



# On the anniversary of the Zhanaozen tragedy, the ODF presents the most high-profile cases of politically motivated prosecution in contemporary Kazakhstan

16 December is Kazakhstan's Independence Day. However, this date is also known as the anniversary of the Zhanaozen shooting: six years ago, at least 17 striking oilmen died from police bullets. Since then, this day has been associated with the oppression of the civil society in Kazakhstan.

On the eve of Kazakhstan's Independence Day and the anniversary of the Zhanaozen tragedy, the Open Dialog Foundation brings to your attention the most high-profile cases of politically motivated prosecution by Kazakhstan.

## 1. The Kazakhstani political prisoners

19 activists and journalists will celebrate Independence Day in detention, having been incarcerated on politically motivated charges.

Kazakhstani activists are serving prison terms for their civil society activities and participation in peaceful rallies. They include: Maks Bokayev, Talgat Ayan, Aron Atabek, Sanat Bukenov, Edige Batyrov, Makhambet Abzhan. In addition, Almat Zhumagulov and Kenzhebek Abishev are being held in the detention facility.

Trade union activists Amin Eleusinov and Nurbek Kushakbayev have been put in prison for their trade union activity.

Following the closure of all influential non-state media, the Kazakhstani authorities intensified the persecution of individual journalists: Aset Matayev and Yaroslav Golyshkin are currently in prison.

Bloggers Sanat Dosov, Ruslan Ginatullin, Igor Chuprina, Igor Sichev were sentenced to imprisonment for their own posts and sharing other people's posts on social media.

While in prison, Mukhtar Dzhakishev, Muratkhan Tokmadi and Iskander Yerimbetov, victims of the criminal prosecution against the Kazakhstani opposition politician Mukhtar Ablyazov, are being subjected to torture.

Kazakhstan's authorities are ignoring the UN's demands to release Maks Bokayev, Talgat Ayan and Mukhtar Dzhakishev.

**Maks Bokayev** - civil society activist in the city of Atyrau. In April 2016, Bokayev was participant in mass peaceful rallies against amendments to the Land Code. He was accused of 'incitement of social discord' (Article 174 of the CC), 'dissemination of knowingly false information' (Article 274 of the CC) and 'violation of the order of organising rallies' (Article 400 of the CC).

On 28 November 2016, the court sentenced Bokayev to 5 years' imprisonment and banned him from engaging in public activities for three years.

**Talgat Ayan** - civil society activist in the city of Atyrau. In April 2016, Ayan was participant in mass peaceful rallies against amendments to the Land Code. He was accused of 'incitement of social discord' (Article 174 of the CC), 'dissemination of knowingly false information' (Article 274 of the CC) and 'violation of the order of organising rallies' (Article 400 of the CC). According to the prosecutors, Talgat Ayan and Maks Bokayev 'incited discord between the authorities and the people'.

On 28 November 2016, the court sentenced Ayan to 5 years' imprisonment and banned him from engaging in public activities for three years.

**Aron Atabek (Aron Edigeyev)** - a dissident, poet. Atabek was the chairman of the housing committee of the Shanyrak district (the suburbs of Almaty). Here, on 14 July 2006, clashes broke out between the law enforcement agencies and local residents who protested against the demolition of their homes. Atabek was accused of 'organising mass riots' (Article 241 of the CC).

On 18 October 2007, the court sentenced Atabek to 18 years in prison. Twice, following the publication of the series of opposition poems, he was placed in solitary confinement in the strictest prison in Kazakhstan in Arkalyk. For attempts to defend his rights, he was repeatedly put in a punishment cell as a 'malicious offender'.

**Sanat Bukenov** - a human rights activist from the town of Balkhash. In 2014, Bukenov, speaking in court as a defender in one case, stated that the police leadership, judges, prosecutor and employees of the administration of Balkhash have been involved in corruption schemes related to apartment fraud. Bukenov was accused of 'knowingly false denunciation' (Article 419 of the CC).

On 3 March 2017, the court sentenced him to 4 years in prison.

**Edige Batyrov** - a farmer and civil society activist from the East Kazakhstan Province. Batyrov publicly reported violations that had been committed during the registration of land, and helped

fellow villagers to resolve conflicts with officials. He was accused of 'knowingly false denunciation' (Article 419 of the CC).

On 18 May 2016, the court sentenced him to 3 years in prison.

**Makhambet Abzhan** - an activist from Astana, a head of the civil society association 'Shanyrak'. Abzhan has been engaged in protecting the rights of citizens who had invested in housing construction, but never received their apartments. He was accused of 'fraud' (Article 190 of the CC) and 'arbitrariness' (Article 389 of the CC).

On 27 November, 2017 the court sentenced him to 3,5 years in prison.

**Almat Zhumagulov** - opposition activist. On 27 November, 2017 he was detained having been accused of spreading propaganda and inciting to terrorism (Art. 256 of the CC). Investigators' materials have numerous signs of the case's fabrication. According to the available information, he has been subjected to pressure in the detention centre with the aim of coercing him to give self-incriminating testimonies.

**Kenzhebek Abishev** - opposition activist. On 27 November, 2017 he was detained having been accused of spreading propaganda and inciting to terrorism (Art. 256 of the CC). Investigators' materials have numerous signs of the case's fabrication. According to the available information, he has been subjected to pressure in the detention centre with the aim of coercing him to give self-incriminating testimonies.

**Amin Eleusinov** – leader of the trade union of the 'Oil Construction Company' (Magnistau Province). On 5 January 2017, more than 600 oil workers of the Oil Construction Company went on a hunger strike in protest against the liquidation of the Confederation of Independent Trade Unions of Kazakhstan. Eleusinov was accused of 'misappropriating another's property' (Article 189 of the CC), as well as 'insult', 'disobedience' and 'use of violence' against a representative of authorities (Articles 378, 379 and 380 of the CC).

On 16 May 2017, Eleusinov was sentenced to two years in prison.

**Nurbek Kushakbayev** - leader of the trade union of the 'Oil Construction Company' (Magnistau Province). On 5 January 2017, more than 600 oil workers of the Oil Construction Company went on a hunger strike in protest against the liquidation of the Confederation of Independent Trade Unions of Kazakhstan. Kushakbayev was accused of 'provoking people to participate in a strike recognised by the court as unlawful' (Article 402 of the CC).

On 7 April 2017, Kushakbayev was sentenced to two and a half years in prison.

**Aset Matayev** – the former head of the ‘KazTag’ news agency. He was accused of embezzlement of funds that were allocated for the promotion of the state information policy (Article 190 of the CC).

On 3 October 2016 Aset Matayev was sentenced to 5 years in prison.

**Yaroslav Golyshkin** - a journalist working in the ‘Versiya’ newspaper. Golyshkin conducted a journalistic investigation into the rape case in Pavlodar. The journalist recorded the testimony of two female victims, according to which the son of the Akim of Pavlodar Province participated in the rape. Golyshkin was accused of ‘extortion’ of money from the Akim of Pavlodar Province (Article 194 of the Criminal Code, Article 132 of the CC).

On 30 October 2015, the court sentenced him to 8 years in prison.

**Sanat Dosov** - a civil society activist and entrepreneur in the city of Aktobe. In his posts and comments, he criticised the policies of the President of Russia (in particular, regarding Ukraine), and labelled Putin ‘fascist’ and ‘murderer’. He was accused of ‘inciting social hatred’ in publications on Facebook (Article 174 of the CC).

On 27 December 2016, the court sentenced him to 3 years in prison.

**Ruslan Ginatullin** - a resident of the city of Pavlodar. On the social network ‘Vkontakte’, Ginatullin published links to a publicly available video footage about military operations in the East of Ukraine and nationalists in Russia. He was accused of ‘inciting ethnic hatred’ on social networks (Article 174 of the CC) and ‘participating in a transnational criminal organisation’ (Article 264 of the CC).

On 14 December 2016, the court sentenced him to 6 years in prison.

**Igor Chuprina** - a resident of North-Kazakhstan Province. In comments on the social network ‘Vkontakte’, he called for the ‘unification’ of Kazakhstan and Russia. He was accused of ‘inciting ethnic hatred’ on social networks (Article 174 of the CC) and ‘spreading propaganda of violation of the integrity of the Republic of Kazakhstan’ (Article 180 of the CC).

On 5 December 2016, the court sentenced him to five and a half years in prison.

**Igor Sychev** - a resident of the city of Ridder. Sychev was the administrator of the "VKontakte" page named 'Podslushano v Riddere' ['Overheard in Ridder']. The investigators accused him of allowing the publication of a survey on the prospect of 'joining' Russia by East Kazakhstan Province on the page. He was accused of 'spreading propaganda of violation of the integrity of the Republic of Kazakhstan' (Article 180 of the CC) on the social network 'VKontakte'.

On 18 November 2015, the court sentenced him to 5 years in prison.

**Mukhtar Dzhakishev** - the former head of the state company 'Kazatomprom'. Dzhakishev is a close friend of Ablyazov. Dzhakishev was accused of 'embezzlement of entrusted property' (Article 176 of the Criminal Code), 'accepting bribes' (Article 311 of the Criminal Code) and 'fraud' (Article 177 of the Criminal Code).

In 2010 and 2012, two court trials were carried out against Dzhakishev; at the same time, they were accompanied by gross violations. Dzhakishev was sentenced to 14 years in prison.

Dzhakishev's severe chronic diseases - arterial hypertension and left ventricular hypertrophy sharply worsened. Due to excessively high blood pressure, he is at a constant risk of stroke and ischemia. He needs urgent hospitalisation in a public clinic.

**Muratkhan Tokmadi** - a Kazakhstani large businessman. He was accused of 'extortion' committed 12 years before. He was placed in the detention facility of the NSC, after which injuries were revealed on his body. The prosecutor's office stated that he 'fell off a pull-up bar'.

According to the available information, employees of the security services tortured Tokmadi, demanding that he 'confess' that he had 'committed a murder on the instruction' of Ablyazov 13 years before. As a result, in October 2017, Tokmadi 'confessed' everything

**Iskander Yerimbetov** - a Kazakhstani large businessman. He has become another victim of the criminal case against the Kazakhstani opposition politician Mukhtar Ablyazov. Yerimbetov is the brother of Botagoz Jardemalie, Ablyazov's lawyer who has been granted political asylum in Belgium. Apparently, the authorities of Kazakhstan are persecuting Yerimbetov with the aim of exerting pressure on Jardemalie in order to force her to return to Kazakhstan and testify against Ablyazov.

Yerimbetov is being held in the detention centre of the National Security Committee. According to the available information, as a result of torture and constant pressure, Yerimbetov is in serious physical condition; during his meeting with his counsel, he could not speak coherently and lost consciousness several times.

## 2. Politically motivated prosecution in Kazakhstan: people who received suspended sentences

Apart from political prisoners, approx. ten people were sentenced to suspended sentences based on politically motivated charges.

The suspended sentences include a ban on engaging in the civil society or journalistic activities.

Oppressive articles of the new Criminal Code of Kazakhstan are used against representatives of the civil society. They include: 'inciting social and ethnic discord', 'libel', 'dissemination of knowingly false information', 'violation of the order of organising rallies', and others.

Among others, civil society activists: Olesya Khalabuzar, Alima Abdirova, Bolatbek Blyalov; trade union activist Larisa Kharkova; journalists: Zhanbolat Mamay, Gyuzal Baydalinova, Amangeldy Batyrbekov and Bigeldy Gabdullin, received suspended sentences.

The criminal prosecution against activist Marat Dauletbayev continues.

**Olesya Khalabuzar** - the former head of civil society organisations 'Young Professionals Community' and 'The Centre for Social and Political Studies'. According to the prosecution, Khalabuzar 'committed a grave crime against the peace and security of mankind', as a text of the leaflet was found on her computer, in which 'information on the negative consequences of amending the Constitution of the Republic of Kazakhstan was presented' (regarding the Land Reform). She was accused of 'inciting ethnic hatred' (Article 174).

On 1 August 2017, the court sentenced her to 2 years of restraint of liberty.

**Alima Abdirova** - a human rights activist from Aktobe, a former member of the National Preventive Mechanism against Torture. In 2014, Abdirova, as a member of the National Preventive Mechanism, visited the Centre for Adaptation of Minors in Aktobe Province. The revealed violations were reported by her in the report to the Ombudsman. Abdirova was accused of 'libel' (Article 130 of the CC) and 'failure to execute the court's verdict' (Article 430 of the CC).

On 18 September 2017, Abdirova was sentenced to 2 years of restriction of freedom.

**Bolatbek Blyalov** - an activist from Astana. The investigation drew attention to Facebook posts and YouTube interviews, in which Blyalov criticised Russia's policy towards Ukraine, using the term 'Russian fascism'. Blyalov was accused of 'inciting social and ethnic hatred' (Article 174 of the Criminal Code of the Republic of Kazakhstan).

On 21 January 2016, he was sentenced to 3 years of restraint of liberty.

**Larisa Kharkova** - former chairperson of the Confederation of Independent Trade Unions. Kharkova was prosecuted after oil workers' hunger strike by which they protested against the ban on the activities of the Confederation of Independent Trade Unions. She was accused of 'abuse of power' (Article 250 of the CC).

On 25 July 2017, the court sentenced her to 4 years of restraint of liberty, confiscation of property and 5 years of a ban on holding senior positions in civil society associations.

**Zhanbolat Mamay** - a Kazakhstani journalist and former editor-in-chief of the 'Tribuna' newspaper. He was accused of 'money laundering' (Article 193 of the CC) within the framework of the case of Ablyazov. According to charges, between 2011-2014, Mamay's newspaper 'received sponsorship from Ablyazov', and the authorities labeled it 'money laundering'. Mamay refused to 'confess to the crime', after which he was beaten in the detention facility.

On 7 September 2017, the court sentenced Mamay to 3 years of restriction of freedom and imposed on him, a three-year ban on engagement in journalistic activities. After six months in prison, the journalist was released. The newspaper 'Tribuna' ceased its activity.

**Gyuzyal Baydalinova** - a journalist of the 'Nakanune.kz' online portal. Baydalinova published articles on possible violations in financing of the 'Kazkommertsbank' projects. The investigation bodies stated that the articles were 'propaganda plants' and they damaged the reputation of the bank. She was accused of 'spreading knowingly false information' (Article 274 of the CC).

On 23 May 2016, the court sentenced Baydalinova to one and a half years in prison. The international community sharply criticised the judgement. On 12 July 2016, by the decision of the Appellate Court, the term of imprisonment was replaced with a suspended sentence. The journalist was released from prison. The portal 'Nakanune.kz' was forced to cease its activity.

**Amangeldy Batyrbekov** - a journalist from the South-Kazakhstan Province, chairman of the civil society organisation 'Saryagas-Adilet'. The lawsuit against the journalist was filed by Prosecutor Nurlan Saparov. The journalist had published information about Saparov's involvement in the fabrication of a certain criminal case. Batyrbekov was accused of 'slander against the prosecutor' (Article 411 of the CC) and 'knowingly false denunciation' (Article 419 of the CC).

On 29 October 2015, the court sentenced him to one and a half years in prison. The case of Batyrbekov was publicised among human rights activists. On 19 January 2017, the court acquitted the journalist of 'false denunciation', but found him guilty of 'libel', sentencing him to one and a half years of restriction of freedom.

**Bigeldy Gabdullin** - a former editor-in-chief of the 'Central Asia Monitor' newspaper; president of the Kazakhstani PEN club. According to the prosecutors, Gabdullin carried out 'information attacks on the leaders of state bodies by publishing materials that discredited the reputation of officials', after which he allegedly demanded that the state financing of his newspaper be increased. He was accused of 'extortion' (Article 194 of the Criminal Code).

On 24 January 2017, he was sentenced to 5 years of restriction of freedom and was banned from holding executive positions for a period of 10 years.

**Marat Dauletbayev** - the chairman of the civil society organisation 'Baikonur For Civil Rights' (Baikonur is the administrative unit of Kazakhstan, which is rented by Russia). On the Facebook page, he published information about the possible theft of precious metals at the Baikonur cosmodrome. The Kazakhstani investigative bodies allege that Dauletbayev is striving to 'attract attention by a means of discrediting' Russian officials. Dauletbayev was accused of 'libel' (Article 130 of the CC).

The criminal case against the activist was referred for further investigation.

### **3. Punitive psychiatry in Kazakhstan**

In the fight against dissent, Kazakhstan's authorities are increasingly frequently using punitive psychiatry.

Activists file complaints with law enforcement agencies. In response, the authorities initiate criminal proceedings against the complainants themselves and forcibly send them for a psychiatric examination in order to examine whether they suffer from 'delusional disorder'.

Apparently, the Kazakhstani authorities believe that only the 'insane' can complain about the actions of the authorities and fight for their rights.

Since October 2016, civil society activist Natalia Ulasik has been forcibly held in a mental hospital. Doctors say that this is not necessary, but the court considers their findings 'inconclusive' and keeps extending the compulsory treatment of Ulasik.

Counsel Zinaida Mukhortova was held in various mental hospitals for more than a year. She was released in December 2014 after repeated appeals from the UN and human rights organisations. Mukhortova is still obliged to report in the mental hospital every month. She cannot engage in professional activities.

**Natalia Ulasik** - a civil society activist and blogger in the town of Zhezkazgan. On social networks, Ulasik wrote about social problems and criticised local authorities. Based on the report, filed by her former husband, criminal charges of 'libel' were brought against her.

Based on the results of the forensic medical examination, Ulasik was diagnosed with 'chronic delusional disorder'. On 14 October 2016, the court ordered that she be compulsorily referred to the State Mental Hospital, the most severe hospital of this type, where dangerous criminals are

held.

Mental hospital doctors stated that there was no need for compulsory treatment of Ulasik. However, the court found the doctors' opinion 'inconclusive' and labelled Ulasik 'dangerous for society'.

**Zinaida Mukhortova** - a Kazakhstani human rights activist and counsel from the city of Balkhash. She was accused of 'knowingly false denunciation'. Mukhortova urged the authorities to investigate the information about possible corruption actions of a member of parliament. The court sent Mukhortova for psychiatric examination, as a result of which she was diagnosed with 'delusional disorder in relation to specific individuals.'" The medical director of the mental hospital stated as follows: 'Over the last 7-8 years, patient Mukhortova has constantly written complaints'.

For more than 12 months, she was kept in different mental hospitals. Mukhortova was released in December 2014 after repeated appeals from the UN and human rights organisations.

Mukhortova is still obliged to report in the mental hospital every month. She cannot engage in professional activities.

#### **4. Kazakhstan misuses the mechanisms of Interpol and international legal assistance**

Kazakhstan misuses the mechanisms of Interpol, extradition and international legal assistance. By doing so, the Kazakhstani authorities are striving to lay hands on their opponents abroad.

On the basis of Kazakhstan's extradition request, opposition journalist Zhanara Akhmetova was arrested in Ukraine. In November, the court released her from custody, which became possible due to the efforts of human rights organisations, MPs and the international community.

Kazakhstan has intensified its 'hunt' for former colleagues of the opposition politician Mukhtar Ablyazov, whom Nazarbayev regards as his personal enemy. Due to the fact that France and other EU states recognised the case of Ablyazov as political, Kazakhstan decided to increase the number of criminal charges against him and his former colleagues. To this end, Kazakhstani investigators have been using threats, torture, exerting pressure on their counsels, and harassing their relatives.

In particular, Kazakhstani authorities are striving to bring about the extradition of Mukhtar Ablyazov's former colleagues, such as: Anatoliy Pogorelov, Tatiana Paraskevich, Viktor Khrapunov, Leila Khrapunova, Ilyas Khrapunov and others.

**Zhanara Akhmetova** – Kazakhstani journalist and opposition activist. In October, 2017 she was arrested in Kyiv at the extradition request of Kazakhstan. The Migration Service refused to grant Akhmetova, refugee status, but did not inform her about its decision. In official documents, the Kazakhstani authorities indicated the possible place of Akhmetova's residence in Ukraine. This can be a sign that the Kazakhstani authorities have carried out operational activities in Ukraine, or the intelligence services of both countries have been collaborating.

Ukrainian and international human rights NGO have issued statements in defence of Akhmetova. Two committees of the Verkhovna Rada, the Committee on Human Rights and the Committee on Freedom of Speech, discussed the case of Zhanara Akhmetova. The interfractional Union of MPs 'Euro Optimizers' asserts that Akhmetova's case has political overtones.

Akhmetova was held in a detention facility for more than a month. On 22 November 2017, the court released her, which became possible due to the efforts of human rights organisations, lawyers, the Ombudsman office, as well as MPs who agreed to take her on bail.

**Anatoliy Pogorelov** – former top manager who was pursued by INTERPOL on the request of Kazakhstan as a defendant in the case of the Kazakhstani opposition politician Mukhtar Ablyazov. Currently, Pogorelov resides in the United Arab Emirates, which is not a party to the Universal Declaration of Human Rights. The Kazakhstani authorities can kidnap Pogorelov from the UAE. He is striving to receive the opportunity to travel to a secure State.

**Tatiana Paraskevich** – Mukhtar Ablyazov's former colleague who resides in the Czech Republic. In 2014, the Czech Republic refused to extradite Paraskevich to Russia and Ukraine. However, Russia and Ukraine have expressed their disagreement with this decision. In 2016, the countries almost simultaneously sent repeated requests for the extradition of Paraskevich.

In 2014 and 2015, the Czech Republic provided Paraskevich with additional protection. Recently, she has applied for an extension of the status. Counsels of the nationalised Kazakhstani BTA Bank repeatedly appealed to the Czech law enforcement agencies to prevent the granting of international protection to Paraskevich.

**Viktor Khrapunov** - the former Minister of Energy of Kazakhstan, former Mayor of Almaty. The authorities of Kazakhstan are persecuting the Khrapunov family due to their opposition views and family ties with Ablyazov. Viktor Khrapunov is the author of the book 'About the dictatorship of Nursultan Nazarbayev'. The Khrapunovs have reported that between 2008-2011, the Kazakhstani authorities demanded that they sever relations with Ablyazov and give a testimony against him. They refused to do so, and, consequently, they became victims of criminal prosecution. Between 2011-2012, the Kazakhstani authorities initiated 21 criminal cases against Viktor Khrapunov and other members of the Khrapunov family. The Kazakhstani investigators labelled the Khrapunovs 'a criminal group bound by family ties'.

Switzerland refused to extradite Victor Khrapunov to Kazakhstan twice (in 2011 and in 2014). The family of Khrapunovs has officially resided in Switzerland. In the European media, information

about Kazakhstani authorities' attempts to bribe some Swiss parliamentarians and former officials in order to persuade them to lobby for the Khrapunovs' extradition, received wide reverberation.

**Leila Khrapunova** – a businesswoman and former head of the state-owned Television Corporation. The authorities of Kazakhstan are persecuting the Khrapunov family due to their opposition views and family ties with Ablyazov. The Khrapunovs have reported that between 2008-2011, the Kazakhstani authorities demanded that they sever relations with Ablyazov and give a testimony against him. They refused to do so, and, consequently, they became victims of criminal prosecution. Between 2011-2012, the Kazakhstani authorities initiated 21 criminal cases against Viktor Khrapunov and other members of the Khrapunov family.

According to the Khrapunovs, they received a notice from the Swiss authorities stating that they also refused to extradite Leyla Khrapunova to Kazakhstan. In the European media, information about Kazakhstani authorities' attempts to bribe some Swiss parliamentarians and former officials in order to persuade them to lobby for the Khrapunovs' extradition, received wide reverberation.

**Ilyas Khrapunov** is a Kazakhstani businessman, the son-in-law of Kazakhstan's opposition politician Mukhtar Ablyazov. The authorities of Kazakhstan are persecuting Ilyas Khrapunov and other members of the Khrapunov family due to their opposition views and family ties with Ablyazov. The Kazakhstani investigators labelled the Khrapunovs 'a criminal group bound by family ties'. According to the Kazakhstani authorities, Ilyas Khrapunov "was a member of a criminal group" at the age of 14 when he was attending a Swiss school.

The family of Khrapunovs has officially resided in Switzerland.

On 11 October 2017, in a written declaration, 26 PACE members stated that the case of the Khrapunovs is one of the examples of politically motivated prosecution in Kazakhstan. 12 Members of the European Parliament mentioned the case of the Khrapunovs in their letters to the Kazakhstani authorities, expressing their concern over the politically motivated oppression in Kazakhstan.

**In Kazakhstan there should be no place for political oppression. The international community should bring about the release of political prisoners and the introduction of personal sanctions against those implicated in politically motivated prosecution in Kazakhstan.**