

**ANALYSIS OF MEASURES TO IMPLEMENT THE RECOMMENDATIONS OF THE  
UNITED NATIONS HUMAN RIGHTS TREATY BODIES TO THE REPUBLIC OF  
KAZAKHSTAN**

This analysis is a publication of the Eurasian Harm Reduction Association (EHRA). EHRA is a non-profit, membership-based public organization that unites and supports more than 300 harm reduction activists and organizations in Central and Eastern Europe and Central Asia (CEECA) to ensure the rights and freedoms, health and well-being of people who use psychoactive substances. More information is available at: <https://harmreductioneurasia.org>.

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## SECTION 1. INTRODUCTION

International human rights law lays down obligations which states are bound to respect. By becoming parties to international treaties, states assume obligations and duties under international human rights law to protect and fulfil human rights.

Each of the treaties contains specific provisions that define what a country must do to be legally bound by that treaty. Initially, a country might demonstrate consent or political will by signing a treaty. In order for a state to become legally bound by the treaty, however, the signature has to be followed by a formal act of ratification, acceptance, approval or accession. Once a country is legally bound by the terms of a particular treaty it agrees to be monitored by the committee overseeing that treaty. This gives the treaty body or committee legal authority to monitor a country's performance of its treaty-related obligations.

The criminalization of people who use drugs leads to systematic and widespread violations of virtually all human rights guaranteed in national constitutions and international human rights treaties. Documenting these violations can serve to inform human rights treaty bodies of violations that fall within their mandate.

The human rights treaty bodies make drug policy recommendations for EECA countries. These recommendations are the result of human rights-related documentation and subsequent submission of documented reports to the UN human rights treaty bodies by civil society groups with the direct involvement of people who use drugs.

In the period from July to October 2023, the national consultant of the Eurasian Harm Reduction Association (EHRA) conducted an analysis of the implementation by the Republic of Kazakhstan of the recommendations of the following UN treaty bodies aimed at improving the consequences of the criminalization of people who use drugs:

- The Committee against Torture (CAT),
- The Committee on the Elimination of Discrimination against Women (CEDAW),

- The Committee on Economic, Social and Cultural Rights (CESCR).

According to the Constitution of the Republic of Kazakhstan, the highest values of the state are the person, his/her life, rights, and freedoms. Over the years of independence, several political reforms in the field of human rights have been carried out in Kazakhstan.

With the accession to the International Covenant on Civil and Political Rights, much work has been done to implement its provisions into Kazakh legislation and to implement the recommendations received as a result of the review of the reports under the Covenant.

The Universal Periodic Review mechanism in the field of human rights was introduced in 2008. Following the review, UN member states adopt recommendations for the country. The Ministry of Justice of the Republic of Kazakhstan is the coordinating body for the preparation of periodic reports and the implementation of recommendations under the International Covenant on Civil and Political Rights and the United Nations Review of States Parties.

So, with the involvement of government bodies and representatives of the civil sector, the Ministry of Justice prepared and participated in the review of two national reports on the implementation of the International Covenant on Civil and Political Rights in 2009 and 2016 as well as three reports as part of the Review of UN States Parties in 2010, 2014 and 2019. The third National report of the Republic of Kazakhstan under the International Covenant on Civil and Political Rights was sent to the UN Human Rights Committee in 2020.

The recommendations resulting from the review of the reports should be incorporated into national legislation and policies that regulate and ensure the protection of human rights in Kazakhstan. However, the policy of the state in terms of following the recommendations received and the subsequent development of the human rights framework and their guarantees is often not fully in line with the views of key populations on the ground and their actual needs.

This report contains an analysis of the changes that have recently taken place in the field of public administration in the Republic of Kazakhstan in accordance with the recommendations of the UN human rights treaty bodies. The analysis is carried out by the key populations of the Republic of Kazakhstan and reflects their views on the relevant changes.

Open data, laws and regulations were used to conduct this analysis. Information was also obtained through a series of interviews with the following representatives of non-governmental organizations that have submitted shadow reports to UN treaty bodies:

- Employees of the organization NGO *Kadir-Kasiyet*,
- L. Vorontsova, country representative of the Eurasian Women’s Network on AIDS (EWNA) in Kazakhstan,
- O. Ibragimova, Secretary of the Committee of Key Affected Populations in the Context of HIV Infection and Tuberculosis, and
- A. Kadyrbaeva, expert on the analysis of legal acts (LA).

Interviews were also conducted with representatives of non-governmental organizations that have not submitted joint shadow reports but are working on similar issues:

- Employees of the organization PF *Revenge*,
- Employees of the organization NGO *Center for Development and Social Assistance to the Population “My Home”*,
- Employees of the organization Private Fund *Healthy Kazakhstan*.

Inquiries to obtain additional information regarding the implementation of the recommendations of the UN human rights treaty bodies for the Republic of Kazakhstan were sent to the following government agencies and departments:

- Ministry of Internal Affairs of the Republic of Kazakhstan,
- Ministry of Health of the Republic of Kazakhstan.

## SECTION 2. GENERAL SITUATION

### HIV/AIDS, HCV, and TB

In 2022, 30,558 people living with HIV (PLHIV) were registered in the Republic of Kazakhstan. Of this number, 1,467 PLHIV were prisoners, 9 of whom were convicted under Article 118 of the Criminal Code of the Republic of Kazakhstan (infection with the human immunodeficiency virus (HIV)).<sup>1</sup>

According to the Kazakh Scientific Center of Dermatology and Infectious Diseases (KSCDID), there is only one correctional facility for convicts with tuberculosis in Kazakhstan (in the Karaganda region), which is designed for 760 people (410 – inpatient treatment, 350 – outpatient treatment). According to the KSCDID, 152 people with tuberculosis (TB) are being treated there, including 35 people with HIV+TB co-infection. The prevalence of hepatitis C virus (HCV) among prisoners is 30%.<sup>2</sup>

### Drug use

According to the Kazakh Scientific Center of Dermatology and Infectious Diseases (KSCDID), the estimated number of people who inject drugs in the Republic of Kazakhstan in 2022 was 85,300.<sup>3</sup> Of these, 9,655 are people living with HIV (34% of all PLHIV in the country).

According to the Ministry of Health, 16,713 men and 1,503 women with a diagnosis of mental and behavioral disorders due to substance use were under dynamic observation in the country as of March 1, 2023. The number of minors was 99. In 2022, 5,089 patients were treated for drug addiction in 24/7 hospitals, of which 4,707 were in voluntary treatment units. The number of deaths due to the toxic effects of

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<sup>1</sup> Data on the epidemiological situation in the Republic of Kazakhstan are available at: [https://docs.google.com/presentation/d/1M77Sk0Zn5Nbf\\_mGcj8W6s\\_AwxyUc9Hqd/edit#slide=id.p1](https://docs.google.com/presentation/d/1M77Sk0Zn5Nbf_mGcj8W6s_AwxyUc9Hqd/edit#slide=id.p1)

<sup>2</sup> KSCDID data for 2023 are available at: <https://docs.google.com/presentation/d/1BIj2PgC-c5AYebOIK8AcxD02Rzi-8amr/edit#slide=id.p2>.

<sup>3</sup> The data of the Kazakh Republican Scientific and Practical Center of Mental Health for 2023 are available at: <https://mentalcenter.kz/республиканский-научно-практический-центр-психического-здоровья-алматы/отчеты>

psychoactive substances in 2022 was 87: 78 men and nine women.<sup>4</sup>

### Convicts and detainees

According to the Ministry of Internal Affairs of the Republic of Kazakhstan, the number of prisoners in the second quarter of 2023 was 41,138.<sup>5</sup>

Data on the number of criminal cases and convicted persons under the articles on drug trafficking for the second quarter of 2023<sup>6</sup>:

Criminal Code Article	Number of cases
Illegal handling of narcotic drugs, psychotropic substances, their analogues, and precursors without intent to sell (Article 296).	4860
Illegal production, processing, acquisition, storage, transportation for sale, transfer or sale of narcotic drugs, psychotropic substances and their analogues (Article 297).	1559
Theft or extortion of narcotic drugs, psychotropic substances and their analogues (Article 298).	3
Inducement to use narcotic drugs, psychotropic substances or their analogues (Article 299).	5
Propaganda or illegal advertising of narcotic drugs, psychotropic substances or their analogues, and precursors (Article 299-1).	92
Illegal cultivation of prohibited plants containing narcotic substances (Article 300).	335
Illegal trafficking in toxic substances and substances, tools, or equipment used for the manufacture or processing of narcotic drugs, psychotropic or toxic substances (Article 301).	5
Organization or maintenance of dens for the consumption of narcotic drugs, psychotropic substances, and their analogues	5

<sup>4</sup> Information is available at: <https://depzdrav.gov.kz/blogs/view/50/142425>.

<sup>5</sup> Data are available at: <https://www.gov.kz/memleket/entities/qriim/documents/details/490437?lang=ru>.

<sup>6</sup> Data are available at: <https://qamqor.gov.kz/crimestat/statistics>.



and provision of premises for the same purposes (Article 302).	
Violation of the regulations for handling narcotic drugs, psychotropic or toxic substances (Article 303).	12

According to KSCDID, a person detained in a specialized detention facility or serving a prison sentence should receive 50 condoms, 20 DEO-CHLOR disinfectant tablets, 20 alcohol wipes, and 12 disposable razors per year.<sup>7</sup>

### Opioid agonist therapy

The opioid agonist therapy (OAT) programme is currently being implemented in 14 regions of Kazakhstan. There are 18 OAT sites (offices) in the mental health centers. There are plans to open six more OAT offices. Patients in this programme receive methadone.

As of September 27, 2023, the number of OAT clients is 489, which corresponds to 40% of the estimated number of people in need. There are 400 men and 89 women in the OAT programme. Of the total number of OAT clients, 148 are people living with HIV (189 men and 34 women).

The implementation of the OAT programme in Kazakhstan is financed by the state. The procurement and supply of methadone is carried out with the support of the Global Fund. In 2022, 5,110 vials of methadone and 13 dispensers were purchased.

## PART 3. COMMITTEE AGAINST TORTURE

### Recommendations of the Committee against Torture<sup>8</sup>

In its concluding observations on the fourth periodic report of the Republic of

<sup>7</sup> KSCDID data for 2023 are available at: <https://docs.google.com/presentation/d/1BIj2PgC-c5AYebOIK8AcxD02Rzi-8amr/edit#slide=id.p2>

<sup>8</sup> Information about the Committee against Torture can be found on the website of the Ministry of Justice of the Republic of Kazakhstan: <https://www.gov.kz/memleket/entities/adilet/press/article/details/111617?lang=ru>

Kazakhstan, the Committee against Torture made the following recommendations:

*The State party should continue to improve the quality of health services provided to detainees by increasing recruitment of qualified medical personnel, including psychiatrists, particularly for those in need of specialized treatment, such as HIV-infected persons and persons with disabilities, and provide the necessary medicines and medical equipment in all correctional facilities.*

*Furthermore, it should adopt a policy that ensures the proper examination and documentation of health status of all arrested and detained persons by independent medical personnel, ensure that all medical personnel in contact with persons deprived of their liberty receive mandatory and regular training in the detection of torture and ill-treatment in accordance with the revised version of the Istanbul Protocol, and continue to enhance procedures in place for appropriately maintaining medical files and registers, including those used for recording injuries, and for immediately reporting any injuries indicating torture or ill-treatment.<sup>9</sup>*

### Measures taken by the Republic of Kazakhstan to implement the recommendations of the Committee against Torture

According to official information from the Acting Head of the Investigative Department of the Republic of Kazakhstan N. Dyusenbaev<sup>10</sup>, from January 1, 2023, the functions and powers of the Ministry of Internal Affairs in the field of medical care for persons in pre-trial detention centers and correctional institutions of the penitentiary system have been transferred to the jurisdiction of the Ministry of Health of the Republic of Kazakhstan.

This is because people serving a prison sentence have better access to modern examination, diagnosis, and treatment methods in the civilian sector. The transfer of powers will ensure the independence of medical staff from the administration of penal

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<sup>9</sup> The Committee's recommendations are available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FK%20AZ%2FCO%2F4&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FK%20AZ%2FCO%2F4&Lang=ru)

<sup>10</sup> A reply was received to a request addressed to the Minister of Internal Affairs of the Republic of Kazakhstan, M. Akhmetzhanov, asking for information on the activities of the Ministry, bodies, and institutions of the system of internal affairs to implement the recommendations of the CAT. Available at: <https://drive.google.com/file/d/1R-PBCG9Oz0c7LGR6UvcYgmwqOZjOcThe/view?usp=sharing>

institutions and create the conditions for eradicating possible cases of illegal practices when working with prisoners.

The transfer of functions and powers in the area of medical care for people in penal institutions to the Ministry of Health shows the government's determination to achieve more efficient and specialized management in this area. This should also help to improve the quality of medical care for prisoners and the monitoring of prison conditions.

On June 13, 2023, changes were made to the administrative structure of medical care provision for people in the penitentiary system of the Republic of Kazakhstan. In accordance to these changes, the Ministry of Internal Affairs will conduct additional monitoring and analysis of compliance with the International Convention against Torture.

On July 19, 2023, the President of the country, Kassym-Jomart Tokayev, signed the Decree "*On Measures to Improve the System of Public Administration of the Republic of Kazakhstan*". Under this Decree, the functions and powers of the Ministry of Internal Affairs to coordinate state policy in the field of medical care for people held in pre-trial detention centers and penitentiary institutions are fully transferred to the Ministry of Health.

Earlier, at an extended meeting of the Board of the Ministry of Internal Affairs, the President of the country had pointed out the need to improve the state of the domestic penitentiary system. In this context, the Ministry of Internal Affairs has declared the observance and protection of human rights, the improvement of prison conditions, and the modernization of prison infrastructure to be the most important priorities in all prison reforms. In addition, according to the official position of the government, the implementation of the recommendations of the treaty bodies should contribute to the implementation of the *Action Plan for Human Rights* and the *State Programme for the Development of Healthcare of the Republic of Kazakhstan for 2020–2025*.<sup>11</sup>

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<sup>11</sup> Information on the approval of the *Priority Action Plan for Human Rights* is available at: <https://adilet.zan.kz/rus/docs/P2100000405>

## Analysis of the implementation of the recommendations of the Committee against Torture

The transfer of the medical organizations of the Committee of the criminally-executive system of the Ministry of Internal Affairs to the Ministry of Health was supposed to improve the quality of medical services, but this is not the case. Their quality and effectiveness are still low.

### **Appeal by women living with HIV and serving their sentences in prison No. 32 in the village of Koksus in the Karaganda region:**

*There is no ART dispensing outside the medical department of the facility. If I take ART twice a day, I have to go to the medical department in the morning and evening to get it. Sometimes, the nurse is not there, and the medical department is closed. Then, we have to stand in front of a closed door and wait for the nurse to get the life-saving therapy. Well, in summer, waiting is still bearable, but in winter, when it's minus thirty degrees, or in fall and spring when it rains, you can equate this waiting with torture. We turned to the AIDS center, whose medical staff comes every six months to examine and test the registered women. However, the doctors at the AIDS center responded that the administration of the facility had issued such regulations prohibiting the carrying of ART doses. We are waiting for representatives from human rights organizations or the Ministry of Health to come to the facility to solve this problem. All the other inmates know that we visit the medical department, which means that our confidentiality is not respected, and everyone knows about our HIV status.*

### **Aleksey, 32 years old, is kept under investigation in prison No. 1:**

*When I arrived at the prison, I underwent a medical examination. I told the examining doctor that I have a chronic disease called COPD [chronic obstructive pulmonary disease] and must use the medical aerosol Berodual for life. My medical card says that I need this medication to stop the attacks. The doctor replied that they did not have such medicine, so I would have to ask my relatives to buy it for me and bring it to me in prison. And what if I do not have any relatives? It is good that I have friends whom I have told through a lawyer*

*that I need medication. My friends have sent them to me. As long as I am in custody and have the opportunity to get my medication through a lawyer, that's possible. But what should I do if I am sentenced and sent to the penal colony? I can ask friends to send me parcels. But there are situations, especially in winter, when a car can not get through to the colony due to heavy snowfall, so the parcels can not be delivered on time. That really scares me. I could have a fit, and they wouldn't be able to help me.*

Improving the quality of services depends on many factors, including the effectiveness of the measures taken by the Ministry of Health and other government agencies, the implementation of necessary reforms and raising the qualification level of medical staff. The transfer of entities from one agency to another may cause some organizational and administrative problems that may have a negative impact on the quality of services.

Contrary to the response of the representative of the Ministry of Health that the Republic of Kazakhstan is working to eliminate discrimination and violence against women and the stigmatization of women in specialized institutions and prisons, as well as to ensure access to adequate medical care, there are documented cases indicating that this is not the case in prisons.

Non-governmental organizations have repeatedly documented requests from prisoners in need of HCV diagnosis and treatment.

#### **Appeal by 18 women for help with the diagnosis and treatment of HCV**

*In July 2023, 18 women serving their sentences in Correctional Institution No. 78 in Shymkent turned to N. Minaeva, a consultant for the mobilization of the community of people with lived experience of prison, for help with the diagnosis and treatment of viral hepatitis C. This request was forwarded to S. Biryukov, Director of the NGO PF "AHEP'C" (ANTIHEPATIT C) and A. Seitkaziev, Head of the Kazakhstan International Bureau for Human Rights (KIBHR) office in Shymkent. Negotiations are currently underway with the Department of the Penitentiary System (DPS) of Shymkent to allow women to be accompanied to the clinic for HCV diagnosis, according to their place of registration. If the HCV diagnosis is confirmed, they must receive the necessary*

*treatment.*

In Kazakhstan, the OAT programme is not available in prisons or pre-trial detention centers. This is another violation of the right to health of prisoners. In case of incarceration, an OAT patient cannot participate in the maintenance treatment programme and cannot receive therapy that he or she received outside of prison.

## Conclusions and recommendations

In this situation, measures must be taken to implement the Human Rights Committee recommendations and ensure prisoners have access to the necessary medical resources for treatment and rehabilitation. Moreover, their implementation will help the Republic of Kazakhstan not only to comply with international standards in the field of medical care for prisoners, but also guarantee their human rights, including the right to health:

- **Ensure effective collaboration between the Ministry of Health and other structures, especially the Ministry of Internal Affairs.**
- **Involve mental health specialists in working with prisoners.**
- **Ensure constant access to medication and the necessary medical equipment in all penitentiary institutions.**
- **Train medical staff working with prisoners in the specifics of treating people living with HIV and people with disabilities and in the psychological support these patients need.**
- **Evaluate and regularly monitor the quality of medical care provided to prisoners.**
- **Take preventive measures to avoid the spread of infections and diseases in closed facilities.**

- **Establish mechanisms for prisoners to request and receive medical care, as well as a mechanism to process and address their complaints, taking into account the specificities of their status.**
- **The Ministry of Health must provide all correctional facilities in the country with adequate medication and medical equipment.**

#### **PART 4. COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN**

##### Recommendations of the Committee on the Elimination of All Forms of Discrimination against Women

In July 2018, Kazakhstan submitted its fifth periodic report to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW). In October 2019, Kazakhstan received the CEDAW recommendations on gender-based violence against women.

In the *Health* section, in paragraph 40, CEDAW recommends that the State party should take advantage of the adoption of a new programme for the development of the health sector for the period up to 2025:

*“e) To eliminate discrimination, violence, and stigma against women living with HIV/AIDS, women with disabilities, and women who use drugs, including in specialized institutions or prisons, and ensure that they have access to adequate health services, including sexual and reproductive health services and HIV and drug treatment”.*

In November 2023, the Republic of Kazakhstan submitted its sixth periodic report to the Committee on the Elimination of All Forms of Discrimination against Women.<sup>12</sup> The sixth report concerns, in particular, Kazakhstan’s progress in implementing the CEDAW recommendations of October 2019,<sup>13</sup> including the

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<sup>12</sup> The Committee on the Elimination of Discrimination against Women (CEDAW) consists of independent experts who monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

<sup>13</sup> The CEDAW recommendations are available at:

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2F](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2F)



recommendation in the *Health* section in paragraph 40.

## Measures taken by the Republic of Kazakhstan to implement the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women

According to the official response of the Deputy Director of the Department for the Organization of Medical Care of the Ministry of Health of the Republic of Kazakhstan G. Zhangarasheva<sup>14</sup>:

*“In Kazakhstan, efforts are being made to eliminate discrimination, violence, and stigma against women living with HIV/AIDS, women with disabilities, and women who use drugs, including in specialized facilities or prisons, as well as to ensure that they have access to adequate health services, including sexual and reproductive health services and HIV and drug treatment”.*

In response to a question on the activities of the Ministry of Health, healthcare bodies, and institutions to implement the recommendations of the International Convention on the Elimination of All Forms of Discrimination against Women, G. Zhangarasheva stated in an official reply<sup>15</sup> that:

*“The Interministerial Action Plan for the Implementation of the Comments of the UN Committee on the Elimination of Discrimination against Women for 2021–2023 (approved by the Decree of the Minister of Information and Social Development of the Republic of Kazakhstan dated October 29, 2021, No. 363) and the Sustainable Development Goals provides for the task of eliminating all forms of discrimination against all women. Medical care for the citizens is provided within the framework of guaranteed free medical care, the compulsory health insurance system, on a fee-for-service basis, and within the framework of voluntary health insurance schemes. Under Article 196 of the Code on Public Health and Health Care System, citizens of the Republic of Kazakhstan, ethnic Kazakh emigrants, refugees, foreigners, and stateless persons permanently residing on the territory of the Republic of Kazakhstan*

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[C%2FKAZ%2F.](#)

<sup>14</sup> The response is available at:

<https://drive.google.com/file/d/1v01iGTInt2ecQ5DOhnh8bcPaaXFD0Jxa/view?usp=sharing>.

<sup>15</sup> Ibid.



*are provided with a guaranteed volume of free medical care, including preventive, diagnostic and therapeutic medical services and the provision of medicines”.*<sup>16</sup>

According to the World Economic Forum’s *Global Gender Gap 2022* report, Kazakhstan has improved its gender inequality indicators and has risen from 80th to 65th place in the global ranking.<sup>17</sup>

## Analysis of the implementation of the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women

The response from the representative of the Ministry of Health shows that medical care in the country is the same for everyone. In guaranteeing this right, the Ministry of Health does not focus on women living with HIV, women with disabilities, and women who use drugs, including women in specialized institutions and prisons. The Ministry of Health thus denies the need for specialized care for these categories of women.

However, research shows that women who use drugs are three to five times more likely to be affected by gender-based violence than women in general. These women are particularly vulnerable to health, legal, economic, and social consequences, gender-based violence, and loss of custody of their children. Women who use drugs are subject to a high degree of stigmatization, both in the general population and in the community of people who use drugs. They are often mentioned in connection with the risk of transmission of HIV, viral hepatitis, and other sexually transmitted infections, with little attention paid to their rights and dignity.

Women who use drugs are usually exposed to several types of violence by police officers: psychological (police pressure) and physical (beatings). Encounters with the police make them feel fearful, helpless and hopeless due to their social status and stigmatization. Police actions often violate their right to keep their diagnosis confidential.

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<sup>16</sup> Code on *Public Health and Health Care System* is available at: <https://adilet.zan.kz/rus/docs/K2000000360>.

<sup>17</sup> The data are available at: <https://iac.enbek.kz/ru/node/1359>.

Women who use drugs are particularly exposed to stigmatization and discrimination during pregnancy and childbirth. As L. Vorontsova explains in the report *State's Responsibility to Ensure Freedom from Torture and Abuse for Drug-Addicted Women During Pregnancy and Childbirth*,<sup>18</sup> which was produced as part of the *New Generation of Human Rights Defenders* fellowship project:

*“There are two main stages in the realization of the right to freedom from torture and ill-treatment for drug-addicted women during pregnancy and childbirth:*

1. *Help with rehabilitation from the consequences of drug addiction during pregnancy. Most drugs used to treat drug addiction are contraindicated during pregnancy. Drug addiction itself as a disorder is an indication for termination of pregnancy. A woman who uses drugs is often put under pressure by medical staff and forced to have an abortion. In modern medicine, however, the use of substitution maintenance therapy for drug-addicted women is compatible with pregnancy and significantly reduces the risk of undesirable consequences for mother and child.*
  
2. *Help with childbirth. The pain threshold is often significantly reduced with long-term opiate use. When a drug-dependent woman goes into labor, she suffers the consequences of a reduced pain threshold because the maximum doses of painkillers specified in the labor-management protocols are too low for her. A drug-dependent woman can, therefore, not receive adequate help if she experiences severe pain and suffering that can be controlled by painkillers in women who do not use drugs.”*

Following the recommendation to eliminate discrimination against women living with HIV and women who use drugs in Kazakhstan, the Central Asian Association of People Living with HIV conducted the People Living with HIV Stigma Index 2.0

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<sup>18</sup> Л. Воронцова. Обязанность государства по обеспечению свободы от пыток и жестокого обращения для наркозависимых женщин во время беременности и родов. Стипендиальный проект «Новое поколение правозащитников»: Алматы, 2018. / L. Vorontsova. *The duty of the state to ensure freedom from torture and ill-treatment for drug-dependent women during pregnancy and childbirth*. Fellowship project *New Generation of Human Rights Defenders*: Almaty, 2018. The report is available at: [https://www.soros.kz/wp-content/uploads/2019/03/VORONCOVA\\_web\\_.pdf](https://www.soros.kz/wp-content/uploads/2019/03/VORONCOVA_web_.pdf).

study.<sup>19</sup>

The study found that the extent of stigma and discrimination in the use of health services for non-HIV-related reasons exceeds stigma and discrimination in institutions providing HIV services. The main manifestations of stigma and discrimination were gossip (12.0%), avoidance of physical contact (11.2%), and disclosure of HIV status without consent (9.6%). There were also instances where respondents were verbally harassed because of HIV (7.3%), denied medical services because of HIV (6.5%), advised not to have sex because of HIV (4.9%), and denied dental services because of HIV (3.7%).<sup>20</sup>

The country representative of the Eurasian Women's Network on AIDS (EWNA) in Kazakhstan, L. Vorontsova, who was involved in the submission of a civil society shadow report on the violation of the rights of women from key populations to the UN Committee on the Elimination of All Forms of Discrimination against Women, noted that Kazakh legislation does not contain a definition of discrimination that meets international standards. Kazakhstan has also not ratified the UN Convention on the Elimination of All Forms of Discrimination against Women.

Only paragraph 3 of Article 1 of the Law *“On State Guarantees of Equal Rights and Opportunities for Men and Women”* attempts to define discrimination as *“any restriction or infringement of human rights and freedoms and the belittling of the dignity of a person based on sex.”* No other codified legal acts or laws contain a definition of discrimination, let alone a definition of direct or indirect discrimination.

Accordingly, the legislation contains neither anti-discrimination institutions nor anti-discrimination procedures. To improve this situation in Kazakhstan, it is proposed to create a civil society and state council for ensuring equality and protection against discrimination and to adopt two new laws: *“On the Council for Ensuring Equality and Protection against Discrimination”* and *“On the introduction of amendments and*

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<sup>19</sup> People Living with HIV Stigma Index 2.0. Central Asian Association of People Living with HIV. Kazakhstan, 2022. Available at: [https://drive.google.com/file/d/1jdfUyfzopUQRm4-qqLHKoR1\\_oR0Zt34/view?usp=sharing](https://drive.google.com/file/d/1jdfUyfzopUQRm4-qqLHKoR1_oR0Zt34/view?usp=sharing).

<sup>20</sup> The Law *“On State Guarantees of Equal Rights and Opportunities for Men and Women”*. Available at: <https://adilet.zan.kz/rus/docs/Z090000223>.

*additions to some legislative acts of the Republic of Kazakhstan on issues of ensuring equality and protection against discrimination.”* The International Bureau for Human Rights in Kazakhstan and civil society organizations are currently actively promoting and implementing the anti-discrimination project.

Lyubov Vorontsova also pointed out that there is a lack of research and disaggregated data in open sources on female prisoners in Kazakhstan. According to her, in the fifth periodic report, the state has provided data on the legislation that provides for access to health services for women prisoners, but this does not answer the question of whether this meets the needs of women prisoners.

Elena Bilokon, head of the public foundation *Revenge* and the *Foundation for Women Living with HIV*, together with the expert on the analysis of legal acts A. Kadyrbaeva, analyzed the legal acts on the provision of special social services.<sup>13</sup> The analysis revealed that the Decree of the Minister of Health and Social Development of the Republic of Kazakhstan dated December 21, 2016, No. 1079, “*On Approval of the Standard for the Provision of Special Social Services to Victims of Domestic Violence*,” is used by the state crisis centers as a basis for denying access to support services for women who use drugs and women living with HIV in cases of violence. On the one hand, Article 6(7) of the Law of the Republic of Kazakhstan, “*On Special Social Services*,” includes people with HIV who are restricted in their life activities in the list of grounds for recognizing a difficult life situation. On the other hand, this decree of the Ministry of Health suggests that women living with HIV may not be admitted to shelters for women.

The high level of violence against women is a serious obstacle to the realization of gender equality in Kazakhstan. A study by UN Women, conducted for the first time in Central Asia, found that 17% of women aged 18 to 75 have experienced physical or sexual violence by a partner, and 21% have experienced psychological violence.

According to the Ministry of Internal Affairs of the Republic of Kazakhstan, the internal affairs authorities register more than 100,000 complaints of domestic violence every year. In the first ten months of 2022, 93 women died and 794 criminal cases were initiated for causing grievous and moderate harm to health. There is still a critical lack of services for survivors of domestic violence, including shelters and

crisis centers, especially outside the major cities.<sup>21</sup>

## Conclusions and recommendations

In the context of the situation described, the following steps must be taken to implement the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women:

- **Adopt and implement specific laws and policies to prevent discrimination and violence against these groups of women: legislative measures, establishment of penalties for discrimination and violence, and training of law enforcement officials and medical personnel on the rights and needs of these groups of women.**
- **Improve access to appropriate medical care for women living with HIV, women with disabilities, and women who use drugs: establish and expand specialized centers and clinics, provide reproductive and sexual health services, treatment for HIV, HCV, and other infectious diseases, and drug treatment services.**
- **Monitor compliance with the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women: conduct regular reviews and evaluations to assess the effectiveness of the measures taken and adjust policies and programmes based on the results.**

## PART 5. COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### Recommendations of the Committee on Economic, Social and Cultural Rights

In March 2019, the Committee on Economic, Social and Cultural Rights recommended that the Republic of Kazakhstan<sup>22</sup>:

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<sup>21</sup> Страновой отчет «О достигнутом прогрессе — Казахстан. Глобальный мониторинг эпидемии СПИДа — 2022 год» доступен по ссылке / Country report *On the progress achieved - Kazakhstan. Global Monitoring of the AIDS Epidemic 2022* is available at: <https://drive.google.com/file/d/1MhT7dVJMOfdL2TzRqZ0lfRNDJWqmQNYf/view?usp=sharing>.

<sup>22</sup> Concluding observations on the second periodic report of Kazakhstan are available at: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuWzkLn5QA2sHM>

*“The Committee recommends that the State party intensify its efforts to prevent drug abuse, including through education and awareness-raising programmes. It also recommends that the State party strengthen harm reduction programmes and provide appropriate health care, psychological support services and rehabilitation, including opioid substitution therapy, to people who use drugs. The Committee further recommends that the State party ensure the confidentiality of medical records of people who use drugs and consider the decriminalization of drug use.”*

### Measures taken by the Republic of Kazakhstan to implement the recommendations of the Committee on Economic, Social and Cultural Rights

As part of the implementation of the *“Comprehensive Plan to Combat Drug Abuse and Trafficking in the Republic of Kazakhstan for 2023–2025,”*<sup>23</sup> it is planned to allocate 71,000,000 tenge (about \$ 150,000) from the republican budget for the provision of medicines to the participants of the OAT programme.

In one of her speeches, the deputy of the Mazhilis of the Parliament of the Republic of Kazakhstan, Ms. G. Nurumova, who is a member of the working group to review the draft laws on combating illicit trafficking in drugs and various psychotropic and potent substances, said that:

*“The result of the evaluation of the provision process and quality of OAT services in Kazakhstan shows that the majority of patients and specialists consider this treatment to be effective and acceptable for the country, i.e. patients and doctors themselves speak about the positive clinical outcomes of the treatment.”*

*Section III. The Development of Maintenance Treatment with Opioid Agonists in the draft Roadmap for the Development of Mental Health Services in the Republic of Kazakhstan for 2023–2024* reflects the process of amending legislative acts. To

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<sup>23</sup> Decree of the Government of the Republic of Kazakhstan *“On Approval of the Comprehensive Plan to Combat Drug Abuse and Trafficking in the Republic of Kazakhstan for 2023–2025”*. Available at: <https://adilet.zan.kz/rus/docs/P2300000508>.

implement the OAT programme, amendments were made to legislative acts, including the regulations on the provision of medicines to programme participants. It is assumed that medication for maintenance therapy will be provided by healthcare facilities specializing in the treatment of patients with mental and behavioral disorders.

On 27 June 2023, the Acting Director of the Department for the Organization of Medical Care of the Ministry of Health of the Republic of Kazakhstan, G. Zhangarasheva, stated upon request<sup>24</sup> that:

*“In the Republic of Kazakhstan, measures to reduce the harm caused by the use of psychoactive substances are aimed at curbing the spread of HIV infection, providing timely specialized assistance in the field of mental health and improving human resources capacity.”*

### Analysis of the implementation of the recommendations of the Committee on Economic, Social and Cultural Rights

Even though OAT has been working in Kazakhstan for more than five years, there are cases of discrimination and stigmatization of OAT patients by medical staff and police officers.

#### **Female A. and her parents, participants in the OAT programme:**

*A. came to the OAT site with her father. The police had information that A.'s mother was selling drugs. The case file included a video recording of A.'s mother handing drugs to another person. A.'s mother was arrested by the police. She was not even allowed to take methadone. The arrest of the family was filmed. The family was kept in place for several hours. A. was with her child (10 months old). It was cold, but the police did not allow her to call relatives to hand over the child. The family was taken to grandmother's house for a search. After several hours, A. was allowed to leave her child there. A. and her father were released, but her mother was soon sentenced to 10 years in prison for selling drugs.*

<sup>24</sup> The response is available at:

[https://drive.google.com/file/d/1DX9HRyMMuo\\_wmnoxkf7hO2zRItnChm0HO/view?usp=sharing](https://drive.google.com/file/d/1DX9HRyMMuo_wmnoxkf7hO2zRItnChm0HO/view?usp=sharing).



*According to the police, this prison sentence was because the grandmother had filed a complaint against police officers a few years earlier for extorting a bribe. Before the conviction, the woman was in custody and was suffering from methadone withdrawal syndrome without medication support. Her complaints about the deterioration of her physical and psychological condition and the objections of her family were not taken into account.*

In the Republic of Kazakhstan, the distribution of OAT take-home doses is not permitted. Taking methadone outside the premises of the medical facility where OAT is dispensed is also not allowed. Patients must take methadone directly at the dispensary office under the supervision of medical staff.

According to feedback from OAT patients, thanks to OAT, they return to society and their families, want to work and earn money, and lead a normal, fulfilling life. In their opinion, the only unpleasant thing is that they have to come to the mental health center every morning to take methadone.

When a person is hospitalized, OAT services are suspended because hospitals are not allowed to store and dispense methadone to patients. According to O. Ibragimova, secretary of the Committee of Key Affected Populations in the Context of HIV Infection and Tuberculosis, this poses an enormous risk to health and lives of OAT patients because if a client of the OAT programme becomes ill or is hospitalized, he or she will not receive maintenance treatment during the time of hospitalization.

**Egor, client of the OAT programme:**

*In 2022, Egor caught a severe cold and developed a high fever so that he could no longer use his legs. But he had to visit the OAT site every day to get methadone. For several weeks, his relatives called an ambulance every day, and the paramedics took him to a specialized clinic where he received methadone. Egor, like many other participants in the OAT programme, was afraid to go to the hospital because he knew that no one would bring him methadone there. And since he could not walk, he couldn't go to a specialized clinic to get methadone. He also knew that the ambulance would not take him there from the hospital.*



*So, he died at home from purulent pneumonia.*

The vulnerability of OAT programme participants across the country due to the lack of take-home medication was confirmed by the situation during the COVID-19 pandemic. Even during the pandemic, this norm did not change, and patients had to travel under quarantine conditions to receive the medication. Today, many OAT programme participants point out that health care has not improved since the COVID-19 crisis but has actually worsened.

**Elena, participant of the OAT programme for more than 3 years:**

*She fell ill with bilateral pneumonia and had to be hospitalized for treatment. Elena refused to go to the hospital because she knew that she would not receive methadone therapy there. She began to treat the pneumonia at home, but her condition worsened. Elena called an ambulance, and the medical staff assured her that the hospital would give her medication that would improve her condition without her having to take methadone. The next evening, in the hospital, Elena asked for a drug to alleviate the withdrawal symptoms. The nurse replied that they did not have such medication in the department. Elena left the hospital. Her mother took out a loan and paid for the services of a nurse who came to Elena's home every day and carried out the treatment (administered infusions and gave injections). Despite her poor health condition, Elena went to the OAT site every day to take her vital medication.*

The OAT programme in Kazakhstan is not being expanded, mainly because the issue of maintenance therapy is often the subject of political debate. Various officials, especially from law enforcement agencies, often use “moral arguments” against OAT. They say that government support of maintenance treatment programmes could send the wrong message to the public that drug use is acceptable. There is also a complex system for obtaining approvals and quotas for the procurement of OAT drugs that constantly jeopardizes the continuity of OAT treatment in Kazakhstan.

**Nikolay, participant of the OAT programme for about 8 years:**

*Last year he suffered a stroke and had problems with his musculoskeletal system. He currently uses crutches to walk. Every morning the journey to the OAT site is an ordeal for him. He has to be there on time because the OAT medication is only dispensed at certain times. The OAT programme office is located on the third floor. So, it's difficult for him to get there on crutches. And this ordeal has been going on for a year now.*

It can be argued that the lack of modernization and development of the OAT programme in the Republic of Kazakhstan is directly related to the country's repressive drug policy, which every year only increases the criminalization of people who use drugs.

Today in Kazakhstan there is a disproportionate legal control and law enforcement practice towards people who use drugs. The criminalization of drug possession for personal use is one of the main reasons why the country's drug policy relies on law enforcement rather than the health system.

The Law of the Republic of Kazakhstan No. 279-I "*On Narcotic Drugs, Psychotropic Substances, Their Analogues and Precursors and Measures to Combat Their Illicit Trafficking and Abuse*" defines the legal basis for state policy in the field of illicit trafficking in narcotic drugs, psychotropic substances, their analogues, and precursors. It consists of two main parts: (1) how the state regulates and organizes activities related to drug trafficking and counters illicit drug trafficking and drug use, and (2) the provision of health services for people with substance use disorders.

Thus, on January 10, 2020, a new element of the offense, "*use of electronic communication systems,*" was introduced into the country's criminal legislation about drug-related crimes. This element is provided for in several articles: selling drugs, trafficking in drug derivatives for the production of illicit drugs, and involvement of others in the use of drugs. These offenses are classified as grave and particularly grave and are punishable by long terms of imprisonment up to life imprisonment. Criminal liability for advertising and propaganda of drugs has also been introduced. Punishment under this article provides for a prison sentence of 3 to 6 years.

In October 2022, amendments came into force that criminalize the trafficking of a range of synthetic drugs and their precursors. In total, 115 new types of psychoactive substances have been brought under state control in the last two years. In addition, the Ministry of Internal Affairs reduced the weight of substances punishable for drug trafficking for several synthetic substances such as pyrovalerone, mephedrone, synthetic cannabinoids, etc. (from 50 grams to 1 gram).

Under current legislation, drug use is not a criminal offense in the Republic of Kazakhstan. Only drug use in public places is punishable under Part 1 of Article 296 of the Criminal Code of the Republic of Kazakhstan.

At the same time, the fact of drug use in public places is difficult to prove. A person can use drugs at home or in another place and then turn up in a public place. According to the Ministry of Internal Affairs, defendants can thus avoid punishment in court in many cases. According to the Ministry, this leads to an increase in the demand for drugs and practically nullifies the preventive function of punishment – a reduction in the number of people who occasionally use drugs, a reduction in the number of crimes related to drug use (hooliganism, theft, running drug dens, selling drugs).

In this regard, the Ministry of Internal Affairs has submitted a proposal for the draft law *“On the Introduction of Amendments to the Code of Administrative Offenses of the Republic of Kazakhstan to Combat Illicit Trafficking in Narcotic Drugs, Psychotropic Substances, and their Precursors,”* which provides for the decriminalization of the qualifying feature “public place” in Part 1 of Article 296 of the Criminal Code and its transfer to the category of administrative offenses.<sup>25</sup>

It will allow the Ministry of Internal Affairs to ensure that all persons detained for drug use are held accountable, thereby expanding the scope of application of the law to latent drug users. That is, it will guarantee the implementation of the principle of inevitability of punishment and will be an additional legal mechanism that encourages refusal or abstinence from drug use.

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<sup>25</sup> Article *“The Ministry of Internal Affairs Explained the Decriminalization of Punishment for Non-medical Drug Use”*. Available at: <https://polisia.kz/ru/v-mvd-raz-yasnili-dekriminalizatsiyu-nakazaniya-za-nemeditsinskoe-potreblenie-narkotikov/>.

All these legislative measures are aimed at tightening legislation on drug trafficking and not at liberalizing it. Despite the recommendation of UNAIDS and other UN agencies and programmes to decriminalize drug possession without intent to sell,<sup>26</sup> the criminalization of behaviors related to drug use (such as drug possession) is one of the primary causes of stigmatization and discrimination against people who use drugs, including barriers to accessing health care. Instead of social and medical help, these people are punished and stigmatized, depriving them of the opportunity to find a job, continue their education, and exercise their family rights.

As a result of the widespread use of new psychoactive substances in Kazakhstan, there is a growing need for specific drug treatment. However, in the vast majority of cases, treatment focuses on complete abstinence from drug use. Treatment focuses on detoxification with the widespread use of various potent drugs that alter the patient's consciousness. Psychosocial support and rehabilitation after detoxification are more of a formal nature. Compulsory treatment carried out by court order and under the direct supervision of law enforcement agencies is standard practice.

Seeking treatment in state facilities, including maintenance treatment, automatically means that a person is registered as a drug user. It is an instrument from the Soviet past that involves keeping a register of people with substance use disorders. Inclusion in the register means a ban on some activities, such as driving a car, doing particular types of work, going to a university for individual specialties, etc. For this reason, many people are reluctant to seek medical help. To avoid registration as a drug user and the associated consequences, people increasingly prefer to seek treatment in fee-based facilities where there is no registration.

## Conclusions and recommendations

Since the recommendations of the Committee on Economic, Social and Cultural Rights in paragraph 47 have only been partially implemented by the Republic of Kazakhstan, the following measures must be taken to implement them in the context

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<sup>26</sup> Report of the International Narcotics Control Board 2020. Available at: [https://unis.unvienna.org/pdf/2021/INCB/INCB\\_Report\\_R.pdf](https://unis.unvienna.org/pdf/2021/INCB/INCB_Report_R.pdf).

of the situation described:

- **Develop and strengthen harm reduction programmes that provide specific support and medical assistance to people who use drugs.**
- **Modernize the OAT programme and its activities to improve coverage and efficiency.**
- **Ensure continuous monitoring and evaluation of the effectiveness of harm reduction programmes and their compliance with international standards.**
- **Change working methods and expand the network of drug treatment clinics and centers that provide adequate medical care to people who use drugs.**
- **Conduct further advocacy on drug policy liberalization, including the decriminalization of drugs.**

## **PART 6. CONCLUSION**

An analysis of the measures taken to implement the recommendations of the UN human rights treaty bodies to the Republic of Kazakhstan shows that these measures are not fully or insufficiently implemented. This is mainly due to the lack of concretization, direct indication of the executing body, deadlines, and methods of implementation.

The measures taken by the Republic of Kazakhstan in response to the recommendations are advisory and declarative. On some issues, they have lost significance or do not meet the existing challenges. In response to the recommendations of the UN treaty bodies, certain issues, such as the modernization of the OAT programme and the introduction of OAT medication in the penitentiary system, are not addressed.

As a result of the analysis we have conducted, it is clear today that the Republic of Kazakhstan must take concrete measures in response to the recommendations of the UN treaty bodies, align them with the needs of the current situation in the country, allocate sufficient resources for the implementation of these plans and, most importantly, — involve civil society in their development, implementation, and relevant monitoring.