

Translation from Kazakh into English of an awareness-raising leaflet prepared in the framework of the Rule of Law Platform - Central Asia, a project funded by the European Union (© European Union)

Title	Rights of victims of torture	
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Freedom from torture and other cruel, inhuman or degrading treatment or punishment is not subject to any restrictions by anyone, under any circumstances.

What “torture” means?

“Torture” is a crime from 21.12.2002, article 141-1 of Criminal Code RK:

“Intentional infliction of physical and (or) mental suffering committed by an investigator, a person conducting an investigation, or other official or with their instigation or acquiescence by another person, or with their consent for the purpose of obtaining from the tortured person or third person of the information or confession, or to punish him for an act he committed or is suspected of committing, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind”.

Punishment for torture is established from 6 months to 5 years of imprisonment according to Part 1 of Article 141-1 of the Criminal Code (with application of three other alternative forms of punishment), up to 7 years according to Part 2, from 5 to 10 years according to Part 3.

10 basic international standards for freedom from torture:

- the principle of non-refoulement to a country where a person may be subjected to torture;
- evidence obtained through torture shall be excluded;
- access to a lawyer and a doctor of choice of the alleged victim;
- informing family members about the location of the alleged victim;
- access to visits from family members;
- prohibition of keeping in the absence of communication with the outside world;
- investigating allegations of torture must be impartial, independent, thorough, fast;
- access to effective protection (in law and in practice);
- perpetrators of torture should be punished;
- the person must be recognized victim regardless of whether or not the person who has committed a violation is identified, taken into custody, subject to persecution or convicted, and regardless of presence of family or other ties between the person who committed offense, and the victim;
- access and real compensation of harm for torture to the victim (restitution, compensation, rehabilitation, satisfaction, guarantee of non-repetition). The ultimate goal of providing redress - restoring the dignity of victims. See General Comment of the UN Committee against Torture # 3 as of

13.12.2012.

Fundamental rights of detainees, prisoners:

- Humane treatment
- Prohibition of torture
- Status as unconvicted persons
- Notice of reasons for arrest and without delay of the accusation
- Without delay stand trial
- Obtain information about their rights
- Assistance of interpreter (*testify in his native language or in the language he speaks*)
- Notification of family members
- Obtain legal aid (*to have a representative*)
- Visits of family members and correspondence with them
- Reasonable distance from the place of residence
- Prohibition to undergo medical, scientific experimentation
- Duration of interrogations and the intervals between them only in accordance with the law
- Medical examination
- Obtain training, information, art materials
- Communication with persons visiting places of detention
- Sentencing strictly in accordance with the law
- Guardianship of children left unattended
- File complaints, including about torture (*to appeal actions (inaction) of the body conducting criminal proceedings*);
- Indemnity in case of damage
- Presumption of innocence
- The trial within a reasonable time

The first steps:

Invite a lawyer of your choice.

Record the traces of physical and mental torture, refer to:

- any doctor and get a document detailing the injuries and examination results;
- psychiatrist, psychologist.

File an application to the office of public prosecutor, with the following details:

- how many people,
- who exactly (name, title, name of the body, where he works),
- when (date, time),
- where (place, office / room, a body where it is located, what floor, left / right),
- applied (form of torture: what actions were applied, by what subject / body part, on which parts of the body, how many times, how long it lasted, through what intervals; what words tortures were accompanied). If torture was used by several people, you should specify specific role of each of them,
- who was present during the torture (name, title, name of the body, if there were witnesses - where they can be found),
- which traces remain (detailed description of color, size, signs of torture, with locations),
- reference to the legislation: Article 7 of the International Covenant on Civil and Political Rights, the UN Convention against Torture, art. 17 of the Constitution RK, Art. 141-1 of the Criminal Code RK,
- specify the request: "institute criminal proceedings under Art. 141-1 of the Criminal Code, to recognize me as a victim, to ensure my safety and issue regulations in this regard".

Based on the results of the check of allegations of torture prosecutor's office makes a decision to institute criminal proceedings or reject it. You need to get the text of the resolution and in case of refusal to initiate criminal proceedings to appeal it first to the prosecutor and to the court or directly to the court at the location of the body that made the decision.

Useful addresses in Astana:

- Prosecutor General RK: Orynbor street, 14
- Agency for Combating Economic Crimes and Corruption RK (Financial Police): Seifullin str., 37
- Ministry of Internal Affairs RK: Avenue Tauelsizdik, 1
- Commissioner for Human Rights in Kazakhstan: Orynbor street., 8, entrance № 15
- The Commission on Human Rights under the President of Kazakhstan: Left Bank, House of Government of RK
- PA "Kazakhstan International Bureau for Human Rights and Rule of Law" www.bureau.kz, Astana branch. Telephone: 87172-341947.