommendations of the Nelson Mandela Rules and the UN Bangkok Rules.

6. To consider the issue of transferring the organization of sanitary and epidemiological control in penitentiary institutions to the jurisdiction of the Ministry of Health of the Republic of Kazakhstan.

To the MoH of the Republic of Kazakhstan and LEA:

1. To ensure accessibility of facilities and adjacent territory for immobile groups and equip them in accordance with the Body of Rules of the RoK 3.06-101-2012 “Design of buildings and structures considering accessibility for immobile groups. General Provisions”.

2. To install video cameras in all public areas, with storage of records for at least one month.

3. To bring the storage of drug packages in pharmacies of the institutions in compliance with the requirements of the current legislation, including the application of a clearly visible stamp “Free of charge” on all drug packages.

4. To provide hospitals with sufficient budget (for overhaul of buildings, premises, wards, landscaping, equipping such facilities as recreation rooms, increase funding for food, equipping walking yards with sporting equipment, etc.).

5. To carry out continuous professional development of psychologists, including pediatric psychologists, towards medical (clinical) psychology, pathopsychology, pediatric neuropsychology.

6. To revise treatment protocols for psychiatric patients with an emphasis on diversity of medication assistance to patients.

7. To continuously monitor the need of settlements in health care organizations based on population size.

To the Ministry of Culture and Information of the Republic of Kazakhstan

1. To continue outreach and analysis of secularism education to increase understanding of the importance of secular principles in the educational process.

2. To consider the idea of developing an Editorial Code of Journalists (of a recommended nature) with the participation of the Union of Journalists of Kazakhstan and other independent media to increase the level of ensuring the presumption of innocence and respect for the rights of victims.

To the MLSPP of the Republic of Kazakhstan

1. To hold joint discussions with the Ombudsman, the Ombudsman's Office, and the Ministry of Education of the Republic of Kazakhstan on the criminalization of sexual harassment, including sexual harassment of children.

2. To hold a round table on “Modern methods of disability assessment” in order to improve the procedure of passing the MSEE and to take into account the barriers in interaction with the environment, the need for support, and the social context.

3. To ensure compliance with the provisions of the Social Code of the RoK Convention on the Rights of Persons with Disabilities by introducing the definitions of “discrimination on the basis of disability” and “reasonable accommodation” in the Social Code of the RoK.

4. To exclude the age criterion (retirement age) from the requirement for individual assistants of PWDs.

5. To provide in the Rules for the use of pension - payments for age, length of service and state social benefits by the centers for the provision of special social services:

1) requirements for the design of the journal, as well as considering the issue of participation of capable persons in the use of pension payments and benefits;

2) personal responsibility of the head of healthcare institution for the use of pension payments and allowances of persons and guardians;

3) possibility of transferring funds to a savings account.

6. To include in the medical and social indications for the provision of technical auxiliary (compensatory) aids for persons with disabilities of retirement age:

1) with hearing impairment to provide a laptop with a webcam;

2) with visual impairment (with visual acuity of the only or better seeing eye with 0-0.08 correction or/and concentric narrowing of the field of vision up to 20 degrees) to provide a laptop with screen access software and speech synthesis;

3) with visual impairment (with visual acuity of the only or better seeing eye with correction of 0-0.03 or/and concentric narrowing of the field of vision up to 10 degrees) to provide a portable speech synthesized computer with built-in input/output of information in Braille;

4) with visual impairment (with visual acuity of the only or better seeing eye with a correction of 0-0.03 or/and concentric narrowing of the field of vision up to 10 degrees) to provide a reading machine.

To the Ministry of Education of the Republic of Kazakhstan:

To continuously monitor the placement of orphans and children without parental care on the waiting list for housing from the state housing fund.

To the GPO of the RoK, Committee of National Security of the RoK, MIA of the RoK, MLSP of the RoK, MoH of the RoK, Ministry of Education of the RoK, Ministry of Enlightenment of the RoK:

On an ongoing basis, to inform the management and staff of the institutions of concern for preventive visits about NPM activities, including the right to unhindered access to the institutions on the basis of valid NPM participant IDs.

To the NCHR, Ministry of Science and Higher Education of the RoK and MoE of the RoK:

To start a step-by-step elaboration of the establishment of a scientific and educational center at the Office of the Ombudsman for the purpose of studying and improving knowledge about human and civil rights and freedoms and organizing scientific and applied research.

To the Local Executive Authorities (LEA):

1. To intensify work on taking an inventory of lists of citizens on the waiting list for housing from the state housing fund.

2. To carry out continuous monitoring of social infrastructure facilities for accessibility for persons with disabilities.

APPENDIX

LIST OF CONSULTATIVE AND ADVISORY BODIES IN WHICH REPRESENTATIVES OF THE OHCHR ARE INCLUDED

No	Regions	Name of advisory and consultative body
1.	Mangistau region	<ol style="list-style-type: none"> 1. Commission on anti-corruption issues at the regional akimat. 2. Interdepartmental commission on prevention of offenses. 3. Regional Coordination Council in the field of social protection of persons with disabilities. 4. Interdepartmental Commission on Minors' Affairs and Protection of their Rights. 5. Youth Council under the akimat of the region. 6. Commission on Women's Affairs and Family and Demographic Policy under the Akim of the region. 7. Commission on realization of procedure of assignment, prolongation, deprivation and termination of refugee status in the region. 8. Commission on consideration of issues of housing construction with participation of shareholders.
2.	Shymkent city	<ol style="list-style-type: none"> 1. Commission on Women's Affairs and Family and Demographic Policy under the Akim of Shymkent city. 2. Commission on Minors' Affairs and Protection of their Rights under the Akimat of Shymkent city. 3. Interdepartmental Commission on combating corruption under the Akimat of Shymkent city. 4. Interdepartmental commission on prevention of offenses under the akimat of Shymkent city. 5. Commission under the akimat of Shymkent city on promotion of activity of institutions and bodies executing criminal punishments and other measures of criminal-legal influence, as well as organization of social and other assistance to persons who have served criminal sentences. 6. Youth Council under the akimat of Shymkent city. 7. Regional Coordination Council in the field of social protection of persons with disabilities under the Akimat of Shymkent city.
3.	Abay region	<ol style="list-style-type: none"> 1. Commission on promotion of activity of institutions and bodies executing criminal punishments and other measures of criminal-legal influence, as well as organization of social and other assistance to persons who have served criminal sentences. 2. Coordination Council for social protection of persons with disabilities in the region. 3. Interdepartmental commission on prevention of delinquency. 4. Interdepartmental headquarters for the prevention of drug addiction and counteraction to drug crime. 5. Council on youth affairs under the akimat. 6. Commission on Women's Affairs and Family and Demographic Policy. 7. Commission on affairs of minors and protection of their rights.

4.	Ulytau region	<ol style="list-style-type: none"> 1. Interdepartmental headquarters on prevention of drug addiction and counteraction to drug crime under the akimat of the region. 2. Commission on donomastics under the akimat of the region. 3. Interdepartmental commission on prevention of delinquency under the akimat of the region. 4. Commission on affairs of minors and protection of their rights under the akimat of the region. 5. Council on youth affairs under akimat of the region. 6. Commission on Women's Affairs and Family and Demographic Policy under the regional akimat and other consultative and advisory bodies under the regional akimat.
5.	Aktobe region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses under the akimat of the region. 2. Commission on protection of rights of minors under akimat of the region. 3. Commission on women's affairs and family and demographic policy under the akim of the region. 4. Commission on youth affairs under Akim of the region. 5. Coordination Council on social protection of persons with disabilities. 6. Commission on measures of state support and subsidizing of part of expenses of business entities in the sphere of tourism. 7. Board of the Department of Education of the region. 8. Interdepartmental working group on public services under the Department of Agency for Civil Service. 9. Coordination Council of the Alliance of Women's Forces of the region.
6.	Akmola region	<ol style="list-style-type: none"> 1. Council on Youth Affairs under the akimat of the region. 2. Commission on prevention of delinquency under the akimat of the region (carries out the functions of the regional commission on combating illegal export, import and trafficking in persons liquidated within the framework of bureaucratization). 3. Coordination Council in the field of social protection of persons with disabilities under the akimat of the region. 4. Commission on Women's Affairs and Family and Demographic Policy under the Akim of the region. 5. Interdepartmental commission on affairs of minors and protection of their rights under the akimat of the region.
7.	Almaty region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses. 2. Interdepartmental Commission on Minors' Affairs and Protection of their Rights. 3. National Commission on Women's Affairs and Family and Demographic Policy.
8.	Atyrau region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses. 2. Regional Coordination Council in the field of social protection of persons with disabilities. 3. Interdepartmental Commission on Minors' Affairs and Protection of their Rights. 4. Council on Youth Affairs under akimats. 5. National Commission on Women's Affairs and Family and Demographic Policy.

9.	West Kazakhstan region	<ol style="list-style-type: none"> 1. Regional interdepartmental commission on prevention of offenses. 2. Interdepartmental commission on juvenile affairs and protection of their rights. 3. Commission on Women's Affairs and Family and Demographic Policy. 4. Commission on Youth Affairs. 5. Regional Coordination Council for Persons with Disabilities.
10.	Kyzylorda region	<ol style="list-style-type: none"> 1. Commission on Minors' Affairs and Protection of their Rights under the akimat of the region. 2. Interdepartmental commission on prevention of offenses at akimat of the region. 3. Interdepartmental commission on issues of counteraction to corruption under the akimat of the region. 4. Consultative-advisory body under the akimat of the region on assistance to activity of institutions executing criminal punishment and other measures of criminal-legal influence, as well as organization of social and other assistance to persons who have served criminal punishment. 5. Competitive commission on selection of Business projects. 6. Kyzylorda City Coordination Council in the field of social protection of persons with disabilities. 7. Body under the akimat of the city, which performs the functions of guardianship or custody. 8. City commission on combating illegal export, import and trafficking in persons. 9. Regional commission on women's affairs and family and demographic policy. 10. Ethics Council. 11. Anti-corruption council of the regional branch of the AMANAT party.
11.	Karaganda region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses. 2. Interdepartmental commission on juvenile affairs and protection of their rights. 3. Commission on Women's Affairs and Family and Demographic Policy. 4. Commission on youth affairs under akimat of the region.
12.	North Kazakhstan region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses under the akimat of the region. 2. Interdepartmental commission on issues of counteraction to corruption under the akimat of the region. 3. Consultative-advisory body under the akimat of the region on assistance to activity of institutions of bodies executing criminal punishments and other measures of criminal-legal influence, as well as organization of social and other assistance to persons who have served criminal punishments. 4. Commission on realization of procedure of assignment, prolongation, deprivation and termination of refugee status in the region.

13.	Turkestan region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses under the akimat of the region. 2. Council under the akimat of the region on protection of persons with disabilities. 3. Commission on women's affairs and family and demographic policy under the Akim of the region. 4. Commission on combating drug addiction and drug business under the akimat of the region.
14.	Pavlodar region	<ol style="list-style-type: none"> 1. Interdepartmental Commission on prevention of offenses. 2. Regional Coordination Council in the field of social protection of persons with disabilities. 3. Interdepartmental Commission on Minors' Affairs 4. Regional Commission on Women's Affairs and Family and Demographic Policy. 5. Coordination Council for ensuring the legality of law and order and combating crime. 6. Advisory Council on interaction with NGOs.
15.	Kostanay region	<ol style="list-style-type: none"> 1. Regional Onomastic Commission. 2. Regional Commission for Social Partnership and Regulation of Social and Labor Relations. 3. Council on Rehabilitation and Integration of Persons with Disabilities into Society.
16.	Zhetisu region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses in the region. 2. Interdepartmental Commission on counteraction to corruption in the city of Taldykorgan. 3. Consultative and advisory body under the akimat of the region on assistance to the activity of institutions executing criminal punishment and other measures of criminal-legal influence, as well as organization of social and other assistance to the persons who have served criminal punishment. 4. Coordination Council in the field of social protection of persons with disabilities. 5. Interdepartmental commission on prevention of offenses under the akimat of Taldykorgan city. 6. Coordination Council of the region on prevention of torture.
17.	East Kazakhstan region	Commission on Women's Affairs and Family Demographic Policy.
18.	Almaty city	<ol style="list-style-type: none"> 1. Interdepartmental Commission on Minors' Affairs and Protection of their Rights under the akimat of Almaty city. 2. Interdepartmental commission on combating crime and prevention of delinquency under the akimat of Almaty city. 3. Council on development of inclusive environment of Almaty city.
19.	Zhambyl region	<ol style="list-style-type: none"> 1. Interdepartmental commission on prevention of offenses under the akimat of the region. 2. Commission on affairs of minors and protection of their rights at akimat of the region. 3. Council on Youth Affairs under the akimat of the region. 4. Commission on women's affairs and family and demographic policy under the akimat of the region.