



# HUMAN RIGHTS IMPACT ASSESSMENT OF THE COVID-19 RESPONSE IN KAZAKHSTAN

July 2020

**IPHR** International  
Partnership  
for Human Rights



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This paper has been prepared within the framework of an initiative of International Partnership for Human Rights (IPHR) and its partners from Central Asia to monitor and document the human rights impact of governments' responses to the COVID-19 pandemic in this region. The primary focus of this initiative is the protection of the fundamental freedoms of expression, association and assembly; the rights to liberty and security and access to justice; as well as the rights of vulnerable groups. The Central Asian papers, planned to be compiled into a common, regional report when they have all been finalised, are also part of a broader IPHR initiative to assess governments' responses to the COVID-19 pandemic across the Former Soviet Union (FSU). All country reports prepared in this context are based on information and data provided by national focal points – local researchers working with IPHR – and local civil society organisations with which IPHR has been collaborating for many years, as well as on information obtained through additional research conducted by IPHR. While collecting the data we paid particular attention to rights violations that occurred exclusively in the context of restrictive measures and policies that were introduced by the local authorities in relation to the COVID-19 pandemic. However, we also documented developments related to pre-existing trends of concern that were reinforced during the pandemic.



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# Summary

Through our monitoring, we have identified the following key points on how the COVID-19 pandemic was handled in Kazakhstan from mid-March until mid-July 2020:

In response to the COVID-19 pandemic, the authorities of Kazakhstan implemented strict quarantine measures at an early stage, restricting the movement and freedoms of the citizens of the country. Since the first case of COVID-19 was confirmed in the country in March 2020, the toll of infections had risen to over 63,000 by mid-July, with an unknown shadow number of infections categorised as pneumonia. The infection rate began to escalate in the early summer. Hospitals in Kazakhstan are functioning, but since June, there have been over-occupancy in most regions, and there is a deficit of certain types of medicine in pharmacies, such as antibiotics.

In response to the pandemic, Kazakhstan implemented a state of emergency starting from 16 March 2020, along with highly restrictive measures to limit the freedom of movement and other fundamental freedoms of residents. The national borders were shut, and the entry and exit points of most cities were closed. Within cities, movement by both vehicle and foot was also restricted. The authorities forcibly sealed off apartment blocks where some residents were found to be Covid-19 infected, resulting in that an unknown number of residents were not able to leave their homes for two weeks. The quarantine was lifted in early June, but re-instated in a less far-reaching format on 5 July.

Through our monitoring of the situation in Kazakhstan, we have also documented the following developments during the COVID-19 pandemic:

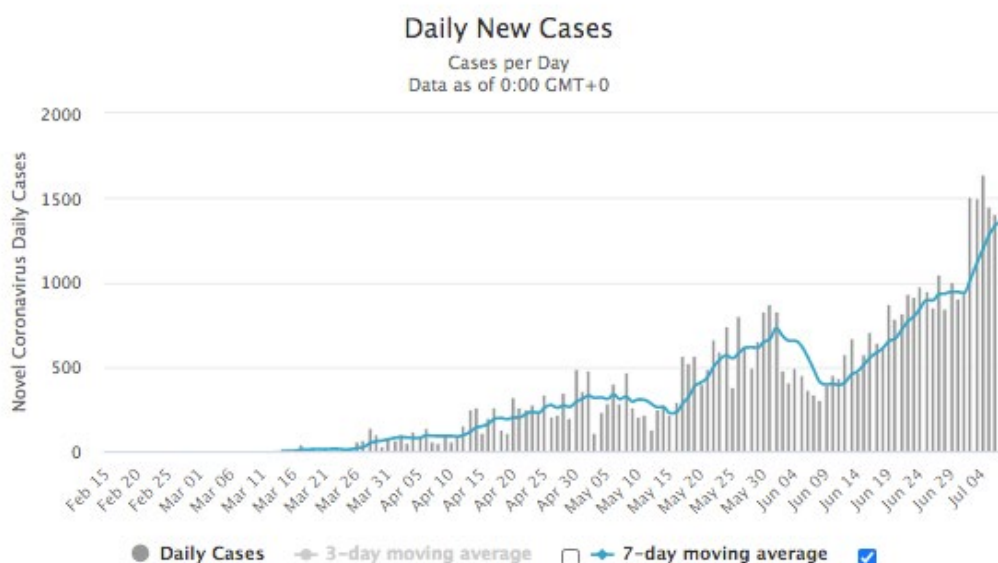
- During the state of emergency introduced in response to the COVID-19 pandemic, the authorities have adopted a number of amendments to national legislation, some of which have negatively affected the protection of fundamental freedoms in the country. In May, the president signed a new law on assemblies into force, in spite of widespread criticism of this law by both the local civil society and the international community. In a more positive development, the offenses of libel and slander were removed from the Criminal Code and transferred to the Administrative Code.
- Freedom of expression: Numerous people have been persecuted and prosecuted for exercising their right to freedom of expression and speaking out on the government's handling of the pandemic. Among others, well-known civil society activist Alnur Ilyashev was convicted for expressing his opinion in this regard and given a sentence entailing court-imposed limitations on his freedom of movement.
- Freedom of association: During this period, the right to freely associate has continued to be seriously violated in Kazakhstan. In one particularly disturbing incident, a Nur-Sultan court banned a popular, unregistered opposition movement – the Street Party – as “extremist” in May 2020. Numerous people have been prosecuted for disseminating information about the movement, also prior to its banning.
- There were widespread reports of homeless people being mistreated by police or not provided with adequate support by the authorities during the quarantine, when whole cities were sealed off and movement was restricted.
- In a more positive development, the authorities provided modest financial support to citizens and businesses during the period of quarantine, especially supporting vulnerable citizens, who benefited from free food distribution.

- Civil society has criticised the failure of the authorities to ensure adequate conditions for incarcerated people during the pandemic and to adequately protect detainees and prisoners from COVID-19 infection.
- The education system in Kazakhstan has been seriously affected by the emergency measures introduced during the COVID-19 pandemic, as schools and universities were shut down and pupils transferred to distance learning from March until the summer break. As in many countries, the attempts to secure learning with the help of online platforms have had limited success.
- Incidents of domestic violence significantly increased in Kazakhstan during the Covid-19 lockdown. While the country's crisis centres have continued to operate and provide support during the pandemic, victims have experienced difficulties in accessing help because of the restrictions of movement in place.

## Incidence of COVID-19

The presence of COVID-19 was confirmed in Kazakhstan on 13 March, with seven reported infections.<sup>1</sup> Until June, the virus spread slowly with a low death toll, but the situation rapidly changed over the course of June and the beginning of July. On 8 July, the average number of weekly infections is 1427.<sup>2</sup>

### Daily New Cases in Kazakhstan



Until 15 July, over 63,514 cases of COVID-19 infections were recorded, with 25,131 active cases, 38,008 recovered and 375 deaths. However, the numbers are imprecise for two reasons: firstly symptom-free patients, since over half of the infected develop little or no symptoms, making the disease hard to track.<sup>3</sup> Secondly, there is a real problem with the rapid tests for coronavirus (the so-called antibody tests),

1 Although there have been unconfirmed rumors of infections as early as January and February.

2 All statistical data from <https://www.worldometers.info/coronavirus/country/kazakhstan/> (English)

3 <https://informburo.kz/novosti/za-sutki-v-kazahstane-vyyavili-534-bolnyh-covid-19-i-1096-bessimptomnyh-nositeley-virusa.html> (Russian)

which are used across Kazakhstan, including in private medical facilities. Antibody tests are often seen as unreliable,<sup>4</sup> and the market for them is rife with corruption, according to journalistic investigations.<sup>5</sup> The World Health Organization (WHO) stated in a press release in April, that the reliability of the antibody tests varies from 34% to 80%.<sup>6</sup> Further, the simultaneous so called pneumonia epidemic,<sup>7</sup> which is currently sweeping through the country complicates the tracking of COVID-19 infections. According to media data until the first week of July 28,000 cases of pneumonia were registered in Kazakhstan in patients who tested negative for COVID-19.<sup>8</sup> These patients are all being treated in hospitals.<sup>9</sup>

The Minister of Health announced on 17 July, that the pneumonia infection number and COVID-19 infection number are connected, and the statistics will be unified from 1 August 2020.<sup>10</sup>

Hospitals are severely overcrowded, and many patients are forced to remain at home for treatment. Media outlets reported already in June that hospitals in different regions had difficulties keeping up with the infection rates. According to the Deputy Minister of Health Lyazat Aktayeva, by mid-June, hospitals in all regions had already reached 110-130% occupancy.<sup>11</sup> People are required to wait in queues outside pharmacies for several hours, and there are rumors about the lack of basic medical supplies, including antibiotics and fever reduction medicine.<sup>12</sup>

On 25 May, President Tokayev dismissed Minister of Health Elzhan Birtanov, who had contracted COVID-19.<sup>13</sup> He was replaced by Aleksei Tsoi. On 19 June, former President Nursultan Nazarbayev reportedly also tested positive for the infection.<sup>14</sup>

Due to the sharp hike in infections in late June and early July, a quarantine regime has been reinstated as of 5 July.<sup>15</sup>

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4 <https://www.occrp.org/en/coronavirus/uncertain-diagnosis-the-murky-global-market-for-coronavirus-antibody-tests> (English)

5 <https://www.occrp.org/en/coronavirus/uncertain-diagnosis-the-murky-global-market-for-coronavirus-antibody-tests> (English)

6 <https://www.who.int/news-room/commentaries/detail/advice-on-the-use-of-point-of-care-immunodiagnostic-tests-for-covid-19> (English)

7 <https://www.dw.com/ru/%D0%BA%D0%B0%D0%B7%D0%B0%D1%85%D1%81%D1%82%D0%B0%D0%BD-%D0%B2%D0%BD%D0%BE%D0%B2%D1%8C-%D0%B2%D0%B2%D0%BE%D0%B4%D0%B8%D1%82-%D0%BA%D0%B0%D1%80%D0%B0%D0%BD%D1%82%D0%B8%D0%BD-%D0%B8%D0%B7-%D0%B7%D0%B0-%D0%BF%D0%BD%D0%B5%D0%B2%D0%BC%D0%BE%D0%BD%D0%B8%D0%B8-%D0%B8%D0%BB%D0%B8-covid-19/a-54029300> (Russian) and <https://thediplomat.com/2020/07/china-missteps-with-wild-allegation-of-a-new-deadly-pneumonia-in-kazakhstan/?fbclid=IwAR3L78W3oujv5rP6lTH2MAfO6pNNCTbjm33r4aFgw07ccbfjg0ajrB9m4blU> (English)

8 Although it is not clear whether all were in fact tested upon diagnosis or when, and which tests were used. If the 28,000 pneumonia patients in fact have COVID-19, this brings the potential infection rate in Kazakhstan for the first week of July near 80,000.

9 [https://tengrinews.kz/kazakhstan\\_news/28-tyisyach-kazahstantsev-lechatsya-ot-pnevmonii-v-bolnitsah-407450/](https://tengrinews.kz/kazakhstan_news/28-tyisyach-kazahstantsev-lechatsya-ot-pnevmonii-v-bolnitsah-407450/) (Russian)

10 [https://tengrinews.kz/kazakhstan\\_news/statistiku-koronavirusu-pnevmonii-obyedinyat-kazahstane-408620/](https://tengrinews.kz/kazakhstan_news/statistiku-koronavirusu-pnevmonii-obyedinyat-kazahstane-408620/) (Russian)

11 <https://ustinka.kz/kazakhstan/society/55838.html> (Russian)

12 <https://vlast.kz/novosti/40628-v-aptekah-almaty-sohranautsa-dlinnye-oceredi-i-po-preznemu-net-zaroponizatsii-i-antibiotikov.html> (Russian)

13 [http://www.akorda.kz/ru/legal\\_acts/decrees/o-naznachenii-coya-av-ministrom-zdravoohraneniya-respubliki-kazahstan](http://www.akorda.kz/ru/legal_acts/decrees/o-naznachenii-coya-av-ministrom-zdravoohraneniya-respubliki-kazahstan) (Russian) and <https://www.rferl.org/a/kazakh-health-minister-replaced-as-coronavirus-cases-surge/30690554.html> (English)

14 <https://astanatimes.com/2020/06/kazakhstans-first-president-nursultan-nazarbayev-tests-positive-for-coronavirus/> (English)

15 The new quarantine regime is not as strict as the initial state of emergency, which will be described below.

# Responding to the pandemic

Kazakhstan responded in a timely manner to the spread of the pandemic, by introducing measures of protection for citizens. The legality, nature and proportionality of these means will be discussed below.

## State of Emergency

On 16 March, Kazakhstan introduced state of emergency, after WHO labelled the COVID-19 situation a global pandemic. In order to do this, Kazakhstan applied Article 44 part 16 of the Constitution:

*“The President of the Republic of Kazakhstan shall: **take measures dictated by the above circumstances including the imposition of a state of emergency on the entire territory and in particular areas of Kazakhstan**, and immediately inform the Parliament of the use of the Armed Forces of the Republic in case of a serious and immediate threat to the democratic institutions of the Republic, its independence and territorial integrity, political stability of the Republic, security of its citizens and the disruption of normal functioning of the Constitutional bodies of the state, after official consultations with the Prime Minister and Chairpersons of the Parliamentary Chambers of the Republic.<sup>16</sup>”*

Article 44, Constitution of Kazakhstan.

According to the law on emergency situations, a state of emergency can be introduced, among other things, **in the event of or during the threat of an epidemic situation.**<sup>17</sup> The state of emergency was initially to last until 15 April. President Tokayev ordered the creation of a Presidential State Commission for the State of Emergency. The authorities also announced the following additional measures:

- Strengthening of protection of public order and objects of strategic importance and sensitivity, including transport and objects ensuring the wellbeing of citizens;
- Limiting the functioning of large trade venues (bazaars, shopping centres, etc);
- Suspending the work of shopping centres, cinemas, theaters, and other centres with a high concentration of people;
- Introducing quarantine and large scale sanitary and anti-epidemic measures;
- Prohibiting sports events, public events, as well as family gatherings and commemorative events;
- Restricting entry and exit to and from Kazakhstan for all means of transport and all borders (with the exemption of diplomatic personnel and members of international organizations invited to Kazakhstan by the Ministry of Foreign Affairs);
- Designating the state parties responsible for implementation of the measures;
- Allocation of reserve funds to ensure implementation of the state of emergency and strengthened controls to ensure observance of quarantine, and measures regarding persons avoiding medical examinations and treatment.

16 [https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution) (English)

17 [https://online.zakon.kz/document/?doc\\_id=1036912#pos=3;-106](https://online.zakon.kz/document/?doc_id=1036912#pos=3;-106) (Russian)

Parliament has carried out periodic reviews of the emergency measures, including the derogation or suspension of certain rights. However, sufficient judicial oversight of the measures or state of emergency to ensure compliance with restrictions established by the UN Human Rights treaty bodies is lacking. The state has not issued a “withdrawal from compliance in emergency situations”.

## Quarantine, lockdown and roadblocks

Along with the state of emergency, Kazakhstan introduced very strict measures of control of the movement of citizens inside the country. Most cities were sealed off with road blocks and check points, and no one could enter or exit. Only a few days’ notice was given before the closure of each city. All passenger air traffic was cancelled, both domestic and international. Foreign citizens who were unable to leave the country in time received permission to stay visa-free in Kazakhstan until 10 July. Limitations on freedom of movement were also introduced within cities. In Almaty, for instance, driving a car required special permission, which was difficult or impossible to obtain for most citizens. A list of permitted cars was drawn up and police checkpoints throughout the city ensured that all license plates were checked against this list.

On 11 May, residents of the village Karazhar in the capital region asked the authorities to remove a road block as the village, located two kilometers from the capital, did not have water supply, internet and electricity, and the residents were prevented from going to work in the capital. The akim of the region Bakhytbek Ospanbekov promised to speak with the Nur-Sultan city municipality, and to put residents on a list allowing them to enter the capital. The residents were not satisfied with the akim’s promise and gathered in the village under surveillance by police and officials of the special forces for several hours before dispersing.

Limitations of freedom of movement also included guidelines and restrictions stipulating that one must not leave the home for other reasons than food shopping, or to seek medical attention or visit the pharmacy. Shopping should not happen further than 2 km from the place of residence. Children were not allowed to leave the house other than in emergencies and if children were found alone outside, their parents would be fined. Exercising, even individually and outside, was not allowed, and parks were closed. The police and the national guard patrolled the streets and questioned citizens walking around about their purpose.

Kazakhstan also introduced a very strict forced quarantine regime, raising concerns about violations of human rights in relation to reports of the forced closure of residential complexes.

“These measures are arbitrary, disproportionate, and breach international law in that they replace one health and safety threat (COVID-19) with others – (fire, no access in medical emergencies etc). They also serve as a reminder of the disregard for human rights and corruption faced by the residents of these countries, which receive little attention on the international stage.<sup>18</sup>” - Amnesty International, 2 June 2020.

On 16 March, the Head Sanitary Doctor in Kazakhstan introduced a quarantine regime. People in quarantine hospitals were thus prohibited from leaving hospital 14 days, and people in home isolation are prohibited from visiting crowded places. Non-compliance can lead to administrative detention for up to 15 days and being kept under police guard in medical institutions. Such cases have been initiated by the police or sanitary authorities and court hearings have happened by remote video link.

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18 <https://www.amnesty.org/en/latest/news/2020/06/central-asias-covid19/> (English)



There were numerous cases of forced home-isolation and quarantine, where doors to the entrances of homes where people infected with COVID-19 lived were welded shut by the authorities. For instance, in Pavlodar region, 11 stairwells of an apartment building were welded shut on 9 April.<sup>19</sup> In two of these stairwells, the inhabitants did not have access to food. There are reports that at least two residential hostels were also welded shut in Pavlodar, leaving the residents without access to money, food or medical care. Eventually, volunteers bought food supplies for the residents. Similar cases were also reported from in other cities, including Karaganda,<sup>20</sup> Temirtau,<sup>21</sup> Aktau,<sup>22</sup> Taraz,<sup>23</sup> Oskemen,<sup>24</sup> Almaty,<sup>25</sup> and Nur-Sultan,<sup>26</sup> All incidents happened from late March until mid-April.

## Health protection

In Kazakhstan, the state has provided basic goods and services to the most vulnerable groups. Such support has mostly taken the form of free food packages delivered to citizens in need. A social support package was announced by President Kassym-Zhomart Tokayev on 31 March, where he also guaranteed that medical services would be provided to people in need free-of-charge. Medical services are accessible to all, and without discrimination. The authorities have also taken measures to equip hospitals and health workers with means of protection, but doctors and nurses have complained about the insufficient number of protective suits<sup>27</sup>, and the lack of promised salary increases. The situation in medical institutions, however, is far from transparent and there is not any monitoring of the situation there.

Posts on Facebook by a patient in hospital in Pavlodar reported insufficient medical supplies and hygienic products. The patient – civil society activist Yevgeniy Khabarov complained about lack of drinking water and insufficient disinfection measures, and a lack of toilet paper and soap.<sup>28</sup> According to his post, water and towels were eventually provided.

## Financial support for citizens and businesses

Kazakhstan has taken measures to protect citizens from financial instability during the quarantine and COVID-19 pandemic. On 23 March, President Tokayev stated his intention to protect citizens and families affected by the quarantine measures, as many were left effectively without a source of income. The state allocated \$10 billion USD for anti-crisis measures. State support has been provided to businesses and individuals affected by the crisis.<sup>29</sup> Increased support has been provided to pensioners and other

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19 [http://www.gorodpavlodar.kz/News\\_78428\\_2.html](http://www.gorodpavlodar.kz/News_78428_2.html) (Russian)

20 <https://rus.azattyq.org/a/30517363.html> and <https://www.facebook.com/groups/karaganda.kz/permalink/2549172621861770/> (Russian)

21 <https://newtimes.kz/obshchestvo/110656-zakryli-na-karantin-dver-v-podezd-zablokirovali-brevnom-v-temirtau> (Russian)

22 [https://total.kz/ru/news/obshchestvo\\_sobitiya/v\\_akimate\\_rasskazali\\_ob\\_izolirovannom\\_podezde\\_v\\_aktau\\_date\\_2020\\_04\\_05\\_11\\_52\\_33](https://total.kz/ru/news/obshchestvo_sobitiya/v_akimate_rasskazali_ob_izolirovannom_podezde_v_aktau_date_2020_04_05_11_52_33) (Russian)

23 [https://tengrinews.kz/kazakhstan\\_news/podyezd-doma-otsepili-i-zakryili-na-karantin-v-taraze-398292/](https://tengrinews.kz/kazakhstan_news/podyezd-doma-otsepili-i-zakryili-na-karantin-v-taraze-398292/) (Russian)

24 <https://www.amnesty.org/en/latest/news/2020/06/central-asias-covid19/> (English)

25 [https://tengrinews.kz/kazakhstan\\_news/esche-odin-dom-zakryili-na-karantin-v-almaty-smi-395393/](https://tengrinews.kz/kazakhstan_news/esche-odin-dom-zakryili-na-karantin-v-almaty-smi-395393/) (Russian)

26 <https://www.currenttime.tv/a/nursultan-zakryli-na-quarantine-rajon/30559584.html> (Russian)

27 Unverified videos of health workers dressed in protective suits made from garbage bags have been distributed in social media. The authorities deny that the videos, as otherwise claimed, were shot in Kazakhstan. [https://baigenews.kz/news/zashchitnye\\_kostyummy\\_iz\\_musornykh\\_paketov-\\_skandalnoe\\_video\\_obyasnil\\_sovetnik\\_akima\\_zhambylskoy\\_obla/](https://baigenews.kz/news/zashchitnye_kostyummy_iz_musornykh_paketov-_skandalnoe_video_obyasnil_sovetnik_akima_zhambylskoy_obla/) (Russian)

28 <https://www.facebook.com/evgenHB/posts/1128253017523972> (Russian)

29 <https://yandex.kz/turbo/s/zakon.kz/5018220-kak-gosudarstvo-podderzhivaet.html> (Russian)

recipients of state support schemes. Vulnerable people (large families and people living with disabilities etc.) also received free foods. The authorities set forth measures to protect against inflation on essential goods and to prevent “panic buying”. In some regions affected by quarantine, it was reported that the state would give 15,000 KZT (32 EUR or 37 USD) for two months to support utility payments for disabled citizens, families with disabled children, large families, some veterans, pensioners living on a minimum pension rate, and other vulnerable groups. The state also increased the pension and state benefit rates benefits by 10 per cent from 1 April 2020.

The authorities reduced taxes for small and medium sized enterprises (SMEs), developed a state program for concessional lending, and exempt SMEs from regular inspections.<sup>30</sup> The authorities also showed support to small businesses by suspending payment on bank loans during the state of emergency, and deferring payments of taxes and some other obligatory payments for up to three months. Partial tax exemption on imports, sale and some goods (such as petrol) has also been put in place until October and December 2020. The changes were announced on 17 April 2020.<sup>31</sup>

Of the \$10 billion USD allocated, \$740 million went to support employment. In accordance with these measures, citizens could apply for financial compensation of 42,500 KZT (around 92 EUR or 104 USD). The compensation was available even for citizens who were self- employed and those who were not paying taxes.

The state also sanctioned a scheduled delay for payments to budgetary and social payments until June 2020.

## Dissemination of information and data privacy

Amendments have been introduced to laws concerning the freedom of information and digital privacy during the pandemic. On 25 June, the President signed changes to legislation<sup>32</sup> concerning digital security.<sup>33</sup> The amendment was adopted during pandemic, without any discussion with civil society.<sup>34</sup> The government-critical opposition movement “Rukh 2019” expressed concerns with the formulation of the law, on the grounds that the provisions are overly broad and can be used to violate human rights and freedoms. In particular, Rukh 2019 raises concerns about how personal data, including sensitive biometric information, will be used and protected, and whether the body overseeing this will be sufficiently independent, as well as the lack of non-state oversight over the national video monitoring system, which means it could be used to track citizens.

During the pandemic, the authorities have issued daily briefings providing information about the crisis and measures to combat the virus. The Ministry of Information was instructed to give daily briefings to the public, ensure dissemination of relevant information, and create a website dedicated to providing information about the situation. Information was provided in both Kazakh and Russian languages. However, no special measures have been put in place to protect the health and livelihoods of vulnerable minority and migrant groups and public information about COVID-19 was not translated into different languages. Media channels have been used to disseminate information to the public about the pandemic

30 However, businesses in the service sector are subject to strict checks for adherence to the COVID-19 preventive measures, such as frequent cleaning, distancing, presence of antiseptics and similar.

31 <https://zonakz.net/2020/04/17/kakie-nalogovye-poslableniya-predlozheny-biznesu-v-kazaxstane-iz-za-krizisa/> (Russian)

32 [https://tengrinews.kz/zakon/pravitelstvo\\_respubliki\\_kazahstan\\_premier\\_ministr\\_rk/svyaz/id-P1900001001/](https://tengrinews.kz/zakon/pravitelstvo_respubliki_kazahstan_premier_ministr_rk/svyaz/id-P1900001001/) (Russian)

33 [https://www.inform.kz/ru/prezident-rk-utverdil-popravki-v-zakonodatel-stvo-po-voprosam-regulirovaniya-cifrovyyh-tehnologiy\\_a3666025](https://www.inform.kz/ru/prezident-rk-utverdil-popravki-v-zakonodatel-stvo-po-voprosam-regulirovaniya-cifrovyyh-tehnologiy_a3666025) (Russian)

34 <https://www.instagram.com/p/CCdNziZHHqA/?igshid=1claurdpr0of> (Russian)

and preventive measures. Information is also available online from different state websites. Internet access is possible in most parts of the country, but the government did not take measures to help those who cannot afford to pay their internet bills access the online information. People without internet, or who are not internet users (such as, for example, the elderly) must rely on information distributed through television which is not always consistent and accurate. For instance, citizens can find it hard to distinguish between official state information in the media and unconfirmed news reported of various quality on different TV channels.

Cases of publication of personal confidential medical data were recorded. Police in west Kazakhstan have launched a pre-trial investigation concerning the disclosure of personal information about of a COVID-19-infected female resident of Uralsk, who was on a business trip to Atyrau. The woman was later transferred to the hospital for infectious diseases in Uralsk, but her diagnosis, personal information and address were published on social networks and messaging apps. This constituted a criminal offense according to Article 147 part 5 of the Criminal Code, which regulates the protection of personal data.<sup>35</sup> Similar cases have also been reported in Shymkent and other cities and regions of Kazakhstan.

## Functioning of Courts and Parliament

Courts generally worked remotely through videoconferencing. The majority of court proceedings have been held using IT-technology.<sup>36</sup> The Supreme Court stated that the workings of the courts remotely during the state of emergency has been very efficient.<sup>37</sup>

After the state of emergency was lifted, the courts have resumed work, but with many sessions still conducted online. For court proceedings held in a court room, there is a ban in place on the presence of unrelated people who do not have a function within the court. It is still only in exceptional cases allowed to hold court hearings in criminal cases with the physical presence of the parties in the courthouse.<sup>38</sup>

## Arrests and conditions for the detained

During the state of emergency, the right to a fair trial was not respected in a number of cases.

In remote hearings, fair trial guarantees are not always respected. Issues include delays of in court hearings and the impact on the accused, who may have his/ her term of pre-trial detention extended as a result. The availability of proper technical equipment and communication systems may affect the accused person's ability to participate equally and effectively during the hearing. In Kazakhstan, the state failed to guarantee that the accused had effective, frequent and unhindered access to phone communication. Video conferencing facilities were available to defendants, and their right to meet with a lawyer in a place where they can communicate privately, was respected. In one case, it was reported to KIBHR that a defendant and the lawyer did not have access to case files and the investigation documents. However, detainees were not able to challenge their detention in accordance with existing legal procedures. There were reports indicating that detainees were not provided with adequate food, water, toilets, washbasins and beds.<sup>39</sup>

35 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/147.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/147.htm) (Russian)

36 <http://sud.gov.kz/rus/news/o-rezhime-raboty-sudov-respubliki-v-ramkah-chp> (Russian)

37 <http://sud.gov.kz/rus/news/sudy-kazahstana-pereshli-na-distancionnyy-format-raboty-iz-za-rezhima-chp> (Russian)

38 <http://sud.gov.kz/rus/news/kak-rabotayut-sudy-posle-snyatiya-rezhima-chp> (Russian)

39 See cases described below involving Gennady Krestyanskiy and Yuri Malenkikh, for an example of such a situation.

The Government of Kazakhstan did not conduct an analysis to identify those prisoners and detainees who are most at risk from the COVID-19 infection. Neither did they attempt to reduce the numbers of prisoners and detainees at risk through implementing mechanisms of short-term or temporary releases. The authorities have failed to provide sufficient means for prisoners to observe the same hygienic standards as the general population. However, the authorities did provide prisoners with means of communicating with the outside world during the quarantine, when personal visits to the prisons were not possible. Prisoners were reportedly able to access both medical consultations and legal assistance. Family members could also still continue to send food and items to prisoners, having in mind protective measures and safeguarding of hygienic standards, however there have been allegations that some prisoners have not been allowed to receive the items sent to them. There were also continued reports of ill-treatment and torture of prisoners. However, despite these official claims, some testimonies indicate that prisoners and detainees had problems accessing adequate medical assistance, and that conditions in detention facilities were poor.

For example:

In Atyrau on 3 June, inmates in the city's pre-trial detention center (SIZO) cried for help and medical attention, and showed bloodied clothes through their cell windows. Around 40 relatives subsequently began to gather outside the building, and inmates reported over the phone that they had been subject to "brutal beatings".<sup>40</sup> According to official information, a riot had occurred in the prison on the evening before, when five prisoners had "violated the detention regime" and called for other prisoners to riot. The five prisoners were later placed by prison guards in solitary confinement. A criminal case has been launched under Article 428 of the criminal code (disobedience to prison staff).<sup>41</sup> According to relatives, the prisoners reported that they were repeatedly subjected to beatings by detention centre staff.<sup>42</sup> Staff from the prosecutor's office and representatives from the National Preventive Mechanism reportedly visited the prison to interview inmates after the incident. Media reports later stated that the inmates do not have proper access to water for washing, or access to medical assistance, which during the COVID-19 pandemic means that they have been particularly at risk.<sup>43</sup>

Another case of concern took place in a detention facility Almaty in late April. The civil activist and blogger Gennady Krestyanskiy, who was arrested after filming road blocks in Almaty on 26 March (please see in the section on Freedom of Expression for further details on his prosecution), was reportedly held in poor conditions whilst serving his 10 day long administrative arrest. After the trial, Krestyanskiy announced on 20 April that he would go on a hunger strike in protest at the conviction.<sup>44</sup> His hunger strike lasted five days. In an address to the prosecutor's office, Krestyanskiy wrote:

*"The detention takes place in an extremely unsanitary environment. Most of the sanitary-epidemiological norms are not being followed. On several occasions I pointed out these gross violations to the prison staff and medical assistant. Because of this, the staff started to treat me unkindly..."*<sup>45</sup>

Gennady Krestyanskiy, blogger detained on administrative charges

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40 <https://azh.kz/ru/news/view/68428> (Russian)

41 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/428.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/428.htm) (Russian)

42 <https://azh.kz/ru/news/view/68428> (Russian)

43 <https://azh.kz/ru/news/view/68499> (Russian)

44 <https://kaztag.kz/ru/news/arestovanny-na-10-sutok-v-almaty-blogger-gennadiy-krestyanskiy-obyavil-sukhuyu-golodovku-> (Russian)

45 [https://bureau.kz/novosti/sobstvennaya\\_informaciya/dobit-krestyanskogo/](https://bureau.kz/novosti/sobstvennaya_informaciya/dobit-krestyanskogo/) (Russian)

On 24 April, Krestyanskiy's blood pressure had increased so much that the prison staff had to call an ambulance. After the medics had stabilized his blood pressure, he was called to the deputy head of the detention centre's office. Krestyanskiy reports that he fainted outside the office, but he refused to be taken to hospital, as he had an online appeal hearing scheduled later that same day. Krestyanskiy was then taken to a different cell, where he was insulted and provoked by other inmates, who threatened to knock his teeth out.<sup>46</sup> When he tried to leave the cell, prison staff reportedly pushed him back into the cell twice. Krestyanskiy loudly threatened to commit suicide, after which the deputy head of the detention centre came back to see him. He was then taken by ambulance to hospital where he was diagnosed with a "mini-stroke",<sup>47</sup> and underwent surgery. The appeals hearing took place online without his presence, and his sentence was reduced by three days.

Gennady Krestyanskiy's friend Yuri Malenkikh, who was also arrested for the same offense, spent only two days in detention. Malenkikh also noted the lack of hygienic and anti-epidemiological measures inside the detention facility where he was held. Malenkikh stated that in the whole detention facility, there was only one quartzing disinfection UV-lamp, and that in the infirmary there was only one piece of soap. There was no toilet paper, and transfer of goods for prisoners was forbidden by the Minister of Interior on 26 March, meaning that the inmates had no way of obtaining the items necessary for personal safety and hygiene.

## Human rights violations

During the COVID -19 pandemic in Kazakhstan, there have been numerous cases of persecution and prosecution of activists, citizens, bloggers, medical workers and journalists, who have exercised their rights to peaceful assembly, expression and association. The state of emergency and quarantine has meant that it has been much easier to prosecute individuals, and the penalties incurred have often been more severe, because of the strict state of emergency-clause in many laws. The articles listed below have been most commonly used to punish citizens violating the state of emergency:

- Individuals can be held criminally liable for disobedience of a legal requirement from a representative of the authorities during the state of emergency. Individuals can face a fine of 5.3 million KZT (113,400 EUR or 128,000 USD) or imprisonment for up to two years, according to Article 379 of the Criminal Code.<sup>48</sup>
- Individuals can be held liable for an administrative offence for violating the quarantine regime or for non-compliance with the sanitary measures. Those found guilty can be punished with a fine of 26,510 KZT (56 EUR or 64 USD) or administrative detention for up to 15 days, according to Article 476 of the Administrative Code.<sup>49</sup>
- Violating the restrictions prohibiting entry and exit from Almaty and Nur-Sultan is punishable by a fine of 26,510 KZT (56 EUR or 64 USD) or administrative detention for up to 15 days.

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46 Krestyanskiy stated that he believed that the cell mates were paid off by someone to mistreat him.

47 Transient ischemic attack, is an acute medical condition, which is also known as a mini-stroke. [https://en.wikipedia.org/wiki/Transient\\_ischemic\\_attack](https://en.wikipedia.org/wiki/Transient_ischemic_attack)

48 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/379.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/379.htm) (Russian)

49 [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/476.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/476.htm) (Russian)

- Disobeying orders of a police officer can entail a fine of 106,040 KZT (227 EUR or 257 USD) or 10 days of administrative detention, according to Article 667 of the Administrative Code.<sup>50</sup>
- Administrative liability is also applicable for the failure to comply with the requirements of the sanitary surveillance authorities, according to Article 425 of the Administrative Code.<sup>51</sup>
- Businesses violating the emergency regime can receive fines of up to 1,325,000 KZT (2800 EUR or 3220 USD) and have their activities banned by court for up to three months.

## Freedom of peaceful assembly

A new draft law on holding peaceful assemblies which was rushed through during the lockdown and quarantine has caused widespread concern amongst civil society actors and the international community, despite public assurances from the authorities, including President Tokayev, that the law would improve the regulation of peaceful assemblies.<sup>52</sup> However, KIBHR's analysis of the draft law shows that some of its provisions will result in more serious restrictions of the freedom of assembly. Dauren Abayev, the Minister of Information and Social Development presented the draft law to the public on 12th March 2020.<sup>53</sup> On 26 March, the Mazhilis (the lower house of the bicameral parliament) approved the draft law and on 30 April it was approved by the upper house (the Senate). The Director of KIBHR, Yevgeniy Zhovtis, left the draft law Working Group on 1 April 2020. In an interview with the Kazakh bureau of RFE/RL, Radio Azattyq, he stated that he left the working group, because he "did not see any point in participating" anymore.<sup>54</sup>

President Tokayev signed the newly revised law on peaceful assembly on 25 May. Kazakhstani civil society, as well as IPHR and other international NGOs, had called on the President not to adopt the law.<sup>55</sup> Signatories to the open letter urged the Kazakhstani authorities to take into account recommendations from relevant international bodies such as the Organization for Security and Co-operation in Europe (OSCE) and Office for Democratic Institutions and Human Rights (ODIHR) Panel of Experts on Freedom of Assembly and Association or the Office of the High Commissioner of Human Rights, and to not rush it through approvals during the coronavirus pandemic. In the open letter issued on 30 April, it is noted that:

*"The draft Law as it stands falls short of international human rights standards in several important respects (...), which have already been highlighted by prominent Kazakhstani human rights experts. For this reason we join them in calling on you to reopen the public consultation of this document and to seek the advice of international human rights experts while it is still not signed into law. As you are no doubt aware, the right to freedom of peaceful assembly is protected by Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to which Kazakhstan is a state party."<sup>56</sup>*

Open letter from NGOs to President Tokayev.

50 [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/667.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/667.htm) (Russian)

51 [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/462.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/462.htm) (Russian)

52 <https://astanatimes.com/2019/12/kazakh-president-announces-major-political-reforms-package/> (English)

53 <https://kursiv.kz/news/obschestvo/2020-03/kak-izmenyat-zakon-o-mitingakh-v-kazahstane> (Russian)

54 <https://rus.azattyq.org/a/kazakhstan-yevgeniy-zhovtis-freedom-of-assembly-draft-law/30523982.html> (Russian)

55 <https://www.iphronline.org/wp-content/uploads/2020/05/Open-Letter-to-Tokayev-for-signing-with-logos-final-1.pdf> (English)

56 <https://www.iphronline.org/wp-content/uploads/2020/05/Open-Letter-to-Tokayev-for-signing-with-logos-final-1.pdf> (English)

The law has been criticized because it introduces unjustified restrictions on the timing and place of assemblies; retains the requirement for people to obtain government approval prior to conducting peaceful marches and demonstrations; provides for extensive requirements for submitting notification and permit applications; allows for assemblies (except single pickets) to be held only in certain locations designated by the local authorities; stipulates that only Kazakhstani citizens will be permitted to organize and participate in assemblies; provides for an extensive list of reasons why the local authorities can reject applications to hold public assemblies; increases liability for the organizers and participants in public assemblies; and because it prohibits spontaneous assemblies. The law also forbids foreign citizens, people with mental disorders, or citizens recognized by court to be legally incompetent from participating in rallies.

Measures taken to combat the spread of COVID-19, such as quarantine and lockdown, should not be used to limit fundamental freedoms and speedily adopt new legislation.

There were also incidents related to pickets held to protest against measures taken by the authorities to combat the spread of COVID-19.

On 1 April, a small group of people went to the regional akimat (municipality) to complain about sudden inflation of the Kazakh tenge, and their financial difficulties due to the pandemic. The guards at the akimat building prevented the group from approaching politicians in the building, citing the quarantine regulations. The group was later able to meet with the officials. One participant in the protest, Murat Baimaganbetov, who is disabled, was the next day sentenced in an online-held court to five days of administrative detention for disobeying police orders.

On 13 May, four activists held a small rally on the city square in Shymkent, demanding an end to the quarantine. On 3 June, the Shymkent Specialized Administrative City Court sentenced the four activists to between five and six days of administrative detention for holding an illegal rally. The demonstration was recognized as illegal, as the activists had not received prior permission to assemble.

## Freedom of expression

No new legislation further restricting freedom of expression has been adopted during the COVID-19 pandemic, but numerous cases of hindrance to freedom of expression have been reported. However, slander and libel was in June removed from the Criminal Code, and transferred to the Administrative Code.<sup>57</sup>

On 23 March 2020, a criminal case was initiated against medical doctor Duman Aitzhanov from Almaty Region for allegedly disseminating false information (Article 274 of the Criminal Code).<sup>58</sup> In January 2020, Aitzhanov had sent a video message warning his friends about the dangers of the coronavirus in a private WhatsApp group chat. In the video, Aitzhanov claimed to know of 70 infected persons in Almaty (the first official case was reported two months later, in March). The message became copied and widely distributed on WhatsApp and social media. On 31 January 2020 Aitzhanov had published a video publicly refuting his earlier statements, referring to his earlier video message as 'a joke'.<sup>59</sup> This was widely

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57 [https://tengrinews.kz/kazakhstan\\_news/klevetu-dekriminaliziruyut-v-kazahstane-405074/](https://tengrinews.kz/kazakhstan_news/klevetu-dekriminaliziruyut-v-kazahstane-405074/) (Russian)

58 <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2628734647445802/> (Russian)

59 [https://tengrinews.kz/kazakhstan\\_news/vrach-obyasnil-rassyilku-70-bolnyih-koronavirusom-almaty-390174/](https://tengrinews.kz/kazakhstan_news/vrach-obyasnil-rassyilku-70-bolnyih-koronavirusom-almaty-390174/) (Russian)

believed to be a result of pressure from the authorities. It was reported on 24 March that Aitzhanov had been fired from his job.<sup>60</sup>

In Aktobe, Dana Zhanai and Altynai Tuksikova from the human rights initiative Qaharman were threatened with criminal charges by police because of a Facebook post from 23 March 2020 entitled “About a hunger strike in the administrative detention centre”.<sup>61</sup> The post referred to a hunger strike by 70 people in the administrative detention centre in Aktobe. On 25 March 2020, activist Karagoz Bashigulova was fined 106,040 KZT (227 EUR or 246 USD) for reposting the message/ information on Facebook.<sup>62</sup>

Youtuber Dias Moldalimov was arrested by police in Almaty on 28 March 2020 and taken to the police station for questioning.<sup>63</sup> The day before, he had posted a video message called “Coronavirus in Kazakhstan” on YouTube, where he asked the authorities to consider the fates of those who are not able to survive on the state emergency fund (around 42,500 KZT (90 EUR or 99 USD)). The emergency funds are offered to citizens who are unemployed or who lost their jobs during the state of emergency. In the video message, Moldalimov explained the reasons for people’s unhappiness and warned of the potential consequences. A criminal investigation was initiated relating to distributing false information (Article 274 of the Criminal Code) during a state of emergency. Moldalimov was interrogated for five hours. He has still not been officially charged, and has the status of a witness with a right to defense.

In a case mentioned above, on 26 March two bloggers and civil activists Gennady Krestyanskiy and Yuri Malenkikh visited one of the road block check points at the entrance to Almaty City. They shot a video documenting how the checkpoint worked, and the video was later posted on Krestyanskiy’s Facebook page. Three days later, Yuri Malenkikh was charged with an administrative offence for disobeying police orders. Malenkikh received a two-day administrative arrest.<sup>64</sup> Three weeks later, administrative charges were brought against Gennady Krestyanskiy as well, following written statements of a police colonel and an official from the Zhetisu District local authorities. The charges against Krestyanskiy were the same as against Yuri Malenkikh, but somehow Krestyanskiy received a more severe sentence - ten days of administrative arrest.

In the early morning of 31 March 2020, a group of police officers entered the home of Roman Reikherth and his wife Regina Belalova, in the village Martuk near Aktobe.<sup>65</sup> The police carried out a search, during which they confiscated a smart phone and a balloon. Belalova attempted to film the actions of the police but they confiscated her phone, referring to a “ban on filming during investigation in accordance with the pre-trial proceedings”. After the search, Reikherth was taken to Martuk District Police Department for questioning in relation to participation in a banned extremist organization (Article 405 of the Criminal Code). Belalova was interrogated for four hours. Her phone was examined, but nothing illegal was found. Reikherth had earlier published a video message online criticizing the authorities for failing to provide adequate social support during the coronavirus pandemic.

On 8 April, human rights activist Aigul Shakibaeva witnessed how the police beat an unarmed driver of a car, as she was driving past. The car had been driving at regular speed, with the police car nearby.

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60 <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2628734647445802/> (Russian)

61 <https://www.facebook.com/groups/ActivistsNotExtremists/permalink/2630676590584941/> (Russian)

62 <https://rus.azattyq.org/a/30501486.html> (Russian)

63 [https://bureau.kz/novosti/sobstvennaya\\_informaciya/na\\_vse\\_voprosy\\_odin\\_otvet/](https://bureau.kz/novosti/sobstvennaya_informaciya/na_vse_voprosy_odin_otvet/) (Russian)

64 <https://zonakz.net/2020/04/20/arestovannyj-na-10-sutok-v-almaty-blogger-gennadij-krestyanskij-obyavil-suxuyu-golodovku/> (Russian)

65 [https://bureau.kz/novosti/sobstvennaya\\_informaciya/ocherednoi\\_po\\_405/](https://bureau.kz/novosti/sobstvennaya_informaciya/ocherednoi_po_405/) (Russian)



Shakibaeva had stopped at a red traffic light, and witnessed how police had run over to the car, and begun to strike the driver through the open window, although he showed no signs of resistance. The incident took place during the state of emergency, when very few cars had permission to be out on the streets. A few hours after the incident, Shakibaeva wrote about it on Facebook, asking the press service of Almaty's Traffic Police to comment. After 30-40 minutes, she received a phone call from Saltanat Azirbek, the head of the Traffic Police Press Office who claimed that the man had been an armed criminal, who had refused to stop at a previous check point. Azirbek requested her to remove the post, and warned her about criminal liability of knowingly disseminating false information, and that the conditions for committing an offense under the state of emergency result in increased punishment. Shakibaeva, however, wrote a new post on Facebook about the phone call. On 13 April, Shakibaeva was called by a police investigator, who requested her to come and give a statement at the police station. She refused to, saying that she did not have permission to drive and could not leave her child home alone. Instead, the investigator came to her house and took a statement. She could see that he had a report initiating a pre-trial investigation, along with screen shots of her social media posts. KIBHR believes that Aigul Shakibaeva has not committed any offense. According to Article 17 of the Constitution, "no one should be subjected to torture, violence, abusive or other treatment and punishment degrading human dignity,<sup>66</sup>" and Aigul witnessed and spoke out about the violation of this right. Even if the driver was a suspect of a crime, Article 13<sup>67</sup> and Article 197 part 4<sup>68</sup> of the Criminal Procedure Code (further CPC) prohibit actions that degrade honor, dignity, and forbid the use of violence and cruel treatment – such as hitting an unarmed driver in the face, through a car window. The police also failed to follow legal arrest procedures stipulated in Article 131 of the CPC<sup>69</sup> and Article 788 of the Administrative Code.<sup>70</sup>

On 17 April, civil activist Alnur Ilyashev was arrested on charges of violating Article 274 of the Criminal Code (spreading false information) during the state of emergency, which incurs an increased penalty. Prior to his arrest Ilyashev had posted a critical comment about the ruling Nur Otan Party on social media. The state investigator claimed that Ilyashev sought to influence public opinion regarding allegations of incompetence in Nur Otan's response to the COVID-19 pandemic.<sup>71</sup> The investigator listed Ilyashev's publications between late February and late March 2020 as evidence. During the pre-trial investigation, procedural norms were violated - for instance, neither Ilyashev or his lawyer had access to his case files, the investigation material, or the expert evaluations of the social media posts. Ilyashev's family has also reportedly been subject to pressure and law enforcement officials allegedly used physical force when searching their property. Ilyashev is a well known civil activist, who has worked to advocate for freedom of peaceful assembly. Civil society and international observers believe that Ilyashev has not committed any crime, but only exercised his right to freedom of expression. On 22 June Ilyashev was sentenced to three years of restriction of freedom, and a five-year ban on civic activism.<sup>72</sup>

Almaty-based activist Danaya Kalieva has also been targeted for exercising her freedom of expression in relation to the COVID-19 pandemic. In a telegram channel (a kind of group chat platform), Kalieva had raised sensitive questions regarding the building of hospitals for COVID-19-infected patients, including about the costs of construction. The questions outraged the construction mogul Aydin Rakhimbayev of the BI-Group Construction Holding, who is one of the richest men in Kazakhstan. On 4 May, Kalieva was taken for questioning as a witness with the right to a defense lawyer. The BI Group and Rakhimbayev

66 [https://www.akorda.kz/en/official\\_documents/constitution](https://www.akorda.kz/en/official_documents/constitution) (English)

67 [https://online.zakon.kz/document/?doc\\_id=31575852#pos=913;-18](https://online.zakon.kz/document/?doc_id=31575852#pos=913;-18) (Russian)

68 [https://online.zakon.kz/document/?doc\\_id=31575852#pos=3574;-18](https://online.zakon.kz/document/?doc_id=31575852#pos=3574;-18) (Russian)

69 [https://online.zakon.kz/document/?doc\\_id=31575852#pos=2600;-54](https://online.zakon.kz/document/?doc_id=31575852#pos=2600;-54) (Russian)

70 [https://kodeksy-kz.com/ka/ob\\_administrativnyh\\_pravonarusheniyah/788.htm](https://kodeksy-kz.com/ka/ob_administrativnyh_pravonarusheniyah/788.htm) (Russian)

71 <https://www.rferl.org/a/kazakhstan-activist-alnur-ilyashev-30685517.html> (English)

72 <https://www.amnesty.org/en/documents/eur57/2593/2020/en/> (English)

intended to hold Kalieva accountable for dissemination of false information (Article 274 of the Criminal Code<sup>73</sup>), but with increased punishment for distribution of false information during a state of emergency (part 4.2). The frame of punishment for such a crime is three to seven years of restriction of freedom or imprisonment. According to KIBHR monitoring BI- Group has been involved in several construction projects which have been subject to legal issues” (including the EXPO pavilion collapse in 2016.).<sup>74</sup> The BI group eventually decided to drop the charges.

There have been reports and allegations about the “silencing” of active citizens, who are said to have been taken away in ambulances under the pretext of checking for COVID-19 infection<sup>75</sup> (despite many not having been sick).<sup>76</sup> In one case, a man from Turkestan had recorded an online video message in support of his friend in detention, before he was taken away.<sup>77</sup>

## Freedom of Association

The freedom to associate has also been violated during the COVID-19 pandemic. Three articles of the Criminal Code have been used repeatedly to impose criminal liability for association. Article 403<sup>78</sup> punishes illegal obstruction of the work of state bodies or officials by members of public associations. Article 404<sup>79</sup> and 405<sup>80</sup> punish the creation, leading and participation in illegal organizations. The wording of the articles is vaguely formulated, meaning that they are open to wide and subjective interpretation. In particular, Article 405 has been used to persecute citizens in recent years. Since the peaceful political opposition movement “Democratic Choice of Kazakhstan” (hereafter DVK) was declared an extremist organization and banned in Kazakhstan in 2018, dozens of supporters and other citizens associated with the movement have been persecuted and prosecuted each year. Some have been sentenced to prison terms, and others have been banned from public activities and using social media.

In spring 2020, a new unregistered movement emerged in Kazakhstan, and immediately gained popularity. In March 2020, there were several incidents involving prosecutions related to an unregistered political movement called “Koshe Partiyasy” - Street Party.<sup>81</sup> Street Party is an unregistered organization without a leader which aims to improve living conditions in Kazakhstan and achieve a peaceful transition of power.

- A civic activist from Shymkent was sentenced by the Administrative Court on 12 March 2020 for violating the laws on public associations and participation in activities of unregistered associations. The activist was fined 132,550 KZT (284 EUR or 307 USD) for distributing leaflets containing information about the Street Party.
- On 16 March 2020 political activist Aliya Isenova was detained by police and fined 132,550 KZT (284 EUR or 307 USD) for violating the law on public associations (Article 489 of the Administrative Code). Isenova had recorded a video message in support of the Street Party.

73 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/274.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/274.htm) (Russian)

74 <https://eurasianet.org/kazakhstan-section-central-expo-2017-building-collapses> (English) and [https://bureau.kz/novosti/sobstvennaya\\_informaciya/bojtes-danai-zadayushhej-voprosy/](https://bureau.kz/novosti/sobstvennaya_informaciya/bojtes-danai-zadayushhej-voprosy/) (Russian)

75 <https://bureau.kz/novosti/proizvol-ne-terpit-suety/>

76 <https://youtu.be/nMV4TvC1ktw> (Kazakh/Russian)

77 <https://bureau.kz/novosti/proizvol-ne-terpit-suety/> (Russian)

78 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/403.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/403.htm) (Russian)

79 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/404.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/404.htm) (Russian)

80 [https://kodeksy-kz.com/ka/ugolovnyj\\_kodeks/405.htm](https://kodeksy-kz.com/ka/ugolovnyj_kodeks/405.htm) (Russian)

81 <https://www.iphronline.org/systematic-persecution-of-cso-activists-attacks-on-freedom-of-expression-and-assembly-continue.html> (English)

- On 16 March 2020 Aidan and Aidar Baisagatov were detained and taken to the police station in Oskemen after distributing leaflets with information about the Street Party. They were issued with administrative fines of 132,550 KZT (284 EUR or 307 USD) for violation of the law on public associations – Article 489 of the Administrative Code.
- On 16 March, wheelchair user Asanali Suyunbayev distributed leaflets from the Street Party outside a post office in Aktobe. Suyunbayev was detained by police and received an administrative fine of 36,114 KZT (78 EUR or 88 USD) for violating the state of emergency. After learning that Suyunbayev has periodically undergone psychiatric treatment, the police called an ambulance and took him to the regional psycho-neurological dispensary. A court case against the police and employees of the dispensary was initiated on 22 May after a complaint from Suyunbayev.
- According to KIBHR monitoring, three political activists from Semey were each fined 132,550 KZT (284 EUR or 307 USD) for violating the law on public associations - Article 489 of the Administrative Code - after recording a video message in support of the Street Party.
- On 18 March, political activist Kairat Sultanbekov from Lenger in Turkestan Region received a second summons for interrogation for handing out leaflets with information about the Street Party.
- On 26 March 2020, civic activist and ambulance doctor Andrey Pakhotnov from Almaty was fined 132,550 KZT (284 EUR or 307 USD) for violating the law on public associations – Article 489 of the Administrative Code. Pakhotnov had written a post on Facebook in support of the Street Party.
- On 30 March 2020, police called political activist Kerbez Yeginbayeva and demanded that she come to the police station for a “talk”. Yeginbayeva told the police that she could not leave the house due to the coronavirus quarantine measures. The police asked for her address, which she refused to give. They later called her again to say that if she did not come to the station, she would be charged with violation of the law on public associations - Article 489 of the Administrative Code - due to a video message she recorded on Facebook on 26 March 2020 in support of the Street Party.

During the quarantine, the Prosecutor General announced in a press release that Esil District Court in Nur-Sultan had decided on 19 May to ban the Street Party as an extremist organization.<sup>82</sup> Ten activists filed appeals against the decision in Nur-Sultan City Court. The activists stated at an online press-conference that they saw the decision as politically motivated, and illegal, noting that the hearing was held without the defendant (representatives from the party) present, and that they had learned of the ban only from the press. Lawyer Galym Nurpeisov representing the party further noted that there was no evidence presented to the public as to why the party was deemed “extremist”. According to Nurpeisov, the word “extremism” is used by the authorities in a political sense, but not in a judicial sense. On 20 May, a new press release from the Prosecutor’s office stated that the Street Party was seen as the successor to the banned DVK and thus was considered to be extremist.<sup>83</sup>

Nurpeisov commented on the absurdity of the banning:

*“To prohibit an unregistered public movement that does not have a unified structure or statutes, and to ban it as an organization, is in my opinion judicially incorrect (...) neither parliamentarians, nor law enforcement agencies can clarify the legal definition of extremism. They use the word “extremism” in a political sense. Here, declaring [the movement] extremist should at least entail some sort of example [of the definition].”*

82 [https://tengrinews.kz/kazakhstan\\_news/v-kazahstane-zapretili-deyatelnost-koshe-partiyasyi-402783/](https://tengrinews.kz/kazakhstan_news/v-kazahstane-zapretili-deyatelnost-koshe-partiyasyi-402783/) (Russian)

83 <https://bureau.kz/novosti/dvorczy-protiv-ulicy/> (Russian)

On 22 May, 13 Street Party activists were detained outside Esil District Court, when they demanded to see the official court decision banning the movement.<sup>84</sup> The group was arrested by officers from the Special Forces, and taken to the police station for eight hours. At the same time, numerous Street Party activists were summoned for interrogation under Article 405 of the Criminal Code (participation in a banned extremist organization), even before the court decision banning the movement had come into force. On 25 and 26 May, 20 such cases were registered, according to the human rights initiative Qaharman. There were also cases of citizens being held responsible for participating and messaging in online chats related to the Street Party.

## Questions of housing

The government has not adopted sufficient measures to provide housing or protection to the homeless during quarantine. When quarantine was imposed, social workers in Almaty began attempting to track down homeless people at risk – but became worried, as it seemed homeless people seemed to have had vanished from the streets of the city.

There were several reported cases of homeless people being forcibly taken out of cities and left with no means of support in rural areas, outside the boundaries of the city road blocks.

On 2 April, information emerged in the media, claiming that the homeless people from of Almaty (including homeless women and elderly people) had been driven out to fields outside the city and left there. In the video, it was postulated that at least 7-8 homeless people, including women and elderly persons, including homeless women and elders, had been were taken brought out there in trucks by representatives of the law enforcement services and left without any explanation knowledge about what as to why it was happening.<sup>85</sup>

For example, in Kostanay, owners of rural dachas (summer houses) reported that police officers had taken 15 homeless people from the city to their area. After pressure from the dacha owners, the homeless people were loaded back into vans and taken to an unknown destination. Media then discovered that the Kostanay City Police Department had started to patrol along several routes into the city as part of quarantine measures, and pick up homeless people to take them to remote areas. It is unclear whether any adequate housing was provided to the homeless. The homeless people were not provided with accommodation in the rural areas, and also found it more difficult to buy food in the rural areas because there were fewer shops. Local authority representatives promised to instigate disciplinary measures taken against those law enforcement officers who had attempted to forcibly re-settle the homeless persons.<sup>86</sup>

*“Yes, they took us out of the city, that’s it.” - homeless person from Almaty.<sup>87</sup>*

On 3 April the Almaty Police Service denied the claims that they should know of any homeless people outside Almaty. According to Saltanat Azirbek, representative of the Almaty Police, the homeless

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84 The absence of the documents of the official court decision made it difficult for the lawyers to act on the case.

85 <https://kaztag.kz/ru/news/propavshikh-almatinskikh-bezdomnykh-nashli-v-pole-za-gorodom-pod-dozhdem-video> (Russian)

86 <https://www.ng.kz/modules/news/article.php?storyid=38361&start=30> (Russian)

87 <https://kaztag.kz/ru/news/propavshikh-almatinskikh-bezdomnykh-nashli-v-pole-za-gorodom-pod-dozhdem-video> (Russian)

persons had not been taken by police to the outskirts of Almaty, but instead 142 homeless people had been taken to the Almaty Centre for Social Adaptation. However, these claims were disproved by a video posted on 3 April the KazTAG online news portal which shows both police officers and homeless persons outside Almaty, proving that the police indeed was aware of the whereabouts of the homeless.<sup>88</sup> A few weeks later, the mayor of Almaty, Bakytzhan Sagintayev, commented on the situation in an online press conference, calling it “a rumour”.<sup>89</sup> According to the mayor, a tent camp was established for up to 300 homeless people. Residents near the tent camp told KIBHR that they were concerned about the wellbeing of the people in the camp saying “they did not look too well”. Furthermore, some of the homeless people who managed to leave the camp (which was guarded by police officers) asked for food from local residents and reported that they were only fed once per day, and that it was too cold to sleep in the tents. There were also claims that some people who had attempted to escape the camp had been severely beaten.<sup>90</sup> A spokesperson for Almaty Police stated that the information of violence against homeless people in the tent camp was false, but they did not say whether an investigation was conducted to clarify the matter.<sup>91</sup> There is conflicting information as to how many people lived in the tent camps – the media outlet “Vlast” reported 180 people, the Department of Emergency Situations stated that there were 170 people. When KIBHR monitored the situation, there were around 70 residents. When reporters from Vlast tried to investigate the situation, they were not allowed to enter the camp.<sup>92</sup> On 4 May, KIBHR sent a letter to the Almaty City Prosecutor raising concerns about the situation. They had not received a response at the time of writing. The human rights activist Zhemis Turmagambetova, who is a member of the National Council of Public Confidence under the President, also contacted the head of the Department of Social Welfare of Almaty, Rakhat Shimasheva. Shimasheva said that the tent camp was not under their jurisdiction. However, the protocol signed by the deputy akim (mayor), states that the residents of the tent camp were given four meals a day, and provided with clothing, bedding, medicine and personal hygiene kits. It also stated that after the end of quarantine, it would be necessary to consider possibilities of further accommodation. However, once the state of emergency was lifted, the residents of the tent camp were dispersed with no further assistance offered, despite that they were still at risk.

People losing their homes due to disasters also received little assistance from the authorities. On 1 May, the dam at the Sardoba reservoir in Uzbekistan collapsed, causing 13 villages in the Turkestan district on the Kazakhstani side of the border to flood. At least 1300 houses in the villages were affected. Residents of the flooded villages in Turkestan stated that they had not received any help with rehousing from the authorities. From 4 May, KIBHR began to receive appeals from victims of the disaster, some of whose livestock has died, others who were forced to live in their trucks. Due to the quarantine they have not yet been able to return home. KIBHR sent an appeal to the Maktaraal District authorities, requesting the provision of assistance to the affected residents.<sup>93</sup>

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88 <https://kaztag.kz/ru/news-of-the-day/politsiya-utverzhaet-cto-ne-nakhodila-bomzhey-almaty-na-pustyre-video-oproverzhenie-utverzheniya> (Russian)

89 <https://kaztag.kz/ru/news/sagintaev-utverzhaet-cto-situatsiya-s-vyvezennymi-za-almaty-bezdomnymi-eto-slukhi-video> (Russian)

90 <https://vlast.kz/obsshestvo/39410-gorodok-prizrak.html> (Russian)

91 <https://vlast.kz/novosti/39687-v-departamente-policii-almaty-otricaut-nasilie-v-palatocnom-gorodke-dla-bezdomnyh.html> (Russian)

92 <https://vlast.kz/novosti/39687-v-departamente-policii-almaty-otricaut-nasilie-v-palatocnom-gorodke-dla-bezdomnyh.html> (Russian)

93 [https://bureau.kz/novosti/sobstvennaya\\_informaciya/zona-zatonuvshih-nadezhd/](https://bureau.kz/novosti/sobstvennaya_informaciya/zona-zatonuvshih-nadezhd/) (Russian)

# Water

The authorities have failed to provide clean water to everyone, especially the most vulnerable groups such as women, children, elderly people, homeless, disabled, migrants, refugees.

Media reported that residents of three villages in the Mangystau Region have to queue up daily to get drinking water, which is not provided for free.<sup>94</sup> There has been an ongoing problem with drinking water distribution for over a year. Queues for water begin before sunrise, and people report having to wait all day to get water. The price of the water is 2000 KZT (4.5 EUR or 5 USD) for 4 cubic meters of water. The situation did not change during the quarantine, despite the essential need for water for maintaining hygiene and prevention of Coronavirus infection.

# Education

The education system in Kazakhstan was seriously affected by the quarantine and COVID-19 pandemic, as schools and universities were shut down and pupils moved to distance learning.

From 16 March, education in technical, professional, secondary, higher and postgraduate schools was transferred to distance tuition. Children in elementary schools were sent home on 13 March 2020 on early spring break, and did not return to school before the end of the school year. Restrictions were similarly placed on kindergartens, and rules were put in place forbidding children to attend crowded events. Final exams in schools were cancelled.

After the spring break ended on 5 April, students across the educational spectrum had to start learning on online platforms in virtual classrooms. The systems worked poorly, and several platforms were tried and rejected before functioning ones were put in place. Poor internet quality and penetration in Kazakhstan exacerbated the problems, peak hours with online classes clogged the system so the internet went down at certain periods of the day.

Besides the TV-lessons, there were also numerous other issues with the quality of the education provided online particularly for children with no internet access at home.

In many schools, parents were forced to allow their children access to smartphones, as many teachers preferred communicating with the students in this way. This was a problem for families with no smartphones or lack of internet access. In many other cases, it was difficult or impossible for parents to assist the children – either because they were working on distance themselves during school hours, or because the tasks simply were not explained in a way that the parents could assist.

*“Many people find it especially difficult in Kazakh. In the task sheet, which is sent to us, all tasks are described only in Kazakh language. How can those who don't speak Kazakh complete these tasks?! Now our teacher has started writing the tasks in Russian in brackets, but before that the child could not understand anything and did not know what to do.”*

Svetlana Lebedeva, mother of second-grader.

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94 <https://www.nur.kz/1859151-sutkami-stoat-v-oceredi-za-pitevoj-vodoj-ziteli-mangistauskoj-oblasti.html> (Russian)

University students also complained about improper online learning systems, and constant failure of internet connectivity.

## Equality

After quarantine measures were introduced, reports of domestic violence targeted at women increased. According to Zulfiya Baisakova, director of the Union of Crises Centers in Kazakhstan, there many more women contacted the crisis centres for assistance during quarantine. In the Almaty crisis centre, they usually provide services for 35 women every month. In April, this figure was almost double: 54. The telephone hotline normally has around 150 calls per month, but in April 2020 they had around 400 calls. The WhatsApp hotline is usually contacted by 60 people per month, but in April it was used around 200 times.

*“We do not have a coronavirus pandemic, we have a domestic violence pandemic.”*

Zulfiya Baisakova, Head of the Union of Crisis Centres.

According to Baisakova, the social and economic situation in Kazakhstan, especially during times of stress like the pandemic, has a direct effect on violence within families. Baisakova also believes that many people started drinking more alcohol during quarantine which exacerbated the problem. Although women used to “escape” to stay with family members in other cities when they experienced domestic violence, during the lockdown this was no longer possible.

*“The other day there was a case when a woman sent us an SMS, saying that her husband was beating her and controlling her. She told us of her whereabouts, and we forwarded the information to the police. The mother in-law opened the door. Beforehand we had asked the police to make sure they saw the woman personally. She was called out from a room, and immediately came out with a bag of her things. She was so scared. She was taken to our shelter.”*

Zulfiya Baisakova, head of the Union of Crisis Centres.

The Almaty crisis centre in continued to accept women during the quarantine. The authorities also provided facilities to house victims of domestic violence temporarily for a mandatory quarantine to ensure they were not infected with Covid-19, before they were transferred to the crisis centre. In this way, the health and safety of the social workers and victims of violence was protected.

Crisis centres in other cities of Kazakhstan also continued to work. Anna Ryl, Director of the private foundation Qorgau stated that the crisis centre in Nur-Sultan accepted 11 women and 27 children in April. Qorgau accepted more victims than usual, because the state crisis centre in the capital had been closed due to quarantine (for measles, not COVID-19). Qorgau also helps women to rent alternative housing. According to Ryl, the crisis centre receives 20 calls a month, but during quarantine there was a surge in calls, and they provided shelter to ten women in one week. Qorgau also operates centres in Kokshetau, Karaganda, Pavlodar and other cities of Kazakhstan. Staff at these centres noted a surge in domestic violence towards children. According to Ryl, the situation deteriorated particularly in poorer families where the children were not able to have their daily school meal because schools were closed. Since the quarantine and lockdown was imposed, moving around within the cities became difficult or impossible, and this has led to logistical problems for victims of domestic violence. For instance, it has been difficult or impossible to obtain forensic examinations following violent attacks. More worryingly

still, victims of violence often have very few options open to them to escape violence. Police officers patrolling the streets have not usually been trained in offering support to victims of domestic violence, and therefore some victims are at risk of being left or returned home to their aggressor. Some women may also not have money for a taxi. In some cases, though, the police have done their best to understand the difficulties women faced and if a person called the police in Nur-Sultan and said the code-words “have the masks and antiseptics come?”, the police would ask for the address and send immediate help.

The Ministry of Internal Affairs does not have official data regarding domestic violence in Kazakhstan. Domestic violence is not criminalized and aggressors usually face only up to 15 days of administrative detention, with no rehabilitation program offered.

IPHR, KIBHR and the NGO Coalition against Torture in Kazakhstan issued on 14 April an open letter to the Kazakhstani Government, calling for improved protection of women at risk of domestic violence during the COVID-19 crisis.<sup>95</sup> The open letter called upon the authorities to guarantee a swift response to reports from victims of domestic violence from both local police, to inform law enforcement officers that issuing protective orders and intervention in cases of domestic violence should be treated as a priority, along with cases related to the COVID-19 pandemic, to ensure the continuation of court hearings on cases of domestic violence, to ensure that measures are taken to allow victims of domestic violence to access timely forensic examinations when necessary, and to provide informational support to the support service to ensure the public is informed about the provision of round-the-clock psychological and information support.

## Migrants and ethnic minorities

The authorities in Kazakhstan have taken some steps to protect the rights of migrants. As mentioned above foreigners were given until 10 July to leave the country and any violations regarding expired visas or similar would be waived. However, visa procedures have not been simplified during the quarantine, and information regarding migration has not been transparent and available to all.

Labour migrants have suffered particularly. At the time of writing, hundreds of migrant workers from Tajikistan remain stuck in the Turkestan Region. They have been living for at least two months in a parking lot on the Kazakhstani border with Uzbekistan as the border has been closed because of the quarantine.<sup>96</sup> Besides male migrant workers, there are also whole families, children and pregnant women. The migrants have no money, no access to washing facilities, they sleep on cardboard and eat and live in unsanitary conditions. Uzbekistani customs officers have let no one pass, and there are reports of some deceased people’s corpses being left to rot in the heat. A deceased Tajik migrant worker, who had died in Russia, had been transported in a zinc coffin, but the border guards (unclear on which side) refused to let the coffin pass, and as a result, the corpse was rotting under the sun in the same parking lot where the migrants were staying. The man was eventually buried. Local volunteers have helped the Tajikistani citizens, but the authorities have taken no steps to protect them. The Embassy of Tajikistan was contacted, but no assistance was provided.<sup>97</sup>

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95 <https://www.iphronline.org/wp-content/uploads/2020/04/Statement-DV-14.04.pdf> (English)

96 [https://tengrinews.kz/kazakhstan\\_news/spim-kartone-kushaem-sredi-trupov-sotni-tadjikov-zastryali-404103/](https://tengrinews.kz/kazakhstan_news/spim-kartone-kushaem-sredi-trupov-sotni-tadjikov-zastryali-404103/) (Russian)

97 [https://tengrinews.kz/kazakhstan\\_news/spim-kartone-kushaem-sredi-trupov-sotni-tadjikov-zastryali-404103/](https://tengrinews.kz/kazakhstan_news/spim-kartone-kushaem-sredi-trupov-sotni-tadjikov-zastryali-404103/) (Russian)



# Recommendations

The authorities of Kazakhstan should ensure that:

- fundamental freedoms, such as freedom of expression, association and peaceful assembly is guaranteed even during the pandemic;
- laws affecting the rights of citizens concerning freedom of peaceful assembly and digital security are not rushed through during a pandemic, with little or no time for civil society and other citizens to comment;
- people at risk, such as prisoners, have access to means of observing personal hygiene and protection from viral infections;
- people facing prosecution will be given a fair trial;
- criminalize domestic violence and establish a rehabilitation program for aggressors and guarantee the safety of victims