



**Open Dialog Foundation**

Submission

**UPR of Kazakhstan**

October 2014

**Preliminary remarks:**

Since Kazakhstan's last Universal Periodic Review, the situation regarding human rights has deteriorated. Kazakhstan's government has failed to implement many of the reform commitments to which it agreed.

**Brief overview of the situation in Kazakhstan**

On 16 December, 2011, in the town of Zhanaozen (Mangistau Province), the police dispersed a peaceful demonstration by oil workers of the 'OzenMunaiGaz' company and their family members, with the use of firearms. The police fired on unarmed citizens and minors, amongst others, with the use of automatic weapons (AKM-47). On 17 December, 2014 in the village of Shetpe, the police also used firearms against protesters. As a result of these events, according to official data, at least 17 people were killed and 108 were wounded. Civil society activists and independent journalists estimate the death toll to be around 70, with 500-800 people having been injured<sup>1</sup>.

Since then, authorities have cracked down on freedom of expression through misuse of overly broad laws such as "inciting social discord". Political opponents, government critics, human rights defenders and activists have been imprisoned on what appear to be politically motivated charges and after trials which do not meet criteria of the due process in a context where independent and opposition media outlets have been closed or suspended. In addition, human rights defenders and international observers noted numerous cases of the exertion of torture and compulsory psychiatric treatment, which does not have sufficient legal grounds. Statements by the Kazakh authorities on the democratic direction of development of the state are merely declarative, and democratic institutions exist only formally.

**Kazakhstan's failure to comply with international obligations in the field of human rights.  
Recommendations to improve the situation within the UPR**

**1) Torture**

Kazakhstan is party to the Convention against Torture and the International Covenant on Civil and Political Rights. Nevertheless, multiple incidents confirm that torture of prisoners and criminal suspects in Kazakhstan is of a systematic nature.

In 2010, the General Prosecutor of Kazakhstan approved the Regulations on verification of allegations of torture and ill-treatment. On 2 July, 2013, Kazakhstan's President signed a law aimed at introducing legislative changes in order to establish a nationwide mechanism for the prevention of torture. However, formal changes in laws and regulations are not implemented in practice.

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<sup>1</sup> Human Rights Foundation // An Open Letter to the Leaders of the U.S. and its Civil Society. - [http://humanrightsfoundation.org/uploads/Open\\_letter\\_to\\_US\\_leaders\\_about\\_Nazarbayev\\_10:17:2012.pdf](http://humanrightsfoundation.org/uploads/Open_letter_to_US_leaders_about_Nazarbayev_10:17:2012.pdf)

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Last years, the number of complaints of torture, as well as the number of criminal cases instituted with regard to alleged torture has increased in Kazakhstan. According to official data, in 2009, 14 statements on the use of torture were registered in Kazakhstan, in 2010 - 36 statements, 2011 - 52 statements, 2012 - 602 statements and during the first 5 months of 2013 - 304 statements were submitted.

The number of criminal cases, instituted against law enforcement officers on charges of torture, is negligibly small compared to the number of statements on the use of torture. At the same time, law enforcement officials and prison staff who exerted torture, do not face charges under Article 141, section 1 ('Torture') of the Criminal Code of the Republic of Kazakhstan (the CC of the RK), but under Article 308 ('Abuse of power and official authority').

The sentences to which police officers and prison workers for applying torture are rather lenient. The competent bodies often drop complaints about torture and do not open the necessary procedures.

*Example: The convicts and witnesses on the case of the Zhanaozen oil workers refused to give testimonies; hence, the police tortured them in order to coerce them to do so. However, the courts ignored these statements. Still, the forensic examination confirmed the use of torture only in the case of Maksat Dosmagambetov, whose sentence of 6 years' imprisonment has not been altered.*

The adequate treatment of detainees and prisoners in jails is not observed in Kazakhstan. Conditions in detention centres in Kazakhstan are often life-threatening. In recent years, the number of cases where prisoners have caused physical injury to themselves in protest against the cruel prison conditions and abuse has significantly increased<sup>2</sup>. Information was spread about numerous incidents in which prisoners died, unable to endure inhumane treatment. Despite the statements of eyewitnesses and international observers regarding the shocking beatings of prisoners, the authorities do not respond adequately to the incidents of torture and human rights organisations face serious restrictions on admission to the penal colonies.

At the same time, Kazakhstan has begun to increasingly apply the Soviet practice of punitive psychiatry as a method of combating inconvenient human rights defenders and activists.

*Example: Compulsory psychiatric examination was forced upon Zinaida Mukhortova; Vadim Kuramshin; 67-year-old pastor Bakhtzhan Kashkumbayev, accused of extremism; 62-year-old activist Alexandr Kharlamov, accused of inciting religious hatred.*

### General recommendations:

- ✓ Amend the legislation so that there is established that torture is a serious crime punishable by appropriate penalties and ensure that the legislation is fully consistent with the definition contained in the Convention against Torture.
- ✓ Ensure the effective implementation of the national preventive mechanism and monitoring over its fulfillment
- ✓ Improving living conditions in prisons and provide immediately adequate medical care to all prisoners who need it.
- ✓ Provide public organizations with unimpeded access to pre-trial detention facilities and prisons, thus enabling them to monitor the observance of the rights of detainees and convicts.
- ✓ The use of torture must be condemned and severely punished, without possibility of imposing conditional sentences on those found guilty.
- ✓ Ensure the conduct of immediate and thorough investigations into all allegations of torture and other ill-treatment.

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<sup>2</sup> According to recent statistics, in 2012, 340 such acts of self-mutilation were recorded. - <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220395#wrapper>

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- ✓ Provide public organisations with unimpeded access to pre-trial detention facilities and prisons, thus enabling them to monitor the observance of the rights of detainees and convicts.
  - ✓ Cease the ever more frequent application of coercive psychiatry as a method for dealing with dissent in the country.

#### **More specific recommendations:**

- ✓ Revise criminal cases in which there is reason to believe that evidence and testimonies were obtained through the use of torture (in particular, the case of the Zhanaozen oil workers).
- ✓ Immediately provide adequate medical care to all prisoners who need it (Roza Tuletayeva, Vladimir Kozlov, Aron Atabek, Mukhtar Dzhakishiev, Vadim Kuramshin)
- ✓ Bring the conditions of incarceration in detention centers and prisons, and the definition of ‘torture’ in line with international standards.
- ✓ Withdraw the Committee of Criminal and Executive System from the auspices of the Ministry of Internal Affairs and return the supervision to the Ministry of Justice, as well as ensure open public access of observers.
- ✓ Create an independent agency which would investigate violations of human rights by law enforcement officers; ensure publicity of the activities of the agency and engage representatives of civil society and the international community as its members.

#### **See Reports of ODF:**

- Torture in Kazakhstan: <http://en.odfoundation.eu/a/3337,report-torture-in-kazakhstan>
- The case of Andrey Derkunskiy: <http://en.odfoundation.eu/a/4036,the-case-of-andrey-derkunskiy-a-witness-has-testified-about-the-assassination-of-the-lawyer-in-a-kazakh-prison>
- Aktau judicial proceedings and defendants' testimonies of torture, inflicted upon them during investigation: <http://en.odfoundation.eu/a/745,aktau-judicial-proceedings-and-defendants-testimonies-of-torture-inflicted-upon-them-during-investigation>
- Kazakhstan refused to alleviate the plight of political prisoners Vladimir Kozlov and Roza Tuletayeva: <http://en.odfoundation.eu/a/4759,a-step-back-in-the-field-of-human-rights-kazakhstan-refused-to-alleviate-the-plight-of-political-prisoners-vladimir-kozlov-and-roza-tuletayeva>

## **2) Freedom of expression**

The Constitution of Kazakhstan guarantees freedom of expression and creation and prohibits censorship. Nevertheless, over the past 1.5 years, independent and opposition media in Kazakhstan have found themselves on the brink of annihilation.

In 2014, amendments were made to the legislation, which significantly limit the freedom of speech and contravene the international obligations of Kazakhstan. At the same time, the Kazakh authorities have ignored all appeals of non-governmental organisations and human rights activists who urged not to adopt amendments to the legislation which would be repressive towards the media.

In defiance of the calls of Kazakh and international human rights organisations (Human Rights Watch, Article 19, ‘Adil Soz’, Kazakhstan International Bureau for Human Rights and others), the Kazakh authorities have adopted a new Criminal Code, which increases penalties for libel. According to human rights organisations, there are 20 to 30 court cases each year concerning defamation charges. Kazakh civil rights organisations state that defamation lawsuits should be tried within the framework of the Civil Code. Besides, the UN Committee on Human Rights calls on States to prevent the use of libel laws in order to restrict freedom of expression.

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A new article regarding the 'spreading of false information' was introduced in the new Criminal Code. It provides for up to 10 years' imprisonment for the dissemination of information, "which creates the danger of disturbance of public order, or of causing significant harm to the rights and legitimate interests" of citizens, organizations, and the state. In practice, this article can become a tool of oppression and prosecution of journalists who engage in investigative journalism, critical of the authorities.

On 28 January, 2014, the Kazakh government issued a decision to tighten the rules of conducting professional activities by mass media during a state of emergency. According to the rules, during a state of emergency, the content of materials in print media, as well as radio and television programs should be approved by the local commandant's office, otherwise the media's activities will be suspended or banned. On 2 April, 2014, Kazakhstan's parliament amended the law 'On Communications', granting the General Prosecutor and his deputy the right to suspend the operation of a network or a means of communication, as well as access to Internet resources without a court order.

In 2012, Kazakhstan courts banned the activities of the most influential independent media based on the politically motivated court judgement against oppositionist Vladimir Kozlov. After closing all the most influential independent media outlets in December 2012, Kazakhstan has continued to oppress smaller (in terms of the circulation volume) independent media outlets. The mechanism of closing or suspension of the issues of inconvenient media outlets is carried out through litigation, which is merely a formality and follows an identical scheme with gross violations of the principles of a fair trial. The authorities with new tactics of oppression: administrative punishment in the form of fines or suspension of release for technical and formal violations, not posing a serious threat to the rights and freedoms of citizens of Kazakhstan. Thus, the principle of commensuration and proportionality of punishment is violated.

Independent journalists are subjected to systematic pressure in the form of threats, assault, physical violence, also for their participation in protests and expression of their civic position. Aidos and Natalia Sadykov were persecuted in their homeland due to their journalistic activities. They were forced to leave Kazakhstan, as Natalia faced imprisonment for libel. Without any evidence, the court convicted the journalist Natalia Sadykova. The president of the Kazakh foundation "National Anti-corruption Committee", Musagali Duambekov, has been sentenced to one year of imprisonment for "defamation" after the publication of a series of journalistic investigations. On 19 April, 2012, an attempt on the life of famous journalist Lukpan Akhmedyarov was made. The perpetrators of the attempted assassination of the journalist have been identified; however, the true architects of the attempted murder are yet to be established. Also Kazakh authorities conducted searches in the offices and the confiscation of property of the human rights organisation 'Amansaulyk' and the film production centre 'Rakurs'.

### **General recommendations:**

- ✓ Repeal the article on libel in accordance with international standards of protection of freedom of opinion and expression and close criminal cases against journalists accused of libel.
- ✓ Take concrete steps to meet its obligations regarding the creation of a climate conducive to freedom of expression.
- ✓ Discontinue the practices of exerting pressure, harassing, arresting and intimidating journalists; provide them with the right to exercise their profession, the right to freedom of expression and dissemination of information in accordance with the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights and OSCE commitments in the field of human dimension.
- ✓ Reverse the current trend of repression against freedom of expression, including restrictions on online media.
- ✓ Cease the use of the justice system and excessive bureaucratic procedures as a means of exertion pressure on the media.

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- ✓ Ensure an objective investigation into the legality of judicial decisions to ban and suspend the activities of the media outlets, as well as decisions regarding the searches in the offices of the media outlets. To verify the legality of police actions during the arrest of bloggers and journalists who were performing their professional duties.
  - ✓ Truly Investigate violations against journalists and prosecute the perpetrators of violations.

#### More specific recommendations:

- ✓ Abandon the introduction in the new Criminal Code of the provision on criminal liability for 'spreading false information', cancel the decision to restrict the work of the media during a state of emergency and the amendments to the law 'On Communications', which allow for the blockade of internet websites without court order.
- ✓ Introduce relevant amendments into the Administrative Code, preventing the use of disproportionate punishment in the form of suspension or termination of the release of newspapers for technical and formal violations.
- ✓ Reconsider the ruling regarding the recognition of the 'Assandi-Times' newspaper the 'single media outlet 'Respublika' and ban the release of the newspaper in Kazakhstan.
- ✓ Cancel the decision to ban the release of 'Pravdivaya Gazeta' and restore the right of the editors to collect and disseminate information.
- ✓ Publicly condemn attacks on journalists and prosecute the true architects of the attempted assassination of Lukpan Akhmedyarov, as well as ensure transparency and objectivity of the court proceedings against the true architects.
- ✓ Conduct a thorough investigation of the attacks on Igor Larra which occurred prior to his death, and verify the possible link between the last attack on the journalist and the sudden deterioration of his health condition, leading to his death.

#### See Reports of ODF:

- Independent and opposition media in Kazakhstan are on the brink of annihilation: <http://en.odfoundation.eu/a/3420,report-independent-and-opposition-media-in-kazakhstan-are-on-the-brink-of-annihilation>
- Journalists request Ukraine and the European Union's protection from the oppression of Kazakh authorities: <http://en.odfoundation.eu/a/3319,journalists-request-ukraine-and-the-european-union-s-protection-from-the-oppression-of-kazakh-authorities>
- Kazakhstan: Head of anti-corruption organisation convicted in a defamation case: <http://en.odfoundation.eu/a/4040,kazakhstan-head-of-anti-corruption-organisation-convicted-in-a-defamation-case>
- Financial police search offices and seize property of the human rights organisation 'Amansauyk': <http://en.odfoundation.eu/a/3102,financial-police-search-offices-and-seize-property-of-the-human-rights-organisation-amansauyk>
- Lukpan Akhmedyarov's case: perpetrators of the assassination attempt against the journalist have been convicted: <http://en.odfoundation.eu/a/1198,lukpan-akhmedyarov-s-case-perpetrators-of-the-assassination-attempt-against-the-journalist-have-been-convicted>
- The Open Dialog Foundation expresses its condolences to the relatives of the deceased journalist Igor Larra: <http://en.odfoundation.eu/a/3336,the-open-dialog-foundation-expresses-its-condolences-to-the-relatives-of-the-deceased-journalist-igor-larra>
- Court hearings in the case against the following mass media outlets: <http://en.odfoundation.eu/a/988,court-hearings-in-the-case-against-the-following-mass-media-outlets-the-newspapers-vzglyad-respublika-as-one-mass-media-outlet-the-stan-tv-internet-portal-the-k-tv-channel-as-well-as-the-unregistered-party-alga>

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### **3) Unfair trials and politically motivated persecutions**

Kazakhstan has declared that the right to a fair trial has been observed with respect to opposition politicians, journalists and activists. However, trials are held with a clear bias and bear signs of the political order. The judicial system is a tool of oppression of political opponents. Illegally detained persons do not have the opportunity to contest their detention or to ensure their defence in court, as courts are not independent. Corruption in Kazakh courts was reported by the members of the Polish Bar Council in the document presenting the results of their observation mission to Kazakhstan.

The adopted reform of criminal procedure legislation exacerbates violations of the right to a defence during trials and the rights of convicts, expands the powers of the prosecuting authorities and creates an opportunity for abuse by administrations of prisons.

Human rights organisations and the governments of democratic states demand that Kazakhstan ceases the illegal prosecution of political opponents and ensures the independence of the judiciary. Human rights defenders and governments of democratic states called for the release of political prisoners. However, the authorities do not heed the position of the international community, and the president declares that 'there is no political persecution' in Kazakhstan.

Over the recent years, numerous human right defenders, civil society activists and opposition politicians were arrested on what could be considered 'politically motivated charges'. Some of them have been convicted in trials which did not meet international fair trial standards.

- ▶ **Aron Atabek** – a renowned Kazakh dissident, poet. On 18 October, 2007, the court sentenced him to 18 years' imprisonment in a penal colony following his conviction for organising mass riots. For five days, the police brutalised two witnesses in the basement, forcing them to give testimonies incriminating Aron Atabek. For any attempts to defend his rights, he is placed in solitary confinement and labelled a 'deliberate violator'. Physicians of the detention facility diagnosed Aron Atabek with coronary heart disease, cerebroscerosis, osteochondrosis, but, at the same time, they stated that "the general condition of the convict is satisfactory". The Ministry of Foreign Affairs and the office of the Kazakh Ombudsman also insist that Aron Atabek "receives all the necessary medical care" in the correctional facility. It is worth noting that the Ombudsman never visited Atabek in the detention centre.
- ▶ **Mukhtar Dzhakishev** – former President of the National Atomic Company 'Kazatomprom'. Kazakh human rights defenders placed Dzhakishev on the list of political prisoners and they note that his conviction in 2009 was a result of the fact that he had been unable to ensure the withdrawal of the opposition politician Mukhtar Ablyazov from politics and his returning to Kazakhstan. The case materials are classified, and the public still does not know what evidence served as the basis for Dzhakishev's conviction. Mukhtar Dzhakishev could die before the proceedings have been concluded, as the judge and investigators ignored his critical health condition and refused to provide him with proper medical care. During the criminal proceedings, Dzhakishev had 20 episodes of hypertensive emergency. - The authorities did not permit Swiss cardiologists who had been mandated by the World Organisation Against Torture to visit Mukhtar Dzhakishev.
- ▶ **Roza Tuletayeva** - one of the leaders of the strike movement of oil workers in Zhanaozen. She repeatedly reported severe torture exerted upon her in order to force her to confess her guilt during interrogations: she was hung by her hair, strangled with a refuse bag and had her colon violated with a metal rod, threats were also made about harm coming to her family. - Apart from a liver tumour and undiagnosed problems with her spine, Roza Tuletayeva suffers from chronic mastopathy, low blood pressure (80/50), a growing cyst and deteriorating eyesight. In the colony, Roza Tuletayeva did not receive adequate medical care. - Roza Tuletayeva has not been released on parole. The prosecutor and the administration of the colony-settlement supported the early release of the activist, but, despite this fact, the court refused to release her.
- ▶ **Vladimir Kozlov** – Kazakh opposition politician, political prisoner. During the strike of oil workers in Zhanaozen, in 2011, Vladimir Kozlov represented the interests of the strikers in the European Parliament, the European Commission and the OSCE. Upon his return from Brussels on 23 January, 2012, Vladimir



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Kozlov was immediately arrested. Vladimir Kozlov was presented with charges of supporting striking workers in cooperation with the opposition leader Mukhtar Ablyazov, and thus provoking the tragedy. He was sentenced to 7.5 years' imprisonment with confiscation of property, having been found guilty of inciting social discord, calling for the overthrow of the constitutional order and establishing a criminal organisation.- Some of the evidence had been falsified; the court completely ignored the testimony of witnesses who confirmed the innocence of the accused. For a long time, Vladimir Kozlov was serving time in a colony located far from his place of residence, in flagrant violation of the provisions of the Criminal Law Enforcement Code of the Republic of Kazakhstan. On the basis of the court judgment against Vladimir Kozlov, the activities of the opposition party 'Alga!' and 34 non-state media outlets was banned. They were accused of 'inciting social discord'.

▶ **Vadim Kuramshin** – Kazakh human rights activist. Thanks to him, the general public became aware of numerous instances of ill-treatment of detainees in Kazakhstan's prisons. He was arrested in September 2012, shortly after his return from the Conference on the Human Dimension of the OSCE in Warsaw. The trial was held within the shortest possible time, the judge dismissed all motions of the defence, key witnesses were not cross-examined and oral statements and sentencing took place in the absence of the lead counsel. Vadim Kuramshin is serving time in the strict regime colony EU 164/4 in the village of Gorny (North Kazakhstan). Kuramshin repeatedly raised the issue of violation of the rights of prisoners in this very colony. He argues that the prison administration uses other inmates to attack and intimidate him.

▶ **Zinaida Mukhortova** - Kazakh human rights activist and attorney from the city of Balkhash. She was kept in various psychiatric hospitals for over 12 months; 9 months of which in the Republican Psychiatric (a prison medical facility) along with insane, dangerous criminals. Zinaida Mukhortova is being persecuted for having urged the Kazakh authorities to investigate into possible corrupt practices of a Member of Parliament. The most senior doctor of the Kazakh mental hospital stated as follows: "Over the last 7-8 years, patient Mukhortova has constantly written complaints. (...) She discredits civil servants and political activists". On 31 January, 2012, the Supreme Court reversed the decision regarding Mukhortova's guilt of false accusation and the order for her to undergo involuntary treatment. The case was referred for reconsideration. Subsequently, on 26 July, 2012, the Balkhash City Court released the human rights activist from criminal liability and freed her from compulsory treatment. Mukhortova's psychiatric observation was cancelled and her out-patient card was returned to her. However, in August 2013, Mukhortova's hospitalisation was again sanctioned. At the same time, the conclusions of several Kazakh commissions and international experts, who testified to the sound mental health of the human rights activist, were ignored.

Kazakhstan authorities persecute opposition politicians and civil society activists not only in Kazakhstan, but also outside the country. They often do it through the misuse of international organisations, such as Interpol. A clear example is the persecution of the oppositionist, **Mukhtar Ablyazov**, and his family and ex-associates in Europe. Ablyazov's wife, **Alma Shalabayeva**, along with her 6-year-old daughter was illegally deported from Italy to Kazakhstan on the night of 1 June, 2013. Her detention was prompted by the illegal use of Interpol communication channel. Due to the widespread international outcry, Kazakh authorities permitted them to return to Europe. They were granted political asylum in Italy. Ablyazov's associates: **Muratbek Ketebayev** and **Tatiana Paraskevich** were arrested. However, Ketebayev's case was deemed politically motivated and he was granted political asylum in Poland, while Paraskevich received additional international protection in the Czech Republic. In Spain, Ablyazov's security guard, **Alexander Pavlov**, was arrested upon Interpol Red Notice. On 31 July, 2014, Pavlov was released on bail from a Spanish prison. The Spanish government is reconsidering his asylum appeal.

Kazakhstan demands that these people be rendered to their homeland, since they are an important source of information in the case of opposition politician Mukhtar Ablyazov. There is clear proof of the political character of their persecution. There were published evidence that BTA Bank files false charges in cooperation with investigative authorities of Ukraine and Russia. In almost all of the above-mentioned cases, the Kazakh authorities have been illegally trying to corrupt or influence the judicial and/or political authorities in the country of detention.

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On 24 October, 2014 the Lyon Court of Appeal approved the extradition of Mukhtar Ablyazov to Russia and Ukraine, giving the priority to Russia. Ablyazov's defence is going to appeal this ruling. Amnesty International called for prevention of the extradition of the Kazakh opposition activist: *«If extradited, Mukhtar Ablyazov will face serious human rights violations. Not only do we have fears that Ablyazov would not get a fair trial in Russia, there is the real danger that he will eventually end up in Kazakhstan, where he will be at risk of torture and other ill-treatment»*<sup>3</sup>.

#### General recommendations:

- ✓ Carry out reforms, designed to ensure the independence of the judiciary and respect for international standards of fair trial.
- ✓ Revise the reform of criminal law which exacerbates the problem of violation of the rights of defence in the judicial process and the rights of convicts.
- ✓ Cease the use of vague criminal charges as a tool for politically motivated prosecutions of opposition leaders, independent journalists, civil society activists and human rights defenders.
- ✓ Create conditions for all the human rights activists to perform their legal activities with no fear of hindrance or repression.
- ✓ Take all measures necessary to prevent that lawyers suffer or be threatened with prosecution, disciplinary action or other sanctions on improper grounds.
- ✓ Conduct a comprehensive, impartial investigation into the events in Zhanaozen, with the participation of the international community.
- ✓ To investigate carefully cases of abusing the legal mechanisms, such as Interpol by Kazakhstan official bodies, and stop unlawful involvement of Kazakhstan diplomats in the political pressure exerted by means of agreements with the EU countries in different areas in order to prosecute the political opponents of the regime and their families.
- ✓ Prevent the exertion of pressure and the violation of the rights of prisoners, and provide to Kazakh and international civil society organisations and observers, an unimpeded access to places of detention in order to monitor the rights of prisoners.

#### More specific recommendations:

- ✓ Release Vladimir Kozlov on the basis that his conviction is unsound and based on vague charges and an unfair trial.
- ✓ Release from prison Vadim Kuramshin, Rosa Tuletaeva, and Maksat Dosmagambetov, pending full and impartial review of their cases.
- ✓ Release Zinaida Mukhortova from a forced psychiatric confinement and take into account the opinions of medical committees and international experts who confirmed the mental soundness of the activist.
- ✓ To stop politically motivated prosecutions of political opponents Mukhtar Ablyazov, Tatiana Paraskevich, Muratbek Ketebayev, Aleksandr Pavlov, Alma Shalabayeva.

#### See Reports of ODF:

- Court proceedings in the case of Vladimir Kozlov: <http://en.odfoundation.eu/a/1297,court-proceedings-in-the-case-of-vladimir-kozlov>

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<sup>3</sup> Amnesty International // France: Stop extradition of Kazakhstani opposition activist at risk of torture. - <http://www.amnesty.org/en/for-media/press-releases/france-stop-extradition-kazakhstani-opposition-activist-risk-torture-2014-1>



- Dissident Aron Atabek is being subjected to cruel treatment in a Kazakh prison: <http://en.odfoundation.eu/a/4748,dissident-aron-atabek-is-being-subjected-to-cruel-treatment-in-a-kazakh-prison>
- Political prisoner Vadim Kuramshin reports systematic pressure from the colony administration: <http://en.odfoundation.eu/a/3879,political-prisoner-vadim-kuramshin-reports-systematic-pressure-from-the-colony-administration>
- The decision of the Supreme Court on the Zhanaozen case: the right to a fair trial in Kazakhstan is not respected: <http://en.odfoundation.eu/a/1156,the-decision-of-the-supreme-court-on-the-zhanaozen-case-the-right-to-a-fair-trial-in-kazakhstan-is-not-respected>
- Court doesn't acquit oil workers and residents of the village of Shetpe, convicted of participation in mass disorders on the 16-17 December, 2011: <http://en.odfoundation.eu/a/991,court-doesn-t-acquit-oil-workers-and-residents-of-the-village-of-shetpe-convicted-of-participation-in-mass-disorders-on-the-16-17-december-2011>
- Report on misuse of the Interpol system: <http://en.odfoundation.eu/a/1255,report-on-misuse-of-the-interpol-system>
- BTA Bank files false charges in cooperation with investigative authorities of Ukraine, Russia and France: <http://en.odfoundation.eu/a/4317,bta-bank-files-false-charges-in-cooperation-with-investigative-authorities-of-ukraine-russia-and-france>
- Punitive psychiatry in Kazakhstan: human rights activist Zinaida Mukhortova forcibly placed in lunatic asylum for the fourth time: <http://en.odfoundation.eu/a/4323,punitive-psychiatry-in-kazakhstan-human-rights-activist-zinaida-mukhortova-forcibly-placed-in-lunatic-asylum-for-the-fourth-time>

#### **4) Freedom of assembly**

Kazakh legislation does not comply with international standards and, in practice, leads to unreasonable restrictions of the right to freedom of assembly. The legislation of the Republic of Kazakhstan prohibits informal associations and provides for the banning of organisations for any non-critical violations. Moreover, the organisation may be subjected to state-ordered sanctions, even if it is engaged in the activities which are legitimate, but not provided for in its charter. The law also strictly regulates the conditions for the establishment of political parties, which, in practice, has led to the situation in which one of the main opposition parties, 'Alga!' failed to be registered.

Strict regulations and legislative restrictions prevent the organisation of spontaneous actions. Only local akimats are authorised to indicate the venue and time of any meetings regarding any matters, and often opt for distant places for their organisation.

Activists and organisers of mass events often report that they have been subjected to surveillance or open pressure by law enforcement agencies; they are frequently detained, fined and arrested. Even small or one-person pickets are accompanied by pressure and constraints on the part of the police and local authorities. For example, in February 2014, more than 40 protesters, opposing the devaluation of the tenge, were detained by police for no apparent reason; later, the court imposed administrative punishment on each of the detained protesters. In March 2014, the police violently dispersed a protest action against the forcible eviction of residents from their apartments in Astana, and detained more than 30 children who also took part in the action.

#### **General recommendations:**

- ✓ Simplify the procedure for registering political parties, which will bring the legislation in this area more in line with international standards.
- ✓ Simplify the procedure of notification of the planned organisation of spontaneous assemblies, and obtainment of appropriate permission.
- ✓ Cease the imposition of administrative penalties and exertion of informal pressure on organisers and participants of protest actions.

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### More specific recommendations:

- ✓ Decriminalise violation of the rules of organisation of protest rallies.
- ✓ Introduce the right to participate in informal organisations, which will contribute to the implementation of the citizens' right to freedom of assembly.

### See Reports of ODF:

- Reform of the criminal procedure law in Kazakhstan increases the pressure on the rights and freedoms of citizens: <http://en.odfoundation.eu/a/1050,reform-of-the-criminal-procedure-law-in-kazakhstan-increases-the-pressure-on-the-rights-and-freedoms-of-citizens>
- Kazakh authorities violently suppress protests prompted by the devaluation of the national currency: <http://en.odfoundation.eu/a/3128,kazakh-authorities-violently-suppress-protests-prompted-by-the-devaluation-of-the-national-currency>

## **5) Freedom of religion**

Following the adoption of the 2011 law 'On religious activities and religious associations', a tendency to tighten state control over religious matters has been observed in Kazakhstan. The new law established a mandatory registration of religious groups and missionaries, a strict order of registration, the status of religious organisations; it also introduced a mandatory verification of all religious literature and increased fines for violation of religious law. The new law had an immediate negative impact on non-traditional and small religious groups. The authorities explain the introduction of strict regulation of the activities of non-traditional communities by the spread of religious extremism in Kazakhstan, but, in practice, frequently, the main reason for the banning of the activities of such communities is not an extremist content, but formal requirements.

As a result of the adoption of the new law in Kazakhstan, the number of registered religious communities was reduced by a third; numerous fines, administrative penalties and even deportation are being imposed, religious literature is prohibited and forcibly confiscated. Many non-traditional religious communities, such as the Tatar-Bashkir mosque 'Din Muhammad', an independent mosque 'Nurdaulet' and other which did not meet the new requirements of the law, ceased to exist, or changed the statutes. Pressure from the authorities is also exerted by ungrounded inspections and even control of the content of worship on the part of law enforcement bodies.

Priests of the registered religious groups are also subjected to harassment by the authorities: for example, the case of the pastor of the Presbyterian Church 'Blagodat' ['Grace'], Bakhtzhan Kashkumbayev and the Orthodox priest, Father Sophroniy. At the same time, a journalist and civil society activist from Ridder, Alexandr Kharlamov was charged with a public expression of his atheistic views and was remanded in custody for almost half a year. Recently, his case was sent back for further investigation.

### General recommendations:

- ✓ Revise the Law 'On religious activities and religious associations' with the aim of simplifying the process of registration of religious groups, eliminate the need for 'approval' of religious literature by the state, reduce the number and size of fines imposed for violation of religious legislation.
- ✓ Cease the imposition of fines and arrests for religious activities, as it substantially restricts freedom of religion, especially in the worship and promotion of their religion.
- ✓ Cease the exertion of pressure on non-traditional religious communities, since such actions violate the freedom of religion

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### More specific recommendations:

- ✓ Drop all the charges against Alexandr Kharlamov, as he is being prosecuted in violation of the Constitution of the Republic of Kazakhstan, which guarantees the right not to profess any religion

### See Reports of ODF:

- The case of Bakhtyzhan Kashkumbayev: Kazakh authorities accused a Christian pastor of extremism and incitement of religious hatred: <http://en.odfoundation.eu/a/3149,the-case-of-bakhtyzhan-kashkumbayev-kazakh-authorities-accused-a-christian-pastor-of-extremism-and-incitement-of-religious-hatred>
- The case of Aleksandr Kharlamov: the civic activist has been released, but is still under investigation: <http://en.odfoundation.eu/a/1261,the-case-of-aleksandr-kharlamov-the-civic-activist-has-been-released-but-is-still-under-investigation>
- Kazakhstan authorities' persecution of Father Sofroniy and his congregation: <http://en.odfoundation.eu/a/1300,kazakhstan-authorities-persecution-of-father-sofroniy-and-his-congregation>

## 6) The death penalty

Since 2002, the government has pursued the policy of phasing out the application of death penalty. In 2007, Kazakhstan amended its Constitution, restricting the application of capital punishment to the most serious crimes. Abolition of the death penalty was the next logical step in this policy in Kazakhstan, just as it happened in two other Central Asian states, Kyrgyzstan and Uzbekistan.

In the international arena, Kazakhstan clearly outlined its abolitionist aspirations by supporting the UN General Assembly's resolution on a moratorium on the use of the death penalty in December 2012.

However, the new Criminal Code of Kazakhstan adopted in July 2014 increased the number of crimes punishable by death with article authorizing the death penalty which was introduced in Chapter 4 of the Criminal Code: Article 164 – 'Violation of the laws or customs of war'. Thus, the new Kazakh Penal Code provides for an increase in the number of capital crimes, even though Kazakhstan has been moving away from the death penalty for years and has a stated policy of meeting international standards.

### General recommendations:

- Abolish the death penalty in all cases, including death penalty for the crime of terrorism and war crimes;
- Ratify as soon as possible the Second Optional Protocol to the International Covenant on Civil and Political Rights, as provided in the 2009-2012 National Human Rights Plan.