

(Translated from Russian)

Information from the Republic of Kazakhstan in response to the request from the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to privacy, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, the Special Rapporteur on violence against women, its causes and consequences and the Working Group on the issue of discrimination against women in law and in practice

1. Ms. ██████████ and Ms. ██████████ brought a case against Mr. ██████████ relating to the violation of their rights to one's personal pictorial image and claiming moral damages.

On 18 May 2018 Court No. 2 of Auezovsky district in Almaty issued a decision ruling partially in their favour.

The ruling recognized that the dissemination by Mr. ██████████ (under the name ██████████) of a video containing Ms. ██████████'s and Ms. ██████████'s images, by publishing them on Facebook, was illegal.

Mr. ██████████ was ordered to pay compensation for moral damages in the amount of 10,000 tenge to Ms. ██████████ and 5,000 tenge to Ms. ██████████.

The rest of the claims put forward in the suit were rejected.

On 17 August 2018 the Civil Chamber of the Almaty municipal court issued a decision changing the decision of the court of first instance.

It overturned the award of damages and issued a new decision denying the lawsuit.

The plaintiffs appealed that decision before the Supreme Court.

On 30 July 2019, the Civil Chamber of the Supreme Court issued a decision modifying the decision of 17 August 2018 issued by the Civil Chamber of the Almaty municipal court.

The denial of the claim was cancelled and the decision of 18 May 2018, issued by Court No. 2 of Auezovsky district in Almaty, was reinstated.

Mr. ██████████ was ordered to pay the legal fees charged by the State.

This example bears witness to the fact that in Kazakhstan it is possible for people to defend their rights, regardless of their sexual orientation and gender identity.

Thus, in the event of discrimination on such grounds, citizens should bring their cases before the authorities or a court.

The procurators' offices consider complaints by all citizens, but they do so in the circumstances established by law.

Thus, in accordance with article 21 (1) of the Procurator's Office Act, procurators' offices consider complaints when there is a threat of irreversible consequences (for the life or health of persons, or for national security) and in the event of the violation of the rights of an unlimited group of persons or of persons incapable of defending themselves (owing to their physical, psychological or other circumstances).

Procurators consider the categories of complaints in question only in the following cases: violations, or threats of violations, of the law in the activities of law enforcement and special State agencies; conflict of interest in the activities of State agencies or their officials whose area of work includes the consideration of the complaint; and complaints about the decisions and actions (or failure to act) of State agencies or their officials.

2. Regarding harassment of representatives of the LGBT community in Kazakhstan



Article 14 of the Constitution establishes that no one may be subjected to any discrimination on grounds of social, official or property status, origin, sex, race, ethnicity, language, attitude to religion, beliefs or place of residence, or on any other grounds.

On 6 December 2016, the President of Kazakhstan, Nursultan Nazarbayev, approved the Framework for family and gender policies in the Republic of Kazakhstan for the period until 2030. Implementation of the Framework is the responsibility of the central Government and local executive bodies and will be based on the following principles:

- Equality in the enjoyment of all economic, social, cultural, civil and political rights, regardless of sex;
- Non-acceptance of discrimination and gender asymmetry in the life of the State and in society;
- Establishment of a gender consciousness and the eradication of gender stereotypes in society;
- Representatives of the LGBT community who are citizens of Kazakhstan or foreign citizens residing temporarily or permanently in our country enjoy the full gamut of rights guaranteed by the law in force:
- The right to privacy, to keep their private and family information confidential and to defend their honour and dignity;
- The right to defence in judicial matters, to fair judicial proceedings and to the enforcement of judicial decisions;
- The right of citizens to benefit from government services;
- The right of freedom of movement and the right to obtain citizenship;
- The right to housing and to own land;
- The right to freely work and to freely choose one's field of activity and occupation;
- The right to work in conditions meeting safety and health standards and to be remunerated without any discrimination, and the right to social protection against unemployment;
- The right to engage in individual and collective labour disputes with the use of the legally established means of settling them, including the right to strike;
- The right to rest;
- The right to social insurance and pension coverage;
- The right to health;
- The right to freedom of religion;
- The right to engage in entrepreneurial activities;
- The right to privacy in respect of contributions, savings, telephone conversations and postal, telegraphic and other communications;
- The right to make use of their native language and culture and to freely choose the language they use in communication, raising children, education and creative endeavours;
- The right to freedom of association;
- The right, on a competitive basis, to receive a higher education free of charge at State institutions of higher learning;
- The right, without weapons, to peacefully assemble and to hold gatherings, meetings, demonstrations and marches and to set up picket lines.