

Briefing on the human rights situation in Kazakhstan,
1 November 2021

KAZAKHSTAN: SURRENDER OF TECHNOLOGICAL SOVEREIGNTY TO RUSSIA & CHINA AND A FURTHER ASSAULT ON CIVIL SOCIETY AND LIBERTIES

The #ActivistsNotExtremists¹ coalition of human rights organisations prepared an overview of the socio-political situation in Kazakhstan and recommendations for the international community in connection with:

- the ongoing process of absorption of Kazakhstan's sovereignty by Russia and China through the signed memorandum with SBER on e-government services, and economic and regional integration (page 1);
- emulating the repressive practices of the regimes of Belarus and Russia to suppress dissent by blocking social media and messaging apps (page 4);
- the provision of assistance to Afghanistan by the Kazakhstani authorities, as well as attempts by the Kazakhstani authorities to present themselves as a stabilising force in the region, in the expectation that in return the EU, the US and Canada will disregard the human rights situation in Kazakhstan and the abuse of anti-extremist legislation in the country (an increase in the scale of political repression, including political prisoners, uninvestigated cases of torture, attacks and political murders) (page 6).

SURRENDER OF KAZAKHSTAN'S DIGITAL SOVEREIGNTY TO RUSSIA AND CHINA

On 3 September 2021, within the framework of the Eastern Economic Forum, Prime Minister of Kazakhstan Askar Mamin and head of the Russian SBER group of companies (SBER) German Gref² signed a Memorandum of Cooperation on Digital Transformation Projects for the Republic of Kazakhstan, Transition to the Platform-Based Digitalisation Model and the Data Driven Government Concept.³ The Memorandum was approved by the Decree of the Government of Kazakhstan⁴ on the same day. Pursuant to the Memorandum, SBER will create, implement and support a single centralised digital platform (GovTech) for all electronic state services in Kazakhstan to replace Kazakhstan's existing e-government platforms (united by the website - <https://egov.kz/cms/en>). As of today, over 80% of state services are available on egov.kz.⁵

¹ See human rights monitoring group #IHAVEACHOICE #ACTIVISTSNOTEXTREMISTS, available at:

<https://www.facebook.com/groups/ActivistsNotExtremists>; <https://en.odfoundation.eu/projects-and-campaigns/activistsnotextremists/>

² German Gref, the head of SBER, has been close to Putin since his work in St-Petersburg. Gref was mentioned in the Pandora papers scandal with his offshores in Singapore, Panama and Samoa.

³ primeminister.kz, Kazakhstan to switch to GovTech platform model of digitalisation, 03.09.2021, available at:

<https://primeminister.kz/en/news/kazakhstan-pereydet-na-platformennuyu-model-cifrovizacii-govtech-384036>

⁴ Text of the decree: <https://adilet.zan.kz/rus/docs/P2100000606>

⁵ Kazakhstan ranked 29th of 193 countries in a 2020 UN survey of e-government development. In the same report, Kazakhstan ranked 11th for the quality of its online government services, ahead of the Netherlands; Russia took 36th place. See:

[https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20\(Full%20Report\).pdf](https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2020-Survey/2020%20UN%20E-Government%20Survey%20(Full%20Report).pdf)

What it is: The government will support a partnership between the Russian state-controlled SBER Group and BTS Digital, a Kazakhstani subsidiary of the Luxembourg-based Eurasian Resources Group (ERG). The minority state of 40% of ERG is owned by the Government of Kazakhstan. The objective⁶ of the Memorandum is to create a digital platform for state services and to handle the government's Big Data.

SBER is going to link to its GovTech platform all Kazakhstan government agency databases that contain all data controlled by the state, including Kazakhstan citizens' health data, data on their family members, physical addresses, data on assets, transactions, tax payments, personal e-numbers, electronic signatures, communication with state bodies, custom data, military data, demographic data, national archives, etc.

SBER is a group of companies around Sberbank controlled by the Russian Government. Anton Siluanov, the current Minister of finance of Russia, is a Chairman of SBER's supervisory board. The Russian Federation represented by the Ministry of finance of the Russian Federation owns 52.32% of all voting shares of SBER.⁷

Non-transparent strategic partnership: Under the Memorandum, SBER shall form a consortium with some Kazakhstan state-owned entities⁸ and BTS Digital LLC by 31 October 2021 (the Consortium). According to the Memorandum, BTS Digital LLC is a strategic partner of SBER. BTS Digital, a software developer company in Kazakhstan, was created in 2018 and is indirectly owned by Luxembourg-based Eurasian Resources Group (ERG).⁹ The ERG is one of the world's leading companies in mining and processing of natural resources with large interests in Kazakhstan.¹⁰ The majority shares of ERG are controlled by two oligarchs linked to Nursultan Nazarbayev - Alexander Machkevitch and Patokh Chodiyev.

The ERG was established in Luxemburg as a successor for Eurasian Natural Resources Corporation (ENRC) that was delisted from the London Stock Exchange in 2013¹¹, allegedly after the UK Serious Fraud Office investigation into the company¹². Allegedly, Nursultan Nazarbayev is one of the beneficial owners of the company.

It should be noted that Luxembourg-based ERG has other digital projects in Kazakhstan: through its subsidiary, the ERG has been developing and maintaining *Aitube*, an online video sharing and social media platform (<https://aitube.kz>), as a local alternative for YouTube, as well as *Aitu messenger*, an instant messaging platform, as a local alternative for messaging apps such as WhatsApp and Telegram. The government of Kazakhstan actively promotes both platforms. Considering the latest legislative developments that impose additional requirements on foreign owners of social media and messaging apps (please see Section *The Russian model of censorship of social networks and messaging apps* below),

⁶ Tengrinews, *Memorandum between the government of Kazakhstan and SBER: the details*, https://tengrinews.kz/kazakhstan_news/memorandum-pravitelstva-kazahstana-sbera-poyavilis-448971/

⁷ See: <https://www.sberbank.com/investor-relations/share-profile>

⁸ The entities are not named in the Memorandum. According to the Memorandum, they are affiliated with the International Financial Center Astana and the Ministry of Digital Development, Innovation and Aerospace Industry.

⁹ See: <https://www.erg.kz/en>

¹⁰ "ERG is a third of the mining and metals sector of the Republic of Kazakhstan, as well as one of the key suppliers of electricity and a major railway operator in Central Asia. Such important enterprises of the Group as TNC Kazchrome, Sokolov-Sarybai Mining Production Association (SSGPO), Aluminum of Kazakhstan, Kazakhstan Aluminium Smelter (KAS), Eurasian Energy Corporation (EEC), Shubarkol Komir, TransCom Transport Group, 3-Energoortalyk and ERG Service are located in Kazakhstan." See: <https://www.erg.kz/en/content/o-kompanii/obzor-deyatel-nosti-erg>

¹¹ Financial Times, "ENRC founder's daughter fails to challenge SFO decision," 27.11.2019, available at: <https://www.ft.com/content/84e73aa4-111c-11ea-a225-db2f231cfeae>

¹² Globalwitness.org, press release, "Global Witness welcomes SFO announcement of formal investigation into ENRC," 26.04.2013, available at: <https://www.globalwitness.org/en/archive/global-witness-welcomes-sfo-announcement-formal-investigation-enrc/>

the Kazakhstan's ruling regime, through the ERG's projects, is preparing to technically isolate the internet within Kazakhstan and Russia from the rest of the world.

According to the Memorandum, SBER shall develop the GovTech platform on the basis of its Platform V. The Consortium together with SBER shall implement the project and provide maintenance services to the GovTech platform. The GovTech platform will be operated by Kazakhstan's state-owned entity JSC NIT. The deal will be financed through a loan facility in the amount of up to \$500 mln provided by Sberbank¹³ to JSC NIT, and guaranteed by the Kazakhstani government. How this loan will be repaid is unclear, especially since the state-owned NIT does not have sufficient cash flow.

Strategic expansion plans: According to the Memorandum, SBER and the Consortium plan to enter into an exclusive partnership agreement in Kazakhstan by the end of 2021, with the intention of emulating the model in other Central Asian countries, as well as in Turkey and Mongolia.¹⁴ They plan to develop state technology platforms based on SBER's Platform V and provide licenses and digital services to those countries. The partnership agreement, in accordance with its terms, will grant licenses to the Consortium for the deployment, implementation and operation of the GovTech platform in Kazakhstan and the Platform V in Central Asia, Mongolia and Turkey for 20 years.

In other words, once the platform is developed for Kazakhstan at expense of Kazakhstan's state budget, it will be easily replicated and exported to other countries by the Consortium with an obscure ownership structure. **President Putin, through SBER, will gain a new instrument that he will be able to use around the world, from Africa to South America, controlling government services and collecting Big Data.**

China's role: While representatives of the government claim the Kazakhstani state will retain full control over the softwares, the move puts the sovereignty of the country at risk, potentially giving control of Big Data and state services to Russia. Not only Russia is involved, though. **As SBER's technology is ultimately based on Huawei's technology,¹⁵ Beijing will also gain a foothold in Kazakhstan's digital space.**

In 2020, SBER and Huawei have agreed on a strategic partnership in the cloud technology market.¹⁶ The companies jointly develop a cloud business in Russia on the SberCloud platform, while the Chinese side gave up the Huawei Cloud brand, which it brought to the market in 2019. Huawei is switching to a partnership model because of sanctions risks, and SBER's agreement allows it to become a competitor to large local players, experts say. As part of the partnership, SBER purchased Huawei's server hardware and software to operate, support, secure and monitor independently. SberCloud has not disclosed any investments in the project or the terms of the partnership.

What to expect: Nursultan Nazarbayev and his ruling clique have long sought to find a balancing act between China and Russia, giving something to both. Nursultan Nazarbayev is at his old age, he is already 81. He and his close circle are seeking to maintain the status-quo and their control over Kazakhstan after his death, and have been leaning towards Russia and China for support.

Why it matters: Unable to create its own digital platforms, but also unwilling to show Moscow and Beijing that it gives such strategic infrastructures to the West, the government of Kazakhstan decided to surrender its technological sovereignty to both Russia and China. This could have long-term consequences, increasing the leverage of both actors in Kazakhstan and allowing them to influence the

¹³ Sberbank is a bank in the SBER Group of Companies.

¹⁴ Section 2.3 of the Memorandum: <https://adilet.zan.kz/rus/docs/P2100000606>

¹⁵ FT, *Huawei's courtship of Moscow leaves west in the cold*, <https://www.ft.com/content/f36a558f-4e4d-4c00-8252-d8c4be45bde4>

¹⁶ www.sberbank.ru, press release, "SberCloud and Huawei announce strategic partnership and launch of SberCloud.Advanced," 03.03.2020: https://www.sberbank.ru/en/press_center/all/article?newsID=3169ab50-f619-4f84-9ee3-2189c28d8344&blockID=1539®ionID=77&lang=en&type=NEWS

country to a greater extent. It is unlikely that the Kazakhstani government, vastly inferior to China and Russia in terms of technological capabilities, will be able to retain full control over Platform V despite the promises. Kazakhstan cannot maintain digital sovereignty while the GovTech platform is built and managed by a foreign company.

There has been no proper parliamentary, judiciary or even media scrutiny over the deal with SBER, considering that all branches of power as well as the press are still controlled by Nazarbayev and his inner circle. There has not been an open tender for the project as law requires. The ultimate beneficial ownership structure of the Consortium is absolutely non-transparent. It appears that the state entities will participate only to provide legitimacy to the privately controlled project over the e-government in Kazakhstan. A total absence of transparency raises many questions about the economic, political, social, security and sovereignty risks that Kazakhstan and its people face as this project is implemented by Russia with Chinese technical assistance behind the scene.

The Kazakhstani regime has also been adopting Chinese methods of mass surveillance. In 2019, President Tokayev tasked the government with introducing the technology of the Chinese company Hikvision in order to establish video surveillance systems and “digitise” data on citizens.¹⁷ There is a serious risk that over time Kazakhstan’s territory will turn into a digital camp controlled by Putin with Xi Jinping’s technology.

THE RUSSIAN MODEL OF CENSORSHIP OF SOCIAL NETWORKS AND MESSAGING APPS

On 15 September 2021 the Kazakhstani parliament approved a bill on the first reading, requiring owners of foreign social media such as Facebook, Instagram, YouTube etc., and messaging apps to officially register legal entities or branches in Kazakhstan or else risk being blocked as part of a campaign against cyberbullying. This condition was later removed, but in return the Kazakhstani authorities agreed with Facebook that a representative of the Ministry of Information of the Republic of Kazakhstan would have access to Facebook's "Content Notification System". The Kazakhstani authorities continue to negotiate with Telegram and YouTube about providing similar access. According to the authorities of Kazakhstan, their aim is to "promptly remove undesirable content", including content that incites interethnic, religious and social hatred.¹⁸ It is worth noting that Article 174 of the Criminal Code ("inciting social hatred") is one of the key articles of the Criminal Code that is being incriminated against opposition supporters in Kazakhstan.

What it is: The bill was officially presented as a measure aimed at "preventing cases of cyberbullying¹⁹ against teenagers and other kinds of harmful content for minors". It will change²⁰ the law “*On Informatisation*”, making it mandatory for those foreign companies not only to register in Kazakhstan, but also to have Kazakhstani citizens as key officers. In Russia, a similar law was adopted in 2019. The requirement of mandatory state registration of foreign companies is called "landing" in Russia.²¹ The bill

¹⁷ Radio Free Europe/Radio Liberty, “*Recognises even people wearing masks*”. *Does Kazakhstan need Hikvision cameras?*, <https://rus.azattyq.org/a/kazakhstan-china-surveillance-camera/30210035.html>

¹⁸ Orda.kz, “*Kazakhstan will gain access to Facebook's internal system to remove content*”, <https://orda.kz/kazakhstan-poluchit-dostup-k-vnutrennej-sisteme-facebook-dlja-udalenija-kontenta/>

¹⁹ Eurasianet, *Kazakhstan: MPs sell IT registration law as child-protection measure*, <https://eurasianet.org/kazakhstan-mps-sell-it-registration-law-as-child-protection-measure>

²⁰ Forbes KZ, *Majlis approves on first reading the bill on limiting foreign social networks* https://forbes.kz/massmedia/majilis_v_pervom_chtenii_odobril_zakonoproekt_po_ogranicheniyu_inostrannyih_sotssetey/

²¹ Human Rights Watch, *Russia: Growing Internet Isolation, Control, Censorship*, <https://www.hrw.org/news/2020/06/18/russia-growing-internet-isolation-control-censorship>

focuses on protecting children's rights but includes provisions regarding social media and messaging software, which civil society regards as a tool to censor online comments.

Why it matters: The bill would make social media and messaging platforms subject to the Kazakhstani government, which would have the final say over what can be published. Once approved by the Senate and signed into law by the president, the bill would oblige owners of the platforms to register and open offices in Kazakhstan within six months.

Already in 2020, the Freedom House, in its report on freedom of the Internet, deemed Kazakhstan “not free”.²² The Kazakhstani foundation for freedom of speech “Adil Soz” noted²³ that the bill will limit the citizens’ ability to spread and receive information, all the while damaging the development of e-commerce and other economic activities on social media and internet platforms. It is expected that the authorities will have a broad and vaguely defined understanding of what constitutes harmful content for minors, and that it will target dissenting political content.

It would not be the first time the Kazakhstani authorities *de facto* ban political content with a pretext. A draft of the Lawyer Code of Conduct, currently being processed by the parliament, recommends, for example, that “**lawyers should refrain from radical political statements and media appearances**”. The draft rules of conduct for lawyers even stipulate that a lawyer is “obliged to maintain a correct tone of voice in social media”. Naturally, such abstract wording leaves considerable room for pressure and censorship on lawyers, especially in politically motivated and high-profile cases.²⁴

It has already happened: The move seems to mirror Russia’s playbook. Putin forced the foreign social media to register²⁵ in Russia with the same pretext - defending children. Russia tends to either heavily fine or slow the speed of websites that do not comply with its demands. It happened to Google,²⁶ Twitter,²⁷ YouTube. These platforms were forced to remove political content, such as calls to join protests and the “smart voting” app²⁸ by Navalny’s team.

Why are the Kazakhstani authorities trying to prohibit or obtain access to the removal of content from social networks through amendments to the law under the pretext of 'caring about children'? To answer this question, we suggest looking at the statistics for content removal requests sent to Google by Kazakhstan's state authorities from 2011 to 2021.²⁹ There were 373 such requests in total, with the total number of content items mentioned in the requests being 192,503. The majority of content removal requests related to YouTube, owned by Google. However, only 2% of the requested information was removed by the authorities. 49% of the deletion requests were for criticism of the authorities, 31% for an abstract request to protect "national security" and 2 percent for "defamation".

Furthermore, according to a Google report, one of Kazakhstan's ministries demanded YouTube remove an opposition TV channel. At the same time, opposition YouTube channel 1612 has consistently reported

²² Freedom House, Kazakhstan Freedom of the Internet, <https://freedomhouse.org/country/kazakhstan/freedom-net/2020>

²³ Adil Soz, *Goodbye Facebook, thank you MPs* <http://www.adilsoz.kz/news/show/id/3397>

²⁴ <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/3088736174778978/>

²⁵ Reuters, *Putin signs law forcing media giants to open Russian offices*, <https://www.reuters.com/technology/putin-signs-law-forcing-foreign-it-firms-open-offices-russia-2021-07-01/>

²⁶ TASS, *Google services in Russia may be decelerated as company fails to remove banned content*, <https://tass.com/economy/1293155>

²⁷ TASS, *Court upholds decision to fine Twitter for refusing to delete proscribed data*, <https://tass.com/society/1290461>

²⁸ Euronews, *Kremlin critic Alexei Navalny slams 'cowardly' Google and Apple for removing election app* <https://www.euronews.com/next/2021/09/24/kremlin-critic-alexei-navalny-slams-cowardly-google-and-apple-for-removing-election-app>

²⁹ Transparency Report Google: Government requests to delete content (Kazakhstan) <https://cutt.ly/hRelmuv>

that they are receiving mass complaints from various Kazakhstani agencies regarding their criticism of the authorities and publication of human rights content.

Such attacks against independent content on the Internet are even more telling when one looks at the general trend of black PR employed by the Kazakhstani government, which is heavily based on a malicious use of the Internet. Seeking to influence foreign decision makers, governments and the public, as well as to smear its opponents, Kazakhstan uses a number of dubious websites and social media profiles to spread false information or biased propaganda, in addition to hiring or otherwise financing public figures, journalists, politicians. These include black PR against political opponent Mukhtar Ablyazov, that involves also UK politicians and citizens,³⁰ as well as against human rights lawyer Bota Jadermalie, who was targeted through a number of English and Russian websites publishing the same texts³¹. Countless times was the Open Dialogue Foundation itself subjected to such attacks, including, *inter alia*, from the bogus website “EU Today” founded by former UKIP employee, far-right racist and Holocaust denier, Gary Cartwright, now suspiciously close to the Kazakhstani government.³²

What to expect: Kazakhstan will most likely follow Russia’s example. Unable to create a completely separate Internet or to replace big social networks, the authorities will increase financial or technical pressure on companies to ensure they take down political content, thus silencing dissidents and any unwelcome voice from civil society.

ASSISTANCE WITH AFGHANISTAN IN EXCHANGE FOR DISREGARD OF HUMAN RIGHTS SITUATION IN KAZAKHSTAN: POLITICAL REPRESSION UNDER THE ANTI-EXTREMISM PRETEXT

Kazakhstan is seeking to portray itself as a regional power able to bring support to the stabilisation of Afghanistan in the eyes of the European Union. The Kazakhstani civil society and opposition worry that such a situation will result in the EU being willing to compromise on human rights in Kazakhstan in exchange for Kazakhstan’s assistance on Afghanistan's issues.

A delegation of the Ministry of Foreign Affairs of the RK met with the Taliban on 17 October 2021:

- Yerzhan Kazykhanov, head of the Kazakhstani delegation, Special Representative of the Kazakhstan President;
- Aibek Smadiyarov, Foreign Ministry spokesman.³³

According to Akorda, Yerzhan Kazykhanov, head of the Kazakhstani delegation, held meetings with:

- Abdul Ghani Baradar, the deputy head of the Taliban government - the third man in the hierarchy of the Islamic Emirate. One of the co-founders of the Taliban in 1994.

³⁰ The Guardian, *Jonathan Aitken was paid £166,000 for book on Kazakh autocrat, leak suggests*

<https://www.theguardian.com/news/2021/oct/06/jonathan-aitken-paid-for-book-kazakh-autocrat-leak-suggests>

³¹ Some examples of the same text published under different titles: <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>

³² Open Dialogue Foundation, *Statement re. event organised by EU Today in the European Parliament on 23 January 2020*

<https://en.odfoundation.eu/a/26742,statement-re-event-organised-by-eu-today-in-the-european-parliament-on-23-january-2020/>

³³ Orda.kz, *Kazakh foreign minister comments on controversial photo of foreign ministry official with Taliban*

<https://orda.kz/ministr-inostrannyh-del-rk-prokommentiroval-nashumevshee-foto-predstavitelja-mid-s-talibami/>

- Amir Khan Muttaki is the Foreign Minister of the Islamic Emirate of Afghanistan. In August this year, even before Ghani fled, he was consulting on behalf of the Taliban in Kabul with Abdullah, Karzai and Hekmatyar.³⁴

However, there was no mention in the official announcement **on Akorda's website that the Kazakhstani delegation held a meeting with representatives of the Taliban terrorist movement, which is banned in Kazakhstan and several other countries.** Also, some state media in Kazakhstan **stopped labeling the Taliban as a banned organisation.**³⁵

On 26 October 2021 it became known that President Tokayev decided to provide a transit corridor for Afghan women judges and parliamentarians and their family members. "Transit is carried out in cooperation with international non-governmental organisations through Almaty airport for onward flight to third countries," our Foreign Ministry said.³⁶

Talgat Kaliyev, Special Representative of the President of Kazakhstan for Afghanistan, explicitly notes that the relocation of the UN mission office from Afghanistan to Kazakhstan is "a huge diplomatic victory for Kazakhstan". The propaganda media used this event to wash the reputation of President Kassym-Jomart Tokayev from the numerous criticisms of the UN experts for the systematic violation of international obligations by Kazakhstan.³⁷ Tokayev had previously served as the UN Under-Secretary-General and head of the UN's European office, and was probably sensitive to such criticism.³⁸ So now the relocation of the Kazakhstan office to Almaty is being presented by Kazakhstan propagandists as a 'conscious choice of the UN' and the next step to "establish a regional UN hub in Almaty".³⁹

The Kazakhstani authorities are systematically violating their international human rights obligations and recommendations of the OSCE, the UN, the US State Department, the European Parliament and the PACE. This substantiates calls for applying targeted sanctions, particularly for high-ranking officials such as former President Nursultan Nazarbayev and Chairman of the National Security Committee (NSC) Karim Massimov, responsible for perpetrating gross human rights violations.

- Just like in the past, the Kazakhstani government continues to abuse the accusation of "extremism", using it against peaceful and law-abiding dissidents (Article 405 of the Criminal Code). As the European Parliament resolution of 11 February 2021 noted,⁴⁰ the court decisions to ban peaceful opposition movements "Democratic Choice of Kazakhstan" (DCK) and "Koshe Partiyasy" were never officially published, giving no possibility to those accused of defending themselves. All that has been available in over one year is a mere press release.⁴¹ These decisions were passed by Ruslan Mazhitov, Chairman of the Yesil district court of Nur-Sultan, on the basis of

³⁴ Akorda.kz, *Kazakhstan Delegation Pays Working Visit to Afghanistan*, <https://akorda.kz/en/kazakhstan-delegation-pays-working-visit-to-afghanistan-1791436>

³⁵ Inform.kz, *Kazakhstan delegation pays working visit to Afghanistan*, https://www.inform.kz/ru/kazahstanskaya-delegaciya-posetila-s-rabochim-vizitom-afganistan_a3850091

³⁶ Liter.kz, *Kazakhstan provided a transit corridor for women in Afghanistan*, <https://liter.kz/kazakhstan-predostavil-tranzitnyy-koridor-dlya-zhenschin-afganistana/>

³⁷ UN Human Rights Council, *Visit to Kazakhstan: Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, <https://undocs.org/en/A/HRC/43/46/Add.1>

³⁸ Human Rights Council, *Comments by the State to the Report of the Special Rapporteur on the Promotion and protection of human rights and fundamental freedoms while countering terrorism on his visit to Kazakhstan* <https://undocs.org/en/A/HRC/43/46/Add.2>

³⁹ Tengrinews.kz, *Should Kazakhstanis worry about the Taliban? Interview with Special Representative Tokayev* <https://tengrinews.kz/article/stoit-kazahstantsam-bespoikoitsya-iz-za-talibana-intervyu-1624/>

⁴⁰ European Parliament: Resolution on the human rights situation in Kazakhstan (2021/2544(RSP)), 11 February 2021, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0056_EN.html

⁴¹ Text of the press-release: <https://atpress.kz/10427-press-reliz-generalnoy-prokuratury-rk>

the application of General Prosecutor of Kazakhstan Gizat Nurdauletov. On the basis of these decisions, the authorities carry out a massive political repression against civil society activists and human rights defenders.

On 11 October 2021, 13 activists from Almaty were convicted as “extremists” for participation in peaceful protests, criticizing the authorities, demanding the release of political prisoners, and collection of humanitarian aid for families of political prisoners. Askhat Zheksebayev, Kairat Klyshev, Abay Begimbetov, and Noyan Rakhimzhanov were convicted to 5 years in prison and a 5-year ban on social and political activities; while Diana Baimagambetova, Gulzipa Dzhauserova, Ninagul Dzhumaniyazova, Dametkan Aspandiyarova, Marat Kurbanov, Darkhan Valiyev, Bakdaulet Alibekov, Yermek Koziyev, Bolat Smagulov were convicted to 1-2 years of restriction of liberty and a 3-year ban on social and political activities.

- Furthermore, the EP resolution as well as PACE members⁴² called on the government of Kazakhstan **to release and rehabilitate political prisoners**. While this did not happen, a new wave of persecution was unleashed.

As of 26 October 2021, there are **16 political prisoners in Kazakhstan** - Bekizhan Mendygazyev, Erulan Amirov, Igor Chuprina, Ruslan Ginatullin, Yerzhan Yelshybayev, Saltanat Kusmankyzy, Baurzhan Jussupov, Natalia Dauletiyarova, Rinat Batkayev, Yerbol Yeskhozhin, Askar Kayyrbek, Ulasbek Akhmetov, Askhat Zheksebayev, Kairat Klyshev, Noyan Rakhimzhanov, Abai Begimbetov. Politically motivated criminal cases have been opened against at least 65 individuals in Kazakhstan. All of them face imprisonment. Of the 65 prosecuted, 45 are being prosecuted on “extremism” charges for supporting “Koshe Partiyasy” and DCK peaceful opposition movements. Over 72 people were sentenced in politically motivated criminal cases (*more details in the Attachment*).⁴³

Some cases are particularly brutal and manifest the authorities’ contempt for the very life of political prisoners. Their cases are analyzed in detail in this report.⁴⁴ A few examples:

- **Bekizhan Mendygazyev**, brother of Barlyk Mendygazyev, a businessman, philanthropist and civil activist who founded Karachaganak Support Services (KSS) and Human Rights Foundation “Freedom Kazakhstan”. Barlyk is forced to live outside Kazakhstan, so the authorities have fabricated criminal cases against his relatives and employees of his former company KSS. They have been taken hostage and the investigation is demanding that they testify against Barlyk. Bekizhan’s only crime is to be the wrong man’s brother and provide financial aid to families of political prisoners on his brother's requests. He has been kept in pre-trial detention⁴⁵ since June 2021 on charges of "tax evasion", "money laundering", “criminal organisation”, despite having no work-related connection to his brother. He has severe chronic diseases and is not receiving appropriate treatment in prison.
- **Nataliya Dauletiyarova**, an associate of Barlyk Mendygazyev, sentenced to 7 years’ imprisonment based on dubious charges. The appellate court increased the sentence by replacing the restriction of liberty with imprisonment after Dauletiyarova publicly stated that she had been subjected to

⁴² Parliamentary Assembly of the Council of Europe, *Persecution of civil society in Kazakhstan: personal sanctions must be imposed and trade co-operation reviewed*, 31 January 2020, <https://pace.coe.int/en/files/28587>

⁴³ https://en.odfoundation.eu/content/uploads/2021/11/attachment-1_list-of-political-prisoners-and-victims-of-political-persecution-in-kazakhstan.pdf

⁴⁴ Open Dialogue Foundation, *Political prisoners and victims of political persecution in Kazakhstan*, <https://en.odfoundation.eu/a/52893,political-prisoners-and-victims-of-political-persecution-in-kazakhstan/>

⁴⁵ Open Dialogue Foundation, *MEPs call on Kazakhstan to cease persecution of Barlyk Mendygazyev*, <https://en.odfoundation.eu/a/37326,meps-call-on-kazakhstan-to-cess-persecution-of-barlyk-menydgyazyev/>

psychological pressure and torture by agents of the security services in order to obtain false testimony against Mendygazyev;

- **Yerulan Amirov**, sentenced for “extremism” over an Internet video in which he called on people to speak up against the government. He was sent to a psychiatric hospital. The practice of locking dissidents up in psychiatric facilities was a classic Soviet method and has not been forsaken by the current Kazakhstani authorities;
- **Saltanat Kusmankyzy**, a corruption whistleblower, sentenced to prison for exposing accounting fraud of millions of dollars at the Kazakhstani companies “As-Ai Ltd” TOO and “Minmetals Kazakhstan” TOO. It is suspected that Nazarbayev’s brother, Bolat, might be behind the companies.

Assault on human rights whistleblowers & whitewashing campaigns in foreign capitals - a direct blow to Kazakhstan’s international partners. The National Security Committee of Kazakhstan is going after the very people who gave the international community and organisations, incl. the EP, the PACE, the OSCE, precious information about human rights violations. Multiple forms of pressure, including harassment, criminal and administrative politically motivated persecution are initiated against members of the human rights movements “Qaharman”, “405”, “BostandyQ Kz”, “Femina Virtute”, “Veritas”, “Elimay” and “Article 14”, who provided the international partners with real data and stories not in line with the narrative of the government.

For instance, the Kazakhstan International Bureau for Human Rights and Rule of Law reports⁴⁶ on the case of a civil activist Asylkhan Zhaubatyrov, who was placed in a pre-trial detention facility in May 2021. Charged with “extremism”, his only crime was releasing a video in which he holds a blank piece of paper and calling on the Portuguese foreign minister to raise the issue of human rights violations with the Kazakhstani government and impose personal sanctions against perpetrators. On 10 September 2021, Asylkhan Zhaubatyrov was convicted to 1 year of restriction of liberty and a 1-year ban on social and political activities.

According to the Ombudsman’s 2020 report,⁴⁷ the country continues to “work to strengthen the protection of human rights” and “implement a number of legal reforms”. **Meanwhile, five opposition activists – Dulat Agadil, Amanbike Khairolla, Serik Orazov, Garifulla Embergenov, and Zhanbolat Agadil – were killed in Kazakhstan in 2020.**^{48, 49} They were subjected to arrests, criminal prosecution, torture, and 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 available evidence allows these cases to be characterised as political killings

⁴⁶ Bureau.kz, Void Strike, 10.09.2021, available at: <https://bureau.kz/novosti/udar-pustoty/>

⁴⁷ Report of the Ombudsman for Human Rights in the Republic of Kazakhstan for 2020, <https://www.gov.kz/memleket/entities/ombudsman/documents/details/166034?directionId=13134&lang=ru>

⁴⁸ Parliamentary questions of the Members of the European Parliament Brando Benifei (S&D), Dietmar Köster (S&D), Niklas Nienäb (Verts/ALE), Jordi Solé (Verts/ALE), Helmut Scholz (GUE/NGL), Helmut Geuking (ECR), Dimitrios Papadimoulis (GUE/NGL), Andrius Kubilius (PPE), *Political killing in the Republic of Kazakhstan* https://www.europarl.europa.eu/doceo/document/E-9-2020-006448_EN.html

⁴⁹ Open Dialogue Foundation, *Political Killing in Kazakhstan. List of persons to be subjected to sanctions regarding the case of Dulat Agadil* <https://en.odfoundation.eu/a/32138.political-killing-in-kazakhstan-list-of-persons-to-be-subjected-to-sanctions-regarding-the-case-of-dulat-agadil/>

that were the result of repressive policies of the authoritarian state against members of civil society and the opposition.⁵⁰

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”.⁵¹

Why it matters: The government of Kazakhstan is wary of the imposition of personal sanctions by the EU and the US, as in the case of Russia and Belarus regimes, since a significant part of assets of corrupt origins reside outside of Kazakhstan. To whitewash the country’s international image, the authorities utilize various international visits to the EU and the US with the participation of the Ombudswoman Elvira Azimova, representatives of GONGO, the Special Representative for International Cooperation Erzhan Kazykhanov, the Minister of Justice Marat Beketayev, and members of the Parliament of Kazakhstan. Their mission is to report on the new ‘democratic’ agenda of transforming Kazakhstan into the so-called ‘listening state’,^{52,53} implementation of which looks hollow in reality. For example, Special Representative for International Cooperation Erzhan Kazykhanov paid a visit to the US to present President Tokayev’s ‘political reforms’, and the EU-Central Asia Civil Society Forum was used as a platform for improving Kazakhstan’s international image.^{54,55}

At the same time, while fearing it, Kazakhstan proves that it does not respect recommendations of its Western partners.⁵⁶ The European Parliament’s 11 February 2021 resolution clearly stated, for instance, that political prisoners should be released, that the abuse of the law on extremism should cease, that persecution against Baryk Mendygazyev should stop. Not only none of this happened, but the government unleashed persecution against those who made the resolution possible and doubled down on previous abuses. The Minister of Justice Beketayev claimed that there are “no political prisoners in Kazakhstan”,⁵⁷ a blatant lie.⁵⁸

Western democracies need to raise their voice in all of this, as its very authority and credibility are at stake: the Kazakhstani authorities treat their Western partners as areas of easy PR campaigns. It is vital that countries and international organisations committed to supporting democracy and human rights,

⁵⁰ Open Dialogue Foundation, *Political prisoners and victims of political persecution in Kazakhstan*

<https://en.odfoundation.eu/a/52893,political-prisoners-and-victims-of-political-persecution-in-kazakhstan/>

⁵¹ The #ActivistsNotExtremists post: *INACTION OF THE NAZARBAYEV REGIME'S LOBBYISTS IS RECORDED*

<https://www.facebook.com/groups/ActivistsNotExtremists/posts/3023971651255431/>

⁵² The concept of a ‘listening state’ was announced by President Tokayev in 2019 as a liberalisation and democratic reform course:

https://www.akorda.kz/en/addresses/addresses_of_president/president-of-kazakhstan-kassym-jomart-tokayevs-state-of-the-nation-address-september-2-2019

In reality, however, it has led to even greater repression and restrictions on civil rights and freedoms in Kazakhstan:

<https://rus.azattyq.org/a/tokayev-said-vs-done/30999995.html>;

⁵³ Foreign Policy Centre, *Human rights and civil liberties in Kazakhstan: A matter of efficiency?* <https://fpc.org.uk/human-rights-and-civil-liberties-in-kazakhstan-a-matter-of-efficiency/>

⁵⁴ Kaztag.kz, *Special Representative Tokayev meets with White House, State Department and Congress leaders*

<https://kaztag.kz/ru/news/spetspredstavitel-tokaeva-vstretilsya-s-rukovodstvom-belogo-doma-gosdepa-i-kongressa-ssha/>

⁵⁵ Ministry of Information and Community Development of the Republic of Kazakhstan, *The EU-Central Asia Civil Society Forum on the post-pandemic was held* <https://www.gov.kz/memleket/entities/qogam/press/news/details/266027?lang=ru>

⁵⁶ Human Rights Watch, *Kazakhstan: Crackdown on Government Critics* <https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>

⁵⁷ Kursiv, *The US will work with Kazakhstan on political prisoners* <https://kursiv.kz/news/obschestvo/2020-01/ssha-provedut-rabotu-s-kazakhstanom-po-politzaklyuchennym>

⁵⁸ Open Dialogue Foundation, *Political prisoners and victims of political persecution in Kazakhstan*

<https://en.odfoundation.eu/a/52893,political-prisoners-and-victims-of-political-persecution-in-kazakhstan/>

such as the EU, the US or Canada, stand up for those who drive genuine democratic change in Kazakhstan. Besides, it is essential that their diplomatic missions intensify their cooperation with civil society, especially with victims of political repressions and human rights defenders working on political rights. It is of utmost importance that diplomats on the ground attend political trials and pay visits to political prisoners to gain first-hand information on human rights abuses.

If the Western democracies are to maintain some influence in Kazakhstan vis-à-vis China and Russia, it will be through a strong defense of civil society - of the people, not of the regime.

Key recommendations for Western democracies:

- to request the authorities of Kazakhstan to implement without further delay the recommendations of the EP's urgent resolution of 11 February 2021. There can be no mutual trust without the respect of fundamental rights;
- to demand President Tokayev release political prisoners immediately and unconditionally and stop politically motivated persecution;
- impose personal sanctions for systematic violations of human rights against the Chairman of the National Security Council Nursultan Nazarbayev, the Chairman of National Security Committee Karim Massimov, the General Prosecutor Gizat Nurdauletov, the Minister of Internal Affairs Yerlan Turgumbayev, the Chairman of Yesil court Ruslan Mazhitov;
- to stand up for freedom of the Internet and to demand the upcoming law on mandatory registration of social media in Kazakhstan to be dropped; to raise the issue with Kazakhstani decision-makers and with the social media companies involved; to recall general freedom of the Internet and freedom of expression; to demand that lawyers can use social media and the media in general freely, without fearing reprisal under the draft of the Lawyer Code of Conduct when they handle politically motivated cases;
- to demand that Kazakhstani authorities abandon the transfer of country's digital sovereignty to Russia and China;
- to support local civil society by considering the allocation of additional grant fundings to independent organisations monitoring human rights and civil liberties.

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