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Delegation of Kazakhstan

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**Working session 3: Fundamental freedoms II, including: freedom of  
assembly and association; national human rights institutions and the role of  
civil society in the protection of human rights; freedom of movement**

**Freedom of assembly in Kazakhstan**

Kazakhstan is endeavouring to create a tolerant and transparent society and in so doing recognizes the special role of the guidelines governing the freedom of peaceful assembly drawn up by the Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw. Our country recognizes that freedom of assembly is a democratic achievement that is required if there is to be a politically active citizenry and is subject to constant development. Kazakhstan guarantees the exercise and protection of this inalienable human right.

These guarantees include the enshrining of the right to freedom of assembly in the national Constitution and the regulation, in a special law, of the way in which meetings are organized and conducted.

The law (Article 141 of the Criminal Code) provides for criminal responsibility for the direct or indirect restriction of the rights and freedoms of citizens for reasons of beliefs, affiliation with a public association or for any other reason.

The rules under law governing the organization of meetings in Kazakhstan comply with the standards of international law and, specifically, with the standards of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and also with the practices of many countries throughout the world that have a recognized and developed system of democracy.

In accordance with Article 21 of the aforementioned Covenant, restrictions must be in conformity with the law and must be necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Enjoying the guarantees afforded under the law, Kazakh citizens are free to express any public, group or personal interests and opinions.

The only condition the law requires for conducting peaceful actions is the prior permission of the local authorities. This permission is, however, required only for the holding of meetings in public places.

With a view to ensuring public safety in major cities, the authorities have identified special places for the holding of rallies. As a rule, these are quiet and large public plazas and squares where there is sufficient room to hold a rally bringing together several thousand people. This is in line with the principle of the government's responsibility to protect peaceful meetings, as set out in 2007 by the ODIHR.

There are no restrictions or conditions for the holding of meetings and rallies in closed spaces.

Furthermore, anyone wishing to do so can at any time join a meeting at any place without having to take steps involving permission or notification, something that is fully in keeping with the principle of presumption in favour of the holding of meetings.

The following facts attest to how Kazakh citizens are actively taking advantage of these legal guarantees.

According to unofficial data alone, over the first 8 months of 2010 for the country as a whole 192 various meetings and rallies were held, which were attended by more than 10,000 persons, 50 per cent of these events taking place spontaneously, without the prior consent of the municipal authorities. Although this in fact constitutes a violation of the law, only 97 persons (92 persons in 2009 and 45 persons in 2008) were held administratively liable in strict conformity with judicial practice in the examination of such cases, with all of them receiving for the most part warnings. This represents less than 1 per cent (0.9 per cent) of the total number of the 10,000 persons who participated in these events. Of these, in 2010 the court ruled on a punishment of administrative arrest in only 12 cases, representing 0.12 per cent.

Thus we see that punishment is imposed only in exceptional cases and only by the court.

Throughout the history of independent Kazakhstan, not a single person has been prosecuted for violating the procedure for the holding of meetings. Over the last two years at least, not a single participant in a meeting has suffered at the hands of law enforcement officials, and of the total number of 576 meetings the authorities broke up only 17 and only for reasons involving the most flagrant violations of the procedures governing the holding of such meetings. This amounts to just 2.9 per cent of the total number of meetings held.

The Kazakh legislation does not contain any conditions or restrictions for the coverage of meetings by the media or for their monitoring. This is fully in line with the ODIHR guidelines. In practice, over the last few years neither journalists nor observers have lodged any complaints regarding the restriction of their rights during meetings.

Nevertheless, Kazakhstan, convinced as it is that the protection and promotion of the human right to hold meetings is one of the State's basic goals, intends to improve its legislation. To that end, a national human rights action plan for 2009 to 2012 has been adopted and is being implemented. This plan provides for the drafting by the government authorities, with the assistance of non-governmental organizations, of a new law on freedom of assembly. It is envisaged that this draft law will render more effective the legal mechanism for the regulation of peaceful assembly, will possibly change what is currently a permission procedure into a notification procedure, and will help citizens to exercise more fully their rights.