

Delegation of Kazakhstan

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An effective and efficient legislative system guarantees the reliable protection of human rights and freedoms in any country.

The appropriate legislation has been created in Kazakhstan. However, it requires further improvement, and the relevant measures are being taken for this purpose.

Only recently, the Parliament adopted the Law on State-Guaranteed Legal Aid, which aims to ensure the constitutional right of every person to expert legal assistance, and the Law on State Services, which will increase the effectiveness and efficiency of the provision of the relevant State services to the people and help to reduce violations of human rights.

On 3 July of this year, the President signed the Law on the National Preventive Mechanism, which aims to develop and ensure the operation of a National Preventive Mechanism and the prevention of other forms of unauthorized treatment of persons held in social isolation.

The Law implementing Article 78 of the Constitution of the Republic of Kazakhstan has been adopted. It aims to increase the level of protection of the constitutional human and civil rights to have legal relationships occurring in court proceedings regulated.

The rule of law is ensured by the independent judicial system and the right of citizens to a fair trial. In recent years more attention has been paid to ensuring transparency in the process of selecting judges.

The specialization of courts (economic, administrative, juvenile) has had a notable impact on the quality of the administration of justice.

Overall, the judicial system has become more open. It is being discussed more, and the number of publications in the press and reports on the access of citizens to the Supreme Court have increased.

A large number of conferences, seminars and round table discussions on access to justice, including access by persons with limited possibilities, are being held with the active participation of civil society.

It goes without saying that there are problems associated with the work of the judicial authorities, namely the competence of judges, procedural violations during the court process and the execution of court decisions, but overall these are insignificant and have no effect on the impartiality of the courts.

The right of citizens to participate in local self-government is being implemented. Elections will be held across the country for leaders of rural districts, villages, settlements and auls (mountain villages) in August this year.

The draft Criminal Code and Code of Criminal Procedure are being publicly discussed on a broad level, which will enable various points of view to be taken into account and is a prerequisite for the creation of legislation that meets international standards.

The draft Criminal Code provides for:

- The expansion of the State's humanitarian policy on socially vulnerable groups in the population and first-time minor offences;
- The use of alternative punishments not associated with the deprivation of liberty;
- The expansion of the conditions for exemption from criminal liability, serving a sentence and parole.

At the same time, the response to grave and extremely grave crimes, organized crime, crimes of corruption, terrorism and extremism and crimes against minors is becoming harsher.

In the draft Code of Criminal Procedure:

- The protection of the rights and legal interests of victims of crimes and persons accused of committing crimes has been defined as the main task;
- A standard has been introduced requiring that the rights and obligations of an arrested person be explained verbally at the time of arrest;
- The procedure for arresting citizens has been worked out in detail, and standards regulating the procedures and basis of short-term detention are envisaged.

The draft Code of Criminal Procedure provides for the introduction of a wide range of standards for the legal regulation of the rehabilitation of prisoners:

- The institution of a progressive correctional system for prisoners;

- New types of institutions and a nuanced approach to the conditions under which a sentence is served;
- Criteria for assessing the behaviour of prisoners;
- A broadening of the functions of educational activity and the inclusion of society in this process;
- A mechanism for public monitoring of the correctional system has been determined.

The new version of the Code on Administrative Violations has substantially improved the situation in terms of human and civil rights and freedoms under administrative law. So-called ‘grandfather clauses’ have been reduced, the method for calculating sentences has been reviewed, and the method of notifying participants in the process of administrative justice has been improved.

Problems:

- Statutory instruments are being used in matters relating to the protection of human rights and freedoms;
- The courts are making insufficient use of the standards contained in international documents ratified by the Republic of Kazakhstan;
- The executive bodies are making little use of the auxiliary documents adopted by the OSCE, the United Nations and other international organizations;
- ‘Grandfather clauses’ are still being used in legislation and are having a negative impact on the protection of human rights and freedoms.