

# Key concerns and recommendations on the protection of fundamental rights in Kazakhstan

This briefing paper was prepared by International Partnership for Human Rights (IPHR, Belgium) and Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR, Kazakhstan) for the EU-Kazakhstan Human Rights Dialogue in November 2020.

The paper covers issues of restricted freedom of expression and media freedom, including new digital security laws which threaten human rights; ongoing and increasing persecution of government critics; and harsh restrictions on freedom of association and assembly. It also lists cases of political prisoners of particular concern.

In the past year, the persecution of journalists, bloggers, civil society activists, members and supporters of opposition movements, participants in anti-government rallies and others critical of the authorities has continued in Kazakhstan. In the context of the Covid-19 pandemic, this pattern has been reinforced, as the authorities have used the pandemic as an excuse to justify repression.<sup>1</sup>

The media landscape in Kazakhstan remains extremely restricted, and journalists work under serious pressure. While “slander” was decriminalised in June 2020, KIBHR’s monitoring shows that a growing number of journalists and activists have instead been charged under the broadly worded criminal code provision of “knowingly disseminating false information”, including in relation to their criticism of the government’s Covid-19 response. Among others, well-known activist Alnur Ilyashev was prosecuted and convicted on such charges. Prior to the transfer of “slander” to the Administrative Code, several journalists and activists were prosecuted under this criminal offense. In addition, public officials continue to use civil defamation lawsuits as a means of retaliation against critics, such as prison rights activist Elena Semenova.

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1 For more information about developments in the context of the Covid-19 pandemic, see the following reports: <https://www.iphronline.org/wp-content/uploads/2020/10/Covid-19-CA-regional-report-final.pdf> (key trends in Kazakhstan and other Central Asian countries); and <https://www.iphronline.org/wp-content/uploads/2020/07/REV-HUMAN-RIGHTS-IMPACT-ASSESSMENT-OF-THE-COVID-19-RESPONSE-IN-KAZAKHSTAN.pdf> (developments in Kazakhstan).

The authorities have also continued their crackdown on supporters and alleged supporters of political opposition movements, including: the new Democratic Party, which was prevented from holding a founding congress in February 2020; the previously banned Democratic Choice of Kazakhstan (DVK); and the new Street Party movement, which was banned in May 2020 as an alleged successor to the DVK. As part of this campaign, people associated with or accused of being associated with these opposition movements have been threatened, detained, interrogated, criminally prosecuted and subjected to other forms of pressure.

A new law on assemblies was rushed through during the Covid-19 lockdown despite widespread criticism by civil society actors and the international community. Rather than improving the protection of the freedom of peaceful assembly, the new law retains serious restrictions on this right that are incompatible with international human rights standards. Following the adoption of the law, the authorities have continued to disperse, detain and penalise peaceful protesters, in particular participants in anti-government rallies called for by opposition movements. The case of Asya Tulesova, an environmental and civil rights activist who was criminally prosecuted after standing up against police brutality during a rally called for by opposition movements in June 2020, attracted wide attention. Another case of particular concern is that of civil society activist Dulat Agadil, who was detained after attending a peaceful protest in February 2020 and who subsequently died in police custody in unclear circumstances.

While two individuals serving prison sentences on charges considered politically motivated were released in late 2019-early 2020, a number of other individuals currently remain imprisoned on such charges, including several people who have been imprisoned in the past year.

## Media freedom and freedom of expression

Media freedom and freedom of expression continue to be seriously limited in Kazakhstan. Despite positive developments - such as slander being removed from the criminal code - **the media landscape in Kazakhstan remains extremely restricted**. In recent years independent media outlets across the country have come under increasing pressure and although 2020 has not seen any closures of media outlets, state pressure on journalists and media organisations continues.

### NEW DIGITAL SECURITY LAWS THREATEN HUMAN RIGHTS

On 25 June 2020, President Tokayev signed into law changes to legislation concerning digital security, which were adopted without discussion with civil society.<sup>2</sup> The Coalition of New Generation of Human Rights Defenders, affiliated with Kazakhstan Youth Information Service (MISK), expressed concern that the new law facilitates illegal surveillance and could lead to breaches of confidentiality of personal data, and that the provisions are formulated so vaguely that their enforcement risks violating human rights and freedoms.<sup>3</sup> The opposition movement “Oyan, Kazakhstan”, which advocates for political reform and human rights, also expressed grave concerns about the new legislation.<sup>4</sup>

2 See (in Russian): [https://www.inform.kz/ru/prezident-rk-utverdil-popravki-v-zakonodatel-stvo-po-voprosam-regulirovaniya-cifrovyyh-tehnologiy\\_a3666025](https://www.inform.kz/ru/prezident-rk-utverdil-popravki-v-zakonodatel-stvo-po-voprosam-regulirovaniya-cifrovyyh-tehnologiy_a3666025)

3 See their statement on Facebook (in Russian): <https://www.facebook.com/nghrdc/photos/a.2040973449355660/2971506189635710/?type=3&theater>

4 See their statement on Instagram (in Russian): [https://www.instagram.com/p/CcdNziZHHqA/?utm\\_source=ig\\_embed](https://www.instagram.com/p/CcdNziZHHqA/?utm_source=ig_embed). More information Oyan, Kazakhstan can be found on their Facebook page here: <https://www.facebook.com/OyanQazaqstan>

## SLANDER REMOVED FROM CRIMINAL CODE

In a positive move, Kazakhstan removed the offense of “slander” from the Criminal Code. On 27 June 2020, the President signed legal amendments removing “slander” (Article 130)<sup>5</sup> from the Criminal Code and transferring it to the Administrative Code (Article 73-3).<sup>6</sup> As a result, the offense of disseminating information discrediting the honour and dignity of a person or his/her reputation is now punishable by a fine of 444 500 KZT (930 EUR) or administrative detention for 15 days; publishing such information online or on telecommunication networks is punishable by a fine of 500 000 KZT (1045 EUR) or administrative detention for 20 days; and by a fine of 555 600 KZT (1162 EUR) or administrative detention for 25 days if the crime is linked to a corruption allegation. Officials committing the same offences will face more serious penalties.

This development is a significant improvement from the former provisions which provided for criminal punishment for slander (Article 130 of the Criminal Code), with a fine of between

2 778 000 KZT (5800 EUR) and 8 334 000 KZT (14 400 EUR), or three years’ imprisonment. However, “insult” (Article 131)<sup>7</sup> remains a criminal offence, as does “insulting a government representative” (Article 378).<sup>8</sup> In addition, monitoring shows that **activists and journalists are increasingly charged under Criminal Code Article 274<sup>9</sup>, a broadly worded provision that penalises “knowingly spreading false information”** by imprisonment of up to seven years for offenses committed during a state of emergency. During the first eight months of 2020, more than **80 criminal cases** were initiated on the basis of Article 274. Five of those cases had been submitted to court by the end of August 2020.<sup>10</sup>

Prior to the de-criminalisation of “slander”, several journalists and activists were prosecuted for this criminal offense. For example:

- **In December 2019, political activist Zhambyl Kobeyzinov and his wife Dilbar Bezhanova were sentenced** to six months’ imprisonment and six months of restriction of freedom respectively, after being found guilty of slander using the mass media. Kobeyzinov had accused a local police chief of abuse of power in relation to an incident in 2019 when he was arrested for allegedly intending to attend an unsanctioned demonstration.<sup>11</sup>
- **Sergei Molchanov, psychiatrist and member of the Coordination Council under the Commissioner for Human Rights in Kazakhstan, was tried for slander in December 2019** following a private complaint from Batima Mukina, chairperson of the board of the joint-stock entity “Centre for Support of Citizen Initiatives” under the Ministry of Information and Public Development. The Centre for Support of Citizen Initiatives is the only body which allocates grants from the state budget, and in 2019 alone it issued grants amounting to over 1 billion 59 million KZT (around 2.5 million EUR). Molchanov was charged with slander for stating on social media that “this part of the quasi-public sector is misallocating public funds”.<sup>12</sup> Mukina demanded that Molchanov remove his Facebook posts, before withdrawing her complaint on the last day of the trial.

5 Read the legal text here: <https://www.pavlodar.com/zakon/?dok=05552&uro=080131#:~:text=>

6 Read the legal text here: [https://online.zakon.kz/document/?doc\\_id=31577399#pos=1770;-36](https://online.zakon.kz/document/?doc_id=31577399#pos=1770;-36)

7 Read the legal text here: [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/131.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/131.htm)

8 Read the legal text here: [https://online.zakon.kz/document/?doc\\_id=31575252&mode=p&page=2#pos=544;-44](https://online.zakon.kz/document/?doc_id=31575252&mode=p&page=2#pos=544;-44)

9 Read the legal text here: [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/274.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/274.htm)

10 See (in English): <https://cabar.asia/en/kazakhstan-emergency-triggered-witch-hunting>

11 See (in Russian): <https://rus.azattyq.org/a/30324650.html>

12 See (in Russian): [https://bureau.kz/novosti/sobstvennaya\\_informaciya/molchanie\\_zoloto/](https://bureau.kz/novosti/sobstvennaya_informaciya/molchanie_zoloto/)

Public officials also use **civil defamation lawsuits against individuals who challenge the actions of the authorities. For example, well-known prison rights activist Elena Semenova has faced several such civil lawsuits after she posted allegations of torture and other unlawful treatment of prisoners on social media:**

- On 22 May 2020, **Kostanay City Court ruled in favour of the prison administration of the UK-161/2 prison in a case involving allegations of torture made by Elena Semenova on social media.**<sup>13</sup> In 2019, Semenova published a testimonial on her Facebook page from an inmate in the prison about allegations of torture by prison staff. The court ordered Semenova to apologise to the prison administration and retract her statement. In July **Pavlodar City Court ruled against Semenova**, in a case brought against Semenova by the administration of ES 164/4 prison in Almaty Region. **Semenova was sued in relation to information she posted on social media regarding prisoner - Mikhail Sanin - being beaten by prison staff.** Although Sanin confirmed the allegations of violence during Semenova's trial, the court nevertheless ordered her to remove the original post and publish a refutation. She was also ordered to pay 95 000 KZT (190 EUR) in legal costs.<sup>14</sup> A few weeks later, Pavlodar **City Court satisfied the claim of the Deputy Head of the prison UK 161/2 in Kostanay against Semenova, ruling** that Semenova had defamed the honour and dignity of the prison doctor (Gulmira Myrzaly) in a post about a mass poisoning of inmates in UK 161/2. Semenova was order to cover legal costs and publish a refutation on Facebook.<sup>15</sup>

During 2020, **numerous cases of restrictions on freedom of expression were seen which related to the Kazakhstani authorities' handling of COVID-19** and the imposed quarantine restrictions throughout the country.<sup>16</sup> The authorities prosecuted citizens for criticizing the quarantine measures, insufficient state support and other related issues.

- Political activist **Alnur Ilyashev** was arrested on 17 April 2020 on charges of "knowingly spreading false information" (Article 274 of the Criminal Code) during the state of emergency declared in connection with the COVID-19 pandemic,<sup>17</sup> after he posted a critical comment on social media about the ruling Nur Otan Party and its Covid-19 response. The state investigator claimed that Ilyashev sought to influence public opinion.<sup>18</sup> Law enforcement officials reportedly committed serious violations of procedural norms during the pre-trial investigation: neither Ilyashev nor his lawyer were allowed access to his case files, the investigation material or the expert evaluations of social media posts. Law enforcement officials allegedly subjected Ilyashev's family to pressure and used physical force when searching their property. On 22 June 2020, the Second Medeu District Court in Almaty sentenced Ilyashev to three years of restriction of freedom and banned him from civic activism for five years.<sup>19</sup> On 15 September, Almaty City Court upheld the conviction.<sup>20</sup> The

13 See (in Russian): [https://kaztag.kz/ru/news/pravozashchitnitsa-semenova-ob-iskakh-ispravitelnykh-uchrezhdeniy-khotyat-zastavit-zamolchat?fbclid=IwAR1anVf11ZUNXM005ZorYfV\\_mKpectF\\_wb3um5j\\_zGQpcu\\_AvrljHsSqtSI](https://kaztag.kz/ru/news/pravozashchitnitsa-semenova-ob-iskakh-ispravitelnykh-uchrezhdeniy-khotyat-zastavit-zamolchat?fbclid=IwAR1anVf11ZUNXM005ZorYfV_mKpectF_wb3um5j_zGQpcu_AvrljHsSqtSI)

14 See (in Russian): <https://rus.azattyq.org/a/30723868.html>

15 See (in Russian): <https://rus.azattyq.org/a/30723868.html>

16 More details can be found in IPHR and KIBHR's COVID-19 report on Kazakhstan: <https://www.iphronline.org/wp-content/uploads/2020/07/REV-HUMAN-RIGHTS-IMPACT-ASSESSMENT-OF-THE-COVID-19-RESPONSE-IN-KAZAKHSTAN.pdf>

17 During state of emergency, there is an increased penalty for this crime

18 See (in English): <https://www.rferl.org/a/kazakhstan-activist-alnur-ilyashev-/30685517.html>

19 See (in English): <https://www.amnesty.org/en/documents/eur57/2593/2020/en/>

20 See (in English): <https://www.rferl.org/a/kazakh-activist-s-conviction-for-criticizing-coronavirus-response-upheld/30840102.html>

judge stated: "Given the situation with the Coronavirus, when people were literally panicking, your posts played a negative role. Therefore, we have come to the conclusion that you are still guilty."<sup>21</sup>

In July 2020 law enforcement officials searched the apartment of civil activist **Zhenis Akimov**, in July, before taking him to the police station for interrogation in relation to a possible investigation under Article 274 ("knowingly spreading false information"). Akimov had distributed leaflets about the high mortality rate from coronavirus, and the lack of proper medicine and respirators for the sick.<sup>22</sup>

Other cases of concern with respect to freedom of expression include:

- The media outlet Uralsk Week (Uralskaya Nedelya) under the leadership of Lukpan Akhmedyarov, frequently comes under pressure from the authorities and Akhmedyarov and other staff are often interrogated or persecuted by the authorities. In late August 2020; police questioned Akhmedyarov as a witness to a criminal case concerning an article about a police officer allegedly taking a bribe from a business person. A criminal case was launched under Article 147<sup>23</sup> of the Criminal Code: "Violation of privacy and the legislation on personal data."<sup>24</sup> At the time of writing, there has been no further developments in this case.
- Danaya Kalieva and Marat Turymbetov investigated corruption allegations related to Zhilstroybank and posted some of their findings on Facebook. In July 2020, they were summoned for interrogation by police at the request of the bank management, and their electronic devices were seized for investigation.<sup>25</sup> At the time of writing there had been no further developments in this case.

## RECOMMENDATIONS

The authorities of Kazakhstan should:

- *Ensure that all media outlets in the country can operate without pressure and undue interference;*
- *Cease detaining and prosecuting journalists and other citizens in retaliation for exercising their rights to freedom of expression and other fundamental rights;*
- *Revise Criminal Code articles 131, 174 and 274 to ensure that they are consistent with international standards protecting freedom of expression and cannot be used to arbitrarily restrict this right;*
- *Immediately put an end to internet censorship and systematic surveillance of citizens without a court order and measures aimed at systematizing internet surveillance.*

21 See (in Russian): <https://cabar.asia/ru/kazakhstan-rezhim-chp-sprovotsiroval-ohotu-na-vedm>

22 See (in Russian): <http://tirik.info/7-sotrudnikov-politsii-prishli-s-obyskom-k-aktivistu-zhenisu-akimovu/>, and monitoring from Qaharman NGO published on Facebook (in Russian): <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2730142953971637/>

23 Read the law text here: [https://online.zakon.kz/document/?doc\\_id=31575252#pos=2311;-54](https://online.zakon.kz/document/?doc_id=31575252#pos=2311;-54)

24 See (in Russian): <https://bureau.kz/novosti/vzyatka-kak-chast-chastnoj-zhizni/>

25 See (in Russian): <https://bureau.kz/novosti/poshli-va-bank/>, and monitoring from Qaharman NGO published on Facebook (in Russian): [https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2734774413508491/?\\_\\_cft\\_\\_\[0\]=AZWSo5cqc\\_SmJUGv8061aHcPT2QaZVkwJ8RPrP0SGHVRLaCAYZTkB7pqv-85J69W7LmiKbQ48wFZQXprqLaVSfKpmBISd9gCjOyEw-So3vkSLcZCE328ZAucCzbzsDE7uYF4IzaDen0LjeRDk0TFch4ZoaF-OfjfoOZNderRrWf4NRQbl3jpj6Z\\_-e7urgxoCLZs&\\_\\_tn\\_\\_=%2C0%2CP-R](https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2734774413508491/?__cft__[0]=AZWSo5cqc_SmJUGv8061aHcPT2QaZVkwJ8RPrP0SGHVRLaCAYZTkB7pqv-85J69W7LmiKbQ48wFZQXprqLaVSfKpmBISd9gCjOyEw-So3vkSLcZCE328ZAucCzbzsDE7uYF4IzaDen0LjeRDk0TFch4ZoaF-OfjfoOZNderRrWf4NRQbl3jpj6Z_-e7urgxoCLZs&__tn__=%2C0%2CP-R)

## Freedom of association

The past year has seen growing pressure on people associated with or accused of being associated with political opposition movements. The authorities have, in particular, targeted supporters and alleged supporters of three such movements: the new Democratic Party; the Democratic Choice of Kazakhstan (hereafter “DVK”), which was banned as “extremist” in 2018 although it has not advocated or endorsed violence, and the Street Party, which was banned as “extremist” in May 2020 as an alleged successor to the DVK.

In October 2019, a number of well-known civil society activists and journalists, including **Inga Imanbai** and her husband **Zhanbolat Mamaj**, founded a new opposition political party called “**The Democratic Party of Kazakhstan**.”<sup>26</sup> In order to apply for state registration, the party needed to gather proof of support from all regions of the country. In November 2019 party founders held meetings across the country to inform people about the party and its agenda, with the aim of collecting collect the required signatures. However, many of these meetings were systematically disrupted by intruders who appeared to act in an organised manner.<sup>27</sup> Furthermore, **there were several cases of arbitrary detention or pressure exercised by the authorities towards members of the Democratic Party.**

- For example: in January 2020 police officers visited the house of party activist, Abzal Dostiyarov, when he was not home and questioned his family members about his activities with the Democratic Party.<sup>28</sup>
- As part of meeting its legal requirements for registration, the Democratic Party scheduled a party congress in Almaty on 22 February 2020. Before the congress, many party associates were subjected to pressure or were arbitrarily arrested. In one incident in Zhanaozen, five political activists from the Democratic Party were taken for questioning in March to the local office of the National Security Committee (KNB). They were informed that criminal proceedings against them were under way for violating Article 174<sup>29</sup> of the Criminal Code – incitement to social discord. The activists had earlier recorded a video demanding the release of an imprisoned associate.<sup>30</sup> Another activist was sentenced to five days of administrative detention in February for not paying two fines of less than 65 EUR (30 000 KZT).<sup>31</sup> Police detained him on 17 February as he was leaving Uralsk for the Democratic Party Congress in Almaty. It is believed that he was detained in order to prevent him from participating in the party congress.<sup>32</sup>
- On 22 February 2020, police also detained party delegates in Atyrau.<sup>33</sup> Political activist **Talgat Ayan** and activist **Daria Ulzhagalieva** were detained by police and interrogated for several hours, which led to them missing the train to Almaty. Activist **Altyngul Ishimova** was also summoned

26 See (in Russian): <https://vlast.kz/novosti/35717-zanbolat-mamaj-obavil-o-sozdanii-demokraticeskoj-partii-kazahstana.html>

27 See, for instance: <https://youtu.be/CfslrjrcIPA>, [https://bureau.kz/novosti/sobstvennaya\\_informaciya/ogon\\_po\\_shtabam/](https://bureau.kz/novosti/sobstvennaya_informaciya/ogon_po_shtabam/), <https://www.facebook.com/100001300204657/videos/2477830668936916/>, <https://www.facebook.com/100017883137903/videos/484268612179239/> and [https://bureau.kz/novosti/sobstvennaya\\_informaciya/ogon\\_po\\_shtabam\\_prodoljajetsya/](https://bureau.kz/novosti/sobstvennaya_informaciya/ogon_po_shtabam_prodoljajetsya/)

28 See (in Russian): [https://bureau.kz/novosti/sobstvennaya\\_informaciya/put\\_k\\_registracii\\_ne\\_ustlan\\_rozami/](https://bureau.kz/novosti/sobstvennaya_informaciya/put_k_registracii_ne_ustlan_rozami/)

29 Read the law text here (in Russian): [https://online.zakon.kz/document/?doc\\_id=31575252#pos=2550;-72](https://online.zakon.kz/document/?doc_id=31575252#pos=2550;-72)

30 See (in Russian): <https://vlast.kz/novosti/37650-pateryh-aktivistov-dempartii-doprosili-v-dknb-mangistauskoj-oblasti.html>

31 See (in Russian): <https://rus.azattyq.org/a/30439927.html>

32 See (in Russian): <https://www.uralweek.kz/2020/02/18/nam-zablokirovali-dveri-a-rajon-ocepili-policejskie-v-uralske-prodolzhayutsya-zaderzhaniya-grazhdanskix-aktivistov/>

33 See (in Russian): <https://azh.kz/ru/news/view/65409?fbclid=IwAR3v6hcqiMpADZuVIlfyxrsdxII5R2C999WJNtCCABBI-9j7V39K45K0-8>

by police for interrogation. Although Ishimova managed to catch the train, police removed her from it.

- On 21 February, party founder Zhanbolat Mamay was detained as a preventive measure after calling for an unsanctioned demonstration during a press conference.
- On the morning of 22 February, 70 Democratic Party members were detained in Almaty, and later that day 50 others were detained after Mamay's call for a demonstration.

As a result of the pressure described above, the Democratic Party cancelled its founding congress. Thus, it has not been able to seek state registration and will not be able to take part in the national and local parliamentary elections scheduled to take place in January 2021. As other opposition parties have also been unable to register, and the only opposition party that is currently registered (the Social Democratic Party) has been marginalised, the elections will not allow for any genuine competition.

In the past year, numerous people have been investigated and prosecuted for their alleged involvement in the **DVK**.<sup>34</sup> In a pattern seen since the movement was banned, alleged members and supporters of this organisation have often been targeted under Article 405<sup>35</sup> of the Criminal Code (participation in a banned extremist organisation), usually on very vague grounds.<sup>36</sup>

In January 2020, 52 people in Shymkent were summoned as witnesses with entitlement to legal defence in a criminal case regarding their alleged membership to the banned DVK. All had previously participated in peaceful demonstrations. In January 2020, a man in East Kazakhstan Region was sentenced under Article 405, to one year of restriction of freedom after posting a video message on Instagram in support of DVK.<sup>37</sup> In March 2020 in Almaty, criminal cases were opened against 15 people under suspicion of supporting the DVK. At the investigator's request, all the suspects had their bank accounts frozen before they were informed that a criminal case had been opened against them. By October 2020 some of the charges had been withdrawn. According to KIBHR's monitoring, no active investigative actions seem to have been taken.

## FORCED DETENTION IN PSYCHIATRIC INSTITUTION

In mid-September 2020, police searched the home and **detained political activist and blogger Aigul Utepova** in Shymkent. She was informed that a criminal case under Article 405 of the Criminal Code had been opened against her in relation to her social media posts. In one of her last Facebook posts prior to her detention, she had criticised the measures taken by the government in the fight against Covid-19.<sup>38</sup> On 23 November, Utepova was forcibly admitted to a psychiatric institution.<sup>39</sup> Human rights defenders believe that her arrest was linked to support that she had expressed for DVK.

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34 A movement created by the exiled oligarch and prominent government critic Mukhtar Ablyazov that was banned as "extremist" by court in 2018

35 Read the law text here (in Russian): [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/405.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/405.htm)

36 See (in Russian): <https://pana-defenders.info/publications/monithrd202001/>

37 See (in Russian): [https://bureau.kz/novosti/sobstvennaya\\_informaciya/yekstremist\\_na\\_yekstremiste/](https://bureau.kz/novosti/sobstvennaya_informaciya/yekstremist_na_yekstremiste/)

38 See (in Russian): <https://rus.azattyq.org/a/30846274.html>

39 See (in English): <https://jffj.fund/jffj/aigul-utepova-2/>

Two activists were imprisoned for their alleged participation in DVK. Kostanay-based civic activist **Askar Ibrayev** was sentenced in January 2020 to **one year of restriction of freedom for allegedly participating in DVK activities**.<sup>40</sup> On 5 June 2020, he was arrested before the demonstrations planned for 6 June, and **a court changed his sentence of restriction of freedom to one of imprisonment**.<sup>41</sup> The same happened to **Serik Idryshev** from East Kazakhstan Region. In December 2019, Idryshev was **sentenced to one year of restriction of freedom with a ban on use of social media** and societal and political activities for three years, for participation in DVK.<sup>42</sup> Idryshev then participated in a video-flash mob protest following the death of activist Dulat Agadil in police custody. **Idryshev's sentence was then changed to one of imprisonment.**

Another popular political movement, the **Street Party** (Koshe Partiyasi), was banned and labelled an extremist organisation on 19 May 2020 by the Esil District Court in Nur-Sultan.<sup>43</sup> In an online press conference, activists supporting the party stated that they considered the decision to be politically-motivated and illegal, noting that the hearing was held without the presence of the defendants (representatives from the party), and that they had only learned about the ban from the press. **Lawyer Galym Nurpeisov representing the party further noted that no evidence had been presented to the public as to why the party was deemed "extremist"**. The next day, the Prosecutor's Office issued a new press release stating that **the Street Party was banned because it was seen as the successor to the banned DVK** and thus considered to be extremist.<sup>44</sup>

Before the movement was banned, numerous incidents of detentions and pressure on Street Party activists occurred. Many people received administrative fines for violating laws on public associations while distributing pamphlets or recording online videos with information about the party: 45 KIBHR has recorded over 300 cases of persecution of people associated with the Street Party (arrests, criminal and administrative trials, attacks, beatings and torture, threats, intrusions into homes, damage to property, illegal seizure of electronic devices, and hackings of accounts). Currently, at least a dozen people are under arrest for activities related to the Street Party or DVK, and investigations are ongoing in relation to at least 50 others. Dozens of people have reported threats and pressure from law enforcement officials which they believe are in retaliation for their involvement with the Street Party or DVK.<sup>46</sup> After the Street Party was banned, activists throughout the country came under pressure and were summoned for "preventive conversations" with law enforcement officials.<sup>47</sup> Others had criminal cases opened against them for violating Article 405 of the Criminal Code - participation in an organisation banned as "extremist" or "terrorist" by court. Most recently, three activists (**Askhat Zheksebaev, Abai Begimbetov** and **Kairat Kylyshev**) were reportedly charged with the more serious offense of creating, leading or participating in an "extremist" organisation (Article 182 of the Criminal Code) because of their alleged support for the Street Party. These charges carry penalties of imprisonment of up to 17 years for organisers and leaders, and of up to 12 years for participants.

40 Article 405 of the Criminal Code - participation in a banned extremist organisation

41 See (in Russian): <https://bureau.kz/novosti/esli-vrag-ne-sdaetsya/>

42 Article 405 of the Criminal Code

43 See (in Russian): [https://tengrinews.kz/kazakhstan\\_news/v-kazahstane-zapretili-deyatelnost-koshe-partiyasyi-402783/](https://tengrinews.kz/kazakhstan_news/v-kazahstane-zapretili-deyatelnost-koshe-partiyasyi-402783/)

44 See (in English): <https://bureau.kz/novosti/dvorczy-protiv-uliczy/>

45 See, for instance: <https://www.facebook.com/aliya.isenova.3/posts/2860654490687816> and <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2622554651397135>

46 Source: Monitoring from KIBHR

47 See monitoring from Qaharman NGO published on Facebook (in Russian): [https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2733495603636372/?\\_cft\\_\\_\[0\]=AZX8TCU7cDHIEx-NWDGh03Fm0ZVFJLekePPrytNtBn6rfH3WTXs1-PU82TmBhSRp2qYF\\_XYPj9sDuH7lbWdDL0plhKudGuypY\\_\\_2EpdSgjfMfPpHRT56fglkgXXnG0jR2\\_GDtEO3u6i3d3UyUfG5QL5xIQbnl6Zj9CN5EEi0jzevhd76Xlr52FXN\\_fjC2fLhwAM&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2733495603636372/?_cft__[0]=AZX8TCU7cDHIEx-NWDGh03Fm0ZVFJLekePPrytNtBn6rfH3WTXs1-PU82TmBhSRp2qYF_XYPj9sDuH7lbWdDL0plhKudGuypY__2EpdSgjfMfPpHRT56fglkgXXnG0jR2_GDtEO3u6i3d3UyUfG5QL5xIQbnl6Zj9CN5EEi0jzevhd76Xlr52FXN_fjC2fLhwAM&__tn__=%2CO%2CP-R)

There were also other cases of serious restrictions of the freedom to associate in Kazakhstan in the past year.

- For instance, members of the **Nagyz Atajurt Foundation** have been subject to significant pressure for the last few years. The foundation **works to raise awareness and support for the ethnic Kazakhs, who have disappeared in the Xinjiang internment camps along with thousands of Uighurs in China**. The Nagyz Atajurt foundation is a spin-off of the **Atajurt Foundation** whose leader, **Serikzhan Bilash**, was fined in 2019 and banned from leading public associations for alleged incitement to national discord.<sup>48</sup> After Bilash left the Atajurt Foundation, his supporters created the new unregistered Nagyz Atajurt. In February 2020, two uniformed police officers, accompanied by some unidentified civilians, carried out a search on the foundation's office, as the police stated they had received a complaint that "illegal gatherings" were being held inside the office.<sup>49</sup> In early March 2020, Serikzhan Bilash announced that the unregistered foundation Nagyz Atajurt had closed. <sup>50</sup> It appeared that this was a consequence of pressure. On 18 August, the Administrative Court fined Bilash 138 900 KZT (around 275 EUR) for participating in an unregistered organisation (Article 48951 of the Administrative Code).<sup>52</sup> The Court found that Bilash had founded and worked for the unregistered organisation Nagyz Atajurt. The court had earlier fined the head of Nagyz Atajurt Bekzhan Maksutkhan and another associate 277 000 KZT and 83 340 KZT respectively (around 550 and 165 EUR) for activities with the unregistered organisation.<sup>53</sup>

There have been cases of attacks on people in relation to their involvement with associations. On 19 November 2019, **Shymkent-based political activist Nurzhan Mukhammedov was subjected to intimidation and** his car windows were smashed, with the word **"Mal" (this roughly translates as 'swine' or 'beast') written** in Kazakh on the side. Inside the car, Mukhammedov found **the head of a decapitated dog**. On the fence of his house, the unknown perpetrator(s) had written **"Boot-licker, traitor!"** in Russian and Kazakh. Mukhammedov filed a complaint about the incident with local law enforcement authorities, who stated that they would initiate an investigation on suspicion of "hooliganism". The activist believed that the attack was related to his civic activism. <sup>54</sup>

## RECOMMENDATIONS

- *Ensure that the right to freedom of association is respected for all groups irrespective of their beliefs, orientation, or political preferences;*
- *Allow political pluralism by revising the law on political parties containing unrealistic requirements with respect to the registration of political parties and ensure that political parties are not obstructed from seeking registration or denied registration in arbitrary grounds;*
- *Immediately and unconditionally release Aigul Utepova from the psychiatric hospital where she is being forcibly held;*

48 See (in English): <https://monitor.civicus.org/updates/2019/12/23/kazakhstan-tightening-grip-civil-society-ongoing-persecution-activists-across-country/>

49 See (in Russian): <https://rus.azattyq.org/a/30438341.html>

50 See (in Russian): <https://rus.azattyq.org/a/kazakhstan-why-did-nagyz-atazhurt-dissolve/30468742.html>

51 Read the law text here (in Russian): [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/489-1.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/489-1.htm)

52 Read the law text here (in Russian): [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/489.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/489.htm)

53 See (in Russian): <https://rus.azattyq.org/a/30789639.html>

54 <https://rus.azattyq.org/a/30281663.html>

- *Reverse the negative trend of using charges of involvement in extremism against political opposition members and supporters;*
- *Ensure that citizens are not prosecuted and imprisoned for peacefully exercising their right to freedom of expression and association.*

## Freedom of peaceful assembly

A new draft law on holding peaceful assemblies, which was rushed through during the Covid-19 lockdown and quarantine, has caused widespread concern amongst civil society actors and the international community, despite public assurances from the authorities, including President Tokayev, that the law would improve the regulation of peaceful assemblies.<sup>55</sup> The law contains provisions that restrict the freedom of assembly in violation of international standards, in particular because:

- It provides for unjustified restrictions on the timing and place of assemblies;
- It retains the requirement for people to obtain government approval prior to conducting peaceful marches and demonstrations;
- It sets out extensive requirements for submitting notification and permit applications;
- It allows for assemblies (except single pickets) to be held only in certain locations designated by the local authorities;
- It stipulates that only Kazakhstani citizens will be permitted to organise and participate in assemblies;
- It sets out an extensive list of grounds upon which the local authorities can reject applications to hold public assemblies;
- It prohibits spontaneous assemblies;
- It forbids people with mental disorders, or citizens recognised to be legally incompetent by a court from participating in rallies.

At the end of March 2020, parliament approved the draft law. KIBHR Director Yevgeniy Zhovtis left the Working Group on the draft law on 1 April 2020,<sup>56</sup> due to fundamental disagreements on the most important provisions. President Tokayev signed the newly revised law into effect on 25 May 2020. Kazakhstani civil society, IPHR and other international NGOs had called on the President not to sign the law.<sup>57</sup>

Following the adoption of the law, the authorities have continued to restrict the right of citizens to peacefully assemble.

Over the last year, there have been numerous incidents of citizens being arrested and sentenced to detention for exercising their right to freedom of peaceful assembly.

55 See (in English): <https://astanatimes.com/2019/12/kazakh-president-announces-major-political-reforms-package/>

56 See (in Russian): <https://rus.azattyq.org/a/kazakhstan-yevgeniy-zhovtis-freedom-of-assembly-draft-law/30523982.html>

57 See (in English): <https://www.iphronline.org/wp-content/uploads/2020/05/Open-Letter-to-Tokayev-for-signing-with-logos-final-1.pdf>

- On **Kazakhstan's Independence Day on 16 December 2019, numerous people were arbitrarily detained across the country.** The day is traditionally used by some citizens to commemorate the anniversary of the Zheltoqsan uprising in 1986, as well as the shooting of unarmed protesters during the Zhanaozen strikes in 2011. Police officers detained around 100 people at home and in public throughout the country, including journalists.<sup>58</sup> Some detainees were sentenced to administrative detention for from five to 15 days.<sup>59</sup>
- **On 22 February 2020, law enforcement officials detained large numbers of people across the country, after the DVK and the new Democratic Party of Kazakhstan called for demonstrations.** The organisers had not obtained the necessary permission to assemble and 70 party members from the Democratic Party were detained in Almaty in the early hours of the morning, and 50 others were detained later that day. Zhambolat Mamay had been detained on the previous day, after calling for the unsanctioned demonstration at a press conference.
- **In early June 2020, the Democratic Party, the movement "Oyan, Kazakhstan", DVK and the Street Party called for nationwide rallies.** According to human rights organisations, there were at least **239 cases of persecution of people attempting to exercise their right to peaceful assembly around 6 June after the call.**<sup>60</sup> Police reports stated that 107 people were arrested on 6 June in Almaty, 15 of whom were sentenced to 15 days' administrative detention, whilst dozens received administrative fines. In Nur-Sultan, 20 people were detained and two were sentenced to 10 and 15 days' detention. Two criminal cases were initiated.
- **There were further calls for demonstrations from DVK on 25 September 2020. As a result, preventive arrests were carried out throughout the country among potential attendees.** The sites where the meetings were planned were cordoned off by police and at least six people were arrested near a public square in Almaty where a meeting was due to take place. In Nur-Sultan a few activists holding posters critical of the government were also arrested near the "Zhannur" shopping centre. According to human rights organisations, at least 78 cases of preventive arrests and activists being put under pressure by the authorities occurred before 25 September, and some 163 people were arrested on 25 September itself.<sup>61</sup>
- Activists working to raise awareness surrounding women's rights were also subjected to pressure by the authorities for peaceful assembly. Two activists were fined for their involvement in the feminist march on International Women's day on 8 March 2020, when more than 50 activists carried out a peaceful but unsanctioned march on a pedestrian street in Almaty.<sup>62</sup> On 12 March 2020, Almaty Administrative Court ordered two activists from the feminist group KazFem to pay fines. Arina Osinovskaya was found guilty of minor hooliganism, violating the law on peaceful assembly, not being legally registered in Almaty and fined 84 832 KZT (179 EUR). Fariza Ospan was fined 31 812 KZT (67 EUR). Both women pleaded not guilty.<sup>63</sup> No detentions were made during the march.<sup>64</sup> Activist Fariza Ospan declared she would hold a single picket in Shymkent in support of imprisoned Asya Tulesova (see case description below), but was subsequently taken to the police station by masked, plain clothed police officers who allegedly insulted and humiliated her before she was released.<sup>65</sup>

58 See (in English): <https://monitor.civicus.org/updates/2020/03/24/changes-ahead-or-status-quo-presidential-promises-amidst-ongoing-prosecution-political-activists/>

59 See (in Russian): [https://bureau.kz/novosti/sobstvennaya\\_informaciya/v\\_almaty\\_nakhodyatsya\\_pod\\_arestom\\_16\\_chelovek/](https://bureau.kz/novosti/sobstvennaya_informaciya/v_almaty_nakhodyatsya_pod_arestom_16_chelovek/)

60 See (in Russian): <https://bureau.kz/goryachee/korona-prikryvaetsya-virusom/>

61 See (in Russian): [https://bureau.kz/novosti/sobstvennaya\\_informaciya/ispytanie-strahom/](https://bureau.kz/novosti/sobstvennaya_informaciya/ispytanie-strahom/)

62 See (in Russian): <https://adamdar.ca/post/marsh-8-marta-sudy-nad-uchastnitsami>

63 See Arina Osinovskaya's post on Instagram (in Russian): [https://www.instagram.com/p/B9oQzYkH-nL/?utm\\_source=ig\\_embed](https://www.instagram.com/p/B9oQzYkH-nL/?utm_source=ig_embed)

64 See (in Russian): [https://forbes.kz/news/2020/03/08/newsid\\_220638](https://forbes.kz/news/2020/03/08/newsid_220638)

65 See (in Russian): <https://bureau.kz/novosti/dve-bolshie-razniczy/>

- Moreover, demonstrations near to diplomatic representations were disbanded. On 10 June 2020, around 10 people gathering in front of the EU Delegation in Nur-Sultan were dispersed and taken to the police station.<sup>66</sup> They were protesting at human rights violations in Kazakhstan calling for the release of three activists who had been arrested during the 6 June rallies. Two days later, a small number of people protested outside the US Embassy, again calling for the release of the three activists. They were also arrested and taken to the police station. One protester received an administrative fine.<sup>67</sup>

## THE PROSECUTION OF ASYA TULESOVA

Asya Tulesova, an environmental and civil rights defender,<sup>68</sup> was detained twice by police officers during a protest on 6 June 2020. On 8 June, Tulesova was detained again – this time as a suspect in a criminal case for knocking the hat off a police officer as officers were detaining protestors, including elderly persons, during the 6 June protest, an incident that was captured on video. Tulesova was charged with “non-dangerous infliction of harm to a representative of the authorities” (under Article 380<sup>69</sup> in the Criminal Code). This offence is punishable by a fine of up to 8 334 000 Tenge (the equivalent of 18,000 EUR) or up to three years of imprisonment. On 9 June, 169 Kazakhstani human rights defenders and organisations published an open letter to President Tokayev in support of Tulesova, calling for an end to police impunity for using excessive force and violence against peaceful protesters, and detentions of citizens exercising their right to freely and peacefully assemble.<sup>70</sup> The letter stated that the criminal charges and detention measures used against Asya Tulesova were not commensurate with the misdemeanour she had committed by knocking the hat off the officer. The letter also stated that crimes under Article 380 are classed as ‘of moderate seriousness’ and do not require a suspect to be detained in pre-trial detention, especially as in Asya’s case there was no risk of her attempting to escape judicial proceedings. IPHR<sup>71</sup> and CIVICUS<sup>72</sup> also published statements supporting Tulesova and undertook advocacy around the case. On 12 August, Medeu District Court No.2 in Almaty found Tulesova guilty of using violence and insult towards a state representative and sentenced her to a 1.5-year sentence of restriction of liberty and a fine of 55 560 KZT (110 EUR). She was released immediately from the courthouse.

## DEATH OF ACTIVIST DULAT AGADIL IN DETENTION

In February 2020, civil society activist Dulat Agadil died in unclear circumstances while being held in police custody. Agadil, an activist from the Akmola region near Astana, was arrested at his house on 24 February after he attended a peaceful protest in Nur-Sultan. Videos on social media showed how Agadil

66 See (in Russian): <https://rus.azattyq.org/a/30663110.html>

67 See (in Russian): <https://rus.azattyq.org/a/30668650.html>

68 Asya Tulesova was detained together with several other activists<sup>21</sup> April 2019, as they held and filmed a peaceful protest at the start of the Almaty Marathon, holding a banner saying: “You cannot run away from the truth”, with the hashtags #ForFairElections and #IHaveAChoice. This was a play on words designed to attract attention to the upcoming presidential elections a few weeks later. After a court decision, Asya Tulesova received 15 days of administrative detention for the protest.

69 See the law text here (in Russian): [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/380.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/380.htm)

70 See (in Russian): [https://kkassiyet.wordpress.com/2020/06/09/asya\\_tulesova2020/?fbclid=IwAR0DRmWB7RcQBezWLS5pavCkBhAjy8jkshV-EMu0yj4arHvnQf7Hc7r3UME](https://kkassiyet.wordpress.com/2020/06/09/asya_tulesova2020/?fbclid=IwAR0DRmWB7RcQBezWLS5pavCkBhAjy8jkshV-EMu0yj4arHvnQf7Hc7r3UME)

71 See IPHR’s plead here (in English): <https://www.iphronline.org/kazakhstan-free-civil-rights-defender-asya-tulesova.html>

72 See CIVICUS’ campaign (in English): <https://www.civicus.org/index.php/media-resources/media-releases/4515-on-mandela-day-nearly-200-rights-organisations-call-for-release-of-activists-as-part-of-standasmywitness-campaign>

was arrested by men in civilian clothes using force.<sup>73</sup> Agadil was already under house arrest pending the outcome of an investigation against him on charges of contempt of court, and had violated the terms of his house arrest by attending the demonstration. The police explanation for Agadil's death was that he had been moderately intoxicated upon arrival at the detention centre, and became ill during the night and vomited several times. Agadil continued to be sick in the early hours of the next morning, but no medical assistance was given to him until an ambulance was called at around 7:30 am. The ambulance took almost half an hour to arrive and Agadil was pronounced dead at around 8:20 am. That same day, the police issued a statement stating that Agadil had died in detention, allegedly of acute heart failure, although he was not known to have had any previous health problems.<sup>74</sup> Agadil's death sparked outrage among journalists, activists and members of civil society who disputed official claims that his death had been caused by ill health and intoxication.<sup>75</sup> Some reports stated that injuries were visible on a video of Agadil's body in the morgue, indicating that he could have been beaten before death.<sup>76</sup> On 28 February 2020, the Deputy Prosecutor of Nur-Sultan, Eldos Kilymzhanov, claimed that the lesions on Agadil's body were indicative of a natural death and were marks that would appear after cardiac arrest. In the months following his death, supporters of Agadil faced arrest and persecution as they gathered to remember him and protest at his death.<sup>77</sup> Among these was the Nur-Sultan-based imam Khasan Abdulkarim, who was sentenced to 10 days' administrative detention for joining a procession on 24 July from Agadil's house to his grave, carrying the Kazakh flag.<sup>78</sup> Over the summer, there were further two incidents where participants at commemorative gatherings concerning Dulat Agadil were punished. In July and August, people gathered in Talapker village in Akmola Region near Nur-Sultan, where Agadil's family lives. Some 200 gathered on two occasions to prepare mourning lunches as local tradition prescribes. After the lunch, around 200 people joined a procession to the cemetery where Agadil is buried. After the gatherings, up to 100 people were charged with administrative offences for attending an unsanctioned assembly. In many cases, trials were conducted without the defendants being present.<sup>79</sup> On 11 November Agadil's son Zhanbolat Agadil died in Nur-Sultan in unclear circumstances – some reports indicate that there was a group brawl. One person has been detained in relation to the death.<sup>80</sup>

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73 See the video from Facebook here: [https://www.facebook.com/permalink.php?story\\_fbid=2633098956921942&id=100006655892207](https://www.facebook.com/permalink.php?story_fbid=2633098956921942&id=100006655892207)

74 See (in English): <https://eurasianet.org/kazakhstan-officials-insist-activist-died-of-natural-causes-but-doubts-remain>

75 See (in Russian): <https://rus.azattyq.org/a/well-known-kazakh-activist-ahadil-dies-after-day-in-detention/30453107.html>

76 See (in English): <https://eurasianet.org/kazakhstan-officials-insist-activist-died-of-natural-causes-but-doubts-remain>

77 Source: Monitoring of KIBHR, and see also: <https://rus.azattyq.org/a/30817083.html>, <https://rus.azattyq.org/a/kazakhstan-activists-face-additional-pressure-on-the-eve-of-an-announced-rally/30850694.html>, <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2744518182534114/>, [https://www.facebook.com/permalink.php?story\\_fbid=1899463520193652&id=100003900663656](https://www.facebook.com/permalink.php?story_fbid=1899463520193652&id=100003900663656), <https://web.facebook.com/100014960430793/videos/913613455813994>, [https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2747778658874733/?\\_\\_cft\\_\\_\[0\]=AZWd-8e11ojsl0sn9Kh6do0yxfQG0xDctdY2xbWHCyO2CUim9O3Tptjw37Bjm-6DuKEySo1R3Hw5JelfH7M6DsJCUQgle1tI5B1AvW8MIJ0KpISVLWYJbB9siNfe1FdBa9PkcjFolushoPFSQZttWL5HnQuyE2uSflCkJTSI694oKcXrU-M8yKxTJT1cVc-uoQ&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2747778658874733/?__cft__[0]=AZWd-8e11ojsl0sn9Kh6do0yxfQG0xDctdY2xbWHCyO2CUim9O3Tptjw37Bjm-6DuKEySo1R3Hw5JelfH7M6DsJCUQgle1tI5B1AvW8MIJ0KpISVLWYJbB9siNfe1FdBa9PkcjFolushoPFSQZttWL5HnQuyE2uSflCkJTSI694oKcXrU-M8yKxTJT1cVc-uoQ&__tn__=%2CO%2CP-R), and <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2743902635929002/>

78 See, for instance (in Russian): [https://web.facebook.com/groups/ActivistsNotExtremists/permalink/2765585270427405/?\\_rdc=1&\\_rdr](https://web.facebook.com/groups/ActivistsNotExtremists/permalink/2765585270427405/?_rdc=1&_rdr)

79 See (in Russian): [https://ratel.kz/raw/storonniki\\_dulata\\_agadila\\_proveli\\_pominalnyj\\_as\\_bliz\\_nur\\_sultana](https://ratel.kz/raw/storonniki_dulata_agadila_proveli_pominalnyj_as_bliz_nur_sultana), <https://www.youtube.com/watch?v=snP78j24Z1Y>, and <https://rus.azattyq.org/a/kazakhstan-dulat-agadil-memorial-talapker/30773255.html>

80 <https://kaztag.kz/ru/news/syn-grazhdanskogo-aktivista-dulata-agadila-ubit-v-nur-sultane>

## RECOMMENDATIONS

The authorities in Kazakhstan should:

- *Revise the law on holding peaceful assemblies to bring it in line with international standards, in particular by establishing a simple, transparent process of notification of protests to replace the process of de-facto requesting permission et out by the current law;*
- *Stop detaining and penalizing people for exercising (or attempting to exercise) their right to freedom of peaceful assembly;*
- *Ensure that all detentions of protestors, as well as subsequent legal proceedings against them are carried out in full compliance with the requirements of international law;*
- *Carry out a swift, impartial and independent investigation into the death of Dulat Agadil in police custody and bring those found responsible to justice.*

## Developments concerning political prisoners

In the past year, some individuals serving prison sentences on charges considered politically motivated were released. The authorities released business person **Iskander Yerimbetov** on 30 December 2019 due to serious health problems. Yerimbetov was imprisoned in 2017 and sentenced to seven years in 2018 after being found guilty of large-scale fraud in a trial widely believed to have been politically motivated. Yerimbetov is a critic of the Kazakhstani leadership, and has been associated with the exiled banker and organiser of the banned DVK, Mukhtar Ablyazov. On 3 March 2020, the Second City Court of Semey granted parole to opposition associate **Mukhtar Dzhakishev** after he had spent nearly 11 years behind bars since his arrest in May 2009.<sup>81</sup> Dzhakishev was originally sentenced on corruption charges. Many believe that his sentence was related to the fact that he was a friend of Mukhtar Ablyazov. Social media administrator **Igor Sychev**, who was sentenced to five years in prison for propagating “separatism” in 2016 after he shared an online survey,<sup>82</sup> was also recently released after serving his full prison term.

A number of other people remain behind bars after having been convicted on politically motivated charges, including several individuals imprisoned in the past year.

According to KIBHR and other NGOs, the following people are among those imprisoned on politically-motivated grounds: **Aset Abishev, Almat Zhumagulov, Kenzhebek Abishev, Aron Atabek, Askar Azhguzhinov, Max Bokayev, Igor Chuprina, Erzhan Elshibaev, Rusland Ginatullin, and Sanavar Zakirova** (new). However, this list is not exhaustive:

### Kenzhebek Abishev

Kenzhebek Abishev is a poet who supported the DVK and was sentenced to seven years in prison on charges of “propagating terrorism” (under Article 256 of the Criminal Code) in October 2018

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81 <https://vlast.kz/novosti/37506-muhtar-dzakisev-vyjdet-na-svobodu-po-udo.html>

82 See more about his case in this update published by IPHR and KIBHR: <https://www.iphronline.org/kazakhstan-report-documents-key-rights-trends-20160317.html>

following a high-profile trial that also involved two other DVK supporters.<sup>83</sup> In April 2020, on the recommendation of the prison authorities and in connection with the completion of one third of his sentence, Abishev applied for his prison sentence to be changed to restriction of freedom. The court granted the request but the prosecutor's office appealed against this decision, and he remains in penal colony LA 155/14 in Almaty region.

### **Asset Abishev**

Civil society activist Asset Abishev, openly supported the banned opposition movement Democratic Choice of Kazakhstan and posted video appeals about the need for political change and human rights on social networks. He was detained on 7 July 2018 and subsequently sentenced to four years' imprisonment after having been found guilty under Articles 266 and 405 of the Criminal Code (financing a criminal group and participating in an organisation banned as "extremist" or "terrorist" by court). He is being held in colony LA 155/14 (Almaty region).

On 5 June 2020, he was denied early release after prison officials allegedly planted a mobile phone on him to provide grounds to accuse him of violating prison rules and deny his parole request. He had previously had a clean prison record.

### **Aron Atabek**

Aron Atabek, **Kazakhstan's longest serving political prisoner**, and life-long critic of the Nazarbayev regime, remains behind bars. He was imprisoned on 17 July 2006, following the Shanyrak-events in Almaty.<sup>84</sup> On 5 October 2007, **he was sentenced to 18 years' imprisonment, after being found guilty of hostage-taking and killing a policeman in a trial that did not meet fair trial standards.** Witnesses at the trial stated that he had tried to prevent the violence. In August 2018, Atabek was denied a prison visit from European parliamentarians and human rights defenders. He has also been denied permission to receive medical treatment and warm clothing. Atabek reports that he has been subjected to inhuman and degrading treatment and torture. **Atabek's family has come under pressure as well** - his daughter Aidana Aidarkhan was detained and questioned when holding a single picket in support of her father in July 2019.

### **Askar Azhguzhinov**

On 10 November 2020 Atyrau inhabitant Askar Azhguzhinov was arrested on charges of organising the activities of an organisation banned as "extremist" or "terrorist" by court (Article 405, part 1 of the Criminal Code). He was accused of expressing support for the unregistered Street Party movement and seeking to mobilise new supporters through his participation in Telegram chats.<sup>85</sup> Shortly before his arrest he had travelled to Talapker village to provide humanitarian assistance to the family of activist Dulat Agadil, who died in detention earlier this year (see above) and participated in a peaceful opposition rally on 25 September 2020.

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83 For more information, see the case description in the following update prepared by IPHR and KIBHR: <https://www.iphronline.org/kazakhstan-reinforced-authoritarianism-sentencing-of-opposition-activists-surveillance-of-citizens.html>

84 The Shanyrak events were a series of riots related to the housing of many poor ethnic Kazakhs in an Almaty district. The authorities wanted to evict the area, where these people lived, and as a result the riots began.

85 See more at <http://tirik.info/monitoring-narushenij-prav-cheloveka-za-10-noyabrya-2020-goda/>

## **Max Bokayev**

Civil society activist **Max Bokayev was imprisoned following country-wide land reform protests in 2016**. For his role in these peaceful protests, Bokayev was charged with “incitement to social discord” (Criminal Code article 174), “dissemination of knowingly false information” (Criminal Code article 274) and “violating the rules for organising rallies” (Criminal Code, Article 400).<sup>86</sup> On 28 November 2016, **Bokayev was sentenced to five years’ imprisonment and banned from engaging in public activities for three years upon release**. His conviction was widely condemned. In November 2016, the EU issued a statement calling for the release of Max Bokayev

## **Erzhan Elshibaev**

In October 2019, **Erzhan Elshibaev - an activist from a movement advocating for the rights of the unemployed - was sentenced by the City Court in Zhanaozen to five years’ imprisonment on charges of “serious infliction of bodily harm”** (Article 106<sup>87</sup> of the Criminal Code).<sup>88</sup> The charges related to an incident in 2017, when Elshibaev allegedly injured another person during a fight. Elshibaev denied the charges, saying they were politically motivated and aimed at punishing him for his civic engagement.<sup>89</sup> **According to the activist’s lawyers, the alleged victim and witnesses in the case also stated that they have no claims against Elshibaev** - further indicating that the charges are politically motivated.<sup>90</sup> Elshibaev attracted the attention of law enforcement authorities when he was involved in organising a series of rallies by unemployed people in Zhanaozen in early 2019, to demand jobs. Prior to being charged, Elshibaev stated that he was subjected to pressure by local authorities.

## **Sanavar Zakirova**

**Sanavar Zakirova is an Almaty-based activist, who has previously attempted to register the party “Nashe Pravo”** (Our Right). Sanavar Zakirova, Alnur Ilyashev (and Marat Turymbetov were **taken to court by the ruling Nur Otan Party and some party members**, who claimed that the activists had damaged their honour, dignity and business reputation by stating that Nur Otan had obstructed the registration of their party. The Nur Otan party demanded that the activists pay 20 million KZT (almost 40 000 EUR) compensation and withdraw their claims. The court **ordered the activists to jointly pay 1.5 million KZT** (almost 3000 EUR) to each of the four Nur Otan party members who had filed the lawsuit.<sup>91</sup> On 8 March 2020, Zakirova went to the home of Tamara Shakirova, one of the Nur Otan party members, to pay the compensation. Shakirova’s daughter Diana Shakirova was at home but she refused to accept the money. Diana Shakirova **later claimed that Zakirova had attacked her verbally and physically**. Sanavar Zakirova stated that Diana Shakirova had hit her, but this was not accepted by the police or the court.<sup>92</sup> On 15 July, Sanavar Zakirova was **sentenced to one year’s imprisonment**. According to Zakirova, she has been physically attacked and threatened by fellow inmates while in prison. She has now been transferred to **solitary confinement**.<sup>93</sup>

86 Read the text of the law here (in Russian): [https://online.zakon.kz/document/?doc\\_id=31575252#pos=5655;-54](https://online.zakon.kz/document/?doc_id=31575252#pos=5655;-54)

87 (in Russian): [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/106.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/106.htm)

88 See, for instance (in Russian): <https://rus.azattyq.org/a/30222769.html>

89 See (in English): <https://www.rferl.org/a/kazakh-protest-leader-in-restive-town-jailed-on-hooliganism-charge/30223106.html>

90 See (in Russian): <https://rus.azattyq.org/a/30222769.html>

91 See (in Russian): <https://vlast.kz/novosti/36098-nur-otani-protiv-grazhdanskih-aktivistov-sud-prinal-storonu-partii-vlasti.html>

92 See (in Russian): <https://bureau.kz/novosti/opponentka-nur-otana-iz-kamery-sizo-vzyvaet-k-spravedlivosti/>

93 See (in Russian): <http://kuresker.org/archives/3197>