

Coalition for the Security and Protection of
Human Rights Defenders

KADIR-KASSIYET
Public Association

Observatory for the Protection of
Human Rights Defenders

COMMENTS

by the Coalition for the Security and Protection of Human Rights Defenders, Civil Society Activists under the Universal Periodic Review (UPR) on the implementation of the recommendations on the safety and protection of human rights defenders and civil society by the Republic of Kazakhstan

The Comments have been drafted by the members of the informal Coalition for the Security and Protection of Human Rights Defenders established in 2012: Zhaslan Aitmaganbetov, Max Bokayev, Alexander Danchev, Aizhan Daribayeva, Musagali Dauylov, Nina Yerkaeva, Togzhan Kizatova, Zinaida Protsenko, Sadykov Arman Amantayevich, Sergey Solyanik, Olzhas Syzdykov, Sergey Shutov, Kadir-Kasiet Public Association, as well as intern Nurzhan Kenshilik.

Consultations with human rights defenders were held on 15.05.2024. Statistics on monitoring threats to human rights defenders and activists from 2019 to 2024 were used. The monitoring has been carried out by Kadir-Kassiyet Public Association since 2010 based on media materials, in the process of actual observation (monitoring) of court hearings in cases against human rights defenders and activists, and on the basis of reports from civil society activists. They are used to qualitatively analyze cases of threats to human rights defenders.

The report has been finalized and translated into English with the support of the Observatory for the Protection of Human Rights Defenders (a partnership of the International Federation for Human Rights and the World Organization Against Torture).

In 2019, the Working Group of the UN Human Rights Council submitted 245 recommendations under the UPR following the consideration of the Second Periodic Report of the Republic of Kazakhstan. In January 2020, the Republic of Kazakhstan accepted 214 recommendations and rejected 31 recommendations. Of these, over 30 recommendations were directly related to the situation of human rights defenders. These Comments include an evaluation of the implementation of the recommendations on the security and protection of human rights defenders, and recommendations in this area.

Introduction

The reporting period under the UPR since 2019 has been showing an increased level of risks for human rights defenders and activists for a number of factors, including the transition of power, the COVID-19 pandemic and the state of emergency, the events of January 2022, and the elections and referendums in 2022-2023. January 2022 will go down in history as “bloody” due to the suppression and shootings of protesters and civilians who did not know about a state of emergency due to the shutdown of the Internet access, as well as mass detentions and torture in detention.

During this period, non-profit organizations and human rights defenders were also more vulnerable because of the official policy portraying them not only as “foreign agents”, but as extremists, too.

Due to the lack of specific regulatory norms in the legislation of Kazakhstan on the mandatory implementation and enforcement of the decisions of the treaty bodies and special procedures of the UN Human Rights Council, to which activists, human rights defenders and journalists mostly appeal, these decisions are not fully¹ implemented. The communication procedure enshrined in by-laws also does not lead to the implementation of the decisions of the special procedures of the UN Human Rights Council. The Ministry of Foreign Affairs of the Republic of Kazakhstan and the Prosecutor General's Office of the Republic of Kazakhstan do not take measures to implement these decisions.

General Recommendations from the Coalition for the upcoming UPR review of Kazakhstan:

- Create a special committee to investigate the January 2022 events at the UN or OSCE level with the participation of experts from international and national human rights organizations.²
- Establish the mandate of the UN Special Rapporteur on the situation of human rights in the Republic of Kazakhstan.³
- Enshrine in national legislation the procedure for implementing the decisions of the UN treaty bodies and special procedures of the UN Human Rights Council,⁴ including through amending the procedural codes that oblige courts to review judicial acts that have entered into force based on the decisions of UN bodies and special procedures of the UN Human Rights Council.
- Fully implement — in national legislation and in law enforcement practice — international standards protecting human rights defenders, including the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders of 09.12.1998).⁵
- Exclude from the laws “On Countering Terrorism”, “On Countering Extremism”, “On Combating the Legalization (Laundering) of Proceeds from Crime and the Financing of Terrorism”, the Tax Code, Article 215 of the Code of Administrative Offenses, Articles 174, 179, 182, 258, 260, 404, 405, 214 and 218 of the Criminal Code of the Republic of Kazakhstan the norms that discriminate against non-profit organizations and contradict the human rights norms, including the recommendations of the Financial Action Task Force.⁶
- At the political level, the state should recognize the role of human rights activities, guarantee and respect the right of everyone to freedom of peaceful assembly, freedom of expression as conditions for the development of democracy and participation in the affairs of the state. The treatment of human rights defenders, peaceful assemblies and civil society organizations as a source of extremism should be abandoned, and the Law “On the National Mechanism for the Protection of Human Rights Defenders” should be adopted.

¹ Comment by Max Bokai, a human rights defender from Atyrau.

² Recommendation by Max Bokai, a human rights defender from Atyrau.

³ Recommendation by Max Bokai, a human rights defender from Atyrau.

⁴ Recommendation by Max Bokai, a human rights defender from Atyrau.

⁵ Recommendation by Sergei Solyanik, a human rights defender from Almaty.

⁶ Amendments dated 13.05.2020 (entered into force on 15.11.2020) introduced the liability of non-profit organizations to these legal acts.

Evaluating implementation of the UPR recommendations

Overall evaluation of implementing UPR recommendations **139.48 and 139.114 — Create enabling environment for civil society and effective protection of human rights defenders (HRDs): not implemented.**

1. Environment for civil society has not been improved or become favorable in Kazakhstan. The number of threats to HRDs doubled in 2020-2021 (1,414-1,586 cases per year) compared to 2019 (733 cases), dropping to 995 cases in 2022, and 374 cases in 2023. Despite such a decrease in the number of threats to human rights defenders in 2024, in the first five months of 2024 alone, we documented 259 cases of threats (i.e., the annual figure for 2014).⁷

2. Of the eight groups involved in human rights activities in a broad sense (human rights defenders, lawyers, journalists, civil society activists, public figures, trade union activists, religious associations; political activists are included to compare the types of threats), civil society activists (who exercise freedom of peaceful assembly) and journalists (who exercise freedom of speech and expression) have been the most frequently threatened since 2019.

3. During the periods of protests and natural disasters (the state of emergency was introduced in Kazakhstan three times: in connection with COVID-19 in 2020, due to protests in January 2022, and in the spring of 2024 in some regions due to floods), civil society activists and human rights defenders are primarily threatened (they are detained both preventively and for intimidating and punishing them for their active position; they are interrogated, brought to justice; there have been cases of torture and ill-treatment, and persecution). At the same time, the Republic of Kazakhstan did not inform the UN of derogation from human rights obligations under Article 4 of the International Covenant on Civil and Political Rights.

4. More than 230 people were killed — and 16 in Zhanaozen — during the January 2022 events.⁸ Even members of the National Preventive Mechanism were subjected to various threats and detentions in January 2022 (e.g., Serik Tenizbaev from Kyzylorda was detained).

5. Before the parliamentary elections (scheduled for January 2021), there had been pressure on civil society organizations due to foreign funding. For example, Kadir-Kassiyet Public Association was the first to be brought to administrative liability under Article 460-2 of the Code of Administrative Offenses (CAO) in the form of a warning in August 2020 for failing to indicate the donor as the “employer” of the published Collection of Decisions of the UN Committees on Kazakhstan. This organization had to wait for four months for the court to declare the protocol on an administrative offense illegal, and 12 months to get compensated by the Ministry of Finance (in September 2021).

In October 2020, more than 20 human rights organizations were prosecuted under Article 460-1 of the CAO for incorrect, unreliable, improper reporting of their foreign funding income to state bodies. Fines and suspension of activities for three months were applied for minor technical errors under amendments to the Tax Code and the CAO of 2016.

6. Chapter 27 of the CAO (“Administrative Offenses Encroaching on the Established Order of Governance”) regulates liability for licensing, permitting and registering legal entities, and it also establishes liability of non-profit organizations for: violating legislation on the procedure for organizing and holding peaceful assemblies (Article 488); violating legislation of the Republic of Kazakhstan on public associations, as well as management, participation in the activities of public and religious associations not registered in accordance with the procedure established by the legislation, financing of their activities (Article 489); violating legislation of the Republic of Kazakhstan on non-profit organizations (Article 489-1); and on religious activities and religious

⁷ <https://kkassiyet.wordpress.com/projects/projectsrt/msdef/>

⁸ Comment by Max Bokai, a human rights defender from Atyrau.

associations (Article 490), etc. These articles are applied selectively in relation to civil society organizations.

7. In September 2023, the Ministry of Finance⁹ published a register of 239 persons receiving foreign funding, which mostly included human rights defenders and civil society organizations.¹⁰ To date, this list has been reduced to 192 items. Once the Register of Persons Receiving Foreign Funding was published, the Almaty-based Echo Public Association was subjected to a financial audit in September 2023, its bank accounts were blocked when Nurbank began checks for extremism and terrorism simply because this NGO was on this Register.

8. The Financial Monitoring Agency maintains the List of Organizations and Persons Associated with the Financing of Terrorism and Extremism, including human rights defenders and activists.¹¹

9. In 2024, the situation of foreign activists in Kazakhstan, who entered the country between 2020 and 2023 and who were prosecuted or denied refugee status, worsened. The authors of the report are aware of 11 foreign activists who have faced persecution, including:

- 3 people arrested, denied refugee status, awaiting extradition;
- 2 men detained at the request of Uzbekistan, and 2 women at the request of Belarus.
- Criminal charges have been brought against 2 individuals: 1) criminal charges on fakes; 2) criminal charges for calling for riots and for disseminating materials containing a threat to public safety.

In May 2024, amendments to the migration legislation were adopted, prohibiting those who have committed extremist crimes from entering Kazakhstan.

10. State bodies do not protect human rights defenders, treat them negatively, do not act in situations of obstruction of their activities (for example, in relation to people who block the vision of journalists' cameras); sometimes they do this with an undisguised sense of revenge.¹² There was information about some kind of political police unit operating against human rights defenders under the guise of combating extremism and economic crimes.¹³

11. The effectiveness of legal remedies remains illusory for human rights defenders, lawyers, civil society activists, and journalists. There is no national mechanism established by law for the protection of human rights defenders. The President appoints the Commissioner for Human Rights (Ombudsman); and the regional representatives of the Ombudsman are former staff of the police, the prosecutor's office, justice and the civil service.¹⁴ Artur Lastaev (a former employee of the Prosecutor General's Office), who was appointed Ombudsman in December 2022, does not ensure the implementation of the main tasks, and the Ombudsman institute is passive.¹⁵

12. The Working Group on the Protection of Human Rights Defenders, established in September 2022 by the previous Ombudsman Elvira Azimova, has been ignored. This group has met only once in the past two years, but without any outcome. Not a single case on the security of human rights defenders has ever been considered, despite appeals to this Working Group.

⁹ <https://kgd.gov.kz/ru/content/reestr-lic-poluchavushchih-dengi-i-ili-inoe-imushchestvo-ot-inostrannyh-gosudarstv> This was done based on amendments to Article 29 of the Tax Code in 2022

¹⁰ For example, Kadir-Kasiet Public Association is #96.

¹¹ The articles relating to terrorist offences are set out in Subparagraph 30 of Article 3 of the Criminal Code. Persons included in the List are subject to certain restrictions in the form of disposal of money and property. The very first thing that persons included in the List face is their blocked bank accounts. This procedure takes place within 24 hours from the moment of including a person in the List, and the procedure is carried out by a second-tier bank directly.

¹² Comment by Zinaida Protsenko, a human rights defender from Kostanay.

¹³ Comment by Max Bokai, a human rights defender from Atyrau. The first list of organizations banned in Kazakhstan emerged in 2003. Later, on 12.10.2006, a list of 12 organizations was published: https://online.zakon.kz/Document/?doc_id=30072737&pos=6;-57#pos=6;-57: In 2019, the Criminal Code of the Republic of Kazakhstan included 23 articles regarded as those on combatting extremism and terrorism: 170, 171, 173, 174, 177, 178, 179, 180, 181, 182, 184, 255, 256, 257, 258, 259, 260, 261, 267, 269, 270, 404, 405, under which 241 persons were prosecuted in 367 cases in 2019; 143 persons were prosecuted in 276 cases in 2020; 162 persons were prosecuted in 288 cases in 2021; 111 persons were prosecuted in 237 cases in 2022; 89 persons were prosecuted in 275 cases in 2023.

¹⁴ Comment by Alexander Danchev, a human rights activist from Petropavlovsk.

¹⁵ Comment by Zhaslan Aitmaganbetov, a human rights defender from Karaganda.

Recommendations from the Coalition for the upcoming UPR review of Kazakhstan

1. Ensure protection of human rights defenders:

1.1. Urgently adopt a law on a national mechanism for the protection of human rights defenders¹⁶ based on a model law or adopt the draft laws submitted in 2021-2022 proposed by the Coalition of NGOs.

1.2. Effectively investigate every case of threats to human rights defenders and bring those responsible to justice.

2. Improve the effectiveness of the Ombudsman's activities:

2.1. Ensure the election of regional representatives of the Ombudsman from among representatives of civil society.¹⁷

2.2. Take measures necessary to ensure the independence of the Ombudsman in accordance with the Paris Principles.

2.3. Supplement the law “On the Ombudsman” with an obligation to work with civil society¹⁸ and introduce mandatory annual public reporting.

Overall evaluation of implementing UPR recommendation **139.60 — National Action Plan on Business and Human Rights**: not implemented.

1. The UN Special Rapporteur held consultations on Article 3-4 of the Aarhus Convention in Almaty on 06.03.2024. Businesses have been neglecting non-compliances with international obligations on the right to a healthy environment, and the state has not been protecting this right.

2. Protests by residents and environmental activists against the actions of enterprises that harm the environment end with their arrests, searches, and criminal prosecution. Such cases occurred in the villages of Bestyube (Akmola region) and Maraldy (East Kazakhstan region) in 2023-2024. An example of detained activists was the case in the village of Maraldy (Kurchum district, East Kazakhstan region), where in May 2024, three activists were detained and placed in a pre-trial detention center (SIZO) in Ust-Kamenogorsk, and the rest were summoned as witnesses because of a peaceful assembly against one of the enterprises whose actions could harm the ecology and the environment.¹⁹

3. Civil works are carried out despite the protest of civil society. The Instruction approved by the Order of the Minister of Industry and Infrastructure Development of the Republic of Kazakhstan dated 30.09.2020 No. 505 provides for public discussion. However, the instructions do not stipulate regulations on the impact of the results of the discussion on the decision of the akimat on issuing the construction permit. As a result, the akimat may issue construction permits, regardless of the opinion of citizens.²⁰

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¹⁶ Recommendation by Zinaida Protsenko, a human rights defender from Kostanay.

¹⁷ Recommendations by human rights defenders: Zhaslan Aitmaganbetov, Zinaida Protsenko, Alexander Danchev.

¹⁸ Recommendation by Zinaida Protsenko, a human rights defender from Kostanay.

¹⁹ Comment by Sergey Solyanik, an environmental activist from Almaty.

²⁰ Comment by Nina Yerkaeva, a human rights defender from Karaganda.

1. Adopt national laws to implement the UN Guiding Principles on Business and Human Rights, including human rights due diligence legislation. This legislation should oblige businesses to consult with human rights defenders and other potentially or directly affected stakeholders on an ongoing safe and effective basis; this should be an integral part of climate change mitigation and adaptation plans; and this should be aligned with UN Guiding Principles on Business and Human Rights and other key standards mentioned above.²¹ It is also necessary to develop and adopt a National Action Plan on Business and Human Rights.

2. Invite the UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises to visit Kazakhstan.

3. Collect and report data on non-fatal and fatal attacks to inform better protections and enact legislation to intervene and prohibit companies from filing lawsuits against public participation.²²

4. Provide effective remedies for violations, including by strengthening the judicial system to hold businesses accountable for acts of retaliation against human rights defenders and by actively participating in the investigation and prosecution of those liable for attacks.

5. Adopt regulations for issuing construction decisions based on public opinion and on voting by residents of nearby buildings of the construction site and the microdistrict as a local community.²³

Overall evaluation of implementing UPR recommendation **139.115 — Ensure freedom of association and assembly**: not implemented.

1. Judicial authorities create barriers to the establishment and registration of non-profit organizations, parties, and trade unions. Over the past five years, the state has repeatedly refused to register Feminita (protection of women and LGBTIQ persons, activists Zhanar Sekerbayeva and Gulzada Serzhan).

2. Beyond human rights organisations, initiators of political parties are criminally prosecuted and convicted, usually with long-term imprisonment. The state has refused to register the Democratic Party of Kazakhstan (Zhanbolat Mamay), the Namys party (Sanjar Bokayev), the Alga Kazakhstan! party (Marat Zhylanbayev), and the El Tiregi party (Nurzhan Altayev). All these activists have been convicted of criminal offenses, with the exception of political scientist S. Bokayev.

3. The legislation prohibits foreigners from being founders of public organizations, but allows them to be their members. In 2022, the Department of Justice of Astana refused to register the Article 2 Public Association because among ten founders, there were three citizens of Russia, in particular, two lawyers (e.g., Venera Shaidullina).

4. There have been cases of liquidating a non-profit organization by the state without the founder being aware of it or without notifying the founder. For example, the Glory to Ukraine Foundation was closed immediately after its opening (the head of the Foundation was Turarbek Kusainov)²⁴ unexpectedly and without the founders knowing it.

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²¹ <https://www.business-humanrights.org/en/from-us/briefings/hearing-the-human-ensuring-due-diligence-legislation-effectively-amplifies-the-voices-of-those-affected-by-irresponsible-business/>

²² <https://www.business-humanrights.org/en/from-us/briefings/hearing-the-human-ensuring-due-diligence-legislation-effectively-amplifies-the-voices-of-those-affected-by-irresponsible-business/>

²³ Recommendation by Nina Yerkaeva, a human rights defender from Karaganda.

²⁴ Comment by Togzhan Kizatova, a human rights defender from Atyrau.

1. Stop the practice of illegal criminal prosecution of the initiators of the establishment of trade unions and non-profit organizations.
2. To judicial authorities: Ensure transparency and openness when registering non-profit organizations as legal entities; provide sufficient opportunities and effective means for amending documentation during registration.²⁵
3. Legally prohibit closing non-profit organizations without the knowledge and involvement of their founders.
4. Exclude the regulatory norm prohibiting non-citizens of Kazakhstan from initiating the establishment of a non-profit organization, acting as its founder.

Overall evaluation of implementing UPR recommendation **139.86 — Reform the judiciary system**: not implemented.

1. Courts refuse compensation in cases of torture. For example, in 2023-2024, Vikram Ruzakhunov, a citizen of Kyrgyzstan who was a victim of torture during the January 2022 events in the Almaty region, was denied an apology from the Ministry of Internal Affairs for torture. The stated reason was the lack of this option in the legislation. The case of Vikram Ruzakhunov also highlighted ineffectiveness of investigating torture. The special prosecutor's investigation into the torture case was interrupted several times. There is also a lack of independence of the judiciary from the executive authorities.

2. Human rights defenders have limited access to information on the schedule of court hearings, including in cases against human rights defenders.²⁶

3. The courts significantly restrict the rights of defendants to defense and to equality of arms. For example, the following regularly happens in online court hearings: the clerk of the court session connecting via a mobile phone; disconnecting and connecting to the court hearing at the request and option of the clerk of the court; limited visibility of the participants in the court proceedings and even judges; poor sound quality of the court hearing; and significant restrictions on the rights of participants in the court proceedings.

4. Courts violate the principle of impartiality. If a state body is a party to the case, then the court gives preference to it and to its version of events, neglecting the arguments of civil society activists.²⁷

Recommendations from the Coalition for the upcoming UPR review of Kazakhstan

1. Implement in Kazakh legislation the guarantees of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 16.12.2005.
2. Improve transparency and publicity of court proceedings through broadcasting public cases on the court's website with the indication of the contact details of the court clerk and reliable communication focal points.
3. Enshrine all procedures in the legislation in detail to ensure the participation of viewers and observers in online court hearings.²⁸ Strictly comply with the Law “On Access to Information” in terms of posting court schedules on court websites.²⁹

²⁵ Recommendation by Zinaida Protsenko, a human rights defender from Kostanay.

²⁶ Comment by Musagali Dauylov, a human rights defender from Aktobe.

²⁷ Comment by Zinaida Protsenko, a human rights defender from Kostanay, and Arman Sadykov. Rights established by Article 5, Article 13, Article 33 of the Constitution of the Republic of Kazakhstan, the Code of Administrative Offences of the Republic of Kazakhstan, the Laws “On the Prosecutor's Office”, “On Civil Service”, “On Combating Corruption”, etc.

²⁸ Recommendation by Alexander Danchev, Zhaslan Aitmagambetov, Zinaida Protsenko.

²⁹ Recommendations by Musagali Dauylov, a human rights defender from Aktobe.

4. Take additional measures to ensure the independence of courts in cases involving human rights defenders, including:³⁰ conducting jury trials against human rights defenders;³¹ applying the principle of extraterritoriality in cases involving human rights defenders; and designating an appellate court in a different region (oblast) to mitigate “corporate loyalty”.

5. Legislatively define the inaction of state bodies and its criteria. Introduce the priority of consideration of cases on the inaction of state bodies by the courts with a consideration period of up to 15 days.

5.1. Introduce a metric for evaluating court cases on the inaction of state bodies, take the metric into account when promoting and electing judges. Introduce mechanisms for monitoring and evaluating cases on the inaction of state bodies in the form of public audits and reports.

6. Exclude the imposition of a ban on public activities by courts in convictions, since there is no definition of “public activity” in the legislation. By prohibiting public activities, courts not only restrict, but also exclude vast areas of human life: participation in any public organizations, events, peaceful assemblies, research, surveys, interviews, publications, the Internet usage, public expression of opinion, etc.; i.e., multiple rights and freedoms are banned.

Overall evaluation of implementing UPR recommendations **139.91 and 139.108 — Amend restrictive laws governing the rights to freedom of expression, association and peaceful assembly**: not implemented.

1. The Law “On the Procedure for Organizing and Holding Peaceful Assemblies in the Republic of Kazakhstan” violates Articles 19 and 21 of the International Covenant on Civil and Political Rights, because: a) it considers a single-person picket as an assembly, not an expression of opinion; b) it determines the allegedly “notification” nature of an assembly, which in reality requires the permission of the akimat.

2. The reasons for the akimat's refusal to endorse peaceful assemblies boil down to an alleged impact assessment and a threat to public order. For example, in Aktobe in 2024, the akimat refused blind activist Musagali Dauylov to picket, because he could negatively impact interethnic harmony; and the court has not yet restored the violated right of the activist.

3. The vicious practice of preventive detention, as well as the detention of civil society activists, journalists, human rights defenders during rallies and single-person pickets under the Law “On Peaceful Assemblies” continues, with such penalties for exercising their rights as fines and arrest.

4. The police do not protect independent civil society activists, ignore the obstacles created by provocateurs during the expression of opinions in peaceful assemblies and single-person pickets.

Recommendations from the Coalition for the upcoming UPR review of Kazakhstan

1. Exclude single-person pickets from the Law “On the Procedure and Organization of Peaceful Assemblies” as an expression of the opinion of one person that is enshrined in several Views of the UN Human Rights Committee in cases concerning Kazakhstan.³²

2. Make state officials liable for interfering in the exercise of freedom of peaceful assembly, when opinions are expressed through single-person pickets, and for inaction in case of illegal interference by private persons.³³

³⁰ Recommendation by Olzhas Syzdykov, a human rights defender from Kokshetau.

³¹ Recommendation by Zhaslan Aitmaganbetov, a human rights defender from Karaganda.

³² For example, Case No. 2158/2012 “Andrey Sviridov v. Kazakhstan”.

³³ Recommendations by Musagali Dauylov, a human rights defender from Aktobe.

3. Ensure the strict application of the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights by supplementing the Law “On the Procedure and Organization of Peaceful Assembly” with the principles of admissibility of restrictions, necessity, proportionality to the legitimate purposes of restrictions, legal predetermination, precision and clarity of law.

Overall evaluation of implementing UPR recommendations **139.94 and 139.103 — Amend Article 174 of the Criminal Code**: not implemented.

1. The authorities perceive activists and human rights defenders as extremists: they invite them to the police, detain them for exercising the right to freedom of expression and freedom of peaceful assembly, and bring them to administrative and criminal liability.

2. Despite the reduction in the number of convictions by almost half, the practice of bringing civil activists to criminal liability under Article 174 (“Incitement of hatred”) and Article 405 (“Organization and participation in the activities of a public or religious association or other organization after ruling a court decision to ban their activities or to liquidate them in connection with exercising extremism or terrorism”) of the Criminal Code of the Republic of Kazakhstan continues.

Number of offenses for which criminal cases were pending						
Articles of the Criminal Code / years	2019	2020	2021	2022	2023	2024
Article 174	82	54	58	39	49	6
Article 405	40	25	70	26	21	24

Source: The Committee on Legal Statistics and Special Accounts of the Prosecutor General's Office of the Republic of Kazakhstan

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Decriminalize Articles 174, 405 of the Criminal Code, since only violent extremism should be prohibited.³⁴

Overall evaluation of implementing UPR recommendations **139.89, 139.98, 139.100, and 139.102 — Take necessary measures to fully protect freedom of expression**: not implemented.

1. Article 130 (“Defamation”) of the Criminal Code (CC) has been transferred to the Code of Administrative Offenses. However, the law of 10.07.2023 supplemented the CAO with a new Article 456-2: “Placement, dissemination of false information” (entered into force on 10.09.2023).

2. There is a growing number of cases under Article 274 (“Dissemination of knowingly false information”) and Article 405 (“Organization and participation in the activities of a public or religious association or other organization after ruling a court decision to ban their activities or to liquidate them in connection with exercising extremism or terrorism”) of the CC. For example, there has been a growing number of cases under Article 274 of the CC: 40 cases were registered in 2019; 88 cases were registered in 2020; 51 cases were registered in 2021; 44 cases were registered in 2022; 34 cases were registered in 2023; and 41 cases were registered in 5 months of 2024. Under Article 405 of the CC, the number of cases grew in 2021 followed by an almost twofold decrease in 2023; however, there were 24 cases registered in 5 months of 2024.

³⁴ Recommendation by Zhaslan Aitmagambetov, a human rights defender from Karaganda.

Number of offenses for which criminal cases were pending						
Articles of the Code of Administrative Offenses / years	2019	2020	2021	2022	2023	2024
Article 130	-	-	-	-	-	-
Article 274	40	88	51	44	34	41
Article 400	1	1	-	5	1	-
Article 405	40	25	70	26	21	24

Source: The Committee on Legal Statistics and Special Accounts of the Prosecutor General's Office of the Republic of Kazakhstan

3. Several human rights defenders and activists had been included in the List of Extremists and Terrorists, while the List was introduced by law much later than they had been criminally prosecuted. They were persecuted only for exercising their rights and freedoms. For example, among them were Max Bokayev and Zhaslan Suleimenov (who won cases in the UN Human Rights Committee).

4. In such cases, a standard set of evidence is used against human rights defenders, such as a report, videos made by law enforcement officers, publications in social media and a common routine for bringing activists to justice under Article 400 (“Violation of the procedure for organizing and holding peaceful assemblies”) and Article 405 (“Organization and participation in the activities of a public or religious association or other organization after ruling a court decision to ban their activities or to liquidate them in connection with exercising extremism or terrorism”) of the CC. This violates the presumption of innocence in relation to civil society and political party activists. State experts in cases of extremism are engaged in proving guilt of the accused under these articles.

5. The Financial Monitoring Agency maintains the List of organizations and persons associated with the financing of terrorism and extremism, including human rights defenders and activists. This imposes serious restrictions and impedes access to banking, notary, and other services, which makes it impossible to exercise many rights and freedoms, from choosing the type of activity (employment or individual entrepreneurship), receiving full wages (not just a minimum wage per family member per month), healthcare, insurance, and to having a sufficient standard of living.

6. In 2024, Alexander Sizov, an environmental activist from the city of Stepnogorsk, was brought to administrative liability under Part 2 of Article 73-3 of the CAO. The court imposed a fine of 664,560 tenge (approx. \$1,494). On 12.02.2024, Sizov filmed 10 bursts and liquid leaks on the territory of the slurry pipeline from the QARABULAQ GOLD LLP gold mining plant (formerly Adelya Gold) to a uranium tailings dump. He commented on the video, saying that there was a leak of poisonous substances, and he posted the video on WhatsApp in the Aksu Kvartsitka group of 411 members. The LLP believed that this information discredited its business reputation among the residents of Aksu and Kvartsitka, and it filed a lawsuit against Sizov.

Recommendations from the Coalition for the upcoming UPR review of Kazakhstan

1. Prohibit only violent extremism by removing “extremism” from legislation as a highly vague term (recommendations by the UN Special Rapporteurs on the rights to freedom of peaceful assembly and freedom of association (2015), and recommendations by the UN Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2019)).
2. Decriminalize “insult”, “dissemination of knowingly false information”, “incitement to hatred and libel” (exclude Articles 129, 131, 174, 274, 405 from the CC, exclude Article 73-3 from the CAO).³⁵
3. Courts should critically assess the possibility of including expertise by dependent experts in cases of extremism, or involve independent experts in cases under Articles 400 and 405 of the CC.³⁶
4. Remove human rights defenders and activists from the List of Terrorists; lift all restrictions on using bank accounts and exercising freedom of movement.³⁷
5. Observe the *nullum crimen sine lege* principle; namely, prohibit the inclusion in the List of those convicted under the relevant articles until such a list of terrorists is legally enshrined.
6. Apply the list restricting banking services only to specific violent organizations that have financed terrorist activities.³⁸

Overall evaluation of implementing UPR recommendation **139.124 — Ensure a democratic process, especially through the holding of free, fair and transparent elections**: not implemented.

There is an additional challenge: no reasonable means have been provided to visually impaired people to vote in elections, and no access has been provided to public information on government websites in the Kazakh language for people with visual impairments, including human rights defenders with disabilities.

Recommendations from the Coalition for the upcoming UPR review of Kazakhstan

Introduce amendments to the Law “On Elections” to oblige election committees to ensure reasonable barrier-free means for people with disabilities.

³⁵ Recommendations by Musagali Daulylov, a human rights defender from Aktobe.

³⁶ Recommendations by Togzhan Kizatova, a human rights activist from Atyrau.

³⁷ Recommendation by Musagali Daulylov, a human rights defender from Aktobe.

³⁸ Recommendation by Zinaida Protsenko, a human rights defender from Kostanay.