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**UPR of Kazakhstan 2019:  
Recommendations to Permanent  
Missions to the United Nations**

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# Coalition of the NGOs prepared a joint Submission and recommendations:

- ▶ ***Open Dialogue Foundation:*** for 10 years, has been providing expertise on human rights issues in post-Soviet states, in particular in Kazakhstan. The Foundation also has extensive experience in the field of protection of the rights of political prisoners and refugees;
- ▶ ***Italian Federation for Human Rights (FIDU):*** Established in 1987 as Italian Helsinki Committee, intends to work to spread the knowledge of human rights, monitor and report their violations, and exert influence on the States so that they comply with their own commitments on human rights. In 2018-2019 FIDU carried out a human rights mission to Kazakhstan.
- ▶ ***Kharkiv Institute for Social Research:*** a Ukrainian independent think tank (est. 1999) involved in advocating for best human rights standards such as: access to justice, assessment of police performance, preventing torture and ill-treatment, reforming social services at the community level, etc.
- ▶ ***Qaharman:*** youth human rights initiative established in July 2019 in Kazakhstan.
- ▶ ***International Bar Association's Human Rights Institute ((IBAHRI):*** works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide. Recommendations regarding the defence of lawyers were developed in the cooperation with the lawyers from Kazakhstan and the IBAHRI.



## The focus of the presentation: lack of implementation of the previous UPR recommendations to Kazakhstan

- ▶ **the new criminal legislation** that restricted freedom of opinion, freedom of assembly and freedom of information;
- ▶ **the refusal to comply with the UN demands, including for the release of political prisoners and the effective fight against torture and ill-treatment;**
- ▶ **measures to protect lawyers and human rights defenders.**

Sadly, Kazakhstan refuses to comply with key recommendations in these areas. After the transit of power, the new President, continues repressive policy. The authorities of Kazakhstan claim that they are committed to democratic principles. Unfortunately, the reality is completely different.



## The new Criminal Code was adopted contrary to the recommendations of the UN, OSCE and the EU

The Code contains the following vague and **politicised articles** that are used against activists, participants in peaceful assemblies, journalists and human rights defenders:

- ❑ inciting social discord (Article 174)
- ❑ libel (Article 130)
- ❑ dissemination of knowingly false information (Article 274)
- ❑ violation of the order of organising rallies (Article 400)
- ❑ participation in the activities of an organisation after its recognition as extremist (Article 405)



## The total number of politically prosecuted persons is growing rapidly, primarily due to the detentions of participants in peaceful rallies

- ▶ February 2018 - August 2019, more >6000 people arbitrarily detained for participating in peaceful rallies.
- ▶ **Why?** The expression of opposition views, participation in peaceful rallies and even human rights activities are regarded as “extremism” by the authorities;
- ▶ Most common reason for prosecution: the link to the peaceful opposition movement “Democratic Choice of Kazakhstan”(DCK).  
**Examples of “criminal actions”:**
  - “positive approval of the ideas of the DCK and its leader Mukhtar Ablyazov”(opposition politician); “
  - reposting materials from the pages of the DCK and Ablyazov”;
  - “shouting out ideas at rallies that provoke protest moods”



# Most vocal cases of so- called 'extremists'

Since March 2018 Aset Abishev, Almat Zhumagulov and Kenzhebek Abishev are serving prison terms, and >20 people are under investigation.

Since July 2019, single mothers Gulzipa Dzhaukerova and Zhazira Demeuova, as well as mother of many children Oksana Shevchuk, whose younger daughter is still breastfed, were detained.

FIDU observer Daniyar Khassenov monitored these prosecutions, for which he himself was subjected to similar criminal charges.



That is why we believe it is necessary for Kazakhstan to implement the following recommendations:

- ▶ Decriminalise 'libel 'and 'dissemination of knowingly false information', as well as review the politically motivated article 'inciting social discord 'in accordance with the ICCPR requirements.
- ▶ Revoke the decision to ban the peaceful opposition movement "DCK "and cease the use of the "fight against extremism "as an instrument for fighting dissidents.
- ▶ Stop the practice of mass forceful detentions and criminal prosecution of peaceful protesters.



# Kazakhstan refuses to comply with the UN demands for the release of political prisoners

- ❑ 25 of 32 recommendations of the United Nations bodies are ignored, which concluded that the prosecution of Mukhtar Dzhakishev, Maks Bokayev, Iskander Yerimbetov and other prisoners violated international law;
- ❑ At least 21 political prisoners in Kazakhstan (they are currently in prisons or in a pre-trial detention facilities) and 54 persons are politically prosecuted;
- ❑ In case of political prisoners, the authorities set the following condition: “repent ” in exchange for their release;
- ❑ **additional restrictions on freedom of expression on the defendants:** Serikzhan Bilash and Larisa Kharkova were banned from engaging in civil society activities for 7 and 5 years, respectively.





## Further recommendations for Kazakhstan may include:

- ▶ Ensure the implementation of international commitments to carry out justice reform.
- ▶ End politically motivated imprisonment and prosecution of civil society activists, journalists, bloggers and human rights defenders.
- ▶ Implement the recommendations of the UN WGAD and the UN Human Rights Committee on the release of Maks Bokayev, Iskander Yerimbetov and Mukhtar Dzhakishev



# Lack of the effective fight against torture and ill-treatment

- ▶ **Almost all cases of torture are closed due to “lack of evidence ”**

Penal Reform International recorded >1400 cases of torture in the country each year. A striking example: Iskander Yerimbetov -> despite the concerns of the UN Special Rapporteur and calls from the EU, the authorities closed the torture case.

- ▶ **The admission of international observers to places of detention**

The international human rights missions have been denied access to, for example, political prisoners Aron Atabek and Mukhtar Dzhakishev for several years. Dzhakishev suffers from life-threatening diseases and can die in prison at any time.



## Recommendations for the authorities of Kazakhstan:

- ▶ Transfer of the penitentiary system from the jurisdiction the Ministry of Internal Affairs to the Ministry of Justice.
- ▶ Ensure full functional and financial independence of the National Preventive Mechanism and the Commissioner for Human Rights.
- ▶ Conduct a proper and thorough investigation into the allegations of torture, including by increasing the number of cases of torture brought to the trial stage.



# Measures to protect lawyers and human rights defenders

- ▶ A new law led to state control over the Bar Association;
- ▶ Lawyers as Zhanara Balgabayeva and Bota Jardemalie who are involved in political cases face threats, intimidation and other kinds of pressure;
- ▶ Elena Semenova after reporting in the European Parliament about the multitudinous facts of torture of prisoners in Kazakhstan, was accused of 'dissemination of knowingly false information';
- ▶ Qaharman's human right activists and other signatories of the open letter to the European Council President, Donald Tusk, have been persecuted.



## Recommendations for the authorities of Kazakhstan:

- ▶ Amend the Law on Advocates Activities, eliminating the Ministry of Justice's powers to: decide on admission to the profession and initiate lawyers' disbarment procedure
- ▶ Remove Art 39.2.2.-3 of the Law on Advocates' Activities, thus ensuring that also former judges, prosecutors and investigators be properly assessed, instead of having the right to acquire a lawyer license automatically after 10 years of experience
- ▶ Stop harassment and prosecution of lawyers who are critical towards the government or who take on sensitive cases and effectively investigate cases of pressure and harassment of lawyers and human rights defenders.
- ▶ Provide conditions for the free and safe work of human rights defenders and members of international human rights missions.



Thank you for your attention.

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