



On approval of the Rules for preventive visits by groups formed from among the participants of the national preventive mechanism

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated March 26, 2014 No. 266.

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The Government of the Republic of Kazakhstan **HEREBY DECLARES:**

1. To approve the attached Rules for preventive visits by groups formed from among the participants of the national preventive mechanism.
2. This decree shall be enforced upon expiry of ten calendar days after the date of its first official publication.

*Prime Minister
of the Republic of Kazakhstan*

S. Akhmetov

Approved
by the Decree of the Government
of the Republic of Kazakhstan
dated March 26, 2014 No. 266

Rules

for preventive visits by groups formed from the participants of the national preventive mechanism

Footnote. Rules are in the wording of the Resolution of the Government of the Republic of Kazakhstan dated 16.02.2023 No. 135 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 1. General provisions

1. These Rules for preventive visits by groups formed from the participants of the national preventive mechanism (hereinafter- the Rules) have been developed in accordance with Article 46 of the Penal Execution Code of the Republic of Kazakhstan, Article 191 of the Code of the Republic of Kazakhstan " On Public Health and Healthcare System", Article 46-17 of the Law of the Republic of Kazakhstan "On the Procedure and Conditions for Detention of Persons in Special institutions, Special Premises Providing Temporary Isolation from Society", Article 47-8 of the Law of the Republic of Kazakhstan "On the Rights of a Child in the Republic of Kazakhstan", Article 33 of the Law of the Republic of Kazakhstan "On the Prevention of Offenses among Minors and Prevention of Child Neglect and Homelessness", Article 11-8 of the Law of the Republic of Kazakhstan "On Special Social Services".

2. The rules shall determine the procedure for preventive visits by groups formed from the participants of the national preventive mechanism, institutions, and organizations determined by the laws of the Republic of Kazakhstan.

3. Preventive visits of the participants of the national preventive mechanism shall be divided into:

- 1) periodic preventive visits conducted on a regular basis at least once every four years;
- 2) intermediate preventive visits conducted between periodic preventive visits in order to monitor the implementation of recommendations based on the results of a previous periodic preventive visit, as well as to prevent the persecution of persons with whom the participants of the national preventive mechanism conducted interviews by the administrations of institutions and organizations subject to preventive visits;
- 3) special preventive visits conducted on the basis of received reports of the use of torture and other cruel, inhuman, or degrading treatment or punishment.

4. Preventive visits shall be carried out taking into account the methodological recommendations for preventive visits approved by the Commissioner for Human Rights in the Republic of Kazakhstan (hereinafter- the Commissioner).

Chapter 2. The procedure for preventive visits by groups Paragraph 1. Periodic and intermediate preventive visits

5. Periodic and intermediate preventive visits shall be conducted by groups formed by the Coordinating Council under the Commissioner (hereinafter - the Coordinating Council) from the participants of the national preventive mechanism.

6. Periodic and intermediate preventive visits shall be conducted by groups according to the plan approved by the Coordinating Council.

Plans for preventive visits include information about the dates, the list of institutions and organizations visited, the number of preventive visits, as well as the composition of groups authorized to conduct periodic and intermediate preventive visits.

7. Periodic and intermediate preventive visits, depending on the characteristics of the visit, shall be divided into:

- 1) one-time, in relation to a specific institution or organization;
- 2) thematic, in relation to two or more similar institutions and organizations located in two or more regions on a specific topic (hereinafter - thematic preventive visits).

8. No more than three participants of the national preventive mechanism shall be included in the composition of the group on periodic and intermediate preventive visits by the decision of the Commissioner.

9. The group on thematic preventive visits includes:

- 1) participants of the national preventive mechanism with special knowledge and experience on the relevant topic of preventive visits;

2) a participant of the national preventive mechanism from the relevant region within the framework of a visit to an organization or institution in the region.

In the absence of the required number of participants of the national preventive mechanism complying with the requirements of this paragraph, other participants of the national preventive mechanism may be included in the group by the decision of the Coordinating Council.

Paragraph 2. Special preventive visits

10. Special preventive visits shall be conducted by groups without warning based on reports of torture and other cruel, inhuman, or degrading treatment or punishment.

The decision to send a group to conduct a special preventive visit to the institutions and organizations subject to preventive visits shall be made by the Commissioner.

11. No more than two participants of the national preventive mechanism shall be included in the composition of the group on special preventive visits by the decision of the Commissioner.

12. Participants of the national preventive mechanism shall register the received reports and complaints about the use of torture and other cruel, inhuman, or degrading treatment or punishment in the manner determined by the Commissioner.

13. Information about the received and transmitted messages and complaints shall be included in the report on the results of preventive visits.

Paragraph 3. Organization of preventive visits

14. Preventive visits shall be accompanied and coordinated by a representative of the Commissioner for the relevant region, city of republican significance, the capital (hereinafter - the representative of the Commissioner), who is not a member of the national preventive mechanism.

15. If necessary, the experts with professional skills necessary for an effective preventive visit, taking into account the specifics of the visited institution or organization, shall be involved on a gratuitous basis to participate in the preventive visit by the decision of the Commissioner.

The expert opinion shall be included in the report on the results of preventive visits.

16. The document confirming the powers of a participant of the national preventive mechanism for a preventive visit shall be a certificate of a participant in the national preventive mechanism issued by the Commissioner.

17. When conducting preventive visits by groups, a participant of the national preventive mechanism, a representative of the Commissioner shall have the right to:

1) freely choose and visit institutions and organizations subject to preventive visits;

2) conduct conversations with persons held in institutions and organizations subject to preventive visits, and (or) their legal representatives without witnesses;

3) receive reports and complaints about the use of torture and other cruel, inhuman, or degrading treatment or punishment;

4) have other rights provided for by the laws of the Republic of Kazakhstan.

18. When conducting a preventive visit, a participant of the national preventive mechanism, a representative of the Commissioner shall explain the rights to the persons held in institutions and organizations subject to preventive visits, and (or) their legal representatives.

19. A member of the national preventive mechanism shall be independent in carrying out legal activities. If there is a conflict of interest, as well as circumstances that cast doubt on the impartiality of a member of the national preventive mechanism included in the preventive visit group, he/she must refuse to participate in the preventive visit.

20. Participants of the national preventive mechanism, the representative of the Commissioner must show respect for the persons held in institutions and organizations, as well as the personnel of these institutions and organizations.

Participants of the national preventive mechanism, a representative of the Commissioner shall not disclose information about the private life of persons that became known to them during preventive visits, without the consent of these persons.

21. Participants of the national preventive mechanism, the representative of the Commissioner shall not be allowed to interfere in the activities of institutions and organizations subject to preventive visits.

In case of illegal actions of the participants of the national preventive mechanism, the representative of the Commissioner, the head of the administration of institutions and organizations subject to preventive visits, shall inform the Commissioner in writing.

22. Ensuring the safety of participants of the national preventive mechanism, the representative of the Commissioner, including escort through the territory, shall be entrusted to the administration of institutions and organizations subject to preventive visits. About a real threat to security and the need to limit the confidentiality of the conversation, the participant of the national preventive mechanism shall be notified by the administration of the institution and organization.

23. The refusal by a participant of the national preventive mechanism, a representative of the Commissioner from restrictions to have a confidential conversation with persons held in institutions and organizations subject to preventive visits, shall be documented in writing.

24. The period of preventive visits by groups of participants of the national preventive mechanism to institutions and organizations subject to preventive visits should not exceed two working days, not counting the time spent on the road.

The term of a preventive visit in case of thematic preventive visits should not exceed five working days, not counting the time spent on the road.

25. Extension of the preventive visit period shall be allowed in exceptional cases for a period not exceeding five working days with the consent of the Commissioner.

26. If, during a preventive visit, signs of torture and other cruel, inhuman, and degrading treatment of persons held in institutions and organizations subject to preventive visits are revealed, the members of the group of the national preventive mechanism, together with the representative of the Commissioner, shall report about this fact to the prosecution authorities and the Commissioner.

Chapter 3. Report of groups on the results of preventive visits

27. Based on the results of each preventive visit on behalf of the group, a written report on the visit shall be compiled and submitted to the Coordinating Council in the form approved by the Coordinating Council, which is signed by all members of the group who carried out the preventive visit.

The member of the group who has a dissenting opinion shall draw it up in writing and attach it to the report.

28. Reports on preventive visits by a group formed from the participants of the national preventive mechanism of institutions and organizations subject to preventive visits shall be submitted to the Coordinating Council:

- 1) within ten days for periodic preventive visits;
- 2) within five days for intermediate preventive visits;
- 3) within two days for special preventive visits.

29. Reports of groups on preventive visits to institutions and organizations subject to preventive visits shall be confidential.