

# An overview of violations of fundamental freedoms during the January 2021 parliamentary elections in Kazakhstan

As voters went to the polls on 10 January 2021 for a parliamentary election offering a meager selection of pro-government candidates, dozens of peaceful activists and demonstrators were detained across Kazakhstan. Prior to and during the election, the Kazakhstani authorities took legislative and practical steps to prevent independent election observers from monitoring what was happening at polling stations.

The parliamentary election took place against a background of the lack of genuine political competition and space for political opposition groups in Kazakhstan, with the ruling Nur Otan party fully dominating political life. Recent years have seen an ongoing crackdown on political opposition movements, as well as the failure by the authorities to register independent political parties. The Kazakhstani authorities also seriously restrict the rights to freedom of association, assembly and expression and persecute those critical of the government, including opposition supporters and activists. This pattern has been further reinforced during the COVID-19 pandemic. International election observers have to date never found an election in Kazakhstan to be free and fair.

During the parliamentary election on 10 January 2021, the Kazakhstani authorities violated the right to free and fair elections and infringed fundamental rights and freedoms of citizens in violation of their obligations under international law. These actions included detaining dozens of peaceful activists and protestors, as well as kettling protestors from five to nine hours on election day in subzero temperatures, resulting in at least two people being hospitalized with frostbite.

This short briefing paper summarises key election related violations. It is prepared by International Partnership for Human Rights (IPHR) and Kazakhstan International Bureau of Human Rights and Rule of Law (KIBHR) based on KIBHR's monitoring of the elections.

## Background

The Majilis (Lower Chamber of the Parliament) and maslikhats (city and regional council) elections in Kazakhstan took place on 10 January 2021. Preliminary results indicate a turnout of 63.3 per cent. Sabila Mustafina, the secretary of the Central Election Commission (CEC) reported at a briefing<sup>1</sup> that the preliminary results of the parliamentary election indicate that the ruling Nur Otan party won 71.09 per cent of the vote, the Democratic Party of Kazakhstan Ak Zhol – 10.95 per cent, People's Party of Kazakhstan – 9.10 per cent, the People's Democratic Party "Auy!" – 5.29 per cent, and Adal party – 3.57

<sup>1</sup> <https://rus.azattyq.org/a/31041509.html>

per cent. All these parties are pro-government. In Kazakhstan parties which gain over 7 per cent of votes are eligible for representation in Parliament, meaning that Nur Otan, the Democratic Party of Kazakhstan Ak Zhol and the People's Party of Kazakhstan won parliamentary seats. The results in the regional/local elections were similar and Nur Otan won by a landslide.

Six parties initially announced their intention to stand in the elections: Nur-Otan – the ruling party of former President Nursultan Nazarbayev, as well as smaller, less active parties – The Democratic Party of Kazakhstan Ak Zhol, Auyl, Adal“(Former” Birlik”), the People's Party of Kazakhstan (formerly the Communist People's Party of Kazakhstan), and the nominal opposition party the All-National Social Democratic Party (ANSDP), which does not have a history of open and strong criticism of the ruling party. However, on 27 November 2020, the ANSDP officially announced that it would boycott the elections, a move that KIBHR believes that the authorities pushed the party into to prevent it from running in the elections. Prior to this, exiled opposition leader Mukhtar Ablyazov (the initiator of the banned opposition Democratic Choice of Kazakhstan movement) had called on his supporters to join the ANSDP, as a result of which the party ceased accepting new members. Following the ANSDP's announcement of its election boycott, Ablyazov instead called on his supporters to support the Democratic Party of Kazakhstan Ak Zhol. This is believed to have increased the support that this party received during the elections. However, as in the case of the ANSDP, Ak Zhol then ceased admitting new members.

The unregistered opposition Democratic Party was not allowed to participate in these elections, as on 22 February 2020 the authorities prevented the party from holding its founding congress in Almaty. Without holding such a congress it is impossible for a party to register.<sup>2</sup> Prior to this, members of the Democratic Party initiative group faced pressure from the authorities as some were arrested for alleged administrative violations and others were prevented from travelling to the congress venue.

By law, there must be at least 1000 people convening in one place to found a party, and details of the founders must be kept confidential once the list of founders is submitted to the Ministry of Justice. However, police and local authority officials began to visit many of the signatories and ask questions about their participation in the party's activities.<sup>3</sup>

## **1. VIOLATIONS RELATED TO THE CONDUCT OF THE ELECTIONS**

### **Findings by international election observers**

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) deployed a Limited Election Observation Mission to monitor the parliamentary election. Its observers reported a number of violations on election day, including ballot stuffing, multiple entries in the supplementary voter list indicating significant problems with the accuracy of voter registration, cases of improper sealing of ballot boxes, and the presence of unauthorized persons at polling stations. In almost all the polling stations where vote counting was observed, election commissions failed to consistently follow counting procedures, announce voter selection or the number of votes cast for each party, and regularly ignored important measures to prevent data reconciliation. A number of territorial election commissions did not count the votes properly.<sup>4</sup> Earlier, the OSCE observer mission had raised concerns about the lack of genuine competition in the parliamentary elections.

---

2 <https://rus.azattyq.org/a/a/aaq-zhol-party-agitation-supporters-facing-pressure-01052021>

3 [https://haq.kz/ru\\_RU](https://haq.kz/ru_RU)

4 [https://bureau.kz/publ-all/sobstvennaya\\_informaciya/mitingovaya\\_subbota\\_i\\_ee\\_posledstviya/](https://bureau.kz/publ-all/sobstvennaya_informaciya/mitingovaya_subbota_i_ee_posledstviya/)

On 12 January, a spokesperson from the EU's External Action Service regretted that the Kazakhstani authorities had missed the "opportunity to demonstrate the implementation of the political reforms and modernisation process initiated in recent years", adding that long-standing recommendations from the OSCE/ODIHR on human rights issues remain unaddressed and calling on Kazakhstan to address systemic shortcomings and fully implement OSCE/ODIHR recommendations.<sup>5</sup>

## **Restrictions of voter access to polling booths**

An additional concern relates to a resolution by the Chief State Sanitary Doctor of 29 December 2020, relating to the requirements for Covid-PCR tests five days before voting in certain regions classed as "red" or "yellow" (relating to the prevalence of the coronavirus in those regions). People testing positive for coronavirus, and those with body temperatures of over 37°C were not allowed to vote at polling stations.<sup>6</sup>

Voters were not recommended to go to polling stations with children due to concerns about the coronavirus pandemic.

## **"Preventive" detentions and kettling of peaceful protestors**

From December 2020 onwards, police officials detained activists and campaigners supportive of parties other than the ruling Nur Otan.

For example, police detained or fined at least 10 campaigners from the the Democratic Party of Kazakhstan Ak Zhol and confiscated their campaign materials. However, there was little public outcry from the leadership of the pro-government Democratic Party of Kazakhstan Ak Zhol to these reports of the detention of their supporters.<sup>7</sup> From 5 to 9 January 2021, at least 25 civil activists supportive of the Democratic Party of Kazakhstan Ak Zhol were arrested, fined or subjected to other types of persecution. Fearing protests on election day, the authorities carried out preventive arrests of those who they believed could potentially express their disagreement. The pretexts given for these preventive arrests were often far-fetched. For example, in Aktobe region Zhanat Reimov, Zhaslan Kazanov and Arsen Zhumagaliev were detained for five days after having campaigned for the Democratic Party of Kazakhstan Ak Zhol. In Taraz, the Zhambyl branch of the Spiritual Administration of Muslims of Kazakhstan illegally fired Imam Yeldos Kyrykbayev for campaigning in favour of the Democratic Party of Kazakhstan Ak Zhol and refusing to vote for Nur Otan.<sup>8</sup>

After numerous detentions of activists in the weeks leading up to the vote, on election day the authorities arrested dozens of protesters in major cities across the country. A few hundred anti-government activists rallied in the business-capital in Almaty. Protestors aligned with Oyan, Qazaqstan! youth movement and the unregistered Democratic Party of Kazakhstan demonstrated on Almaty square urging people to boycott the election while chanting slogans denouncing the ruling party and former President Nazarbayev's continued influence over the government.

5 [https://eeas.europa.eu/delegations/kazakhstan/91324/kazakhstan-statement-spokesperson-parliamentary-elections\\_en](https://eeas.europa.eu/delegations/kazakhstan/91324/kazakhstan-statement-spokesperson-parliamentary-elections_en)

6 [https://bureau.kz/publ-all/sobstvennaya\\_informaciya/mitingovaya\\_subbota\\_i\\_ee\\_posledstviya/](https://bureau.kz/publ-all/sobstvennaya_informaciya/mitingovaya_subbota_i_ee_posledstviya/)  
[https://bureau.kz/publ-all/sobstvennaya\\_informaciya/put\\_k\\_registracii\\_ne\\_ustlan\\_rozami/](https://bureau.kz/publ-all/sobstvennaya_informaciya/put_k_registracii_ne_ustlan_rozami/)

7 <https://zonakz.net/2020/12/28/akh-zhol-obratilsya-v-mvd-kasatelno-soobshhenij-o-zaderzhaniyax-svoix-agitatorov/>

8 <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2886756481643616>.

In Almaty riot police used the method of “kettling”<sup>9</sup> to contain the crowd, while in the capital Nur-Sultan, state officials detained several activists from their homes, and detained other protestors before they had even had the chance to assemble. Similar incidents were reported in the cities of Oral, Aktobe and Shymkent.<sup>10</sup>

In Almaty, police kettled supporters of Oyan, Qazaqstan for five hours in Republic Square, and kettled activists of the Democratic Party for nine hours. Among the detainees were journalists, who initially were not allowed by the riot police to leave the crowd.<sup>11</sup> According to information from one human rights defender on site, a pregnant woman was in the crowd.<sup>12</sup> At least 30 people were reported to have been detained while approaching the square. Only those people who were ill were allowed to leave the kettled area. Doctors were not on duty at the protest site and ambulances had to be called. After the police released the protestors from the kettled area, where they had been held without being allowed to move around in temperatures ranging from 0 to -10 °C, two people were hospitalized with frostbite.

Additionally, a group of provocateurs acting on instructions from the local authority officials drowned out the protestors’ speeches with loud music, and tried to provoke a fight.

Elsewhere in Almaty, on Astana Square, police detained up to 70 people who had responded to calls to demonstrate from the banned opposition movement Democratic Choice of Kazakhstan.<sup>13</sup>

To date, some 300 people have been detained in nine cities of Kazakhstan. At least four have been held in administrative detention for from five to 15 days, although those who are charged with two or more administrative violations can be held for up to 30 days. Those who are arrested on criminal charges can be detained for up to two months in pre-trial detention, a period which is often prolonged.<sup>14</sup>

## **2. PRESSURE ON THOSE MONITORING/ REPORTING ON THE ELECTIONS:**

### **Prohibition of polls and surveys**

In accordance with paragraph 9 of Article 28 of the Constitutional Law “On Elections in the Republic of Kazakhstan”, a public opinion poll can be conducted by legal entities registered in accordance with the law, who have at least five years of experience in conducting public opinion polls, and who have previously given notification in writing to the CEC with copies of the necessary documents. During the 2019 presidential elections, the authorities began to suppress election polls run by the media or bloggers. This year, seven organisations, including the ruling Nur-Otan party, notified the CEC that they would conduct a public opinion poll, including an exit poll.<sup>15</sup> All these organisations are either state institutions or state-controlled institutions. In December 2020, several bloggers and public figures were summoned to the prosecutor’s office, where they were warned that they would be held responsible if they attempted to hold election polls. Political scientist and editor-in-chief of the biographical encyclopedia “Who’s Who in Kazakhstan”, Daniyar Ashimbaev, was one of the first to report a summons to the prosecutor’s office

9 Kettling is a police tactic for control of large crowds and involves cordons of police officers who keep protestors in one usually small area and do not let them leave.

10 <https://eurasianet.org/kazakhstan-vote-unfolds-against-backdrop-of-mass-detentions>

11 <https://www.instagram.com/p/CJ3XKLtNnhr/?igshid=fnv1qhm55x81>

12 <https://www.facebook.com/tatiana.chernobil/posts/10157532466032155>

13 <https://bureau.kz/novosti/kotly-na-pl-respubliki/>, <https://bureau.kz/novosti/vintilovo-na-pl-astana/>

14 <https://www.facebook.com/groups/ActivistsNotExtremists>

15 <https://informburo.kz/novosti/sem-organizacij-vklyuchaya-Nur-Otan-mogut-provodit-ekzitpol.html>

after he conducted a survey on his telegram channel.<sup>16</sup> Journalist Makhambet Abzhan and bloggers Nasima Korganbekova and Kairat Abdrakhman received similar warnings. In addition, Gulmira Ileuova, Director of the public foundation Center for Social and Political Research – “Strategy”, reported that the Central Election Commission had denied her organisation the right to conduct polls, despite the fact that “Strategy” is one of the oldest and most experienced institutions specialising in sociological opinion polls in the country.<sup>17</sup>

## Moves to obstruct and exclude election observers

On 4 December 2020, the CEC issued a resolution “On issues relating to the powers of certain categories of participants in the electoral process of deputies to the Majilis of Parliament and Maslikhats of the Republic of Kazakhstan, scheduled for 10 January 2021”, setting out the rights and obligations of candidates’ proxies, observers and media representatives.<sup>18</sup>

The resolution included a clause stipulating that “The possibility of carrying out election observation activities, including sending persons to observe the elections, should be provided for in the charter of a legal entity, with the exception of a political party, which is created to express the political will of citizens and participate in the formation of representative bodies”. This meant that dozens of NGOs, which had intended to nominate their observers but whose statutes do not explicitly refer to “election observation” were automatically barred from observing the elections.

The CEC also introduced a provision, stipulating that “no one has the right to use the image of any person without their consent. The publication, reproduction and distribution of a pictorial work (painting, photograph, film and others), in which another person is depicted, is allowed only with the consent of the depicted person (Article 145 of the Civil Code of the Republic of Kazakhstan). From the above, it follows that the implementation of photo and video recording should be carried out only with regard to the protection of the secrecy of voting and personal data of voters, and the use of images of citizens is only possible after obtaining their consent.” Election observers were thus prohibited from taking photos and filming the voting and counting of votes.

Civil activists filed 35 complaints against the CEC resolution. On 30 December 2020, the Specialised Judicial Collegium under the Supreme Court left 32 of them unsatisfied. Aidos Saduakasov, a spokesman for the Supreme Court, said on his Facebook page that of the 35 appeals received against the decisions of the CEC, three are currently under consideration, while the remaining 32 were not considered due to non-compliance with the procedural requirements.<sup>19</sup>

## Pressure on independent election observers

There were many reports of officials exerting pressure on independent observers and activists. For example, reports of pressure were received from observers from the League of Young Voters, from the public fund “El Dauysy”, as well as from the fund of civil initiatives Q-Adam. Only half of the League of Young Voters managed to observe the elections, as the others either reported that due to pressure they had decided not to observe, or were refused permission to enter the polling stations.<sup>20</sup>

16 <https://acca.media/kazahstan-prokuratura-vyzyvaet-bloggerov-aktivistov-i-politologov-za-predvybornye-oprosy/>

17 <https://acca.media/kazahstan-prokuratura-vyzyvaet-bloggerov-aktivistov-i-politologov-za-predvybornye-oprosy/>

18 <https://www.election.gov.kz/rus/news/acts/index.php?ID=5904>

19 <https://rus.azattyq.org/a/31026977.html>

20 <https://kaztag.kz/ru/news/na-vybory-v-mazhilis-vyshlo-menee-poloviny-nablyudateley-misk-soobshchila-odavlenii>, <https://news.mail.ru/politics/44843892/?frommail=1>

There were other reports of independent observers being denied access to or detained at polling stations. In at least three regions of the country, including Turkestan and Shymkent, observers reported that officials prevented them from entering polling stations.<sup>21</sup> Others were expelled by local election officials who claimed that the observers did not have negative PCR tests. Although the monitors had already tested negative for Covid, the officials at polling booths claimed that the laboratories they had used for the tests lacked registration for Covid tests.<sup>22</sup> Such an incident occurred with a RFERL journalist in Almaty.<sup>23</sup> Internet blockages were also reported at the time ballots were cast in Almaty.

In a briefing at the Central Election Committee in Nur-Sultan, Deputy Interior Minister Arystangani Zapparov dismissed questions regarding the number of activists arrested and stated that the police were “forced to detain” demonstrators as they “refused to obey the demands” of the authorities to end their attempts to organise illegal rallies. Late on 10 January, the Interior Minister declared that all those arrested had been released without charges.<sup>24</sup>

## **Intimidation and Harassment of Civil Society Activists, Media outlets and NGOs**

In a move clearly designed to distract civil society organizations from observing and reporting on the election process, between mid-October and late November 2020, at least 15 human rights, media and election observation organisations across Kazakhstan received notifications that they had violated Article 460–1 of the Code of Administrative Offenses for allegedly failing to properly inform the authorities about foreign funding received, in some cases as long ago as in 2018. The violations are punishable by fines of 555,600 tenge (approximately EUR 1,100) and suspension of activities, with a higher fine and a ban on activities for repeat violations within a year. At present, charges against Kadyr-Kasiet (Nur-Sultan) have been dropped, and for the others, which include KIBHR, proceedings have been repeatedly postponed.

### **3. INDIVIDUAL CASES INVOLVING ELECTION RELATED VIOLATIONS**

There follow descriptions of a few cases documented by KIBHR, which are by no means an exhaustive list of the violations reported.

- In December 2020, Aidos Kyrykbayev, a resident of Taraz, reported being stopped and ill-treated by the police while campaigning for the Ak Zhol party. He was charged with distributing “illegal propaganda” – an administrative offense – but the court hearing has been repeatedly postponed. Orynbay Okasov from Uralsk was fined twice for distributing “illegal propaganda” after he handed out flyers calling people to vote for Ak Zhol. These people and other detainees may be held responsible for violating Article 118 of the Code of Administrative Offenses “Provision of services by individuals and legal entities to candidates, political parties without their written consent”.
- Togzhan Kozhalieva, leader of the Halyqqa Adal Qyzmet (Service for Justice to People) Movement (HAQ) said that in Shymkent on 9 January law enforcement officials detained HAQ activist Amanulla Ramankulov who had in his possession 600 election observer certificates for members of the movement: 300 for the South Kazakhstan region and 300 for the Kyzylorda region. The certificates

21 <https://kaztag.kz/ru/news/na-vybory-v-mazhilis-vyshlo-menee-poloviny-nablyudateley-misk-soobshchila-odavlenii>

22 <https://informburo.kz/novosti/sotni-nablyudatelei-ne-smogut-popast-na-izbiratelnye-ucastki-v-almaty-sesnasyl-naruseniya-v-klinike-gde-oni-sdali-pcr-testy>

23 <https://www.rferl.org/a/kazakhstan-parliamentary-elections-2021/31040109.html>

24 <https://www.rferl.org/a/kazakhstan-parliamentary-elections-2021/31040109.html>

were seized and returned later in the day muddled up and it was then impossible to separate them by region. The police reportedly apologised and said that there were no grounds for the arrest.<sup>25</sup>

- The Youth Information Service of Kazakhstan (MISK), which has been observing elections for 22 years submitted a notification of amendment to its charter to the Ministry of Justice, adding a provision on election observation. On the evening of 8 January Almaty City Department of Justice responded that: “it is not possible to implement this notification”. This occurred in spite of the Decree from the CEC of 4 December, according to which public organisations wishing to observe the elections simply needed to notify the Ministry of Justice in writing about corresponding amendments to their charters and that such notifications would be approved within three days.<sup>26</sup>
- Aida Jaksen, blogger and public figure reported that on 10 January at polling station No. 660 in Petropavlovsk, four election observers, including those from the El Dauysy Foundation, were not allowed to enter the polling station. They were told that the reason for the refusal was that members of the Precinct Election Commission had not yet arrived. But the observers noticed that people who were not part of the election committee were also present. One man, who did not introduce himself, told observers that they could not enter before 7:00 am although they were due to enter at 6:00 am for the start of the working day.<sup>27</sup>
- In a polling station in the village of Chingirlau in West Kazakhstan region, election observer Kairbek Kurmetov recorded a violation when a woman tried to throw several ballots into the ballot box. The chair of the election commission, Gulzhamal Zhumagazieva responded by asking the woman to leave the extra ballots on the table, which she did and then calmly left the room. When Kurmetov began filming the voting, the chair told him to stop filming and accused him of “crossing the line”. The chair also complained that Kurmetov’s observer certificate had not been certified by a notary, although this is not an official requirement. Zhumagazieva then called a police officer and forced Kurmetov to leave the station, but refused to provide him with any written explanation.<sup>28</sup>
- In Nur-Sultan Azattyk correspondent Saniya Toiken reported facing obstacles from the security forces while covering the detention of civic activists who the police accused of holding an unsanctioned protest against the unfair elections. The police detained the activists and took them in a minibus to the police station. Toiken reported that one police officer forcibly took away her phone, damaging it in the process and deleting several items from its memory before returning it to her.<sup>29</sup>

## RECOMMENDATIONS TO THE KAZAKHSTANI AUTHORITIES

1. Implement the recommendations made by OSCE/ODIHR for ensuring that election related legislation and practice are consistent with Kazakhstan’s international human rights obligations;
2. Abolish the requirement for public organizations to have a specific provision in their Statutes that organisations can carry out observations during elections.
3. Investigate the legality of the use of kettling by the police in Almaty against peaceful demonstrators on 10 January 2021 and bring the perpetrators to justice. Forcibly keeping people surrounded

25 [kz/ru/news/aktivist-s-600-udostovereniyami-dlya-nablyudateley-zaderzhan-v-shymkente](https://misk.org.kz/ru/news/aktivist-s-600-udostovereniyami-dlya-nablyudateley-zaderzhan-v-shymkente)

26 <https://misk.org.kz/ru/events/37df5545-eb48-475c-a217-940a5ddfa479/>

27 <https://kaztag.kz/ru/news/o-kakikh-problemakh-i-narusheniyakh-izvestno-k-poludnyu-dnya-vyborov-v-mazhilis>

28 <https://www.uralskweek.kz/2021/01/10/nezavisimyj-nablyudatel-zametil-vbrosy-na-uchastke-v-zko-posle-etogo-ego-zastavili-ujti-video/>

29 <https://rus.azattyq.org/a/31040663.html>

for hours in subzero temperatures, without allowing them to move about sufficiently and which resulted in at least two persons being hospitalized with frostbite, which is tantamount to torture and ill-treatment.

4. Cease obstructing the work of independent observers and giving far-fetched explanations for denying them access to polling stations or interrupting their work.
5. Allow people to freely express their political and other opinions, including through peaceful assemblies.
6. Cease using the practice of preventive detention, or detention on suspicion that people are intending to express their opinion in the form of peaceful protest.