

# TRANSNATIONAL PERSECUTION OF DANIYAR KHAZENOV

## Methods used by Kazakhstan in their fight against a human rights defender



**The Open Dialogue Foundation** was established in Poland in 2009 on the initiative of Ukrainian student and civic activist Lyudmyla Kozlovska (who currently serves as President of the Foundation). Since its founding, the statutory objectives of the Foundation include the protection of human rights, democracy and the rule of law in the post-Soviet area. In July 2017, the area of interest of the Foundation was expanded due to the rapidly deteriorating situation in Poland and other EU member states affected by illiberal policies implemented by their populist governments. The Foundation has its permanent representations in Brussels, Warsaw, Miami and Kyiv.

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**Human Rights Protection Foundation “Qaharman”** – a Kazakhstani human rights organisation established for the purpose of protecting fundamental human rights in Kazakhstan, in particular, the right to peaceful assembly, the right to a fair trial, and the 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 was officially registered in February 2020. 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. 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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**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.

Facebook: [Bostandyq Kz](#)

**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.

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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.

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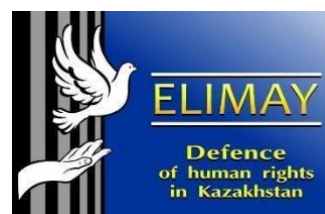
Human rights movement "Article 14" was established on 5 November 2020 with the aim of monitoring the right to fair justice in Kazakhstan. The members of the movement inform citizens of Kazakhstan and the international community about violations of the right to a fair trial, fight for greater transparency in the justice process, and draw public attention to violations during trials.

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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 for an end to all forms of political repression and the release of political prisoners in Kazakhstan.

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Freedom Kazakhstan Foundation was founded on 13 July 2020 by the Kazakhstani businessman and philanthropist Barlyk Mendygazyev. The aim of the Foundation is to provide financial and legal assistance to victims of political repression in Kazakhstan – political prisoners, participants of peaceful protests, civil activists and human rights defenders. The Foundation supports the creation of a sanctions list of Kazakhstani officials who are involved in gross human rights violations. The leader and founder of the Foundation is Barlyk Mendygazyev.

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**Table of Content:**

<b>INTRODUCTION .....</b>	<b>5</b>
<b>RECORD OF DANIYAR KHASENOV'S PERSECUTION IN KAZAKHSTAN .....</b>	<b>7</b>
<b>Criminal prosecution .....</b>	<b>8</b>
<b>Departure from Kazakhstan .....</b>	<b>8</b>
<b>Departure to Lithuania .....</b>	<b>9</b>
<b>REFUTATION OF INFORMATION PROVIDED BY THE LITHUANIAN MIGRATION SERVICE ON THE HUMAN RIGHTS SITUATION IN KAZAKHSTAN.....</b>	<b>9</b>
<b>Constitutional “reform” .....</b>	<b>10</b>
<b>Amnesty for participants in the January events .....</b>	<b>11</b>
<b>The bogus nature of state human rights institutions.....</b>	<b>11</b>
<b>International assessment of the situation with human rights and democratic freedoms in Kazakhstan.....</b>	<b>12</b>
<b>PERSECUTION RISKS DANIYAR KHASENOV MAY FACE IN KAZAKHSTAN .....</b>	<b>12</b>
<b>Criminal case against Lyudmyla Kozlovska and the Open Dialogue Foundation in Belgium following a complaint by citizens of Kazakhstan .....</b>	<b>12</b>
<b>Persecution of Altynai Tuxikova, Head of the Qaharman Human Rights Defence Foundation, and other human rights defenders in Kazakhstan .....</b>	<b>13</b>
<b>Activity on disclosure of facts of co-operation between Kazakhstan and Russia.....</b>	<b>14</b>
<b>Threat of torture or ill-treatment in Kazakhstan .....</b>	<b>15</b>

## INTRODUCTION

Daniyar Khasenov is a Kazakhstani human rights defender who was forced to leave Kazakhstan in 2019 due to politically motivated criminal prosecution. The Kazakhstani authorities are continuing a transnational repression against Khasenov because of his human rights and expert work.

In July 2023, the Lithuanian Migration Department refused to grant Daniyar Khasenov asylum or subsidiary protection. His second application is currently under consideration. There is a risk that Khasenov will be denied asylum again and deported from the country. Such a decision would put the human rights defender's life in danger, as he would face politically motivated criminal prosecution in Kazakhstan.

The decision of the Migration Department to refuse asylum to Daniyar Khasenov is based on incorrect and even “complimentary” information about the situation with respect to human rights and democratic reforms in Kazakhstan. The Department noted that “*asylum cannot be granted on the hypothetical risk of persecution in the country of origin*”. However, the scale of political repression in Kazakhstan indicates that the risk of persecution of Daniyar Khasenov is not hypothetical.

Despite assurances by the Kazakhstani authorities that they are allegedly carrying out large-scale reforms and political liberalisation, the human rights situation in the country has deteriorated significantly in recent years. The Kazakhstani authorities persecute civil society representatives, human rights defenders and the opposition for voicing opinions, participating in peaceful rallies, supporting peaceful opposition movements, disseminating information about corruption and human rights violations, peacefully criticising the authorities through social media and publicly expressing disagreement with Kazakhstan's international policies.<sup>1</sup> There are currently **at least 45 political prisoners in Kazakhstan**, and the number continues to grow.

In Kazakhstan, the executive branch of government controls the judicial and legislative branches.<sup>2</sup> Politically motivated trials have a clear accusatory bias. In most cases, the accused receive guilty verdicts requested by the state prosecution. The percentage of acquittals in Kazakhstani courts is about 1–2 per cent.<sup>3,4</sup> The most common evidence against defendants is “remorse” and “confession of guilt”, which in most cases are the result of pressure and torture.

Torture in Kazakhstan in relation to the persecuted and convicted has a systemic character. Every year, Kazakhstani human rights defenders record more than 200 allegations of torture and ill-treatment. Only in isolated cases are the perpetrators of torture prosecuted. According to Lithuanian legislation (Article 87 of the Law on the Legal Status of Foreigners<sup>5</sup>), the likelihood of torture or ill-treatment in the country of origin is grounds for granting additional protection to an asylum seeker.

The presidency of Kasym-Jomart Tokayev was marred by the largest anti-government protests in the history of independent Kazakhstan, which took place in January 2022. During the protests, the military and law enforcement agencies shot more than 200 civilians on President Tokayev's orders. More than 10,000 people were arbitrarily detained. Peaceful protesters were tortured *en masse*. **A military contingent of the Collective Security Treaty Organisation (CSTO) provided support in suppressing of the protests.** According to official data, the CSTO sent about 3,600 military personnel to Kazakhstan, most of them from Russia.<sup>6</sup> The CSTO operation in Kazakhstan was led by Russian Andrei Serdyukov. The deployment of troops was carried out by a group of more than 70 aircraft arranged by the Russian Ministry of Defence.<sup>7</sup> Officially, the CSTO military allegedly did not take part in the suppression of the protests.

<sup>1</sup> <https://en.odfoundation.eu/a/684292,repressions-and-political-prisoners-in-tokayevs-new-kazakhstan/>

<sup>2</sup> <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/kazakhstan/>

<sup>3</sup> <https://fidu.it/en/kazakhstan-the-final-report-of-fidus-april-mission/>

<sup>4</sup> <https://www.energyprom.kz/ru/a/monitoring/ne-opravdyvajtes-shans-poluchit-opravdatelnyj-prigovor-po-ugolovnym-delam-v-kazhstane-menee-2>

<sup>5</sup> <https://e-seimas.lrs.lt/rs/legalact/TAD/TAIS.423720>

<sup>6</sup> <https://www.bbc.com/russian/features-64121146>

<sup>7</sup> <https://vz.ru/news/2022/1/7/1137646.html>

However, video footage from Almaty airport showing the military brutally beating and detaining civilians has been released to the media.<sup>8</sup> Almaty airport was one of the facilities that were under the protection of the CSTO military contingent. It is worth noting that the CSTO operation in Kazakhstan was used by Russia to demonstrate its military might ahead of a full-scale military invasion of Ukraine. The CSTO's involvement in suppressing the protests demonstrated Russia's full support for President Tokayev.

**Daniyar Khasenov's human rights and expert activities will trigger a new prosecution in Kazakhstan should he return to Kazakhstan.** Since 2022, Daniyar Khasenov has been involved in collecting data and preparing expert reports<sup>9, 10, 11, 12, 13, 14, 15</sup> on how Central Asian countries (mainly Kazakhstan) help Russia circumvent international sanctions and obtain resources to continue to wage its war against Ukraine. The issue of co-operation with Russia is very sensitive for the Kazakhstani authorities, who are trying to hide these facts. In 2024, in Ukraine, Kazakhstani security services killed journalist Aidos Sadykov, who had publicly accused Tokayev of helping Russia. Earlier, in 2023, the leader of the opposition party Alga Kazakhstan, Marat Zhylyanbayev, was convicted on trumped-up charges in Kazakhstan. Marat Zhylyanbayev, who organised rallies demanding an end to cooperation with Russia and disclosed facts of assistance to Russia by Kazakhstan's leadership.

The Kazakhstani authorities organised criminal proceedings against the Open Dialogue Foundation and its President Lyudmyla Kozlovska in Belgium in connection with public coverage of political repression in Kazakhstan. Daniyar Khasenov also appears in the criminal case materials. This indicates that, if returned to Kazakhstan, the human rights defender will be prosecuted.

Members of the European Parliament, as well as civil society representatives from Kazakhstan, Italy and Ukraine appealed to the Lithuanian authorities to prevent Daniyar Khasenov from being deported from the country and to grant him asylum. Thus, on 25 July 2023, MEPs Isabel Santos, Petras Auštrevičius, Róza Thun, Viola von Kramon-Taubadel, Nacho Sanchez and Helmut Scholz called on the Lithuanian authorities to reconsider the decision not to grant asylum to Daniyar Khasenov. In a letter dated 21 December 2023, Isabel Santos, Petras Auštrevičius and Róza Thun called on the Lithuanian authorities to prevent the deportation of the human rights defender due to the risks of persecution, arrest and torture, and urged that he be granted political asylum.<sup>16</sup>

In addition to the Open Dialogue Foundation, the leading Kazakhstani human rights organisations Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and Ar.Rukh.Khak, the Italian Federation for Human Rights (FIDU), as well as the Ukrainian human rights organisation Centre for Civil Liberties and its head Oleksandra Matviychuk, Nobel Peace Prize winner, spoke in defence of Daniyar Khasenov.

On 2 October 2024, 25 PACE deputies signed a written declaration calling on the Kazakhstani authorities to stop abusing international legal co-operation and to stop acts of transnational repression against human rights defenders, including against Daniyar Khasenov.<sup>17</sup>

The coalition of human rights organisations #ActivistsNotExtremists<sup>18</sup> and Freedom Kazakhstan Foundation, based on their long-term experience of monitoring the situation with human rights and security of human rights defenders in Kazakhstan, believes that it is extremely dangerous for Daniyar Khasenov to return to Kazakhstan. The facts indicate that he is on the radar of Kazakhstani law

<sup>8</sup> [https://www.youtube.com/watch?v=4nuo4QH3vkM&ab\\_channel=%D0%91%D0%90%D0%A1%D0%95](https://www.youtube.com/watch?v=4nuo4QH3vkM&ab_channel=%D0%91%D0%90%D0%A1%D0%95)

<sup>9</sup> <https://en.odfoundation.eu/a/494919,kremlins-secret-ally-how-tokayev-is-helping-putin-circumvent-sanctions/>

<sup>10</sup> <https://en.odfoundation.eu/a/508247,the-secret-of-tokayev-and-putin-how-to-circumvent-the-oil-embargo/>

<sup>11</sup> <https://en.odfoundation.eu/a/570712,everything-for-the-front-everything-for-victory-how-tokayev-helps-putin-while-fooling-ukraine-and-the-west/>

<sup>12</sup> <https://en.odfoundation.eu/a/624385,the-beneficiaries-of-russias-war-against-ukraine-how-the-nazarbayev-tokayev-regime-is-helping-putin/>

<sup>13</sup> <https://en.odfoundation.eu/a/684240,russias-decade-long-war-against-ukraine-how-to-accelerate-ukrainian-victory/>

<sup>14</sup> <https://en.odfoundation.eu/a/725388,strengthening-the-axis-of-evil-dictatorships-against-ukraine/>

<sup>15</sup> <https://en.odfoundation.eu/a/723375,diamonds-are-not-forever-analysing-ineffectiveness-of-diamond-embargo-in-hurting-russias-economy/>

<sup>16</sup> <https://www.facebook.com/petras.austrevicius/posts/pfbid02Vb9RMzG9FUoeDdJsoM5EstqffRn4FJLQm4kEKMTfu3V2mcLegTAuKoiCaApKBgDNl>

<sup>17</sup> <https://pace.coe.int/en/files/33814/html>

<sup>18</sup> <https://en.odfoundation.eu/projects-and-campaigns/activistsnotextremists/>

enforcement agencies and special services and, if returned to Kazakhstan, will be subjected to yet another politically motivated prosecution.

## **RECORD OF DANIYAR KHASENOV'S PERSECUTION IN KAZAKHSTAN**

Daniyar Khasenov started to engage in human rights activities in early 2019. As a student at medical university, he started attending various rallies and protests. His goal was to monitor the observance of human rights by representatives of the authorities. He recorded unlawful detentions, use of force against protesters and other unlawful actions of police officers and special services.

Khasenov also began attending political trials as an observer from international human rights organisations. He communicated with victims of political repression and their relatives. In social networks, he published information about cases of human rights violations in Kazakhstan. Daniyar Khasenov co-founded the Qaharman Human Rights Defence Foundation, with which he continues to cooperate to this day.

Mass political repression in Kazakhstan at the time was linked to the banning of the peaceful opposition movement Democratic Choice of Kazakhstan. In March 2018, a Kazakhstani court recognised DCK as an “extremist organisation” that “incites social discord”, “forms a negative image of the authorities”, “shapes protest moods”, “inflames social tension” and “incites political disobedience”.<sup>19</sup> In fact, opposition activity was equated with extremism. In May 2020, another opposition movement, Koshe Partiyasy, was banned in Kazakhstan. Thousands of supporters of DCK and Koshe Partiyasy throughout Kazakhstan were persecuted. The European Parliament in its resolutions<sup>20, 21, 22</sup>, has repeatedly recognised the peaceful nature of the activities of the DCK and Koshe Partiyasy.

On 27 February 2019, Daniyar Khasenov was first detained at one of the protests where he was monitoring the observance of human rights. He was taken to the police station and interrogated there. Since that moment, Khasenov has come to the attention of the Kazakhstani law enforcement agencies.

**In March and May of 2019, Khasenov was detained three more times by the police.** The detentions were conducted preventively, before the DCK rallies were due to take place. At the police station, Khasenov was interrogated, and asked whether he supported the DCK and “how much money he was paid to destabilise the situation in Kazakhstan”.

On 17 March 2019 Khasenov received a summons to the military enlistment office. Since he was a student, he had a legal deferment from being drafted into the army. Therefore, the summons can be regarded as an element of pressure. In addition to Khasenov, several other civil activists received summonses, one of them — Alimzhan Izbasarov — was eventually drafted into the army.<sup>23</sup> Khasenov was also subjected to other methods of pressure. Police officers and local authorities came to him and tried to persuade him that he should stop going to the protests and that, otherwise, a criminal case would be opened against him. In addition, Khasenov was also pressured at the university. Representatives of the special services threatened Khasenov that he would be expelled from the university and his parents would lose their jobs.

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<sup>19</sup> <https://www.facebook.com/gulnara.iu/posts/1549569151855938>

<sup>20</sup> [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>21</sup> [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>22</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0012\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0012_EN.html)

<sup>23</sup> <https://www.currenttime.tv/a/kazakhstan-activists-army/29961195.html>

## Criminal prosecution

On 1 June 2019, Daniyar Khasenov was detained and taken to the police department. He was again threatened with imprisonment if he did not stop his human rights activities and continued to attend protests. **At that time, a criminal case had already been opened against Khasenov on suspicion of involvement in the DCK opposition movement. However, Khasenov was not informed of this.** The Kazakhstani authorities abused anti-money laundering and anti-terrorism legislation to freeze the bank accounts of Daniyar Khasenov and members of his family — his father and sister.

In June, Khasenov intended to leave for Austria for a month to study and attend a PACE conference. However, he was informed at the airport that he was banned from leaving the country. Khasenov submitted official requests to the Border Guard Service, the Department of Migration and the Ministry of Justice, where he received replies that he was not banned from leaving the country. Despite this, his subsequent attempts to leave Kazakhstan were also blocked.

MEP Julia Ward, Italian MPs Roberto Rampi, Mauro del Barba, Valeria Fedeli and Lia Quartapelle, as well as the UN Working Group on Arbitrary Detention and three UN Special Rapporteurs (on the situation of human rights defenders; on the promotion and protection of the rights to freedom of opinion and expression; on the right to freedom of peaceful assembly and association) requested the Kazakhstani authorities to explain the reasons for the persecution of Daniyar Khasenov and the restrictions imposed on him. The Kazakhstani authorities responded that Khasenov had allegedly participated in unauthorised DCK rallies. However, in fact, Khasenov could not have participated in the rallies, as he had been constantly detained since even before they had started. Nevertheless, after publicity and official requests to the Kazakhstani authorities, the bank accounts of Khasenov and his family members were unblocked. The ban on travelling out of the country was also lifted.

In July 2019, Khasenov learned that in early May (4 May 2019) a criminal case was opened against him under Article 405 Part 2 of the Criminal Code (“participation in an extremist organisation”). The investigator issued an order to block Khasenov's bank accounts and ban him from leaving Kazakhstan. It should be noted that, in the legislation of Kazakhstan, there is no preventive measure in the form of a ban on leaving the country. In order to prevent Daniyar Khasenov from leaving the country, the investigator had to make Daniyar Khasenov sign a pledge not to leave the country.

By decision of the investigative body, Khasenov was granted the procedural status of “**witness with the right of defence**”. Under Kazakhstani law, this procedural status means that a person is formally a witness, but a criminal case is open against him and preventive measures may be taken. At any time, a “witness with the right of defence” may become a suspect. In the Kazakhstani reality, the procedural status of “witness with the right of defence” is often used in political repression to, on the one hand, exert pressure on the persecuted person and, on the other hand, to conceal the fact of criminal prosecution. In multiple cases, witnesses with the right of defence have had their status changed to the status of suspects and subsequently been convicted.

In early August 2019, with the assistance of the human rights organisation Ar.Rukh.Khak, Khasenov organised a press conference in connection with his persecution. Immediately after the press conference, he was detained. Following this, Khasenov's house was searched. His computer with confidential information, phone and documents were seized. His lawyer was not allowed to be present during the search.

## Departure from Kazakhstan

Thanks to international pressure, the illegal ban on Daniyar Khasenov's departure from the country was lifted. On 16 August 2019, he was summoned for questioning, during which the investigator informed him



that there was no ban on leaving the country. After that, Khasenov decided that it was necessary to leave Kazakhstan immediately, before he was arrested.

On 18 August 2019, Khasenov left Kazakhstan. He first went to Kyrgyzstan, where he stayed for about two weeks. After that, he flew to Ukraine, where eventually he managed to obtain a residence permit.

In Ukraine, Khasenov continued to monitor human rights in Kazakhstan. He cooperated with several human rights organisations — the Italian Federation for Human Rights (FIDU), the Centre for Civil Liberties and the Open Dialogue Foundation — for which he provided information on human rights violations in Kazakhstan. As a human rights defender, Khasenov has participated in events under the auspices of the UN, OSCE and PACE. He has also met with members of the European Parliament, MPs from Germany, France, Italy, the UK and Ukraine. During the meetings, he spoke about the human rights situation in Kazakhstan.

In March 2020, while Khasenov was doing an internship at the European Parliament in Brussels, his Kazakh passport was stolen. This necessitated his return to Kazakhstan to obtain a new one. As Khasenov was interning at the European Parliament at the time and had the support of the international community, he took the risks and travelled to Kazakhstan for a few weeks. After obtaining a new passport, Khasenov returned to Ukraine.

### **Departure to Lithuania**

Due to Russia's full-scale military invasion of Ukraine, Daniyar Khasenov decided to leave Ukraine for his own safety. On 1 March 2022 he left for Poland, and after that he moved to Lithuania.

On 15 March, 2022, Daniyar Khasenov submitted an asylum application to the Migration Department of the Ministry of Interior of the Republic of Lithuania.

On 14 July, 2023, the Migration Department refused to grant Daniyar Khasenov asylum or subsidiary protection in Lithuania. Khasenov filed an appeal against this decision.

On 5 October, 2023, the Vilnius Regional Administrative Court satisfied the appeal of Daniyar Khasenov, cancelled the decision of the Migration Department and ordered to re-examine Khasenov's asylum application. However, on 13 December, 2023, the Supreme Court cancelled the decision of the Vilnius Regional Court and rejected Daniyar Khasenov's appeal. After that, Daniyar Khasenov filed a second asylum application, which is currently under consideration. At the end of December 2023, the Migration Department issued a decision to deport Daniyar Khasenov. He appealed this decision. In May 2024, the Supreme Administrative Court of Lithuania confirmed the deportation decision, but its execution is suspended until the second asylum application is decided.

### **REFUTATION OF INFORMATION PROVIDED BY THE LITHUANIAN MIGRATION SERVICE ON THE HUMAN RIGHTS SITUATION IN KAZAKHSTAN**

The decision of the Migration Department and the Supreme Court of Lithuania to deny asylum or subsidiary protection to Daniyar Khasenov is based on incorrect and even complimentary information about the human rights situation and democratic reforms in Kazakhstan.

In particular, the decision to deny asylum noted that *“despite the political turmoil in Kazakhstan in January 2022, the political and human rights situation in the country has been improving. In 2022, two sets of amendments to the Constitution were adopted – on 8 June and 17 September – which limited*

*the powers of the President and his term of office to one seven-year term, established the position of Commissioner for Human Rights, and changed the structure of the Government”.*

However, this statement does not correspond to reality. The human rights situation in Kazakhstan rapidly continues to deteriorate year after year. Currently, there are **at least 45 political prisoners in Kazakhstan**, and this figure continues to grow.

The following information demonstrates the fallacy of the conclusions of the Migration Department and the Supreme Court of Lithuania on the human rights situation in Kazakhstan.

### **Constitutional “reform”**

**In June 2022, Kazakhstan held a national referendum to adopt amendments to the country's Constitution.** According to official results, the amendments were allegedly supported by 77% of citizens who participated in the voting. The official turnout was 68%. During the referendum, numerous violations were recorded<sup>24</sup> — ballot stuffing, non-admission of independent observers to polling stations, use of administrative resources to increase the voter turnout. The amendments to the Constitution were introduced in a package — voters did not have the opportunity to choose which amendments they supported and which they did not.

Amendments to the Constitution include, inter alia, limiting the presidential rule to one term of seven years, restoring the Constitutional Court in Kazakhstan, removing all references to the first president Nursultan Nazarbayev from the Constitution, prohibiting the president from being a member of political parties, prohibiting relatives of the president from holding senior positions in the public sector, introducing a mixed electoral system for elections to the Majilis (the lower house of the Parliament of Kazakhstan), allowing non-party citizens to run for office, and also allegedly simplification of the party registration procedure.

However, in fact, the **changes to the Constitution are a facade and do not change the essence that Kazakhstan remains a super-presidential republic**, where all power is concentrated in the hands of one person — the president.

- The President of Kazakhstan “determines the main directions of domestic and foreign policy of the state”. He appoints the Prime Minister and members of the government (including the Minister of Defence and the Minister of Internal Affairs), the Prosecutor General, the head of the National Security Committee (KNB), the heads of the National Bank and the Central Election Commission. The president appoints governors and mayors of cities, including the mayor of the capital. The president also calls regular and extraordinary elections of both houses of parliament, which allows him to **control the legislative branch**. The President appoints the President of the Constitutional Court and submits a proposal to the Senate for the appointment of the President and judges of the Supreme Court, and, on the recommendation of the Supreme Judicial Council, appoints and dismisses the presidents and judges of local and other courts, which also enables him to **control the judicial branch of government**.
- By limiting presidential rule to one 7-year term, Tokayev actually increased the length of time he could serve as president. According to the old version of the Constitution, he had the right to be president for two terms of five years each. However, according to the new revised Constitution, seven more years will be added to the four years of rule at the time of 2022. Thus, he will rule the country for at least 11 years.
- As the experience of the extraordinary parliamentary elections in March 2023 showed, the change in the electoral system played into the hands of the pro-governmental party Amanat and allowed it to

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<sup>24</sup> <https://rus.azattyq.org/a/kazakhstan-referendum-constitutional-reform-5-june/31884003.html>

increase the number of deputies in the Majilis. None of the independent candidates for the Majilis were able to enter parliament due to massive rigging. Party registration remains an impossible mission for opposition forces, which are systematically rejected under various pretexts.

### Amnesty for participants in the January events

The decision of the Migration Department noted that, after the January 2022 events, the Kazakhstani authorities adopted an amnesty law that resulted in most of the accused being released.

Following the suppression of the peaceful January protests and related events, **a minimum of 1,273 people were convicted on criminal charges**. Due to international pressure, the authorities went ahead with a large-scale amnesty, which was applied to 1,151 people. However, it should be noted that the amnesty does not provide for the acquittal of convicted persons, who remain restricted in their rights — they have outstanding criminal records and have not received compensation for torture and ill-treatment. Such persons are effectively prevented from accessing and using financial and insurance services (**in particular, their bank accounts have been closed or frozen due to convictions for “extremism” and abuse of anti-money laundering and anti-terrorism legislation**). They also face discrimination in employment and renting accommodation. The authorities officially apologised for isolated incidents of unlawful persecution and deprivation of life of civilians.<sup>25, 26</sup> There have been few cases where compensation has been paid to victims and their relatives.<sup>27</sup> In addition, the amnesty also applied to law enforcement officials who were thus able to avoid accountability for the shooting of civilians, mass arbitrary detention, torture and ill-treatment during the crackdown on peaceful protests in January 2022.

### The bogus nature of state human rights institutions

The decision of the Migration Department notes that, in Kazakhstan, “*there are state human rights institutions: the Commission on Human Rights under the President of the Republic of Kazakhstan and the Commissioner for Human Rights*”. However, these institutions are not independent in their activities and, as a rule, only imitate human rights activities.

The Commissioner for Human Rights (Ombudsman) is appointed by the Senate of Parliament on the proposal of the President, making him or her dependent on the President. The current ombudsman is Artur Lastayev, who formerly worked in the prosecutor's office of Kazakhstan. Previous ombudsmen have also been state officials. Kazakhstani human rights defenders have repeatedly complained about the activities of the Ombudsman<sup>28, 29, 30, 31</sup> for ignoring human rights issues in Kazakhstan. The previous ombudsman, Elvira Azimova, was noted for emphasising during her foreign visits the “effectiveness of human rights reforms” under President Tokayev's “listening state” concept<sup>32</sup>, effectively whitewashing the reputation of the Kazakhstani regime.

Similarly, the Commission on Human Rights under the President of the Republic of Kazakhstan is an advisory body, the composition of which is approved by the President. Thus, neither the Commission nor the Ombudsman can be independent and objectively assess the situation with respect to human rights in the country.

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<sup>25</sup> <https://kaztag.kz/ru/news/vlasti-posle-antara-izvinilis-za-15-epizodov-nezakonnogo-presledovaniya-i-lisheniya-zhizni>

<sup>26</sup> <https://www.facebook.com/toregozhina/posts/pfbid027xbrLxGCdmc6tgo3CtaPNtB82DYeUkEyQbm2WwA5RuyFacdgZK33VShqFPt2PI>

<sup>27</sup> <https://rus.azattyq.org/a/32432627.html>

<sup>28</sup> <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3031518737167389>

<sup>29</sup> <https://twitter.com/TenAlena/status/1415490863250219012?s=09>

<sup>30</sup> <https://www.facebook.com/toregozhina/posts/4485167581495792>

<sup>31</sup> <https://www.facebook.com/toregozhina/posts/4367775399901678>

<sup>32</sup> <https://www.gov.kz/memleket/entities/mfa-bern/press/news/details/175413?lang=ru>

## **International assessment of the situation with human rights and democratic freedoms in Kazakhstan**

The Migration Department's decision noted that in Freedom House's 2021 report, Kazakhstan's democratic governance rating increased from 1.5 to 1.75 points, ostensibly a confirmation of democratic progress in the country. However, 1.75 points out of 4 is an extremely low score. And Kazakhstan's overall rating — 23 points out of a possible 100 — has for many years characterised the country as “not free”.<sup>33</sup>

Other international ratings also demonstrate the poor human rights situation in Kazakhstan.

According to The Economist's Democracy Index 2023<sup>34</sup> Kazakhstan ranks 120 out of 167 in the democracy ranking and is classified as an authoritarian state.

Kazakhstan ranks 142<sup>nd</sup> out of 179 countries in the rating of press freedom, which is maintained by the international organisation Reporters Without Borders.<sup>35</sup> Compared to the previous year, Kazakhstan dropped by eight positions.

In the rule of law ranking measured by the World Justice Project organisation<sup>36</sup>, Kazakhstan ranks a relatively high 65<sup>th</sup> out of 142 countries. However, an analysis of the indicators on the basis of which this ranking is compiled shows that Kazakhstan has low ratings for respect for fundamental human rights (100<sup>th</sup> place) and accountability of the authorities to the laws (103<sup>rd</sup> place).

The U.S. Department of State's 2023 report on the human rights situation in Kazakhstan noted that the country has not changed significantly and Kazakhstan continues to be characterised by torture and ill-treatment, harsh and life-threatening conditions of detention, arbitrary detention and arrest, serious problems with judicial independence, political prisoners, transnational repression in other countries, serious restrictions on freedom of speech, freedom of assembly and freedom of association, and the use of torture and ill-treatment.<sup>37</sup>

Amnesty International's annual report for 2023 on the situation in Kazakhstan notes that impunity for torture remains widespread in the country, and the right to peaceful assembly, freedom of expression and freedom of association are significantly restricted. The report notes that, in 2023, more than two dozen people, including human rights defenders, were convicted on political grounds.<sup>38</sup>

## **PERSECUTION RISKS DANIYAR KHASENOV MAY FACE IN KAZAKHSTAN**

### **Criminal case against Lyudmyla Kozlovskaya and the Open Dialogue Foundation in Belgium following a complaint by citizens of Kazakhstan**

In 2022, a collective criminal complaint was filed in Belgium against Lyudmyla Kozlovskaya and the Open Dialogue Foundation. The complaint was filed on behalf of Kazakhstani law enforcement and intelligence officials (approximately 20 individuals) who were allegedly harmed by the activities of Lyudmyla Kozlovskaya and the Open Dialogue Foundation. In 2021–22, Lyudmyla Kozlovskaya and other human rights activists from Kazakhstan held online streaming sessions in the Facebook group “#ActivistsNotExtremists”<sup>39</sup> and on the YouTube channel “16/12”.<sup>40</sup> During these streaming sessions, they presented testimonies of victims of torture, arbitrary arrests and detentions, and political assassinations committed by the law

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<sup>33</sup> <https://freedomhouse.org/country/kazakhstan/freedom-world/2024>

<sup>34</sup> <https://www.eiu.com/n/campaigns/democracy-index-2023/>

<sup>35</sup> <https://www.rfi.fr/en/>

<sup>36</sup> <https://worldjusticeproject.org/>

<sup>37</sup> <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/kazakhstan/>

<sup>38</sup> <https://www.amnesty.org/en/location/europe-and-central-asia/eastern-europe-and-central-asia/kazakhstan/report-kazakhstan/>

<sup>39</sup> <https://www.facebook.com/groups/ActivistsNotExtremists>

<sup>40</sup> <https://www.youtube.com/@1612info>

enforcement agencies of Kazakhstan. Information about law enforcement officers and special services who were involved in these actions was also disclosed.

The signatories of the collective complaint believe that Lyudmyla Kozlovska's activities have caused them harm and demand that all published materials be removed. Daniyar Khasenov also repeatedly participated in the above-mentioned broadcasts. The materials of the criminal complaint contain screenshots of Lyudmyla Kozlovska and Daniyar Khasenov during their joint online conferences.

The Kazakhstani authorities have been fighting against the Open Dialogue Foundation for many years because of the organisation's active coverage of human rights abuses in Kazakhstan and its calls for personal sanctions against the top leadership of Kazakhstan. In particular, the authoritarian regime of Kazakhstan regularly organises smear campaigns against the Open Dialogue Foundation and Lyudmyla Kozlovska in Western countries. There is no doubt that the Kazakhstani authorities are also behind the collective complaint by law enforcement and intelligence officers. The plaintiffs, who live in different regions of Kazakhstan and hardly know each other, were able to get together and pay for lawyers, experts and interpreters in Belgium and Kazakhstan to file a collective complaint and fund litigation for several years. The fact that Daniyar Khasenov is named in this complaint means that he is also on the radar of law enforcement authorities in Kazakhstan and is very likely to be involved in other criminal cases in Kazakhstan.

### **Persecution of Altynai Tuxikova, Head of the Qaharman Human Rights Defence Foundation, and other human rights defenders in Kazakhstan**

Daniyar Khasenov is one of the founders of the Qaharman Human Rights Defence Foundation. The director of this human rights organisation, Altynai Tuxikova, systematically faces persecution and pressure in connection with her human rights work. In 2019–20, she, like Daniyar Khasenov, having the status of a witness with the right of defence, was prosecuted under a criminal case on “participation in the activities of an extremist organisation” (Article 405 of the Criminal Code) for allegedly supporting the DCK. Law enforcement authorities have repeatedly prevented her from participating in human rights monitoring during protests.

It is also known from the materials of administrative cases against civil activists in Kazakhstan that law enforcement agencies indicate in interrogation protocols that the “*Facebook page ‘Qaharman’ is oppositional, anti-government*”. Thus, there is a risk that the organisation may be recognised as extremist by the Kazakhstani authorities.

### **According to our observations, the Kazakhstani authorities systematically persecute human rights defenders to prevent the dissemination of information about human rights violations in the country.**

Members of Kazakhstani human rights organisations Qaharman, 405, Bostandyq Kz, Femina Virtute, Veritas, Elimay and Article 14 have been subjected to politically motivated persecution. In addition to Altynai Tuxikova, at least 17 other human rights defenders have been victims of political persecution over the past few years, including Saule Mukhambetova, Bibigul Imangaliyeva, Nurgul Kaluova, Zhanat Zhamaliyev, Aidar Syzdykov, Raigul Sadyrbayeva, Aliya Isenova, Daniyar Khasenov, Dana Zhanay, Alma Nurusheva, Ulbolsyn Turdiyeva, Aya Sadvakasova, Roza Musayeva, Barlyk Mendygazyev, Sholpan Dzhanzakova, Bakhytzhana Toregozhina and Shalipa Bekkulova.

Human rights defender **Raigul Sadyrbayeva** was criminally prosecuted for allegedly “participating in mass riots” in the city of Semey in January 2022, when in fact she was monitoring human rights violations in the city during the crackdown on protests. Raigul Sadyrbayeva was arrested and subjected to torture and ill-

treatment. Due to international pressure, the authorities were forced to release Sadyrbayeva and drop the criminal case against her.<sup>41</sup>

In September 2024, human rights defender **Aidar Syzdykov** was sentenced to five years' imprisonment on a fabricated criminal case for "possession of narcotic drugs" (Article 297 of the Criminal Code). The criminal case against him was fabricated based on the testimony of an anonymous witness. In 2021, Syzdykov was sentenced to three years of restriction of liberty on charges of "participation in an extremist organisation" for allegedly supporting the DCK opposition movement.<sup>42</sup> He was also repeatedly subjected to administrative arrests for participating in peaceful protests in defence of Kazakh political prisoners. Syzdykov's case demonstrated that the authorities can fabricate criminal cases for ordinary offences in order to conceal a political motive for prosecution.

Human rights activist **Bibigul Imangaliyeva** was arrested for 20 days in August 2023 for allegedly "violating legislation on peaceful assembly" for her involvement in the submission of registration documents for the opposition party Alga Kazakhstan.<sup>43</sup>

Human rights defender **Ulbolsyn Turdiyeva**<sup>44</sup> was twice brought to administrative responsibility in 2023 on libel charges for her publications on social media.

Human rights defender and former political prisoner **Nurgul Kaluova**<sup>45</sup> is systematically subjected to excessive control by the probation service. In this way, the authorities exert pressure on her to stop engaging in civil activities. It is worth noting that the term of Nurgul Kaluova's probation supervision ended back in January 2022, but probation officers continue to monitor her whereabouts. In 2021, Kaluova was sentenced to 1.5 years of restriction of liberty on charges of "participation in an extremist organisation" for allegedly supporting the DCK opposition movement.

Ordinary activists who call on the international community to pay attention to the events in Kazakhstan and impose personal sanctions against human rights violators are also subjected to repression.

### **Activity on disclosure of facts of co-operation between Kazakhstan and Russia**

After the beginning of Russia's full-scale military invasion of Ukraine, the Open Dialogue Foundation, together with other human rights organisations in Kazakhstan, began documenting the facts of cooperation between Central Asian countries (mainly Kazakhstan and Kyrgyzstan) and Russia in order to circumvent the international sanctions imposed against Russia. Several reports have been prepared based on the results of the research.<sup>46, 47, 48, 49, 50, 51, 52</sup> Daniyar Khasenov was directly involved in data collection and report preparation.

Kazakhstan, as a member of the Collective Security Treaty Organisation (CSTO) and the Eurasian Economic Union, is one of Russia's closest allies in the international arena. Thanks to Kazakhstan's assistance, Russia has been able to organise deliveries of sanctioned goods and dual-use goods. Kazakhstan also participates in joint transport and logistics and industrial projects with Russia, provides access to the international financial system and supports Russian companies in relocating to Kazakhstan.

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<sup>41</sup> <https://www.amnesty.org/en/documents/eur57/5665/2022/en/>

<sup>42</sup> <https://rus.azattyq.org/a/32960514.html>

<sup>43</sup> <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3615468082105782/>

<sup>44</sup> <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3544203429232248/>

<sup>45</sup> <https://www.facebook.com/groups/ActivistsNotExtremists/posts/3613299805655943/>

<sup>46</sup> <https://en.odfoundation.eu/a/494919,kremlins-secret-ally-how-tokayev-is-helping-putin-circumvent-sanctions/>

<sup>47</sup> <https://en.odfoundation.eu/a/508247,the-secret-of-tokayev-and-putin-how-to-circumvent-the-oil-embargo/>

<sup>48</sup> <https://en.odfoundation.eu/a/570712,everything-for-the-front-everything-for-victory-how-tokayev-helps-putin-while-fooling-ukraine-and-the-west/>

<sup>49</sup> <https://en.odfoundation.eu/a/624385,the-beneficiaries-of-russias-war-against-ukraine-how-the-nazarbayev-tokayev-regime-is-helping-putin/>

<sup>50</sup> <https://en.odfoundation.eu/a/684240,russias-decade-long-war-against-ukraine-how-to-accelerate-ukrainian-victory/>

<sup>51</sup> <https://en.odfoundation.eu/a/725388,strengthening-the-axis-of-evil-dictatorships-against-ukraine/>

<sup>52</sup> <https://en.odfoundation.eu/a/723375,diamonds-are-not-forever-analysing-ineffectiveness-of-diamond-embargo-in-hurting-russias-economy/>

The topic of co-operation between Kazakhstan and Russia is very sensitive for the Kazakhstani regime. Therefore, the facts of co-operation with Russia are carefully concealed. Publicly, the Kazakhstani authorities declare that they adhere to the sanctions imposed against Russia.<sup>53</sup> Activists who raise the issue of cooperation between Kazakhstan and Russia and call for sanctions against the top leadership of Kazakhstan are subject to repression.

- In November 2023, **Marat Zhylanbayev**, Chairman of the Organising Committee of the Alga Kazakhstan Party, was sentenced to seven years in prison. He was subjected to a politically motivated criminal prosecution on trumped-up charges of “financing extremism” and “participation in the activities of a banned organisation”. His prosecution was triggered by Zhylanbayev's participation in a peaceful protest outside the EU office in Astana demanding imposition of personal sanctions against the top leadership of Kazakhstan and the CSTO for helping Russia circumvent international sanctions.<sup>54</sup>
- In June 2024, a fatal attempt was made on the life of a well-known Kazakh journalist **Aidos Sadykov** in Ukraine. The facts show that members of Kazakhstan's special services were involved in the assassination.<sup>55</sup> Aidos Sadykov and his family were forced to leave Kazakhstan in 2014 due to politically motivated persecution. Aidos, together with his wife, had a YouTube channel with over one million subscribers, where he covered political repression and corruption in Kazakhstan. After Russia's full-scale military invasion of Ukraine, Sadykov publicly raised the issue of co-operation between Kazakhstan and Russia with the aim of circumventing sanctions.<sup>56</sup>

These examples demonstrate that it is dangerous for Daniyar Khasenov to return to Kazakhstan, as he could be prosecuted for his activities in exposing the lies of the Kazakhstani regime.

### **Threat of torture or ill-treatment in Kazakhstan**

The Lithuanian Migration Department denied Daniyar Khasenov not only asylum, but also subsidiary protection. According to Lithuanian legislation (Article 87 of the Law on the Legal Status of Foreigners<sup>57</sup>), the possibility of torture or ill-treatment in the country of origin is a ground for granting additional protection to an asylum seeker.

Kazakhstan is a party to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The country has a National Preventive Mechanism (NPM) against torture and ill-treatment. However, torture at the stage of investigation and in places of detention in Kazakhstan has a systemic nature, as repeatedly stated by international human rights organisations<sup>58, 59, 60</sup> and UN bodies.<sup>61</sup>

The Kazakhstan NGO Coalition against Torture records more than 200 cases of torture in detention facilities and prisons in Kazakhstan every year. According to statistics, on average, only 1–2 per cent of cases of torture in Kazakhstan reach the court stage.<sup>62, 63</sup> The number of cases where those involved in torture are actually brought to justice is even lower. In 2023, the Coalition received 283 complaints of

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<sup>53</sup> <https://fergana.agency/news/135362/>

<sup>54</sup> <https://rus.azattyq.org/a/32386832.html>

<sup>55</sup> <https://rus.azattyq.org/a/sled-idet-v-kazahstan-kiev-nazval-podozrevaemyh-v-pokushenii-na-zhurnalista-aydosa-sadykova-/33003932.html>

<sup>56</sup> [https://www.youtube.com/watch?v=bY5MYJW0vHs&ab\\_channel=Espresso.TV](https://www.youtube.com/watch?v=bY5MYJW0vHs&ab_channel=Espresso.TV)

<sup>57</sup> <https://e-seimas.lrs.lt/rs/legalact/TAD/TAIS.423720>

<sup>58</sup> <https://www.notorture.kz/spravka-koalicyi-protiv-pytok-po-ekstradicyi-tungishbaveva/>

<sup>59</sup> <https://www.amnesty.org/en/documents/eur57/3345/2016/en/>

<sup>60</sup> <https://www.hrw.org/world-report/2018/country-chapters/kazakhstan>

<sup>61</sup> <http://www.omct.org/monitoring-protection-mechanisms/statements/kazakhstan/2015/10/d23421/>

<sup>62</sup> <https://www.notorture.kz/spravka-koalicyi-protiv-pytok-po-ekstradicyi-tungishbaveva/>

<sup>63</sup> <https://rus.azattyq.org/a/v-zloveschem-kruge-nasiliya-pytki-kantara-v-otsenkah-pravozaschitnikov/32255682.html>

torture or ill-treatment. At the same time, in 2023, only three court verdicts were issued in cases of torture (Art. 146 of the Criminal Code).<sup>64</sup>

During the crackdown on peaceful protests in January 2022, detainees were tortured *en masse* to force them to confess to crimes they had not committed. According to official figures, at least six people were killed as a result of torture. Human rights defenders estimate that the majority of persons detained during the crackdown on the January 2022 protests were ill-treated or tortured.<sup>65</sup> In total, some 10,000 detentions were carried out during the crackdown. The World Organisation Against Torture (OMCT) documented that, during the January events, methods of torture and ill-treatment included severe beatings, burning with a hot iron, electric shocks, strangulation, being doused with boiling or icy water in the street, pulling teeth, sexual violence and threats of rape.<sup>66</sup> The OMCT also reported that the brutality of torture methods recorded in January 2022 can be seen as a **continuation of the established practice of the police and security forces in the country.**

In August 2023, the Kazakhstani community was shaken by information about the use of torture against prominent civil activist and political prisoner Marat Danebayev. A criminal case was fabricated against Danebayev after he demanded that President Kasym-Jomart Tokayev be prosecuted for his order to “shoot to kill without warning” protesters in January 2022.<sup>67</sup> In June 2023, Danebayev was sentenced to three years' imprisonment. Danebayev was tortured in detention for allegedly failing to comply with prison discipline. Danebayev's torture was filmed and made public. The video shows Danebayev being severely beaten by at least ten officers of the correctional facility in the city of Atbasar (Akmola region).<sup>68</sup> The Danebayev case demonstrated that torture continues to be extremely widespread in Kazakhstan, even despite the authorities' claims of a determined fight against torture.

From 26 March to 1 April 2023, members of the UN Subcommittee on Prevention of Torture paid their second visit to Kazakhstan. The delegation visited prisons and remand centres. At the end of the visit, members of the delegation stated that Kazakhstan had not yet succeeded in eradicating the practice of torture and ill-treatment of prisoners in prisons or detainees in police stations and pre-trial detention facilities.

The facts show that torture and ill-treatment of persecuted persons in Kazakhstan is systemic. If Daniyar Khasenov were to be prosecuted in Kazakhstan, he would also face torture or ill-treatment.

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<sup>64</sup> <https://www.notorture.kz/razryvaya-krug/>

<sup>65</sup> <https://bureau.kz/novosti/vse-predelno-ploho/>

<sup>66</sup> <https://www.omct.org/site-resources/files/Kazakhstan-January-Report-ENG.pdf>

<sup>67</sup> <https://en.odfoundation.eu/a/684292,repressions-and-political-prisoners-in-tokayevs-new-kazakhstan/>

<sup>68</sup> <https://rus.azattyq.org/a/32580442.html>