

**Mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolution 34/19.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning allegations of torture and ill-treatment of Mr. **Iskander Yerimbetov** in the Investigative Isolator of the Department of the National Security Committee (KNB) located in Institution LA-155/1 (Investigative Isolator-1 or SI-1) in Almaty.

According to the information received:

On 13 November 2017, at around 5:00 pm, Mr. Yerimbetov was arrested without any warrant, in the parking lot of a shopping center in Almaty, by approximately 10 people, dressed in plainclothes.

His home and offices were subsequently searched and personal belongings, money, documents, electronic storage media, personal and office computers of employees were confiscated without any court order. No inventory of the confiscated items was drawn up. Mr. Yerimbetov was then taken to the Investigative Isolator of the Department of the National Security Committee (KNB) for the city of Almaty located in Institution LA-155/1 (Investigative Isolator-1 or SI-1).

Mr. Yerimbetov is accused of receiving and laundering funds for a Kazakh political opponent living abroad, and himself accused of embezzlement. Mr. Yerimbetov rejected these charges.

The sister of Mr. Yerimbetov, Ms. Botagoz Jardemalie, is a human rights lawyer, representing the above-mentioned political opponent among others. The detention of Mr. Yerimbetov is alleged to be part of the authorities' efforts to obtain the arrest of the political opponent and to neutralize his legal representation.

During the period of 14 November to 29 November, Mr. Yerimbetov was held in multiple cells, and forced to sleep on the cold cement floor in one of these cells.

From 14 November to 5 December Mr. Yerimbetov was interrogated twice in the presence of his lawyer. However, due to the lack of satisfaction with his answers, he was subsequently interrogated - approximately 5-6 times - for long hours, in the basement of SI-1, by individuals who did not identify themselves and without the presence of his lawyer. He was threatened to be sentenced to 15-20 years of strict prison regime; to be placed in cells with inmates infected with HIV and tuberculosis; or to be locked in a cell with "Islamist terrorists" if he didn't confess his alleged crimes.

Mr. Yerimbetov was compelled to contact his sister, Botagoz Jardemalie, who currently benefits from a refugee status abroad. He was requested to ask her to return to Kazakhstan and to testify against the political opponent, in exchange for dropping the charges against Mr Yerimbetov.

From 29 November to 5 December Mr. Yerimbetov was placed in solitary confinement because he refused to falsely incriminate himself. While in solitary confinement his upper clothing was taken and he was placed in a small cell that was poorly heated, without access to natural lighting, water or sanitation facilities, and he was only provided with a mattress from 10:00pm to 6:00am.

On 5 December, Mr. Yerimbetov was forced to contact persons associated with him to request that they call off a press conference concerning his arrest and detention and to dismiss his lawyer from representing him. He was later moved from solitary confinement to cell 94, a remote and desolate cell, which contained six inmates previously convicted of violent crimes despite the fact that he had never been charged with a criminal offence.

From approximately 6 to 12 December, while in cell 94, the inmates beat Mr. Yerimbetov with blows to the lungs, heart, kidneys and head. It is reported that employees of the law enforcement organs provided instructions to the inmates on cellular telephones via WhatsApp and phone calls, and that on one occasion, a security guard provided, upon request of the inmates, a wooden stick to further beat Mr Yerimbetov with. The inmates wrapped the stick with a wet towel in order to prevent physical signs of the abuse. Mr. Yerimbetov suffered blows to the head and body. Furthermore, inmates prevented Mr Yerimbetov from eating or sleeping; he was subjected to constant threats of physical and sexual abuse and subjected to extortion. He was also strangled with hands and a rope. he was subjected to such treatments to force him to collaborate with the KNB.

On 12 December, Mr. Yerimbetov was able to inform his lawyer about the illtreatment he had been subjected to in cell 94. Despite repeated requests from his lawyer, he was not transferred to another, safe cell. It is only a day after a second

press conference held by persons associated with Mr. Yerimbetov to denounce his conditions of detention that the six inmates responsible for beating him were transferred to another cell. Despite filing requests to be transferred from cell 94 Mr. Yerimbetov remained in isolation in that cell.

On 17 December 2017, during the visit of the Kazakh National Preventative Mechanism (NPM), Mr Yerimbetov was moved out from his cell, and his cellmates were instructed in advance on what to say to the monitors to avoid raising concern over his treatment in prison.

On 13 January 2018, Mr Yerimbetov's parents and lawyer were summoned to the detention facility in connection with the investigation. However, the interrogation did not take place. as he was suffering from severe pain in the head, as well as in the left side, due to a possible fracture of a rib. Mr Yerimbetov's defense insisted upon calling an ambulance. Medical aid was provided but no x-ray of Mr Yerimbetov's chest was allowed. The medical report conceded that Mr Yerimbetov was suffering from several injuries, but the detaining authorities declined to provide a copy of the medical report to his parents and lawyer.

While I do not wish to prejudge the accuracy of these allegations, I would like to express my grave concern regarding the alleged treatment that Mr. Yerimbetov has been subjected to since his arrest, which if confirmed, would constitute violations of his human rights to liberty, personal security and integrity in contravention to articles 3, 5 and 9 of the Universal Declaration of Human Rights (UDHR) articles 7 (prohibition of torture), 9 (prohibition of arbitrary arrest, right to due process) and 10 (treatment in detention) of the International Covenant on Civil and Political Rights (ICCPR), to which Kazakhstan is a party since January 24, 2006; and of articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Kazakhstan acceded to on 26 August 1998.

Paragraph 8a of Human Rights Council Resolution 16/23 reminds States that "Intimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture;" Last, Recommendation E/CN.4/2003/68, para. 26 (j) of the Special Rapporteur on torture which states "countries should take effective measures to prevent prisoner-on-prisoner violence by investigating reports of such violence, prosecuting and punishing those responsible, and offering protective custody to vulnerable individuals."

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the seriousness of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Iskander Yerimbetov in compliance with Kazakhstan international human rights obligations under the Conventions it has ratified.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide any additional information on the factual and legal grounds for the deprivation of liberty of Mr. Yerimbetov.
3. Please provide information on the reason why Mr. Yerimbetov is alleged to have been interrogated on several occasions by KNB investigators without the presence of his lawyer.
4. Please provide the details, and where available the results, of any investigation, medical examination, and judicial or other inquiries carried out into the allegations that Mr. Yerimbetov was subject to several ill-treatment, and possibly torture, while in detention. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is consistent with Kazakhstan's obligations under the human rights Conventions it has ratified.
5. In the event that the allegations of ill-treatment and torture have been confirmed, and the perpetrators identified, including those with direct and supervisory responsibility, please provide the full details of any prosecution which may have been undertaken. Have penal, disciplinary or administrative sanctions been imposed to the alleged perpetrators?
6. Please indicate measure taken to prevent and investigate and punish reports of violence among prisoners.
7. Please indicate any remedial action taken vis à vis the victim and/or his family.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Given the seriousness of the case, I reserve the right to publicly express my concerns in the near future as I am of the view that the information on which my expression of concern is based is sufficiently reliable to indicate a matter warranting the most serious attention. Any expression of concern on my part will indicate that I have been in contact with the Government to seek clarification.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment