

# Political prisoners and victims of political persecution in Kazakhstan

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**Human Rights Protection Foundation Qaharman** – a Kazakhstani human rights organisation which was established for the purpose of protecting fundamental human rights in Kazakhstan, in particular, the right to peaceful assembly, right to a fair trial, and right to participation in the management of state affairs, as well as freedom of speech and dissemination of information. As a public initiative, Qaharman began its activities in Kazakhstan in 2019, and in February 2020, it was officially registered. One of its leaders is Dana Zhanay. Qaharman activists monitor politically motivated trials and the right to peaceful assembly.

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**The human rights movement '405'** is a public initiative founded in 2019. One of its leaders is Anna Shukeyeva. The main goal of the movement is to protect participants of peaceful assemblies and bloggers who are subject to political prosecution under Article 405 of the Criminal Code of Kazakhstan ("participation in the activities of the organisation after its recognition as extremist"). The movement protects the right to peaceful expression, which should not be regarded by the authorities as 'extremism'.

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**Freedom Kazakhstan Foundation** was founded in March 2020 in the United States by Kazakhstani philanthropist and human rights activist Barlyk Mendygazyev. On 1 September 2020, the foundation was officially registered in the US. The organisation aims to provide financial and legal aid to victims of political repression in Kazakhstan, as well as to promote the inclusion of senior Kazakhstani officials and family members of Nursultan Nazarbayev on the sanctions list under the Magnitsky Act.

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**The Bostandyq Kz human rights movement** intends to fight for the observance of the constitutional rights and freedoms of the citizens of Kazakhstan, and to inform about human rights violations in the country. The movement was founded on 14 September 2020 and its leaders are Daryn Khassenov, Berik Mustagulov, Kaliaskar Amrenov and Lyazzat Anafina.

Facebook: [Bostandyq Kz](https://www.facebook.com/BostandyqKz)



**The human rights movement Veritas** was established on 17 September 2020. The aim of the movement is to protect human rights in Kazakhstan, with special attention to freedom of speech, peaceful assembly and peaceful association. The movement monitors the implementation of Kazakhstan's commitments in the areas of human rights, environment, health and anti-corruption, and informs the EU, the UN, PACE, the OSCE, GRECO and the governments of democratic states about the results of the monitoring. Veritas conducts public campaigns to protect politically persecuted activists, political prisoners and victims of torture. The leaders of the movement are: Aliya Zhakupova, Alma Nurusheva, Gulzhanat Temirkhan, Nazym Serikpekova, Roza Musayeva.



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**The "Femina Virtute" human rights movement**, was established on 4 November 2020, and aims to combat discrimination against women in Kazakhstan and to document violations of women's, civil and political rights. The members of the movement conduct solidarity actions in defence of human rights and train citizens to defend their rights. Based on the monitoring results, the movement provides information to the European Parliament, the European Commission, the UN, the OSCE, the Council of Europe, governments and politicians of the EU states, as well as the USA, Canada, Australia, the UK, Norway and Switzerland. The leaders of the movement are Aizhan Ismakova, Ulbolsyn Turdiyeva and Sholpan Dzhanzakova.



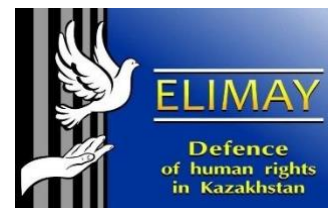
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**Human rights movement "Article 14"** was established on 5 November 2020 with the aim of monitoring the right to fair justice in Kazakhstan. The members of the movement inform citizens of Kazakhstan and the international community about violations of the right to a fair trial, fight for greater transparency in the justice process, and draw public attention to violations during trials. The leaders of the movement are: Abaibek Sultanov, Almas Nurlybayev, Saule Aimukhametova, Bibigul Imangaliyeva.



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**The Human Rights movement Elimay** was established on 17 October 2020. The movement aims to protect civil and political rights and freedoms in Kazakhstan. The movement calls to put an end to all forms of political repression and release of political prisoners in Kazakhstan. The movement's leaders are: Raigul Sadyrbayeva, Aliya Issenova, Bayan Akberdinova, Tlegen Zhubanov and Serik Chalabayev.



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**Public association 'We are Against Torture'** was founded in 2019. The head of the association is Elena Semenova. The organisation defends the right to protection from torture and other inhuman or degrading treatment. The association's activities are aimed at providing an immediate response in the event of torture or ill-treatment in Kazakhstan's places of detention (colonies, pre-trial detention facilities and prisons).

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**Table of contents:**

<b>1. INTRODUCTION.....</b>	<b>5</b>
<b>2. “I WISH WE COULD SHOOT ALL OF YOU”. A WAVE OF POLITICAL REPRESSION IN KAZAKHSTAN DUE TO THE BANNING OF THE OPPOSITION MOVEMENTS DCK AND “KOSHE PARTIYASY” .....</b>	<b>9</b>
<b>3. POLITICAL PRISONERS .....</b>	<b>12</b>
<b>4. SENTENCED TO RESTRICTION OF LIBERTY .....</b>	<b>21</b>
<b>5. PERSECUTION OF REFUGEES FROM CHINA AND RELATIVES OF PRISONERS HELD IN CHINESE CAMPS .....</b>	<b>25</b>
<b>6. PERSECUTION OF POLITICAL REFUGEE MUKHTAR ABLYAZOV AND BOTA JARDEMALIE .....</b>	<b>28</b>
<b>7. PERSECUTION OF HUMAN RIGHTS DEFENDERS .....</b>	<b>31</b>
<b>8. POLITICAL KILLINGS.....</b>	<b>37</b>
<b>9. CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>42</b>

## 1. INTRODUCTION

### Tokayev's deaf state

After Kassym-Jomart Tokayev took over as President of Kazakhstan in 2019, he announced plans to implement the concept of a “listening state”, which means “supporting and strengthening civil society”.<sup>1</sup> In September 2020, Tokayev stated that a priority issue for him was to “adopt new measures to protect human rights in Kazakhstan”.<sup>2</sup>

The Kazakhstani authorities are trying to convince the world that Tokayev's reforms have put the country “on the path to political modernisation and democratisation”, but the facts speak otherwise. Since Kassym-Jomart Tokayev came to power, political repression in Kazakhstan has intensified and the number of political prisoners has increased.

This rise in political repression, unprecedented in Kazakhstan's modern history, is associated with a ban on the peaceful opposition movements Democratic Choice of Kazakhstan (DCK) and “Koshe Partiyasy”. The authorities equate opposition activity with “extremism” and prosecute hundreds of activists across the country [see Section 2].

- **There are 22 political prisoners in Kazakhstan.** Fourteen of them are convicted to prison terms. Seven political prisoners are being held in pre-trial detention facilities. One political prisoner is being held in a psychiatric hospital [see Section 3].
- In total, as of 1 September 2021, **politically motivated criminal cases have been opened against at least 78 individuals in Kazakhstan.** All of them face imprisonment. Of the 78 prosecuted, 50 are being prosecuted on “extremist” charges for supporting “Koshe Partiyasy” and DCK peaceful opposition movements. Seven of them are being held in pre-trial detention facilities and are political prisoners. Two more persons are under house arrest.
- More than **70 persons** have already been sentenced to restriction of liberty for supporting the DCK or “Koshe Partiyasy” [see Section 4].

At least 5 ethnic Kazakhs who fled repression in China have been persecuted for “illegal border crossing” in Kazakhstan. Only due to wide publicity were they saved from extradition to China. Relatives of ethnic Kazakhs who ended up in re-education camps in China were also persecuted by Kazakhstani law enforcement agencies. They were persecuted and physically assaulted for participating in peaceful actions demanding the release of prisoners of the re-education camps in Xinjiang [see Section 5].

### The authorities are persecuting human rights defenders and misinforming the international community about the human rights situation in the country

The authorities are targeting human rights defenders in an attempt to silence them from reporting human rights violations in Kazakhstan to the world. Members of the Kazakhstani **human rights movements** “Qaharman”, “405”, “Bostandyq Kz”, “Femina Virtute”, “Veritas”, “Elimay” and “Article 14” [see Section

<sup>1</sup> *President of Kazakhstan Kassym-Jomart Tokayev's State of the Nation Address*, OFFICIAL WEBSITE OF THE PRESIDENT OF THE REPUBLIC OF KAZAKHSTAN, 2 September 2019, available at: [https://www.akorda.kz/ru/addresses/addresses\\_of\\_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana](https://www.akorda.kz/ru/addresses/addresses_of_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana)

<sup>2</sup> *Tokayev identified the issue of human rights defence as a priority for him*, KAZAKHSTANSKAYA PRAVDA, 1 September 2020, available at: <https://www.kazpravda.kz/news/prezident2/prioritetnoi-dlya-sebya-nazval-tokaev-problemu-zashchiti-prav-cheloveka>

7] have been subjected to politically motivated persecution. The human rights defenders were actively involved in the preparation of an urgent European Parliament resolution on human rights in Kazakhstan dated 11 February 2021. They also conducted a public fundraising campaign to provide humanitarian assistance to families of political prisoners.

**The authorities considered this to be “financing the activities of radical supporters of the extremist movements DCK and ‘Koshe Partiyasy’”. A criminal case has been opened against the human rights activists. They are now facing to possibility of 7 to 12 years in prison.**

Repression has also been exerted on ordinary activists – those calling for international attention to the events in Kazakhstan and the imposition of personal sanctions against human rights violators. The case of persecution of an activist **Asylkhan Zhaubatyrov**, who was placed in a pre-trial detention facility after he addressed the Portuguese Foreign Minister on Facebook and spoke about the politically motivated criminal case against him, has been widely publicised.

The Kazakhstani authorities provide misleading information to representatives of the EU and Western countries on the “fulfilment of their human rights obligations”.

One of the regime's advocates is Ombudswoman Elvira Azimova. During her overseas visits, the Ombudswoman emphasises the “effectiveness of human rights reforms” within the framework of President Tokayev's “listening state” concept.<sup>3</sup>

The activity of the Ombudsman is regulated by the Presidential decree. In practice, the Ombudsman is not independent. The Ombudsman is appointed by the Senate of Parliament at the recommendation of the President. Azimova has served as Ombudsman since September 2019. Before that, she was Deputy Minister of Justice. Previous Ombudsmen have also been state officials.

Azimova is positive about the actions of the state, and of Kassym-Jomart Tokayev personally, in protecting human rights in Kazakhstan. Kazakhstani human rights defenders inform that the Ombudsman's activities are limited to holding meetings with international partners, while cases of human rights violations at home remain unaddressed.<sup>4</sup> In July 2021, during Elvira Azimova's official visit to Brussels, the Kazakhstani human rights activists protested against the Ombudsman for her involvement in spreading state propaganda.<sup>5, 6, 7</sup>

According to the Ombudsman's 2020 report, the country continues to “work to strengthen the protection of human rights” and “implement a number of legal reforms”.<sup>8</sup> Meanwhile, five opposition activists – **Dulat Agadil, Amanbike Khairolla, Serik Orazov, Garifulla Embergenov, and Zhanbolat Agadil – were killed in Kazakhstan in 2020.** They were subjected to arrests, criminal prosecution, torture, and

<sup>3</sup> *Elvira Azimova, the Commissioner for Human Rights of the Republic of Kazakhstan, paid a visit to Switzerland*, THE EMBASSY OF THE REPUBLIC OF KAZAKHSTAN IN THE SWISS CONFEDERATION, THE PRINCIPALITY OF LIECHTENSTEIN, THE STATE OF VATICAN AND THE SOVEREIGN ORDER OF MALTA, 17 March 2021, available at: <https://www.gov.kz/memleket/entities/mfa-bern/press/news/details/175413?lang=ru>

<sup>4</sup> *Human rights activist Bakhytzhan Toregozhina on the work of Ombudswoman Elvira Azimova*, FACEBOOK PAGE OF BAKHYTZHAN TOREGOZHINA, 9 June 2021, available at: <https://www.facebook.com/toregozhina/posts/4367775399901678>

<sup>5</sup> *Information on an interview with Elvira Azimova and Zhemis Turmagambetova given to EURACTIV*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 14 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3031518737167389>

<sup>6</sup> *Appeal of human rights activist Alena Ten to Elvira Azimova*, TWITTER PAGE OF ALENA TEN, 15 July 2021, available at: [https://twitter.com/TenAlena\\_/status/1415490863250219012?s=09](https://twitter.com/TenAlena_/status/1415490863250219012?s=09)

<sup>7</sup> *Comments made by human rights activist Bakhytzhan Toregozhina on Ombudswoman Elvira Azimova's visit to Luxembourg and Brussels*, FACEBOOK PAGE OF BAKHYTZHAN TOREGOZHINA, 21 July 2021, available at: <https://www.facebook.com/toregozhina/posts/4485167581495792>

<sup>8</sup> *Report of the Commissioner for Human Rights in the Republic of Kazakhstan for 2020*, COMMISSIONER FOR HUMAN RIGHTS IN THE REPUBLIC OF KAZAKHSTAN, 18 March 2021, available at: <https://www.gov.kz/memleket/entities/ombudsman/documents/details/166034?directionId=13134&lang=ru>

surveillance by the intelligence agencies in retaliation for their participation in rallies and support for the peaceful opposition movements “DCK” and “Koshe Partiyasy”.

In addition, in June 2021, **Galymzhan Kenzhebayev**, a witness to the brutal torture of peaceful protesters in Zhanaozen in 2011, died after being questioned by the police. The facts allow these cases to be characterised as **political killings** that were the result of repressive policies of the authoritarian state against members of civil society and the opposition [see Section 8].

The Ombudswoman Azimova does not personally visit political prisoners in places of detention. Reports of mass detentions and arrests of peaceful protesters remain neglected. During the OSCE spring 2021 session, Azimova declared that the state reacts only when certain violations are of a systemic nature and not “isolated cases”.<sup>9</sup>

Erzhan Kazykhanov, Special Representative of the President of the Republic of Kazakhstan for International Cooperation, is another advocate for the regime. Tokayev instructed Kazykhanov to establish “*feedback with domestic and foreign think-tanks ... in line with the concept of a 'listening state'*”.<sup>10</sup> For this purpose the Kazakhstani authorities began holding international online conferences and meetings, allegedly with the participation of Kazakhstani human rights activists. In reality, such meetings are held with the participation of GONGOs, such as the Public foundation “Charter for Human Rights”, headed by Zhemis Turmagambetova. Turmagambetova is known for thanking Kassym-Jomart Tokayev for his reforms and stating that “*not a single person has been detained*” during the rallies.<sup>11</sup> In June 2021, Kazykhanov presented a medal to Peter Burian, the European Union's Special Representative for Central Asia, for developing EU–Kazakhstan relations.<sup>12</sup> The coalition of human rights organisations “#ActivistsNotExtremists” considers it unacceptable that the EU official accepted the award from the government of Kazakhstan. Political repression and political killings continue unabated in the country. At the same time, the EU Delegation in Kazakhstan systematically ignores the requests of human rights defenders to meet with them and the victims of political repression. In this context, the acceptance of the award by the EU official may indicate a loyal attitude towards the actions of the Kazakhstani authorities.<sup>13</sup>

Kazakhstan's diplomatic representatives regularly disseminate statements that “human rights defenders misinform the international community” about the existence of political prisoners and political persecution in Kazakhstan. This report includes quotations from politically motivated criminal cases that refute the statements of the authorities and demonstrate the scale of political repression in Kazakhstan.

<sup>9</sup> *Commentary from human rights activist Lyudmyla Kozlovskaya on the lack of response from Commissioner for Human Rights Elvira Azimova to cases of human rights violations in Kazakhstan*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 4 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3023971651255431/>, in both English and Russian

<sup>10</sup> *Tokayev drew Kazykhanov's attention to the importance of feedback from “think tanks”*, KAZAKHSTAN TODAY, 7 April 2021, available at: <https://www.kt.kz/rus/state/tokaev-obratil-vnimanie-kazykhanova-na-vazhnost-obratnoy-1377913996.html>

<sup>11</sup> *Zhemis Turmagambetova: Human rights activists are grateful to the President*, KAZINFORM, 18 January 2021, available at: <https://www.inform.kz/ru/zhemis-turmagambetova-pravozaschitniki-blagodarny-prezidentu-a3742524>

<sup>12</sup> *Commentary by human rights activist Lyudmyla Kozlovskaya on the meeting between Erzhan Kazykhanov and Peter Burian*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 12 June 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3007766639542599>, in both English and Russian

<sup>13</sup> *Comment by human rights activist Arailym Utegenova on the presentation of the award to Peter Burian by the Kazakhstani authorities*, ARAILYM UTEGENOVA TWITTER PAGE, 17 June 2021, available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

## Will human rights violators be held accountable?

The European Parliament adopted an **urgent resolution on the human rights situation in Kazakhstan on 11 February 2021**.<sup>14</sup> The resolution is of historic significance. It is unprecedented in the cogency of its rhetoric and the detail of its examples of political persecution.

The document lists dozens of political prisoners and politically persecuted activists and human rights defenders. The resolution outlines repressions against the opposition under the pretext of “fighting extremism”.

Recent developments in Kazakhstan show that the human rights situation in the country is critical. Democratic countries must clearly demonstrate to the Kazakhstani authorities that human rights obligations are not just a mere formality. In its resolution, the European Parliament called on the EU bodies to consider the imposition of personal sanctions on those responsible for human rights violations in Kazakhstan. On 2 March 2021, the European Union imposed personal sanctions against certain officials from Russia in connection with the persecution of opposition activist Alexei Navalny. In 2020, the European Union imposed personal sanctions against Alexander Lukashenko and other top Belarusian officials involved in gross human rights violations. The European Union needs to be consistent and resort to similar actions against the main ally of Russia and Belarus – Kazakhstan.

This report demonstrates that the actions that the authorities are trying to present as “an achievement towards democratisation and liberalisation” are in fact further curtailing the political rights and freedoms of citizens. The “listening state” of which the Kazakhstani authorities continually speak is in fact a form of guided democracy that imitates the presence of civil society.

The report documents Kazakhstan’s systematic violations of its international human rights and civil liberties obligations and its failure to implement UN and European Parliament recommendations.

## Criteria for inclusion on the list of political prisoners and politically persecuted persons

Although Kazakhstan is not a member of the Council of Europe, it has ratified four Council of Europe conventions and signed a declaration expanding cooperation with the organisation. Kazakhstan has been an observer in the Council of Europe bodies at various times. Since March 2012, Kazakhstan has been a member of the Venice Commission and joined the Group of States against Corruption (GRECO) in 2020.

Therefore, when we talk about Kazakhstani political prisoners, we use the PACE criteria. The PACE resolution dated October 2012<sup>15</sup> defined the term “political prisoner”. In particular, a person is considered a political prisoner if:

- Detention violates fundamental rights and freedoms, in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association.
- The detention is imposed for purely political reasons.
- For political motives, the length of the detention or its conditions are clearly out of proportion to the offence.
- For political motives, he or she is detained in a discriminatory manner as compared to other persons.

<sup>14</sup> *European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan (2021/2544(RSP))*, EUROPEAN PARLIAMENT, 11 February 2021, available at [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

<sup>15</sup> *The definition of political prisoner, Resolution 1900 (2012)*, PACE, 3 October 2012, available at <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19150&lang=en>

- The detention is the result of judicial proceedings that are clearly unfair and connected with the political motives of authorities.

In accordance with the above-mentioned criteria, in this report we provide information on persons who are subjected to politically motivated persecution and on those who remain in prisons or pre-trial detention facilities – i.e. about political prisoners.

The Kazakhstani authorities prosecute and torture civil society representatives **for expressing opinions, participating in peaceful rallies, supporting peaceful opposition movements, disseminating information about corruption and human rights violations, and peacefully criticising the authorities through social networks.**

In Kazakhstan, persons are politically prosecuted under both general criminal articles and “political” articles of the Criminal Code. The latter include charges of “inciting social discord” (Article 174 of the CC), “participation in the activities of the organisation after its recognition as extremist” (Article 405 of the CC), “financing of extremist activities and other aiding and abetting of extremism” (Article 258 of the Criminal Code), “disseminating of deliberately false information” (Article 274 of the CC), “propaganda or public calls for seizure or retention of power” (Article 179 of the CC). Kazakhstan refuses to implement the recommendation of the European Parliament resolution regarding the abolition of politicised and textually ambiguous articles 174 and 274 of the Criminal Code.

## **2. “I WISH WE COULD SHOOT ALL OF YOU”. A WAVE OF POLITICAL REPRESSION IN KAZAKHSTAN DUE TO THE BANNING OF THE OPPOSITION MOVEMENTS DCK AND “KOSHE PARTIYASY”**

The Kazakhstani authorities equate opposition activity with extremism. This technique was first used in January 2005, when a court banned the activities of the opposition party DCK on charges of “political extremism” on the basis of a prosecutor’s statement. The party called for protests over mass falsifications in the 2004 parliamentary elections. The Prosecutor’s Office accused the DCK of “aiming to disrupt the work of state authorities”.<sup>16</sup>

In 2018, a similar method was used against the opposition DCK movement: a Kazakhstani court decided to ban it, resulting in a number of arbitrary detentions and political persecutions unprecedented in the history of the country. On 13 March 2018, the Yesilskiy District Court in Nur-Sultan at the request of the General Prosecutor’s Office, ruled that DCK and its leader Mukhtar Ablyazov “incite social discord”, “form a negative image of the authorities”, “provoke protest sentiments”, “stir up social tensions” and “encourage political disobedience”.<sup>17</sup>

On 19 May 2020, the court granted the request of the General Prosecutor’s Office and issued a decision according to which “DCK was transformed into the ‘Koshe Partiyasy’ (‘Street Party’) movement”, and that DCK and “Koshe Partiyasy” “became one extremist organisation”. The activities of “Koshe Partiyasy” were banned in Kazakhstan.

The decisions to ban opposition movements were **made secretly, and investigative actions and courts were held without the participation of DCK and “Koshe Partiyasy” representatives.** They were deprived of their right to defence. In May 2020, activists Askhat Zheksebayev, Aidar Syzdykov, Aibek Sabitov, Aidos

<sup>16</sup> *The history of the opposition movement Democratic Choice of Kazakhstan*, OPEN DIALOGUE FOUNDATION, 29 January 2016, available at: <https://ru.odfoundation.eu/a/7249,istorija-oppozicionnogo-dvizhenija-demokraticeskij-vybor-kazahstana/>

<sup>17</sup> *Decision of the Yesilskiy District Court of Astana to ban DCK*, GULNARA ZHUASPAYEVA FACEBOOK PAGE, 4 October 2018, available at: <https://www.facebook.com/gulnara.ju/posts/1549569151855938>

Umirbekov, Askar Kayyrbek, Nursultan Tastayev, Noyan Rakhimzhanov and Bolat Smagulov filed an appeal against the court decision to ban “Koshe Partiyasy”, but the Yesilskiy District Court in Nur-Sultan rejected the appeal on the grounds that the activists “are not party to the case”. At the same time, these activists are being prosecuted for organisation and participation in the activities of the “extremist organisation” “Koshe Partiyasy”.

The European Parliament resolution on Kazakhstan dated 11 February 2021<sup>18</sup> recognised the peaceful nature of the activities of the DCK and “Koshe Partiyasy” (the DCK was also previously recognised as a peaceful movement in an earlier resolution on Kazakhstan dated 14 March 2019).<sup>19</sup>

Over the past three years, the Kazakhstani authorities have forcibly and arbitrarily detained more than 8,500 participants of peaceful rallies called for by the peaceful opposition movements DCK and “Koshe Partiyasy”.

The banning of opposition movements was followed by **mass prosecutions of activists and human rights defenders on charges of “extremism”, as well as torture and political killings**. During the interrogation of activist Ulasbek Akhmetov, investigator Gizat Karzhibayev expressed his attitude towards the opposition with the phrase: *“I wish we could shoot all of you”*.<sup>20</sup>



Ulasbek Akhmetov

In fact, the Kazakhstani authorities are persecuting all undesirable opposition activists who seek the resignation of the government and a peaceful change of power, on charges of supporting the movements DCK and the “Koshe Partiyasy”. In fact, the authorities equate fundamental criticism of them with “extremism”.

The European Parliament resolution on Kazakhstan dated 11 February 2021 refers to repressions against the opposition under the pretext of “fighting extremism”. The Resolution condemns “the abuse of anti-extremism legislation against supporters of the peaceful opposition movements the Democratic Choice

<sup>18</sup> European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan (2021/2544(RSP)), EUROPEAN PARLIAMENT, 11 February 2021, available at [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

<sup>19</sup> European Parliament resolution of 14 March 2019 on the human rights situation in Kazakhstan (2019/2610(RSP)), EUROPEAN PARLIAMENT, 14 March 2019, available at [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203_EN.html)

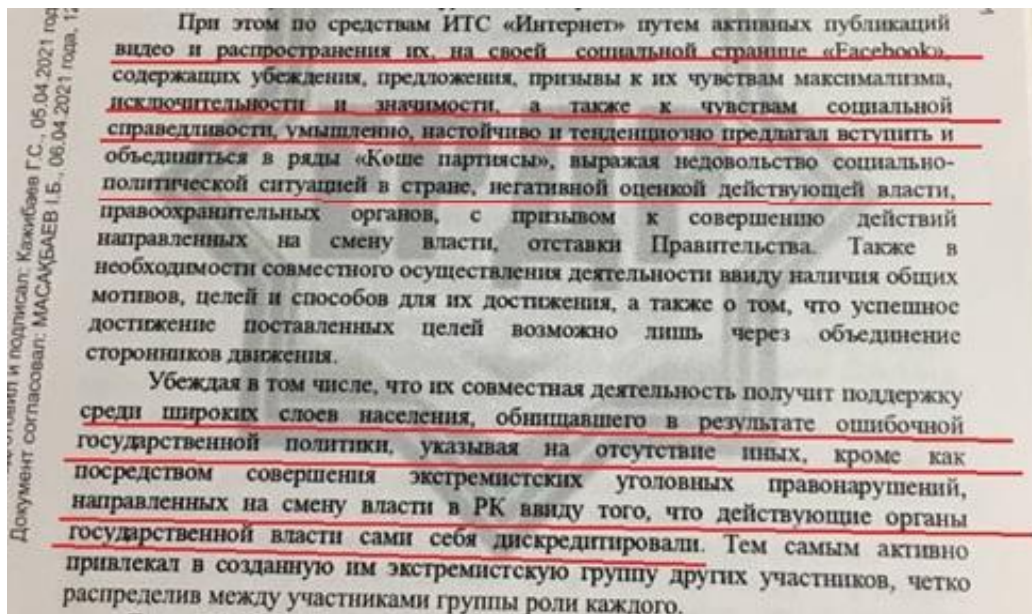
<sup>20</sup> «F\*\*ck, I wish we could shoot you», KIBHR, 1 September 2021, available at: <https://bureau.kz/goryachee/b-rasstrelyat-by-vas/>

of Kazakhstan (DCK) and the “Koshe Partiyasy”, and urges the authorities to permit political pluralism and competition”.

UN Special Rapporteur Fionnuala Ní Aoláin expressed concern about Kazakhstan's “use of extremism laws against political groups and critical voices”.<sup>21</sup>

In their indictments in the DCK and “Koshe Partiyasy” cases, investigators accuse activists of such “criminal and extremists actions” as:

- “reposting materials from the pages of the DCK and “Koshe Partiyasy”;
- “posts in social networks that discredit the Head of State and the current government”;
- “discussing the need to change the government in Kazakhstan”;
- “shouting out ideas that form a negative image of authorities at rallies”;
- “supporting political programmes and publication of photographs” of Mukhtar Ablyazov, leader of the DCK, who has been granted political asylum in France;
- “informing about the activities of the ‘Koshe Partiyasy’ movement, which aims to establish a parliamentary republic; calling on people to join and unite in its ranks; expressing discontent with the social and political situation in the country; negatively assessing the current authorities and law enforcement agencies; calling for actions aimed at changing the government; and also calling for the resignation of the government”;
- “incitement to unification, participation in rallies, committing actions aimed at changing the government”;
- “participation in Asar, i.e. help in house construction for D. Agadil”.



The page from the criminal case against Askhat Zheksebayev with charges of «*expressing discontent with the social and political situation in the country*»

For these actions, activists and human rights defenders **face criminal charges** of “organisation and participation in the activities of an association after it has been declared extremist” (Article 405 of the Criminal Code) and “financing of extremist activity and other aiding and abetting of extremism” (Article 258 of the Criminal Code). Most political prisoners are prosecuted under these articles.

<sup>21</sup> Kazakhstan: UN experts urges reform of law and practice on terrorism and extremism, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24620&LangID=E>

Due to international pressure, the authorities dropped charges of “establishment, management or participation in an extremist group” (Article 182), which could have resulted in up to 17 years of imprisonment for the leaders of the opposition “Koshe Partiyasy” movement.

The practice of the Kazakhstani authorities of equating opposition activity with “extremism” has proved so effective in the fight against the opposition that it has been adopted by the Belarusian and Russian authorities:

- In May 2021, amendments to the legislation on extremism were adopted in Belarus. The amendments were introduced against the backdrop of mass protests over the falsified results of the 2020 presidential election. The Belarusian authorities now equate calls for a change of power in the state with “extremism”, which is regarded as “a call to seize power”. “Extremism” is defined as actions aimed at discrediting the authorities and representatives of the authorities. Leaders of the Belarusian opposition have been accused of creating an extremist formation, while opposition supporters are accused of participating in an extremist formation.
- In June 2021, Russia enacted a law that prohibits individuals involved in extremist organisations from participating in elections. “Involvement in the activities of an extremist organisation” refers to statements in support of the organisation, transfer of money to the organisation or its event, and organisational and advisory assistance to the organisation.<sup>22</sup> This law is retroactive and apparently targets the Anti-Corruption Foundation established by Alexey Navalny, who is listed as a “foreign agent” by the Russian authorities.

By contrast, the Kazakhstani authorities have adopted from Russia the practice of recognising undesirable organisations and media outlets as “foreign agents”. Thus, in June 2021, it was reported that the Kazakhstani authorities considered the DCK and “Koshe Partiyasy” to be “foreign or international extremist or terrorist organisations”. Such a response was received from the Supreme Court after activists demanded publication of the court's decision to ban “Koshe Partiyasy”.<sup>23</sup>

### 3. POLITICAL PRISONERS

**At the moment there are 22 political prisoners in Kazakhstan.** Most of them are being held in the pre-trial detention facilities or serving prison sentences for supporting opposition ideas of the DCK or “Koshe Partiyasy”, as well as criticising the authorities on social media, for participating in peaceful assemblies and calling for the imposition of personal sanctions for human rights violations in Kazakhstan (these actions are equated to “extremism”). Several individuals have been victims of politically motivated criminal prosecution in connection with the case of a Kazakhstani businessman and philanthropist, Barlyk Mendygazyev.

**14 persons are convicted to prison terms: Aron Atabek, Almat Zhumagulov, Kenzhebek Abishev, Igor Chuprina, Ruslan Ginatullin, Yerzhan Yelshibayev, Saltanat Kusmankyzy, Merei Korbakov, Baurzhan Jusupov, Nataliya Dauletiyarova, Rinat Batkayev, Yerbol Yeskhozhin, Askar Kayyrbek, Sabit Syzdykbek, Ulasbek Akhmetov.**

- Political prisoner **Yerzhan Yelshibayev** was sentenced to five years in prison in 2019 on charges of “intentional infliction of grievous harm for hooligan motives” (Article 106 Part 2 of the Criminal

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<sup>22</sup> Putin signed a law banning those involved in extremism from being elected, RIA NEWS, 4 June 2021, available at: <https://ria.ru/20210604/putin-1735587365.html>

<sup>23</sup> Response of the Supreme Court of Kazakhstan to a collective complaint by activists against a court decision to ban “Koshe Partiyasy”, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 17 June 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/3011380799181183/>, in both English and Russian

Code) for an incident that allegedly took place in 2017.<sup>24</sup> Yelshibayev is an activist from the city of Zhanaozen who has publicly criticised the Kazakhstani authorities. Criminal proceedings were repeatedly attempted against him under various pretexts. In May 2021, the UN WGAD concluded that the detention of **Yerzhan Yelshibayev** was arbitrary and contrary to international human rights law. The UN called on the Kazakhstani authorities to immediately release Yelshibayev. In July 2021, protesting against the ill-treatment and denial of parole, Yelshibayev cut his own abdomen.<sup>25</sup> Furthermore, the Kazakhstani authorities refuse to implement the UN recommendations on review of politically motivated cases and on the payment of compensation to former political prisoners and torture victims Iskander Yerimbetov,<sup>26</sup> Mukhtar Dzhakishev<sup>27</sup> and Max Bokayev.<sup>28</sup>



Top row: Ruslan Ginatullin (left), Igor Chuprina (right)  
Bottom row: Aron Atabek (left), Yerzhan Yelshibayev (right)

- In 2020–21, victims of ill-treatment **Aset Abishev** (released on 30. July 2021), **Almat Zhumagulov** and **Kenzhebek Abishev** were denied parole on several occasions. At the same time, two European

<sup>24</sup> A court in Zhanaozen issued a warrant for the arrest of activist Yerzhan Yelshibayev, TIREK.INFO, 26 March 2019, available at: <http://tirik.info/sud-v-zhanaozene-vydal-sanktsiyu-na-arest-aktivista-erzhana-elshibaeva/>

<sup>25</sup> Yelshibayev reportedly injured himself in prison and was operated on, RADIO AZATTYQ, 16 July 2021, available at: <https://rus.azattyq.org/a/31361204.html>

<sup>26</sup> Opinion No. 67/2018 concerning Iskander Yerimbetov (Kazakhstan), WGAD, 19–23 November 2018, available at [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session83/A\\_HRC\\_WGAD\\_2018\\_67.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session83/A_HRC_WGAD_2018_67.pdf)

<sup>27</sup> Views adopted by the Committee at its 115th session, Human Rights Committee, 19 October–6 November 2015, available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f115%2fd%2f2304%2f2013&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f115%2fd%2f2304%2f2013&Lang=en)

<sup>28</sup> Opinion No. 16/2017 concerning Max Bokayev and Talgat Ayanov (Kazakhstan), WGAD, 19–28 April 2017, available at [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A\\_HRC\\_WGAD\\_2017\\_16.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_16.pdf)

Parliament resolutions, dated 14 March 2019<sup>29</sup> and 11 February 2021,<sup>30</sup> called for their release. In February 2021, a court granted Kenzhebek Abishev's motion for parole, but the Prosecutor's Office appealed against the court decisions and he remained behind bars. Kenzhebek Abishev then filed another motion, but it was rejected in May 2021.

In order to draw attention to the difficult conditions of detention, prisoners resort to extreme measures. On 14 April 2021, Kenzhebek Abishev was hospitalised due to the fact that his health had deteriorated after holding a hunger strike for several days in protest against politically motivated persecution.<sup>31</sup>

On 2 August 2021, political prisoner Almat Zhumagulov reported that a provocation was arranged against him in penal colony LA-155/14 in the run-up to his parole hearing. Zhumagulov was told that a criminal case was opened against him for allegedly inflicting bodily harm on another prisoner (Article 107 of the Criminal Code). Zhumagulov believes that in this way the authorities want to prevent his release on parole.<sup>32</sup>



**Kenzhebek Abishev (left) and Almat Zhumagulov (right) at the trial. Photo: Kazis Toguzbayev (RFE/RL)**

The institution of the Ombudsman misinforms the public regarding the persecution of political prisoners, which once again confirms the lack of independence of this body and the fact that it is covering up the crimes of the regime. On 7 April 2021, Aset Abishev cut his wrists in the colony in protest at the persecution and pressure exerted by the colony administration.<sup>33</sup> After the incident, a group of participants of the National Preventive Mechanism (NPM) visited Aset Abishev in the colony. However, the NPM report stated that Abishev's act was undertaken "in protest against a

<sup>29</sup> European Parliament resolution of 14 March 2019 on the human rights situation in Kazakhstan, EUROPEAN PARLIAMENT, 14 March 2019, available at [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203_EN.html)

<sup>30</sup> European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan (2021/2544(RSP)), EUROPEAN PARLIAMENT, 11 February 2021, available at [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

<sup>31</sup> Information on the hospitalisation of Kenzhebek Abishev, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 15 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2961996360786294>, in both English and Russian

<sup>32</sup> Letter from Almat Zhumagulov about an attempted provocation against him in the colony, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 4 August 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/304749925569270/>

<sup>33</sup> Aset Abishev: "I don't make deals with the prison administration!", TIREK.INFO, 12 April 2021, available at: <http://tirik.info/aset-abishev-ya-ne-idu-na-sdelki-s-administratsiej-kolonii/>

search”.<sup>34</sup> The Kazakhstani authorities assured the EU Delegation to the Republic of Kazakhstan, that Abishev had been given medical treatment and that the Ombudsman was “monitoring his case”.<sup>35</sup> However, in reality, after receiving medical treatment, Abishev was sent to a punishment cell, thus making the conditions of his detention even harsher.<sup>36</sup>

On 14 July 2021, the court granted Aset Abishev's motion for parole. On 30 July 2021, Abishev was released from prison. He was sentenced to four years' imprisonment on the charge of participation in the DCK, and spent three of those years behind bars.

- **Yerbol Yeskhozhin** was sentenced to 2.5 years in prison on 3 August 2021 on charges of “organising the activities of an extremist organisation” (Article 405 Part 1 of the Criminal Code). The Saryarka District Court of Nur-Sultan also banned Yeskhozhin from participating in rallies and using social media for five years. Yeskhozhin criticised the actions of the authorities on social media, which was interpreted as an intention to “overthrow the authorities”. He participated in memorial rallies in memory of activist Dulat Agadil, who was killed in a pre-trial detention facility.



Yerbol Eskhozhin (left) and Sabit Syzdykbek (right)

- **Askar Kayyrbek** was detained in the pre-trial detention facility (EC-166/1, Nur-Sultan city) on charges of "organisation of activities of a public association after its recognition as extremist" (Article 405 Part 1 of the Criminal Code) for supporting the “Koshe Partiyasy”. According to Kayyrbek, on 6 January 2020, he was severely beaten by an officer of the pre-trial detention facility, Ruslan Zhaparov. Zhaparov slandered the activist, stating that the latter had “attacked” him. The expert examination confirmed bruises on Kayyrbek's abdomen and chest.<sup>37</sup> However, the

<sup>34</sup> Results of a special visit by the NPM team to Zarechnoye, COMMISSIONER FOR HUMAN RIGHTS OF THE REPUBLIC OF KAZAKHSTAN, 9 April 2021, available at: <https://www.gov.kz/memleket/entities/ombudsman/press/news/details/184927?lang=ru&fbclid=IwAR3JD0MKHhJt6eCgbcCW0HjIw3apG4x-l0EGxTTmIViS0ynRFHchwFq3E-aE>

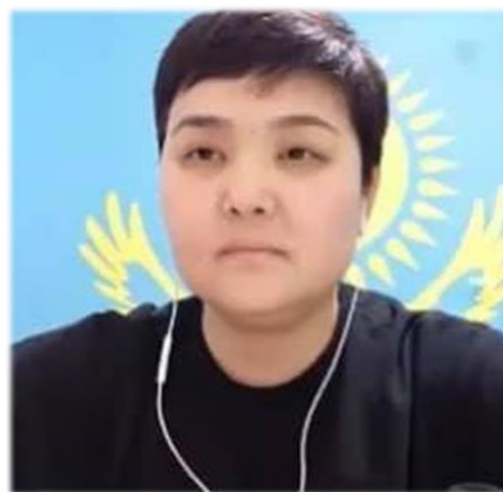
<sup>35</sup> European Union Delegation to the Republic of Kazakhstan on the situation of Aset Abishev, TWITTER OF THE EUROPEAN UNION DELEGATION TO THE REPUBLIC OF KAZAKHSTAN, 8 April 2021, available at <https://twitter.com/euinkazakhstan/status/1380139374784970753?s=21>

<sup>36</sup> Political prisoner Aset Abishev reportedly cut his wrists in protest, RADIO AZATTYQ, 8 April 2021, available at: <https://rus.azattyq.org/a/31192893.html>

<sup>37</sup> Human rights activist Bakhytzhana Toregozhina on the beating of political prisoner Askar Kayyrbek in a pre-trial detention facility, BAKHYTZHAN TOREGOZHINA FACEBOOK PAGE, 13 January 2021, available at: <https://www.facebook.com/toregozhina/posts/3938459502833272>

investigation opened a criminal case for “abuse of power” and not for torture. Dulat Agadil was killed in the same pre-trial detention facility. On 22 June 2021 Askar Kayyrbek was sentenced to 1.5 years in prison.

- On 4 March 2021 **Sabit Syzdykbek** was sentenced to restriction of liberty for 1.5 years on charges of "participation in the activities of an extremist organisation" (Article 405 Part 2 of the Criminal Code). However, on 10 August 2021 the court decided to replace Syzdykbek's restriction of liberty with a real prison term. The decision was justified by the fact that Syzdykbek didn't report to the probation office. The relatives of the prisoner claimed that 60-year-old Syzdykbek had not been able to report to the probation office due to his illness.<sup>38</sup>
- **Ulasbek Akhmetov** has been held in pre-trial detention for more than ten months. He was charged with "organisation and participation in an extremist organisation" (Article 405 Part 1 and Part 2 of the Criminal Code). During the search, investigator Gizat Karzhybayev seized from Akhmetov his personal money. At the trial, the investigator explained the seizure of money by “his inner convictions”.<sup>39</sup> On 31 August 2021, Akhmetov was sentenced to two years imprisonment and a five-year ban on social and political activities.
- Corruption whistleblower **Saltanat Kusmankyzy** was sentenced to prison for exposing accounting fraud of millions of dollars at the Kazakhstani companies “As-Ai Ltd” TOO and “Minmetals Kazakhstan” TOO, which sell machinery and spare parts from China to Kazakhstan. “As-Ai Ltd” TOO and “Minmetals Kazakhstan” TOO, are the largest companies selling Chinese special equipment in Kazakhstan and, according to human rights activists, may be controlled by the brother of Nursultan Nazarbayev, Bolat Nazarbayev.<sup>40</sup> After Kusmankyzy uncovered the large-scale financial fraud in the companies, she was charged with embezzlement (Article 176 of the Criminal Code) and false denunciation (Article 419 of the Criminal Code). She was sentenced to eight years’ imprisonment. In April 2020 the Court of Appeal partially acquitted Kusmankyzy and ordered her release from custody. However, the General Prosecutor's Office intervened in the case. Following the protest from the Prosecutor’s Office, the Supreme Court of Kazakhstan renewed Kusmankyzy's conviction. She was again put behind bars. The intervention of the General Prosecutor's Office in the case of Saltanat Kusmankyzy demonstrates the direct interest of the Kazakhstani authorities.



**Saltanat Kusmankyzy**

In its resolution of 18 February 2021 the European Parliament recognised Saltanat Kusmankyzy as a political prisoner and called for her immediate and unconditional release.

- **Baurzhan Jusupov, Natalia Dauletiyarova and Rinat Batkayev** are victims of politically motivated persecution by the Kazakhstani authorities of a businessman and philanthropist Barlyk Mendygazyev, the founder of Karachaganak Support Services (KSS).

Barlyk Mendygazyev was subjected to political criminal prosecution after he became an engaged human rights activist. He founded the Freedom Kazakhstan Foundation in the USA to combat

<sup>38</sup> The restriction of liberty was replaced with imprisonment for an activists from Turkestan region, RADIO AZATYQ, 12 August 2021, available at: <https://rus.azattyq.org/a/31405830.html>

<sup>39</sup> «F\*\*ck, I wish we could shoot you», KIBHR, 1 September 2021, available at: <https://bureau.kz/goryachee/b-rasstrelyat-by-vas/>

<sup>40</sup> Human rights activist Lyudmyla Kozlovska on the role of China and Nazarbayev in the Saltanat Kusmankyzy case, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 1 February 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2906097953042802/>, in both English and Russian

systemic human rights abuses in authoritarian Kazakhstan. Barlyk Mendygazyev provides financial and humanitarian assistance to the families of Kazakhstani political prisoners and promotes personal sanctions against Nursultan Nazarbayev and his entourage in the United States. At the moment, Kazakhstan's National Security Committee is fabricating documents for an extradition request in relation to Barlyk Mendygazyev and to have his accounts in the US frozen.

Barlyk Mendygazyev is forced to live outside Kazakhstan, so the authorities have fabricated criminal cases against his relatives and against employees of KSS, the company he founded. They have been taken hostage and the investigation is demanding that they testify against Barlyk. Baurzhan Jusupov - held the position of a director of KSS. Natalia Dauletayarova and Rinat Batkayev are managers of contractor companies that have worked with KSS.

On 17 May 2021, Atyrau Court No. 2 sentenced Natalia Dauletayarova and Baurzhan Jusupov to five years of restriction of liberty, and Dauletayarova's assistant Rinat Batkayev to 3.5 years of restriction of liberty. They were found guilty of “tax evasion” and/or “issuing false invoices”. They were also charged with “organisation and participation in an organised criminal group” (Article 262 of the Criminal Code), but the court acquitted them of these charges. However, on 26 July 2021, the Atyrau Court of Appeal overturned the decision of the court of the first instance and found Dauletayarova, Jusupov and Batkayev guilty of “organisation and participation in an organised criminal group” and changed the restriction of liberty to actual imprisonment. Jusupov was sentenced to 5.5 years of imprisonment, Dauletayarova to seven years of imprisonment and Batkayev to five years of imprisonment.<sup>41</sup>

The existence of a court ruling on the presence of an “organised criminal group” may be the main basis for fabrication of charges against Barlyk Mendygazyev's brother, Bekizhan Mendygazyev. Bekizhan has been in a pre-trial detention facility since early June 2021.



Top row from left to right: Barlyk Mendygazyev, Bekizhan Mendygazyev, Baurzhan Jusupov, Rinat Batkayev, Natalia Dauletayarova

Bottom row: a protest action of KSS employees against political repression.

<sup>41</sup> Information on politically motivated persecution of KSS employees, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 4 August 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3047690492216880/>, in both English and Russian

Seven persons have been detained in pre-trial detention facilities for their support of the peaceful “Koshe Partiyasy” opposition movement or based on other politically motivated charges: Askhat Zheksebayer, Kairat Klyshev, Abai Begimbetov, Noyan Rakhimzhanov, Diana Baimagambetova, Asylkhan Zhaubatyrov, Bekizhan Mendygazyev. They all participated in peaceful protests demanding the imposition of personal sanctions against Kazakhstan's top officials for gross human rights violations. They documented the names and identities of police, special services and court officials involved in political persecution and also took part in memorial rallies in memory of Dulat Agadil, a victim of political killing. The materials of the criminal case against the supporters of “Koshe Partiyasy” emphasise that they are “*opposition-minded by their political convictions*”. The authorities thus directly incriminate the defendants for their opposition and human rights activities. All of them face imprisonment.

- **Askhat Zheksebayer**, who is in a pre-trial detention facility (charged under Article 405 Part 1 and Part 2 of the Criminal Code), is accused of “*being opposed by his political beliefs and being an adherent of an extremist ideology, having a negative attitude towards the existing constitutional order and the system of state power in Kazakhstan [...] had the objective of changing the constitutional order of the Republic of Kazakhstan and the political system of society*”. The investigators claim that Zheksebayer “*persistently and tendentiously proposed to join and unite into the ranks of the ‘Koshe Partiyasy’, appealing to the feelings of social justice, expressing his dissatisfaction with the socio-political situation in the country, a negative assessment of the current government*”.

In the indictments, the investigators consider it a crime to discuss a peaceful rally: “*on 1, 2, 5 and 6 June 2020 Askhat Zheksebayer discussed with Abai Begimbetov, Diana Baimagambetova, Noyan Rakhimzhanov and Dametkan Aspandiyarova the upcoming peaceful protest of 6 June 2020 in Telegram chats*”.

It is also an offence, according to the position of the prosecution, that Zheksebayer consulted with human rights activist Lyudmyla Kozlovska on how to record political persecution and cases of ill-treatment by the NSC and police officers on video.<sup>42</sup>



Askhat Zheksebayer (left) and Noyan Rakhimzhanov (right)

- The grounds for changing the preventive measure for **Asylkhan Zhaubatyrov** (charged under Article 405 Part 2 of the Criminal Code) from house arrest to detention were, according to the investigation's position, the following: “*On 7 May 2021, on the social network “Facebook” [...] a video message of Zhaubatyrov A.E. was posted, where the latter, on behalf of the political activists*

<sup>42</sup> Information on the politically motivated persecution of Askhat Zheksebayer, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 12 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3029826644003265>

of the Republic of Kazakhstan, appeals to the Minister of Foreign Affairs of Portugal, regarding the political persecution against him.” The prosecution believes that in this way Zhaubatyrov violated a restriction in the form of a ban on the use of social networks and “posted a video message pursuing extremist goals”. In fact, Zhaubatyrov did not personally post the video message on social networks, it was done by human rights defenders with whom he shared the video.<sup>43</sup>

Zhaubatyrov is also being prosecuted for taking part in a challenge and taking a picture with a blank sheet of paper. Similar photos were also taken by other activists. Later, photo collages with different slogans were made using the activists' photos, such as “Tokayev, you are killing us!”, “Death or Freedom?”. The challenge was organised shortly after the death of the 17-year-old activist Zhanbolat Agadil. In this way the activists wanted to draw attention to political killings in Kazakhstan. However, the criminal case file indicates that Zhaubatyrov “photographed himself with an image of various letters” and “posted them on YouTube on the ‘Mukhtar Ablyazov’ page”. Zhaubatyrov has no access to administer this YouTube page.<sup>44</sup> In fact, he is being prosecuted for appealing to the international community. Zhaubatyrov is accused of “participation in an extremist organisation” (Article 405 Part 2 of the Criminal Code).

- **Diana Baimagambetova** (charged under Article 405 Part 2 of the Criminal Code) is accused, among other things, of “continuously taking part in unsanctioned meetings, rallies, pickets for which she has been repeatedly held administratively liable”. Thus, Baimagambetova is being prosecuted for something for which she has already been punished more than once.<sup>45</sup> Diana Baimagambetova is the initiator of the #KazakhLifeMatter challenge<sup>46</sup> (as part of the global #BlackLifeMatter campaign).



From left to right: Kairat Klyshev, Diana Baimagambetova, Abai Begimbetov, Asylkhan Zhaubatyrov

- **Noyan Rakhimzhanov** (charged under Article 405 Part 1 and Part 2 of the Criminal Code) is seriously ill and his life is in danger while he is being kept in the pre-trial detention facility. He has been diagnosed with arterial hypertension, ischaemic heart disease and liver fibrosis. Rakhimzhanov is being held in the pre-trial detention facility for his support of the DCK and the “Koshe Partiyasy”. Rakhimzhanov allegedly participated in the transformation of the DCK into “Koshe Partiyasy” together with “accomplices”. He is also accused of being involved in a

<sup>43</sup> Human rights activist Lyudmyla Kozlovska on the politically motivated persecution of Asylkhan Zhaubatyrov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 1 July 2021, available at: <https://www.facebook.com/1306505387/videos/pcb.3021951734790756/537805377574254>, in both English and Russian

<sup>44</sup> Information on the politically motivated persecution of Asylkhan Zhaubatyrov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 5 March 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2930246880627909>, in both English and Russian

<sup>45</sup> Information on the politically motivated persecution of Diana Baimagambetova, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 19 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3035387776780485/>

<sup>46</sup> Kazakhstan: il coronavirus è il nuovo strumento di repressione sociale, OSSERVATORIO DIRITTI, 18 August 2020, available at: <https://www.osservatoriodiritti.it/2020/08/18/kazakistan-coronavirus/>

fundraising campaign for political prisoners. During a search of Rakhimzhanov's home, the investigation seized posters calling for the release of political prisoners.<sup>47</sup>

- **Bekizhan Mendygaziyev** – brother of civil activist and entrepreneur Barlyk Mendygaziyev.

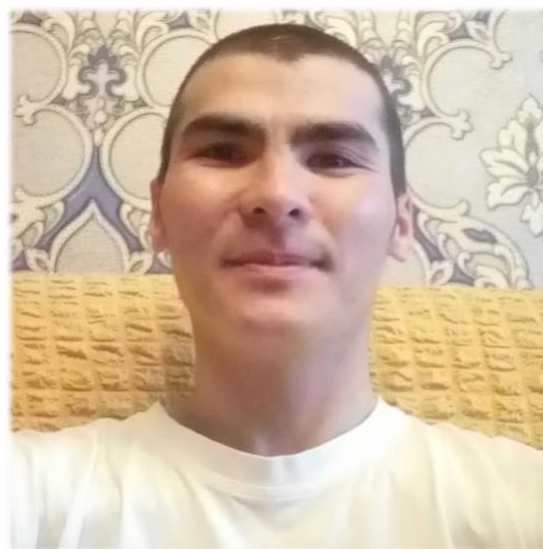
Since 3 June 2021, Barlyk's brother Bekizhan Mendygaziyev has been kept in a pre-trial detention facility. Bekizhan, 55 years old, has severe chronic diseases, and detention in the pre-trial detention facility may have critical consequences for his health.

In November–December 2020, the NSC and police attempted to fabricate a case against Bekizhan on “drug possession”, which was allegedly “found” (probably planted) during a search of KSS offices. In June 2021, Bekizhan faced new charges of involvement in the “criminal group of Barlyk Mendygaziyev” (Article 262 Part 2 of the Criminal Code), “money laundering” (Article 218 Part 3 of the Criminal Code) and “tax evasion” (Article 245 Part 3 of the Criminal Code). However, Bekizhan has no employment relationship with KSS or authority to file tax reports. The notification of suspicion states that “the relationship between Barlyk Mendygaziyev and his brother Bekizhan Mendygaziyev paved the way for systematic and continuous tax evasion on the part of the organisation and money laundering”.

More detailed information on the fabrication of a political case against Barlyk Mendygaziyev and the persecution and ill-treatment of his brothers and colleagues can be found in the report of the Open Dialogue Foundation published on 14 July 2021.<sup>48</sup>

The European Parliament resolution of 11 February 2021 urged the lifting of all politically motivated charges against philanthropist Barlyk Mendygaziyev and to put an end to the politically motivated persecution of his family members and former associates.

One political prisoner, Yerulan Amirov, was admitted to a psychiatric hospital on 10 June 2021 and is a victim of punitive psychiatry. Charges have been brought against Amirov for “participating in the activities of a public or religious organisation after they have been declared extremist” (Article 405 of the Criminal Code), “inciting social discord” (Article 174 of the Criminal Code) and “propaganda of terrorism” (Article 256 of the Criminal Code) for having recorded a video and posted it on the social network Facebook. In the video, Amirov stated “the best jihad is the spoken word in front of an unjust tyrant ruler”. Amirov emphasised the importance not to use weapons. However, it was enough for the investigating authorities that Amirov used the word “jihad” and a criminal case was opened against him.<sup>49</sup> Amirov claims that prior to this they wanted to fabricate a criminal case against him on charges of supporting the “Koshe Partiyasy”.<sup>50</sup>



Yerulan Amirov

<sup>47</sup> Information on the politically motivated persecution of Noyan Rakhimzhanov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 19 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3035481343437795/>

<sup>48</sup> Political Persecution of Barlyk Mendygaziyev, OPEN DIALOGUE FOUNDATION, 11 August 2021, available at <https://en.odfoundation.eu/a/37387/political-persecution-of-barlyk-mendygaziyev/>

<sup>49</sup> Press Release: Expanding the list of political prisoners in Kazakhstan, TIREK.INFO, 21 July 2021, available at: <http://tirik.info/rasshirenie-spiski-polituznikov-21-07-2021-goda/>

<sup>50</sup> “I don't even know what those pills were”. Stories of Kazakhs sent to psychiatric institutions for speaking out against the authorities, MEDIAZONA, 3 August 2021, available at: [https://mediazona.ca/article/2021/08/03/psychiatry?fbclid=IwAR2QRlw-Fq\\_faaVtCP3pPquQoaTWZ3EbjGEq6r\\_xyF-qS8UokH7Gw\\_VaXn0](https://mediazona.ca/article/2021/08/03/psychiatry?fbclid=IwAR2QRlw-Fq_faaVtCP3pPquQoaTWZ3EbjGEq6r_xyF-qS8UokH7Gw_VaXn0)

#### 4. SENTENCED TO RESTRICTION OF LIBERTY

More than 70 activists have already been sentenced to restrictions of liberty for supporting the peaceful opposition movements DCK or “Koshe Partiyasy”. The court sentences **prohibit them from carrying out public activities, going to rallies, volunteering, using social networks or writing comments critical of the authorities on social media**. The Kazakhstani authorities use this method extensively to keep activists “under the thumb”. Provocations are also made against activists in order to bring new charges against them.

- In May 2020, activist Roman Reikhert was sentenced to one year of restriction of liberty on charges of participation in DCK activities (Article 405 Part 2 of the Criminal Code). When the restriction of liberty was about to expire, Reikhert was charged with “use of force against a representative of authorities” (Article 380 of the Criminal Code) – he allegedly hit a police officer. The incident took place in March 2021. A group of police officers came to Reikhert's home and forcibly detained the activist. They beat him with truncheons and used strangulation techniques. As a result of the detention, the activist suffered a concussion and multiple bruises.<sup>51</sup> However, instead of prosecuting the police officers who beat Reikhert, a criminal case was opened against the activist. On 19 July 2021 Reikhert was sentenced to two years of restriction of liberty. According to Roman Reikhert's lawyer, the prosecution did not provide evidence in court proving that he had hit the policeman.<sup>52</sup>



Roman Reikhert after he was beaten

In 2021, there were 27 new cases of custodial sentences for supporting “Koshe Partiyasy”, or DCK: Aibek Sabitov, Zhazira Kambarova, Nazira Lepesova, Nazira Lesova, Yerkin Sabanshiyev, Kanat Dzhakupov, Murat Baimagambetov, Aigul Utepova, Abaibek Sultanov, Berik Nogayev, Zhanmurat Ashtayev, Yerlan Faizullayev, Nurzhan Abildayev, Aidar Syzdykov, Daryn Khasenov, Nurgul Kaluova, Zhanat Zhamaliyev, Kaliaskar Amrenov, Maksut Appasov, Nurzhan Mukhamedov, Ainur Myrzaliyeva, Serik Zhakhin, Zhanibek Zhunusov, Burkutbay Nasyrkanov, Askar Kalasov, Asel Onlanbekkyzy, Aliya Zhakupova.

Below are a few examples of exactly what the activists were found guilty of.

- On 13 May 2021, **Aibek Sabitov** (charged under Article 405 Part 2 of the Criminal Code) was sentenced to one year of restriction of liberty. On 12 October 2020 the court pointed out that Sabitov had shared a post on his Facebook page: “*The leader opens the way for other leaders. Thank you, Mukhtar Kabulovich*” and that by attaching to it a picture of Mukhtar Ablyazov he was “*showing himself to be a supporter of the leader and the activities of the DCK*”. He was also accused of having published a Facebook post on 4 May 2020 stating “*the country is run by political corpses*”.
- On 4 June 2021 **Maksut Appasov, Kaliaskar Amrenov, Zhanat Zhamaliyev** (charged under Article 405 Part 2 of the Criminal Code) were sentenced to one year of restriction of liberty. The convicted activists had taken part in actions demanding the imposition of personal sanctions against human

<sup>51</sup> *A policeman's word of honour!*, KAZAKHSTAN INTERNATIONAL BUREAU FOR HUMAN RIGHTS AND RULE OF LAW, 22 July 2021, available at: <https://bureau.kz/novosti/chestnoe-policejskoe/>

<sup>52</sup> *A court in Aktobe region has imposed restrictions of liberty on an activist in a case of “insulting” a police officer*, RADIO AZATTYQ, 19 July 2021, available at: <https://rus.azattyq.org/a/31366638.html>

rights violators in Kazakhstan, as well as participating in social media chat rooms where they exchanged information on cases of human rights violations. Activists took part in memorial rallies in memory of the murdered activist Dulat Agadil.

The court explained the guilt of **Kaliaskar Amrenov** in the following way: *“On 31 July 2020 in the social network “Facebook”, Amrenov K.K. criticised the current government of the Republic of Kazakhstan and urged people to fight against the current regime, as well as to travel to the village Talapker in Akmola region, where there was a planned ‘Asar’ (memorial ceremony) in the house of the late D. Agadil.”*

The court stated that *“Zhamaliyev Z. on the social network ‘Telegram’, got in touch with M. Ablyazov in personal messages, where he wrote that the DCK/KP would come to power in the Republic of Kazakhstan, of which he has no doubt.”*

- In March 2021 **Nazira Lepesova** (charged under Article 405 Part 1 and 2 of the Criminal Code) was sentenced to two years of restriction of liberty for addressing the authorities on Instagram: *“Being in power, in a time of pandemic, if you do not know how to properly perform your duties, do not know how to create conditions for the population, she demands that the heads of government vacate their seats, starting with Nazarbayev.”*
- **Murat Baimagambetov** (charged under Article 405 Part 2 of the Criminal Code) has serious illness. He suffered a stroke, has encephalopathy and ischaemic heart disease. Despite this, Baimagambetov was held in the pre-trial detention facility for seven months. On 1 April 2021 it was reported that Baimagambetov was taken to hospital in connection with a suicide attempt. He attempted to cut his abdomen with a cigarette foil. According to human rights activists, he had been ill-treated in the pre-trial detention facility,<sup>53</sup> which provoked the suicide attempt. On 20 April 2021, Baimagambetov was sentenced to two years of restriction of liberty.



A group of activists who came to the trial against Zhanmurat Ashtayev, Ferlan Faizullayev and Nurzhan Abildayev, 28 May 2021, Shymkent

<sup>53</sup> Information on the politically motivated persecution of Muratbai Baimagambetov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 1 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2951402551845675>, in both English and Russian

- Activist **Zhanmurat Ashtayev** was planted with a bag of marijuana during a search.<sup>54</sup> Therefore, in addition to charges of participation in an extremist organisation (Article 405 Part 2 of the Criminal Code), he was also charged with the illegal handling of narcotic drugs (Article 296 Part 2 of the Criminal Code). On 1 June 2021 Ashtayev was sentenced to two years of restriction of liberty.
- **Yerlan Faizullayev** for six months was under house arrest on charges of participation in the “Koshe Partiyasy” movement (Article 405 Part 2 of the Criminal Code). Due to this, he could not go to work to provide for his family with many children. On 1 June 2021 Faizullayev was sentenced to 1.5 years of restriction of liberty.
- Civil activist **Aidar Syzdykov** was kept in a pre-trial detention facility for three months under Article 405 Parts 1 and 2 of the Criminal Code. On 3 June 2021 he was sentenced to three years of restriction of liberty for posting and reposting on social networks.<sup>55</sup> As one of the grounds for the criminal prosecution of the activist, the criminal case file states that Syzdykov “for the purpose of carrying out his criminal activity” posted a video on Facebook with the text “...I am going to a peaceful rally, with yellow and green balloons in my hands, the rally is our constitutional right”.<sup>56</sup> Syzdykov has participated in rallies calling for personal sanctions against the top officials of law



**Aidar Syzdykov (left in the middle) and Zhanik Zhanibekov (right in the middle) surrounded by police during protest action in Nur-Sultan, 28 February 2021. Photo: Orken Zhoyamerger (RFE/RL)**

enforcement and intelligence agencies.<sup>57</sup>

- **Zhanibek Zhunusov** had been held in a pre-trial detention facility for several months. He was accused of systematically “*sharing various publications of M. Abyazov on Facebook aimed at*

<sup>54</sup> Information on the politically motivated persecution of Bagdat Baktybayev, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 26 January 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2901973910121873/>, in both English and Russian

<sup>55</sup> Political persecution of activists and lawyers, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 11 June 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/3006649646320965>, in both English and Russian

<sup>56</sup> Politically motivated criminal prosecution of civil activist and political prisoner Aidar Syzdykov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 4 May 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2976898932629370>, in both English and Russian

<sup>57</sup> On the health problems of political prisoner Aidar Syzdykov, AIBEK SABITOV FACEBOOK PAGE, 1 June 2021, available at: <https://www.facebook.com/photo?fbid=186256280080753&set=a.101135361926179>

undermining the people's trust and respect for the government". The investigation notes that Zhunusov "not only shares the publications of M. Abylazov, but also publishes a post supporting and confirming the words of M. Abylazov". Zhunusov was also accused of reposting Abylazov's publication with the caption: "On sanctions related to Navalny and future sanctions against Nazarbayev. This is only the beginning."

In February 2021, Zhunusov came out to a peaceful rally calling for the release of political prisoners and implementation of the requirements of the European Parliament resolution on the human rights situation in Kazakhstan dated 11 February 2021. Zhunusov also called for the imposition of personal sanctions against individuals involved in human rights violations in Kazakhstan. For his participation in the rally, Zhunusov was detained and arrested for ten days. After serving his sentence, he was arrested again, this time in connection with a criminal prosecution.<sup>58</sup> On 26 July 2021, Zhunusov was sentenced to two years of restriction of liberty.

- On 4 August 2021, **Askar Kalasov** was sentenced to two years of restriction of liberty on the charge of "participation in an extremist organisation" (Article 405 Part 2 of the Criminal Code). According to the materials of the criminal case, before the parliamentary elections on 10 January 2021, Kalasov appealed to vote for the party "Akzhol", as well as reposting publications by Mukhtar Abylazov on social networks. Such actions were considered by the prosecution as "calls for a change in the current government".<sup>59</sup>



Top row from left to right: Aidar Syzdykov, Ainur Myrzaliyeva, Kaliaskar Amrenov  
 Bottom row from left to right: Askar Kalasov, Zhanmurat Ashtayev, Maksut Appasov

<sup>58</sup> Politically motivated criminal prosecution of civil activist and political prisoner Zhanibek Zhunusov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 6 May 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2978451492474114>, in both English and Russian

<sup>59</sup> Politically motivated criminal prosecution of civil activist Askar Kalasov, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 1 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2999135830405680>, in both English and Russian

- In August 2021 **Asel Onlanbekkyzy** was sentenced to three years of restriction of liberty and a five-year ban on social and political activities on charges of “participation in an extremist organisation” (Article 405 Part 2 of the Criminal Code). Onlanbekkyzy was accused of making “*statements and calls for social unrest, for a change of the political regime in the country, which undermine social harmony and political stability, thereby aggravating the socio-political situation*” on social networks. In the materials of the criminal case against Onlanbekkyzy it is noted that she reposted a publication by Mukhtar Ablyazov, with a caption “*Sultan of my heart*”. The prosecution interpreted this as the activist was “*instinctively giving herself over to the power of the leader of an extremist organisation*” and this “*shows her loyalty to the DCK*”.<sup>60</sup>



**Asel Onlanbekkyzy**

In February 2021, police officers forced Asel Onlanbekkyzy's father to come to the pre-trial detention facility to convince his daughter to sign a plea bargain with false testimony. The investigators threatened that Onlanbekkyzy would receive a long prison sentence if she did not cooperate with the investigation. At the meeting, the father persuaded Asel Onlanbekkyzy to sign the necessary to the investigation testimony in exchange for a parole. Investigators demanded to confirm that she had allegedly received funding from Mukhtar Ablyazov for her participation in the protests.

The convicted activists had held rallies demanding the imposition of personal sanctions against human rights violators. In particular, they organised online challenges and personally addressed leaders, politicians and diplomats in the EU and Western countries, reporting on the widespread repression of civil society in Kazakhstan.<sup>61</sup>

## 5. PERSECUTION OF REFUGEES FROM CHINA AND RELATIVES OF PRISONERS HELD IN CHINESE CAMPS

**Anti-Chinese sentiment in Kazakhstan** is a long-standing problem that repeatedly comes back even stronger than before. In September 2019, a wave of peaceful rallies swept Kazakhstan; the protesters demanded the cessation of China’s economic expansion. Another series of anti-Chinese protests was held on 21 September 2019 in several Kazakh cities. On the eve of the 21 September rally, the authorities detained at least 65 people. On 21 September 2019, the authorities violently dispersed peaceful protesters. More than 200 people were subjected to arbitrary detention.

One of the key reasons for anti-Chinese sentiment in Kazakhstan is the Chinese government's repression of ethnic Kazakhs and other Central Asian peoples in the Xinjiang Uygur Autonomous Region of China (XUAR). **In an attempt to maintain good relations with China**, Kazakhstani authorities are struggling to suppress anti-Chinese sentiments and hush up the persecution of ethnic minorities in China.

The Kazakhstani authorities persecute refugees from Chinese re-education camps who came to Kazakhstan fleeing persecution in China.

<sup>60</sup> Information of politically motivated prosecution of Asel Onlanbekkyzy, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 27 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2971506569835273>, in both English and Russian

<sup>61</sup> Appeal by Kazakhstani civil society to Peter Burian, AIDAR SYZDYKOV FACEBOOK PAGE, 11 June 2021, available at: [https://www.facebook.com/permalink.php?story\\_fbid=1749467418594296&id=100005931645151](https://www.facebook.com/permalink.php?story_fbid=1749467418594296&id=100005931645151)

- **Sairagul Sauytbay** is an ethnic Kazakh woman who worked in a re-education camp in China. In April 2018, she fled China to Kazakhstan. In Kazakhstan, she was detained and placed in a pre-trial detention facility. Sauytbay was charged with illegal border crossing (Article 392 of the Criminal Code). She said that she was forced to flee China because she feared for her life and was facing the death penalty in China. China has requested Sauytbay's extradition. Her trial testimony about the torture and ill-treatment of at least 2,500 ethnic Kazakhs in so-called "re-education camps" has attracted the attention of the Kazakhstani and international community. In August 2018, Sauytbai was sentenced to six months' probation and released. Sauytbay applied for asylum in Kazakhstan but was refused. She then applied to the UN for asylum in Sweden. Due to the wide public response to the Sauytbai case, the UN facilitated the granting of asylum in Sweden for Sauytbai and her family.
- Ethnic Kazakhs **Murager Alimuly** and **Kaster Musakhanuly** fled China to Kazakhstan in October 2019. They attended a press conference and spoke about the torture and persecution of ethnic Kazakhs in Xinjiang re-education camps. Earlier, Kazakhstan's foreign minister had said that there were "no ethnic Kazakhs in the Chinese camps". A criminal case was filed against Alimuly and Musakhanuly for illegal border-crossing (Article 392 of the Criminal Code). The case received widespread publicity in Kazakhstan and abroad. On 31 January 2020, the court sentenced Murager Alimuly and Kaster Musakhanuly to one year in prison for illegal border crossing.
- **Kaisha Akankyzy** (Akan) is an ethnic Kazakh woman who fled China to Kazakhstan in May 2018. Her escape was due to fears she would be imprisoned in a re-education camp. In Kazakhstan, Akankyzy was sentenced to six months' suspended imprisonment for illegal border crossing (Article 392 of the Criminal Code). Her relatives in China were threatened and demanded that Akan stop talking about human rights violations in Xinjiang.<sup>62</sup>

On 21 January 2021, Murager Alimuly and Kaisha Akan Akankyzy (Akan) were attacked simultaneously in Almaty and Nur-Sultan. Alimuly received 2 stab wounds as well as blows to the head. Akankyzy was punched several times in the head and also strangled and dragged on the ground. The attackers did not take any valuables or money. CCTV cameras installed at the locations where the attacks took place allegedly "stopped working" at the time of the attack. There is reason to believe that the NSC officers were involved in the attacks on Murager Alimuly and Kaisha Akankyzy in order to intimidate them and other refugees who have publicly reported widespread human rights violations in Xinjiang.

Murager Alimuly, Kaster Musakhanuly and Kaisha Akankyzy applied for Kazakhstani citizenship but were denied it in April 2021 because they entered the country "illegally". They fear they may be returned to China, where they risk being tortured and imprisoned in the "re-education camps".<sup>63</sup>



**Kaisha Akankyzy in an ambulance after an attack. Photo: Radio Azattyq**

<sup>62</sup> *Attacks on Chinese refugees Kaisha Akan and Murager Alimuly. What is known?*, RADIO AZATTYQ, 22 January 2021, available at: <https://rus.azattyq.org/a/kazakhstan-attacks-on-xinjiang-refugees-kaisha-akan-murager-alimuly/31062765.html>

<sup>63</sup> *Fleeing Xinjiang, Kaisha Akan: Kazakhstan has officially denied us citizenship*, RADIO AZATTYQ, 23 May 2021, available at: <https://rus.azattyq.org/a/31269185.html>

- **Tlek Tabarak** went to study in China in December 2017, but was unable to return to Kazakhstan because Chinese law enforcement authorities confiscated his documents. Tabarak feared he might be imprisoned in a re-education camp, so he crossed the border illegally, fleeing from China to Kazakhstan. A criminal case was filed against Tabarak for illegal border crossing (Article 392 of the Criminal Code). The prosecution demanded that Tabarak be deported from Kazakhstan. In January 2020, the court decided to sentence him to six months of imprisonment without deportation.<sup>64</sup>

Activists and relatives of victims of political repression in China have also been subjected to persecution and pressure for their attempts to draw attention to the events in Xinjiang.

One such protester is **Baibolat Kunbolat**. His sibling was sentenced to 10 years in prison in China in 2018 for an online comment made back in 2012. Baibolat Kunbolat claims that his brother was studying in Kazakhstan in 2012 and could not have done what he was accused of.<sup>65</sup> Kunbolat began regularly going out on solitary protests from 2020. Since February 2021, Kunbolat and other activists began to protest daily outside the Chinese consulate in Almaty.<sup>66</sup> On 9 February 2021, he was arrested for 10 days for "unauthorised rally" (Article 488 of the Code of Administrative Offences).<sup>67</sup> Later, Kunbolat was arrested twice more. He was repeatedly fined for holding rallies.

Baibolat Kunbolat's Facebook account, where information on cases of unjustified police violence against protesters outside the Chinese consulate in Almaty is regularly posted, has been subjected to systematic hacking attacks. On 24 March 2021 Facebook reported a massive crackdown by Chinese hackers who have been spying on Xinjiang dissidents and journalists living outside China, including in Kazakhstan.<sup>68</sup> There is reason to believe that Baibolat Kunbolat was one of the victims of the hacking attacks.

On 1 July 2021, during another protest action, police officers detained Baibolat Kunbolat, his wife Bakyt Zharykbasova, as well as his mother and underage niece. As a result of the police brutality, Zharykbasova got multiple bruises on her legs and arms. At the police station, one of the police officers choked



Protest outside the Chinese consulate in Almaty, 16 April 2021

<sup>64</sup> How was the sentence for the "'fugitive from China'" ethnic Kazakh, Tlek Tabarak, passed?, RADIO AZATTYQ, 16 January 2020, available at: <https://rus.azattyq.org/a/kazakhstan-zharkent-ethnic-kazakh-court/30381562.html>

<sup>65</sup> Appeal of Baibolat Kunbolat to MEPs, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 2 March 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2927882250864372/>

<sup>66</sup> Peaceful picket near the Chinese consulate in Almaty, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 11 May 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/2982598738726056>

<sup>67</sup> An activist from Almaty was given 10 days for picketing outside the Chinese consulate, MEDIAZONA, 10 February 2021, available at: <https://mediazona.ca/news/2021/02/10/kunbolat>

<sup>68</sup> Taking Action Against Hackers in China, ABOUT.FB, 24 March 2021, available at: <https://about.fb.com/news/2021/03/taking-action-against-hackers-in-china/>

Zharykbasova and told her: "Scream if you can! No one here can hear you, and you can't prove it to anyone"<sup>69</sup>. The detainees were held at the police department for about 12 hours.

**Akitkan Khalida** is a 67-year-old ethnic Kazakh woman. Her sons were detained in a re-education camp in Xinjiang and later sentenced to prison. Like Baibolat Kunbolat, Akitkan Khalida participated in protests outside the Chinese consulate in Almaty. On 4 June 2021, while detaining protesters, a police officer hit Khalida, as a result of which she lost consciousness.<sup>70</sup>

Activists **Zhamila Maken**, **Nurzat Yermekbai**, **Kaliolla Akikat** and **Altynai Arasan** have been repeatedly detained and fined for taking part in actions near the Chinese consulate.



Kaliolla Akikat

## 6. PERSECUTION OF POLITICAL REFUGEES MUKHTAR ABLYAZOV AND BOTA JARDEMALIE



Mukhtar Ablyazov

Mukhtar Ablyazov is the de facto leader of the opposition DCK movement. The Kazakhstani authorities believe that the DCK has "transformed" into the "Koshe Partiyasy". The Kazakhstani authorities therefore associate Ablyazov with both opposition movements. He has been persecuted by the Kazakhstani authorities since 2001<sup>71</sup>. Ablyazov is the main opponent of the Nazarbayev regime. The massive crackdown on activists in Kazakhstan is linked to their support of the political, economic and social reforms proposed by Ablyazov.

Mukhtar Ablyazov has been forced to live outside Kazakhstan for many years. On 9 December 2016, the French Council of State stressed the political nature of the case against Ablyazov.<sup>72</sup> On 29 September 2020, the National Asylum Court of France granted refugee status to Mukhtar Ablyazov. The French court noted that the fraud-related criminal charges against Ablyazov in the case of BTA Bank are politically motivated and are used as a weapon to retaliate against his

opposition activities. The court stated that "the political engagement of Mr. Ablyazov is still relevant and that his movement is prohibited in Kazakhstan", and also that "arbitrary arrests, extrajudicial detentions and the torture of opponents in prison are in fact methods commonly practised by the Kazakh authorities."<sup>73, 74</sup>

<sup>69</sup> *Police brutally beat activists' wives.*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 13 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3030801570572439/>, in both English and Russian

<sup>70</sup> *The cruelty of the perpetrator: kicking an elderly woman in the groin*, TIREK.INFO, 8 June 2021, available at: <http://tirik.info/zhestokost-karabeta-udarit-pozhiluyu-zhenshchinu-v-pah/>

<sup>71</sup> *Spies, lies and the oligarch: inside London's booming secrets industry*, FINANCIAL TIMES, 28 September 2017, available at: <https://www.ft.com/content/1411b1a0-a310-11e7-9e4f-7f5e6a7c98a2>

<sup>72</sup> *Décision N°394399, 400239*, CONSEIL-ETAT, 9 December 2016, available at: <https://www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/ce-9-decembre-2016-m.-o>

<sup>73</sup> *English translation of the decision of the French National Court of Asylum in the case of Mukhtar ABLYAZOV*, OPEN DIALOGUE FOUNDATION, 29 September 2020, available at: <https://en.odfoundation.eu/content/uploads/2020/10/court-decision-ablyazov-mukhtar-english-final.pdf>

<sup>74</sup> *France grants political asylum to leading Kazakh opposition figure*, Le monde, accessed 5 October 2020 available at [https://www.lemonde.fr/international/article/2020/10/05/la-france-accorde-l-asile-politique-au-principal-opposant-kazakh\\_6054817\\_3210.html](https://www.lemonde.fr/international/article/2020/10/05/la-france-accorde-l-asile-politique-au-principal-opposant-kazakh_6054817_3210.html)

Besides, the French court stressed the unlawful, extrajudicial attempts by Kazakhstani authorities to interfere with the British and French judiciary as well as extrajudicial means aimed at targeting Mukhtar Ablyazov.<sup>75</sup>

The decision of the National Asylum Court of France was mentioned in the European Parliament's resolution of 11 February 2021. The Resolution notes that the court "granted political asylum to the Democratic Choice of Kazakhstan founder, Mukhtar Ablyazov, who was sentenced by a Kazakh court to life imprisonment in absentia in violation of the right to defence, noting the systemic and political nature of Kazakhstan's repressive apparatus and its misuse of civil and criminal proceedings".<sup>76</sup>

Failing to obtain Ablyazov's extradition, the Kazakhstani authorities, with the help of abusive mutual legal assistance claims, succeeded in initiating criminal investigations against him in France. The investigation is based on the Kazakhstani criminal case of BTA Bank, which was found to be politically motivated by French courts. It should be noted that, on 29 September 2020, the National Asylum Court of France stressed: "the mere reference to the British civil decisions (...) is not sufficient to establish the existence of serious reasons to believe that Mr. Ablyazov is the author of a serious crime of common law committed in his country of origin ... all of the facts and accusations imputed to Mr. Ablyazov concerning alleged massive fraud committed to the prejudice of the BTA bank come from or are based on criminal proceedings opened in Kazakhstan or in the Russian Federation, the political motive of which was established in France by the Council of State and by Interpol and therefore emanate from the agent of persecution. ... there are serious reasons to believe that the civil and criminal proceedings brought against Mr. Ablyazov under cover of the action of the BTA in Kazakhstan or in other foreign jurisdictions are in fact motivated by political aim".

Ablyazov learned about this investigation on 5 October 2020 when, having already received refugee status, he was arrested. Two days later, he was released on bail.<sup>77</sup> Mukhtar Ablyazov reports that in Paris he is regularly subjected to surveillance by the Kazakhstani intelligence agencies and regime agents. He is also monitored by spy agencies hired by the Kazakhstani authorities.<sup>78</sup>

In September 2020, shortly after the French court ruled to grant asylum to Ablyazov, a new disinformation campaign against the opposition politician began. Evidence suggests that the massive information attacks were co-ordinated by the Kazakhstani authorities. Publications on French information sources appeared simultaneously or at minimal intervals, and consisted of identical subject matter, messages and even wording. The key message of the smear campaign was that the "dangerous criminal" Ablyazov "does not deserve" refugee status.

Such publications have continued to appear for more than a year on French-language right-wing information sources, or those websites that publish articles glorifying the achievements of the Kazakhstani authorities. The disinformation campaign is implemented through websites such as Atlantico.fr,

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<sup>75</sup> "(...) there are also precise, serious and consistent elements which highlight the clear attempts by external agents to exert influence on the asylum authorities and to get them to make decisions unfavorable to Mr. Ablyazov. ... This Court of Law also deplors overt attempts by third parties to influence the meaning of its decision."

<sup>76</sup>The European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan, Para T, EUROPEAN PARLIAMENT, 11 February 2021, available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

<sup>77</sup> According to the bail terms, Ablyazov must pay 50,000 euros each month for 10 months. The defence side notes that Mukhtar Ablyazov does not have these funds. Currently, Ablyazov has appealed the terms of his bail, requesting to change the pre-trial restrictive measures. There is still a risk that Ablyazov will be arrested again.

<sup>78</sup> *Spies, lies and the oligarch: inside London's booming secrets industry*, FINANCIAL TIMES, 28 September 2017, available at: <https://www.ft.com/content/1411b1a0-a310-11e7-9e4f-7f5e6a7c98a2>

Causier.fr, Confluences.fr, LaDiplomatie.fr, JuriGuide.com, EurasiaTimes.org<sup>79, 80, 81, 82, 83, 84</sup> among others. These websites refer to each other or have common authors. Anonymous blogs on various media outlets are also used for information attacks.<sup>85</sup> It is noteworthy that immediately after the release of these defamatory publications they are reprinted by state propaganda media.

In July 2021 it was reported that Mukhtar Ablyazov was on the list of persons that Kazakhstan had spied on using the "Pegasus" spy programme<sup>86</sup>. In addition to Mukhtar Ablyazov, Kazakhstan also ordered surveillance against two French nationals, Martin Villom and Quentin Guillemain. The surveillance was allegedly linked to the Mukhtar Ablyazov case. In 2017, Quentin Guillemain was involved in organising a public meeting of Mukhtar Ablyazov with the Amnesty International human rights defenders in France.<sup>87</sup>

The developers of the "Pegasus" software claim it is designed for counter-terrorist intelligence. However, an International Consortium of Investigative Journalists (OCCRP) has found that some authoritarian states have used the programme to spy on their political opponents and civil activists.

The researchers note that, unlike other states, which have typically used the programme to spy on foreigners, Kazakhstan has spied on its own citizens. For example, the list of people targeted by Kazakhstan includes Prime Minister Askar Mamin, Almaty Mayor Bakytzhan Sagintayev, Nursultan Nazarbayev's son-in-law Timur Kulibayev and even current President Kassym-Jomart Tokayev, who was tracked when he was the speaker of the Senate<sup>88</sup>. The Kazakhstani authorities used "Pegasus" to follow human rights activists (Bakhytzhan Toregozhina) and journalists (Bigeldy Gabdullin and Serikzhan Mauletbai).

Kazakhstan's intelligence agencies, led by NSC head Karim Massimov, make extensive use of various tools to spy on its citizens, as well as resorting to Internet censorship. The Kazakhstani authorities use, in particular, the technology of Chinese company Hikvision in order to establish video surveillance systems and 'digitise' the data held on its citizens. This company is under US sanctions.

Since 2011, Kazakhstan has been implementing the "Electronic Frontier" project, which the authorities claim is a "softer" counterpart to China's Great Firewall<sup>89</sup>. The authorities intend to oblige all Internet users in Kazakhstan to use a digital "security certificate" on their devices. The certificate works with MITM (man-in-the-middle) technology, which allows reading a user's traffic and gives access to their personal

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<sup>79</sup> «Il y a beaucoup de liens et depuis longtemps entre l'Europe et le Kazakhstan», ATLANTICO, 11 January 2021, available at:

<https://www.atlantico.fr/article/decryptage/--il-y-a-beaucoup-de-liens-et-depuis-longtemps-entre-l-europe-et-le-kazakhstan--aymeric-bourdin-askar-abdrakhmanov-timur-sultangozhin>

<sup>80</sup> *Ablyazov, un délinquant financier dissimulé derrière le statut de réfugié politique?*, ATLANTICO, 20 October 2020, available at:

<https://www.atlantico.fr/article/decryptage/abliazov-un-delinquant-financier-dissimule-derriere-le-statut-de-refugie-politique--herve-guyader>

<sup>81</sup> "Le Kazakhstan est un discret géant de la diplomatie mondiale", CAUSEUR, 27 August 2019, available at: <https://www.causeur.fr/le-kazakhstan-est-un-discret-geant-de-la-diplomatie-mondiale-164892>

<sup>82</sup> *Le Madoff kazakh ou un martyr de la dissidence politique? Retour sur la mise en examen de Moukhtar Ablyazov*, CAUSEUR, 18 October 2020, available at: <https://www.causeur.fr/moukhtar-abliazov-kazakhstan-185423>

<sup>83</sup> *Premier test électoral pour un Kazakhstan en voie de libéralisation*, CONFLUENCES, 24 December 2020, available at: <https://www.confluences.fr/2020/12/kazakhstan-elections-democratisation/>

<sup>84</sup> *Les avoires de Moukhtar Ablyazov et Ilyas Khrapunov gelés dans le monde entier*, CONFLUENCES, 1 December 2020, available at: <https://www.confluences.fr/2020/12/moukhtar-abliazov-monde-entier/>

<sup>85</sup> *Le blog de AL1875*, MEDIAPART, available at: <https://blogs.mediapart.fr/al1875/blog>

<sup>86</sup> *Trust No One: Top Kazakh Oligarchs And Dozens of Government Officials May Have Been Spied On With Pegasus*, OCCRP, 23 July 2021, available at: <https://www.occrp.org/en/the-pegasus-project/trust-no-one-top-kazakh-oligarchs-and-dozens-of-government-officials-may-have-been-spied-on-with-pegasus>

<sup>87</sup> *Local NGOs and media representatives in Paris to discuss human rights violations in Kazakhstan*, OPEN DIALOGUE FOUNDATION ON FACEBOOK, 10 May 2017, available at: <https://www.facebook.com/153812584660813/posts/1474934462548612/?d=n>

<sup>88</sup> *A World of Surveillance. Kazakhstan*, OCCRP, available at: <https://cdn.occrp.org/projects/project-p/#/countries/KZ>

<sup>89</sup> *Kazakhstan has been trying to achieve digital sovereignty in cyberspace since 2011*, KAZTAG, 7 December 2020, available at: <https://kaztag.kz/ru/news/kazakhstan-s-2011-goda-pytaetsya-dobitsya-tsfrovogo-suvereniteta-v-kiberprostranstve-mtsriap>

data (including passwords). The world's largest technology companies are blocking the certificate because it violates user privacy.<sup>90</sup>

As part of the Mukhtar Ablyazov case, **Bota Jardemalie**, a political refugee and lawyer for Mukhtar Ablyazov, has also faced massive black PR<sup>91</sup> in some English-language media. A European Parliament resolution of 11 February 2021 underlines that Kazakhstani authorities have abused Interpol and Interstate legal assistance mechanisms to persecute and seize documents from Bota Jardemalie.

In October 2019, at the request of Kazakhstan, the Belgian police searched Jardemalie's flat and questioned her about her legal and human rights activities. Present during the search were two unknown Kazakhstani officials, who were allowed to remain without police supervision and photographed the seized documents.

Jardemalie had computers, mobile telephones, and information storage media seized, as well as documents containing confidential and privileged attorney-client information. She demands that these things be returned, and her request has been submitted to the Constitutional Court of Belgium for a review on the subject of discriminatory treatment against the refugee and the lawyer.

Jardemalie has been under surveillance and was subjected to an attempted abduction in Belgium. According to a Belgian prosecutor, the perpetrators of the crime are likely to be associated with the Kazakhstani authorities. On 29 November 2019, the Brussels Court sentenced three persons who had been spying on Jardemalie to two years' imprisonment, partly with suspended sentences.<sup>92</sup>



**Bota Jardemalie**

## 7. PERSECUTION OF HUMAN RIGHTS DEFENDERS

The Kazakhstani authorities have intensified their **persecution of members of the human rights movements** “Qaharman”, “405”, “BostandyQ Kz”, “Femina Virtute”, “Veritas”, “Elimay” and “Article 14”. Human rights defenders were actively involved in the preparation of the European Parliament resolution, providing MEPs with information on political persecution. They collected information on human rights violators in Kazakhstan and called for the imposition of personal sanctions against them. Human rights defenders also held public fundraising campaigns to pay politically motivated fines and provide humanitarian assistance to the families of political prisoners.

<sup>90</sup> *Tech giants will block Kazakhstan's web surveillance efforts again*, ENGADGET, 18 December 2020, available at: <https://www.engadget.com/tech-giants-browsers-block-kazakhstan-web-surveillance-080031499.html>

<sup>91</sup> Most of the websites involved in this campaign are very similar: structure, blog-based, pseudo-newspaper names, fairly new - <https://bpostnews.be/belgium/the-asylum-of-botagoz-jardemalie-dilemma.html> ; <http://polimedia.press/politics/botagoz-jardemalie-the-worst-eurocrats-nightmare-and-mukhtar-ablyazov-best-ally/> ; <http://luxherald.com/1041-faking-the-opposition-mukhtar-ablyazov-and-the-victimization-game.html> ; <https://london-post.co.uk/mukhtar-ablyazov-and-his-democratic-movement-false-flag-and-distraction-actors/> ; <http://weeklynewsreview.com/news/politics/viktor-khrapunov-mukhtar-ablyazovs-accomplice-and-a-post-soviet-oligarch-model-organism/>

<sup>92</sup> *Deux ex-agents de la Stasi condamnés à Bruxelles*, LECHO.BE, 29 November 2019, available at: <https://www.lecho.be/economie-politique/belgique/general/deux-ex-agents-de-la-stasi-condamnes-a-bruxelles/10186717?fbclid=IwAR3t0Z0ymEtFa3cmIdW16pvddkABH5yeetxbi70aZsVMe8erGsk3xmotQi0>

## Criminal case on "financing extremism"

Human rights activists conducted public collection of funds to help the families of victims of political repression. The funds raised were used to pay for the services of lawyers, politically motivated fines and humanitarian aid for the families of political prisoners. **The authorities regarded this as "financing the activities of radical supporters of the extremist movements DCK and "Koshe Partiyasy"**. The Kaspi Bank, in breach of banking secrecy, provided police and NSC with banking information on cash donations and transfers involving human rights activists. On 26 December 2020 a criminal case under Article 258 ("financing of terrorist or extremist activities") was secretly initiated<sup>93</sup>.

At the moment, the Kazakhstani investigation considers 16 individuals "involved in the commitment of this criminal offence":

- human rights defenders Raigul Sadyrbayeva ("Elimay"), Dana Zhanai ("Qaharman"), Anna Shukeyeva (movement "405") and her husband Baurzhan Atuzbayev, Bibigul Imangaliyeva ("Article 14");
- former political prisoners, who were sentenced to restriction of liberty: Gulzipa Dzhaukerova, Zhazira Demeuova, her brother Sadvakas Demeuov and daughter Asem Shaikhazimova;
- relatives of political prisoners: Shara Oralbayeva, wife of the political prisoner Askhat Zheksebeyev; Nazira Nurmaganbetova, mother of the political prisoner Kairat Klyshev, and his wife, Zhanar Sarykulova;
- activists Nurbol Onerkhan and Rakila Beknazarova, as well as the public figure Zhasaral Kuanyshalin;
- philanthropist and public figure Barlyk Mendygazyev. According to the materials of the investigation, Barlyk Mendygazyev and opposition politician Mukhtar Ablyazov provided the activists with funds, thereby "financing extremist organisations" DCK and "Koshe Partiyasy".

On 20 January 2021, an Almaty court in a closed session sanctioned a body search of those involved in the criminal case. The human rights defenders appealed the court's decision. The appeals were rejected. The human rights defenders were not even informed about the date of consideration of their complaints. Thus, their right of defence was violated.<sup>94</sup>



Members of the Human Rights Protection Foundation "Qaharman", from left to right: Dana Zhanay, Zuhra Nariman, Altyнай Tuksikova

<sup>93</sup> Kaspi Bank is involved in political persecution. Part 2, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 8 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2956736771312253>, in both English and Russian

<sup>94</sup> Kaspi Bank is involved in political persecution. Part 4, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 14 April 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2961307660855164>, in both English and Russian.

All of the accused, including human rights defenders Raigul Sadyrbayeva, Dana Zhanai, Anna Shukeyeva and Bibigul Imangaliyeva, face between 7 and 12 years in prison with confiscation of property. Thus, the authorities **qualify human rights activities as "aiding and abetting extremism"**.

### Other cases of persecution of human rights defenders

- Human rights activists of the "BostandyQ Kz" movement **Daryn Khassenov, Nurgul Kaluova** and **Zhanat Zhamaliyev** were detained for 7 months in a pre-trial detention facility on charges of participation in an extremist organisation (Article 405 Part 2 of the Criminal Code). They were members of a human rights chat room on Telegram, recorded unjustified police violence, covered mass arbitrary detentions of peaceful protesters and politically motivated trials, as well as called upon the international community to draw attention to systemic human rights violations in Kazakhstan and impose personal sanctions against the violators of human rights. The criminal case file states that "...an appeal to foreign politicians to impose sanctions on well-known political leaders of the country is nothing less than undermining the position and authority of the ruling leaders". Khassenov was threatened that his pregnant wife would also be imprisoned if he did not confess to participating in the "Koshe Partiyasy".<sup>95</sup>

In early June 2021, Zhanat Zhamaliyev was sentenced to one year of restriction of liberty and Daryn Khassenov and Nurgul Kaluova to 1.5 years of restriction of liberty. Kaluova was found guilty of "posting a photo of M. Ablyazov on the social network Telegram with the caption 'I want such a Prime Minister in our Parliamentary Republic'". Daryn Khassenov was accused of selling T-shirts via Telegram with the inscription: "You can't put everyone in jail". All three human rights defenders were banned from public and political activities for three years.



From left to right: Daryn Khassenov, Nurgul Kaluova, Zhanat Zhamaliyev

- **Ulbolsyn Turdiyeva**, a human rights activist from the "Femina Virtute" human rights movement, has been subjected to systematic persecution and pressure. Turdiyeva has been dismissed from her job for her human rights work. She has been fined several times for alleged defamation (most recently on 9 June 2021 she was fined 525 thousand tenge — approximately 1000 euro). Turdiyeva has also been detained on several occasions for participating in peaceful protests. For her participation in a peaceful action on 20 April 2021 she was arrested for 15 days. In protest against her arbitrary detention and arrest, Turdiyeva declared a hunger strike.<sup>96</sup>

On 17 July 2021, on the day of a peaceful protest, police officers detained Ulbolsyn Turdiyeva using brute physical force. The human rights activist was detained in connection with the fact that she reposted a Facebook post about police abuse of power and illegal surveillance of activists in Aktau.

<sup>95</sup> Ibid.

<sup>96</sup> Day 4 of the dry hunger strike by Ulbolsyn Turdiyeva, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 3 May 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2976150709370859>

Unable to withstand the physical and psychological abuse by NSC and police officers, Turdiyeva attempted suicide. She cut her wrists. However, instead of being hospitalized, Turdiyeva was taken to court and sentenced to 20 days of administrative arrest for reposting a Facebook post exposing the illegal actions of police officers.<sup>97</sup> Turdiyeva was deprived of her right to legal defence as her lawyer was not allowed to see her. A criminal case on "participation in an extremist organization" is being investigated against Ulbolsyn Turdiyeva (Article 405 Part 2 of the Criminal Code).

- **Aliya Zhakupova, Alma Nurusheva, Gulzhanat Temirkhan, Roza Musayeva and Nazym Serikpekova**, human rights defenders from the human rights movement "Veritas", have been subjected to arrest and criminal interrogation. On 11 August 2021 **Aliya Zhakupova** was sentenced to 2 years of restriction of liberty for "participation in an extremist organization" (Article 405 Part 2 of the Criminal Code). She has been under house arrest since December 2020. The European



**Human rights defenders of the Human Rights Movement «Veritas»**  
**Standing left to right: Aliya Zhakupova, Alma Nurusheva, Gulzhanat Temirkhan**  
**Sitting left to right: Nazym Serikpekova, Roza Musayeva**

Parliament, in a resolution adopted in February 2021, called for an end to the politically motivated persecution of Zhakupova. Nazim Serikpekova is also a witness under Article 405 Part 2 of the Criminal Code, with the right of defence. This means that she could become a suspect in a politically motivated criminal case at any time.

Earlier, on 17 October 2020 and 24 October 2020, human rights activists from the "Veritas" movement, Aliya Zhakupova, Alma Nurusheva, Nazim Serikpekova and Gulzhanat Temirkhan,

<sup>97</sup> *Police officers drove a human rights activist to a suicide attempt*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 18 July 2021, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3034680523517877/> in both English and Russian

were arbitrarily detained because they were conducting fundraising campaigns for families of victims of political repression.<sup>98</sup>

- Police attempted to poison human rights activist **Abaibek Sultanov** ("Article 14"). On 30 October 2020, Sultanov was arbitrarily detained and taken away for interrogation. After the interrogation, the police took him to a rented flat and told him that he had to spend the night there. Sultanov was forced to pay the rent for the flat which had been found by police officers. The flat was used for his arbitrary detention. In the morning, Sultanov began to show signs of poisoning (weakness and nausea). It turned out that there was a gas leak in the flat. Sultanov believed that the gas leak had been deliberately staged by police officers.<sup>99</sup> On 14 May 2021 Sultanov was sentenced to 1 year of restriction of liberty and 3 years of a ban on social and political activity on the charge of "participation in an extremist organisation" (Article 405 Part 2 of the Criminal Code).



Abaibek Sultanov

- In 2020-2021, the management and staff of Kazakhstan's prisons filed 16 lawsuits against human rights activist **Elena Semenova** on "protection of honour, dignity and business reputation". (Article 143 of the Civil Code). The lawsuits were filed in response to Elena Semenova's publication of information received from inmates about systematic torture in places of detention in Kazakhstan. Elena Semenova got bogged down in litigation, which has put her human rights activities on hold. The Kazakhstani courts have already satisfied 9 lawsuits filed by representatives of penal colonies against Semenova, while 7 lawsuits have not been considered. The Kazakhstani courts demanded that Semenova retract her publications on torture in Kazakhstan and also charged the human rights activist with more than 335,631 tenge (about 700 euro).



Elena Semenova

On 16 June 2021, one of the lawsuits against Elena Semenova was withdrawn. Moreover, on 6 August 2021, the Committee of Criminally-Executive System of the Ministry of Internal Affairs signed a memorandum of cooperation with the Public Association "We Against Torture", which is headed by Elena Semenova. The memorandum provides for the establishment of a monitoring group to record cases of violations of the prisoners' rights and people under investigation. Elena Semenova will be a member of the monitoring group.<sup>100</sup> Positive changes in the case of a human rights defender were made possible thanks to international pressure and

<sup>98</sup> *Persecution of human rights defenders for holding a fundraising campaign*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 17 October 2020, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2815413392111259/>

<sup>99</sup> *Political persecution of human rights activist Abaibek Sultanov*, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 13 November 2020, available at: <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2841897872796144>

<sup>100</sup> *The Committee of Criminally-Executive System has signed a Memorandum of Cooperation with the Public Association "We Against Torture"*, POLISIA.KZ, 7 August 2021, available at: [https://polisia.kz/ru/kuis-zaklyuchil-memorandum-o-sotrudnichestve-s-oo-my-protiv-pytok/?fbclid=IwAR3kTwmEe0FpUn8Pl4yLHFSxD0q9S0nml7iGDVc4pwgqD29yRHv1f6i\\_aB4](https://polisia.kz/ru/kuis-zaklyuchil-memorandum-o-sotrudnichestve-s-oo-my-protiv-pytok/?fbclid=IwAR3kTwmEe0FpUn8Pl4yLHFSxD0q9S0nml7iGDVc4pwgqD29yRHv1f6i_aB4)

peaceful protests against torture and ill-treatment in places of detention, which are regularly held by Kazakhstani activists.

- The Ministry of Justice of the Republic of Kazakhstan systematically prevents human rights defender **Anna Shukeyeva** from registering her human rights organisation, the "405 Foundation for Human Rights Protection". Shukeyeva has already received eight official refusals from the state. The human rights defender states that representatives of state bodies constantly "find" small technical errors in the application for registration. For example, state bodies point to "a discrepancy in the full and abbreviated name of the organisation"<sup>101</sup> or have comments on the peculiarities of the text of the organisation's charter in the Kazakh language.



**Anna Shukeyeva demonstrates refusals to register a human rights organisation "405 Foundation for Human Rights Protection"**

Earlier, on 12 October 2020, Anna Shukeyeva, in retaliation for her human rights activities, was sentenced to a fine of around 140 euro on a criminal charge of "public insult to a representative of the authorities" (Article 378 of the Criminal Code). She is currently facing criminal charges of "financing a terrorist or extremist organisation" (Article 258 of the Criminal Code) for a fundraising campaign for victims of political repression and the payment of politically motivated fines.

<sup>101</sup> Anna Shukeyeva on the systematic refusal to register a human rights movement, ANNA SHUKEYEVA FACEBOOK PAGE, 12 May 2021, available at: [https://www.facebook.com/permalink.php?story\\_fbid=483043709688425&id=100039484013023](https://www.facebook.com/permalink.php?story_fbid=483043709688425&id=100039484013023)



Ninagul Dzhumaniyazova (“Article 14”) shows multiple bruises after she was brutally detained at the protest action in Almaty on 28 February 2021. Photo: Petr Trotsenko (RFE/RL)

The human rights organisations “Veritas” Human Rights Foundation and “Article 14” Human Rights Foundation also received state registration refusals. In both cases the Ministry of Justice allegedly found technical violations in the registration applications. At the same time, “Article 14” Human Rights Foundation received a refusal in registration almost immediately after submitting its application - 3 days later.<sup>102</sup>

## 8. POLITICAL KILLINGS

From February through November of 2020, five opposition activists died after being subjected to arrests, criminal prosecutions, torture, and surveillance on the part of the NSC in retaliation for participating in rallies and supporting the DCK and “Koshe Partiyasy” opposition movements.

The facts support characterizing the incidents as political killings, which resulted from the repressive policies of the authoritarian state against members of civil society and the opposition. The European Parliament’s 11 February 2021 resolution points out these cases: Dulat Agadil, Amanbike Khairolla, Serik Orazov, and Garifulla Embergenov, Zhanbolat Agadil.<sup>103</sup>

<sup>102</sup> Information on the refusal to register the “Article 14 Human Rights Foundation”, human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS on Facebook, 28 May 2021, available at:

<https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2996256660693597/>

<sup>103</sup> The European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan, Para L, EUROPEAN PARLIAMENT, 11 February 2021, available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

- In February 2020 a famous human rights activist and blogger **Dulat Agadil** was killed. He was one of the founders of "Koshe Partiyasy". Agadil died in a Nur Sultan pre-trial detention facility a few hours after his night arrest. Family members and activists took a video-recording of multiple bruises and abrasions on the body of Dulat Agadil, which indicates the use of torture and ill-treatment against him. Cameras in the pre-trial detention facility recorded how staff of the detention facility intentionally deprived the dying Agadil of timely medical care.

On 29 February 2020, without waiting for the results of the forensic medical examination, President Kassym-Zhomart Tokayev stated as follows: "I can state with full conviction that, unfortunately, the activist Agadil died as a result of heart failure. Saying otherwise is denying the truth".

Dulat Agadil's family members claim that he never had heart problems and did not complain of chest pain. Therefore, they categorically deny that Agadil died due to heart disease. Agadil's mother Gulbarash Zhalmukhambetova believes that in his statement, President Tokayev exerted pressure on the investigators and pushed the investigation in a specific direction. She labels the death of her son 'a political killing'. "He's not a criminal. His fault was that he spoke the truth. I believe that [Nursultan] Nazarbayev, [Kassym-Zhomart] Tokayev, [Karim] Massimov, Erlan Turgumbayev are to blame for his death,"<sup>104</sup> Dulat Agadil's mother stated.

- One of the important witnesses in the case of Agadil's murder was his 17-year-old son **Zhanbolat Agadil**. On 10 November 2020 Zhanbolat was killed. The authorities have launched a propaganda campaign claiming that Zhanbolat died as a result of a domestic conflict. But the facts indicate that intelligence agencies may be involved in the murder. The authorities conducted a speedy trial in the case of the murder of Zhanbolat Agadil. Judge Kydyrbek Alkhozhayev prevented proper coverage and observation of the trial. In particular, the judge warned about "requesting permission to film" and asked journalists "why they come to every session". In April 2021, the four defendants were sentenced to prison terms ranging from 3 to 10.5 years. At the trial, the defendants' lawyers said that confessions from their clients had been obtained through threats and pressure.<sup>105</sup> The



Dulat Agadil



Zhanbolat Agadil

<sup>104</sup> Agadil's relatives and lawyer filed a new complaint against the staff of the pre-trial detention facility, RADIO AZATTYQ, 30 May 2020, available at: <https://rus.azattyq.org/a/30642850.html>

<sup>105</sup> The trial on the murder of Zhanbolat Agadil has begun, RADIO AZATTYQ, 19 February 2021, available at: <https://rus.azattyq.org/a/kazakhstan-zhanbolat-agadil-murder-trial/31111698.html>

mother of one of the convicts stated that the investigators had beaten her son to get a confession from him.<sup>106</sup>



Zhanbolat Agadil's funeral. Photo: Orken Zhoyamerger (RFE/RL)

- Impunity for law enforcement officers and special services officers has led to further tragic events, as confirmed by the deaths of opposition activists **Amanbike Khairolla**, **Serik Orazov**, and **Garifulla Embergenov**.<sup>107</sup> For example, on 15 May 2020, police officer Ramazan Kaliyev tried to detain the 68-year-old Orazov, held him by force, pushed him away and prevented him from entering his house.<sup>108</sup> The son of the victim reported that when Serik Orazov tried to get into the building, the policeman grabbed him by the neck using a suffocating technique<sup>109</sup>. Immediately afterwards, Orazov fell and died, not even making it to the flat<sup>110</sup>.



From left to right: Amanbike Khairolla, Serik Orazov, Garifulla Embergenov

<sup>106</sup> *Three to ten and a half years. Finale of the Zhanbolat Agadil murder case*, RADIO AZATTYQ, 23 April 2021, available at: <https://rus.azattyq.org/a/kazakhstan-the-murder-of-zhanbolat-agadil-court-verdict/31219610.html>

<sup>107</sup> *Oppositionist Therefore Extremist*, OPEN DIALOGUE FOUNDATION, 1 December 2020, available at: <https://en.odfoundation.eu/a/32928,oppositionist-therefore-extremist/>

<sup>108</sup> *Dana Zhanai publishes a video of the arbitrary detention of Serik Orazov*, DANA ZHANAI FACEBOOK PAGE, 16 May 2020, available at: <https://www.facebook.com/100010593514534/videos/pcb.1146416689054771/1146412075721899/?type=3&theater&ifg=1>

<sup>109</sup> *Berik Orazov: "We demand an investigation into the torture and death of Serik Orazov!"*, BERIK ORAZOV FACEBOOK PAGE, 18 May 2020, available at: [https://www.facebook.com/permalink.php?story\\_fbid=111069640612972&id=100051298098569](https://www.facebook.com/permalink.php?story_fbid=111069640612972&id=100051298098569)

<sup>110</sup> *Berik Orazov describes how his father was tortured by a police officer*, BERIK ORAZOV FACEBOOK PAGE, 2 June 2020, available at: <https://www.facebook.com/100051298098569/videos/123263196060283/>

The Bureau of South and Central Asia of the U.S. Department of State<sup>111</sup>, Director of the OSCE Office for Democratic Institutions and Human Rights Sólrún Gísladóttir<sup>112</sup>, the Head of the OSCE Program Office in Nur-Sultan, and U.S. Ambassador to the OSCE James S. Gilmore<sup>113</sup> expressed deep concern about the death in custody of the activist Dulat Agadil and called for a full and thorough investigation. These requests were ignored by the General Prosecutor's Office, the Ministry of Internal Affairs, and President Kassym-Zhomart Tokayev. The authorities sabotage investigations and cover up the perpetrators.

This problem is highlighted in an urgent European Parliament resolution on human rights in Kazakhstan dated 11 February 2021. The MEPs called on the EU authorities to consider imposition of personal sanctions on those responsible for gross human rights violations in Kazakhstan.

- On 27 June 2021, **Galymzhan Kenzhebeyev**, 33 years old, died in Zhanaozen. He was the son of Bazarbai Kenzhebeyev, who died in December 2011 during the Zhanaozen events due to torture suffered in a pre-trial detention facility. The death of Galymzhan Kenzhebeyev is another case that can be characterised as a political murder.

Between 16 and 17 December 2011, police shot oil workers in Zhanaozen, who over the course of 7 months had held peaceful protests demanding higher wages and better working conditions. According to official data, at least 17 people were killed, and according to unofficial data, about 70 people were killed. Police then detained and severely beat Bazarbai Kenzhebeyev: he sustained lacerations to his internal organs.<sup>114</sup> His son, Galymzhan Kenzhebeyev, accused the Nazarbayev regime of killing his father and torturing striking oil workers in Zhanaozen.<sup>115</sup>



Galymzhan Kenzhebeyev

According to available information, on 26 June 2021, Galymzhan Kenzhebeyev was beaten by unknown attackers (the police claim that Galymzhan was beaten by an acquaintance of his). On 27 June 2021, Galymzhan was hospitalised and underwent a head surgery. On the same day, police officers arrived and took Galymzhan Kenzhebeyev to the Police Station, although he had not recovered from the operation and had not been discharged from the hospital.

According to the Police Department of the Mangistau Region, on 27 June 2021 Galymzhan Kenzhebeyev and another participant in the fight "were invited to the police department to give an explanation", after which they were questioned, a protocol of administrative violation was prepared "on the fact of causing damage to health", and they were released. The Ministry of Internal Affairs states that Galymzhan Kenzhebeyev did not die at the police station and denies that he was tortured. The official cause of death was said to be "acute heart failure".<sup>116</sup> This was precisely the same cause of death previously cited by the Prosecutor's Office, the Ministry of

<sup>111</sup> Statement on Dulat Agadil, the official US State Department account in Twitter for the Bureau of South and Central Asian Affairs (SCA), 25 February 2020, available at [https://twitter.com/State\\_SCA/status/1232399059194929152](https://twitter.com/State_SCA/status/1232399059194929152)

<sup>112</sup> Statement on Dulat Agadil, official account in Twitter of the Director of the OSCE ODIHR, 26 February 2020, available at: <https://twitter.com/ODIHRdirector/status/1232678048476037121>

<sup>113</sup> Response to the Report by Head of the OSCE Programme Office in Nur-Sultan, OSCE US Mission, 30 April 2020, available at: <https://osce.usmission.gov/on-the-report-by-the-osce-programme-office-in-nur-sultan/>

*The death in police custody of human rights activist Dulat Agadil in February and subsequent detentions of protesters peacefully demanding answers from the government regarding the cause of his death underscore that the Nur-Sultan Office should prioritize its work in the field of judicial and police reform.*

<sup>114</sup> In order to be remembered: Bazarbai Kenzhebeyev, KIBHR, 25 June 2017, available at: [https://bureau.kz/publ-all/sobstvennaya\\_informaciya/chtoby\\_pomnili\\_bazarbai\\_kenjebaev/](https://bureau.kz/publ-all/sobstvennaya_informaciya/chtoby_pomnili_bazarbai_kenjebaev/)

<sup>115</sup> Galymzhan Kenzhebeyev on the Nazarbayev regime's culpability for the torture and death of his father, GALYMZHAN KENZHEBAYEV FACEBOOK PAGE, 6 April 2021, available at: <https://www.facebook.com/galymzhan.kenzhebaev.3/posts/163405322320914>

<sup>116</sup> Galymzhan Kenzhebeyev's death in Zhanaozen: statements by activists and police are contradictory, RADIO AZATTYQ, 2 July 2021, available at: <https://rus.azattyq.org/a/31337219.html>

Internal Affairs and President Tokayev himself in the case of Dulat Agadil, who died in a pre-trial detention facility.

In December 2014, Asem Kenzhebayeva, the 24-year-old daughter of Bazarbai Kenzhebayev, died. She regularly gave interviews and testimony about how her father and other detained protesters died as a result of torture during the Zhanaozen events.<sup>117</sup> The official cause of death was stated to be lung disease and cerebral edema. The detailed circumstances of her death remain unclear.



**Kenzhebayev's body with traces of multiple injuries. The official cause of death was said to be "acute heart failure"**

The National Security Committee (NSC), the main repressive body in Kazakhstan, engages in persecution and torture against political opponents. The NSC has also been involved in the persecution and pressure on human rights defenders.

The predecessor of the NSC was the KGB of the USSR. The NSC has effectively taken on many of the roles of the Soviet-era KGB. Officers of the NSC organize the torture of people, violate freedom of speech and freedom of assembly, fabricate criminal cases, and even participate in politically motivated murders.

According to legislation<sup>118, 119</sup>, the NSC manages a unified system of national security bodies. Its extensive powers allow the NSC to intervene in all areas of society and the state.

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<sup>117</sup> *We remember Zhanaozen. "They were undressed, beaten, dragged by the hair..."*, KZ.MEDIA, 16 December 2019, available at: <https://kz.media/archives/4813>

<sup>118</sup> *The Law on National Security Bodies of the Republic of Kazakhstan*, ZAKON.KZ, 28 June 2018, available at: [https://online.zakon.kz/Document/?doc\\_id=1005971#pos=5;-245](https://online.zakon.kz/Document/?doc_id=1005971#pos=5;-245)

<sup>119</sup> *Regulation on the National Security Committee of the Republic of Kazakhstan, approved by decree of the President of Kazakhstan*, ZAKON.KZ, 1 April 1996, available at: [https://online.zakon.kz/Document/?doc\\_id=1005395#pos=8;-253](https://online.zakon.kz/Document/?doc_id=1005395#pos=8;-253)

In every politically motivated criminal and administrative case, NSC officers formally, or more often informally, give orders to local police or prosecutors to launch an investigation. Officers of the NSC also regularly interfere with judges' decisions and command them to issue specific rulings.

The Chairman of the NSC, a position held by Karim Massimov since September of 2016, is appointed by the President. He is vested with full authority in the institution. The existing political system and the hierarchical structure of the organization allow Massimov to give direct orders for politically motivated persecution and to have direct control over all state perpetrators of human rights violations in politically motivated cases.

## 9. CONCLUSIONS AND RECOMMENDATIONS

### **Kazakhstan does not comply with the European Parliament resolution**

The Kazakhstani authorities consistently ignore the recommendations of an urgent European Parliament resolution of 11 February 2021 on the human rights situation in the country. In doing so, they make extensive use of propaganda and lobbyists both domestically and internationally to create the illusion of "reform and democratic transition".

In its resolution, the European Parliament **made numerous recommendations to the Kazakhstani authorities concerning the elimination of gross violations of civil and political rights**<sup>120</sup>, in particular on the problems of political persecution (recommendations no 2, no 3, no 4, no 5, no 7, no 16, no 17); on the problem of torture (recommendation no 19); on the need for democratic reforms (recommendation no 6) and compliance with international human rights agreements (recommendation no 1), on repression of media freedom and the Internet (no 10); on pressure on NGOs, trade unions and human rights movements (recommendations no 8, no 9, no 11, no 12).

**Of all these recommendations, only two was partially implemented** — No. 3 and No. 19. Paragraph No. 3 listed 21 political prisoners. Of these, only 6 (Nurgul Kaluova, Daryn Khassenov, Yerkyn Sabanshiyev, Zhanat Zhamaliyev, Asel Onlanbekkyzy and Aset Abishev) were released from prison. However, all of them, with the exception of Aset Abishev, were not rehabilitated but instead sentenced to restriction of liberty. Paragraph No. 19 calls for the eradication of torture and ill-treatment in places of detention. The signing of a memorandum of cooperation between the Public Association "We Against Torture" and the Committee of Criminally-Executive System could be a step towards this. **All other recommendations remain unimplemented and, moreover, the Kazakhstani authorities deny the need to implement them.**

Tokayev's "listening state" ended before it began. The Kazakhstani authorities continue to press criminal charges of "extremism" on a massive scale for participation in peaceful rallies, "having oppositional political views" and "undermining respect for the authorities". This blatantly ignores the European Parliament's call for political pluralism and competition in Kazakhstan.

At the time the resolution was adopted, there were 26 political prisoners in Kazakhstan. As of 1 September 2021, there were 22 (the rest were sentenced to restriction of liberty) and were banned from any public activity. Since the adoption of the resolution, new political prisoners appeared in Kazakhstan, in particular: **Zhanibek Zhunusov, Bekizhan Mendygazyev, Natalia Dauletiyarova, Baurzhan Jusupov, Rinat Batkayev, Asylkhan Zhaubatyrov, Yeruan Amirov**. Notably, the Kazakhstani authorities have adamantly refused to release political prisoners Almat Zhumagulov and Kenzhebek Abishev, in relation to whom the EU and the USA have already repeatedly reacted. In 2020 and 2021, at the insistence of the Prosecutor's Office, their

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<sup>120</sup> European Parliament resolution of 11 February 2021 on the human rights situation in Kazakhstan, EUROPEAN PARLIAMENT, 11 February 2021, available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html)

release was denied several times. The authorities have failed to respond appropriately to complaints by political prisoners Aset Abishev, Kenzhebek Abishev and Askar Kayyrbek of torture and ill-treatment.

At the time the resolution was adopted, there were 77 **Kazakhs criminally prosecuted on "extremist charges"**. As of 1 September 2021, there were 50, but a large number of politically persecuted individuals have been **sentenced to restrictions of liberty**. For example, between June 2020 and February 2021, 20 custodial sentences on "extremism" charges were announced. In January-August 2021 alone, 27 activists received such sentences. Kazakhstan's courts prohibited them from going to rallies, conducting public or volunteer activities, being members of public organisations and using social networks. This indicates that the authorities are driven by a fear of potential protest and a **desire to paralyse the public activity of all the most active citizens**.



**Activists from different regions of Kazakhstan who went on hunger strike to protest against the banning of peaceful opposition movements DCK and "Koshe Partiyasy", as well as against political repression in Kazakhstan**

In addition, following the European Parliament resolution, the Kazakhstani authorities **toughened the "extremist" articles** under which dissidents are prosecuted. Previously, most convictions for supporting the opposition DCK and "Koshe Partiyasy" movements were under Article 405 Part 2 of the Criminal Code ("participation in the activities of an extremist organisation" - up to 2 years of restriction of liberty or imprisonment). Since the adoption of the resolution, seven sentences have already been passed under the harsher Article 405 Part 1 ("organisation of the activities of an extremist organisation" - up to 6 years of restriction of liberty or imprisonment) in Kazakhstan. At least two persons are also awaiting trial under this article.

After the resolution was passed, the Kazakhstani authorities dropped the charges of "establishment, management or participation in an extremist group" (Article 182), which could carry a sentence of up to 17 years in prison, against the leaders of the opposition "Koshe Partiyasy" movement. However, in retaliation for providing financial assistance to the activists, a large-scale criminal prosecution was launched against the philanthropist Barlyk Mendygazyev, his relatives and colleagues.

The Kazakhstani authorities have crossed yet another red line of **political killings** and do not even declare any intention of implementing the recommendation to conduct a proper and thorough investigation.

### **Kazakhstan's regime whitewashes its reputation to save itself from sanctions**

The Kazakhstani regime continues to systematically carry out political repression and suppression of the rights of freedom of expression, assembly, association, the right of a fair trial and the right of protection from torture. At the same time, the regime has sought to prevent international publicity for these crimes and has also made efforts to halt the campaign for personal sanctions. To this end, the Ministry of Foreign Affairs of the Republic of Kazakhstan, the Office of the Ombudsman and the Presidential Administration are actively engaged in whitewashing the reputation and international image of the regime.

In June-July 2021 alone, Kazakhstani representatives made such visits to the EU and the US: the visit of the Special Representative of the President of Kazakhstan, Erzhan Kazykhanov, to the UK, the US and Belgium<sup>121</sup>; the visit of Minister of Foreign Affairs Mukhtar Tleuberdi to Spain; the visit of Ombudswoman Elvira Azimova to Belgium and also her meetings with the EU Special Representatives for Central Asia and Human Rights and with representatives of the United Nations Development Programme.<sup>122</sup>



**Top row: Erzhan Kazykhanov at a meeting with Peter Burian (left) and during a visit to the United States of America (right). Photo: Kazinform.**

**Bottom row: a protest action before Erzhan Kazykhanov's visit to Brussels on 20-22 June 2021**

During these visits and meetings, Kazakhstani officials misinformed their partners about "achievements" in democratic reforms, when in fact these "reforms" conceptually contradict the requirements of the UN, EU and OSCE.

In addition, in order to stop the international publicity of gross human rights violations, the NSC and the Ministry of Internal Affairs criminally prosecute activists who have called for personal sanctions against representatives of the Nazarbayev regime. For example, activists Asylkhan Zhaubatyrov and Zhanibek Zhunusov have been sent to the pre-trial detention facilities and at least 15 members of Kazakhstani human rights groups have been prosecuted for such actions.

<sup>121</sup> Press office of the Ministry of Foreign Affairs of the Republic of Kazakhstan, GOV.KZ, available at: <https://www.gov.kz/memleket/entities/mfa/press?lang=ru>

<sup>122</sup> Press office of the Commissioner for Human Rights of the Republic of Kazakhstan, GOV.KZ, available at: <https://www.gov.kz/memleket/entities/ombudsman/press?lang=ru>

## Recommendations

We, members of the human rights protection group #ActivistsNotExtremists — the Open Dialogue Foundation, the Italian Federation for Human Rights, Human Rights Protection Foundation Qaharman, the human rights movement '405', Freedom Kazakhstan Foundation, BostandyQ Kz, Veritas, Femina Virtute, Article 14, Elimay and "We are Against Torture" — and also human rights organizations "Ar-Rukh-Hak" (Eng. "Conscience. Spirit. Truth") call on the EU institutions and democratic states to take urgent measures to stop the widespread political repression and crimes against human rights in Kazakhstan. We have highlighted 5 priority areas under which we present our recommendations:

### **1. The EU delegation to Kazakhstan should, in line with paragraphs 21-26 of the European Parliament resolution dated 11 February 2021, promote and support the protection of human rights in Kazakhstan through real action.**

The European Parliament, with the involvement of civil society and EU diplomats, should consult on the implementation by EU diplomats of the recommendations of the European Parliament resolution of 11 February 2021 on the protection of human rights in Kazakhstan.

Encourage the EEAS and the EU Delegation to:

- Organise regular and non-discriminatory consultations with local civil society and human rights defenders, including during EU-Kazakhstan high-level bilateral meetings (e.g. the EU-Kazakhstan annual Human Rights Dialogue, the EU-Kazakhstan Cooperation Council or the EU-Central Asia Civil Society Forum). Such consultations would facilitate the collection of independent and comprehensive information about human rights problems and corruption in the country.
- Regularly meet with and publicly support civil society and human rights defenders; speak out publicly on behalf of activists and human rights defenders who are being prosecuted for informing the international community about human rights violations in Kazakhstan.
- Publicise instances of arbitrary detention, torture and ill-treatment and violations of the right to freedom of expression and assembly, thus discouraging the practice of the so-called "silent diplomacy".
- Attend politically motivated trials, online or in person, and visit political prisoners in places of detention either on the spot or by requesting a video call through the competent authorities.

### **2. Direct funding for independent activists on the front line:**

- Request the EU Commission to directly support local civil society by considering the allocation of additional grant funds to independent organisations, in particular grassroots and young human rights groups, monitoring human rights within the framework of the European Instrument for Democracy and Human Rights (EIDHR), especially considering that, at the moment, the EU Delegation is only working with government-friendly NGOs.

### **3. Make the government respect its commitments to the EU:**

- Request the authorities of Kazakhstan to implement without further delay the recommendations of the EP's urgent resolution of 11 February 2021 (2021/2544(RSP)), in particular the immediate and unconditional release of all political prisoners, the cessation of all forms of political persecution against human rights defenders, philanthropists, peaceful protesters and supporters of the "Democratic Choice of Kazakhstan" and "Koshe Partiyasy" peaceful opposition movements deemed by the authorities as "extremist" and "foreign" organisations by secret court decision and

without the possibility to appeal. Cease the persecution of opposition activists, who are persecuted under the guise of fighting extremism.

- Demand that the Kazakhstani authorities ensure a proper investigation into the deaths of opposition activists, bring those responsible to justice, and ensure international public participation in the investigation.

#### **4. Time to use the stick and not shy away from sanctions:**

- Support the civil society's request of imposing personal sanctions against Kazakhstan's top government officials responsible for gross human rights violations in the country (a list of potential targets can be found in the report "Servants of the regime").<sup>123</sup> Consider imposition of personal sanctions against representatives of law enforcement agencies and senior officials (in particular, the Chairman of the National Security Committee, Chairman of the Security Council and First President of Kazakhstan, the Minister of the Interior and the General Prosecutor) who are responsible for political killings, torture, large-scale persecution of participants in peaceful protests and human rights defenders in the country.
- Reiterate the EP's newly adopted AFET resolution (2021/2563(RSP)) in favour of targeted sanctions against corrupt officials, of active civil society participation in the listing process and the establishment of a witness protection mechanism.

#### **5. Stand up against autocratic cooperation between China and Kazakhstan:**

- Draw the attention of the Kazakhstani authorities to the urgent need to guarantee the safety of ethnic Kazakhs, Uyghurs and all those seeking information about or peacefully protesting in front of Chinese diplomatic missions in Kazakhstan in support of their relatives unjustly detained in Xinjiang concentration camps while being on the territory of Kazakhstan.
- Given that Kazakhstan uses Chinese expertise and technology to censor and spy on opposition activists, democratic states should block the possibility of accessing and selling surveillance software and equipment to Kazakhstani authorities.
- Demand the Kazakhstani authorities refrain from any acts of intimidation, arbitrary detention or violence against them, and take all possible steps to grant ethnic Kazakhs or other politically persecuted minorities escaping China's concentration camps permanent refugee status or residence permit.

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<sup>123</sup> *Servants of the regime: sanction list of persons accountable for gross human rights violations in Kazakhstan*, THE OPEN DIALOGUE FOUNDATION, 28 October 2020, available at: <https://en.odfoundation.eu/a/32625,servants-of-the-regime-sanction-list-of-persons-accountable-for-gross-human-rights-violations-in-kazakhstan/>